

City of Lubbock, Texas
Regular City Council Meeting
December 6, 2022

Tray Payne, Mayor
Shelia Patterson Harris, Mayor Pro Tem, District 2
Christy Martinez-Garcia, Councilwoman, District 1
Mark W. McBrayer, Councilman, District 3
Steve Massengale, Councilman, District 4
Dr. Jennifer Wilson, Councilwoman, District 5
Latrelle 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.

11:30 a.m. - City Council convenes in City Council Chambers. Upon convening, the City Council recesses into Executive Session.

1. Executive Session

1. 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.
 1. 1. 1. Chapter 22 of the Lubbock City Code and Chapter 13 of the Texas Water Code
 1. 1. 2. Approximately 14 acres out of BLK O, Sec 3, AB 24, Park TR North of Parkway Drive
 1. 1. 3. Discuss Chapters 501-504 of the Texas Local Government Code
1. 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.
 1. 2. 1. Approximately 14 acres out of BLK O, Sec 3, AB 24, Park TR North of Parkway Drive

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

1. 3. 1. City Secretary

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

1. 4. 1. Evergreen

1. 4. 2. Blizzard Falls

1. 4. 3. 176

Adjourn from Executive Session

2:00 p.m. - City Council reconvenes in Open Session in City Council Chambers.

2. Ceremonial Items

2. 1. Invocation

2. 2. Pledges of Allegiance

Call to Order

3. **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 2:00 p.m. on December 6, 2022. Citizen Comments provide 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.**

4. **Minutes**

4. 1. November 1, 2022 Regular City Council Meeting

5. **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.**

5. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2022-00159, Amendment 3, amending the FY 2022-23 Budget for municipal purposes respecting the Lubbock Business Park Tax Increment Financing (TIF) Capital Fund to establish Capital Improvement Project 92810, Business Park Median Irrigation; providing for filing; and providing for a savings clause.

5. 2. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2022-00160, Amendment 4, amending the FY 2022-23 Budget for municipal purposes respecting civil service positions; providing for filing; and providing for a savings clause.

5. 3. **Budget Ordinance Amendment 1st Reading - Finance:** Consider Budget Ordinance Amendment 5, amending the FY 2022-23 Budget for municipal purposes respecting the Streets Capital Project Fund to establish approved projects from the 2022 Street Bond Election; providing for filing; and providing for a savings clause.

5. 4. **Resolution - Finance:** Consider a resolution expressing intent to finance expenditures to be incurred for various capital projects approved by the Citizens of Lubbock in the November 8, 2022 Street Bond Election, and to reimburse the City from the proceeds of obligations that will be issued after the expenditure of funds, to pay costs of such projects.

5. 5. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing a portion of a stormwater storage and drainage easement (V8489 P177), located in Tract D, The Falls at Suncrest Addition, Lubbock County, Texas.

5. 6. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing a portion of alley right-of-way, located west of Lot 93, Hatton Place Addition, Lubbock County, Texas.

5. 7. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing an underground utility easement and portions of two drainage easements, located on Tract J, Commons South Addition, Lubbock County, Texas.

5. 8. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to accept, for and on behalf of the City of Lubbock, a Street Dedication Deed and all related documents, in connection with certain real property located in Section 20, Block AK, Lubbock County, Texas, to be utilized for unpaved road improvements.
5. 9. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to accept, for and on behalf of the City of Lubbock, a Street Dedication Deed and all related documents, in connection with certain real property located in Section 42, Block AK, Lubbock County, Texas, to be utilized for unpaved road improvements.
5. 10. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to accept, for and on behalf of the City of Lubbock, a Street Dedication Deed and all related documents, in connection with certain real property located in Section 2, Block A, Lubbock County, Texas, to be utilized for unpaved road improvements.
5. 11. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to accept for and on behalf of the City of Lubbock, a General Warranty Deed and all related documents, associated with certain property which is more or less a 1.315-acre tract located in Section 5, Block B, Lubbock County, Texas, owned by Lubbock Independent School District.
5. 12. **Resolutions - Water Treatment:** Consider four resolutions authorizing the Mayor to execute four separate contracts with DPC Industries, Inc., Chemtrade Chemicals US, LLC, Chameleon Industries, Inc., and Chemrite, Inc., for the purchase of chemicals for the North and South Water Treatment Plants and the Bailey County Well Field.
5. 13. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute Purchase Order 31070176, with Warren CAT, for the purchase of one Caterpillar D8 Track Dozer for the Solid Waste Landfill.
5. 14. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute Purchase Order 31070383, with Yellowhouse Machinery Co., for the purchase of two John Deere backhoe loaders for the Water Distribution & Maintenance Department.
5. 15. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to amend Purchase Order 31062734, with Romco Equipment Company, for the purchase of a cement mixing truck for the Water Distribution & Maintenance Department.
5. 16. **Resolution - Fleet Services:** Consider a resolution authorizing the Mayor to execute Purchase Order 31070037, with Cemen Tech, Inc., for the purchase of one 2023 M2-106 Freightliner cab & chassis truck for the Water Distribution & Maintenance Department.
5. 17. **Resolution - Facilities Management:** Consider a resolution authorizing the Mayor to execute Service Contract No. 16747, with Genserve, LLC dba L.J. Power Generators, Inc., for fixed generator repair and maintenance of City-owned generators at various locations.

5. 18. **Resolution - Public Health Services:** Consider a resolution authorizing and directing the Mayor to execute Amendment No. 2 to the Department of State Health Services Contract No. HHS001120300005, under the STD/HIV-DIS Prevention Services Grant Program, and all related documents, by and between the City of Lubbock and the State of Texas Department of State Health Services.
5. 19. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Amendment No. 2 to Community Development Funding Contract 16001, and all related documents, with YWCA of Lubbock, to provide Childcare Assistance to qualified persons.
5. 20. **Resolution - City Manager:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement 16872, with Strategic Government Resources, Inc., for executive recruitment services.
5. 21. **Resolution - City Manager:** Consider a resolution authorizing the Mayor to execute for and on behalf of the City of Lubbock, a Real Estate Purchase and Sale Agreement, for the purchase of certain real property located in Block B, Section 2, Abstract 659, Lubbock County, Texas, owned by BNSF Railway Company.
5. 22. **Ordinance 2nd Reading - Planning (District 1):** Consider Ordinance No. 2022-O0161, for Zone Case 0604-A, a request of George Castillo, for a zone change from General Retail District (C-3) to Reduced Setback Single-Family District (R-1A), at 303 North Avenue Q, located north of Baylor Street and west of North Avenue Q, Manson Heights Addition, Block 1, Lot 2.
5. 23. **Ordinance 2nd Reading - Planning (District 1):** Consider Ordinance No. 2022-O0162, for Zone Case 2565-F, a request of Jessie R. Romero, for a zone change from Interstate Highway Commercial District (IHC) to Reduced Setback Single-Family District (R-1A), at 915 32nd Street, located south of 32nd Street and west of Interstate 27, Flynn Place Addition, Block 3, the west 28.59 feet of Lot 10 and Lot 11.
5. 24. **Ordinance 2nd Reading - Planning (District 4):** Consider Ordinance No. 2022-O0163, for Zone Case 3257-I, a request of Seventeen Services LLC for Edge Concepts, for a zone change from Garden Office District (GO) to Apartment-Medical District (AM), at 3226 140th Street, located north of 140th Street and east of Indiana Avenue, Viridian Estates Addition, Tract D.
5. 25. **Ordinance 2nd Reading - Planning (District 4):** Consider Ordinance No. 2022-O0164, for Zone Case 3274-E, a request of Betenbough Homes, for a zone change from Interstate Highway Commercial District (IHC) to Reduced Setback Single-Family District (R-1A), generally located east of Avenue U and north of 133rd Street, Bell Farms Addition, Lots 1652 through 1676, 1681 through 1692, 1698 through 1709, 1718 through 1739 and Tracts CC and DD.

5. 26. **Ordinance 2nd Reading - Planning (District 4):** Consider Ordinance No. 2022-00165, for Zone Case 3472, a request of Hugo Reed and Associates, Inc. for Red Canyon Development, LLC, for a zone change from Transition District (T) to Restricted Local Retail District (C-2A) and Local Retail District (C-2), generally located south of 146th Street and west of Quaker Avenue, on 19.4 acres of unplatted land out of Block AK, Section 6.
5. 27. **Ordinance 2nd Reading - Planning (District 5):** Consider Ordinance No. 2022-00166, for Zone Case 3126-D, a request of Hugo Reed and Associates, Inc. for SWLLD, LLC and FADEV, LLC, for a zone change from Transition District (T), Interstate Highway Industrial District (IHI), General Retail District (C-3) and High-Density Apartment District (A-2) to Two-Family District (R-2), High-Density Apartment District (A-2), Local Retail District (C-2) and Interstate Highway Commercial District (IHC), generally located north of 130th Street (proposed Loop 88) and west of Frankford Avenue, on 99.4 acres of land out of Block AK, Section 20.
5. 28. **Ordinance 2nd Reading - Planning (District 6):** Consider Ordinance No. 2022-00167, for Zone Case 1875-Y, a request of AMD Engineering, LLC for H&M Investments & Rentals LLC, for a zone change from High-Density Apartment District (A-2) to Two-Family District (R-2), at 6606 26th Street, located north of 26th Street and west of Norwich Avenue, Commanders Addition, the south 440 feet of the east 400 feet of Lot 2.

6. **Regular Agenda**

6. 1. **Board Appointment - City Secretary:** Consider the appointment of the Chairperson of the Central Business District Tax Increment Financing (TIF) Reinvestment Zone Board of Directors, for the 2023 calendar year, with the term ending on December 31, 2023.
6. 2. **Board Appointment - City Secretary:** Consider the appointment of the Chairperson of the Lubbock Business Park Tax Increment Financing (TIF) Reinvestment Zone Board of Directors, for the 2023 calendar year, with the term ending on December 31, 2023.
6. 3. **Board Appointment - City Secretary:** Consider the appointment of the Chairperson of the North Overton Tax Increment Financing Reinvestment Zone (TIF) Board of Directors, for the 2023 calendar year, with the term ending on December 31, 2023.
6. 4. **Public Hearing - Planning (District 4):** Hold a public hearing and consider an ordinance for a request for annexation, from Red Canyon Development, LLC, to annex an area of approximately 17.33 acres, adjacent to the southern city limits of the City of Lubbock, north of Woodrow Road and west of Quaker Avenue.

6. 5. **Ordinance 2nd Reading - Planning (District 3):** Consider Ordinance No. 2022-00168, for Zone Case 0417-A, a request of AMD Engineering, LLC for Gary Randall Andrews, for a zone change from Single-Family District (R-1) to Garden Office District (GO), generally located north of 23rd Street and west of Slide Road, on 2.02 acres of land from Sisco Addition, Lot 1-A.
6. 6. **Resolution - Finance:** Consider adoption of a Resolution authorizing publication and posting of notices of intention to issue (i) water and wastewater system revenue bonds in a principal amount not to exceed \$17,500,000 for the purpose of acquiring, purchasing, constructing, improving, renovating, enlarging and equipping property, buildings, structures, facilities and related infrastructure for the City's Water and Wastewater System and (ii) combination tax and revenue certificates of obligation in a principal amount not to exceed \$18,750,000 for the purpose of funding improvements to the City's Solid Waste Disposal System.
6. 7. **Resolution - Business Development:** Consider adoption of a Resolution approving the resolution of the Lubbock Economic Development Alliance, Inc., authorizing the issuance of sales tax revenue bonds in a principal amount not to exceed \$32,500,000 for the purpose of funding projects for the promotion and development of new and expanded business enterprises, including the acquisition of interests in land and the design, construction, acquisition, rehabilitation, renovation, expansion, improvement and equipment of streets, roads, water and sewer utilities, and related infrastructure and improvements; approving a Sales Tax Remittance Agreement; and resolving other matters related thereto.



Information

Agenda Item

November 1, 2022 Regular City Council Meeting

Item Summary

November 1, 2022 Regular City Council Meeting

Fiscal Impact

None

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

11.1.2022

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
November 1, 2022
1:30 P. M.

The City Council of the City of Lubbock, Texas met in regular session on the 1st of November, 2022, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas at 1:30 p.m.

1:30 P.M. CITY COUNCIL CONVENED

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

Present: Mayor Tray Payne; Mayor Pro Tem Shelia Patterson Harris; Council Member Latrelle Joy; Council Member Christy Martinez-Garcia; Council Member Steve Massengale; Council Member Mark W. McBrayer; Council Member Dr. Jennifer Wilson; City Manager W. Jarrett Atkinson; City Secretary Rebecca Garza; City Attorney Chad Weaver

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

- *Executive Session; 2.1-2.2; Citizen Comments 3; 4.1; 5.1-5.12; 6.1-6.4.*
- *Item No. 6.3 failed.*

1. Executive Session

The meeting recessed at 1:31 p.m. and reconvened in Executive Session under the provisions of Section 551, Texas Government Code. City Council reconvened in open session at 2:10 p.m., and the meeting was called to order at 2:12 p.m.

1. 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.
1. 1. 1. Chapter 22 of the Lubbock City Code and Chapter 13 of the Texas Water Code
1. 1. 2. Application of the City of Lubbock, acting by and through Lubbock Power & Light, for authority to connect remaining portion of its load with Electric Reliability Council of Texas and for approval of settlement agreement, PUC Docket No. 53529, proceeding before the Public Utility Commission of Texas

Following Executive Session, the City Council reconvened in Open Session in City Council Chambers.

2. Ceremonial Items

2. 1. Invocation

Reverend Paul Carpenter, First Christian Church, led the invocation.

2. 2. Pledges of Allegiance

Pledges of Allegiance, to the United States and Texas Flags, were led by Mayor Pro Tem Shelia Patterson Harris.

Call to Order

The meeting was called to order at 2:12 p.m.

3. 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 1:30 p.m. on November 1, 2022. Citizen Comments provide an opportunity for citizens to make comments and express a position on agenda items.

Sign ups:

- Paulina Madrid, the proponent, appeared before City Council to speak in favor of item 6.3 (a resolution approving and granting a variance for an alcoholic beverage permit for Topsy's Sports Grill and Bar).
- Rob Nanz, with Lubbock ISD, appeared before City Council to speak in opposition of item 6.3 (a resolution approving and granting a variance for an alcoholic beverage permit for Topsy's Sports Grill and Bar).

4. Minutes

4. 1. September 20, 2022 Special City Council Meeting - Electric Utility Board October 11, 2022 Regular City Council Meeting

Motion by Council Member Christy Martinez-Garcia, seconded by Council Member Dr. Jennifer Wilson, to approve the September 20, 2022 Special City Council Meeting - Electric Utility Board minutes; and the October 11, 2022 Regular City Council Meeting minutes.

Vote: 7 - 0 Motion carried

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

Motion by Council Member Latrelle Joy, seconded by Council Member Steve Massengale, to approve items 5.1-5.12.

Vote: 7 - 0 Motion carried

5. 1. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2022-O0157, Amendment 1, amending the FY 2022-23 Budget for municipal purposes, respecting the Grant Fund to accept and appropriate funding from the Texas Department of State Health Services; providing for filing; and providing for a savings clause.
5. 2. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2022-O0158, Amendment 2, amending the FY 2022-23 Budget for municipal purposes respecting the Grant Fund to accept and appropriate from the Texas Homeland Security Grant Division; providing for filing; and providing for a savings clause.
5. 3. **Resolution - Right-of-Way:** Resolution No. 2022-R0447 authorizing and directing the Mayor to accept, for and on behalf of the City of Lubbock, a Dedication Deed and all related documents, with Amarillo Diamond, LLC, in connection with certain real property located in Section 6, Block E, Lubbock County, Texas, to be utilized for street, curb, gutter, sidewalk, drainage right-of-way, public utilities, and other public purposes.
5. 4. **Resolution - Engineering:** Resolution No. 2022-R0448 authorizing the Mayor to execute Amendment No.1 to Contract 14564, with Cartegraph Systems LLC, for professional and technological services for Asset Management.
5. 5. **Resolution - Facilities Management:** Resolution No. 2022-R0449 authorizing the Mayor to execute Contract 16927, an agreement with Parkhill, for remaining Construction Administration Professional Services for the Public Safety Improvements Project, Police Department Headquarters Facility.
5. 6. **Resolution - Aviation:** Resolution No. 2022-R0450 authorizing the Mayor to execute Purchase Order 25101489, with ADB Safegate Americas, LLC, for Airfield Lighting Systems at the Lubbock Preston Smith International Airport.
5. 7. **Resolution - Fleet Services:** Resolution No. 2022-R0451 authorizing the Mayor to execute Purchase Order 31069794, with Kenloch Equipment & Supply, Inc., for two street sweepers for the Streets Department.
5. 8. **Resolution - Parks and Recreation:** Resolution No. 2022-R0452 authorizing and approving the Parks, Recreation, and Open Spaces Master Plan completed by Halff Associates, Inc., as recommended by the City of Lubbock Parks and Recreation Advisory Board.
5. 9. **Resolution - Lubbock Fire Rescue:** Resolution No. 2022-R0453 authorizing the Mayor to accept eGrant Award No. 4015401, on behalf of the City of Lubbock, from the Texas Homeland Security Grant Division, Office of the Governor.

5. 10. **Resolution - Lubbock Power & Light:** Resolution No. 2022-R0454 authorizing the attorneys for the City of Lubbock, acting by and through Lubbock Power & Light, in the event a Stipulation and/or Settlement Agreement, whether unanimous or non-unanimous, is reached in the future, to execute a Stipulation and/or Settlement, whether unanimous or non-unanimous, within the parameters set forth in the resolution, resolving all issues related to and regarding the contested case styled Application of City of Lubbock, acting by and through Lubbock Power & Light, for Authority to Connect the Remaining Portion of its Load with the Electric Reliability Council of Texas and for Approval of Settlement Agreement, PUC Docket No. 53529, proceeding before the Public Utility Commission of Texas.
5. 11. **Ordinance 2nd Reading - Planning (District 4):** Ordinance No. 2022-O0154, for Zone Case 3047-BB, a request of Seventeen Services LLC for Edge Concepts, for a zone change from Central Business District (CB-3) and Garden Office (GO) to Garden Office (GO) at 4511 through 4531 114th Street, located south of 114th Street and west of Quaker Avenue, Vintage Office Park Addition, Tracts C through M.
5. 12. **Ordinance 2nd Reading - Planning (District 6):** Ordinance No. 2022-O0156, for Zone Case 2538-EE, a request of AMD Engineering, LLC for South Plains Electric Cooperative, Inc., for a zone change from Single-Family District (R-1) to Commercial District (C-4) at 7714 and 7702 32nd Street, located north of 32nd Street, between Alcove Avenue and Yuma Avenue, Alcove Park Addition, Tract A, and on 10.78 acres of unplatted land out of Block AK, Section 42, Tract C8.

6. **Regular Agenda**

6. 1. **Ordinance 2nd Reading - Planning (District 5):** Ordinance No. 2022-O0155, for Zone Case 2995-GG, a request of RSDGP, LLC for Endeavour Enterprises, for a zone change from Local Retail District (C-2) to Commercial District (C-4) at 7411 Milwaukee Avenue, located north of 76th Street and east of Milwaukee Avenue, Bacon Crest, Tract E.

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Christy Martinez-Garcia, to approve Ordinance No. 2022-O0155.

Vote: 4 - 3 Motion carried

NAY: Mayor Pro Tem Shelia Patterson Harris
Council Member Latrelle Joy
Council Member Mark W. McBrayer

6. 2. **Resolution - Planning (District 1):** Resolution No. 2022-R0455 approving and granting a variance from the applicable 300-foot minimum distance provision of the City of Lubbock Ordinance No. 2009-O0060, at 3121 34th Street, for an alcoholic beverage permit for Frost Brewhouse, LLC.

Kristen Sager, director of planning, gave a presentation and answered questions from City Council. Mario Sandoval, co-owner of Mrs. O's Learning Academy, gave comments and answered questions from City Council.

Motion by Council Member Christy Martinez-Garcia, seconded by Council Member Mark W. McBrayer, to approve Resolution No. 2022-R0455.

Vote: 7 - 0 Motion carried

- 6. 3. Resolution - Planning (District 2):** Consider a resolution approving and granting a variance from the applicable 300-foot minimum distance provision of the City of Lubbock Ordinance No. 2009-O0060, at 5101 Avenue Q, Suite A, for an alcoholic beverage permit for Topsy's Sports Grill and Bar.

This item failed.

Kristen Sager, director of planning, gave a presentation and answered questions from City Council. Chad Weaver, city attorney; Paulina Madrid, the proponent; and Rob Nanz, with Lubbock ISD, gave comments and answered questions from City Council.

Main Motion by Council Member Christy Martinez-Garcia, seconded by Council Member Mark W. McBrayer, to approve this item as presented at the dais.

Motion to Amend the Main Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Mark W. McBrayer, as follows:

- Removal of permit number two, Mixed Beverage Late Hours Permit (LB), from the proposed alcohol variance as referenced in the text of the Resolution presented at the dais.

Vote on Motion to Amend: 3-4 failed

NAY: Mayor Tray Payne
Mayor Pro Tem Shelia Patterson Harris
Council Member Latrelle Joy
Council Member Steve Massengale

Vote on Main Motion: 3-4 failed

NAY: Mayor Tray Payne
Mayor Pro Tem Shelia Patterson Harris
Council Member Latrelle Joy
Council Member Steve Massengale

- 6. 4. Resolution - Planning:** Resolution No. 2022-R0456 authorizing the Mayor to execute a Municipal Services Agreement, with Red Canyon Development, LLC, for the requested annexation of an area of land generally described as 17.33 acres north of Woodrow Road and west of Quaker Avenue, into Lubbock's corporate limits, along with the adjacent right-of-way.

Kristen Sager, director of planning, gave a presentation and answered questions from City Council. Jarrett Atkinson, city manager; and Mike Keenum, division director of engineering/city

engineer, gave comments and answered questions from City Council.

Motion by Council Member Steve Massengale, seconded by Council Member Latrelle Joy, to approve Resolution No. 2022-R0456.

Vote: 7 - 0 Motion carried

2:53 P.M. CITY COUNCIL ADJOURNED

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

The November 1, 2022 Regular City Council Meeting minutes were approved by the City Council on the 6th day of December, 2022.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2022-O0159, Amendment 3, amending the FY 2022-23 Budget for municipal purposes respecting the Lubbock Business Park Tax Increment Financing (TIF) Capital Fund to establish Capital Improvement Project 92810, Business Park Median Irrigation; providing for filing; and providing for a savings clause.

Item Summary

On November 16, 2022, the City Council approved the first reading of the Ordinance.

I. Establish Capital Improvement Project 92810, Business Park Median Irrigation, and appropriate funding in the amount of \$1,272,699. Funding will be from the Lubbock Business Park Tax Increment Financing (TIF) fund balance.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Budget Amendment 3

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2022-23 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE LUBBOCK BUSINESS PARK TIF CAPITAL FUND TO ESTABLISH CAPITAL IMPROVEMENT PROJECT 92810, BUSINESS PARK MEDIAN IRRIGATION; 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 2022-23 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 2022-23 (Budget Amendment #3) for municipal purposes, as follows:

- I. Establish Capital Improvement Project 92810, Business Park Median Irrigation, and appropriate funding in the amount of \$1,272,699. Funding will be from the Lubbock Business Park TIF fund balance.

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

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

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

TRAY PAYNE, 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-O0160, Amendment 4, amending the FY 2022-23 Budget for municipal purposes respecting civil service positions; providing for filing; and providing for a savings clause.

Item Summary

On November 16, 2022, the City Council approved the first reading of the ordinance.

Exhibit A of the FY 2022-23 Adopted Budget, as passed by City Council on September 13, 2022, is hereby amended to replace page entitled “Police – Job Grade Summary” of said Exhibit A, with the amended page “Police – Job Grade Summary”, which is attached hereto and made a part of this ordinance for all purposes (the “Amendment”) as it relates to the civil service positions. In accordance with Section 2.06.109 of the Code of Ordinances of the City of Lubbock, the civil service positions, as set forth in the Amendment, are hereby established by Ordinance.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Budget Amendment 4

Exhibit A

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2022-23 BUDGET FOR MUNICIPAL PURPOSES RESPECTING CIVIL SERVICE POSITIONS; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE.

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

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

WHEREAS, pursuant to Section 143.021(a) of the Texas Local Government Code, the City Council by ordinance shall prescribe the number of civil service positions; and

WHEREAS, the City Council desires to amend the number of fire and police civil service positions; and

WHEREAS, the City Council deems it advisable to change the FY 2022-23 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 2022-23 (Budget Amendment #4) for municipal purposes, as follows:

Exhibit A of the FY 2022-23 Adopted Budget, as passed by City Council on September 13, 2022, is hereby amended to replace page entitled "Police – Job Grade Summary" of said Exhibit A, with the amended page "Police – Job Grade Summary", which is attached hereto and made a part of this ordinance for all purposes (the "Amendment") as it relates to the civil service positions. In accordance with Section 2.06.109 of the Code of Ordinances of the City of Lubbock, the civil service positions, as set forth in the Amendment, are hereby established by Ordinance.

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 _____.

TRAY PAYNE, 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

Police - Job Grade Summary

Exhibit A

CLASSIFIED/SWORN JOB GRADE SUMMARY	GRADE	Actual	Actual	Actual	Budget	Amended	Change
		FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2022-23	from Budget
Police Chief	143	1	1	1	1	1	-
Assistant Police Chief	PCS6	3	3	3	3	3	-
Deputy Police Chief/Police Captain	PCS5	8	7	7	7	7	-
Police Lieutenant	PCS4	19	19	19	19	19	-
Police Sergeant	PCS3	62	66	68	68	68	-
Police Detective/Corporal	PCS2	79	79	69	69	68	(1)
Patrol Officer	PCS1	280	277	265	278	279	1
Police Entry Level II	PNCE2	-	-	-	-	-	-
Police Entry Level 1-B	PNCE1B	13	13	13	-	-	-
TOTAL CLASSIFIED SWORN JOB GRADE SUMMARY		465	465	445	445	445	-

NON-CLASSIFIED NON-SWORN JOB GRADE SUMMARY	GRADE	Actual	Actual	Budget	Budget	Amended	Change
		FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23	FY 2022-23	from Budget
Administrative Assistant	112	7	8	7	7	7	-
Communications Center Coordinator	126	1	1	1	1	1	-
Communications Shift Supervisor	123	3	6	6	6	6	-
Communications Training & Dev Coordinator	125	1	-	-	-	-	-
Crime Analyst	119	2	2	4	4	4	-
Fleet Services Unit Supervisor	119	-	-	1	1	1	-
Fleet Services Unit Attendant	116	-	-	2	2	2	-
Forensic Laboratory Manager	127	-	-	1	1	1	-
Forensic Specialist i	123	2	2	7	7	7	-
Juvenile Services Coordinator	121	1	1	1	1	1	-
Laborer	108	1	1	1	1	1	-
Lead Administrative Assistant	115	2	2	3	3	3	-
Management Assistant	122	2	2	2	2	2	-
Parking Control Officer	108	6	6	6	6	6	-
Property and Evidence Unit Supervisor	121	-	-	1	1	1	-
Property Room Attendant	113	4	4	4	7	7	-
Public Information Officer	123	1	1	5	2	2	-
Public Information Specialist	119	1	1	-	-	-	-
Public Safety Dispatcher I	114	28	28	28	28	28	-
Public Safety Dispatcher II	116	15	15	15	15	15	-
Public Service Officer	110	14	13	13	13	13	-
Records System Manager	126	1	1	1	1	1	-
Records System Operator	115	15	15	15	15	15	-
Records System Shift Supervisor	118	4	3	3	3	3	-
Sex Offender Registration Coordinator	117	1	1	1	1	1	-
TOTAL NON-CLASSIFIED NON-SWORN JOB GRADE SUMMARY		112	113	128	128	128	-
TOTAL JOB GRADE SUMMARY		577	578	573	573	573	-

Information

Agenda Item

Budget Ordinance Amendment 1st Reading - Finance: Consider Budget Ordinance Amendment 5, amending the FY 2022-23 Budget for municipal purposes respecting the Streets Capital Project Fund to establish approved projects from the 2022 Street Bond Election; providing for filing; and providing for a savings clause.

Item Summary

I. Establish Capital Improvement Project 92811, 98th Street, Alcove to Upland – 22B, and appropriate \$12,000,000 to construct the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.

II. Establish Capital Improvement Project 92812, Upland Avenue, 4th Street to 19th Street – 22B, and appropriate \$3,200,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.

III. Establish Capital Improvement Project 92813, 34th Street, Upland to Milwaukee – 22B, and appropriate \$2,700,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.

IV. Establish Capital Improvement Project 92814, 34th Street, Avenue Q to I-27 and Quaker to Slide – 22B, and appropriate \$7,500,000 for the construction of back of curb improvements. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.

V. Establish Capital Improvement Project 92815, Upland Avenue, 34th to 50th Street – 22B, and appropriate \$4,000,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.

VI. Establish Capital Improvement Project 92816, Upland Avenue, 19th Street to 34th Street – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.

VII. Establish Capital Improvement Project 92817, Dunbar/Manhattan Heights – 22B, and appropriate \$6,500,000 for the construction of multiple streets. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.

VIII. Establish Capital Improvement Project 92818, 66th Street, Alcove to Upland – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.

IX. Establish Capital Improvement Project 92819, Milwaukee Avenue, North City Limits to 4th Street –

22B, and appropriate \$3,500,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.

X. Establish Capital Improvement Project 92820, 114th Street, Frankford to Slide Road – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.

XI. Establish Capital Improvement Project 92821, 146th Street, Quaker to Indiana – 22B, and appropriate \$3,200,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.

XII. Establish Capital Improvement Project 92822, 114th Street, Indiana to University – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.

XIII. Establish Capital Improvement Project 92823, Residential Unpaved Roads, East of I-27 – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.

XIV. Establish Capital Improvement Project 92824, Upland Avenue, 50th Street to 66th Street – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.

XV. Establish Capital Improvement Project 92825, 82nd and Milwaukee – 22B, and appropriate \$5,700,000 for the design and land acquisition for the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer.

Attachments

Budget Amendment 5 (c)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2022-23 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE STREETS CAPITAL PROJECT FUND TO ESTABLISH APPROVED PROJECTS FROM THE 2022 STREET BOND ELECTION; 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 2022-23 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 2022-23 (Budget Amendment #5) for municipal purposes, as follows:

- I. Establish Capital Improvement Project 92811, 98th Street: Alcove to Upland – 22B, and appropriate \$12,000,000 to construct the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.
- II. Establish Capital Improvement Project 92812, Upland Avenue: 4th Street to 19th Street – 22B, and appropriate \$3,200,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.
- III. Establish Capital Improvement Project 92813, 34th Street: Upland to Milwaukee – 22B, and appropriate \$2,700,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.
- IV. Establish Capital Improvement Project 92814, 34th Street Ave Q to I-27 & Quaker to Slide – 22B, and appropriate \$7,500,000 for the construction of back of curb improvements. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.
- V. Establish Capital Improvement Project 92815, Upland Avenue: 34th to 50th Street – 22B, and appropriate \$4,000,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.

- VI. Establish Capital Improvement Project 92816, Upland Avenue: 19th Street to 34th Street – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.
- VII. Establish Capital Improvement Project 92817, Dunbar/Manhattan Heights – 22B, and appropriate \$6,500,000 for the construction of multiple streets. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.
- VIII. Establish Capital Improvement Project 92818, 66th Street: Alcove to Upland – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.
- IX. Establish Capital Improvement Project 92819, Milwaukee Avenue: North City Limits to 4th Street – 22B, and appropriate \$3,500,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.
- X. Establish Capital Improvement Project 92820, 114th Street: Frankford to Slide Road – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.
- XI. Establish Capital Improvement Project 92821, 146th Street: Quaker to Indiana – 22B, and appropriate \$3,200,000 for the design of the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds.
- XII. Establish Capital Improvement Project 92822, 114th Street: Indiana to University – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.
- XIII. Establish Capital Improvement Project 92823, Residential Unpaved Roads: East of I-27 – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.
- XIV. Establish Capital Improvement Project 92824, Upland Avenue: 50th Street to 66th Street – 22B. This is an approved project from the 2022 Street Bond election and appropriation of funding will occur in a future year.
- XV. Establish Capital Improvement Project 92825, 82nd and Milwaukee – 22B, and appropriate \$5,700,000 for the design and land acquisition for the project. This is an approved project from the 2022 Street Bond election and the funding source is 2023 General Obligation Bonds

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 _____.

TRAY PAYNE, 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 - Finance: Consider a resolution expressing intent to finance expenditures to be incurred for various capital projects approved by the Citizens of Lubbock in the November 8, 2022 Street Bond Election, and to reimburse the City from the proceeds of obligations that will be issued after the expenditure of funds, to pay costs of such projects.

Item Summary

The City will issue bonds during FY 2022-23, to fund a portion of the projects that the Citizens of Lubbock approved in the November 8, 2022 Street Bond Election. To allow projects to be completed within prescribed time frames, design, engineering, and construction costs may be incurred prior to delivery of the bond proceeds. For the costs to be eligible for reimbursement with bond proceeds, the City must declare its intent to reimburse bond-funded costs that are incurred prior to the bond issuance.

A total cost of \$48,300,000 is planned for FY 2022-23, and divided into the projects listed below.

- 92811 - 98th Street: Alcove Avenue to Upland Avenue - 22B is \$12,000,000.
- 92812 - Upland Avenue: 4th Street to 19th Street - 22B is \$3,200,000.
- 92813 - 34th Street: Upland Avenue to Milwaukee Avenue - 22B is \$2,700,000.
- 92814 - 34th Street: Ave Q to I-27 and Quaker Avenue to Slide Road - 22B is \$7,500,000.
- 92815 - Upland Avenue: 34th Street to 50th Street - 22B is \$4,000,000.
- 92817 - Dunbar/Manhattan Heights - 22B is \$6,500,000.
- 92819 - Milwaukee Avenue: North City Limits to 4th Street - 22B is \$3,500,000.
- 92821 - 146th Street: Quaker Avenue to Indiana Avenue - 22B is \$3,200,000.
- 92825 - 82nd Street and Milwaukee Avenue - 22B is \$5,700,000

Fiscal Impact

The total cost of projects funded is \$48,300,000, and the maximum principal amount of Obligations to be issued will not exceed \$200,000,000, to be issued in one or more series.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

GO Reimbursement Resolution

**RESOLUTION EXPRESSING INTENT TO
FINANCE EXPENDITURES TO BE INCURRED**

WHEREAS, the City of Lubbock, Texas (the "Issuer") is a political subdivision of the State of Texas authorized to finance its activities by issuing debt obligations, including obligations the interest on which is excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (collectively, the "Obligations");

WHEREAS, the Issuer will make or has made, not more than 60 days prior to the date hereof, payments for capital expenditures with respect to the acquisition, construction, renovation, improvement and equipment of the projects listed on Exhibit A attached hereto, which projects were approved by the qualified voters of the Issuer at an election held within and for the Issuer on November 8, 2022;

WHEREAS, the Issuer has concluded that it does not currently desire to issue Obligations to finance costs associated with the projects listed on Exhibit A attached hereto;

WHEREAS, the Issuer desires to reimburse itself for capital expenditures associated with the projects listed on Exhibit A attached hereto from the proceeds of Obligations to be issued subsequent to the date hereof; and

WHEREAS, the Issuer reasonably expects to issue Obligations to reimburse itself for the costs associated with the projects listed on Exhibit A attached hereto.

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

Section 1. The Issuer reasonably expects to reimburse itself for capital expenditures that have been or will be paid subsequent to the date that is 60 days prior to the date hereof and that are to be paid in connection with the acquisition, construction, renovation, improvement and equipment of the projects listed on Exhibit A attached hereto from the proceeds of Obligations to be issued subsequent to the date hereof.

Section 2. The Issuer reasonably expects that the maximum principal amount of Obligations issued to reimburse the Issuer for the costs associated with the projects listed on Exhibit A attached hereto will not exceed \$200,000,000.

ADOPTED THIS 6th day of December, 2022 by the City Council of the City of Lubbock, Texas.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:



D. Blu Kostelich
Chief Financial Officer

APPROVED AS TO FORM:



Jerry V. Kyle, Jr.
Bond Counsel

EXHIBIT A

The acquisition, construction and reconstruction of street improvements, including but not limited to sidewalks, utility line relocation and traffic signalization, necessary and related storm drainage facilities and the acquisition of land and rights-of-way therefor.

Information

Agenda Item

Ordinance 1st Reading - Right-of-Way: Consider an ordinance abandoning and closing a portion of a stormwater storage and drainage easement (V8489 P177), located in Tract D, The Falls at Suncrest Addition, Lubbock County, Texas.

Item Summary

The City of Lubbock is in receipt of a request to abandon and close a portion of a stormwater storage and drainage easement (V8489 P177) located south and east of Tract D, The Falls at Suncrest Addition, Lubbock County, Texas.

The total area of the easement being closed is 46,223 square feet. The easement to be closed is to accommodate the expansion of The Falls Tennis & Athletic Club located at 4705 112th Street, Lubbock, TX 79424.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Ordinance - Stormwater Storage & Drainage Easement

Exhibit A - The Falls at Suncrest Addition

Map - The Falls at Suncrest Addition

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING A PORTION OF A STORMWATER STORAGE AND DRAINAGE EASEMENT, LOCATED ON TRACT D, THE FALLS AT SUNCREST ADDITION, LUBBOCK COUNTY, TEXAS, ACCORDING TO THE MAP, PLAT AND/OR DEDICATION DEED THEREOF RECORDED IN VOLUME 8489, PAGE 177, OF THE OFFICIAL DEED RECORDS OF LUBBOCK COUNTY, TEXAS WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

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

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

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

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2022.

Passed by the City Council on second reading this _____ day of _____, 2022.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



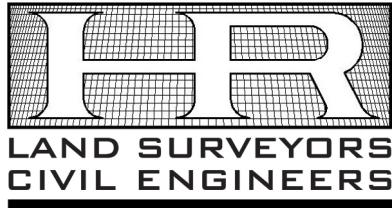
Michael Keenum, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

Ord.A&C-Stormwater Storage and Drainage Easement, Tract D, The Falls at Suncrest Addition
5.19.22



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

METES AND BOUNDS DESCRIPTION of a 1.061 acre tract, being a portion of that 5.2486 acre tract described in County Clerk File Number 2017046358, Official Public Records of Lubbock County, Texas (OPRLCT), and a portion of that Stormwater Storage and Drainage Easement recorded in Volume 8489, Page 177, Official Public Records of Lubbock County, Texas, said 1.061 acre tract being further described as follows:

BEGINNING at a 1/2" iron rod found in the South right-of-way line of 112th Street, dedicated by plat recorded in Volume 9419, Page 276, OPRLCT, in the Northern boundary of that 5.2486 acre tract described in County Clerk File Number 2017046358, OPRLCT, at the most Northerly Northeast corner of Tract D, The Falls at Suncrest, an addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 9419, Page 276, OPRLCT, for the Northwest corner of this tract;

THENCE S. 88°10'51" E., along the South right-of-way line of said 112th Street and the Northern boundary of said 5.2486 acre tract, a distance of 292.23 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the Northeast corner of this tract;

THENCE S. 01°49'09" W. a distance of 315.20 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the most Easterly Southeast corner of this tract;

THENCE S. 46°49'09" W. a distance of 29.40 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the most Southerly Southeast corner of this tract;

THENCE N. 88°10'51" W. a distance of 21.21 feet to a 1/2" iron rod with cap marked "4460" found in the Western boundary of said 5.2486 acre tract and the most Southerly Southeast corner of said Tract D;

THENCE N. 46°49'09" E., along the Western boundary of said 5.2486 acre tract and the Southern boundary of said Tract D, a distance of 42.43 feet to a 1/2" iron rod found at the most Easterly Southeast corner of said Tract D;

THENCE N. 01°49'09" E., along the Western boundary of said 5.2486 acre tract and the Eastern boundary of said Tract D, a distance of 132.55 feet to a 1/2" iron rod with cap marked "4460" found at the most Easterly Northeast corner of said Tract D;

THENCE N. 88°10'51" W., along the Western boundary of said 5.2486 acre tract and the Northern boundary of said Tract D, a distance of 164.74 feet to an "X" chiseled in concrete set;

THENCE N. 43°10'51" W., continuing along the Western boundary of said 5.2486 acre tract and the Northern boundary of said Tract D, a distance of 163.33 feet to a "MAG" nail with shiner marked "4460" found;

THENCE N. 01°49'09" E., continuing along the Western boundary of said 5.2486 acre tract and the Northern boundary of said Tract D, a distance of 58.11 feet to the Point of Beginning.

Contains: 46,223 square feet

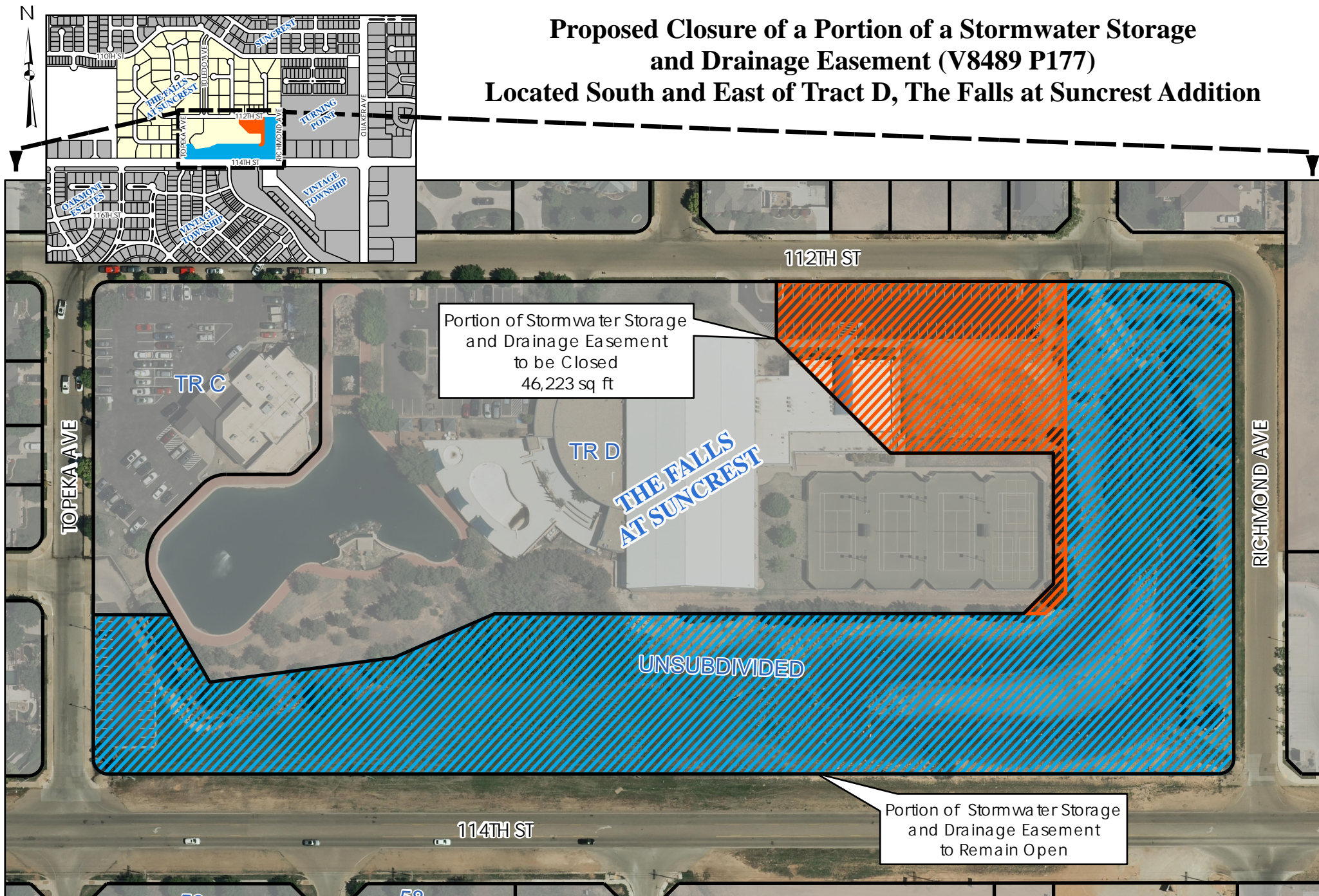
Bearings relative to Grid North, Texas Coordinate System of 1983, North-Central Zone, (2011, epoch 2010.0).

Surveyed on the ground,
September 14, 2022

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



**Proposed Closure of a Portion of a Stormwater Storage
and Drainage Easement (V8489 P177)
Located South and East of Tract D, The Falls at Suncrest Addition**



0 100 200 300 Feet

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



Digital Orthophotography - May 2021

Information

Agenda Item

Ordinance 1st Reading - Right-of-Way: Consider an ordinance abandoning and closing a portion of alley right-of-way, located west of Lot 93, Hatton Place Addition, Lubbock County, Texas.

Item Summary

The City of Lubbock is in receipt of a request to abandon and close a portion of an alley, located west of Lot 93, Hatton Place Addition, Lubbock County, Texas.

The total area of the easement being closed is 254 square feet. The easement closure will allow changing the proposed layout from single-family residential development with alleys, to single-family residential development with no alleys.

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

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Ordinance - Alley ROW

Exhibit A - Hatton Place Addition

Map - Lot 93, Hatton Place Addition

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING A PORTION OF ALLEY RIGHT-OF-WAY, LOCATED WEST OF LOT 93, HATTON PLACE ADDITION, LUBBOCK COUNTY, TEXAS, ACCORDING TO THE MAP, PLAT AND/OR DEDICATION DEED THEREOF RECORDED IN COUNTY CLERK FILE NUMBER 2019005014, OF THE OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the right-of-way hereinafter described in the body of this Ordinance is no longer needed for right-of-way purposes and for public use; and it would be in the public interest to close, vacate and abandon the same for 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 right-of-way as hereinafter described shall BE and the same is hereby closed, vacated and abandoned for right-of-way purposes and for public use, such right-of-way being more particularly described in the attached Exhibit "A".

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2022.

Passed by the City Council on second reading this ____ day of _____, 2022.

TRAY PAYNE, 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-Alley ROW, Hatton Place Addition
11.7.22

**A PARTIAL ALLEY CLOSURE IN
HATTON PLACE,
AN ADDITION TO THE CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS**

A partial alley closure, previously dedicated with the plat of Hatton Place, Lots 92 through 132, an addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Plat and Dedication Number 2019005014 of the Official Public Records of Lubbock County, Texas, said partial alley closure contains 254 square feet (0.0060 acres), being further described by metes and bounds as follows:

BEGINNING at a point in the west right-of-way line of said alley, for the northeast corner of this closure, said beginning point having coordinates of **NORTHING: 7,239,223.35** and **EASTING: 934,125.34**, Texas Coordinate System, North Central Zone 4202, North American Datum of 1983, whence the southeast corner of Section 22, Block E-2 bears *South 88 degrees 12 minutes 08 seconds East* a distance of 1693.16 feet and *South 01 degrees 47 minutes 52 seconds West* a distance of 2509.47 feet;

(1) **THENCE** *South 01 degrees 43 minutes 30 seconds West* a distance of 24.50 feet to a 1/2-inch iron rod with a plastic cap marked "AMD ENGINEERING" found for the southeast corner of this closure;

(2) **THENCE** *North 88 degrees 16 minutes 30 seconds West* a distance of 14.77 feet to a point in the west right-of-way line of said alley, for the southwest corner of this closure

(3) **THENCE** *North 00 degrees 20 minutes 13 seconds East*, along the west right-of-way line of said alley, a distance of 9.50 feet to a point of intersection for the northwest corner of this closure;

(4) **THENCE** *North 46 degrees 43 minutes 36 seconds East*, along the west right-of-way line of said alley, a distance of 21.21 feet to the **POINT OF BEGINNING**. Bearings and coordinates called in this description are based on the Texas Coordinate System, North Central Zone 4202, North American Datum of 1983. Distances called in this description are at surface. Areas reported hereon are based on calculations made from surface distances. This survey is subject to any facts which may be disclosed by a full and accurate title search. Record documents other than those shown may affect this tract.

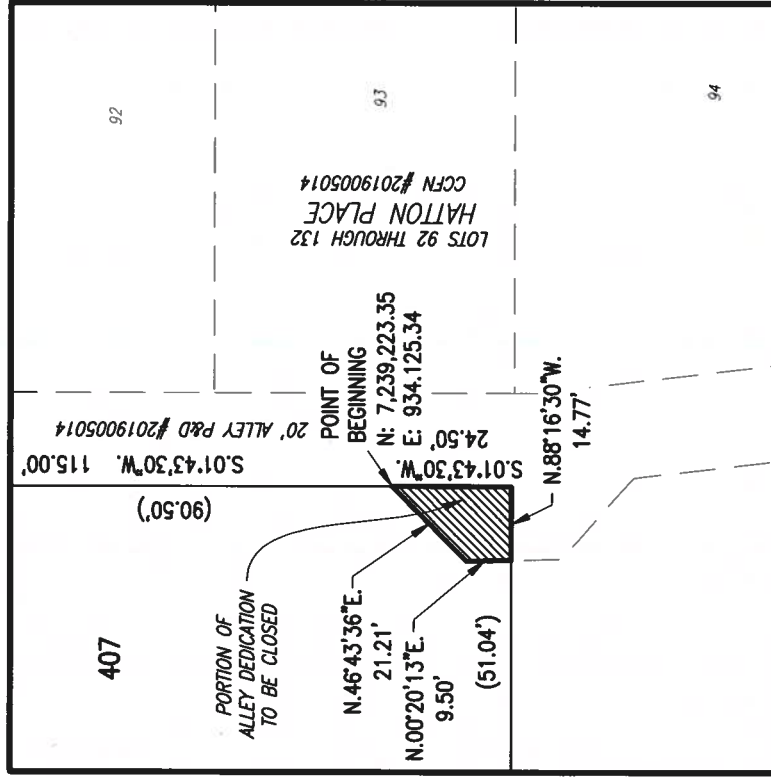
Surveyed on the ground: March 07, 2022



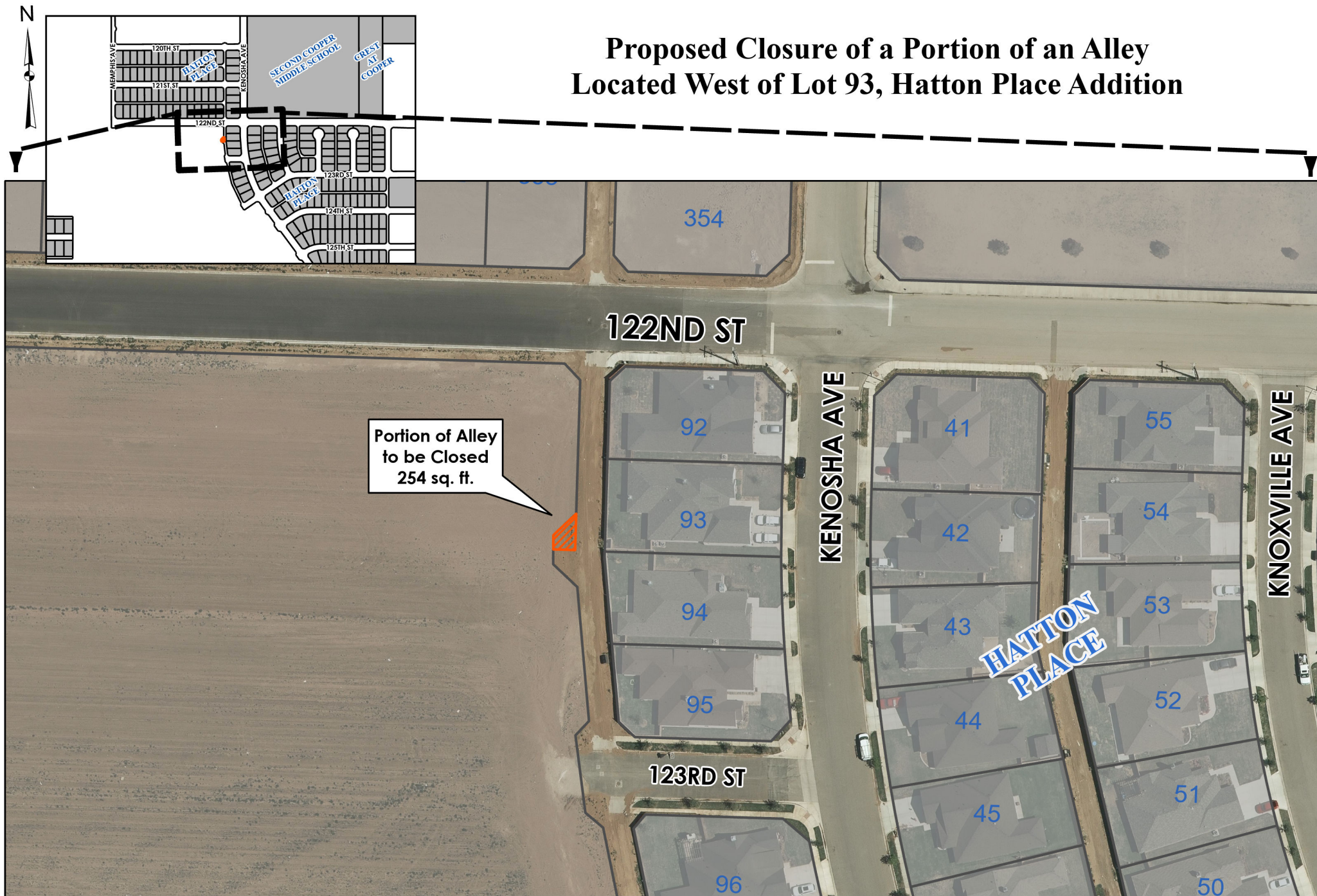
Samuel Wyatt, RPLS 6453



PROPOSED PARTIAL ALLEY CLOSURE IN
HATTON PLACE
 AN ADDITION TO THE CITY OF LUBBOCK,
 LUBBOCK COUNTY, TEXAS



Proposed Closure of a Portion of an Alley Located West of Lot 93, Hatton Place Addition



0 50 100 150 200 250 Feet

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

Information

Agenda Item

Ordinance 1st Reading - Right-of-Way: Consider an ordinance abandoning and closing an underground utility easement and portions of two drainage easements, located on Tract J, Commons South Addition, Lubbock County, Texas.

Item Summary

The City of Lubbock is in receipt of a request to abandon and close an underground utility easement and portions of two drainage easements, located on Tract J of Commons South Addition, Lubbock County, Texas.

The total area of the easements being closed is 41,251 square feet. The underground utility easement will be relocated along the fire loop and the drainage easements will be adjusted to support an underground storm sewer. Both sets of easements are being relocated due to conflicts with proposed improvements, and to allow for a more efficient use of the subject property.

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

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Ordinance - UUE & Drainage Easements

Exhibit A - Tract J, Commons South Addition

Map - Tract J, Commons South

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING AN UNDERGROUND UTILITY EASEMENT AND PORTIONS OF TWO (2) DRAINAGE EASEMENTS, LOCATED ON TRACT J, COMMONS SOUTH ADDITION, LUBBOCK COUNTY, TEXAS, ACCORDING TO THE MAP, PLAT AND/OR DEDICATION DEED THEREOF RECORDED IN COUNTY CLERK FILE NUMBER 2021039782, OF THE OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

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

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

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

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2022.

Passed by the City Council on second reading this ____ day of _____, 2022.

TRAY PAYNE, 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-UUE & Drainage Easements, Commons South
11.7.22

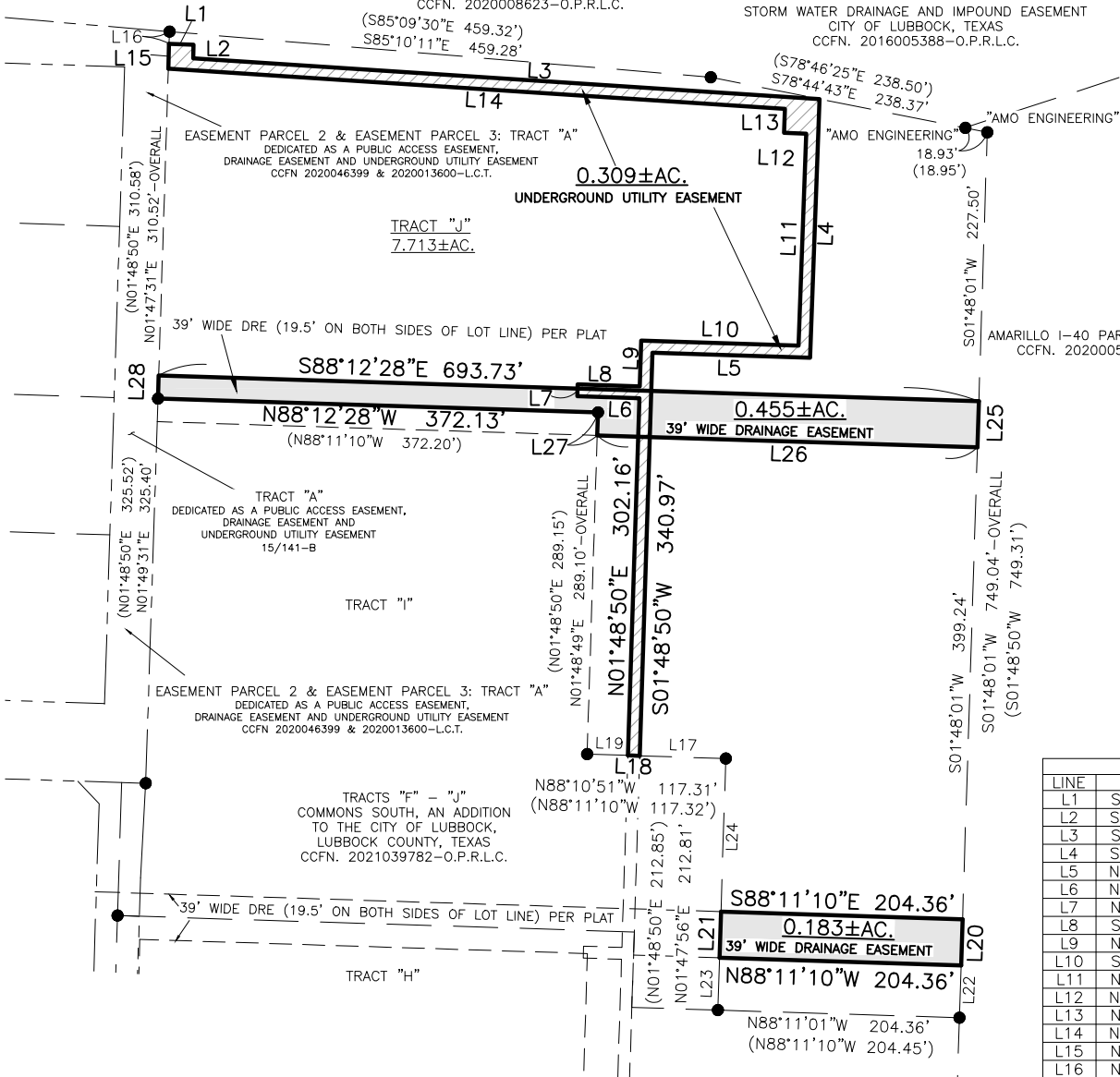
- 1/2" IRON PIN FOUND WITH "DELTA SURVEYING" CAP (UNLESS NOTED)
- .../... VOLUME/PAGE
- O.R.L.C. OFFICIAL RECORDS OF LUBBOCK COUNTY
- () RECORD INFO/SUBJECT

AMARILLO I-40 PARTNERS, LTD, ET AL
CCFN. 2020005104-O.P.R.L.C.

EASEMENT PARCEL 2:
9.9427 ACRE

STORM WATER DRAINAGE AND IMPOUND EASEMENT
CCFN. 2020008623-O.P.R.L.C.

STORM WATER DRAINAGE AND IMPOUND EASEMENT
CITY OF LUBBOCK, TEXAS
CCFN. 2016005388-O.P.R.L.C.



AMARILLO I-40 PARTNERS, LTD, ET AL
CCFN. 2020005104-O.P.R.L.C.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S88°11'10"E	20.73'
L2	S01°48'50"W	11.60'
L3	S86°16'03"E	530.59'
L4	S02°05'09"W	218.78'
L5	N88°11'10"W	133.16'
L6	N88°11'10"W	52.46'
L7	N01°48'50"E	10.00'
L8	S88°11'10"E	52.46'
L9	N01°48'50"E	38.81'
L10	S88°11'10"E	133.21'
L11	N02°05'09"E	179.38'
L12	N87°54'51"W	18.81'
L13	N02°05'09"E	20.28'
L14	N86°16'03"W	522.46'
L15	N01°47'31"E	20.91'
L16	N01°47'31"E	10.37'
L17	N88°10'51"W	72.72'
L18	N88°10'51"W	10.00'
L19	N88°10'51"W	34.58'
L20	N01°48'01"E	39.00'
L21	N01°47'56"E	39.00'
L22	S01°48'01"W	44.31'
L23	N01°47'56"E	44.31'
L24	N01°47'56"E	129.51'
L25	S01°48'01"W	39.00'
L26	N88°12'28"W	321.60'
L27	N01°48'49"E	19.50'
L28	N01°47'31"E	19.50'

NOTES:

1) BASIS OF BEARINGS ARE TO THE NORTH AMERICAN DATUM OF 1983, TEXAS COORDINATE SYSTEM, CENTRAL ZONE, UNLESS SHOWN RECORD INFORMATION SHOWN, BEARINGS AND DISTANCES MATCH THOSE OF RECORD PLAT OF TRACTS "F"- "J" COMMONS SOUTH.

EASEMENT ABANDONMENT EXHIBIT

LEGAL DESCRIPTION:

0.309 OF AN ACRE UNDERGROUND UTILITY EASEMENT: (TO BE ABANDONED)

BEING A 0.309 OF AN ACRE PORTION OF THE UNDERGROUND UTILITY EASEMENT LOCATED ON TRACT "J" OF TRACTS "F" - "J" COMMONS SOUTH, AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, A SUBDIVISION AS SHOWN ON PLAT RECORDED IN CLERK'S FILE NO. 2021039782 OF THE OFFICIAL RECORDS OF LUBBOCK COUNTY, TEXAS.

0.455 OF AN ACRE PORTION OF A 39' WIDE DRAINAGE EASEMENT: (TO BE ABANDONED)

BEING A 0.455 OF AN ACRE PORTION OF THE DRAINAGE EASEMENT LOCATED ON TRACT "J" OF TRACTS "F" - "J" COMMONS SOUTH, AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, A SUBDIVISION AS SHOWN ON PLAT RECORDED IN CLERK'S FILE NO. 2021039782 OF THE OFFICIAL RECORDS OF LUBBOCK COUNTY, TEXAS.

0.183 OF AN ACRE PORTION OF A 39' WIDE DRAINAGE EASEMENT: (TO BE ABANDONED)

BEING A 0.183 OF AN ACRE PORTION OF THE DRAINAGE EASEMENT LOCATED ON TRACT "J" OF TRACTS "F" - "J" COMMONS SOUTH, AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, A SUBDIVISION AS SHOWN ON PLAT RECORDED IN CLERK'S FILE NO. 2021039782 OF THE OFFICIAL RECORDS OF LUBBOCK COUNTY, TEXAS.

I HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED ON THE GROUND AND WAS SURVEYED BY ME OR UNDER MY DIRECT SUPERVISION. CUPLIN & ASSOCIATES, INC. ACCEPTS NO RESPONSIBILITY FOR THE USE OF THIS SURVEY BY ANYONE OTHER THAN THE ABOVE REFERENCED PARTIES HEREBY CERTIFIED TO FOR THIS SPECIFIC TRANSACTION ONLY. COPYRIGHT 2022, CUPLIN & ASSOCIATES, INC. ©.



K.C. LUST, R.P.L.S. NO. 5273

DATED 09/19/2022

1 OF 1

PROJ NO. 21667
PREPARED FOR: MCCOY CORPORATION
TECH: C. CUPLIN
APPROVED: K.C. LUST
FIELDWORK PERFORMED ON: SEPT 2020
COPYRIGHT: 2022 PROFESSIONAL FIRM NO: 10126900

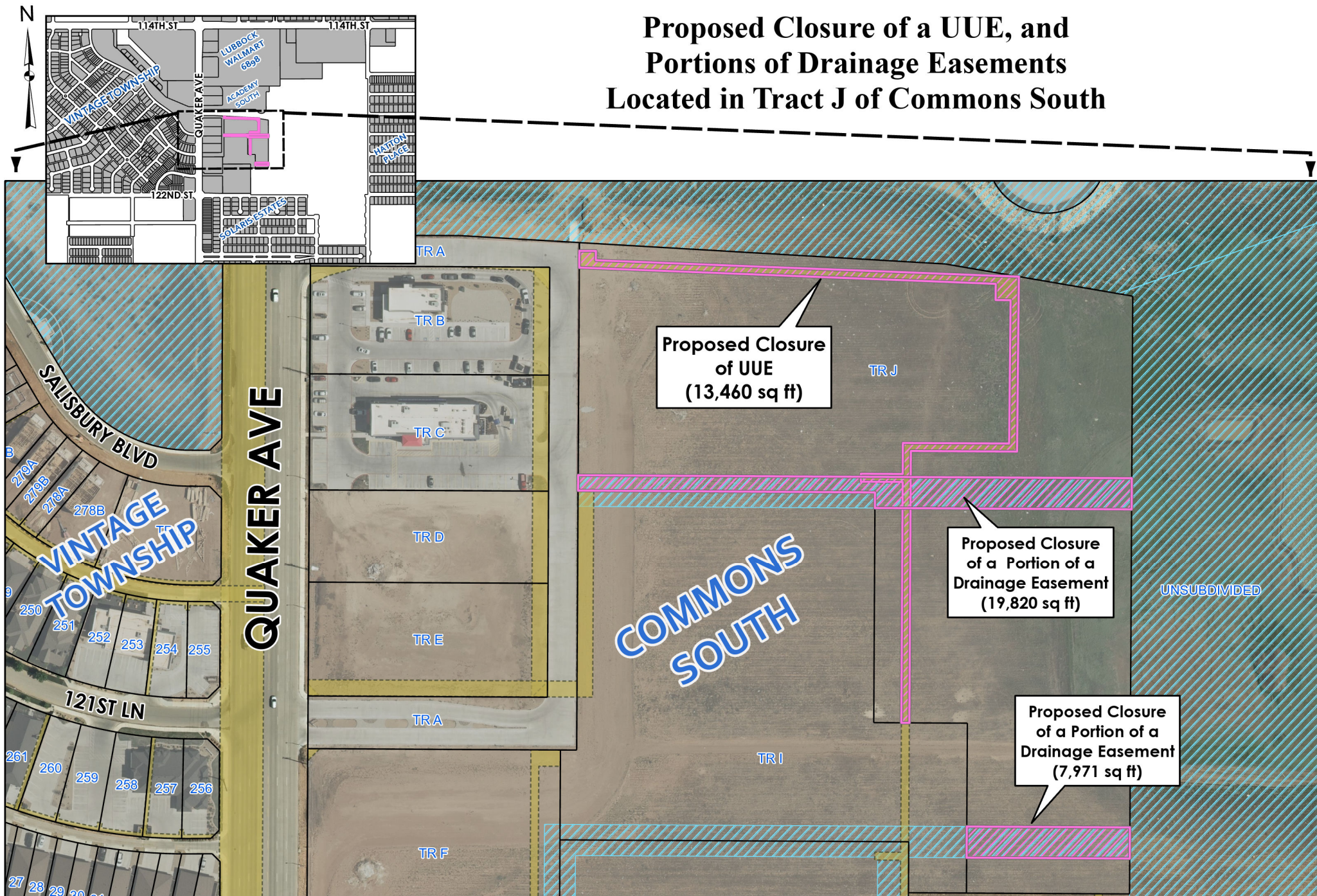
1500 OLLIE LANE
MARBLE FALLS, TX. 78654
PH. 325-388-3300/830-693-8815
WWW.CUPLINASSOCIATES.COM

SCALE 1" = 150'

0 75 150

2	
1	
DATE	NO. DESCRIPTION
REVISIONS	

Proposed Closure of a UUE, and Portions of Drainage Easements Located in Tract J of Commons South



0 100 200 300 400 500 Feet

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

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to accept, for and on behalf of the City of Lubbock, a Street Dedication Deed and all related documents, in connection with certain real property located in Section 20, Block AK, Lubbock County, Texas, to be utilized for unpaved road improvements.

Item Summary

SWLLD, LLC is dedicating to the City of Lubbock a 32-foot wide, 2,377-foot long strip of land to be utilized as the east half of Street Right-of-Way for the future Iola Avenue, from 122nd Street to State Loop 88.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Resolution - Street Dedication Deed

SWLLD, LLC - Street Dedication Deed

Exhibit A - Section 20, Block AK

Map - Portion of Iola Avenue

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 Street Dedication Deed in connection with certain real property located in Section 20, Block AK, Lubbock County, Texas, to be utilized for unpaved road improvements, and all related documents. Said Deed 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 _____.

TRAY PAYNE, 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

RES.Street Dedication Deed-Section 20, Block AK
11.7.22

STREET DEDICATION DEED

THE STATE OF TEXAS
COUNTY OF LUBBOCK

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

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

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

WITNESS MY HAND this 25th day of October, 2022

SWLLD, LLC

By: _____

Printed Name: Thomas K. Payne

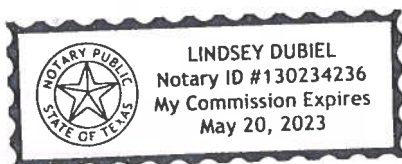
Title: Manager

THE STATE OF TEXAS
COUNTY OF LUBBOCK

§
§

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Thomas K. Payne, Manager, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity herein stated as the act and deed of said SWLLD, LLC, a Texas Limited Liability Company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 25 day of October, 2022.



Notary Public in and for the State of Texas
My Commission Expires: May 20, 2023

THE STATE OF TEXAS §
COUNTY OF LUBBOCK §

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

IN WITNESS WHEREOF, the said First Bank & Trust has caused these presents to be signed by its duly authorized officer at Lubbock, Lubbock County, Texas on this 25th day of October, 2022

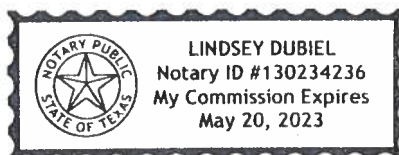
First Bank & Trust

By: Jared Townsend

Printed Name: Jared Townsend

Title: Senior Vice President

This instrument was acknowledged before me on this 25 day of October, 2022, by Jared Townsend, as SVP of First Bank & Trust and in the capacity therein stated.



[Signature]
Notary Public in and for the State of Texas
My Commission Expires: May 20, 2023

EXHIBIT A

Plat of a 1.773-Acre Parcel
Located In the Southeast Quarter of
Section 20, Block AK
Lubbock County, Texas

LEGAL DESCRIPTION:

METES AND BOUNDS DESCRIPTION of a 1.1773 acre tract located in Section 20, Block AK, Lubbock County, Texas, being a portion of that that same property conveyed in County Clerk File Number (CCFN) 2020039935, Official Public Records of Lubbock County, Texas (OPRLCT), being further described as follows:

BEGINNING at a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." set for the Southwest corner of this tract, which bears N. 01° 40' 15" E. a distance of 265.93 feet from a 5/8" iron rod found at the Southwest corner of the Southeast Quarter of said Section 20;

THENCE N. 01° 40' 15" E., along the West line of the Southeast Quarter of said Section 20, at 1437.99 feet pass a 1/2" iron rod found in reference, continuing for a total distance of 2377.14 feet to a 3/4" iron pipe found at the Northwest corner of the Southeast Quarter of said Section 20 and the Northwest corner of this tract;

THENCE S. 88° 08' 02" E., along the North line of the Southeast Quarter of said Section 20, a distance of 32.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." found at the Northeast corner of this tract;

THENCE S. 01° 40' 15" W., 32.00 feet East of and parallel to the West line of the Southeast Quarter of said Section 20, a distance of 785.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." set for a point of intersection;

THENCE S. 43° 17' 21" E. a distance of 21.23 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." set for a point of intersection;

THENCE S. 01° 40' 15" W. a distance of 64.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." set for a point of intersection;

THENCE S. 46° 42' 31" W. a distance of 21.20 feet to a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." set for a point of intersection;

THENCE S. 01° 40' 15" W., at 60.00 feet pass a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." found in reference, continuing at 965.06 feet pass a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." found in reference, continuing at 424.24 feet pass a 1/2" iron rod with yellow cap marked "HUGO REED & ASSOC." found in reference, continuing for a total distance of 1498.10 feet to a point for the Southeast corner of this tract, from which a TXDOT monument found in reference bears S. 89° E. a distance of 4.00 feet;

THENCE N. 88° 13' 11" W. a distance of 32.00 feet to the Point of Beginning.

This description is accompanied by a plat of even survey date.



COPYRIGHT 2022 HUGO REED & ASSOCIATES, INC.



**Plat of a 1.773-Acre Parcel
Located In the Southeast Quarter of
Section 20, Block AK
Lubbock County, Texas**

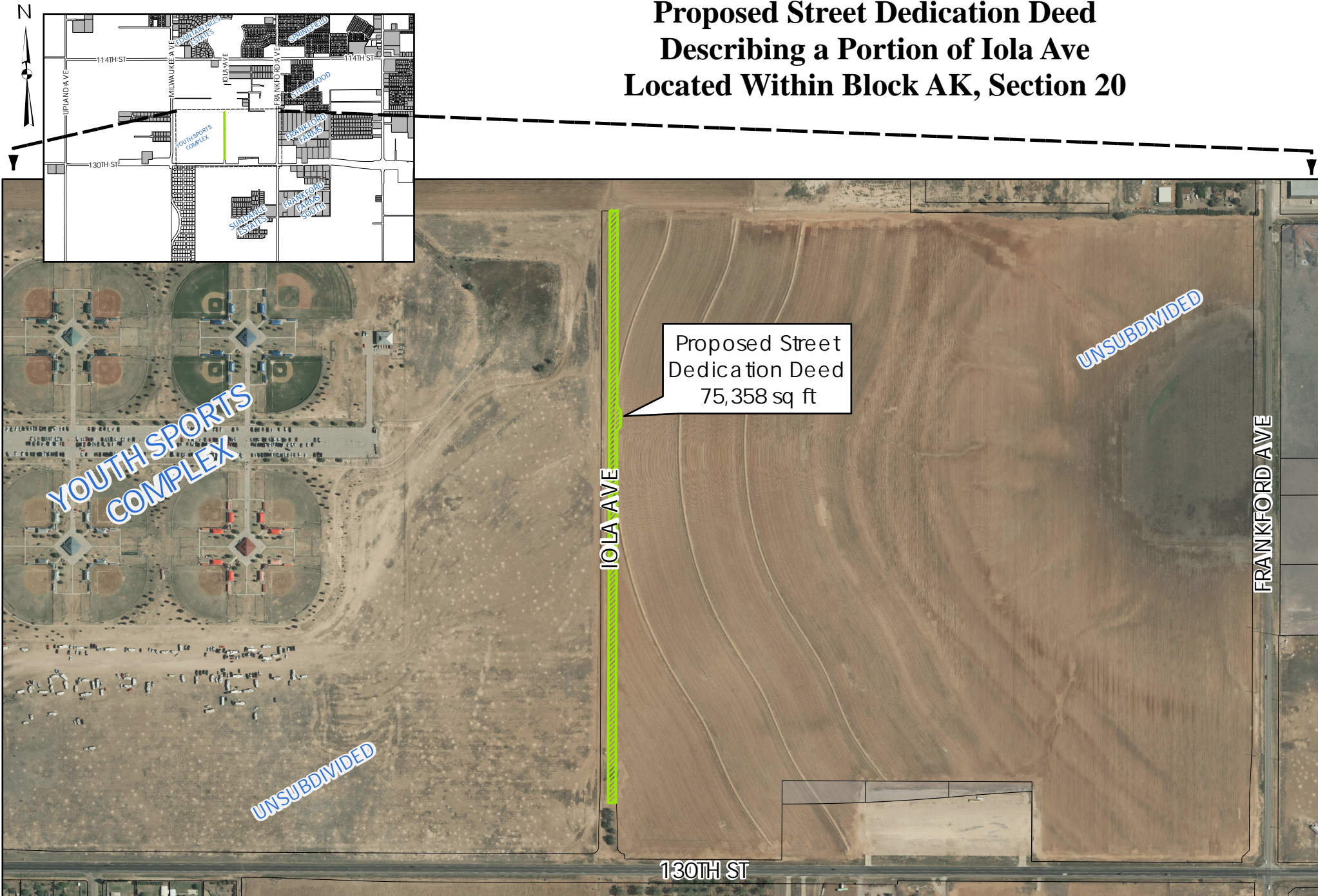
HR HUGO REED
AND ASSOCIATES, INC.

**LAND SURVEYORS
CIVIL ENGINEERS**

TEXAS LICENSED SURVEYING FIRM 100678-00
TEXAS REGISTERED ENGINEERING FIRM F-780

1601 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 793-5642
FAX: 806 / 793-3891

Proposed Street Dedication Deed Describing a Portion of Iola Ave Located Within Block AK, Section 20



0 500 1,000 1,500 2,000 2,500 3,000 Feet

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

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to accept, for and on behalf of the City of Lubbock, a Street Dedication Deed and all related documents, in connection with certain real property located in Section 42, Block AK, Lubbock County, Texas, to be utilized for unpaved road improvements.

Item Summary

Wesley Garner is granting to the City of Lubbock a 32-foot wide, 194-foot long strip of land to be dedicated as Street Right-of-Way along 26th Street east of Wausau Avenue. Acceptance of the 6,187-square foot parcel of land is subject to final approval by the City Council. This land will be utilized for unpaved road improvements in the future.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Resolution - Street Dedication Deed

Wesley Garner - Street Dedication Deed

Exhibit A - Section 42, Block AK

Map - Section 42, Block AK

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 Street Dedication Deed in connection with certain real property located in Section 42, Block AK, Lubbock County, Texas, to be utilized for unpaved road improvements, and all related documents. Said Deed 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

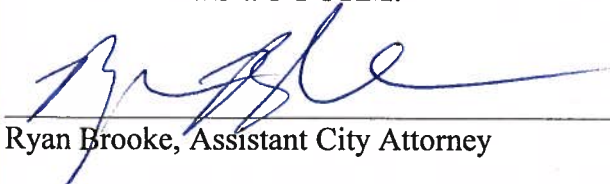
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



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

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES. Street Dedication Deed-Section 42, Block AK
11.7.22

City of Lubbock - ROW
counter filing



STREET DEDICATION DEED

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

§

COUNTY OF LUBBOCK

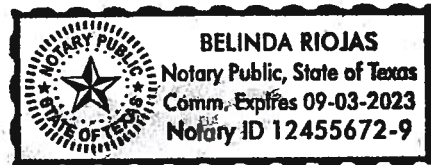
§

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

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

WITNESS MY HAND this 12th day of May, 2022.


Wesley Garner



THE STATE OF TEXAS


§

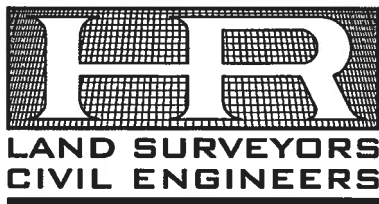
COUNTY OF LUBBOCK

§

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 12th day of May, 2022.


Notary Public in and for the State of Texas
My Commission Expires: 09-03-2023



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

METES AND BOUNDS DESCRIPTION of a 0.1425-acre tract located in Section 42, Block AK, Lubbock County, Texas, being a portion of that 3.0-acre save and except tract described in Volume 4712, Page 259, Real Property Records, Lubbock County, Texas (RPRLCT), being further described as follows:

BEGINNING at a 1/2" iron rod with cap marked "HUGO REED ASSOC" (N=7,271,923.73', E=907,471.48') set in the North line of said 3.0-acre tract, at the Northeast plat limits corner of Lot 1, Garner Addition, an addition to the City of Lubbock, according to the map, plat, and/or dedication deed thereof recorded in Volume 2678, Page 45, RPRLCT, for the Northwest corner of this tract;

THENCE S. 88°09'57" E. along the North line of said 3.0 acre tract, a distance of 194.00 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED ASSOC' set in a West line of the plat limits of Lots 342 through 398, Upland Crossing, an addition to the City of Lubbock, according to the map, plat and/or dedication deed thereof recorded in County Clerk File Number (CCFN) 2020042791, Official Public Records, Lubbock County, Texas (OPRLCT), for the Northeast corner of said 3.0 acre tract and the Northeast corner of this tract;

THENCE S. 01°48'51" W. along the East line of said 3.0-acre tract, the West plat limits of said Upland Crossing, a distance of 32.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED ASSOC" set for the Southeast corner of this tract;

THENCE N. 88°09'57" W., 32.00 feet south of and parallel with the North line of said 3.0-acre tract, a distance of 194.00 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED ASSOC' set in the East line of said Lot 1, Garner Addition for the Southwest corner of this tract;

THENCE N. 01°48'51" E., along the East plat limits of said Lot 1, Garner Addition, a distance of 32.00 feet to the Point of Beginning.

Note: A plat of even survey date accompanies this description herewith.

Surveyed on the ground,
May 19, 2022

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



Plat Showing Proposed Right-of-Way Parcel Located In
Section 42, Block AK
 Lubbock County, Texas

P.O.B.
 N= 7,271,933.73'
 E= 907,471.48'

26th STREET

30' Right-of-Way Dedicated by Plat

LOT 1 ADDITION
 GARNER ADDITION
 Volume 2078, Page 45, Plat Project Record



Line #	Length	Direction
L1	194.00'	S88° 09' 57"E
L2	32.00'	S01° 48' 51"W
L3	194.00'	N88° 09' 57"W
L4	32.00'	N01° 48' 51"E

Parent Tract
 UNSUBDIVIDED
 Original as 1/2 Acre and 250 Feet Front
 Volume 412, Page 10, Plat Project Record

NOTES:
 HEAVY LINES INDICATE PLAT LIMITS
 P.O.B. - POINT OF BEGINNING
 ● - SET 1/2" IRON ROD WITH CAP MARKED "HUGO REED ASSOC"
 ○ - FOUND 1/2" IRON ROD (PMRD Vol. 4712 Pg. 259)
 ⊙ - FOUND 1/2" IRON ROD WITH BLUE CAP
 ⊗ - FOUND 1/2" IRON ROD WITH CAP MARKED "AMD" (PMRD CCN's 2020020877 & 20200442791)
 △ - FOUND NAIL AND SHINER
 - SET "MAG" NAIL WITH CAP (HRA)
 PMRD - PHYSICAL MONUMENT OF RECORD DIGNITY

VIRGINIA AVENUE

A METES AND BOUNDS DESCRIPTION OF EVEN SURVEY DATE ACCOMPANIES THIS PLAT HEREWITH

Surveyed on the ground,
 May 19, 2022



COPYRIGHT 2022 HUGO REED & ASSOCIATES, INC.
HUGO REED
 AND ASSOCIATES, INC.
 LAND SURVEYORS
 CIVIL ENGINEERS
 1801 AVENUE N
 LUBBOCK, TEXAS 79401
 PHONE: 806 / 763-5642
 FAX: 806 / 763-3891

LOTS 342-398
 UPLAND CROSSING
 CONT. 20200442791, Original Plat Project Record

SHEET 1 of 2

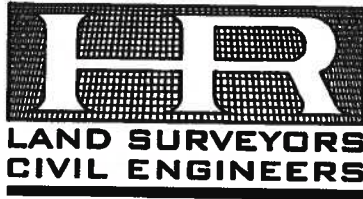
FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Kelly Pinion

Kelly Pinion, County Clerk
Lubbock County, TEXAS
06/29/2022 04:06 PM
FEE: \$34.00
2022031764



HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-8642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

METES AND BOUNDS DESCRIPTION of a 0.1425-acre tract located in Section 42, Block AK, Lubbock County, Texas, being a portion of that 3.0-acre save and except tract described in Volume 4712, Page 259, Real Property Records, Lubbock County, Texas (RPRLCT), being further described as follows:

BEGINNING at a 1/2" iron rod with cap marked "HUGO REED ASSOC" (N=7,271,923.73', E=907,471.48') set in the North line of said 3.0-acre tract, at the Northeast plat limits corner of Lot 1, Garner Addition, an addition to the City of Lubbock, according to the map, plat, and/or dedication deed thereof recorded in Volume 2678, Page 45, RPRLCT, for the Northwest corner of this tract;

THENCE S. 88°09'57" E. along the North line of said 3.0 acre tract, a distance of 194.00 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED ASSOC' set in a West line of the plat limits of Lots 342 through 398, Upland Crossing, an addition to the City of Lubbock, according to the map, plat and/or dedication deed thereof recorded in County Clerk File Number (CCFN) 2020042791, Official Public Records, Lubbock County, Texas (OPRLCT), for the Northeast corner of said 3.0 acre tract and the Northeast corner of this tract;

THENCE S. 01°48'51" W. along the East line of said 3.0-acre tract, the West plat limits of said Upland Crossing, a distance of 32.00 feet to a 1/2" iron rod with yellow cap marked "HUGO REED ASSOC" set for the Southeast corner of this tract;

THENCE N. 88°09'57" W., 32.00 feet south of and parallel with the North line of said 3.0-acre tract, a distance of 194.00 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED ASSOC' set in the East line of said Lot 1, Garner Addition for the Southwest corner of this tract;

THENCE N. 01°48'51" E., along the East plat limits of said Lot 1, Garner Addition, a distance of 32.00 feet to the Point of Beginning.

Note: A plat of even survey date accompanies this description herewith.

Surveyed on the ground,
May 19, 2022

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



Plat Showing Proposed Right-of-Way Parcel Located In
Section 42, Block AK
 Lubbock County, Texas

P.O.B.
 No 2271 933.77
 E- 907.011.48

26th STREET

26' Right-of-Way Dedicated to Public



GRAPHIC SCALE IN FEET
 0 10 20 30 40 50 60 70 80 90 100

Line #	Length	Direction
L1	194.00'	S88° 09' 57"E
L2	32.00'	S01° 48' 51"W
L3	194.00'	N88° 09' 57"W
L4	32.00'	N01° 48' 51"E

LOT ADDITION
 GARNER and parent tracts
 194.00' x 32.00'

Parent Tract
 UNSUBDIVIDED
 194.00' x 32.00'

- NOTES:
 HEAVY LINES INDICATE PLAT LIMITS
 P.O.B. - POINT OF BEGINNING
 ● - SET 1/2" IRON ROD WITH CAP MARKED "HUGO REED ASSOC"
 ○ - FOUND 1/2" IRON ROD (PARD Vol. 4712 Pg. 259)
 ⊙ - FOUND 1/2" IRON ROD WITH BLUE CAP
 ⊗ - FOUND 1/2" IRON ROD WITH CAP MARKED "AMD"
 △ - FOUND NAIL AND SHIRNER
 - SET "NAG" NAIL WITH CAP (NRA)
 PARD - PHYSICAL MONUMENT OF RECORD DIGNITY

VIRGINIA AVENUE

A METES AND BOUNDS DESCRIPTION OF EVEN SURVEY DATE ACCOMPANIES THIS PLAT HEREWITH

Surveyed on the ground,
 May 19, 2022



Robert A. Christopher

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HUGO REED
 AND ASSOCIATES, INC.
 LAND SURVEYORS
 CIVIL ENGINEERS
 1801 AVENUE N
 LUBBOCK, TEXAS 79401
 PHONE: 806 / 763-6642
 FAX: 806 / 763-6651

LOTS 349-398
 UP LAND CROSSING
 20' ALLEY

SHEET 1 of 2

WAUSAU AVENUE

Recorded Street Dedication Deed Describing a Portion of 26th Street Located Within Block AK, Section 42



0 250 500 Feet

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

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to accept, for and on behalf of the City of Lubbock, a Street Dedication Deed and all related documents, in connection with certain real property located in Section 2, Block A, Lubbock County, Texas, to be utilized for unpaved road improvements.

Item Summary

High Plains Marah2elim LLC is dedicating to the City of Lubbock, a portion of Zenith Avenue for the purpose of Street Right-of-Way. Acceptance of the 21,472 square-foot parcel of land is subject to final approval by the City Council. This land will be utilized for unpaved road improvements in the future.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Resolution - Street Dedication Deed

High Plains Marah2elim LLC - Street Dedication Deed

Exhibit A - Section 2, Block A

Map - Section 2, Block A

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 Street Dedication Deed in connection with certain real property located in Section 2, Block A, Lubbock County, Texas, to be utilized for unpaved road improvements, and all related documents. Said Deed 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 _____.

TRAY PAYNE, 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

RES.Street Dedication Deed-Section 2, Block A
11.7.22

STREET DEDICATION DEED

THE STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK

§

§

THAT **HIGH PLAINS MARAH2ELIM LLC**, herein called "GRANTOR", for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, to **him/her** in hand paid by the **CITY OF LUBBOCK, TEXAS**, a Home Rule Municipal Corporation, does hereby dedicate to the public for public use forever and for street right-of-way purposes, the following described tract of land situated in Lubbock County, Texas, as more particularly described in the attached Exhibit "A".

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

WITNESS MY HAND this 8 day of August, 2022

HIGH PLAINS MARAH2ELIM LLC



Hua Chen

THE STATE OF TEXAS

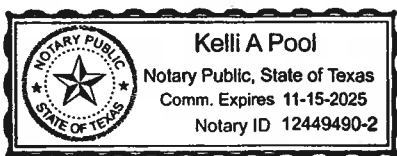
§

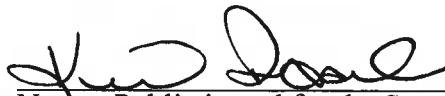
COUNTY OF LUBBOCK

§

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared Hua Chen, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity herein stated an the act and deed of said **HIGH PLAINS MARAH2ELIM LLC**.

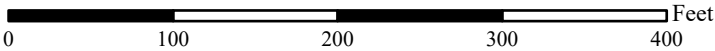
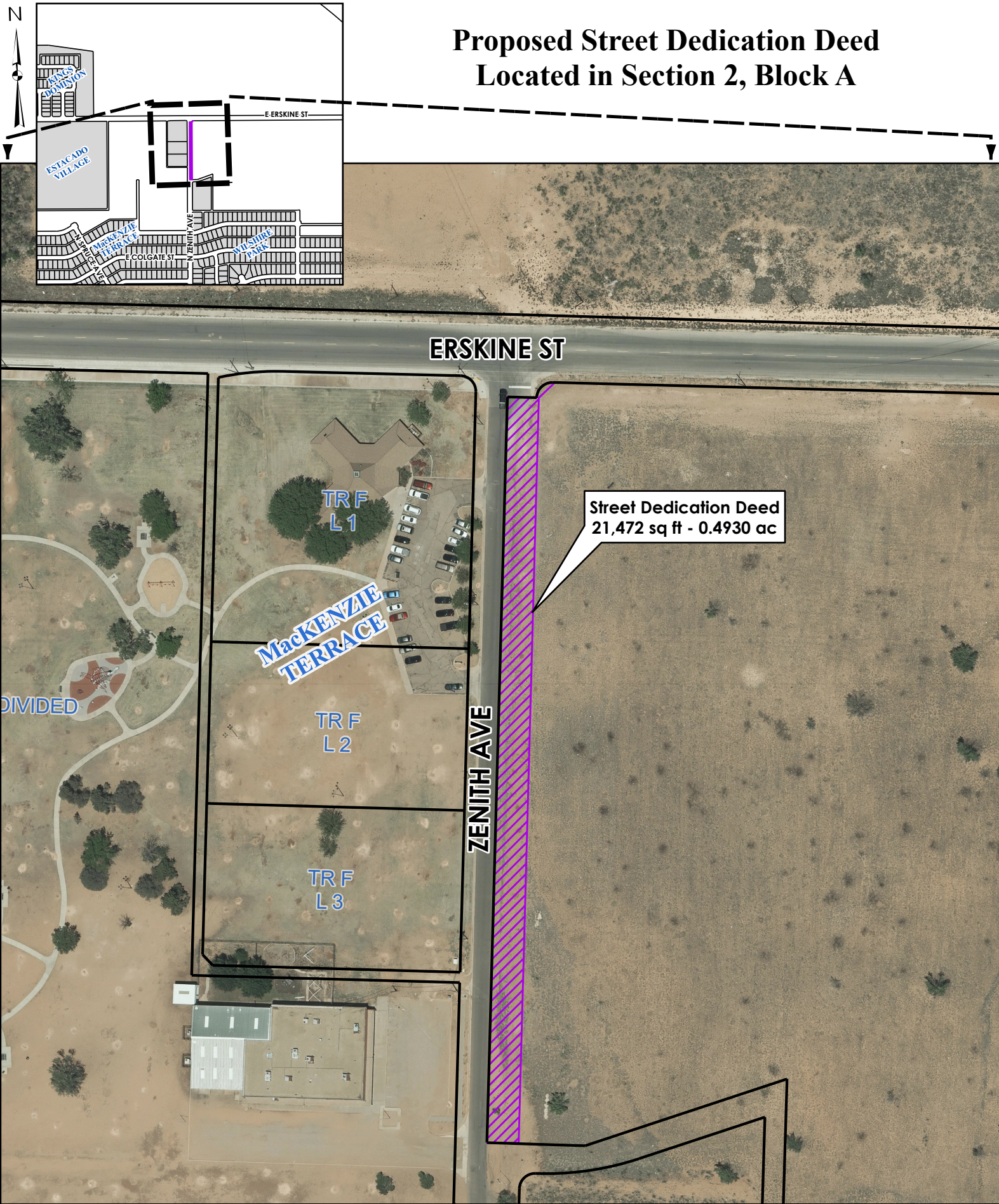
GIVEN UNDER MY HAND AND SEAL OF OFFICE this 8th day of August, 2022





Notary Public in and for the State of Texas
My Commission Expires: 11/15/25

Proposed Street Dedication Deed
Located in Section 2, Block A



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 - Right-of-Way: Consider a resolution authorizing the Mayor to accept for and on behalf of the City of Lubbock, a General Warranty Deed and all related documents, associated with certain property which is more or less a 1.315-acre tract located in Section 5, Block B, Lubbock County, Texas, owned by Lubbock Independent School District.

Item Summary

Lubbock Independent School District owns 1.315 acres of real property located in Section 5, Block B, Lubbock, Texas, and desires to convey the land to the City of Lubbock. This land is located at 1323 East 24th Street and is the site of Priority Intervention Academy. The land is adjacent to Mae Simmons Park and will be utilized for future improvements to the park.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Resolution - LISD

LISD - General Warranty Deed

Exhibit A

Map - Section 5, Block B

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 General Warranty Deed associated with certain property which is more or less 1.315-acre tract located in Section 5, Block B, Lubbock County, Texas, being a portion of that 8.0-acre tract described in Volume 961, Page 683, Deed Records of Lubbock County, Texas, owned by Lubbock Independent School District, and all related documents. Said General 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 _____.

TRAY PAYNE, MAYOR

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES.General Warranty Deed – LISD
11.15.22

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GENERAL WARRANTY DEED

DATE: _____ day of _____, 2022

GRANTOR: Lubbock Independent School District

GRANTOR'S MAILING ADDRESS:

1628 19th Street
Lubbock, Lubbock County, Texas 79401

GRANTEE: City of Lubbock, Texas, a Texas Municipal Corporation

GRANTEE'S MAILING ADDRESS:

P.O. Box 2000
Lubbock, Lubbock County, Texas 79457

CONSIDERATION:

Ten Dollars (\$10.00) and other good and valuable consideration.

PROPERTY (including any improvements):

All of that certain tract of land being a parcel which is more or less 1.315-acre tract located in Section 5, Block B, Lubbock County, Texas, being a portion of that 8.0-acre tract described in Volume 961, Page 683, Deed Records of Lubbock County, Texas, and being further described in Exhibit A attached hereto (the "Land"), together with improvements to the Land (the "Improvements"), and the personal property associated with the Land (the "Personal Property").

RESERVATIONS FROM CONVEYANCE:

None

EXCEPTIONS TO CONVEYANCE AND WARRANTY:

None

GENERAL WARRANTY:

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 and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.

SIGNATURES

FOR THE GRANTOR:

Lubbock Independent School District

By: _____

Printed Name: _____

Title: _____

FOR THE GRANTEE:

CITY OF LUBBOCK, a Texas home rule Municipal Corporation

By: _____

Tray Payne, Mayor

ACKNOWLEDGMENTS

FOR GRANTOR

STATE OF TEXAS §
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on the ____ day of _____ 2022,
by _____ for and on behalf of **Lubbock
Independent School District**, Grantor, on behalf of said corporation.

Notary Public, State of Texas
My commission expires: _____

FOR GRANTEE

STATE OF TEXAS §
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on the ____ day of _____ 2022,
by **Tray Payne, Mayor** of the City of Lubbock., a Texas home rule Municipal
Corporation, on behalf of said home rule Municipal Corporation.

Notary Public, State of Texas
My commission expires: _____

PLAT SHOWING BOUNDARY SURVEY OF A 1.315 ACRE TRACT
LOCATED IN
SECTION 5, BLOCK B
LUBBOCK COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION of a 1.315 acre tract located in Section 5, Block B, Lubbock County, Texas, being a portion of that 8.0 acre tract described in Volume 961, Page 683, Deed Records of Lubbock County, Texas, said 1.315 acre tract being further described as follows:

BEGINNING at a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the Southwest corner of this tract which bears N. 01°52'13" E. a distance of 35.00 feet from the Southwest corner of said 8.0 acre tract;

THENCE N. 01°52'13" E., along the West line of said 8.0 acre tract a distance of 484.37 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the Northwest corner of said 8.0 acre tract and the Northwest corner of this tract;

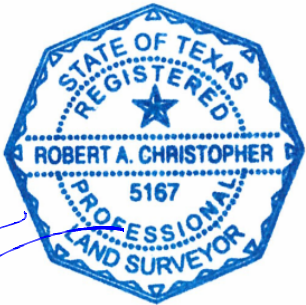
THENCE S. 88°07'47" E., along the North line of said 8.0 acre tract a distance of 118.24 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the Northeast corner of this tract;

THENCE S. 01°51'35" W. a distance of 484.37 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the Southeast corner of this tract;

THENCE N. 88°07'47" W., 35.00 feet North of and parallel with the South line of said 8.0 acre tract a distance of 118.34 feet to the Point of Beginning.

Surveyed on the ground,
November 3, 2022

[Signature]



MAE SIMMONS PARK

CITY OF LUBBOCK
VOL. 174 PG. 499

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

CITY OF LUBBOCK
VOL. 174 PG. 499

S 88°07'47" E
118.24'
484.37'
N 01°52'13" E
484.37'
S 01°51'33" W
484.37'
1.315 ACRES

8.0 ACRES
LUBBOCK INDEPENDENT SCHOOL DISTRICT
VOL. 961 PG. 683

Point of Beginning

Southwest Corner 8.0 Acre Tract
Vol. 961 Pg. 683

EAST

N 88°07'47" W
118.34'

24TH

STREET

NO DOCUMENT FOUND FOR NORTH 25' R-O-W

25' RIGHT-OF-WAY BY PLAT VOL. 315 PG. 513

BLOCK 38
2 CORONADO ADDN.
3

14

13

12

11

10

9

8

7

6

5

4

3

2

1

11

OAK AVE.

TRACT A-1
PARK MEADOWS VILLAS



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

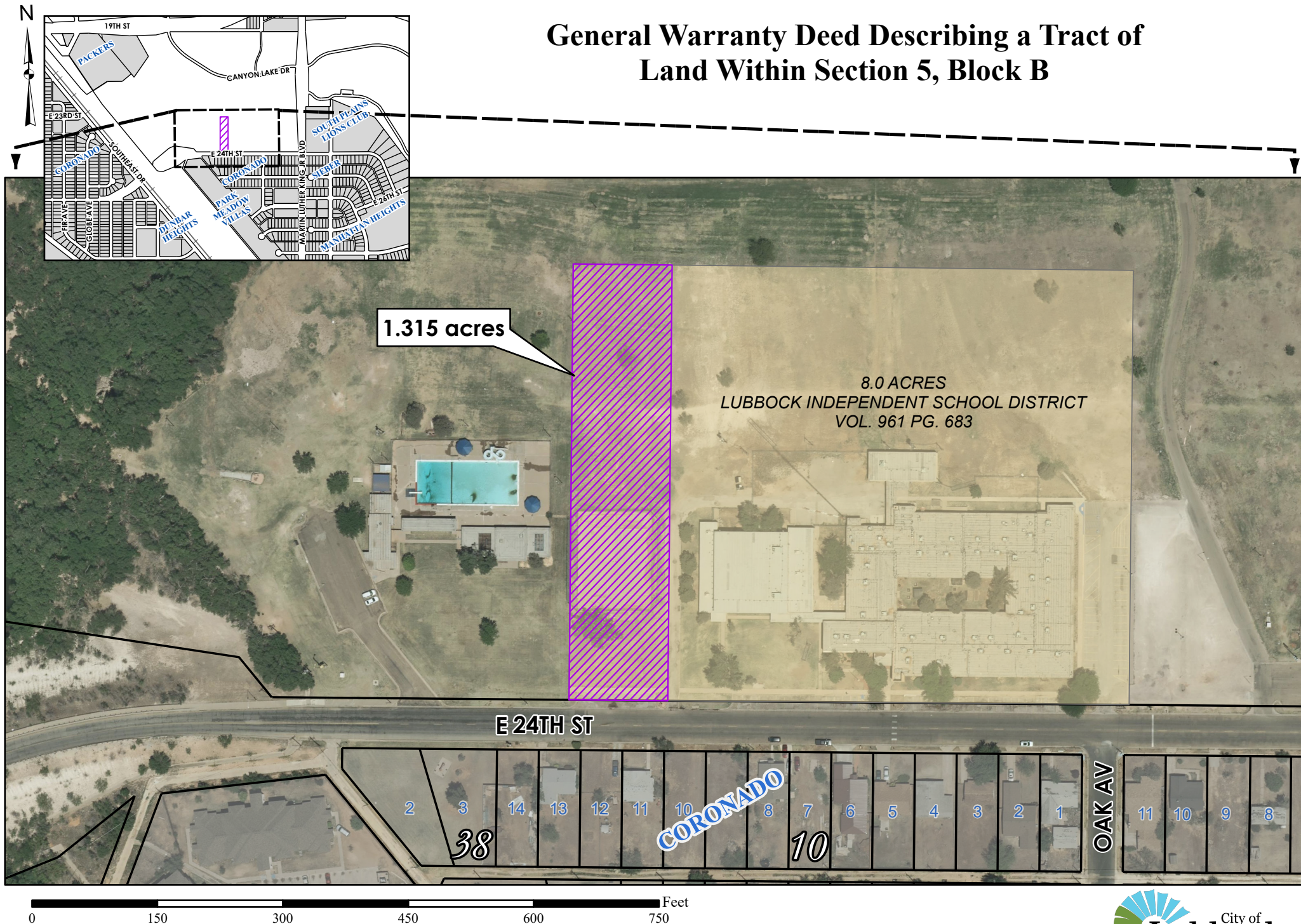
No abstract of title or title commitment was provided to this surveyor for this proposed plat. Any record research done by this surveyor was made only for the purpose of determining the boundary of this property (and as it may relate to adjoining parcels or rights-of-way). Record documents other than those shown on this plat may exist and encumber this property. This plat does not constitute or imply a complete title examination and any such title examinations are not the responsibility of this surveyor.

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NOTES:
SCALE: 1"=100'
PMRD - Physical Monument of Record Dignity
○ -Indicates found 5/8" iron rod
● -Indicates set 1/2" iron rod with cap marked "HUGO REED & ASSOC."
⊙ -Indicates found 2" iron pipe (PMRD-Vol. 1106 Pg. 221)
20222249 rac/dg

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

General Warranty Deed Describing a Tract of Land Within Section 5, Block B



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

Resolutions - Water Treatment: Consider four resolutions authorizing the Mayor to execute four separate contracts with DPC Industries, Inc., Chemtrade Chemicals US, LLC, Chameleon Industries, Inc., and Chemrite, Inc., for the purchase of chemicals for the North and South Water Treatment Plants and the Bailey County Well Field.

Item Summary

The contracts will provide annual unit pricing for the purchase of 12.5% Sodium Hypochlorite, 10.0% Liquid Ammonium Sulfate, 50.0% Citric Acid, Aluminum Sulfate/Polymer Blend, and ACH Coagulant. These chemicals will be used for the disinfection, turbidity removal, filter membrane cleaning, and pH adjustment in the water treatment process. Specialized chemicals are required to produce safe water that meets Texas Commission on Environmental Quality (TCEQ) and Environmental Protection Agency (EPA) guidelines.

In response to ITB 22-16644-KM, which was issued for annual unit pricing for Water Treatment Chemicals, the following bids were received and opened on June 24, 2022.

Item #	DPC Industries	Chemtrade Chemicals	Chameleon Industries	Chemrite, Inc.	Shannon Chemical
2	\$1,781,433.60	No Bid	No Bid	No Bid	No Bid
3	No Bid	No Bid	\$474,518.25	No Bid	No Bid
4	No Bid	No Bid	No Bid	\$45,031.00	\$61,985.00
9	No Bid	\$154,500.00	No Bid	No Bid	No Bid
11	No Bid	No Bid	\$341,640.00	No Bid	No Bid
12	No Bid	No Bid	\$360,620.00	No Bid	No Bid
13	No Bid	No Bid	\$379,600.00	No Bid	No Bid
14	No Bid	No Bid	\$398,580.00	No Bid	No Bid

The following recommendations are for one year unit price contracts, plus 4 one-year renewal extensions, upon written approval from both parties. All stated annual quantities are approximations of usage during the one-year time period to be covered by pricing established by bid. Actual usage may be more or less. Chemical quantities will be determined by actual need.

Staff recommends awards to the following vendors, according to the unit price bids submitted:

DPC Industries, Inc.

Item 2 for 12.5% Sodium Hypochlorite at \$1.92 per gallon and an annual cost of \$1,781,433.60

Chemtrade Chemicals US, LLC

Item 9 for ACH Coagulant at \$1,030.00 per ton and an annual cost of \$154,500.00,

Chameleon Industries, Inc.

Item 3 - Liquid Ammonium Sulfate 10% @ \$2.43 per gallon, annual cost of \$474,518.25

Item 11 - Hydrate Aluminum Sulfate/Polymer Blend @ \$360.00 per ton, annual cost of \$341,640.00

Item 12 - Hydrate Aluminum Sulfate/Polymer Blend with 1% Copper Sulfate additive @ \$380.00 per ton, annual cost of \$360,620.00

Item 13 - Hydrate Aluminum Sulfate/Polymer Blend with 2% Copper Sulfate additive @ \$400.00 per ton, annual cost of \$379,600.00

Item 14 - Hydrate Aluminum Sulfate/Polymer Blend with 3% Copper Sulfate additive @ \$420.00 per ton, annual cost of \$398,580.00

Chemrite, Inc.

Item 4 for 50.0% Citric Acid at \$1.838 per pound and an annual cost of \$45,031.00

Fiscal Impact

Funding is available in the FY2022-23 Water/Wastewater Operating Budget for the purchase of these chemicals.

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Resolution 16644 - Chemaleon Industries, Inc.

Contract 16644 (c) - Chameleon Industries Inc. - Revised

Resolution 16802 - DPC Industries, Inc.

Contract 16802 - DPC Industries, Inc.

Resolution 16803 - Chermrite, Inc.

Contract 16803 - Chemrite, Inc.

Resolution 16804 - Chemtrade Chemicals US, LLC

Contract 16804 - Chemtrade Chemicals US, LLC.

Bid Tabulation Sheet

Chemical bids table

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, Contract No. 16644 for water treatment chemicals, by and between the City of Lubbock and Chameleon Industries, Inc., of Mesquite, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

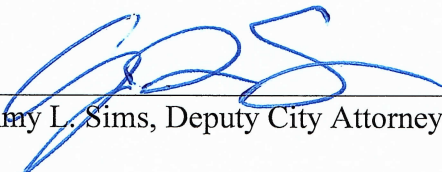
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

RES.Contract-16644 Chameleon Industries
09.20.2022

**City of Lubbock
Contract for
Water Treatment Chemicals**

THIS CONTRACT made and entered into this ____ day of _____, 2022, by and between the City of Lubbock ("City"), and **Chameleon Industries, Inc.**, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for **Water Treatment Chemicals** 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 **Water Treatment Chemicals**.

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, **Water Treatment Chemicals** and more specifically referred to as **Items 0-3, 0-11 and 0-14** 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 (4), one year extensions, said date of term beginning upon formal approval. This Contract will renew automatically for the additional terms, unless either Party gives 90-day written notice to terminate the Contract.
4. 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.
5. 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.
6. A) Prices quoted shall be guaranteed for a period for six (6) months upon City approval. The rate may be adjusted at the City's discretion for the effective change in Consumer Price Index (CPI) or Product Price Index (PPI) as appropriate.

- B) Further, if the Contractor can provide documentation for actual charges for material, labor, etc. that demonstrates that the change in CPI or PPI is not sufficient, the Contractor shall provide such documentation to the City, and at the City's sole discretion, the contractual rate may be further adjusted. If agreement regarding a new rate cannot be reached, the City shall terminate at the end of the current contract period.
- C) If an adjustment to pricing is granted under this section, the Contractor must provide the Director of Purchasing and Contract Management written, quarterly documentation to justify the ongoing adjustment. If no such documentation is timely received, the rate will automatically revert to the initial, awarded rate.
7. 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.
8. 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.
9. 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):

Commercial General Liability Requirements: \$1 M occurrence / \$2M aggregate (can be combined with an Excess Liability to meet requirement). COL is required in ALL contracts. It is perhaps the most important of all insurance policies in a contractual relationship. It insures the Contractor has broad liability coverage for contractual activities and for completed operations.

Automobile Liability Requirements: \$1 M/occurrence is needed

Workers Compensation and Employer Liability Requirements: Statutory. If the vendor is an independent contractor with no employees and are exempt from providing Workers' Compensation coverage, they must sign a waiver (obtained from COL Purchasing) and include a copy of their driver's license.

Pollution Liability Requirements: \$1 M occurrence / \$2M aggregate

The City of Lubbock (including its officials, employees and volunteers) shall be afforded additional insured status on a primary and non-contributory basis on all liability policies except professional liabilities and workers' comp.

- ◆ Waivers of Subrogation are required for COL, AL, and WC.
- ◆ To Include Products of Completed Operations endorsement.
- ◆ Carrier will provide a 30-day written notice of cancellation, 10-day written notice for non-payment.
- ◆ Carriers must meet an A.M. Best rating of A- or better.
- ◆ Subcontractors must carry same limits as listed above.

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.

10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.

16. 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.

17. **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.

18. 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.

19. 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.

20. 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.
21. 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.
22. This Contract consists of the following documents set forth herein; Invitation to Bid No. 22-16644-KM, 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.

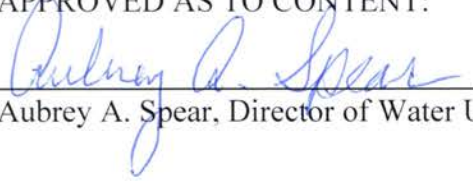
CITY OF LUBBOCK

Tray Payne, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



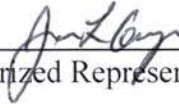
Aubrey A. Spear, Director of Water Utilities

APPROVED AS TO FORM:



Amy Sims, Deputy City Attorney

CONTRACTOR

BY 

Authorized Representative

Jason L Garza
Print Name

PO Box 853027
Address

Mesquite TX 75185
City, State, Zip Code

City of Lubbock
ITB 22-16644-KM
Water Treatment Chemicals
Specifications

SCOPE

It is the intent of these specifications to describe various chemicals and anticipated quantities of chemical products to be used in the water treatment process at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey County Well Field.

PRODUCT SPECIFICATION

Treatment Chemicals purchased for use at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey county Well Field shall contain no soluble inorganic or organic substances capable of producing deleterious or injurious effects upon the health of those consuming the water, or that would otherwise render it unfit for public consumption. All treatment chemicals must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. The material safety data sheets (MSDS) for the product and NSF/ANSI certification shall also be submitted with the bid. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants, any product bid that does not contain NSF/ANSI Certification will be determined unusable and not be considered.

PRODUCT PERFORMANCE

Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product(s). References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

PRODUCT QUALITY PER LOAD

Upon delivery of each load of product, the transport driver must present a certificate of analysis containing specific gravity and pH. Plant operations staff may also perform specific gravity and pH analyses on the product in the presence of the transport driver. A delivered product that exhibits any unusual color or appearance compared to previous acceptable deliveries will be refused, as will deliveries containing any form of foreign material. If the product meets the required minimum standards, the product may then be off loaded. If desired, the vendor may provide their own hydrometer and perform an additional specific gravity analysis in the presence of the plant operations staff. In the event the product does not meet the required minimum standards, the load will be refused and the vendor must provide another acceptable load within forty eight (48) hours. No additional freight or shipping charges shall be assessed by vendor.

TECHNICAL SUPPORT

Vendor shall provide acceptable technical support and response time whenever problems are encountered relating to product use and/or performance. A telephone response time of one (1) business day is required of vendor in cases of product performance problems. A site visit by the vendor may be requested by the owner if owner feels it is necessary to solve any significant problem related to product performance. If a non-routine site visit is requested, the vendor will have five (5) business days to respond and arrive on-site.

QUANTITIES AND PRICING

The anticipated annual consumption of required treatment chemicals are listed below. Prices quoted for product shall be FOB City of Lubbock South Water Treatment Plant, 5114 East FM 1585 Lubbock, Texas 79404, North Water Treatment Plant 6001 North Guava Lubbock, Texas 79403, and Bailey County Well field 2380 East HWY 84 Muleshoe, Texas 79347. Pricing shall be firm for a period five (5) years with price being evaluated and adjusted annually. Written consent from both parties is required for all price adjustments. Listed quantities are estimates only for pricing purposes. Actual usage may vary.

DELIVERY / SECURITY

Successful vendor shall be required to deliver the product(s) to the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey County Well Field within five (5) days after order is placed. Unloading to plant storage tanks is to be performed by the driver under the direction of operations personnel. Successful vendor shall provide any and all special equipment necessary to perform unloading at no cost to the City of Lubbock. All deliveries will be unloaded between the hours of 9:00 A.M. and 4:00 P.M., Monday through Friday. No exceptions will be made unless prior approval is agreed upon with the water treatment plant's operations personnel. The transporter is required to furnish certified, dated, and stamped weight tickets with each load of bulk product delivered before and after unloading. All delivery people will display photo security ID upon arrival at the site. All delivery vehicles shall meet OSHA and DOT regulations and be operated in a safe manner while on site.

All delivery personnel will be identified by the vendor before arrival at the site; preferably at the time an order is placed. Upon arrival at the City of Lubbock South Water Treatment Plant, delivery personnel will check in with plant representative, present photo identification, and then be directed to the unloading site. All shipments shall be sealed and the seal will be broken only in the presence of the plant representative. If any of the security measures are violated, the shipment will be refused.

Individual Chemical Specifications

78.0% Sulfuric Acid

Annual usage of 78% Sulfuric Acid is estimated to be 30,000 +/- lbs. 78.0% Sulfuric Acid will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 78.0% Sulfuric Acid shall be 1.71 at 16 C (61F) with a pH of 1.0 at 1.0 wt/wt%.

12.5% Sodium Hypochlorite

Annual usage of 12.5% Sodium Hypochlorite is estimated to be 927,830 +/- gallons. 12.5% Sodium Hypochlorite must adhere to American Water Works Association specification B300-10 or latest revision thereof. Specific gravity of 12.5% Sodium Hypochlorite shall be 1.2 g/ml or 10 lb/gallon at 20 C (68 F) with a 1.0% solution pH of 11.2-11.4. (See below for individual facility and storage tank sizes)

Liquid Ammonium Sulfate 10% w/w

Annual usage of Liquid Ammonium Sulfate (LAS) is estimated to be 195,275 +/- gallons. Specific gravity of Liquid Ammonium Sulfate at 21 C (71 F) shall be 1.216-1.228. Neat pH shall be 3.0-5.0 with a density of 10.15-10.25 lbs/gal. (NH₄)₂SO₄ percentage shall be 38-40% with equivalent NH₃ of 9.8- 10.3%. (See below for individual facility and storage tank sizes)

50.0% Citric Acid

Annual usage of 50.0% Citric Acid is estimated to be 24,500 +/- lbs/year. Delivery of 50.0% Citric Acid will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 50% Citric Acid shall be 1.24 with a pH of 0.6.

38% Sodium Bisulfite

Annual usage of 38.0% Sodium Bisulfite is estimated to be 2,056 +/- lbs/year. Delivery of 38.0% Sodium Bisulfite will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 38% Sodium Bisulfite shall be 1.33 with a pH of 3.8-5.2.

50.0% Sodium Hydroxide

Annual usage of 50.0% Sodium Hydroxide is estimated to be 26,400 +/- lbs/year. Delivery of 50.0% Sodium Hydroxide will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Delivered 50.0% Sodium Hydroxide must adhere to American Water Works Association specification B501-08 or latest revision thereof. Specific gravity of 50% Sodium Hydroxide shall be 1.53 at 15.5 C (60 F) with a pH of 13.7.

Coagulant for South Water Treatment Plant

The City of Lubbock owns and operates a membrane filtration plant, only Aluminum Chlorohydrate(ACH) will be considered. No product containing polymer will be considered due to membrane fouling. The coagulant purchased for use at the City of Lubbock South Water Treatment Plant shall strictly adhere to AWWA Standard B408-14 for ACH Aluminum Chlorohydrate or latest revisions thereof. The coagulant blend must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. The material safety data sheets (MSDS) for the product shall also be submitted with the bid. If the successful bidder is not the manufacturer of the coagulant bid, bidder must provide a copy of a legal contract between the bidder and the coagulant manufacturer that will be used to produce the blend. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants. The same coagulant manufacturer must be used throughout the term of the contract. **Throughout the term of the contract, the successful bidder may not change the formulation of the coagulant in any way without the express written consent of the Water Treatment Superintendent. No exceptions, an unauthorized change in the formulation of the product will result in contract termination.**

If product being bid has not been previously tested for performance at the City of Lubbock South Water Treatment Plant bidder may be required by the City to visit the site and perform testing using standard jar testing methods. The test results must include settled water and final water turbidities, pH and temperature. A sample of the product being tested will be left at the facility for additional jar testing by Operations personnel. At the City's discretion full plant testing will be required based on results of previous tests; the City will pay for a full delivery (approximately 48,000 lbs.) at the price submitted in the bid document to conduct full plant testing. Water Treatment Operations personnel will evaluate product performance based on settled water quality, pH, filter effluent turbidities, and cost effectiveness. Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product. References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

SUPPLEMENTAL ADDITIVE SPECIFICATION

Buyer requests the option of having copper sulfate, containing at least 99% $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$, added to the coagulant. The copper sulfate must have NSF Certification for use in potable water treatment plants. The copper sulfate would be added per load at the buyer's request to control algae growth. Algae growth occurs when the water reaches a temperature of 72°F. The yearly average of this temperature is between the middle of April to the end of September. The amount of additive will be based on the coagulant feed rate at the time the load was ordered and would be determined by the operations staff, a 1.0% copper sulfate additive is to be expected.

Coagulant for North Water Treatment Plant

The aluminum sulfate/polymer blend purchased for use at the City of Lubbock Water Treatment Plant shall contain no soluble inorganic or organic substances capable of producing deleterious or injurious effects upon the health of those consuming the water, or that would otherwise render it unfit for public consumption. The aluminum sulfate/polymer blend must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. **The City of Lubbock North Water Treatment Plant will require the product to have a pH in the range of 1.3 to 2.8 (slightly more stringent than AWWA Standard).** The material safety data sheets (MSDS) for the product shall also be submitted with the bid. Due to the fact that successful aluminum sulfate/polymer blends are 90% or more aluminum sulfate by weight, it is preferable that the bidders be a manufacturer of liquid aluminum sulfate. If the successful bidder is not a manufacturer of aluminum sulfate, bidder must provide a copy of a legal contract between the bidder and the aluminum sulfate manufacturer that will be used to produce the blend. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants. The same aluminum sulfate manufacturer must be used throughout the term of the contract. **Throughout the term of the contract, the successful bidder may not change the formulation of the alum / polymer blend in any way without the express written consent of the Water Treatment Superintendent. No exceptions, an unauthorized change in the formulation of the product will result in contract termination.**

Products to be considered for bid will be tested by the manufacturer using standard jar testing methods at the City's North Water Treatment Plant site. The test results must include settled water and final water turbidities, pH and temperature. A sample of the product being tested will be left at the facility for additional jar testing by Operations personnel, if additional pilot plant testing is necessary an additional amount of sample will be required. At the Cities' discretion full plant testing will be required based on results of previous tests; the City will pay for a full delivery (approximately 48,000 lbs.) at the price submitted in the bid document to conduct full plant testing. Water Treatment Operations personnel will evaluate product performance based on settled water quality, pH, filter effluent turbidities, and cost effectiveness. Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product. References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

SUPPLEMENTAL ADDITIVE SPECIFICATION

Buyer requests the option of having copper sulfate, containing at least 99% $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$, added to the Aluminum Sulfate/Polymer blend. The copper sulfate must have NSF Certification for use in potable water treatment plants. The copper sulfate would be added per load at the buyer's request to control algae growth. Algae growth occurs when the water reaches a temperature of 72°F. The yearly average of this temperature is between the middle of April to the end of September. The amount of additive will be based on the coagulant feed rate at the time the load was ordered and would be determined by the operations staff, a 2.0% or 3.0% copper sulfate additive is to be expected.

Facility and Storage

South Water Treatment Plant = 2 – 6,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 3,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

North Water Treatment Plant = 3 – 18,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 7,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

Bailey County Well Field = 2 – 8,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 8,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

**City of Lubbock, TX
Purchasing and Contract Management
Vendor Acknowledgement Form**

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 0 %, net 30 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 22-16644-KM
Water Treatment Chemicals
Bid Form

				Chameleon Industries		
				Location	Mesquite, TX	
				Total Cost	\$ 1,214,738.25	
#	Items	Quantity Required	UOM	Delivery Days ARO	Unit Price	Total Cost
#0-3	Liquid Ammonium Sulfate 10% w/w All 3 Plant Facilities, as specified.	195275	Gallons	2	\$2.43	\$474,518.25
#0-11	Hydrate Aluminum Sulfate/Polymer Blend as per specifications for North Water Treatment Plant	949	Tons	2	\$360.00	\$341,640.00
#0-12	Hydrate Aluminum Sulfate/Polymer Blend with 1% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	2	\$380.00	\$360,620.00
#0-13	Hydrate Aluminum Sulfate/Polymer Blend with 2% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	2	\$400.00	\$379,600.00
#0-14	Hydrate Aluminum Sulfate/Polymer Blend with 3% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	2	\$420.00	\$398,580.00

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 X

- 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 28 June 2022

Addenda No. 2 Date 30 June 2022

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.

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.

FEDERAL AND STATE SAFETY REGULATIONS

Contractor shall comply with all federal and state safety regulation including but not limited to Occupational, Safety and Health Administration (OSHA) and the Department of Workforce Development (DWD) regulations. This agreement includes incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause Bus to be in violation of the FTA terms and conditions.

All Environmental Protection Agency (EPA) rules and regulations must be followed by the Contractor.

MASTER AGREEMENT

For Federal Transit Administration Agreements authorized by 49 U.S.C. chapter 53, Title 23, United States Code (Highways), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, as amended by the SAFETEA-LU Technical Corrections Act of 2008, the Transportation Equity Act for the 21st Century, as amended, the National Capital Transportation Act of 1969, as amended, the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, February 17, 2009, or other Federal laws that FTA administers.

<https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>

The Master Agreement can be found in its entirety on the City of Lubbock website www.ci.lubbock.tx.us

INCOMPLETE INFORMATION

Failure to complete or provide any of the information requested in this Request for Proposal, including references, and/or additional information as information as indicated, may results in disqualification by reason of “non-responsiveness”.

CONTRACTOR ACKNOWLEDGEMENT

In compliance with this solicitation, the undersigned bidder, having examined the bid documents, instructions to bidders, documents associated with the invitation to bid, 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
- Federal and State Regulations
- Master Agreement

SUBMISSION INFORMATION

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

THIS BID IS SUBMITTED BY Chameleon Industries 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 Mesquite


Tax ID No.: 75-2853080

Address: PO Box 853027

City: Mesquite State: TX Zip: 75185

M/WBE Firm:	<input type="checkbox"/>	Woman	<input type="checkbox"/>	Black American	<input type="checkbox"/>	Native American
	<input checked="" type="checkbox"/>	Hispanic American	<input type="checkbox"/>	Asian Pacific American	<input type="checkbox"/>	Other (Specify)

Please complete the information below.

By  Date: 13 July 2022
Authorized Representative - must sign by hand

Officer Name and Title: Jason L Garza Vice President

Business Telephone Number 972.880.1493 FAX: 972.92.8642

E-mail Address: info@chameleonindustriesinc.com

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, Contract No. 16802 for water treatment chemicals, by and between the City of Lubbock and DPC Industries, Inc., of Sweetwater, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

**City of Lubbock
Contract for
Water Treatment Chemicals**

THIS CONTRACT made and entered into this ____ day of _____, 2022, by and between the City of Lubbock ("City"), and **DPC Industries, Inc.**, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for **Water Treatment Chemicals** 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 **Water Treatment Chemicals**.

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, **Water Treatment Chemicals** and more specifically referred to as **Item 0-2** 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 (4), one year extensions, said date of term beginning upon formal approval. This Contract will renew automatically for the additional terms, unless either Party gives 90-day written notice to terminate the Contract.
4. 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.
5. 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.
6. A) Prices quoted shall be guaranteed for a period for six (6) months upon City approval. The rate may be adjusted at the City's discretion for the effective change in Consumer Price Index (CPI) or Product Price Index (PPI) as appropriate.

B) Further, if the Contractor can provide documentation for actual charges for material, labor, etc. that demonstrates that the change in CPI or PPI is not sufficient, the Contractor shall provide such documentation to the City, and at the City's sole discretion, the contractual rate may be further adjusted. If agreement regarding a new rate cannot be reached, the City shall terminate at the end of the current contract period.

- C) If an adjustment to pricing is granted under this section, the Contractor must provide the Director of Purchasing and Contract Management written, quarterly documentation to justify the ongoing adjustment. If no such documentation is timely received, the rate will automatically revert to the initial, awarded rate.
7. 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.
8. 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.
9. 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):

Commercial General Liability Requirements: \$1 M occurrence / \$2M aggregate (can be combined with an Excess Liability to meet requirement). COL is required in ALL contracts. It is perhaps the most important of all insurance policies in a contractual relationship. It insures the Contractor has broad liability coverage for contractual activities and for completed operations.

Automobile Liability Requirements: \$1 M/occurrence is needed

Workers Compensation and Employer Liability Requirements: Statutory. If the vendor is an independent contractor with no employees and are exempt from providing Workers' Compensation coverage, they must sign a waiver (obtained from COL Purchasing) and include a copy of their driver's license.

Pollution Liability Requirements: \$1 M occurrence / \$2M aggregate

The City of Lubbock (including its officials, employees and volunteers) shall be afforded additional insured status on a primary and non-contributory basis on all liability policies except professional liabilities and workers' comp.

- ◆ Waivers of Subrogation are required for COL, AL, and WC.
- ◆ To Include Products of Completed Operations endorsement.
- ◆ Carrier will provide a 30-day written notice of cancellation, 10-day written notice for non-payment.
- ◆ Carriers must meet an A.M. Best rating of A- or better.
- ◆ Subcontractors must carry same limits as listed above.

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.

10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

- 17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. This Contract consists of the following documents set forth herein; Invitation to Bid No. 22-16644-KM, 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

Tray Payne, Mayor

BY _____
Authorized Representative

ATTEST:

Print Name

Rebecca Garza, City Secretary

Address

APPROVED AS TO CONTENT:

City, State, Zip Code

Aubrey A. Spear, Director of Water Utilities

APPROVED AS TO FORM:

Amy Sims, Deputy City Attorney

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

Tray Payne, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Aubrey A. Spear
Aubrey A. Spear, Director of Water Utilities

APPROVED AS TO FORM:

Amy Sims
Amy Sims, Deputy City Attorney

CONTRACTOR

BY [Signature]
Authorized Representative

NICK MORGAN
Print Name

No. 8 PLAZA INDUSTRIAL DR. / P.O. DRAWER 158
Address

SWEETWATER TX 79556
City, State, Zip Code

City of Lubbock
ITB 22-16644-KM
Water Treatment Chemicals
Specifications

SCOPE

It is the intent of these specifications to describe various chemicals and anticipated quantities of chemical products to be used in the water treatment process at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey County Well Field.

PRODUCT SPECIFICATION

Treatment Chemicals purchased for use at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey county Well Field shall contain no soluble inorganic or organic substances capable of producing deleterious or injurious effects upon the health of those consuming the water, or that would otherwise render it unfit for public consumption. All treatment chemicals must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. The material safety data sheets (MSDS) for the product and NSF/ANSI certification shall also be submitted with the bid. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants, any product bid that does not contain NSF/ANSI Certification will be determined unusable and not be considered.

PRODUCT PERFORMANCE

Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product(s). References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

PRODUCT QUALITY PER LOAD

Upon delivery of each load of product, the transport driver must present a certificate of analysis containing specific gravity and pH. Plant operations staff may also perform specific gravity and pH analyses on the product in the presence of the transport driver. A delivered product that exhibits any unusual color or appearance compared to previous acceptable deliveries will be refused, as will deliveries containing any form of foreign material. If the product meets the required minimum standards, the product may then be off loaded. If desired, the vendor may provide their own hydrometer and perform an additional specific gravity analysis in the presence of the plant operations staff. In the event the product does not meet the required minimum standards, the load will be refused and the vendor must provide another acceptable load within forty eight (48) hours. No additional freight or shipping charges shall be assessed by vendor.

TECHNICAL SUPPORT

Vendor shall provide acceptable technical support and response time whenever problems are encountered relating to product use and/or performance. A telephone response time of one (1) business day is required of vendor in cases of product performance problems. A site visit by the vendor may be requested by the owner if owner feels it is necessary to solve any significant problem related to product performance. If a non-routine site visit is requested, the vendor will have five (5) business days to respond and arrive on-site.

QUANTITIES AND PRICING

The anticipated annual consumption of required treatment chemicals are listed below. Prices quoted for product shall be FOB City of Lubbock South Water Treatment Plant, 5114 East FM 1585 Lubbock, Texas 79404, North Water Treatment Plant 6001 North Guava Lubbock, Texas 79403, and Bailey County Well field 2380 East HWY 84 Muleshoe, Texas 79347. Pricing shall be firm for a period five (5) years with price being evaluated and adjusted annually. Written consent from both parties is required for all price adjustments. Listed quantities are estimates only for pricing purposes. Actual usage may vary.

DELIVERY / SECURITY

Successful vendor shall be required to deliver the product(s) to the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey County Well Field within five (5) days after order is placed. Unloading to plant storage tanks is to be performed by the driver under the direction of operations personnel. Successful vendor shall provide any and all special equipment necessary to perform unloading at no cost to the City of Lubbock. All deliveries will be unloaded between the hours of 9:00 A.M. and 4:00 P.M., Monday through Friday. No exceptions will be made unless prior approval is agreed upon with the water treatment plant's operations personnel. The transporter is required to furnish certified, dated, and stamped weight tickets with each load of bulk product delivered before and after unloading. All delivery people will display photo security ID upon arrival at the site. All delivery vehicles shall meet OSHA and DOT regulations and be operated in a safe manner while on site.

All delivery personnel will be identified by the vendor before arrival at the site; preferably at the time an order is placed. Upon arrival at the City of Lubbock South Water Treatment Plant, delivery personnel will check in with plant representative, present photo identification, and then be directed to the unloading site. All shipments shall be sealed and the seal will be broken only in the presence of the plant representative. If any of the security measures are violated, the shipment will be refused.

Individual Chemical Specifications

78.0% Sulfuric Acid

Annual usage of 78% Sulfuric Acid is estimated to be 30,000 +/- lbs. 78.0% Sulfuric Acid will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 78.0% Sulfuric Acid shall be 1.71 at 16 C (61F) with a pH of 1.0 at 1.0 wt/wt%.

12.5% Sodium Hypochlorite

Annual usage of 12.5% Sodium Hypochlorite is estimated to be 927,830 +/- gallons. 12.5% Sodium Hypochlorite must adhere to American Water Works Association specification B300-10 or latest revision thereof. Specific gravity of 12.5% Sodium Hypochlorite shall be 1.2 g/ml or 10 lb/gallon at 20 C (68 F) with a 1.0% solution pH of 11.2-11.4. (See below for individual facility and storage tank sizes)

Liquid Ammonium Sulfate 10% w/w

Annual usage of Liquid Ammonium Sulfate (LAS) is estimated to be 195,275 +/- gallons. Specific gravity of Liquid Ammonium Sulfate at 21 C (71 F) shall be 1.216-1.228. Neat pH shall be 3.0-5.0 with a density of 10.15-10.25 lbs/gal. (NH₄)₂SO₄ percentage shall be 38-40% with equivalent NH₃ of 9.8- 10.3%. (See below for individual facility and storage tank sizes)

50.0% Citric Acid

Annual usage of 50.0% Citric Acid is estimated to be 24,500 +/- lbs/year. Delivery of 50.0% Citric Acid will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 50% Citric Acid shall be 1.24 with a pH of 0.6.

38% Sodium Bisulfite

Annual usage of 38.0% Sodium Bisulfite is estimated to be 2,056 +/- lbs/year. Delivery of 38.0% Sodium Bisulfite will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 38% Sodium Bisulfite shall be 1.33 with a pH of 3.8-5.2.

50.0% Sodium Hydroxide

Annual usage of 50.0% Sodium Hydroxide is estimated to be 26,400 +/- lbs/year. Delivery of 50.0% Sodium Hydroxide will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Delivered 50.0% Sodium Hydroxide must adhere to American Water Works Association specification B501-08 or latest revision thereof. Specific gravity of 50% Sodium Hydroxide shall be 1.53 at 15.5 C (60 F) with a pH of 13.7.

Coagulant for South Water Treatment Plant

The City of Lubbock owns and operates a membrane filtration plant, only Aluminum Chlorohydrate (ACH) will be considered. No product containing polymer will be considered due to membrane fouling. The coagulant purchased for use at the City of Lubbock South Water Treatment Plant shall strictly adhere to AWWA Standard B408-14 for ACH Aluminum Chlorohydrate or latest revisions thereof. The coagulant blend must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. The material safety data sheets (MSDS) for the product shall also be submitted with the bid. If the successful bidder is not the manufacturer of the coagulant bid, bidder must provide a copy of a legal contract between the bidder and the coagulant manufacturer that will be used to produce the blend. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants. The same coagulant manufacturer must be used throughout the term of the contract. **Throughout the term of the contract, the successful bidder may not change the formulation of the coagulant in any way without the express written consent of the Water Treatment Superintendent. No exceptions, an unauthorized change in the formulation of the product will result in contract termination.**

If product being bid has not been previously tested for performance at the City of Lubbock South Water Treatment Plant bidder may be required by the City to visit the site and perform testing using standard jar testing methods. The test results must include settled water and final water turbidities, pH and temperature. A sample of the product being tested will be left at the facility for additional jar testing by Operations personnel. At the City's discretion full plant testing will be required based on results of previous tests; the City will pay for a full delivery (approximately 48,000 lbs.) at the price submitted in the bid document to conduct full plant testing. Water Treatment Operations personnel will evaluate product performance based on settled water quality, pH, filter effluent turbidities, and cost effectiveness. Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product. References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

SUPPLEMENTAL ADDITIVE SPECIFICATION

Buyer requests the option of having copper sulfate, containing at least 99% $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$, added to the coagulant. The copper sulfate must have NSF Certification for use in potable water treatment plants. The copper sulfate would be added per load at the buyer's request to control algae growth. Algae growth occurs when the water reaches a temperature of 72°F. The yearly average of this temperature is between the middle of April to the end of September. The amount of additive will be based on the coagulant feed rate at the time the load was ordered and would be determined by the operations staff, a 1.0% copper sulfate additive is to be expected.

Coagulant for North Water Treatment Plant

The aluminum sulfate/polymer blend purchased for use at the City of Lubbock Water Treatment Plant shall contain no soluble inorganic or organic substances capable of producing deleterious or injurious effects upon the health of those consuming the water, or that would otherwise render it unfit for public consumption. The aluminum sulfate/polymer blend must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. **The City of Lubbock North Water Treatment Plant will require the product to have a pH in the range of 1.3 to 2.8 (slightly more stringent than AWWA Standard).** The material safety data sheets (MSDS) for the product shall also be submitted with the bid. Due to the fact that successful aluminum sulfate/polymer blends are 90% or more aluminum sulfate by weight, it is preferable that the bidders be a manufacturer of liquid aluminum sulfate. If the successful bidder is not a manufacturer of aluminum sulfate, bidder must provide a copy of a legal contract between the bidder and the aluminum sulfate manufacturer that will be used to produce the blend. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants. The same aluminum sulfate manufacturer must be used throughout the term of the contract. **Throughout the term of the contract, the successful bidder may not change the formulation of the alum / polymer blend in any way without the express written consent of the Water Treatment Superintendent. No exceptions, an unauthorized change in the formulation of the product will result in contract termination.**

Products to be considered for bid will be tested by the manufacturer using standard jar testing methods at the City's North Water Treatment Plant site. The test results must include settled water and final water turbidities, pH and temperature. A sample of the product being tested will be left at the facility for additional jar testing by Operations personnel, if additional pilot plant testing is necessary an additional amount of sample will be required. At the Cities' discretion full plant testing will be required based on results of previous tests; the City will pay for a full delivery (approximately 48,000 lbs.) at the price submitted in the bid document to conduct full plant testing. Water Treatment Operations personnel will evaluate product performance based on settled water quality, pH, filter effluent turbidities, and cost effectiveness. Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product. References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

SUPPLEMENTAL ADDITIVE SPECIFICATION

Buyer requests the option of having copper sulfate, containing at least 99% $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$, added to the Aluminum Sulfate/Polymer blend. The copper sulfate must have NSF Certification for use in potable water treatment plants. The copper sulfate would be added per load at the buyer's request to control algae growth. Algae growth occurs when the water reaches a temperature of 72°F. The yearly average of this temperature is between the middle of April to the end of September. The amount of additive will be based on the coagulant feed rate at the time the load was ordered and would be determined by the operations staff, a 2.0% or 3.0% copper sulfate additive is to be expected.

Facility and Storage

South Water Treatment Plant = 2 – 6,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 3,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

North Water Treatment Plant = 3 – 18,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 7,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

Bailey County Well Field = 2 – 8,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 8,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

City of Lubbock, TX
Purchasing and Contract Management
Vendor Acknowledgement Form

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 22-16644-KM
Water Treatment Chemicals
Bid Form

DPC Industries
Sweetwater, TX
\$1,781,433.60

Items		Location Total Cost		Delivery Days ARO		Unit Price	Total Cost
#		Quantity Required	UOM				
#0-2	12.5% Sodium Hypochlorite All 3 Plant Facilities, as specified.	927830	Gallons	5 to 7		\$ 1.92	\$1,781,433.60

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 X

- 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 6/28/2022 *nm*
Addenda No. 2 Date 6/30/2022 *nm*
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.

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.

FEDERAL AND STATE SAFETY REGULATIONS

Contractor shall comply with all federal and state safety regulation including but not limited to Occupational, Safety and Health Administration (OSHA) and the Department of Workforce Development (DWD) regulations. This agreement includes incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause Bus to be in violation of the FTA terms and conditions.

All Environmental Protection Agency (EPA) rules and regulations must be followed by the Contractor.

MASTER AGREEMENT

For Federal Transit Administration Agreements authorized by 49 U.S.C. chapter 53, Title 23, United States Code (Highways), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, as amended by the SAFETEA-LU Technical Corrections Act of 2008, the Transportation Equity Act for the 21st Century, as amended, the National Capital Transportation Act of 1969, as amended, the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, February 17, 2009, or other Federal laws that FTA administers.

<https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>

The Master Agreement can be found in its entirety on the City of Lubbock website www.ci.lubbock.tx.us

INCOMPLETE INFORMATION

Failure to complete or provide any of the information requested in this Request for Proposal, including references, and/or additional information as information as indicated, may results in disqualification by reason of "non-responsiveness".

CONTRACTOR ACKNOWLEDGEMENT

In compliance with this solicitation, the undersigned bidder, having examined the bid documents, instructions to bidders, documents associated with the invitation to bid, 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
- Federal and State Regulations
- Master Agreement

SUBMISSION INFORMATION

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

THIS BID IS SUBMITTED BY DPC Industries, 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 Sweetwater

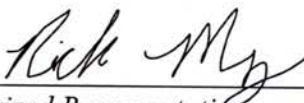
Tax ID No.: 751481408

Address: No. 8 Place Industrial Dr./ PO Drawer 158

City: Sweetwater State: TX Zip: 79556

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: 7/12/2022
Authorized Representative - must sign by hand

Officer Name and Title: Territory Manager- West Texas

Business Telephone Number 325-236-6633 FAX: _____

E-mail Address: nmorgan@dxgroup.com

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, Contract No. 16803/ITB 22-16644-KM for water Treatment chemicals, by and between the City of Lubbock and Chemrite, Inc., of Buford, Georgia, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

RES.Contract-16803 Chemrite
09.23.22

**City of Lubbock
Contract for
Water Treatment Chemicals**

THIS CONTRACT made and entered into this ____ day of _____, 2022, by and between the City of Lubbock ("City"), and **Chemrite, Inc.**, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for **Water Treatment Chemicals** 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 **Water Treatment Chemicals**.

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, **Water Treatment Chemicals** and more specifically referred to as **Item 1-4** 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 (1) year extensions, said date of term beginning upon formal approval. The contract may be renewed for up to four (4) additional one (1) year terms under the same term and conditions upon written agreement from both parties. 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

may be further adjusted. If agreement regarding a new rate cannot be reached, the City shall terminate at the end of the current contract period.

- C) If an adjustment to pricing is granted under this section, the Contractor must provide the Director of Purchasing and Contract Management written, quarterly documentation to justify the ongoing adjustment. If no such documentation is timely received, the rate will automatically revert to the initial, awarded rate.
7. 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.
8. 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.
9. 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):

Commercial General Liability Requirements: \$1 M occurrence / \$2M aggregate (can be combined with an Excess Liability to meet requirement). COL is required in ALL contracts. It is perhaps the most important of all insurance policies in a contractual relationship. It insures the Contractor has broad liability coverage for contractual activities and for completed operations.

Automobile Liability Requirements: \$1 M/occurrence is needed

Workers Compensation and Employer Liability Requirements: Statutory. If the vendor is an independent contractor with no employees and are exempt from providing Workers' Compensation coverage, they must sign a waiver (obtained from COL Purchasing) and include a copy of their driver's license.

Pollution Liability Requirements: \$1 M occurrence / \$2M aggregate

The City of Lubbock (including its officials, employees and volunteers) shall be afforded additional insured status on a primary and non-contributory basis on all liability policies except professional liabilities and workers' comp.

- ◆ Waivers of Subrogation are required for COL, AL, and WC.
- ◆ To Include Products of Completed Operations endorsement.
- ◆ Carrier will provide a 30-day written notice of cancellation, 10-day written notice for non-payment.
- ◆ Carriers must meet an A.M. Best rating of A- or better.
- ◆ Subcontractors must carry same limits as listed above.

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.

10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

- 17. 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.

18. 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.

19. 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.

20. 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.

21. 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.
22. This Contract consists of the following documents set forth herein; Invitation to Bid No. 22-16644-KM, 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

Tray Payne, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Aubrey A. Spear
Aubrey A. Spear, Director of Water Utilities

APPROVED AS TO FORM:

Amy Sims
Amy Sims, Deputy City Attorney

CONTRACTOR

BY [Signature]
Authorized Representative

Avan Gp
Print Name

5702 Belle Wood Ct, STE 104
Address

Belford Ct 30818
City, State, Zip Code

City of Lubbock
ITB 22-16644-KM
Water Treatment Chemicals
Specifications

SCOPE

It is the intent of these specifications to describe various chemicals and anticipated quantities of chemical products to be used in the water treatment process at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey County Well Field.

PRODUCT SPECIFICATION

Treatment Chemicals purchased for use at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey county Well Field shall contain no soluble inorganic or organic substances capable of producing deleterious or injurious effects upon the health of those consuming the water, or that would otherwise render it unfit for public consumption. All treatment chemicals must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. The material safety data sheets (MSDS) for the product and NSF/ANSI certification shall also be submitted with the bid. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants, any product bid that does not contain NSF/ANSI Certification will be determined unusable and not be considered.

PRODUCT PERFORMANCE

Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product(s). References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

PRODUCT QUALITY PER LOAD

Upon delivery of each load of product, the transport driver must present a certificate of analysis containing specific gravity and pH. Plant operations staff may also perform specific gravity and pH analyses on the product in the presence of the transport driver. A delivered product that exhibits any unusual color or appearance compared to previous acceptable deliveries will be refused, as will deliveries containing any form of foreign material. If the product meets the required minimum standards, the product may then be off loaded. If desired, the vendor may provide their own hydrometer and perform an additional specific gravity analysis in the presence of the plant operations staff. In the event the product does not meet the required minimum standards, the load will be refused and the vendor must provide another acceptable load within forty eight (48) hours. No additional freight or shipping charges shall be assessed by vendor.

TECHNICAL SUPPORT

Vendor shall provide acceptable technical support and response time whenever problems are encountered relating to product use and/or performance. A telephone response time of one (1) business day is required of vendor in cases of product performance problems. A site visit by the vendor may be requested by the owner if owner feels it is necessary to solve any significant problem related to product performance. If a non-routine site visit is requested, the vendor will have five (5) business days to respond and arrive on-site.

QUANTITIES AND PRICING

The anticipated annual consumption of required treatment chemicals are listed below. Prices quoted for product shall be FOB City of Lubbock South Water Treatment Plant, 5114 East FM 1585 Lubbock, Texas 79404, North Water Treatment Plant 6001 North Guava Lubbock, Texas 79403, and Bailey County Well field 2380 East HWY 84 Muleshoe, Texas 79347. Pricing shall be firm for a period five (5) years with price being evaluated and adjusted annually. Written consent from both parties is required for all price adjustments. Listed quantities are estimates only for pricing purposes. Actual usage may vary.

City of Lubbock
ITB 22-16644-KM
Water Treatment Chemicals
Specifications

SCOPE

It is the intent of these specifications to describe various chemicals and anticipated quantities of chemical products to be used in the water treatment process at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey County Well Field.

PRODUCT SPECIFICATION

Treatment Chemicals purchased for use at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey county Well Field shall contain no soluble inorganic or organic substances capable of producing deleterious or injurious effects upon the health of those consuming the water, or that would otherwise render it unfit for public consumption. All treatment chemicals must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. The material safety data sheets (MSDS) for the product and NSF/ANSI certification shall also be submitted with the bid. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants, any product bid that does not contain NSF/ANSI Certification will be determined unusable and not be considered.

PRODUCT PERFORMANCE

Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product(s). References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

PRODUCT QUALITY PER LOAD

Upon delivery of each load of product, the transport driver must present a certificate of analysis containing specific gravity and pH. Plant operations staff may also perform specific gravity and pH analyses on the product in the presence of the transport driver. A delivered product that exhibits any unusual color or appearance compared to previous acceptable deliveries will be refused, as will deliveries containing any form of foreign material. If the product meets the required minimum standards, the product may then be off loaded. If desired, the vendor may provide their own hydrometer and perform an additional specific gravity analysis in the presence of the plant operations staff. In the event the product does not meet the required minimum standards, the load will be refused and the vendor must provide another acceptable load within forty eight (48) hours. No additional freight or shipping charges shall be assessed by vendor.

TECHNICAL SUPPORT

Vendor shall provide acceptable technical support and response time whenever problems are encountered relating to product use and/or performance. A telephone response time of one (1) business day is required of vendor in cases of product performance problems. A site visit by the vendor may be requested by the owner if owner feels it is necessary to solve any significant problem related to product performance. If a non-routine site visit is requested, the vendor will have five (5) business days to respond and arrive on-site.

QUANTITIES AND PRICING

The anticipated annual consumption of required treatment chemicals are listed below. Prices quoted for product shall be FOB City of Lubbock South Water Treatment Plant, 5114 East FM 1585 Lubbock, Texas 79404, North Water Treatment Plant 6001 North Guava Lubbock, Texas 79403, and Bailey County Well field 2380 East HWY 84 Muleshoe, Texas 79347. Pricing shall be firm for a period five (5) years with price being evaluated and adjusted annually. Written consent from both parties is required for all price adjustments. Listed quantities are estimates only for pricing purposes. Actual usage may vary.

DELIVERY / SECURITY

Successful vendor shall be required to deliver the product(s) to the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey County Well Field within five (5) days after order is placed. Unloading to plant storage tanks is to be performed by the driver under the direction of operations personnel. Successful vendor shall provide any and all special equipment necessary to perform unloading at no cost to the City of Lubbock. All deliveries will be unloaded between the hours of 9:00 A.M. and 4:00 P.M., Monday through Friday. No exceptions will be made unless prior approval is agreed upon with the water treatment plant's operations personnel. The transporter is required to furnish certified, dated, and stamped weight tickets with each load of bulk product delivered before and after unloading. All delivery people will display photo security ID upon arrival at the site. All delivery vehicles shall meet OSHA and DOT regulations and be operated in a safe manner while on site.

All delivery personnel will be identified by the vendor before arrival at the site; preferably at the time an order is placed. Upon arrival at the City of Lubbock South Water Treatment Plant, delivery personnel will check in with plant representative, present photo identification, and then be directed to the unloading site. All shipments shall be sealed and the seal will be broken only in the presence of the plant representative. If any of the security measures are violated, the shipment will be refused.

Individual Chemical Specifications

78.0% Sulfuric Acid

Annual usage of 78% Sulfuric Acid is estimated to be 30,000 +/- lbs. 78.0% Sulfuric Acid will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 78.0% Sulfuric Acid shall be 1.71 at 16 C (61F) with a pH of 1.0 at 1.0 wt/wt%.

12.5% Sodium Hypochlorite

Annual usage of 12.5% Sodium Hypochlorite is estimated to be 927,830 +/- gallons. 12.5% Sodium Hypochlorite must adhere to American Water Works Association specification B300-10 or latest revision thereof. Specific gravity of 12.5% Sodium Hypochlorite shall be 1.2 g/ml or 10 lb/gallon at 20 C (68 F) with a 1.0% solution pH of 11.2-11.4. (See below for individual facility and storage tank sizes)

Liquid Ammonium Sulfate 10% w/w

Annual usage of Liquid Ammonium Sulfate (LAS) is estimated to be 195,275 +/- gallons. Specific gravity of Liquid Ammonium Sulfate at 21 C (71 F) shall be 1.216-1.228. Neat pH shall be 3.0-5.0 with a density of 10.15-10.25 lbs/gal. (NH₄)₂SO₄ percentage shall be 38-40% with equivalent NH₃ of 9.8- 10.3%. (See below for individual facility and storage tank sizes)

50.0% Citric Acid

Annual usage of 50.0% Citric Acid is estimated to be 24,500 +/- lbs/year. Delivery of 50.0% Citric Acid will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 50% Citric Acid shall be 1.24 with a pH of 0.6.

38% Sodium Bisulfite

Annual usage of 38.0% Sodium Bisulfite is estimated to be 2,056 +/- lbs/year. Delivery of 38.0% Sodium Bisulfite will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 38% Sodium Bisulfite shall be 1.33 with a pH of 3.8-5.2.

50.0% Sodium Hydroxide

Annual usage of 50.0% Sodium Hydroxide is estimated to be 26,400 +/- lbs/year. Delivery of 50.0% Sodium Hydroxide will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Delivered 50.0% Sodium Hydroxide must adhere to American Water Works Association specification B501-08 or latest revision thereof. Specific gravity of 50% Sodium Hydroxide shall be 1.53 at 15.5 C (60 F) with a as is pH of 13.7.

Coagulant for South Water Treatment Plant

The City of Lubbock owns and operates a membrane filtration plant, only Aluminum Chlorohydrate(ACH) will be considered. No product containing polymer will be considered due to membrane fouling. The coagulant purchased for use at the City of Lubbock South Water Treatment Plant shall strictly adhere to AWWA Standard B408-14 for ACH Aluminum Chlorohydrate or latest revisions thereof. The coagulant blend must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. The material safety data sheets (MSDS) for the product shall also be submitted with the bid. If the successful bidder is not the manufacturer of the coagulant bid, bidder must provide a copy of a legal contract between the bidder and the coagulant manufacturer that will be used to produce the blend. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants. The same coagulant manufacturer must be used throughout the term of the contract. **Throughout the term of the contract, the successful bidder may not change the formulation of the coagulant in any way without the express written consent of the Water Treatment Superintendent. No exceptions, an unauthorized change in the formulation of the product will result in contract termination.**

If product being bid has not been previously tested for performance at the City of Lubbock South Water Treatment Plant bidder may be required by the City to visit the site and perform testing using standard jar testing methods. The test results must include settled water and final water turbidities, pH and temperature. A sample of the product being tested will be left at the facility for additional jar testing by Operations personnel. At the City's discretion full plant testing will be required based on results of previous tests; the City will pay for a full delivery (approximately 48,000 lbs.) at the price submitted in the bid document to conduct full plant testing. Water Treatment Operations personnel will evaluate product performance based on settled water quality, pH, filter effluent turbidities, and cost effectiveness. Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product. References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

SUPPLEMENTAL ADDITIVE SPECIFICATION

Buyer requests the option of having copper sulfate, containing at least 99% $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$, added to the coagulant. The copper sulfate must have NSF Certification for use in potable water treatment plants. The copper sulfate would be added per load at the buyer's request to control algae growth. Algae growth occurs when the water reaches a temperature of 72°F. The yearly average of this temperature is between the middle of April to the end of September. The amount of additive will be based on the coagulant feed rate at the time the load was ordered and would be determined by the operations staff, a 1.0% copper sulfate additive is to be expected.

Coagulant for North Water Treatment Plant

The aluminum sulfate/polymer blend purchased for use at the City of Lubbock Water Treatment Plant shall contain no soluble inorganic or organic substances capable of producing deleterious or injurious effects upon the health of those consuming the water, or that would otherwise render it unfit for public consumption. The aluminum sulfate/polymer blend must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. **The City of Lubbock North Water Treatment Plant will require the product to have a pH in the range of 1.3 to 2.8 (slightly more stringent than AWWA Standard).** The material safety data sheets (MSDS) for the product shall also be submitted with the bid. Due to the fact that successful aluminum sulfate/polymer blends are 90% or more aluminum sulfate by weight, it is preferable that the bidders be a manufacturer of liquid aluminum sulfate. If the successful bidder is not a manufacturer of aluminum sulfate, bidder must provide a copy of a legal contract between the bidder and the aluminum sulfate manufacturer that will be used to produce the blend. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants. The same aluminum sulfate manufacturer must be used throughout the term of the contract. **Throughout the term of the contract, the successful bidder may not change the formulation of the alum / polymer blend in any way without the express written consent of the Water Treatment Superintendent. No exceptions, an unauthorized change in the formulation of the product will result in contract termination.**

Products to be considered for bid will be tested by the manufacturer using standard jar testing methods at the City's North Water Treatment Plant site. The test results must include settled water and final water turbidities, pH and temperature. A sample of the product being tested will be left at the facility for additional jar testing by Operations personnel, if additional pilot plant testing is necessary an additional amount of sample will be required. At the Cities' discretion full plant testing will be required based on results of previous tests; the City will pay for a full delivery (approximately 48,000 lbs.) at the price submitted in the bid document to conduct full plant testing. Water Treatment Operations personnel will evaluate product performance based on settled water quality, pH, filter effluent turbidities, and cost effectiveness. Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product. References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

SUPPLEMENTAL ADDITIVE SPECIFICATION

Buyer requests the option of having copper sulfate, containing at least 99% $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$, added to the Aluminum Sulfate/Polymer blend. The copper sulfate must have NSF Certification for use in potable water treatment plants. The copper sulfate would be added per load at the buyer's request to control algae growth. Algae growth occurs when the water reaches a temperature of 72°F. The yearly average of this temperature is between the middle of April to the end of September. The amount of additive will be based on the coagulant feed rate at the time the load was ordered and would be determined by the operations staff, a 2.0% or 3.0% copper sulfate additive is to be expected.

Facility and Storage

South Water Treatment Plant = 2 – 6,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 3,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

North Water Treatment Plant = 3 – 18,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 7,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

Bailey County Well Field = 2 – 8,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 8,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

City of Lubbock, TX
Purchasing and Contract Management
Vendor Acknowledgement Form

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 30 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 22-16644-KM
Water Treatment Chemicals
Bid Form

Chemrite, Inc.
Buford, GA
\$45,031.00

		Location				
		Total Cost				
Items				Delivery	Unit	Total
		Quantity	UOM	Days	Price	Cost
#		Required		ARO		
#0-4	50.0% Citric Acid For South Water Treatment Plant, as specified	24500	Pounds	44848	\$ 1.838	\$45,031.00

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 X 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 6-28-22
Addenda No. 2 Date 6-30-22
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.

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.

FEDERAL AND STATE SAFETY REGULATIONS

Contractor shall comply with all federal and state safety regulation including but not limited to Occupational, Safety and Health Administration (OSHA) and the Department of Workforce Development (DWD) regulations. This agreement includes incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause Bus to be in violation of the FTA terms and conditions.

All Environmental Protection Agency (EPA) rules and regulations must be followed by the Contractor.

MASTER AGREEMENT

For Federal Transit Administration Agreements authorized by 49 U.S.C. chapter 53, Title 23, United States Code (Highways), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, as amended by the SAFETEA-LU Technical Corrections Act of 2008, the Transportation Equity Act for the 21st Century, as amended, the National Capital Transportation Act of 1969, as amended, the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, February 17, 2009, or other Federal laws that FTA administers.

<https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>

The Master Agreement can be found in its entirety on the City of Lubbock website www.ci.lubbock.tx.us

INCOMPLETE INFORMATION

Failure to complete or provide any of the information requested in this Request for Proposal, including references, and/or additional information as information as indicated, may results in disqualification by reason of "non-responsiveness".

CONTRACTOR ACKNOWLEDGEMENT

In compliance with this solicitation, the undersigned bidder, having examined the bid documents, instructions to bidders, documents associated with the invitation to bid, 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
- Federal and State Regulations
- Master Agreement

SUBMISSION INFORMATION

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

THIS BID IS SUBMITTED BY Chemrite, Inc. a
corporation organized under the laws of the State of Georgia, or a partnership consisting of
_____ or individual trading as _____ of
the City of Buford

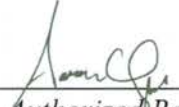
Tax ID No.: 58-1825727

Address: 5202 Belle Wood Ct., Ste 104

City: Buford State: GA Zip: 30518

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: 7-11-22
Authorized Representative - must sign by hand

Officer Name and Title: Aaron Opp Vice President

Business Telephone Number 770-271-5576 FAX: 770-271-4068

E-mail Address: orders@chemrite.com

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, Contract No. 16804/ITB 22-16644-KM for water Treatment chemicals, by and between the City of Lubbock and Chemtrade Chemicals US, LLC, of Parsippany, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

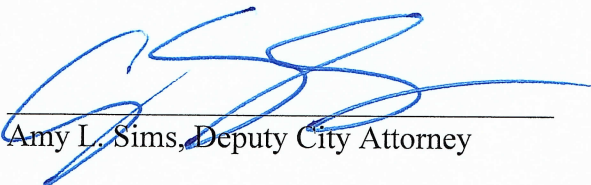
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

RES.Contract-16804 Chemtrade
09.23.22

**City of Lubbock
Contract for
Water Treatment Chemicals**

THIS CONTRACT made and entered into this ____ day of _____, 2022, by and between the City of Lubbock ("City"), and **Chemtrade Chemicals US, LLC**, ("Contractor").

WITNESSETH:

WHEREAS, the City of Lubbock duly advertised for bids for **Water Treatment Chemicals** 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 **Water Treatment Chemicals**.

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, **Water Treatment Chemicals** and more specifically referred to as **Item 0-9** 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 (4), one year extensions, said date of term beginning upon formal approval. This Contract will renew automatically for the additional terms, unless either Party gives 90-day written notice to terminate the Contract.
4. 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.
5. 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.
6. A) Prices quoted shall be guaranteed for a period for six (6) months upon City approval. The rate may be adjusted at the City's discretion for the effective change in Consumer Price Index (CPI) or Product Price Index (PPI) as appropriate.

B) Further, if the Contractor can provide documentation for actual charges for material, labor, etc. that demonstrates that the change in CPI or PPI is not sufficient, the Contractor shall provide such documentation to the City, and at the City's sole discretion, the contractual rate

may be further adjusted. If agreement regarding a new rate cannot be reached, the City shall terminate at the end of the current contract period.

- C) If an adjustment to pricing is granted under this section, the Contractor must provide the Director of Purchasing and Contract Management written, quarterly documentation to justify the ongoing adjustment. If no such documentation is timely received, the rate will automatically revert to the initial, awarded rate.
7. 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.
8. 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.
9. 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):

Commercial General Liability Requirements: \$1 M occurrence / \$2M aggregate (can be combined with an Excess Liability to meet requirement). COL is required in ALL contracts. It is perhaps the most important of all insurance policies in a contractual relationship. It insures the Contractor has broad liability coverage for contractual activities and for completed operations.

Automobile Liability Requirements: \$1 M/occurrence is needed

Workers Compensation and Employer Liability Requirements: Statutory. If the vendor is an independent contractor with no employees and are exempt from providing Workers' Compensation coverage, they must sign a waiver (obtained from COL Purchasing) and include a copy of their driver's license.

Pollution Liability Requirements: \$1 M occurrence / \$2M aggregate

The City of Lubbock (including its officials, employees and volunteers) shall be afforded additional insured status on a primary and non-contributory basis on all liability policies except professional liabilities and workers' comp.

- ◆ Waivers of Subrogation are required for COL, AL, and WC.
- ◆ To Include Products of Completed Operations endorsement.
- ◆ Carrier will provide a 30-day written notice of cancellation, 10-day written notice for non-payment.
- ◆ Carriers must meet an A.M. Best rating of A- or better.
- ◆ Subcontractors must carry same limits as listed above.

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.

10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

- 17. 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.

18. 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.

19. 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.

20. 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.

21. 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.
22. This Contract consists of the following documents set forth herein; Invitation to Bid No. 22-16644-KM, 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.

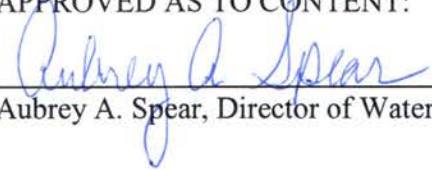
CITY OF LUBBOCK

Tray Payne, Mayor

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Aubrey A. Spear, Director of Water Utilities

APPROVED AS TO FORM:



Amy Sims, Deputy City Attorney

CONTRACTOR

BY 

Authorized Representative

PARUL KACHHIA-PATEL, MARKETING SPECIALIST

Print Name

90 EAST HALSEY ROAD, SUITE 200

Address

PARSIPPANY, NJ 07054

City, State, Zip Code

City of Lubbock
ITB 22-16644-KM
Water Treatment Chemicals
Specifications

SCOPE

It is the intent of these specifications to describe various chemicals and anticipated quantities of chemical products to be used in the water treatment process at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey County Well Field.

PRODUCT SPECIFICATION

Treatment Chemicals purchased for use at the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey county Well Field shall contain no soluble inorganic or organic substances capable of producing deleterious or injurious effects upon the health of those consuming the water, or that would otherwise render it unfit for public consumption. All treatment chemicals must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. The material safety data sheets (MSDS) for the product and NSF/ANSI certification shall also be submitted with the bid. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants, any product bid that does not contain NSF/ANSI Certification will be determined unusable and not be considered.

PRODUCT PERFORMANCE

Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product(s). References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

PRODUCT QUALITY PER LOAD

Upon delivery of each load of product, the transport driver must present a certificate of analysis containing specific gravity and pH. Plant operations staff may also perform specific gravity and pH analyses on the product in the presence of the transport driver. A delivered product that exhibits any unusual color or appearance compared to previous acceptable deliveries will be refused, as will deliveries containing any form of foreign material. If the product meets the required minimum standards, the product may then be off loaded. If desired, the vendor may provide their own hydrometer and perform an additional specific gravity analysis in the presence of the plant operations staff. In the event the product does not meet the required minimum standards, the load will be refused and the vendor must provide another acceptable load within forty eight (48) hours. No additional freight or shipping charges shall be assessed by vendor.

TECHNICAL SUPPORT

Vendor shall provide acceptable technical support and response time whenever problems are encountered relating to product use and/or performance. A telephone response time of one (1) business day is required of vendor in cases of product performance problems. A site visit by the vendor may be requested by the owner if owner feels it is necessary to solve any significant problem related to product performance. If a non-routine site visit is requested, the vendor will have five (5) business days to respond and arrive on-site.

QUANTITIES AND PRICING

The anticipated annual consumption of required treatment chemicals are listed below. Prices quoted for product shall be FOB City of Lubbock South Water Treatment Plant, 5114 East FM 1585 Lubbock, Texas 79404, North Water Treatment Plant 6001 North Guava Lubbock, Texas 79403, and Bailey County Well field 2380 East HWY 84 Muleshoe, Texas 79347. Pricing shall be firm for a period five (5) years with price being evaluated and adjusted annually. Written consent from both parties is required for all price adjustments. Listed quantities are estimates only for pricing purposes. Actual usage may vary.

DELIVERY / SECURITY

Successful vendor shall be required to deliver the product(s) to the City of Lubbock South Water Treatment Plant, North Water Treatment Plant, and Bailey County Well Field within five (5) days after order is placed. Unloading to plant storage tanks is to be performed by the driver under the direction of operations personnel. Successful vendor shall provide any and all special equipment necessary to perform unloading at no cost to the City of Lubbock. All deliveries will be unloaded between the hours of 9:00 A.M. and 4:00 P.M., Monday through Friday. No exceptions will be made unless prior approval is agreed upon with the water treatment plant's operations personnel. The transporter is required to furnish certified, dated, and stamped weight tickets with each load of bulk product delivered before and after unloading. All delivery people will display photo security ID upon arrival at the site. All delivery vehicles shall meet OSHA and DOT regulations and be operated in a safe manner while on site.

All delivery personnel will be identified by the vendor before arrival at the site; preferably at the time an order is placed. Upon arrival at the City of Lubbock South Water Treatment Plant, delivery personnel will check in with plant representative, present photo identification, and then be directed to the unloading site. All shipments shall be sealed and the seal will be broken only in the presence of the plant representative. If any of the security measures are violated, the shipment will be refused.

Individual Chemical Specifications

78.0% Sulfuric Acid

Annual usage of 78% Sulfuric Acid is estimated to be 30,000 +/- lbs. 78.0% Sulfuric Acid will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 78.0% Sulfuric Acid shall be 1.71 at 16 C (61F) with a pH of 1.0 at 1.0 wt/wt%.

12.5% Sodium Hypochlorite

Annual usage of 12.5% Sodium Hypochlorite is estimated to be 927,830 +/- gallons. 12.5% Sodium Hypochlorite must adhere to American Water Works Association specification B300-10 or latest revision thereof. Specific gravity of 12.5% Sodium Hypochlorite shall be 1.2 g/ml or 10 lb/gallon at 20 C (68 F) with a 1.0% solution pH of 11.2-11.4. (See below for individual facility and storage tank sizes)

Liquid Ammonium Sulfate 10% w/w

Annual usage of Liquid Ammonium Sulfate (LAS) is estimated to be 195,275 +/- gallons. Specific gravity of Liquid Ammonium Sulfate at 21 C (71 F) shall be 1.216-1.228. Neat pH shall be 3.0-5.0 with a density of 10.15-10.25 lbs/gal. (NH₄)₂SO₄ percentage shall be 38-40% with equivalent NH₃ of 9.8- 10.3%. (See below for individual facility and storage tank sizes)

50.0% Citric Acid

Annual usage of 50.0% Citric Acid is estimated to be 24,500 +/- lbs/year. Delivery of 50.0% Citric Acid will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 50% Citric Acid shall be 1.24 with a pH of 0.6.

38% Sodium Bisulfite

Annual usage of 38.0% Sodium Bisulfite is estimated to be 2,056 +/- lbs/year. Delivery of 38.0% Sodium Bisulfite will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Product must be NSF/ANSI Certified for use in public water treatment. Specific gravity of 38% Sodium Bisulfite shall be 1.33 with a pH of 3.8-5.2.

50.0% Sodium Hydroxide

Annual usage of 50.0% Sodium Hydroxide is estimated to be 26,400 +/- lbs/year. Delivery of 50.0% Sodium Hydroxide will be received in totes and offloaded at the chemical receiving station located at the City of Lubbock South Water Treatment Plant. Delivered 50.0% Sodium Hydroxide must adhere to American Water Works Association specification B501-08 or latest revision thereof. Specific gravity of 50% Sodium Hydroxide shall be 1.53 at 15.5 C (60 F) with a pH of 13.7.

Coagulant for South Water Treatment Plant

The City of Lubbock owns and operates a membrane filtration plant, only Aluminum Chlorohydrate(ACH) will be considered. No product containing polymer will be considered due to membrane fouling. The coagulant purchased for use at the City of Lubbock South Water Treatment Plant shall strictly adhere to AWWA Standard B408-14 for ACH Aluminum Chlorohydrate or latest revisions thereof. The coagulant blend must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. The material safety data sheets (MSDS) for the product shall also be submitted with the bid. If the successful bidder is not the manufacturer of the coagulant bid, bidder must provide a copy of a legal contract between the bidder and the coagulant manufacturer that will be used to produce the blend. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants. The same coagulant manufacturer must be used throughout the term of the contract. **Throughout the term of the contract, the successful bidder may not change the formulation of the coagulant in any way without the express written consent of the Water Treatment Superintendent. No exceptions, an unauthorized change in the formulation of the product will result in contract termination.**

If product being bid has not been previously tested for performance at the City of Lubbock South Water Treatment Plant bidder may be required by the City to visit the site and perform testing using standard jar testing methods. The test results must include settled water and final water turbidities, pH and temperature. A sample of the product being tested will be left at the facility for additional jar testing by Operations personnel. At the City's discretion full plant testing will be required based on results of previous tests; the City will pay for a full delivery (approximately 48,000 lbs.) at the price submitted in the bid document to conduct full plant testing. Water Treatment Operations personnel will evaluate product performance based on settled water quality, pH, filter effluent turbidities, and cost effectiveness. Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product. References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

SUPPLEMENTAL ADDITIVE SPECIFICATION

Buyer requests the option of having copper sulfate, containing at least 99% $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$, added to the coagulant. The copper sulfate must have NSF Certification for use in potable water treatment plants. The copper sulfate would be added per load at the buyer's request to control algae growth. Algae growth occurs when the water reaches a temperature of 72°F. The yearly average of this temperature is between the middle of April to the end of September. The amount of additive will be based on the coagulant feed rate at the time the load was ordered and would be determined by the operations staff, a 1.0% copper sulfate additive is to be expected.

Coagulant for North Water Treatment Plant

The aluminum sulfate/polymer blend purchased for use at the City of Lubbock Water Treatment Plant shall contain no soluble inorganic or organic substances capable of producing deleterious or injurious effects upon the health of those consuming the water, or that would otherwise render it unfit for public consumption. The aluminum sulfate/polymer blend must have NSF/ANSI Certification for use in potable water treatment plants. Bidder shall submit a certificate of analysis which will include the specific gravity and pH. **The City of Lubbock North Water Treatment Plant will require the product to have a pH in the range of 1.3 to 2.8 (slightly more stringent than AWWA Standard).** The material safety data sheets (MSDS) for the product shall also be submitted with the bid. Due to the fact that successful aluminum sulfate/polymer blends are 90% or more aluminum sulfate by weight, it is preferable that the bidders be a manufacturer of liquid aluminum sulfate. If the successful bidder is not a manufacturer of aluminum sulfate, bidder must provide a copy of a legal contract between the bidder and the aluminum sulfate manufacturer that will be used to produce the blend. In any event, all products used must have NSF/ANSI certification for use in drinking water treatment plants. The same aluminum sulfate manufacturer must be used throughout the term of the contract. **Throughout the term of the contract, the successful bidder may not change the formulation of the alum / polymer blend in any way without the express written consent of the Water Treatment Superintendent. No exceptions, an unauthorized change in the formulation of the product will result in contract termination.**

Products to be considered for bid will be tested by the manufacturer using standard jar testing methods at the City's North Water Treatment Plant site. The test results must include settled water and final water turbidities, pH and temperature. A sample of the product being tested will be left at the facility for additional jar testing by Operations personnel, if additional pilot plant testing is necessary an additional amount of sample will be required. At the Cities' discretion full plant testing will be required based on results of previous tests; the City will pay for a full delivery (approximately 48,000 lbs.) at the price submitted in the bid document to conduct full plant testing. Water Treatment Operations personnel will evaluate product performance based on settled water quality, pH, filter effluent turbidities, and cost effectiveness. Bidders must submit a list with a minimum of three (3) potable water treatment plants with phone numbers and contact persons that are currently using the product. References will be thoroughly checked and will figure prominently into the selection of a successful bidder.

SUPPLEMENTAL ADDITIVE SPECIFICATION

Buyer requests the option of having copper sulfate, containing at least 99% $\text{CuSO}_4 \cdot 5\text{H}_2\text{O}$, added to the Aluminum Sulfate/Polymer blend. The copper sulfate must have NSF Certification for use in potable water treatment plants. The copper sulfate would be added per load at the buyer's request to control algae growth. Algae growth occurs when the water reaches a temperature of 72°F. The yearly average of this temperature is between the middle of April to the end of September. The amount of additive will be based on the coagulant feed rate at the time the load was ordered and would be determined by the operations staff, a 2.0% or 3.0% copper sulfate additive is to be expected.

Facility and Storage

South Water Treatment Plant = 2 – 6,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 3,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

North Water Treatment Plant = 3 – 18,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 7,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

Bailey County Well Field = 2 – 8,000 gallon 12.5% Sodium Hypochlorite bulk storage tanks
2 – 8,000 gallon Liquid Ammonium Sulfate 10.0% w/w bulk storage tanks

City of Lubbock, TX
Purchasing and Contract Management
Vendor Acknowledgement Form

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 ³⁰_____ 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 22-16644-KM
Water Treatment Chemicals
Bid Form

Chemtrade Chemicals US LLC
Parsippany, NJ
\$154,500

#	Items	Location Total Cost		Delivery Days ARO	Unit Price	Total Cost
		Quantity Required	UOM			
#0-3	Liquid Ammonium Sulfate 10% w/w All 3 Plant Facilities, as specified.	195275	Gallons	3	\$2.84	\$554,581.00
#0-9	ACH Coagulant for South Water Treatment Plant	150	Tons	5	\$1,030.00	\$154,500.00

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 X 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 JUNE 28, 2022
Addenda No. 2 Date JUNE 30, 2022
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.

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.

FEDERAL AND STATE SAFETY REGULATIONS

Contractor shall comply with all federal and state safety regulation including but not limited to Occupational, Safety and Health Administration (OSHA) and the Department of Workforce Development (DWD) regulations. This agreement includes incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by the Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests which would cause Bus to be in violation of the FTA terms and conditions.

All Environmental Protection Agency (EPA) rules and regulations must be followed by the Contractor.

MASTER AGREEMENT

For Federal Transit Administration Agreements authorized by 49 U.S.C. chapter 53, Title 23, United States Code (Highways), the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, as amended by the SAFETEA-LU Technical Corrections Act of 2008, the Transportation Equity Act for the 21st Century, as amended, the National Capital Transportation Act of 1969, as amended, the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, February 17, 2009, or other Federal laws that FTA administers.

<https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>

The Master Agreement can be found in its entirety on the City of Lubbock website www.ci.lubbock.tx.us

INCOMPLETE INFORMATION

Failure to complete or provide any of the information requested in this Request for Proposal, including references, and/or additional information as information as indicated, may results in disqualification by reason of "non-responsiveness".

CONTRACTOR ACKNOWLEDGEMENT

In compliance with this solicitation, the undersigned bidder, having examined the bid documents, instructions to bidders, documents associated with the invitation to bid, 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
- Federal and State Regulations
- Master Agreement

SUBMISSION INFORMATION

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

THIS BID IS SUBMITTED BY CHEMTRADE CHEMICALS US LLC a
corporation organized under the laws of the State of DELWARE, or a partnership consisting of
_____ or individual trading as _____ of
the City of _____

Tax ID No.: 74-3104940

Address: 90 EAST HALSEY ROAD, SUITE 200

City: PARSIPPANY State: NEW JERSEY Zip: 07054

M/WBE Firm:	<input type="checkbox"/>	Woman	<input type="checkbox"/>	Black American	<input type="checkbox"/>	Native American
NO	<input type="checkbox"/>	Hispanic American	<input type="checkbox"/>	Asian Pacific American	<input type="checkbox"/>	Other (Specify)

Please complete the information below.

By  Date: JUNE 29, 2022
Authorized Representative - must sign by hand

Officer Name and Title: PARUL KACHHIA-PATEL, MARKETING SPECIALIST

Business Telephone Number 800-441-2659 FAX: 973-515-4461

E-mail Address: bids@chemtradelogistics.com

City of Lubbock
ITB 22-16644-KM
Water Treatment Chemicals
Bid Tabulation Sheet

		Chemtrade Chemicals US LLC					Chameleon Industries		
		Location	Parsippany, NJ				Mesquite, TX		
		Total Cost	\$709,081.00				\$ 1,954,958.25		
#	Items	Quantity Required	UOM	Delivery Days ARO	Unit Price	Total Cost	Delivery Days ARO	Unit Price	Total Cost
0									
#0-1	78.0% Sulfuric Acid For South Water Treatment Plant, as specified.	30000	Pounds	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-2	12.5% Sodium Hypochlorite All 3 Plant Facilities, as specified.	927830	Gallons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-3	Liquid Ammonium Sulfate 10% w/w All 3 Plant Facilities, as specified.	195275	Gallons	3	\$2.84	\$554,581.00	2	\$2.43	\$474,518.25
#0-4	50.0% Citric Acid For South Water Treatment Plant, as specified	24500	Pounds	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-5	38.0% Sodium Bisulfite For South Water Treatment Plant, as specified.	2056	Pounds	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-6	50.0% Sodium Hydroxide For South Water Treatment Plant, as specified.	26400	Pounds	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-7	PACL Coagulant for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-8	PACL Coagulant with 1% Copper Sulfate additive for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-9	ACH Coagulant for South Water Treatment Plant	150	Tons	5	\$1,030.00	\$154,500.00	No Bid	No Bid	No Bid
#0-10	ACH Coagulant with 1% Copper Sulfate additive for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-11	Hydrate Aluminum Sulfate/Polymer Blend as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid	2	\$360.00	\$341,640.00
#0-12	Hydrate Aluminum Sulfate/Polymer Blend with 1% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid	2	\$380.00	\$360,620.00
#0-13	Hydrate Aluminum Sulfate/Polymer Blend with 2% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid	2	\$400.00	\$379,600.00
#0-14	Hydrate Aluminum Sulfate/Polymer Blend with 3% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid	2	\$420.00	\$398,580.00

City of Lubbock
ITB 22-16644-KM
Water Treatment Chemicals
Bid Tabulation Sheet

				Chemrite, Inc.			DPC Industries		
		Location Total Cost		Buford, GA \$45,031.00			Sweetwater, TX \$1,781,433.60		
#	Items	Quantity Required	UOM	Delivery Days ARO	Unit Price	Total Cost	Delivery Days ARO	Unit Price	Total Cost
0									
#0-1	78.0% Sulfuric Acid For South Water Treatment Plant, as specified.	30000	Pounds	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-2	12.5% Sodium Hypochlorite All 3 Plant Facilities, as specified.	927830	Gallons	No Bid	No Bid	No Bid	5 to 7	\$ 1.92	\$1,781,433.60
#0-3	Liquid Ammonium Sulfate 10% w/w All 3 Plant Facilities, as specified.	195275	Gallons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-4	50.0% Citric Acid For South Water Treatment Plant, as specified	24500	Pounds	4	\$1.84	\$45,031.00	No Bid	No Bid	No Bid
#0-5	38.0% Sodium Bisulfite For South Water Treatment Plant, as specified.	2056	Pounds	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-6	50.0% Sodium Hydroxide For South Water Treatment Plant, as specified.	26400	Pounds	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-7	PACL Coagulant for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-8	PACL Coagulant with 1% Copper Sulfate additive for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-9	ACH Coagulant for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-10	ACH Coagulant with 1% Copper Sulfate additive for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-11	Hydrate Aluminum Sulfate/Polymer Blend as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-12	Hydrate Aluminum Sulfate/Polymer Blend with 1% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-13	Hydrate Aluminum Sulfate/Polymer Blend with 2% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid
#0-14	Hydrate Aluminum Sulfate/Polymer Blend with 3% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid	No Bid	No Bid	No Bid

City of Lubbock
ITB 22-16644-KM
Water Treatment Chemicals
Bid Tabulation Sheet

Shannon Chemical Corporation

#	Items	Quantity Required	Location Total Cost UOM	Malvern, PA \$61,985.00		
				Delivery Days ARO	Unit Price	Total Cost
0						
#0-1	78.0% Sulfuric Acid For South Water Treatment Plant, as specified.	30000	Pounds	No Bid	No Bid	No Bid
#0-2	12.5% Sodium Hypochlorite All 3 Plant Facilities, as specified.	927830	Gallons	No Bid	No Bid	No Bid
#0-3	Liquid Ammonium Sulfate 10% w/w All 3 Plant Facilities, as specified.	195275	Gallons	No Bid	No Bid	No Bid
#0-4	50.0% Citric Acid For South Water Treatment Plant, as specified	24500	Pounds	7 to 10	\$ 2.53	\$61,985.00
#0-5	38.0% Sodium Bisulfite For South Water Treatment Plant, as specified.	2056	Pounds	No Bid	No Bid	No Bid
#0-6	50.0% Sodium Hydroxide For South Water Treatment Plant, as specified.	26400	Pounds	No Bid	No Bid	No Bid
#0-7	PACL Coagulant for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid
#0-8	PACL Coagulant with 1% Copper Sulfate additive for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid
#0-9	ACH Coagulant for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid
#0-10	ACH Coagulant with 1% Copper Sulfate additive for South Water Treatment Plant	150	Tons	No Bid	No Bid	No Bid
#0-11	Hydrate Aluminum Sulfate/Polymer Blend as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid
#0-12	Hydrate Aluminum Sulfate/Polymer Blend with 1% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid
#0-13	Hydrate Aluminum Sulfate/Polymer Blend with 2% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid
#0-14	Hydrate Aluminum Sulfate/Polymer Blend with 3% Copper Sulfate additive as per specifications for North Water Treatment Plant	949	Tons	No Bid	No Bid	No Bid

Line Item	QTY	Description	Location	Unit Price* Bid	Extended Cost
2	927830 gals.	12.5% Sodium Hypochlorite DPC Industries	Sweetwater, TX	\$1.92	\$1,781,433.60
3	195275 gals.	Liquid Ammonium Sulfate 10% Chameleon Industries	Mesquite, TX	\$2.43	\$474,518.25
		Chemtrade Chemicals	Parsippany, NJ	\$2.84	\$554,581.00
4	24500 Pounds	50.0% Citric Acid Chemrite Inc.	Buford, GA	\$1.84	\$45,080.00
		Shannon Chemical	Malvern, PA	\$2.53	\$61,985.00
9	150 tons	ACH Coagulant Chemtrade Chemcials	Parsippany, NJ	\$1,030.00	\$154,500.00
11	949 tons	Hydrate Aluminum Sulfate/Polymer Blend Chameleon Industries	Mesquite, TX	\$360.00	\$341,640.00
12	949 tons	Hydrate Aluminum Sulfate/Polymer Blend with 1% copper additive Chameleon Industries	Mesquite, TX	\$380.00	\$360,620.00
13	949 tons	Hydrate Aluminum Sulfate/Polymer Blend with 2% copper sulfate additive Chameleon Industries	Mesquite, TX	\$400.00	\$379,600.00
14	949 tons	Hydrate Aluminum Sulfate/Polymer Blend with 3% Copper Sulfate additive Chameleon Industries	Mesquite, TX	\$420.00	\$398,580.00



**Purchasing and Contract Management
Project Summary
ITB 22-16644-KM Water Treatment Chemicals**

Notice was published in the Lubbock Avalanche Journal on June 26 and July 3, 2022.

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

Notice was published on Bonfire-hub.com from June 24, 2022 to July 12, 2022.

52 vendors took documents from Bonfire-hub.com

7 vendors were notified separately.

5 vendors submitted a bids.

Information

Agenda Item

Resolution - Fleet Services: Consider a resolution authorizing the Mayor to execute Purchase Order 31070176, with Warren CAT, for the purchase of one Caterpillar D8 Track Dozer for the Solid Waste Landfill.

Item Summary

Purchase Order 31070176 is for one 2023 Caterpillar D8 Track Dozer, which will replace a 2013 Caterpillar D8T Tractor Dozer. The new unit will be an essential part of the operations at the landfill, such as covering the workface, controlling erosion, and heavy machinery recover.

This purchase valued at \$1,011,675 will be acquired from Warren CAT of Lubbock, Texas, and is made through the Texas Association of School Boards Local Government Purchasing Cooperative, Contract 597-19, using the electronic purchasing system, BuyBoard.

The purchasing cooperative is an administrative agency created in accordance with Section 791.001 of the Texas Government Code and used to obtain the benefits and efficiencies that can accrue to members of a cooperative, to comply with state bidding requirements, and to identify qualified vendors of commodities, goods, and services.

Fiscal Impact

Purchase Order 31070176 for \$1,011,675 is funded in Capital Improvement Project 92783, the General Fund Vehicle Replacement FY 2022-23 Tax Note.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager
Dominic Esperat, Director of Fleet Operations

Attachments

Resolution
Purchase Order
Budget Detail

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Purchase Order No. 31070176 in accordance with Buyboard 597-19 for the purchase of 2023 Caterpillar D8 Track Dozer, by and between the City of Lubbock and Warren CAT of Lubbock, TX 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.

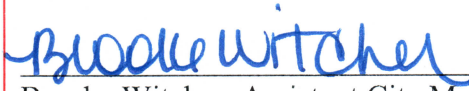
Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney




PURCHASE ORDER

Page - 1
 Date - 11/3/2022
 Order Number 31070176 000 OP
 Branch/Plant 3526

TO: WARREN CAT
 702 E SLATON ROAD
 LUBBOCK TX 79404

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 11/3/2022 Freight
 Requested 11/3/2023 Taken By S BALLANCE
 Delivery PER B RODRIGUEZ, REQ 59525 PUR 16977/ BUYBOARD 597-19

If you have any questions, please contact Breana Rodriguez: BRodriguez@mylubbock.us or 806-775-2374

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
23 Caterpillar D8 Track Dozer	1.000	1,011,675.0000	EA	1,011,675.00	11/3/2023

Total Order

Terms NET 10 EOM

1,011,675.00

INSURANCE REQUIRED:

Commercial General Liability:

\$1,000,000 occurrence / \$2,000,000 aggregate (can be combined with an Excess Liability to meet requirement). CGL is required in ALL contracts. It is perhaps the most important of all insurance policies in a contractual relationship. It insures the Contractor has broad liability coverage for contractual activities and for completed operations.

Commercial General Liability to include Products – Completion/OP, Personal and Advertising Injury, Contractual Liability, Fire Damage (any one fire), and Medical Expenses (any one person).

Professional Liability: \$1,000,000 occurrence/ \$2,000,000 aggregate

*The City of Lubbock (including its officials, employees and volunteers) shall be afforded additional insured status on a primary and non-contributory basis on all liability policies except professional liabilities and workers' comp. *Waivers of Subrogation are required for CGL, AL, and WC. *To Include Products of Completed Operations endorsement. *Carrier will provide a 30-day written notice of cancellation, 10-day written notice for non-payment. *Carriers must meet an A.M. Best rating of A- or better. *Subcontractors must carry same limits as listed above.

Workers Compensation and Employer Liability:

Statutory. If the vendor is an independent contractor with no employees and are exempt from providing Workers' Compensation coverage, they must sign a waiver (obtained from COL Purchasing) and include a copy of their driver's license. Employer Liability (\$1M) is required with Workers Compensation.

Additional Policies:

Garage Liability: No less than \$2,000,000 combined single limit

Carrier Cargo Liability: At minimum, the value of full load being hauled

This purchase order encumbers funds in the amount of \$1,011,675.00 awarded to Warren CAT of Lubbock, TX, on _____, 2022. The following is incorporated into and made part of this purchase order by reference: Quote dated November 01, 2022, from Warren CAT of Lubbock, TX, and BuyBoard Contract 597-19.

Resolution # _____

CITY OF LUBBOCK:

ATTEST:

Tray Payne, Mayor

Rebecca Garza, City Secretary

PURCHASE ORDER TERMS AND CONDITIONS STANDARD TERMS AND CONDITIONS

Seller and Buyer agree as follows:

ACCEPTANCE OF THIS PURCHASE ORDER:

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 the City's 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.

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. 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.
28. 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
29. 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/departmentsal-websites/departments/purchasing/vendor-information>
30. 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.
31. No Boycott of Energy Companies. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott Energy Companies and will not boycott Energy Companies 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.
32. No Boycott of a Firearm Entity or Firearm Trade Association. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott a Firearm Entity or Firearm Trade Association and will not boycott a Firearm Entity or Firearm Trade Association 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.
33. 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
34. **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.
35. 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: orr@mylubbock.us. Please send this request to this email address for it to be processed



Quote 270411-01

Nov 01, 2022

CITY OF LUBBOCK LANDFILL
PO BOX 2000
LUBBOCK
Texas
79457-0001

Attention: BRENDA HANEY

Dear Brenda Haney, Thank you for this opportunity to quote Caterpillar products for your business needs. We are pleased to quote the following for your purchase consideration.

One (1) New Caterpillar Model: D8 Track Type Tractors with all standard equipment in addition to the additional specifications listed below:

STOCK NUMBER: N/A **SERIAL NUMBER:** N/A **YEAR:** 2023 **SMU:**

BUYBOARD ITEM # 597-19

We wish to thank you for the opportunity of quoting on your equipment needs. This quotation is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.

Sincerely,

Koley Schaffner
Machine Sales Representative

One (1) New Caterpillar Model: D8 Track Type Tractors with all standard equipment in addition to the additional specifications listed below:

STANDARD EQUIPMENT

POWERTRAIN -C15 ACERT diesel engine -Air cleaner, precleaner with strata tube -dust ejector -Aftercooler, air-to-air (ATAAC) -Coolant, extended life -Fan, Hydraulic -Four planet, double-reduction -planetary final drives -Fuel Water separator -Fuel priming pump, electric -Torque divider -Transmission, electronically-controlled -powershift -Engine decelerator and brake pedals -Parking brake, electronic -

UNDERCARRIAGE -Track roller frames, Suspended -Master link -Equalizer bar -Guards, end track guiding -Idlers, lifetime lubricated -Rollers, lifetime lubricated -Track sealed & lubricated -Track adjusters, hydraulic -Sprocket segments, replaceable -

ELECTRICAL -Lights -6 -Alarm, backup -Alternator, 150 amp -Batteries, 2 Maintenance Free 12V -(1400 CCA) (24V system), Heavy Duty -Connector, diagnostic -Starter, heavy duty, 24V -Horn, forward warning -Light, work, underhood -

OPERATOR ENVIRONMENT -Heater and air conditioning -Armrest, adjustable -Decelerator pedal -Footpads, dash -Glovebox -Lunchbox storage -Mirror, rear view -Seatbelt, retractable, 76mm (3 inch) -Wipers, intermittent -Electronic monitoring system -Seat, air-suspension -

TECHNOLOGY PRODUCTS -RADIOS - Authorization varies by country -please contact your Cat marketing lease -representative with questions or click -on the link below:<https://dealer.cat.com/-/en/products/technology.html> -PRODUCT LINK- Availability varies by -country, please contact your Cat -marketing representative with -questions or click on the link below: -<https://dealer.cat.com/pl/certification>

OTHER STANDARD EQUIPMENT -Ripper ready rear hydraulics -Fuel tank (Fast fill ready) -Engine enclosures, perforated, hinged -Front pull device -Guards, bottom hinged -Ground level service center with --Remote electrical disconnect --Secondary shutdown switch & hour meter -Hydraulics, independent steering, -work tool and fan pumps -Hydraulics, load sensing, dozer lift -and tilt -S.O.S. sampling ports -Vandalism protection for fluid -Compartments and battery box -

MACHINE SPECIFICATIONS

D8 21B TRACTOR	616-2398
LANE 3 ORDER	0P-9003
WASTE HANDLING ARRANGEMENT	442-1081
FINAL DRIVES, STD, WASTE	384-4604
ENGINE, THERMAL WRAPPED	442-1061
PRECLEANER, SCREEN HIGH DEBRIS	543-5218
BRAKES, BASIC	463-0215
OIL DRAIN, STD	380-2384
GUAGE, STD	465-7239
UC, HDXL, SUSPENDED, WASTE	486-6697
TRACK, 24" ES TRAP HDXL	522-5243
NO CARRIER ROLLERS	385-4734
LINES, DUAL TILT	465-8165
REAR HYDRAULIC, RIPPER	523-3235
ALTERNATOR, 150AMP DUCTED	530-3046
HEATER, ENGINE COOLANT 120V	469-6284
LIGHTS, TEN, LED	425-5363
CAB, DUAL PANE, PRECLEANER	516-3359
SEAT, CLOTH, HEATED	398-6909
PREMIUM CORP RADIO (12V)	487-5821
OPERATORS AR, QUICK OPENING	423-9556
BASIC, DUAL TILT	442-1096
PRODUCT LINK, CELLULAR PLE742	486-7008
FUEL SYSTEM, STANDARD	388-9402
GUARDS, BOTTOM, HD, SEALED	383-8241
GUARD, FAN DEBRIS	238-9658
8 RIPPER, MS W/ STRIKER BAR	525-1191
FLUIDS, STD	379-0292
ENGINE COOLANT, STD (-37C)	382-5934
PROTECTION, CYLINDER ROD	0P-3940
WINDSHIELD WASHER EMPTY	0P-1940
FUEL ANTIFREEZE, -25C (-13F)	0P-3978
INSTRUCTION, DOMESTIC	616-2400
SERIALIZED TECHNICAL MEDIA KIT	421-8926
LIGHT, WARNING, STROBE	510-4941
MOUNT, LIGHT, WARNING STROBE	384-8720
VISIBILITY, ARR, STD	525-1195
WINDOW SHADES	349-3004
GUARD, FUEL TANK	467-7340
GUARD, GRILL DEBRIS	450-7429
8SU/U DOZER, DUAL TILT, GUARD	602-8845
BLADE, 8SU, ARO	602-8497
PUSHARMS, STD	533-5518
CYLINDERS, LIFT, BASIC	428-7447
TOOTH, MULTI-SHANK RIPPER	4T-8987

BUYBOARD MACHINE SELLING PRICE	\$1,171,675.00
Item Number 597-19	

TRADE-IN

Make	Model	Serial Number	Trade Value
Caterpillar	D8T – 2014 model	MLN01910	\$160,000.00

TRADE DIFFERENCE – AMOUNT OWED TO BIDDER	\$1,011,675.00
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GUARANTEED MINIMUM REPURCHASE*	\$240,000.00
*(Up to 5 years / 7,500 hours, whichever comes first)	

TOTAL COST BID	\$771,675.00
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WARRANTY

Caterpillar's full machine warranty coverage for 60 months / 7,500 hours – whichever comes first. Technician travel time and mileage is a covered expense for the duration of the warrantable period. This applies to warrantable claims only.

F.O.B./TERMS

F.O.B.; Lubbock, Texas

Thank you for allowing Warren Cat and Caterpillar to quote on your equipment needs. If you have any questions, please give me a call.

Submitted by: Koley Schaffner

Accepted by:



Caterpillar D8T Track Type Tractor / 2014 model / sn MLN01910 / appx 9,845 hours

- Engine, transmission, hydraulic systems all work properly
- Left rear fender is bent
- Battery box lid is bent
- Left door wiper does not function properly
- Right side door glass is cracked
- Seat, armrest, and floorboard are worn
- Right rear light is not functioning
- Blade pins and trunnions have some play
- Rear ripper teeth are 40% worn
- Left front idler is leaking
- Undercarriage measurements are included below...

	Measurement (L)	Measurement (R)	% Worn (L)	% Worn (R)
Links	146MM	146MM	32	32
Pins & Bushings (Internal)	X	X	X	X
Pins & Bushings (External)	76MM	76MM	60	60
Track Shoes (Width)	56MM	56MM	44	44
Idlers Front	20MM	23MM	0	24
Idlers Rear	24MM	21MM	32	8
Carrier Rollers Front	X	X	X	X
Carrier Rollers Rear	X	X	X	X
Segments	9 1/8	9 1/8	35	35
Track Roller 1	19MM	20MM	20	30
Track Roller 2	18MM	19MM	15	20
Track Roller 3	21MM	21MM	25	25
Track Roller 4	20MM	20MM	30	30
Track Roller 5	21MM	21MM	25	25
Track Roller 6	21MM	21MM	25	25
Track Roller 7	19MM	19MM	20	20
Track Roller 8	20MM	20MM	30	30

**City of Lubbock, TX
Budget Summary
December 6, 2022**

Capital Project Number:	92783
Capital Project Name:	<u>General Fund Vehicle Replacement FY 22-23 Tax Note</u>

	<u>Budget</u>
<i>Encumbered/Expended</i>	
Al-Jon 600 Compactor (5815)	\$1,101,084
 <i>Agenda Item December 06, 2022</i>	
One (1) unit Caterpillar D8 Track Dozer (5815)	<u>1,011,675</u>
<i>Encumbered/Expended To Date</i>	<u>2,112,759</u>
 <i>Estimated Costs for Remaining Appropriation</i>	
Vehicles and Equipment	<u>2,758,573</u>
<i>Remaining Appropriation</i>	<u>2,758,573</u>
 Total Appropriation	<u><u>\$4,871,332</u></u>

Information

Agenda Item

Resolution - Fleet Services: Consider a resolution authorizing the Mayor to execute Purchase Order 31070383, with Yellowhouse Machinery Co., for the purchase of two John Deere backhoe loaders for the Water Distribution & Maintenance Department.

Item Summary

Purchase Order 31070383 is for two 2023 John Deere 320 P backhoe loaders, which will replace two 2012 Case 580SM backhoe loaders. These new units will be utilized for pipeline maintenance related to water utilities, including making repairs to water and sewer pipes.

The purchase, valued at \$290,000.00, will be acquired from YellowHouse Machinery Co., of Amarillo, Texas, in accordance with Sourcewell Contract 032119-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 31070383, for \$290,000, is funded in Capital Improvement Project 92781 the Water/Wastewater Vehicle Replacement FY2022-23.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager
Dominic Esperat, Director of Fleet Operations

Attachments

Resolution
Purchase Order
CIP Budget Detail

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Purchase Order No. 31070383 in accordance with Sourcewell Contract 032119-JDC for the purchase of Two John Deere Backhoe Loaders, by and between the City of Lubbock and Yellowhouse Machinery of Amarillo, TX 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 _____.

TRAY PAYNE, MAYOR

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney



PURCHASE ORDER

Page - 1 of 2
Date - 11/14/2022
Order Number 31070383 000 OP
Branch/Plant 3526

YELLOWHOUSE MACHINERY COMPANY
TO: 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 11/14/2022 Freight
Requested 4/11/2023 Taken By S BALLANCE
Delivery PER B RODRIGUEZ, REQ 59553 PUR 16996/ SOURCEWELL CONTRACT 032119-JDC

If you have any questions, please contact Breana Rodriguez: BRodriguez@mylubbock.us or 806-775-2374

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
John Deere 320p Backhoe Loaders	2.000	145,000.00	EA	290,000.00	4/11/2023

Total Order

Terms NET 10 EOM

290,000.00



PURCHASE ORDER

Page - 2 of 2
Date - 11/14/2022
Order Number 31070383 000 OP
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BY: Marta Alvarez, Director of Purchasing & Contract Management

Ordered 11/14/2022 Freight
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Delivery PER B RODRIGUEZ, REQ 59553 PUR 16996/ SOURCEWELL CONTRACT 032119-JDC

INSURANCE REQUIRED:

Commercial General Liability:

\$1,000,000 occurrence / \$2,000,000 aggregate (can be combined with an Excess Liability to meet requirement). CGL is required in ALL contracts. It is perhaps the most important of all insurance policies in a contractual relationship. It insures the Contractor has broad liability coverage for contractual activities and for completed operations.

Commercial General Liability to include Products – Completion/OP, Personal and Advertising Injury, Contractual Liability, Fire Damage (any one fire), and Medical Expenses (any one person).

Automotive Liability:

\$1,000,000 per occurrence

Workers Compensation and Employer Liability:

Statutory. If the vendor is an independent contractor with no employees and are exempt from providing Workers' Compensation coverage, they must sign a waiver (obtained from COL Purchasing) and include a copy of their driver's license. Employer Liability (\$1M) is required with Workers Compensation.

Additional Policies: N/A

*The City of Lubbock (including its officials, employees and volunteers) shall be afforded additional insured status on a primary and non-contributory basis on all liability policies except professional liabilities and workers' comp. *Waivers of Subrogation are required for CGL, AL, and WC. *To Include Products of Completed Operations endorsement. *Carrier will provide a 30-day written notice of cancellation, 10-day written notice for non-payment. *Carriers must meet an A.M. Best rating of A- or better. *Subcontractors must carry same limits as listed above.

This purchase order encumbers funds in the amount of \$290,000.00 awarded to Yellowhouse Machinery Company of Amarillo, TX, on _____, 2022. The following is incorporated into and made part of this purchase order by reference: Quote dated November 01, 2022, from Yellowhouse Machinery Company of Amarillo, TX, and Sourcewell Contract 032119-JDC.

Resolution # _____

CITY OF LUBBOCK:

ATTEST:

Tray Payne, Mayor

Rebecca Garza, City Secretary

PURCHASE ORDER TERMS AND CONDITIONS STANDARD TERMS AND CONDITIONS

Seller and Buyer agree as follows:

ACCEPTANCE OF THIS PURCHASE ORDER:

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 the City's 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.

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. 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.
28. 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
29. 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/departmentsal-websites/departments/purchasing/vendor-information>
30. 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.
31. No Boycott of Energy Companies. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott Energy Companies and will not boycott Energy Companies 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.
32. No Boycott of a Firearm Entity or Firearm Trade Association. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott a Firearm Entity or Firearm Trade Association and will not boycott a Firearm Entity or Firearm Trade Association 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.
33. 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
34. **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.
35. 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: orr@mylubbock.us. Please send this request to this email address for it to be processed

Quote Id: 27721427

Prepared For:
CITY OF LUBBOCK



Prepared By: **JAKE OWENS**

Yellowhouse Machinery Co.
3405 E Slaton Road
Lubbock, TX 79404

Tel: 806-763-0473
Fax: 806-763-0331
Email: jakeo@yhmc.com

Quote Summary

Prepared For:

CITY OF LUBBOCK
404 MUNICIPAL DR
LUBBOCK, TX 79403
Business: 806-775-2170

Prepared By:

JAKE OWENS
Yellowhouse Machinery Co.
3405 E Slaton Road
Lubbock, TX 79404
Phone: 806-763-0473
jakeo@yhmc.com

This is a Sourcewell Quote

Travel Time & Mileage covered during warranty
Hydraulic Hose failure covered during warranty
Freight to/from YH Shop covered during warranty
SOURCEWELL CONTRACT #032119-JDC

Quote Id: 27721427
Created On: 01 November 2022
Last Modified On: 04 November 2022
Expiration Date: 26 December 2022

Equipment Summary	Selling Price	Qty	Extended
NEW JOHN DEERE 320 P-tier Backhoe Loader 103 H.P. - FACTORY ORDER	\$ 145,000.00 X	1 =	\$ 145,000.00
John Deere Extended Warranty-60 MONTH OR 5,000 HOUR FULL MACHINE WARRANTY	\$ 0.00 X	1 =	\$ 0.00
NEW JOHN DEERE 320 P-tier Backhoe Loader 103 H.P. - FACTORY ORDER	\$ 145,000.00 X	1 =	\$ 145,000.00
John Deere Extended Warranty-60 MONTH OR 5,000 HOUR FULL MACHINE WARRANTY	\$ 0.00 X	1 =	\$ 0.00
Equipment Total			\$ 290,000.00

Quote Summary

Equipment Total	\$ 290,000.00
SubTotal	\$ 290,000.00
Total	\$ 290,000.00
Down Payment	(0.00)
Rental Applied	(0.00)
Balance Due	\$ 290,000.00

Salesperson : X _____

Accepted By : X _____

Selling Equipment

Quote Id: 27721427

Customer: CITY OF LUBBOCK

NEW JOHN DEERE 320 P-tier Backhoe Loader 103 H.P. - FACTORY ORDER

Hours:

Stock Number: FACTORY ORDER

Code	Description	Qty
17C0T	NEW 320 P-tier Backhoe Loader	1
Standard Options - Per Unit		
183E	JDLink™	1
0202	United States	1
0259	English	1
0351	Translated Text Labels	1
1003	Cab	1
3009	Autoshift Transmission - Mechanical Front Wheel Drive (MFWD) with Limited Slip Differential	1
4006	John Deere PowerTech™ EWL 4.5L (276 cu. in.) Engine Meets Final Tier 4 and Stage IV Emissions	1
5245	Galaxy 19.5L-24 12PR Rear & 12.5/80-18 10PR Front	1
6154	Dual Maintenance Free Batteries With Disconnect, Jump Post, and Engine Block Heater	1
6576	1000 lb. (454 kg.) Front Counterweight	1
6752	Extendible Dipperstick	1
7002	Auxiliary Hydraulics with One & Two Way Flow (Hammer & Thumb/Swinger)	1
7028	Pilot Controls, Two Lever, with Pattern Selection	1
7037	Two-Function Loader Hydraulics, Single Lever	1
7712	New Series Multi-Brand Quick Coupler - 42 in. Thumb Ready	1
7804	18 in. (457 mm.) Wide, Heavy-Duty, 5.1 cu. ft. (0.14 cu. m.) Bucket	1
7870	86 in. (2.18 m.) Wide, 1.25 cu. yd. (0.96 cu. m.) Long-Lip Bucket	1
8062	Backhoe Boom Protection Plate	1
8075	Diagnostic Oil Sampling Ports	1
8096	Premium Mirror Option - Exterior Rear View Mirrors (2) and Front View Mirror (1)	1
8109	Sun Visor	1
8115	MFWD Driveshaft Guard	1

Selling Equipment

Quote Id: 27721427

Customer: CITY OF LUBBOCK

8125	Heavy-Duty Backhoe Bucket Cylinder	1
8126	Heavy-Duty Grille Frame	1
8131	Heavy-Duty Stabilizer Pads	1
8142	LED Light Package	1
8146	Left Side Console Storage with Cup Holders	1
8165	Auto Ride Control	1
8183	Radio, Bosch Premium Package	1
8208	Seat, Cloth Air-Suspension - Heated	1
8213	Chrome Exhaust Extension	1
8226	Strobe Light with Magnetic Mount	1
Dealer Attachments		
	HAND HELD HYDRAULICS	1
Service Agreements		
	John Deere Extended Warranty - 60 MONTH OR 5,000 HOUR FULL MACHINE WARRANTY	

NEW JOHN DEERE 320 P-tier Backhoe Loader 103 H.P. - FACTORY ORDER

Equipment Notes:
Hours:
Stock Number: FACTORY ORDER

Code	Description	Qty
17C0T	NEW 320 P-tier Backhoe Loader	1
Standard Options - Per Unit		
183E	JDLink™	1
0202	United States	1
0259	English	1
0351	Translated Text Labels	1
1003	Cab	1
3009	Autoshift Transmission - Mechanical Front Wheel Drive (MFWD) with Limited Slip Differential	1
4006	John Deere PowerTech™ EWL 4.5L (276 cu. in.) Engine Meets Final Tier 4 and Stage IV Emissions	1
5245	Galaxy 19.5L-24 12PR Rear & 12.5/80-18 10PR Front	1

Selling Equipment

Quote Id: 27721427

Customer: CITY OF LUBBOCK

6154	Dual Maintenance Free Batteries With Disconnect, Jump Post, and Engine Block Heater	1
6576	1000 lb. (454 kg.) Front Counterweight	1
6752	Extendible Dipperstick	1
7002	Auxiliary Hydraulics with One & Two Way Flow (Hammer & Thumb/Swinger)	1
7028	Pilot Controls, Two Lever, with Pattern Selection	1
7037	Two-Function Loader Hydraulics, Single Lever	1
7712	New Series Multi-Brand Quick Coupler - 42 in. Thumb Ready	1
7804	18 in. (457 mm.) Wide, Heavy-Duty, 5.1 cu. ft. (0.14 cu. m.) Bucket	1
7870	86 in. (2.18 m.) Wide, 1.25 cu. yd. (0.96 cu. m.) Long-Lip Bucket	1
8062	Backhoe Boom Protection Plate	1
8075	Diagnostic Oil Sampling Ports	1
8096	Premium Mirror Option - Exterior Rear View Mirrors (2) and Front View Mirror (1)	1
8109	Sun Visor	1
8115	MFWD Driveshaft Guard	1
8125	Heavy-Duty Backhoe Bucket Cylinder	1
8126	Heavy-Duty Grille Frame	1
8131	Heavy-Duty Stabilizer Pads	1
8142	LED Light Package	1
8146	Left Side Console Storage with Cup Holders	1
8165	Auto Ride Control	1
8183	Radio, Bosch Premium Package	1
8208	Seat, Cloth Air-Suspension - Heated	1
8213	Chrome Exhaust Extension	1
8226	Strobe Light with Magnetic Mount	1
Dealer Attachments		
	HAND HELD HYDRAULICS	1
Service Agreements		
	John Deere Extended Warranty - 60 MONTH OR 5,000 HOUR FULL MACHINE WARRANTY	

**City of Lubbock, TX
Budget Summary
December 6, 2022**

Capital Project Number:	92781
Capital Project Name:	<u>Water/Wastewater Vehicle Replacement FY 22-23</u>

	<u>Budget</u>
<i>Encumbered/Expended</i>	
One (1) unit of Ford Escape SUV (6311)	\$ 26,880
One (1) Single Turn Valve Maintenance Trailer for Water Treatment (6345)	83,755
 <i>Agenda Item December 6, 2022</i>	
Two (2) units of 2023 John Deere 320P Backhoe Loaders for Water Distribution & Maintenance (6331)	<u>290,000</u>
<i>Encumbered/Expended To Date</i>	<u>400,635</u>
 <i>Estimated Costs for Remaining Appropriation</i>	
Vehicles and Equipment	<u>400,635</u>
<i>Remaining Appropriation</i>	<u>526,907</u>
 Total Appropriation	 <u><u>\$ 927,542</u></u>

Information

Agenda Item

Resolution - Fleet Services: Consider a resolution authorizing the Mayor to amend Purchase Order 31062734, with Romco Equipment Company, for the purchase of a cement mixing truck for the Water Distribution & Maintenance Department.

Item Summary

Purchase Order 31062734 for \$208,152.56 with Romco Equipment Company was for the purchase of volumetric cement mixing truck. It was approved by the City Council on November 16, 2021. Romco Equipment provided the M30 Cement Mixing Body of the truck, and Cemen Tech provided the 2023 Freightliner M2-106 Cab & Chassis.

The cement mixing truck arrived in August 2022, and the City received two (2) invoices for payment: \$119,895.56 from Romco Equipment and \$88,257 from Cemen Tech. Romco informed the City Fleet Department that it could not accept the full payment of \$208,152.56 because it is not licensed to sell chassis trucks.

Purchase Order 31062734 with Romco Equipment Company needs to be modified to \$119,895.56. A new Purchase Order for Cemen Tech for \$88,257 will need to be issued.

Fiscal Impact

Purchase Order 31062734 for \$119,895.56 is funded in Capital Improvement Project 92724 Water/Wastewater Vehicle Replacement FY2021-22.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager
Dominic Esperat, 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, Amendment No. 1 to the Purchase Order 31062734 in accordance with Sourcewell Contract No. 052417 for the purchase of a M30 concrete truck, by and between the City of Lubbock and Romco Equipment Co, of Dallas, Texas, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney



PURCHASE ORDER


AMENDED

Page - 1
Date - 10/29/2021
Order Number 31062734 000 OP
Branch/Plant 3526

TO: ROMCO EQUIPMENT CO
PO BOX 841496
DALLAS TX 75284-1496

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 10/29/2021 Freight
Requested 11/30/2021 Taken By YBUSBY
Delivery PER N DODSON REQ 58054 PUR 16254/SOURCEWELL CONTRACT 052417

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
M30 Concrete Truck	1.000	89,267.0000	EA	89,267.00	11/30/2021
6 Yard Package	1.000	2,095.0000	EA	2,095.00	11/30/2021
Accu-Printer II (AP2)	1.000	6,975.0000	EA	6,975.00	11/30/2021
360° Swivel Chute	1.000	1,421.0000	EA	1,421.00	11/30/2021
Calibration Kit (1/4 Yard)	1.000	520.0000	EA	520.00	11/30/2021
Hydraulic Oil Cooler-Air	1.000	2,715.0000	EA	2,715.00	11/30/2021
Mixer Diaper	1.000	312.0000	EA	312.00	11/30/2021
Night Operating Lights (LED)	1.000	1,526.0000	EA	1,526.00	11/30/2021
Onsite Dealer Startup	1.000	5,292.0000	EA	5,292.00	11/30/2021
Sourcewell Purchase	1.000		EA		11/30/2021
Strobe Lights	1.000	917.0000	EA	917.00	11/30/2021
Tarp - Black Mesh	1.000	2,940.0000	EA	2,940.00	11/30/2021
Transmission Integration - Aut	1.000	1,431.0000	EA	1,431.00	11/30/2021
Mounting - CTI Supplied	1.000	4,101.0000	EA	4,101.00	11/30/2021
Truck Purchase	1.000	88,257.0000	EA	88,257.00	11/30/2021
4% Discount	1.000	(4,616.4400)	EA	(4,616.44)	11/30/2021
Freight Amount	1.000	5,000.0000	EA	5,000.00	11/30/2021


Terms NET DUE ON RECEIPT


Total Order 208,152.56 \$119,895.56

This purchase order encumbers funds in the amount of \$208,152.56 awarded to Romco Equipment Company Dallas, TX, on November 16th 2021.
The following is incorporated into and made part of this purchase order by reference contract: 052417 from Romco Equipment Company Dallas, TX.
Resolution# 2021-R0460

CITY OF LUBBOCK

ATTEST:


Daniel M. Pope, Mayor


Rebecca Garza, City Secretary



PURCHASE ORDER

14343

SOLD TO: **Company:** CITY OF LUBBOCK TEXAS
 Contact: BRIAN BEARDEN
 Address: 402 MUNICIPAL DRIVE
 LUBBOCK, TX 79457

 Cell No:
 Phone No.: 806-775-2996
 Date: 11-1-2021
 Sales Person: ROMCO PAVING EQUIPMENT

SHIP TO: CITY OF LUBBOCK TEXAS
 402 MUNICIPAL DRIVE
 LUBBOCK, TX 79457

Ship Method: CUSTOMER TO ARRANGE
 E.X.W Factory-Indianola, Iowa

TERMS: 20% with Order,
 Balance on or before Delivery

MODEL	DESCRIPTION	BASE PRICE
M30	PRODUCE UP TO 30 CUBIC YARDS OF CONCRETE PER HOUR	89,267
OPTIONS INCLUDE:		Qty
6 YARD PACKAGE	1	2,095
■ INCLUDES 6 YARD BIN, 65 CUBIC FOOT CEMENT BIN AND 430 GALLON WATER TANK		
ACCU-PRINTER II (AP2)	1	6,975
■ ADVANCED SECOND GENERATION ELECTRONIC TICKET PRINTER THAT EXPANDS THE CAPABILITIES OF THE ORIGINAL ACCUPRINTER. TOUCHSCREEN DISPLAY ALONG WITH THE ABILITY TO STORE MORE MIX DESIGNS AS WELL AS UPLOAD MIX DESIGNS AND DOWN LOAD MIX DATA THROUGH USB PORT. INCLUDES WATER RECORDING METER AND TICKET PRINTER FOR USE IN TRUCK CAB		
360° SWIVEL CHUTE	1	1,421
■ 360° SWIVEL CHUTE WITH 24" SHORT CHUTE. ACCEPTS STANDARD MIDDLE AND END CHUTES.		
CALIBRATION KIT (1/4 YARD)	1	520
■ 1/4 YARD ALUMINUM, COLLAPSIBLE YIELD BOX WITH DIGITAL SCALE AND MEASURING CUPS TO AID IN CALIBRATION OF THE UNIT.		
HYDRAULIC OIL COOLER-AIR	1	2,715
■ FAN OIL COOLER TO LOWER HYDRAULIC OIL TEMPERATURE FOR OPERATION IN HIGH AMBIENT HEAT CONDITIONS, EXTENDED OPERATION, OR WHEN MIX WATER CAN NOT BE USED.		
MIXER DIAPER	1	312
■ MIXER DIAPER UNDER MIXING THROAT TO CATCH MATERIALS AND PREVENT THEM FROM SPILLING. STANDARD COLOR IS YELLOW.		
NIGHT OPERATING LIGHTS (LED) - QTY 5	1	1,526
■ NIGHT OPERATING LIGHTS ALLOW SAFE OPERATION OF THE UNIT AFTER DARK. INCLUDES 5 LED TYPE FLOOD LIGHTS. ON/OFF SWITCH WILL BE LOCATED IN THE CONTROL PANEL.		
ONSITE DEALER STARTUP	1	5,292
■ ONSITE CUSTOMER STARTUP PERFORMED BY CEMEN TECH DEALER		
SOURCEWELL PURCHASE	1	0
■ GOVERNMENT ENTITIES CAN PURCHASE CEMEN TECH EQUIPMENT DIRECTLY THROUGH SOURCEWELL, A COOPERATIVE PURCHASING AGENCY, ELIMINATING THE REQUIREMENT OF SOLICITING A BID. CEMEN TECH CONTRACT #052417-CMT. 4% DISCOUNT APPLIED TO TOTAL PURCHASE PRICE.		
STROBE LIGHTS - ONE FRONT & ONE REAR	1	917
■ ONE FRONT AND ONE REAR MOUNTED STROBE CAUTION LIGHT. STROBE WILL BE MOUNTED ON THE BACK OF THE UNIT ON THE DRIVER'S SIDE, AND ON THE FRONT WATER TANK CAGE. SWITCH LOCATION WILL BE LOCATED IN THE CAB IF THE UNIT IS MOUNTED ON A TRUCK CHASSIS. THE SWITCH WILL BE LOCATED IN THE MIXER CONTROL PANEL IF THE UNIT IS MOUNTED ON A TRAILER.		



PURCHASE ORDER

14343

TARP - BLACK MESH	1	2,940
■ ELECTRIC MOTOR OPERATED MESH TARP TO HELP SECURE YOUR AGGREGATES DURING TRANSIT. SWITCH WILL BE MOUNTED ON THE BIN SUPPORT.		
TRANSMISSION INTEGRATION - AUTOMATIC (INCLUDES ROLL AND POUR CAPABILITY)	1	1,431
■ TRANSMISSION INTEGRATION - AUTOMATIC (INCLUDES ROLL AND POUR CAPABILITY)		
TRUCK & TRAILER SECTION:		
	Qty	Price
MOUNTING - CTI SUPPLIED	1	4101.00
■ CEMEN TECH PROVIDED CHASSIS OR TRAILER. PROVIDE QUALITY WORKMANSHIP AND PROPERLY MOUNT UNIT TO APPROPRIATE CHASSIS.		
TRUCK PURCHASE	1	88257.00
■ DUE TO DELIVERY AND PREPARATION, NEW TRUCK PURCHASES MAY HAVE UP TO 1,500 MILES ON THE ODOMETER.		

NOTE: Standard unit color is white

Base Unit Price: 89,267

Unit Options Total: 26,144

~~Less Discount: 4,616.44~~

Unit Total Price: ~~110,794.56~~
115,411.56

4 % DISCOUNT ON MIXER ADDED FOR PURCHASING
THROUGH SOURCEWELL.

CEMEN TECH SOURCEWELL NUMBER 052417-CMT

~~-Truck | Trailer Section Total: 92,358.00-~~

Est. Freight Amount: 5,000.00

Total Per Unit: ~~---\$208,152.56~~

Quantity: 1

TOTAL: ~~---\$208,152.56~~
119,895.56

Currency - USD

Any applicable taxes are the responsibility of the customer .
Changes to the order after acceptance will incur additional charges .



1522 S County Road 1090
Midland TX 79706
Phone
Fax

CITY OF LUBBOCK
ACCOUNTS PAYABLES
P O BOX 2000
LUBBOCK TX 79457

PO #: 31062734
Taken By: Chris Douglas
Salesperson: Glenn Connors

INVOICE

Invoice #	11404075	Invoice Date	08/30/2022
Order #	ES14001045	Date	09/29/2022
Customer #	CLN1049	Apply To	
Invoice Total:		\$119,895.56	
Please Remit Payment To:			
ROMCO Equipment Company			
P.O. Box 841496			
Dallas, TX 75284-1496			
Billing Inquiries: (214) 819-4109			
Fax: (214) 819-4133			
Ship To:			
402 Municipal Drive			
Lubbock TX 79457			
Ship Via: 3rd Party			

Qty	Mfr	Asset ID #	Description	Mfr Serial	Amount
1	CE	130737	M30 Concrete Truck	10MCD304871HC	\$114,895.56
1.00			Freight*		\$5,000.00

Sales Subtotal	114,895.56
Discount	
Sales Tax	0.00
Labor Subtotal	0.00
Misc. Charges	5,000.00
Freight	

Total Due \$119,895.56

Comments

Mounted to 2023 Freightliner M2-106 VIN# 1FVHCYFEXPHUC6690. PUR 16254 / Sourcewell Contract 052417.

Terms:

Due Upon Receipt.All payments shall be payable in Dallas County, Texas.

City of Lubbock, TX
Budget Summary
December 6, 2022

Capital Project Number:	92724
Capital Project Name:	<u>Water/Wastewater Vehicle Replacement FY 21-22</u>

	<u>Budget</u>
<i>Encumbered/Expended</i>	\$ -
2 Units John Deere Backhoes (6331)	230,000
1 Unit of 1/2 ton Ext Cab 4X4 Pickup (6417)	38,060
1 Dri-Prime Diesel Pump with trailer and kits (6413)	60,728
1 Unit of 2023 Ford F250 4X4 Bed Delete (6311)	49,813
1 Unit of Tandem Axel Diesel Crew Cab (6331)	107,857
 <i>Agenda Item December 6, 2022</i>	
1 Unit of M30 Cement Truck Body (6331)	119,896
1 Unit of Cab & Chassis Truck (6331)	88,257
<i>Encumbered/Expended To Date</i>	<u>694,611</u>
 <i>Estimated Costs for Remaining Appropriation</i>	
Vehicles and Equipment	<u>97,514</u>
<i>Remaining Appropriation</i>	<u>97,514</u>
 Total Appropriation	<u><u>\$ 792,125</u></u>

Managing Department **Fleet Maintenance**

Project Manager

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-O0126, October 1, 2021.

\$53,125 was appropriated in the FY 2021-22 Budget, BCR# 2022-23, July 21, 2022.

Appropriation Detail	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	
Other Activities	792,125	0	0	0	0	0	0	792,125
Total Project Appropriation	792,125	0	0	0	0	0	0	792,125

Project Name	Water/Wastewater Vehicle Replacement FY 21-22						Project Number	92724
Funding Detail	Funding to Date	Unappropriated Planning Years						Total Funding
		FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	
FY 2020 Water/Wastewater Cash	53,125	0	0	0	0	0	0	53,125
FY 2022 Water/Wastewater Cash	739,000	0	0	0	0	0	0	739,000
Total Funding Sources	792,125	0	0	0	0	0	0	792,125

Operating Budget Impact	FY 2022-23	Unappropriated Planning Years					Total Impact
		FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	
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 31070037, with Cemen Tech, Inc., for the purchase of one 2023 M2-106 Freightliner cab & chassis truck for the Water Distribution & Maintenance Department.

Item Summary

Purchase Order 31070037 for \$88,257 with Cemen Tech, Inc., is for one 2023 Freightliner M2-106 cab & chassis truck. This truck had a cement mixing body installed upon it by Romco Equipment.

The complete unit is a volumetric cement mixing truck that allows the Water Distribution & Maintenance Department to produce its own cement materials instead of contracting out this service.

This vehicle purchase from Cemen Tech was made in accordance with Sourcewell Contract 052417-CMT.

Sourcewell has a cooperative purchasing program that manages the solicitation requirements and offers and 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 31070037 for \$88,257 is funded in Capital Improvement Project 92724 Water/Wastewater Vehicle Replacement FY2021-2022.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager

Dominic Esperat, 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. 31070037 in accordance with Sourcewell Contract 052417 for the purchase of a 2023 Freightliner M2-106, by and between the City of Lubbock and CemenTech of Indianola, Iowa 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney




PURCHASE ORDER

Page - 1
Date - 10/28/2022
Order Number 31070037 000 OP
Branch/Plant 3526

TO: CEMEN TECH, INC
1700 N. 14TH STREET
INDIANOLA IA 50125-1587

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 10/28/2022 Freight
Requested 10/28/2022 Taken By YBUSBY
Delivery PER L MOBBS REQ 59505 SOURCEWELL CONTRACT 052417

If you have any questions contact Lisa Mobbs:lmobbs@mylubbock.us Phone 806-775-2185

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
2023 Freightliner M2-106	1.000	88,257.0000	EA	88,257.00	11/18/2022

Inv

Total Order

Terms NET DUE ON RECEIPT 88,257.00

This purchase order encumbers funds in the amount of \$88,257.00 awarded to Cemen Tech, Inc. of Indianola, IA, on _____, 2022. The following is incorporated into and made part of this purchase order by reference: Quote dated August 22, 2022, from Cemen Tech, Inc. of Indianola, IA, and Sourcewell Contract 052417.

Resolution # 2021-R0460.

CITY OF LUBBOCK:

ATTEST:

Tray Payne, Mayor

Rebecca Garza, City Secretary

PURCHASE ORDER TERMS AND CONDITIONS STANDARD TERMS AND CONDITIONS

Seller and Buyer agree as follows:

ACCEPTANCE OF THIS PURCHASE ORDER:

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 the City's 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.

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. 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.
28. 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
29. 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/departmentsal-websites/departments/purchasing/vendor-information>
30. 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.
31. No Boycott of Energy Companies. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott Energy Companies and will not boycott Energy Companies 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.
32. No Boycott of a Firearm Entity or Firearm Trade Association. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott a Firearm Entity or Firearm Trade Association and will not boycott a Firearm Entity or Firearm Trade Association 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.
33. 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
34. **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.
35. 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: orr@mylubbock.us. Please send this request to this email address for it to be processed



INVOICE

Leaders in Volumetric Proportioning
And Continuous Mixing Systems
1700 North 14th Street - Indianola, Iowa 50125
Phone: 800.247.2464 or 515.961.7407 Fax: 515.961.7409
www.cementtech.com

Invoice #: **A9670-Truck**
Invoice Date: **8/22/2022**
Order Number: **4871**
Order Date: **11/29/2021**
Salesperson: **ZACH DEASON**

Customer Number: **00-0008562**

Sold To:

**CITY OF LUBBOCK FLEET SERVICES
PO BOX 2000
LUBBOCK, TX 79457**

Ship To:

**CITY OF LUBBOCK FLEET SERVICES
PO BOX 2000
LUBBOCK, TX 79457**

Customer P.O.	Ship VIA	F.O.B.		Terms			
		INDIANOLA, IA		PAYMENT IN ADVANCE			
Item Code		Unit	Ordered	Shipped	Back Ord	Price	Amount
2023 FREIGHTLINER M2-106 VIN: 1FVHCYFEXPHUC6690		EACH	1.000	0.000	0.000	88,257.00	88,257.00

NOTE: Any applicable taxes are the responsibility of the purchaser.

WIRE INSTRUCTIONS:

Bankers Trust Account # 15404
ABA Routing Number 073000642
Swift Code BTCDUS44

TOTAL DUE: \$ 88,257.00

City of Lubbock, TX
Budget Summary
December 6, 2022

Capital Project Number:	92724
Capital Project Name:	<u>Water/Wastewater Vehicle Replacement FY 21-22</u>

	<u>Budget</u>
<i>Encumbered/Expended</i>	\$ -
2 Units John Deere Backhoes (6331)	230,000
1 Unit of 1/2 ton Ext Cab 4X4 Pickup (6417)	38,060
1 Dri-Prime Diesel Pump with trailer and kits (6413)	60,728
1 Unit of 2023 Ford F250 4X4 Bed Delete (6311)	49,813
1 Unit of Tandem Axel Diesel Crew Cab (6331)	107,857
 <i>Agenda Item December 6, 2022</i>	
1 Unit of M30 Cement Truck Body (6331)	119,896
1 Unit of Cab & Chassis Truck (6331)	88,257
<i>Encumbered/Expended To Date</i>	<u>694,611</u>
 <i>Estimated Costs for Remaining Appropriation</i>	
Vehicles and Equipment	<u>97,514</u>
<i>Remaining Appropriation</i>	<u>97,514</u>
 Total Appropriation	<u><u>\$ 792,125</u></u>

Managing Department **Fleet Maintenance**

Project Manager

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-O0126, October 1, 2021.

\$53,125 was appropriated in the FY 2021-22 Budget, BCR# 2022-23, July 21, 2022.

Appropriation Detail	Appropriation to Date	Unappropriated Planning Years						Total Project Amount
		FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	
Other Activities	792,125	0	0	0	0	0	0	792,125
Total Project Appropriation	792,125	0	0	0	0	0	0	792,125

Project Name	Water/Wastewater Vehicle Replacement FY 21-22						Project Number	92724
		Unappropriated Planning Years						
Funding Detail	Funding to Date	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	Total Funding
FY 2020 Water/Wastewater Cash	53,125	0	0	0	0	0	0	53,125
FY 2022 Water/Wastewater Cash	739,000	0	0	0	0	0	0	739,000
Total Funding Sources	792,125	0	0	0	0	0	0	792,125

		Unappropriated Planning Years					
Operating Budget Impact	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28	Total Impact
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 - Facilities Management: Consider a resolution authorizing the Mayor to execute Service Contract No. 16747, with Genserve, LLC dba L.J. Power Generators, Inc., for fixed generator repair and maintenance of City-owned generators at various locations.

Item Summary

This \$198,250.00 contract includes services related to the repair and maintenance of City-owned generators. The City of Lubbock solicited qualified vendors for this project via RFQ 22-16747-KM. The responsive vendors were evaluated using the following criteria: Local service center and response time after notification of emergency repairs needed (25 points), Experience on Qualifications (30 points), and Price (45 points). Committee members included staff from Facilities Management, and they provided the following scores:

Firms	Possible 100 Points
Genserve, LLC dba L/J. Power, Grand Prairie, Texas	86.67
Stewart and Stevenson, Lubbock, Texas	Incomplete Bid

Based on these scores, the Selection Committee is recommending Genserve, LLC dba L/J. Power of Grand Prairie, Texas. The proposed duration of the contract is for a term of one year plus 4 one-year extensions.

Fiscal Impact

The total contract is \$198,250 and will be funded from different cost centers based on generator location. Funds are available in the current budget in the various cost centers.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
T.J. Carpenter, Interim Director of Facilities Management
Darren Densford, Interim Director of Facilities Management

Attachments

Resolution
Contract 16747
Project Summary 16747

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. 16747 for fixed generator maintenance and repair at various locations as per RFP 22-16747-KM, by and between the City of Lubbock and Genserve, LLC dba L.J. Power of Grand Prairie, TX, 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 _____.

TRAY PAYNE, 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
Fixed Generator Maintenance and Repair at Various Locations
Agreement

This Service Agreement (this "Agreement") is entered into as of the ___ day of _____, 2022 ("Effective Date") by and between **Genserve, LLC dba L.J. Power.** (the Contractor), and the City of Lubbock (the "City").

RECITALS

WHEREAS, the City has issued a Request for Proposals 22-16747-KM, Fixed Generator Maintenance and Repair at Various Locations and

WHEREAS, the proposal submitted by the Contractor has been selected as the proposal which best meets the needs of the City for this service; and

WHEREAS, Contractor desires to perform as an independent contractor to provide Fixed Generator Maintenance and Repair at Various Locations, upon terms and conditions maintained in this Agreement; and

NOW THEREFORE, for and in consideration of the mutual promises contained herein, the City and Contractor agree as follows:

City and Contractor acknowledge the Agreement consists of the following exhibits which are attached hereto and incorporated herein by reference, listed in their order of priority in the event of inconsistent or contradictory provisions:

1. This Agreement
2. Exhibit A – General Requirements
3. Exhibit B – Best and Final Offer
4. Exhibit C – Insurance Requirements

Scope of Work

Contractor shall provide the services that are specified in Exhibit A. The Contractor shall comply with all the applicable requirements set forth in Exhibit B and Exhibit C attached hereto.

Article 1

- 1.1 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. This Contract will renew automatically for the additional terms, unless either Party gives 90-day written notice to terminate the Contract.
- 1.2 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.
- 1.3 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.

1.4 A) Prices quoted shall be guaranteed for a period for six (6) months upon City approval. The rate may be adjusted at the City's discretion for the effective change in Consumer Price Index (CPI) or Product Price Index (PPI) as appropriate.

B) Further, if the Contractor can provide documentation for actual charges for material, labor, etc. that demonstrates that the change in CPI or PPI is not sufficient, the Contractor shall provide such documentation to the City, and at the City's sole discretion, the contractual rate may be further adjusted. If agreement regarding a new rate cannot be reached, the City shall terminate at the end of the current contract period.

C) If an adjustment to pricing is granted under this section, the Contractor must provide the Director of Purchasing and Contract Management written, quarterly documentation to justify the ongoing adjustment. If no such documentation is timely received, the rate will automatically revert to the initial, awarded rate.

1.5 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.

Article 2 Miscellaneous.

- 2.1 This Agreement is made in the State of Texas and shall for all purposes be construed in accordance with the laws of said State, without reference to choice of law provisions.
- 2.2 This Agreement is performable in, and venue of any action related or pertaining to this Agreement shall lie in, Lubbock, Texas.
- 2.3 This Agreement and its Exhibits contains the entire agreement between the City and Contractor and supersedes any and all previous agreements, written or oral, between the parties relating to the subject matter hereof. No amendment or modification of the terms of this Agreement shall be binding upon the parties unless reduced to writing and signed by both parties.
- 2.4 This Agreement may be executed in counterparts, each of which shall be deemed an original.
- 2.5 In the event any provision of this Agreement is held illegal or invalid, the remaining provisions of this Agreement shall not be affected thereby.
- 2.6 The waiver of a breach of any provision of this Agreement by any parties or the failure of any parties otherwise to insist upon strict performance of any provision hereof shall not constitute a waiver of any subsequent breach or of any subsequent failure to perform.
- 2.7 This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives and successors and may be assigned by Contractor or the City to any successor only on the written approval of the other party.
- 2.8 All claims, disputes, and other matters in question between the Parties arising out of or relating to this Agreement or the breach thereof, shall be formally discussed and negotiated between the Parties for resolution. In the event that the Parties are unable to resolve the claims, disputes, or other matters in question within 30 days of written notification from the aggrieved Party to the other Party, the aggrieved Party shall be free to pursue all remedies available at law or in equity.

- 2.9 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.
- 2.10 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 do.
- 2.11 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 document, this provision shall control.
- 2.12 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.
- 2.13 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.
- 2.14 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.

- 2.15 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.
- 2.16 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.
- 2.17 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.
- 2.18 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.
- 2.19 Indemnify. 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.

-----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

Tray Payne, Mayor

BY: _____

Authorized Representative

ATTEST:

John Potts, VP Sales
Print Name

Rebecca Garza, City Secretary

12707 Natty Brown Rd. F
Address

APPROVED AS TO CONTENT:

Wesley Everett, Director of Facilities
Management

Austin, TX 78737
City, State, Zip Code

APPROVED AS TO FORM

Kelli Leisure, Assistant City Attorney

City of Lubbock
RFP 22-16747-KM
Fixed Generator Maintenance and Repair at Various Locations

GENERAL REQUIREMENTS

1. SCOPE OF WORK

- 1.1. These specifications will address three specific types of service work that are required for this contract. The first level of service is an inspection to be performed semi-annually, as requested by the department. The second level is a full maintenance service performed annually. The third level of service is a bi-annual load bank test that will be scheduled at the request of the city department representative. These items will be addressed in greater detail within these specifications. The generators being considered are listed on the spreadsheet, attached.
- 1.2. Vendor shall coordinate all service activities with the appropriate City representative. A mutually agreeable service schedule shall be developed prior to performing service work.
- 1.3. Vendor shall supply a field service report that includes a general inspection and maintenance checklist on condition and recommendations for correction where warranted prior to administering repair work.

2. PREVENTIVE MAINTENANCE INSPECTION - (PMI)

- 2.1 Each generator shall be inspected semi-annually, if authorized by the department. If requested, scheduling for services shall be coordinated through the appropriate City representative at least ten (10) business days prior to work being performed.
- 2.2 Upon completion of service, immediate repair(s) identified must employ replacement parts exactly to manufacturer specifications as prescribed by brand name generator.
- 2.3 When applicable, PMI service shall include but not be limited to the following:
 - Inspect engine oil and coolant for proper levels and condition
 - Inspect air filter(s) and crank case breathers
 - Inspect and adjust belts, as required
 - Inspect generator set for loose, bare, or broken wiring or connections
 - Inspect generator bearings, slip rings, vibration isolators
 - Inspect air and exhaust system including air inlet system, exhaust manifold, valves and valve rotators, and exhaust duct
 - Inspect operation of control panel and all associated metering devices including voltmeter, ammeter, frequency meter, circuit breaker, and starting controls
 - Inspect governor operation, stability and linkage
 - Inspect fuel tanks, fuel pumps and fuel lines for leaks or damage
 - Inspect engine, heaters, radiator, hoses and heat exchanger for leaks and condition
 - Inspect inlet screen if water is supplied from a source other than a radiator
 - Inspect condition of batteries (load test) electrolyte level and charge rate, and replace as needed

- Start and run engine. Check engine operating temperature and all gauges for functionality and proper operation.
- Inspect unit for proper frequency/speed, voltage and amperage
- Submit a written report advising of any further work required
- All leaks shall be noted on the report. If any leaks are detected, the technician shall wipe clean and properly dispose of any leak spillage before the departure from the job site.

3. FULL MAINTENANCE SERVICE – (FMS)

3.1 Each generator listed in this project shall receive a Full Maintenance Service once every 12 months. All scheduling for services shall be initiated by the Vendor and coordinated through the appropriate City representative at least ten (10) business days prior to work being performed. When applicable, FMS shall include, but not be limited to, the following:

- PMI
- Replace engine lubricating oil and remove used oil from premises
- Replace oil, fuel and coolant filters, add corrosion inhibitor as needed
- Natural gas/LPG fueled engines – inspect spark plugs, spark plug wires, and rotor and cap and replace as needed
- Replace air filter and crankcase breathers as needed
- Adjust and replace belts as needed
- Inspect generator for loose, bare, or broken wiring or connections
- Inspect coolant for proper levels and condition
- Inspect all hoses and belts, replace as needed. Belts shall be tightened to OEM standards.
- Change block heater and thermostats, as recommended by the manufacturer
- Inspect water pump
- Check fuel system including fuel lines, connections, and hoses; drain any water from separator, and check fuel pressure.
- Check air and exhaust system including air inlet system, exhaust manifold, valves and valve rotators, exhaust duct
- Check starting system including batteries, connections, battery charger, and starting motor
- If any leaks are detected, technician shall wipe clean and properly dispose of any leak spillage and any fluids that may be spilled during FMS service before departure from the job site.
- If the technician notices a potential hazardous leak, the COL should be notified immediately.
- Submit a written report advising of any further work required
- All leaks shall be noted on the report. If any leaks are detected, the technician shall wipe clean and properly dispose of any leak spillage before the departure from the job site.

4. LOAD BANK TESTING

- 4.1 Each generator shall be scheduled a Load Bank Test at the request of the city department representative. This test shall be performed immediately after the FMS has been completed and shall be within the same time period.
- 4.2 All scheduling for Load Bank Testing work shall be initiated by the Vendor and coordinated through the appropriate City representative at least thirty calendar days prior to work being

performed. Contact information for departmental generators will be given at the City's pre-award meeting.

- 4.3 All scheduled generators shall receive a full test for two (2) continuous hours. As minimum, these generators shall receive a test at intervals of approximately **25%, 50%, 75%, and 100%** load. The 1250 kW generators shall each receive testing for four (4) continuous hours. As minimum, these generators shall receive a test at intervals of **25%, 50%, 75%, and 100%** load, one (1) hour each interval.
- 4.4 During the Load Bank Test for all scheduled generators, recording shall be made in 15 minute intervals for the following parameters, as minimum:
- Volts
 - Amps
 - Hertz
 - RPM
 - Hour meter reading
 - Oil Pressure
 - Temperature
 - Battery Voltage
 - kW
- 4.5 All recorded information shall be presented on a spreadsheet format along with the generator information, generator ID #, V# (if equipped), and date. This information shall be provided upon completion of all tests performed under this contract. Information shall be furnished to the City within thirty (30) calendar days of the final test date.
- 4.6 If any transformers are required to perform Load Bank Testing, it is understood that the Vendor shall provide such transformers at no additional cost to the City outside the scope of this contract.
- 4.7 In addition to Load Bank Testing, the following maintenance procedures shall be performed, and pricing shall be included in the Load Bank Testing:
- Radiators shall be flushed and refilled with new coolant according to manufacturer recommendations to provide freeze and boil protection
 - Replace all hoses and belts on all listed units

5. PREVENTIVE MAINTENANCE SERVICE SITES

- 5.1 Please see the list of generators to be included in this RFP on Attachment.
- 5.2 Technician(s) shall remove all debris, discarded fluids and properly dispose of all used upon completion of PMI, FMS, and Load Bank Testing performed at each job site.

6. LOAD BANK TESTING SITES

- 6.1 Every two (2) years, the Vendor shall coordinate scheduling activities with the appropriate City representative in order to perform load bank testing.
- 6.2 All Stationary units must be serviced at their respective locations.

7. ADDITIONAL REPAIRS

- 7.1 If the technician discovers repair work is necessary for proper operation during PMI, FMS, or Load Bank Testing, the repair item(s) will be discussed with the appropriate City representative for evaluation. If authorization to repair is granted, the repair work will need to be performed by the factory trained technician.
- 7.2 Cost estimates shall be provided to the appropriate City representative prior to repair work performed.
- 7.3 The City shall maintain the right to obtain offers for all repair work if the Vendor submits a cost estimate that appears excessive.
- 7.4 As a part of the Proposal for this contract, each Vendor shall also guarantee that all repair parts will be priced competitively at below list price levels.
- 7.5 All repair work authorized by the City shall be performed in a timely manner. Vendor shall complete all repair work and shall ensure the generator unit(s) are operating properly.
- 7.6 Under no circumstances shall the technician remove or bypass safety devices, guards, or shields that would compromise the safety of personnel or jeopardize proper operation of the equipment when service is complete.

8. EMERGENCY REPAIRS

- 8.1 During the time this contract remains in effect, the vendor shall provide emergency repair services upon request by the City's representative.
- 8.2 When possible, all work shall be performed during normal business hours, Monday through Friday between 8:00 A.M and 5:00 P.M. However, situations could arise that may require immediate assistance during nights, weekends, or holidays. Vendor shall maintain a commitment to provide repair services during the entire term of this contract. Regular and overtime rates shall be clearly stated in the proposal and shall include all labor, truck, and equipment costs. Replacement items shall be quoted as the need arises. The vendor agrees that these stated charges shall apply when invoices are prepared.

9. VENDOR QUALIFICATION

- 9.1 Vendor must provide technician(s) that are highly skilled with repair, setup, diagnostics, and PM work associated with the generators listed herein.
- 9.2 Technicians shall provide their own tools and supplies at each job site.
- 9.3 Technicians shall perform all services in a timely manner to minimize the time in which each generator is out of service.
- 9.4 Technicians shall be required to remove all debris, discarded parts and material, discarded waste oil, coolant, and other fluids from each job site. Proper disposal is the responsibility of the technician.

- 9.5 All pricing submitted in Vendor's proposal shall include expenses that will be required during the course of this contract. **Vendor shall submit total pricing for all services, materials, labor, and other expenses that can be reasonably anticipated for the services outlined in these specifications.** Vendor shall not increase pricing for any of these items during the time this contract remains in effect. It is not necessary to provide this information separately but each Vendor must consider these items as a part of their Proposal.
- 9.6 Each Vendor submitting a Proposal for this contract must supply information regarding the experience of their company and the technicians employed by them. **This information is to be submitted with the proposal submittal.**

City of Lubbock
RFP 22-16747-KM
Fixed Generator Maintenance and Repair at Various Locations
Generator List

Asset #	Old V#	New V#	VIN# / SERIAL#	Make	Model	Location	Generator Rating
31276	00510001	00510001	K060992127	Cummins	DFHD-5774238	Citizens Tower	1,000 KW
31277	00510002	00510002	E990908625	Onan/Cummins	DGFA-3371218	Fire Complex - 1515 E. Ursuline St.	150 KW
23363	00510003	00510003	81Z23557	Caterpillar	3412	Municipal Square	600 KW
			K160124997	Cummins	DFEK-A056J954	UCSC	500KW
			CAT0D200JT9W00101	Caterpillar	D200GC	East PD	200KW
			CAT0D200JT9W00103	Caterpillar	D200GC	North PD	200KW
			CAT0D200JT9W00104	Caterpillar	D200GC	South PD	200KW
			D220070647	Cummins	DQDAC*2140172	PD HQ	300KW
			81Z24799	Caterpillar	3412	Shop yard (Not in use)	500KW
24869	00510004	00510004	CAT00C66V5DA00564	Caterpillar	D125-6	Primary Site E. 23 St (sunrise)	120KW
24870	00510005	00510005	2092172	Generac	7703260100	Backup Site 302 Municipal Hill	100KW
			3010319654	Generac	G0070438	79th & Slide Tower	
30889	00510025	00510025	CATOOC44HD4B01855	Caterpillar	D80-6	34th and Alcove (sunset)	80KW
16965	E990062	00510020	5CA00900	Caterpillar	90-938	City Garage	90 KW
				Generac		South Fuel Site	
23373	00510006	00510006	TA3355885-2	Stewart&Stevens	6V926DTA-2505B	Airfield Maint. Shop	250 KW
31528	00510007	00510007	2092669	Generac	7899070100	Airfield Electrical Vault	350 KW
12088	00510008	00510008	127389	Stewart&Stevens	6GDT200SD	Terminal Bldg.	200 KW
31279	00510009	00510009	4689549	Generac	9T15068KNNNA	Terminal Bldg.	150 KW
24568	00510010	00510010	10441514	Cummins	NT335GS	Civic Ctr (Under Bridge)	200KW
16980	E990068	00510021	4B11207	Caterpillar	3304	WTRDF #2252	150 AMPS
2087	E000114	00510012	68885B21929	Kato	10FPW4	Sta# 11 - 6212 N. Walnut (Airport Fire Sta)	10KW
19772	E960001	00510019	NONE-000	Yamaha	EF6000	Lake Alan Henry	60 KW
24885	00210048	00510016	G6B11819	Caterpillar	C15	Pump Station #15	400 KW
17228	E990094	00510026	24Z09059 / Unit #2	Caterpillar	3512	Pump Station #10	1250 KW
17225	E990129	00510029	D6970A/001	Olympian	D50P1	Sudan Pump Station	50 KW
17226	E990130	00510030	D6970A/002	Olympian	D50P1	North Water Treatment Plant	50 KW
23331	None	00510031	093735/04	Olympian	D17LH1S	Inside van for E990094	17 KW

City of Lubbock
RFP 22-16747-KM
Fixed Generator Maintenance and Repair at Various Locations
Generator List

Asset #	Old V#	New V#	VIN# / SERIAL#	Make	Model	Location	Generator Rating
24884	None	00510032	1GZ03650 / G5D00217	Caterpillar	3512	Pump Station #14	1250 KW
30942	1999199	00510038	A150785387	Cummins	DQKAA-A054B419	Pump Station 4	1750 KW
30943	1999200	00510039	A150785769	Cummins	DQKAA-A054B419	Pump Station 8	1750 KW
31868		00510036	D170176878	Cummins	DQKAF-1701036	Pump Station 16	2250 KW
2384	E780065	00510018	45BH4196	Caterpillar	SR-4	Terminal Storage	155 KW
17227	E990093	00510024	24Z09058 / Unit #1	Caterpillar	3512	Pump Station 9	1250 KW
24886	None	00510033	093611/01	Olympian	D17LH1S	Inside van for E990093	17 KW
30662	2016034	00510040	B140633227	Cummins	DQGAA-1344944	North Water Treatment Plant	1750 KW
29656		00510037	1600921	Generac	MMG75D	Sudan Pump Station	60 KW
30944	1999201	00510015	I110245216	Cummins	DQKAA-7364865	South Water Treatment Plant	1750 KW
17229	E990095	00510027	2FN01096	Caterpillar	3512	Water Reclamation	1250 KW
23332	None	00510034	093735/03	Olympian	D17LH1S	Inside van for E990095	17 KW

City of Lubbock
RFP 22-16747-KM
Fixed Generator Maintenance and Repair at Various Locations
BAFO

				Genserve, LLC dba L.J. Power				
				\$ 198,250.00				
				Grand Prairie, TX				
				Bi-Annual Load Bank				
				Testing only As required				
#	Items	Generator Rating	Model	Quantity Required (+/-)	Annual Maintenance Cost	Annual Inspection Cost	Testing only As required	Total Cost
#1-1	Cummins	1,000 KW	DFHD-5774238	1	\$ 2,100.00	\$ 600.00	\$ 2,050.00	\$ 4,750.00
#1-2	Onan/Cummins	150 KW	DGFA-3371218	1	975.00	600.00	700.00	2,275.00
#1-3	Caterpillar	600 KW	3412	1	1,550.00	600.00	1,500.00	3,650.00
#1-4	Cummins	500KW	DFEK-A056J954	1	1,450.00	600.00	1,500.00	3,550.00
#1-5	Caterpillar	200KW	D200GC	1	1,075.00	600.00	750.00	2,425.00
#1-6	Caterpillar	200KW	D200GC	1	1,075.00	600.00	750.00	2,425.00
#1-7	Caterpillar	200KW	D200GC	1	1,075.00	600.00	750.00	2,425.00
#1-8	Cummins	300KW	DQDAC*2140172	1	1,200.00	600.00	900.00	2,700.00
#1-9	Caterpillar	500KW	3412	1	1,450.00	600.00	1,500.00	3,550.00
#1-10	Caterpillar	120KW	D125-6	1	975.00	600.00	700.00	2,275.00
#1-11	Generac	100KW	7703260100	1	975.00	600.00	700.00	2,275.00
#1-12	Generac	Generac	G0070438	1	1,000.00	600.00	700.00	2,300.00
#1-13	Caterpillar	80KW	D80-6	1	975.00	600.00	700.00	2,275.00
#1-14	Caterpillar	90 KW	90-938	1	975.00	600.00	700.00	2,275.00
#1-15	Generac	Generac	NT335GS	1	1,000.00	600.00	700.00	2,300.00
#1-16	Stewart & Stevenson	250 KW	6V926DTA-2505B	1	1,200.00	600.00	900.00	2,700.00
#1-17	Generac	350 KW	7899070100	1	1,300.00	600.00	1,000.00	2,900.00
#1-18	Stewart & Stevenson	200 KW	6GDT200SD	1	1,200.00	600.00	900.00	2,700.00
#1-19	Generac	150 KW	9T15068KNNNA	1	975.00	600.00	700.00	2,275.00
#1-20	Cummins	200KW	NT335GS	1	1,075.00	600.00	750.00	2,425.00
#1-21	Caterpillar	150 AMPS	3304	1	1,000.00	600.00	700.00	2,300.00
#1-22	Kato	10KW	10FPW4	1	700.00	600.00	500.00	1,800.00
#1-23	Yamaha	60 KW	EF6000	1	700.00	600.00	500.00	1,800.00
#1-24	Caterpillar	400 KW	C15	1	1,350.00	600.00	1,000.00	2,950.00
#1-25	Caterpillar	1250 KW	3512	1	2,800.00	600.00	12,500.00	15,900.00
#1-26	Olympian	50 KW	D50P1	1	850.00	600.00	500.00	1,950.00
#1-27	Olympian	50 KW	D50P1	1	850.00	600.00	500.00	1,950.00
#1-28	Olympian	17 KW	D17LH1S	1	850.00	600.00	500.00	1,950.00
#1-29	Caterpillar	1250 KW	3512	1	2,800.00	600.00	3,500.00	6,900.00
#1-30	Cummins	1750 KW	DQKAA-A054B419	1	3,500.00	600.00	3,500.00	7,600.00
#1-31	Cummins	1750 KW	DQKAA-A054B419	1	3,500.00	600.00	3,500.00	7,600.00
#1-32	Cummins	2250 KW	DQKAF-1701036	1	3,500.00	600.00	4,000.00	8,100.00
#1-33	Caterpillar	155 KW	SR-4	1	1,000.00	600.00	700.00	2,300.00
#1-34	Caterpillar	1250 KW	3512	1	2,800.00	600.00	12,500.00	15,900.00
#1-35	Olympian	17 KW	D17LH1S	1	700.00	600.00	500.00	1,800.00
#1-36	Cummins	1750 KW	DQGAA-1344944	1	3,500.00	600.00	12,500.00	16,600.00
#1-37	Generac	60 KW	MMG75D	1	700.00	600.00	500.00	1,800.00
#1-38	Cummins	1750 KW	DQKAA-7364865	1	3,500.00	600.00	12,500.00	16,600.00
#1-39	Caterpillar	1250 KW	3512	1	2,800.00	600.00	12,500.00	15,900.00
#1-40	Olympian	17 KW	D17LH1S	1	850.00	600.00	500.00	1,950.00
#1-41	Onan	60 KW	GGHE-5635611	1	700.00	600.00	500.00	1,800.00
#1-42	Stewart & Stevenson	100 KW	G415JAY-002	1	975.00	600.00	800.00	2,375.00
#1-43	Onan	100 KW	100GDBL3311A	1	975.00	600.00	800.00	2,375.00
#1-44	Multiquip	85 KW	DCA-8555K	1	700.00	600.00	500.00	1,800.00
#1-45	Multiquip	85 KW	DCA-8555K	1	700.00	600.00	500.00	1,800.00

Commercial General Liability Requirements: \$1M occurrence / \$2M aggregate (can be combined with an Excess Liability to meet requirement). CGL is required in ALL contracts. It is perhaps the most important of all insurance policies in a contractual relationship. It insures the Contractor has broad liability coverage for contractual activities and for completed operations.

Automobile Liability Requirements: \$1M/occurrence is needed

Workers Compensation and Employer Liability Requirements: Statutory. If the vendor is an independent contractor with no employees and are exempt from providing Workers' Compensation coverage, they must sign a waiver (obtained from COL Purchasing) and include a copy of their driver's license.

* The City of Lubbock (including its officials, employees and volunteers) shall be afforded additional insured status on a primary and non-contributory basis on all liability policies except professional liabilities and workers' comp.

* Waivers of Subrogation are required for CGL, AL, and WC.

* To Include Products of Completed Operations endorsement.

* Carrier will provide a 30-day written notice of cancellation, 10-day written notice for non-payment.

* Carriers must meet an A.M. Best rating of A- or better.

* Subcontractors must carry same limits as listed above.



**Purchasing and Contract Management
Project Summary**

RFP 22-16747-KM Fixed Generator Maintenance and Repair at Various Locations

Notice was published in the Lubbock Avalanche Journal on August 28, 2022 and September 4, 2022.

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

Notice was published on Bonfire-hub.com from August 26 to September 20, 2022.

21 vendors took documents from Bonfire-hub.com

10 vendors were notified separately.

2 vendors submitted a proposals.

Information

Agenda Item

Resolution - Public Health Services: Consider a resolution authorizing and directing the Mayor to execute Amendment No. 2 to the Department of State Health Services Contract No. HHS001120300005, under the STD/HIV-DIS Prevention Services Grant Program, and all related documents, by and between the City of Lubbock and the State of Texas Department of State Health Services.

Item Summary

The purpose of this contract is to control and prevent the spread of Sexually Transmitted Diseases (STDs), including Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS) and Viral Hepatitis.

This amendment increases the contract by \$392,969, increasing the total contract amount to \$785,938. The contract term is March 1, 2022, through December 31, 2023.

Fiscal Impact

The amendment increases the contract amount to \$392,969 for Calendar Year 2023. The total contract value will not exceed \$785,938.

Staff/Board Recommending

Bill Howerton, Deputy City Manager
Katherine Wells, Director of Public Health Services

Attachments

Resolution
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, on behalf of the City of Lubbock, Amendment No. 2 to the Department of State Health Services Contract No. HHS001120300005 under the STD/HIV-DIS Prevention Services Grant Program, by and between the City of Lubbock and the State of Texas' Department of State Health Services, and all 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

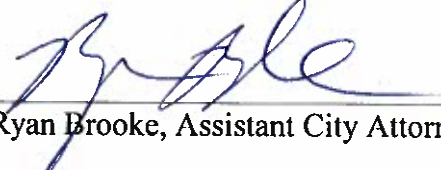
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney



TEXAS
Health and Human
Services

Texas Department of State Health Services

John Hellerstedt, M.D.
Commissioner

The Honorable Tray Payne, Mayor
City of Lubbock
PO Box 2000
Lubbock, Texas 79457

Subject: Sexually Transmitted Disease/Human Immunodeficiency Virus
Disease Intervention Specialists (STD/HIV-DIS) Contract
Contract Number: HHS001120300005, Amendment No. 2
Contract Amount: \$785,938.00
Contract Term: March 1, 2022 through December 31, 2023

Dear Mayor Payne:

Enclosed is the STD/HIV-DIS amendment between the Department of State Health Services and City of Lubbock.

The purpose of this contract is to control and prevent the spread of Sexually Transmitted Diseases (STDs), including Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS) and viral hepatitis.

This amendment increases the contract amount by \$392,969.00 for Calendar Year 2023, extends the contract term to December 31, 2023, and updates certain terms and conditions.

Please let me know if you have any questions or need additional information.

Sincerely,

Amber Vasché, CTCD, CTCM
Contract Manager
(512) 776-6582
amber.vasche@dshs.texas.gov

**DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS001120300005
AMENDMENT NO. 2**

The **DEPARTMENT OF STATE HEALTH SERVICES** (“DSHS” or “System Agency”), a pass-through entity, and **CITY OF LUBBOCK** (“Grantee”), each a “Party” and collectively the “Parties”, to that certain grant contract to control and prevent the spread of Sexually Transmitted Diseases (STDs), including Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS) and viral hepatitis under the STD/HIV-DIS Prevention Services Program effective March 1, 2022 and denominated DSHS Contract No. HHS001120300005 (“Contract”), as amended, now desire to further amend the Contract.

WHEREAS, the Parties desire to extend the contract term;

WHEREAS, the Parties desire to increase funding to the Contract for Calendar Year 2023;

WHEREAS, the Parties desire to revise the Statement of Work to update project objectives and reporting requirements to address the increase in statewide congenital cases and to comply with required activities; and

WHEREAS, the Parties desire to incorporate certain terms for compliance with applicable law and policy, and to make other modifications as stated herein.

NOW, THEREFORE, the Parties modify the Contract as follows:

1. **ARTICLE III, DURATION**, of the Contract is amended to reflect a revised termination date of **December 31, 2023**.
2. **ARTICLE IV, BUDGET**, of the Contract is amended to add \$392,969.00 for expenditures during Calendar Year 2023. The total Contract value will not exceed \$785,938.00. All expenditures must be in accordance with **ATTACHMENT B-2, REVISED BUDGET (SEPTEMBER 2022)**, which also incorporates the indirect cost rate.
3. The Contract is amended to add **ARTICLE IX, FUNDING AND NOTICE TO PROCEED**, to the Contract:

IX. FUNDING AND NOTICE TO PROCEED

Funding for this Contract is dependent upon the approval from the Centers for Disease Control and Prevention. Grantee may not incur expenditures above **\$392,969.00** until DSHS issues a Notice to Proceed to Grantee. This Notice to Proceed may include an amended or ratified budget, which will be incorporated into this Contract by a subsequent amendment. Any expenditures made beyond the aforementioned dollar amount in this Article prior to the date on the Notice to Proceed will be at Grantee’s sole risk.

DSHS written preapproval is required prior to Grantee redirecting any funds for activities associated with monkeypox. In addition, all expenditures for activities associated with monkeypox must be tracked separately.

4. **PARAGRAPH 1** of **SECTION II(A)** in **ATTACHMENT A-1, REVISED STATEMENT OF WORK**, of the Contract is revised to add **subparts f** through **i** under **PARAGRAPH 1** as follows:

- f. Ensure that pregnant women with syphilis are identified and treated appropriately and timely to prevent congenital syphilis.
- g. Ensure that all infants born to a woman with a history of syphilis in their jurisdiction are investigated and reported within 30 calendar days of receiving report of birth as outlined by DSHS HIV/STD Program POPS, Chapter 23, Congenital Syphilis, available at: <https://dshs.texas.gov/hivstd/pops/chap23.shtm>.
- h. Provide technical assistance and guidance to providers and systems of care to ensure testing for syphilis is conducted, at a minimum, at first prenatal visit, during third trimester, and at delivery as testing in accordance with Section 81.090, Diagnostic Testing During Pregnancy and After Birth, of the Texas Health and Safety Code.
- i. Ensure that all people of childbearing capacity have a documented pregnancy status in the reporting database management system. Grantee shall ensure that people in the following population groups have a documented pregnancy status at or above the specified thresholds:
 - 1) People of childbearing capacity with reactive syphilis labs. Reported percentage of a documented pregnancy status of people of childbearing capacity with reactive syphilis labs must be at or above 90 percent; and
 - 2) People of childbearing capacity who have been identified by a person with reactive syphilis labs (e.g., partners, suspects, and associates) with whom the Grantee is able to make contact. Reported percentage of a documented pregnancy status of people of childbearing capacity identified by a person with reactive syphilis labs and contacted by Grantee must be at or above 80 percent.

If the reported percentage for documented pregnancy status is less than either of the percentages specified, then DSHS may (at its sole discretion) require additional measures be taken by the Grantee to improve reported percentage(s). Grantee must follow those additional measures, and do so according to the timetable mandated by DSHS.

5. **SECTION VI, REPORTING REQUIREMENTS**, in **ATTACHMENT A-1, REVISED STATEMENT OF WORK**, of the Contract is revised to add the following table for Calendar Year 2023 reporting requirements:

CALENDAR YEAR 2023 REPORTING:

REPORT NAME	PERIOD BEGIN	PERIOD END	DUE DATE
1 st 2023 Semiannual Report	01/01/2023	06/30/2023	07/31/2023
2 nd 2023 Semiannual Report	07/01/2023	12/31/2023	01/31/2024
Congenital Syphilis Case Investigation and Infant Syphilis Control Records	01/01/2023	12/31/2023	Due thirty (30) calendar days after period being reported. Note: This Report is submitted through THISIS and is subject to HIPAA and PHI data requirements.
1 st 2023 LRP Report	01/01/2023	06/30/2023	07/31/2023
2 nd 2023 LRP Report	07/01/2023	12/31/2023	01/31/2024
1 st 2023 FSR	01/01/2023	06/30/2023	07/31/2023
2 nd 2023 FSR	07/01/2023	12/31/2023	02/15/2024

6. **ATTACHMENT B-1, REVISED BUDGET**, of the Contract is deleted in its entirety and replaced with **ATTACHMENT B-2, REVISED BUDGET (SEPTEMBER 2022)**, which is attached to this Amendment and incorporated into the Contract for all purposes.
7. **ATTACHMENT C, HHS UNIFORM TERMS AND CONDITIONS—GRANT VERSION 3.0 AUGUST 2021**, of the Contract is deleted in its entirety and replaced with **ATTACHMENT C-1, HHS UNIFORM TERMS AND CONDITIONS—GRANT VERSION 3.2**, which is attached to this Amendment and incorporated into the Contract for all purposes.
8. **ATTACHMENT D, HHS CONTRACT AFFIRMATIONS V. 2.0 AUGUST 2021**, of the Contract is deleted in its entirety and replaced with **ATTACHMENT D-1, HHS CONTRACT AFFIRMATIONS VERSION 2.2**, which is attached to this Amendment and incorporated into the Contract for all purposes.
9. **ATTACHMENT F-1, FEDERAL ASSURANCES**, is attached to this Amendment and incorporated into the Contract for all purposes.

10. **ATTACHMENT H-1, FFATA CERTIFICATION FORM**, is attached to this Amendment and incorporated into this Contract for all purposes. Grantee is required to complete the Certification to meet the Federal requirement.
11. This Amendment shall be effective as of the date last signed below.
12. Except as modified by this Amendment, all terms and conditions of this Contract, as amended, shall remain in full force and effect.
13. Any further revisions to the Contract shall be by written agreement of the Parties.
14. Each Party represents and warrants that the person executing this Amendment on its behalf has full power and authority to enter into this Amendment.

Signature Page Follows

SIGNATURE PAGE FOR AMENDMENT NO. 2
DSHS CONTRACT NO. HHS001120300005

DEPARTMENT OF STATE HEALTH SERVICES

CITY OF LUBBOCK

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date of Signature: _____

Date of Signature: _____

ATTACHMENT B-2
REVISED BUDGET (SEPTEMBER 2022)

CATEGORICAL EXPENDITURES		
Budget Category	Calendar Year 2022: March 1, 2022 – December 31, 2022	Calendar Year 2023: January 1, 2023 – December 31, 2023
PERSONNEL	\$199,667.00	\$231,530.00
FRINGE BENEFITS	\$101,391.00	\$104,189.00
TRAVEL	\$2,575.00	\$16,925.00
EQUIPMENT	\$0.00	\$0.00
SUPPLIES	\$21,636.00	\$14,375.00
CONTRACTUAL	\$25,000.00	\$3,000.00
OTHER	\$42,700.00	\$22,950.00
TOTAL DIRECT CHARGES	\$392,969.00	\$392,969.00
INDIRECT CHARGES	\$0.00	\$0.00
TOTAL	\$392,969.00	\$392,969.00

**ATTACHMENT C-1
HHS UNIFORM TERMS AND CONDITIONS – GRANT VERSION 3.2**



Health and Human Services (HHS)

Uniform Terms and Conditions - Grant

Version 3.2

Published and Effective – July 2022

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 *Texttravel* guidelines, which can currently be accessed at: <https://fmxcpa.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://hhspportal.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://hhspportal.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.

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- 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.

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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:

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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 OR 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**

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**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 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

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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 Office of Data, Analytics, and Performance. 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

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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.

ATTACHMENT D-1 HHS CONTRACT AFFIRMATIONS VERSION 2.2

HEALTH AND HUMAN SERVICES

Contract Number _____

Attachment **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.

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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. If the certification is shown to be false, Contractor may be liable for additional costs and damages set out in 231.006(f).

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:

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- 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 (TX-RAMP)

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. Equal Employment Opportunity

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

55. 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).

56. 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

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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)

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ATTACHMENT F-1

FEDERAL ASSURANCES

[View Burden Statement](#)

OMB Number: 4040-0007
Expiration Date: 02/28/2025

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:

- | | |
|--|---|
| <p>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.</p> <p>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.</p> <p>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.</p> <p>4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.</p> <p>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).</p> <p>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</p> | <p>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.</p> <p>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.</p> <p>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.</p> |
|--|---|

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Prescribed by OMB Circular A-102

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
APPLICANT ORGANIZATION	DATE SUBMITTED

Standard Form 424B (Rev. 7-97) Back

ATTACHMENT H-1 FFATA CERTIFICATION FORM



Fiscal Federal Funding Accountability and Transparency Act (FFATA)

The certifications enumerated below represent material facts upon which DSHS relies when reporting information to the federal government required under federal law. If the Department later determines that the Contractor knowingly rendered an erroneous certification, DSHS may pursue all available remedies in accordance with Texas and U.S. law. Signor further agrees that it will provide immediate written notice to DSHS 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 DSHS detailing which of the below statements it cannot certify and why.***

Legal Name of Contractor:	FFATA Contact: (Name, Email and Phone Number):
Primary Address of Contractor:	Zip Code: 9-digits required www.usps.com
Unique Entity ID (UEI): This number replaces the DUNS www.sam.gov	State of Texas Comptroller Vendor Identification Number (VIN) – 14 digits:

Printed Name of Authorized Representative:	Signature of Authorized Representative
Title of Authorized Representative	Date Signed

Fiscal 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 % 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 compensation of the 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: C0AD6E1217EA416AA75983567EC09D30

Status: Sent

Subject: \$785,938.00 HHS001120300005 City of Lubbock A-2 HIV-DIS

Source Envelope:

Document Pages: 53

Signatures: 0

Certificate Pages: 5

Initials: 0

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Status: Original

9/28/2022 3:37:59 PM

Holder: CMS Internal Routing Mailbox

CMS.InternalRouting@dshs.texas.gov

Location: DocuSign

Signer Events**Signature****Timestamp**

Tray Payne, Mayor

traypayne@mylubbock.us

Security Level: Email, Account Authentication
(None)

Sent: 9/28/2022 3:47:07 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Helen Whittington

helen.whittington@dshs.texas.gov

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Accepted: 10/6/2022 5:12:45 PM

ID: 6b28afd2-e841-4d45-a7c2-ea505867b7ea

Patty Melchior

Patty.Melchior@dshs.texas.gov

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Accepted: 5/5/2022 12:43:08 PM

ID: f01589da-43a7-481e-996a-7c50409e5d48

Kirk Cole

Kirk.Cole@dshs.texas.gov

Security Level: Email, Account Authentication
(None)**Electronic Record and Signature Disclosure:**

Accepted: 10/6/2022 4:46:26 PM

ID: 3e8afcad-272d-4c97-91ea-73804535d689

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
Amber Vasche amber.vasche@dshs.texas.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 9/28/2022 3:47:06 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: 9/28/2022 3:47:06 PM Viewed: 10/7/2022 9:18:54 AM
CMS Internal Routing Mailbox CMS.InternalRouting@dshs.texas.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/28/2022 3:47:06 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, DSHS Contract Management Section (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact DSHS Contract Management Section:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: alison.joffrion@hhsc.state.tx.us

To advise DSHS Contract Management Section of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at alison.joffrion@hhsc.state.tx.us and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from DSHS Contract Management Section

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to alison.joffrion@hhsc.state.tx.us and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with DSHS Contract Management Section

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to alison.joffrion@hhsc.state.tx.us and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify DSHS Contract Management Section as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by DSHS Contract Management Section during the course of your relationship with DSHS Contract Management Section.

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing the Mayor to execute Amendment No. 2 to Community Development Funding Contract 16001, and all related documents, with YWCA of Lubbock, to provide Childcare Assistance to qualified persons.

Item Summary

Grantee: YWCA of Lubbock

Funding Source: Community Development Block Grant Coronavirus Relief and Economic Security Act CARES (CDBG CARES) funds from HUD

Use of Funds: This is voucher program administered by YWCA through licensed childcare facilities in Lubbock, Texas, is for Childcare Assistance for low-income citizens of the City of Lubbock affected by COVID-19.

Original Allocation: Up to \$200,000

1st Amendment Allocation: Up to \$700,000 (additional \$500,000)

2nd Amendment Allocation Up to \$1,100,000 (additional \$400,000)

Original Terms: October 1, 2021 - September 30, 2022

1st Amendment Terms: October 1, 2021 - September 30, 2023

The Community Development & Services Board (CDSB) met on November 9, 2022, and approved reallocation from Mortgage Assistance to Childcare Assistance. CDSB recommends to the City Council the reallocation of CDBG CARES funding to the Childcare Assistance Program.

Fiscal Impact

There is no fiscal impact to the General Fund. The maximum amount allocated to YWCA for the CDBG/CARES Childcare Assistance program is \$1,100,000.

Staff/Board Recommending

Bill Howerton, Deputy City Manager

Karen Murfee, Director of Community Development

Attachments

Resolution

Amendment 2

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, Amendment No. 2 to the Community Development Block Grant Funding Agreement 16001, and all related documents, between the City of Lubbock and YWCA of Lubbock to provide childcare assistance for qualified persons. 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 _____.

TRAY PAYNE, MAYOR

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Karen Murfee, Community Development Director

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

AMENDMENT II

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), CORONAVIRUS AID,
RELIEF AND ECONOMIC SECURITY ACT CARES (CARES) FUNDING
AGREEMENT
BETWEEN
THE CITY OF LUBBOCK
AND
YWCA OF LUBBOCK
CHILDCARE ASSISTANCE**

This Community Development Block Grant Coronavirus Relief and Economic Security Act CARES (CDBG / CARES) Funding Agreement (the “Agreement”), Contract No. **16001**, is made by and between the City of Lubbock, a State of Texas home rule municipal corporation (the “City”) and the **YWCA OF LUBBOCK**, (the “Grantee”), (each a “Party,” and collectively the “Parties”) acting by and through the Parties’ representative officers and officials, and is hereby entered into by the Parties on this ____ day of _____, 2022 (the “Effective Date”).

RECITALS

WHEREAS, the City is obligated to do and perform certain services in its undertaking of a Community Development Block Grant Coronavirus Aid, Relief and Economic Security Act (CDBG / CARES) Program, Public Law 116-136. Funds are to be used to prevent, prepare for and

respond to coronavirus pandemic (COVID-19). Coronavirus means SARS-CoV-2 or another coronavirus with pandemic potential, as defined by section 23005 of the CARES Act; and

WHEREAS, the Grantee operates a non-profit center offering services to individuals and families throughout Lubbock, Texas; and

WHEREAS, the Grantee proposes to use the funds in order to provide individuals and families **Childcare Assistance** (the “Program”); and

WHEREAS, the Grantee’s services benefit residents in Lubbock, Texas and constitute a valuable public service, and the City Council of the City (the “City Council”) has declared the services provided by the City to be a public purpose; and

WHEREAS, the accomplishment of the above public purpose is the predominate purpose of this Agreement; and

WHEREAS, the continuing supervision by the City with statutory and contractual requirements provide sufficient assurance that the public purpose of this Agreement will be accomplished; and

WHEREAS, the City Council has found that the Grantee has the special expertise, knowledge, and experience necessary for the operation of the Program; and, that the City will receive adequate consideration in the form of substantial public benefit; and

NOW, THEREFORE: THE PARTIES, FOR GOOD AND VALUABLE CONSIDERATION, AGREE AS FOLLOWS:

AMENDMENT

Article 1. The language in Article IV ‘Disbursement of Funds’ of the Agreement shall be replaced with the following:

“The City agrees to reimburse Grantee when, if and to the extent Federal funds are received under provisions of the Act a sum up to and not to exceed one million and one hundred thousand dollars (\$1,100,000) for the Grantee’s performance of the Scope of Work in accordance with the Budget attached hereto as Exhibit A.)”

Article 2. The language in Exhibit A ‘Budget’ of the Agreement shall be replaced with the following:

“The budget for this program is \$1,100,000”

This Amendment shall become effective upon execution by the Parties. The remainder of the Agreement shall remain in full force and effect accept as changed herein.

SIGNATURES


FOR: THE CITY OF LUBBOCK:

TRAY PAYNE, MAYOR

FOR: YWCA OF LUBBOCK



Glenda Mathis,
Executive Director



Linda Greenstreet, Board President

FED.I.D. #75-0939427

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Karen Murfee, Community Development Director

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

Information

Agenda Item

Resolution - City Manager: Consider a resolution authorizing the Mayor to execute Professional Services Agreement 16872, with Strategic Government Resources, Inc., for executive recruitment services.

Item Summary

A Request for Proposals (RFP) was issued to solicit responses from interested firms to perform executive search services in the recruitment of various management positions on an as-needed basis.

The firms were asked to demonstrate to the City the qualifications, competence, and capability to identify, screen, and recruit. The selected firms will utilize their experience and knowledge of executive searches to translate the City's needs into a detailed recruiting profile of the position and environment, and then to encompass a nationwide search.

The evaluation committee evaluated and ranked the written proposals based on the following criteria: 30 Points - Qualifications and experience, 25 Points - Rates and expenses, 30 Points - Methodology, including technical approach and understanding of the scope of work, and 15 Points - References.

The following firms submitted proposals and were rated according to the above criteria;

Firms	Points
Strategic Government Resources, Keller, Texas	93.00
Baker Tilly US, LLP, Plano, Texas	82.67
CPS HR Consulting, Sacramento, California	81.67
22nd Centure Technologies, Inc., Austin, Texas	73.00
GovHRUSA, Northbrook, Illinois	71.33

The evaluation committee makes the following recommendations:

- 1) Contract award to Strategic Government Resources, for a proposal fee per search of \$24,150; and
- 2) Contract award to Baker Tilly US, LLP, for a proposal fee of \$25,725 per search, which will be brought for City Council approval at a later date, once the contract is finalized.

Fiscal Impact

Fees associated for services will be based on each recruitment. Funding for the services will be appropriated in the City's Operating Budget at the department level.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Resolution

Contract - SGR

Project Summary Sheet

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, Contract No. 16872/RFP 23-16872-MA for executive recruitment services, by and between the City of Lubbock and Strategic Government Resources, of Keller, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



D. Blu Kostelich, Chief Financial Officer

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

RES.Contract- SGR 16872

**City of Lubbock
Executive Recruitment Services
Agreement**

This Service Agreement (this "Agreement") is entered into as of the ____ day of _____ 2022 ("Effective Date") by and between Strategic Government Resources, Inc. (the Contractor), and the City of Lubbock (the "City").

RECITALS

WHEREAS, the City has issued a Request for Proposals 23-16872-MA, Executive Recruitment Services and

WHEREAS, the proposal submitted by the Contractor has been selected as the proposal which best meets the needs of the City for this service; and

WHEREAS, Contractor desires to perform as an independent contractor to provide Executive Recruitment Services, upon terms and conditions maintained in this Agreement; and

NOW THEREFORE, for and in consideration of the mutual promises contained herein, the City and Contractor agree as follows:

City and Contractor acknowledge the Agreement consists of the following exhibits which are attached hereto and incorporated herein by reference, listed in their order of priority in the event of inconsistent or contradictory provisions:

1. This Agreement
2. Exhibit A – General Requirements
3. Exhibit B – Proposal
4. Exhibit C – Price Proposal Sheet
5. Exhibit D – Insurance Requirements

Scope of Work

Contractor shall provide the services that are specified in Exhibit A. The Contractor shall comply with all the applicable requirements set forth in Exhibit B, C and D attached hereto.

Article 1

- 1.1. The contract shall be for a term of one (1) year, with the option of four (4), one (1) year extensions, said date of term beginning upon formal approval. This Contract will renew automatically for the additional terms under the same term and conditions, unless either Party gives 90-day written notice to terminate the Contract.
- 1.2 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.
- 1.3 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.

1.4 A) Prices quoted shall be guaranteed for a period for six (6) months upon City approval. The rate may be adjusted at the City's discretion for the effective change in Consumer Price Index (CPI) or Product Price Index (PPI) as appropriate.

B) Further, if the Contractor can provide documentation for actual charges for material, labor, etc. that demonstrates that the change in CPI or PPI is not sufficient, the Contractor shall provide such documentation to the City, and at the City's sole discretion, the contractual rate may be further adjusted. If agreement regarding a new rate cannot be reached, the City shall terminate at the end of the current contract period.

C) If an adjustment to pricing is granted under this section, the Contractor must provide the Director of Purchasing and Contract Management written, quarterly documentation to justify the ongoing adjustment. If no such documentation is timely received, the rate will automatically revert to the initial, awarded rate.

1.5 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.

Article 2 Miscellaneous.

2.1 This Agreement is made in the State of Texas and shall for all purposes be construed in accordance with the laws of said State, without reference to choice of law provisions.

2.2 This Agreement is performable in, and venue of any action related or pertaining to this Agreement shall lie in, Lubbock, Texas.

2.3 This Agreement and its Exhibits contains the entire agreement between the City and Contractor and supersedes any and all previous agreements, written or oral, between the parties relating to the subject matter hereof. No amendment or modification of the terms of this Agreement shall be binding upon the parties unless reduced to writing and signed by both parties.

2.4 This Agreement may be executed in counterparts, each of which shall be deemed an original.

2.5 In the event any provision of this Agreement is held illegal or invalid, the remaining provisions of this Agreement shall not be affected thereby.

2.6 The waiver of a breach of any provision of this Agreement by any parties or the failure of any parties otherwise to insist upon strict performance of any provision hereof shall not constitute a waiver of any subsequent breach or of any subsequent failure to perform.

2.7 This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives and successors and may be assigned by Contractor or the City to any successor only on the written approval of the other party.

2.8 All claims, disputes, and other matters in question between the Parties arising out of or relating to this Agreement or the breach thereof, shall be formally discussed and negotiated between the Parties for resolution. In the event that the Parties are unable to resolve the claims, disputes, or other matters in question within 30 days of written notification from the aggrieved Party to the other Party, the aggrieved Party shall be free to pursue all remedies available at law or in equity.

- 2.9 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.
- 2.10 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 do.
- 2.11 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 document, this provision shall control.
- 2.12 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.
- 2.13 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.
- 2.14 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.

- 2.15 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.
- 2.16 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.
- 2.17 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.
- 2.18 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.
- 2.19 Indemnify. 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.

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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

Tray Payne, Mayor

BY:

Authorized Representative

ATTEST:

Print Name

Rebecca Garza, City Secretary

Address

APPROVED AS TO CONTENT:

D. Blu Kostelich, CFO

City, State, Zip Code

APPROVED AS TO FORM

Amy Sims, Deputy Assistant City Attorney

Executive Recruitment Services
City of Lubbock, TX
RFP 23-16872 -MA

II. GENERAL REQUIREMENTS

1 INTRODUCTION

Lubbock's highly skilled and educated workforce, proximity and connection to major national and international markets, and affordable utility and living costs make it the ideal place to grow your business. Known as the "Hub City" of West Texas, our diverse economy is based on manufacturing, agriculture, wholesale and retail trade services, as well as government, education and health care.

As the 11th largest city in Texas, Lubbock boasts a regional population base of more than 310,000 people. Lubbock's size affords businesses access to dedicated community leaders and personalized service, while providing you with a pipeline of personnel to fill your workforce needs. Home to Texas Tech University, Texas Tech University Health Sciences Center and a fast-growing community college, Lubbock County boasts more than 50,000 college students. Lubbock is the only city in the nation with a comprehensive university, a health sciences center, an agriculture college and a law school in one location, making Texas Tech University the second largest contiguous university campus in the United States.

Lubbock offers an annual average of 263 days of sunshine with average annual snowfall of 10.3 inches and average annual precipitation of 18 inches. The average January temperature is 39.2 °F and the average July temperature is 80.1 °F

2 PURPOSE

- a) The City of Lubbock (hereinafter called "City") is seeking proposals from interested Contractors and individuals to perform executive search services in the recruitment of various high-level management positions on an as-needed basis. There is no guarantee as to the number of recruitments to be assigned under the resulting Contract. The City reserves the right to award more than one contract.
- b) Offerors are invited to submit demonstrated competence and qualifications of their firm for providing these services.
- c) The information contained within this document is intended to provide interested firms with the requirements and criteria that will be used to make the selection.

3 SCOPE OF WORK

All proposals must be made on the basis of, and either meet or exceed, the requirements contained herein. All offerors must be able to provide:

3.1 Development of a Recruitment Process Timeline

For each recruitment assigned, the Contractor shall submit a recruitment process timeline detailing the steps to be taken in the recruitment process, the length of time associated with each step, and the individuals responsible for each step.

3.1.1 Development of Announcement and Recruitment Material

For each recruitment assigned, the Contractor shall develop an announcement and recruitment materials, including job announcement, position brochure, and other recruitment materials used to attract potential candidates.

3.1.2 Development of Position Description

For each recruitment assigned, the Contractor shall develop a comprehensive understanding of the duties and responsibilities of the identified position and shall develop a written position description to be agreed upon by the City prior to the start of the recruitment process.

Pre-Recruitment Deliverables: detailed recruitment process timeline, position announcement/recruitment materials, and position description.

3.2 Recruitment

3.2.1 Identify Potential Candidates

The Contractor shall work with City Manager and Human Resources, or designee in developing a suitable approach for describing the organization and position to potential candidates and referral sources.

The Contractor shall identify potential contacts and conduct personal outreach recruiting to include an established candidate bank. The approach should take into consideration issues of confidentiality and the issues most likely to attract the best candidates.

3.2.2 National Recruitment

The Contractor shall use all necessary tools to recruit nationally, seeking applicants who have a proven record of accomplishment in the desired area of expertise, ideally in a local government.

3.2.3 Diverse Recruitment

A diverse applicant pool is required. The Contractor shall make targeted recruitment efforts to attract qualified minority and women candidates as well as qualified veterans and qualified candidates with disabilities. The Contractor shall develop a diverse applicant pool without regard to age.

Recruitment Deliverables: Comprehensive recruitment plan that addresses the specific sources and methods of indirect and direct outreach to achieve national, regional, and local qualified candidates and plan to attract a diverse applicant pool. The Contractor should provide and describe in detail their current process for how this work is currently being done in each of the specified areas.

3.3 Review and Selection

3.3.1 Conduct Candidate Screening

The Contractor shall provide a preliminary candidate lists of individuals meeting the requirements of the employment profile and providing all applications for the City Manager to view. The applicant pool should include approximately 8-10 well qualified candidates for the position. The Contractor shall conduct a reference check and thorough internet search of all 8-10 candidates prior to presenting them to the City Manager. The objective of information, which could be relevant to the candidate's consideration for the position. Candidates shall be evaluated strictly on merit, without regard to race, color, religion, sex, national origin, age, and disability, status as a service-disabled veteran, sexual orientation, gender identity, genetic information, and other non-merit factors. Arrangements should be made to interview appropriate candidates. The primary objective of the first level interview is determine if the candidate meets the City threshold requirements. This includes a determination of both competencies and behaviors. It is also important to understand exactly why a candidate would consider making a change to work for the City. Candidates not selected to move forward should be informed of their status at this time.

3.3.2 Candidate Interviews

The Contractor shall work with the City to develop and implement a process for evaluating the final candidates for the position, as well as coordinating interviews. The Contractor shall be responsible for the overall management of the process and shall facilitate the interview process. Interviews shall be conducted onsite at the City and any required travel will be done in accordance to the City travel policies. The Contractor will provide travel receipts to the City for reimbursement of travel cost. The City reserves the right to request changes to this process that it may determine are necessary to meet its objectives. The Contractor shall determine each candidate's level of interest after the first round of interviews. Information on all candidates at this stage will be shared with the City so as to determine its satisfaction with them and identifying additional candidates if necessary. Finalists and their financial requirements are identified at this stage.

3.3.3 Conduct Reference Checks and Verifications of Credentials

A minimum of their (3) professional reference checks and extensive background investigations shall be conducted for all finalists as requested and forward to the City for consideration. At a minimum reference checks will consist of candidate's prior or current supervisor or management. References from peers and or subordinates may be requested from the City. A reference check with the City or equivalent at each place of employment during the last ten (10) years should be made. The Contractor shall also conduct thorough background investigation to include, but not limited to, verification of all academic credentials, Department of Motor Vehicles, criminal and credit history and civil litigation check for any candidate receiving a job offer.

3.3.4 Offer Coordination and Acceptance

The Contractor shall preliminary discuss requirements with the preferred candidate when the City has determined an offer is appropriate. This information will be reviewed by the City to develop an offer of employment. This process shall continue until agreement, as approved by Human Resources in coordination with City Manager is reached and a confirmation letter is forwarded.

3.3.5 Placement Guarantee

The Contractor shall provide a placement guarantee of a final candidate to include:
If the selected individuals leaves for any reason other than an act of God such as, total incapacitation or death within the first year, the Contractor will repeat the search at no charge.

Review and Selection Deliverables: Candidate screening results showing the qualifications of all applicants and how the candidates were screened as qualified/non-qualified; results of internet search; initial screening interview report; final screening matrix showing how candidates were evaluated; and reference/background check results.

4 EXPERIENCE REQUIREMENTS

Offerors must demonstrate that they have the resources and capability to provide the materials and services as described herein.

5 EVALUATION CRITERIA

Interested proposers must submit the following information for review by an evaluation committee. This information will be evaluated according to the stated criteria to determine the proposer to be awarded a contract.

The following criteria will be used to evaluate and rank submittals:

- a) 30 Points - Qualifications and Experience
- b) 25 Points - Rates and expenses
- c) 30 Points - Methodology including technical approach and understanding of the scope of work.
- d) 15 Points References

6 PROPOSAL FORMAT

- a) The City of Lubbock requires comprehensive responses to every section within this RFP. To facilitate the review of the responses, Contractor shall follow the described proposal format. The intent of the proposal format requirements is to expedite review and evaluation. It is not the intent to constrain Contractors with regard to content, but to assure that the specific requirements set forth in this RFP are addressed in a uniform manner amenable to review and evaluation.
- b) Cover letter addressed to the Honorable Mayor and City Council that states the Offeror's understanding of the services to be provided. Include any additional information believed necessary that is not requested elsewhere in the RFP.
- c) The proposal must be organized into the following response item sections in an request for information.

TAB A **Qualifications and experience**

1. Briefly introduce your Contractor, providing a summary of the administration, organization and staffing of your Contractor, including multiple offices, if applicable. Provide an organizational chart indicating the positions and names of the core management team, which will manage this contract.
2. Identify the project manager and each individual who will work as part of the team to manage the contract. Include resumes for each person to be assigned. Include any professional designations and affiliations, certifications and licenses, etc.
3. Describe the experience of the Contractor in the last thirty six (36) months in performing high level management positions recruiting and placement services in similar size and scope.

TAB B **Rates and Expenses**

1. Provide a detailed fee schedule. Express your personnel hourly rates not-to-exceed maximum amount and separate price for travel and related expenses (if applicable). An itemized bill with receipts must be included with request for payment.
2. Contractor shall incur no travel or related expenses chargeable to the City without prior approval by an authorized City representative.
3. Contractor may submit proposals based on a lump sum basis payable monthly over the course of the year or on an hourly fee basis. All proposals must include a maximum not-to-exceed amount. Expenses not specifically listed will not be considered.
4. Provide an hourly rate for activities to be utilized on an "as need basis."
5. The recruitment of positions for the City will be on an as needed basis. The Contractor will develop a written detailed recruitment process, based on the rates and expenses provide under this section. The City must approve rates and expense prior to the start of the recruitment process.

TAB C **Methodology including technical approach and understanding of the scope of the project.**

1. Proposals must include a narrative description of the Contractors' plan for accomplishing the work and services to be provided to the City.
2. Proposals must indicate a clear understanding of the scope of work, including a detailed project plan for this engagement outlying major tasks and responsibilities, periods, and staff assigned for each category of the scope of work identified above.

TAB D **References**

1. Provide references for similarly successful projects from five current governmental agencies, including the name of the agency, contact name, telephone, fax and email address.

PROPOSAL FOR EXECUTIVE RECRUITMENT SERVICES

City of Lubbock, Texas

RFP 23-16872-MA- Executive Recruitment Services

October 11, 2022

This proposal is valid for 120 days

Strategic Government Resources
P.O. Box 1642, Keller, Texas 76244
Office: 817-337-8581

JJ Peters, President of Executive Recruitment
JJPeters@GovernmentResource.com





October 11, 2022

Hon. Mayor Tray Payne and City Council
City of Lubbock, Texas
1625 13th Street
Lubbock, TX 79401

Dear Mayor Payne and City Council Members,

Thank you for the opportunity to submit this proposal to assist the City of Lubbock with executive recruitment services. SGR has the unique ability to provide personalized and comprehensive recruitment services to meet your needs.

We would like to draw your attention to some key aspects that distinguish SGR from other recruitment firms and allow us to reach the most extensive and diverse pool of applicants available:

- SGR is a recognized thought leader in local government management and is actively engaged in local government operations, issues, and best management practices.
- SGR announces all conducted recruitments in our Servant Leadership e-newsletter, which reaches over 45,000 subscribers in all 50 states.
- SGR sends targeted emails to our extensive opt-in Job Alert subscriber database and provides a comprehensive social media marketing campaign that includes distribution on LinkedIn, Facebook, Twitter, and Instagram. SGR has over 13,000 followers on LinkedIn, and over 2,000 followers on Twitter, and over 2,200 followers on Facebook.
- Executive Vice President Marsha Reed, who would be the designated recruiter for many of the City's searches, is based out of Lubbock and very familiar with the City organization and the appeal of living in Lubbock.

Please note that we have included certificates of insurance for review by your risk management department to ensure that our insurance coverage meets your needs. Please also note that many of our executive recruiters are independent contractors who work for SGR and would be considered subconsultants under the stipulations of this RFP.

We very much value our long-standing relationship with the City of Lubbock, and we are excited about the prospect of continuing to partner with the City on executive recruitment services. We are available to visit with you at your convenience.

Respectfully submitted,

Jeri J. Peters, President of Executive Recruitment
JJPeters@GovernmentResource.com

Company Profile

Background

Strategic Government Resources, Inc. (SGR) exists to help local governments become more successful by Recruiting, Assessing, and Developing Innovative, Collaborative, and Authentic Leaders. SGR was incorporated in Texas in 2002 with the mission to facilitate innovative leadership in local government. SGR is fully owned by former City Manager Ron Holifield, who spent two high-profile decades in city management and served as a City Manager in several cities.

SGR's business model is truly unique. Although we are a private company, SGR operates like a local government association. Most of SGR's principals are former local government officials, allowing SGR to bring a perspective and depth of local government expertise to every project that no other firm can match.

SGR's Core Values are Customer Service, Integrity, Philanthropy, Continuous Improvement, Agility, Collaboration, Protecting Relationships, and the Golden Rule.

SGR is a full-service firm, specializing in executive recruitment, interim placements, online training, onsite training, leadership development, psychometric assessments, strategic visioning retreats, one-on-one employee coaching, and other consulting services.

SGR's services are designed to promote innovation, team building, collaboration, and continuous improvement in local governments. SGR has approximately 700 local government clients in 47 states for all of our business lines combined. SGR has been, and continues to be, a leader in spurring innovation in local government.

SGR has 35 full-time employees, 2 part-time employees, 21 recruiters, 15 facilitators and multiple consultants who function as subject matter experts on a variety of projects.

SGR has corporate headquarters in Texas, as well as virtual offices in California, Colorado, Florida, Maryland, Minnesota, New York, North Carolina, Ohio, Oklahoma, and Oregon.

View all SGR team members and bios at: governmentresource.com/about-us/meet-the-team

SGR's Unique Qualifications

Extensive Network of Prospects

SGR is intent on being a leader in executive recruitment, and we believe it is imperative to be proactive in our mission to build a workforce that represents the communities we serve. SGR reaches an extensive and diverse pool of applicants by utilizing our unequaled network of prospects.

- Your position will be announced in SGR's Servant Leadership e-newsletter that reaches over 45,000 subscribers in all 50 states.
- We will send targeted emails to SGR's extensive Job Alerts opt-in subscriber database.
- Your position will appear on SGR's Website, GovernmentResource.com, which has approximately 20,000 visitors per month.
- Your position will be posted to SGR's Job Board, SGRjobs.com, which averages nearly 10,000 unique visitors per month and has more than 1,600 jobs listed at any given time.
- SGR provides a comprehensive social media marketing campaign that includes custom-made graphics and distribution on Facebook, Twitter, Instagram, and LinkedIn.
- SGR frequently partners with local government associations including League of Women in Government, Local Government Hispanic Network, and the National Forum for Black Public Administrators.
- Approximately 65% of semifinalists selected by our clients learned about the open recruitment through our website, servant leadership e-newsletter, job board, job alert emails, social media, or personal contact.

Collective Local Government Experience

Our recruiters have years of experience in local government, as well as regional and national networks of relationships. The executive recruitment group works as a team to leverage their networks to assist with each recruitment. SGR team members are active on a national basis in local government organizations and professional associations. Many SGR team members frequently speak and write on issues of interest to local government executives. SGR can navigate all relevant networks as both a peer and insider.

Equal Opportunity Commitment

SGR strongly believes in equal employment opportunity. SGR does not discriminate and believes that equal opportunity is an ethical issue. SGR will not enter an engagement with an entity or organization that directs bias or expects bias to be demonstrated on any basis other than factors that affect the ability of the candidate to do the job. SGR will make a serious and sincere effort to encourage qualified applicants from underrepresented demographic groups to apply. Although SGR cannot guarantee the makeup of the semifinalist or finalist groups, SGR has relationships and contacts nationwide to encourage the meaningful participation of underrepresented minority groups, and we continue to evaluate and improve our processes by embedding a lens of equity and inclusion into our recruitment practices.

Listening to Your Unique Needs

SGR devotes significant time to actively listening to your organization and helping you define and articulate your needs. We work hard to conduct a comprehensive recruitment that is unique to you. SGR dedicates a prodigious amount of energy to understanding your organization's unique culture, environment, and local issues to ensure a great fit regarding values, philosophy, and management style perspectives.

Trust of Candidates

SGR has a track record of providing remarkable confidentiality and wise counsel to candidates and next generation leaders. We have earned their trust. As a result, SGR is able to bring exceptional prospects to the applicant pool. Candidates trust SGR to assess the situation well, communicate honestly, and maintain their confidentiality to the greatest extent possible.

Accessibility & Communication

Your executive recruiter is accessible throughout the recruitment process and can be reached at any time by candidates or clients via cell phone or email. In addition, the recruiter communicates with active applicants on a weekly basis and sends Google alerts articles to keep the applicants informed about the community and opportunity.

Comprehensive Evaluation and Vetting of Candidates

SGR offers a screening process that ensures a detailed understanding of candidate backgrounds and prevents surprises. Our vetting process includes:

- Prescreening questions and technical review of resumes
- Cross communication between our recruiters about candidates who have been in previous searches for greater understanding of background and skills
- Comprehensive written questionnaires to gain insights beyond what is available through a resume
- Online pre-recorded video interviews that allow search committee members to view candidates in an interview setting prior to the finalist recruitment stage
- All-inclusive media reports that far surpass automated Google/LexisNexis searches, customized to each candidate based on where they have lived and worked
- Thorough automated, anonymous reference checks that provide details on candidates' soft skills from an expansive group of references
- Psychometric assessments (supplemental cost)
- Comprehensive background checks completed by a licensed private investigation firm
- Advanced exercise for finalist candidates, customized to the organization

View a full list of our Executive Recruitment Clients at: [Executive Recruitment Clients](#)

Executive Recruiters

For each search, SGR will coordinate with the City to assign the appropriate recruiter for that particular project based on their experience and familiarity with the City of Lubbock, professional background, and network.

Biographies of the executive recruiters most likely to work with the City of Lubbock are listed below:

Marsha Reed, Senior Vice President

Based out of Lubbock and currently working with the City of Lubbock on two active searches

Marsha has worked in public service for 38 years prior to her retirement. She is a two-time graduate of Texas Tech University having earned her Bachelor of Science Degree in Civil Engineering in 1988 and her Master's in Public Administration in 2000. Marsha recently retired from the great City of Chandler, Arizona, after six years as the City Manager and two years as Assistant City Manager. Prior to working for Chandler, Marsha worked for the City of Lubbock, Texas for 20 years in a number of positions with the last six years as the Chief Operating Officer. Marsha also spent ten years at the Texas Department of Transportation.

Marsha is a licensed engineer in both Texas and Arizona and has won a number of awards in her career including the Top 3 Public Works Leaders of the Year Award by the Texas Chapter of the American Public Works Association and Engineer of the Year by the South Plains Chapter of Texas Society of Professional Engineers. Marsha has served in a multiple leadership positions, including President of the Texas Chapter of APWA and President of the South Plains Chapter of TSPE. Marsha has also served on the Texas Municipal League Board of Directors and is a current member of the Arizona City Managers Association.

Doug Thomas, Executive Vice President

Based out of Florida, with frequent travel to Texas and a history of working with the City of Lubbock and Lubbock Power & Light

Doug Thomas joined SGR in 2015 and serves as Executive Vice President of Recruitment and Leadership Development where he focuses on executive recruitment, leadership development, and training for local governments.

Prior to joining SGR, Doug served as City Manager for the City of Lakeland, Florida, where he has vast experience working with state and local government leaders, private partnerships, and is a charter member of Florida Business Watch. Doug is a regular presenter at national, state, and local association conferences and meetings on topics ranging from electric utilities, park and recreational developments, legislative advocacy, strategic planning and budgeting, performance reviews for the Chief Executive, and other municipal programs and practices.

Doug served as City Manager for the City of Alma, Michigan, and Assistant City Manager for the City of Grand Haven Michigan. He also served with the Maryland cities of Rockville, and Landover Hills. Doug holds a Bachelor of Arts in Political Science and History from Bowling Green State University, and an Master of Public Administration from The American University, Washington, D.C.

Lynn Barboza, Senior Vice President – Based out of California, with frequent travel to Texas and a history of working with the City of Lubbock

Lynn Barboza began her public sector career with the City of Las Vegas (NV) in November of 1990. Throughout her 27-year tenure with the City, she was promoted to increasingly responsible positions in different operational areas including Municipal Court, the City Manager's Office as well as the City Council Office. For the last 12 years with the City, she managed the Talent Acquisition team.

Lynn earned her Bachelor of Science degree in Workforce Education from the University Nevada Las Vegas in 2011 and is a certified instructor for Inside Out Coaching, True Colors (Leadership Style) and is also certified as a "Technology of Participation" facilitator.

A recruiter who has also been a hiring executive, Lynn brings the client perspective to her role as an Executive Recruiter, along with her experience managing the Talent Acquisition function for a large and progressive public sector agency. She works closely with clients to define the necessary qualifications and desired talents in prospective candidates who will meet their unique business challenges today and most importantly, in the future. Lynn is equally committed to her candidates; passionate about learning their story and helping them find that perfect next step.

**Larry Gilley, Senior Vice President
Based out of Granbury, Texas, with a history of working with the City of Lubbock**

Larry Gilley joined SGR in 2016. He previously served for more than 38 years in leadership roles in Texas cities. He served as City Manager for the City of Abilene from June 2002 until his retirement. Prior to joining the City of Abilene, Larry served as City Manager for the City of San Marcos, Texas, for almost 14 years. He began his career in municipal government as City Manager in Bovina in 1976 and later served as City Manager in Panhandle.

Larry has been active in his professional association and is a member of the International City/County Management Association (ICMA) and the Texas City Management Association (TCMA) and is Past President of that organization. He served on the Board of the Texas Municipal League Intergovernmental Risk Pool (TMLIRP) and served as Chair of that organization. He has served on the MPA Advisory Council at Texas State University, where he also served as an Adjunct Graduate Faculty member. He holds a Bachelor of Arts in Political Science from Texas Tech University and a Master of Public Administration from Texas State University.

ICMA awarded Larry its professional service award for In-Service Training, and the Cen-Tex Chapter of the American Society of Public Administration recognized him as "Professional Administrator of the Year." Larry is also a recipient of a Lifetime Achievement Award from TCMA and is a Life Member of that organization.

Margie Rose, Senior Vice President

Based out of DFW Metroplex, with a history of working with the City of Lubbock

Margie C. Rose joined SGR in 2018 as a Senior Vice President for Executive Recruitment. Prior to joining SGR she spent the past 33 years in Municipal and County Government in Michigan and Texas. She most recently served 16 years with the City of Corpus Christi, Texas where she served as Assistant City Manager, Deputy City Manager and City Manager.

Prior to coming to Texas Margie also served as City Manager of Inkster, Michigan. She served in various Director and Interim Director positions throughout her Municipal Government career. She also held an Executive position with the County of Wayne, Michigan.

Margie is currently a member of the International City/County Management Association (ICMA) and Texas City Management Association (TCMA). She is a Retired ICMA Credentialed City Manager and a former Certified Labor Relations Professional (CLRP). She is a past member of Rotary International, Executive Women International and board member for the United Way of the Coastal Bend.

Margie served as an online and classroom faculty member for the University of Phoenix. She also received numerous awards throughout her career.

Margie received her Bachelor of Business Administration Degree and Master of Public Administration Degree from Eastern Michigan University, Ypsilanti, Michigan.

Larry Boyd, Senior Vice President

Based out of DFW Metroplex, with a history of working with the City of Lubbock

Larry Boyd joined the SGR team in January 2017 after a 35-year career in Law Enforcement. He spent the first part of his career with the Arlington, Texas, Police Department, rising to the rank of Assistant Chief. From 2004 to 2017, Larry served as Police Chief for the 500+ member Irving, Texas, Police Department.

Under his leadership, utilizing a variety of law enforcement and community policing strategies, the Irving Police Department led the community through 11 consecutive years of crime reduction, reaching historic lows in all crime categories. As importantly, the Irving Police Department enhanced its relationship with Irving's diverse community during challenging times.

Larry received his Bachelor of Arts from LeTourneau University and his Master of Public Administration from the University of Texas at Arlington. He is also a graduate of the Senior Management Institute for Police and the F.B.I. National Academy. In addition to serving as a Senior Vice President for SGR, Larry also teaches a course on Organizational Culture to Texas Police Chiefs at the Law Enforcement Management Institute of Texas.

Larry Bell, Senior Vice President
Currently based out of Abilene

Larry Bell has been with SGR as a Senior Vice President of Executive Recruitment since 2018. He previously served as Fire Chief for the City of Abilene and served the Abilene Fire Department for 35 years.

Larry holds a master's degree in Organizational and Human Resource Development, as well as a Conflict Resolution Certificate from Abilene Christian University. He has completed the Executive Fire Officer Certification through the National Fire Academy, Certified Public Manager through Texas State University, and the LEAD program through the University of Virginia.

Larry has experience in labor/management negotiations and as a consultant on leadership development, conflict management, and team building.

Lissa Barker, Senior Vice President
Based out of DFW Metroplex, with a history of working with the City of Lubbock

Lissa became a part of the SGR team in 2018, with a focus on executive recruitment and sourcing candidates for challenging-to-fill positions.

Prior to joining SGR, Lissa's focus was in talent acquisition and workforce management in the corporate environment where she led a recruiting team in the delivery of talent for a broad range of positions from niche roles to Director and CXO level positions. She was named Perot Systems Corporation Recruiter of the Year in 2006, where she played an integral role as a liaison with the sales and service delivery teams in support of both creating of staffing models, and fulfillment of critical positions.

Lissa graduated summa cum laude from Texas A&M University with a Bachelor of Science degree in Biomedical Science.

SGR Executive Recruitment Clients 2013 to Present Include:

Alabama

- Montgomery

Alaska

- Ketchikan

Arizona

- Avondale
- Chandler
- Glendale
- Mesa
- Wickenburg

Arkansas

- Fort Smith
- Hot Springs

California

- Banning

Colorado

- Arvada
- Aurora
- Brighton
- Combined Regional Communications Authority (Fremont County)
- Commerce City
- Craig
- Durango
- Eagle
- Eagle County Paramedic Services
- Englewood
- Erie
- Fort Collins
- Frisco
- Golden
- Greeley
- Gunnison
- Lamar

Colorado, continued

- Mountain View Fire Protection District
- Northglenn
- Vail
- Westminster
- Wheat Ridge

Connecticut

- Clinton
- Fairfield
- Glastonbury
- Hartford
- Manchester
- Rocky Hill
- South Windsor
- Tolland
- Wethersfield
- Windsor

Florida

- Boynton Beach
- Brevard County
- Cape Coral
- Clermont
- DeLand
- Fernandina Beach
- Flagler Beach
- Fort Lauderdale
- Government Services Group, Inc.
- Green Cove Springs
- Highlands County
- Indian River County
- Jupiter
- Lakeland
- Lee County
- Nassau County
- North Port
- Ormond Beach
- Palm Coast

Florida, continued

- Plant City
- Port St. Lucie
- River to Sea Transportation Planning Organization
- Sarasota County
- Tamarac
- Winter Haven

Georgia

- Albany
- Alpharetta
- Covington
- DeKalb County
- Johns Creek

Illinois

- Moline

Indiana

- Clarksville

Iowa

- Ames
- Davenport
- Des Moines Water Works
- Johnston

Kansas

- Coffeyville
- Hutchinson
- Iola
- Johnson County
- Johnson County Park & Recreation District
- Lawrence
- Leawood
- Lenexa
- Mission Hills
- Olathe
- Overland Park

Kansas, continued

- Shawnee
- Topeka
- Wyandotte County

Kentucky

- Valley Center
- Paducah

Louisiana

- Shreveport
- Monroe

Maine

- Kennebunk

Maryland

- Cecil County Government

Michigan

- Ann Arbor
- Kalamazoo County Consolidated Dispatch Authority
- Lansing
- Midland
- Muskegon Heights

Minnesota

- Blaine
- Bloomington
- Chanhassen

Mississippi

- Hancock County Port and Harbor Commission

Missouri

- Ballwin
- Cameron
- Cape Girardeau
- Columbia

Missouri, continued

- Grandview
- Joplin
- Lebanon
- Monett
- Nixa
- Parkville
- Riverside
- Sikeston
- Smithville
- Springfield
- St. Charles

Montana

- Bozeman
- Great Falls

Nevada

- Clark County
- Clark County Department of Aviation
- Las Vegas
- Washoe County

New Mexico

- Farmington
- Four Corners Economic Development Corp.
- Lea County
- Los Lunas

New York

- Briarcliff Manor
- Port Chester
- Rye

North Carolina

- Cary
- Mooresville
- Wake County

North Dakota

- Mountrail-Williams Electric Cooperative
- Williston

Ohio

- Beavercreek
- Franklin County

Oklahoma

- Altus
- Bethany
- Broken Arrow
- Chickasha
- Choctaw
- Glenpool
- Lawton
- Miami
- Miami Office of Economic Development
- Oklahoma Municipal League
- Owasso
- Stillwater

Oregon

- Clackamas County
- Emergency Communications of Southern Oregon (ECISO)
- Eugene
- Gresham
- Hermiston
- Klamath Falls
- Lacey
- Lane County
- Lane Regional Air Protection Agency
- League of Oregon Cities
- Sandy
- Sherwood
- Springfield
- Tigard
- Washington County

Pennsylvania

- Chester County
- Kennett Square

South Dakota

- Brookings

Tennessee

- Johnson City
- Murfreesboro

Texas

- Abilene
- Addison
- Alamo Heights
- Aledo
- Alice
- Allen
- Alvarado
- Alvin
- Amarillo
- Angleton
- Anna
- Argyle
- Arlington
- Austin
- Azle
- Bastrop
- Bastrop Economic Development Corp.
- Bay City
- Baytown
- BCFS Health & Human Services
- Bedford
- Bell County
- Bellaire
- Belton
- Boerne
- Breckenridge
- Brenham
- Bridgeport

Texas, continued

- Brownsville
- Brushy Creek Regional Utility Authority
- Bullard
- Burkburnett
- Burleson
- Cameron
- Canadian
- Canadian River Municipal Water Authority
- Canyon
- Canyon Regional Water Authority
- Capital Area of Texas Regional Advisory Council (CATRAC)
- Carrollton
- Castroville
- Cedar Park
- Celina
- Citizens for Progress
- City Center Waco
- Clute
- Coleman
- College Station
- Colleyville
- Colorado River Municipal Water District
- Commerce
- Coppell
- Copperas Cove
- Corpus Christi
- Crandall
- Dalhart
- Dallas County
- Dallas County Park Cities M.U.D.
- Del Rio
- Denison
- Denison Area Chamber of Commerce
- Denton
- Denton County Fresh Water Supply District No. 1-A
- Denton County Transportation Authority
- DeSoto

Texas, continued

- Dickinson
- Duncanville
- Eagle Pass
- Edinburg
- El Paso
- El Paso MPO
- Elgin
- Ennis
- Euless
- Fair Oaks Ranch
- Fairview
- Farmers Branch
- Fate
- Ferris
- Flower Mound
- Forney
- Fort Worth
- Freeport
- Frisco
- Fulshear
- Garland
- Georgetown
- Georgetown Chamber of Commerce
- Gonzales Economic Development Corp.
- Graham
- Granbury
- Grand Prairie
- Grapevine
- Green Valley Special Utility District
- Gun Barrel City
- Harris County ESD No. 48
- Hays County Combined Emergency Communications Center
- Henderson
- Highland Park
- Humble
- Hutto
- Hutto Community Development Corp.
- HJV Associates

Texas, continued

- Irving
- Jacksonville
- Jacksboro Economic Development Corp.
- Jacksonville Economic Development Corp.
- Joshua
- Katy
- Kaufman
- Kennedale
- Kilgore
- Killeen
- Kingsville
- Kyle
- Lago Vista
- Lake Dallas
- Lake Worth
- Lakeway
- Lamesa
- Lancaster
- Laredo
- League City
- Leander
- Levelland
- Levelland Economic Development Corp.
- Liberty Hill
- Lindale
- Little Elm
- Live Oak
- Lockhart
- Longview
- Longview Economic Development Corp.
- Lubbock
- Lubbock MPO
- Lubbock Power & Light
- Madisonville
- Manor
- Marble Falls
- Marshall
- McKinney
- McKinney Economic Development Corp.

Texas, continued

- Memorial Villages Police Department
- Mesquite
- Messer Rockefeller & Fort
- Midland
- Mineral Wells
- Missouri City
- Mont Belvieu
- Montgomery
- Mount Pleasant
- Mount Pleasant Economic Development Corp.
- MPACT CDC
- Nacogdoches
- Nassau Bay
- Nederland
- New Braunfels
- North Central Texas Council of Governments (NCTCOG)
- North Texas Municipal Water District
- North East Texas Regional Mobility Authority
- North Hays County Emergency Services District No. 1
- North Texas Municipal Water District
- North Richland Hills
- North Texas Emergency Communications Center (NTECC)
- Odessa
- Orange
- Palestine
- Paris
- Pearland
- Pflugerville
- Piney Point Village
- Plainview
- Plano
- Port Aransas
- Port Arthur
- Port Lavaca

Texas, continued

- Port Neches
- Portland
- Princeton
- Red Oak
- Reeves County
- Richardson
- Riverbend Water District
- Rockwall Economic Development Corp.
- Round Rock
- Round Rock ISD
- Rowlett
- Royse City Community Development Corp
- Saginaw
- San Angelo
- San Antonio ISD
- San Jacinto River Authority
- San Marcos
- San Marcos/Hays County EMS
- San Patricio County Economic Development Corp.
- Santa Fe
- Seagoville
- Sealy
- Sherman Economic Development Corp.
- Snyder
- Socorro
- South Grayson Special Utility District
- South Padre Island
- Southlake
- Stephenville
- Sunnyvale
- Sweetwater
- Tarrant County 9-1-1 District
- Taylor
- Temple
- Terrell
- TexAmericas Center
- Texas City
- The Colony

Rates and Expenses

Not-to-Exceed Price Per Search: **\$24,150*** *(reflects \$750 discount)*

** Ad placement costs are not included in the Not-to-Exceed Price. Ad placement costs are estimated to be between \$1,750 and \$2,500 and shall be added to the total cost of services upon approval from the organization.*

Not-to-exceed price includes:

- **Professional Service Fee - \$18,500**
- **Expenses:**
 - **Position Profile Brochure & Marketing - \$750** *(reflects \$750 discount)*
 - Production of a professional position profile brochure
 - Custom-designed graphics for social media and email marketing
 - Announcement in SGR's 10 in 10 Leadership and Innovation e-newsletter
 - Two (2) email blasts to SGR's opt-in Job Alert subscribers for the relevant job category
 - Featured job placement on SGR's website
 - Featured ad on SGR's job board
 - Promotions on SGR's social media pages – Facebook, Twitter, LinkedIn, and Instagram
 - **Semifinalist Recorded Online interviews** for up to twelve (12) semifinalists - **\$225 each**
 - **Comprehensive Media Reports** for up to five (5) finalists - **\$500 each**
 - **Comprehensive Background Investigation Reports** for up to five (5) finalists - **\$400 each**
 - **Comprehensive Reference Checks** with individual reports for up to five (5) finalists - **\$225 each**
 - **Up to two (2) multi-day onsite visits** by one Recruiter to the Organization, for up to 2 and 1/2 days per visit. Meals are billed back at a per diem rate of \$15 for breakfast, \$20 for lunch, and \$30 for dinner. Mileage will be reimbursed at the current IRS rate. All other travel-related expenses are billed back at actual cost, with no markup for overhead. *Travel will be dependent on COVID restrictions in place at the time and take into consideration the health and safety of team members of both SGR and the Organization.*

Reimbursable Expenses

- **Ad placements, as approved by the organization, will be billed back at actual cost with no markup for overhead.**

Supplemental Services

The supplemental services listed below are not included in the not-to-exceed price:

- Additional online interviews (over and above the twelve (12) included in the not-to-exceed price above) are offered for \$225 per candidate.
- Additional comprehensive media reports (over and above the five (5) included in the not-to-exceed price above) are offered for \$500 per candidate.
- Additional background investigation reports (over and above the five (5) included in the not-to-exceed price above) are offered for \$400 per candidate.
- Additional reference checks (over and above the five (5) included in the not-to-exceed price above) are offered for \$225 per candidate.
- There is a cost of \$175 per candidate for the DiSC Management Profile.
- Semifinalist and finalist briefing materials will be provided to the search committee via an electronic link. Should the organization request printing of those materials, the reproduction and shipping of briefing materials will be outsourced and be billed back at actual cost.
- Additional onsite visits (over and above the two (2) onsite visits included in the not-to-exceed price above) by one Recruiter will be billed over and above the not-to-exceed price. Travel and onsite time will be billed at a professional fee (per recruiter) of \$1,000 per half-day and \$1,500 per full day. Meals are billed back at a per diem rate of \$15 for breakfast, \$20 for lunch, and \$30 for dinner. Mileage will be reimbursed at the current IRS rate. All other travel-related expenses are billed back at actual cost, with no markup for overhead.
- Candidates are reimbursed directly by the organization for travel expenses.
- SGR will conduct a Stakeholder Survey for \$1,000. SGR provides recommended survey questions and sets up an online survey. Stakeholders are directed to a web page or invited to take the survey by email. A written summary of results is provided to the organization.
- A half-day onsite post-hire team building workshop is offered for \$4,000, plus travel expenses and \$150 per person for I-OPT reports.
- If the organization desires any supplemental services not mentioned in this section, an estimate of the cost and hours to be committed will be provided at that time, and no work shall be done without approval.

Billing

The professional service fee for the recruitment is billed in three equal installments during the course of the recruitment. The initial installment is billed after the position profile brochure has been created. The second installment is billed after semifinalists are selected. The final installment is billed at the conclusion of the recruitment. Expenses and supplemental services will be billed with each of the three installments, as appropriate.

Service Guarantee

SGR guarantees that you will be satisfied with the results of the full service recruitment process, or we will repeat the entire process one additional time and charge only for expenses. Additionally, if you select a candidate (that SGR has fully vetted) who resigns or is released **within 18 months of their hire date**, SGR will repeat the process one additional time and charge only for expenses.

If the organization circumvents SGR's recruitment process and selects a candidate who did not participate in the full recruitment process, the service guarantee is null and void. We also guarantee that we will not directly solicit a candidate we bring to you for another job.

Texas, continued

- Trophy Club
- Trophy Club Municipal Utility District
- Tyler
- Upper Brushy Creek Water Control & Improvement District
- Venus
- Victoria
- Visit McKinney
- Waco
- Waxahachie
- Weatherford
- Webster
- West Lake Hills
- West University Place
- Westworth Village
- Wichita Falls
- Willow Park
- Wills Point
- Wilmer

Virginia

- Orange County

Washington

- Bainbridge Island
- Bellevue
- Bellingham
- Blaine
- Burien
- Des Moines
- Kent
- Richland
- Shoreline
- Snohomish County Fire District #5
- Snoqualmie
- Spokane
- Spokane Regional Transportation Council
- Spokane Valley
- Walla Walla
- Whitworth Water District #2

Wyoming

- Campbell County
- Casper
- Laramie

Executive Recruitment Positions

Administration

- Assistant City Manager
- Assistant County Manager
- Chief Administrative Officer
- City Administrator/City Manager/Town Manager
- City Secretary
- Deputy City Manager
- Director of Administration
- Executive Director

Administrative Services/Internal Services

- Administrative Services Director
- Arts Director
- Assistant Police Director
- Chief Medical Examiner
- Event/Marketing Specialist
- Intergovernmental Services Manager
- Management Assistant
- Manager of Town Services

Animal Services/Environmental Health

- Animal Services Manager
- Animal Shelter Manager
- Animal Welfare Manager / Director
- Assistant Director of Code Compliance/Animal Welfare
- Director of Animal Care and Control
- Director of Regional Animal Services
- Environmental Health Director
- Executive Director of Animal Services

Development Services

- Assistant Property Management Director
- Building Official / Chief Building Official
- City Inspector
- Community Development Director/Manager
- Deputy Director of Development Services
- Development Services Director
- Municipal Services Director
- Neighborhood Services Director
- New Urbanist
- Planning & Community Development Director
- Property Management Director
- Redevelopment Project Manager

- Senior Building Inspector / Building Inspector
- Tourism and Community Development Director

Economic Development/CVB

- Assistant Economic Development Director
- Chamber of Commerce President
- CVB Executive Director
- Director of the Office of ED (County)
- Downtown Development Director
- Economic Development Corporation President/CEO
- Economic Development Director/Executive Director
- Economic Development Manager
- Executive Director of Port & Harbor Commission
- Senior Redevelopment Project Manager
- Vice President/Chief Econ Development Officer

Finance

- Accounting Services Supervisor
- Assistant Director of Finance
- Budget Director / Manager / Officer
- Capital Projects Budget Manager
- Chief Financial Officer
- Deputy Director of Finance
- Finance Controller / Auditor / Comptroller
- Finance Director/Finance Officer
- Finance Manager
- Purchasing Manager
- Senior Accountant
- Senior Budget Analyst
- Treasury Supervisor

Human Resources/Civil Services

- Assistant Human Resources Director
- Chief Performance Officer
- Director of Human Resources & Risk Management
- Human Resources/Civil Services Director

Information Technology

- Chief Information Officer
- Chief Technology Officer
- GIS Manager
- IT Assistant Director
- IT Developer / Director / Manager
- IT Manager (Police Department)

Executive Recruitment Positions

- Senior Software Developer

Innovation, Process Improvement & Sustainability

- Chief Knowledge Officer

Legal

- Assistant City Attorney
- City Attorney (Individual and Firm)
- Court Administrator
- Director of Municipal Court Services
- First Assistant City Attorney

Library

- Librarian
- Library Director
- Senior Librarian

Marketing and Community Engagement

- Community Relations Manager
- Community Services Administrator
- Community Services Director
- Director of Community Affairs
- Director of Marketing and Community Engagement
- Public Information Officer
- Public Relations Coordinator

Metropolitan Planning Organization

- Director of Metropolitan Planning Organization

Museum

- Museum Director

Parks and Recreation

- Parks and Recreation Director
- Park Superintendent
- Program Area Manager (Parks)
- Recreation Superintendent

Public Safety/EMS/Emergency Management

- Assistant Fire Chief
- Assistant Police Chief
- Chief of Public Safety
- Deputy Director, Emergency Communications
- Emergency Dispatch Director
- Emergency Management Coordinator

- EMS Executive Director
- Executive Director, Emergency Communications
- Fire Chief
- Homeland Security and Emergency Management Director
- Lieutenant
- Police Chief
- Public Safety Director

Public Works/Utilities/Engineering

- Assistant City Engineer
- Assistant General Manager for Water District
- Assistant Utilities Director
- Chief Plant Operator
- City Engineer
- City Planner
- City Services Director
- Deputy Director of Public Works/City Engineer
- Deputy Director of Utilities
- Director of Engineering & Environmental Services
- Director of Projects & Engineering
- Director of Public Services
- Director of Utilities
- Electric Utility Director
- Electrical Engineer
- Engineering Project Manager
- Engineering Services Manager for Water District
- Planning & Engineering Director
- Planning Manager
- Public Works Assistant Director
- Public Works Director
- Public Works Director/City Engineer
- Water District Executive Director
- Water District General Manager

Transportation/Fleet Services

- Assistant Municipal Garage Superintendent
- Director of Operations and Maintenance
- Director of Street Operations
- Equipment Services Manager
- Facilities Services Manager
- Fixed-Base Operator Services
- Fleet Equipment Services Manager
- Senior Transportation Planner

**MINUTES OF ADHOC MEETING OF THE BOARD OF DIRECTORS OF
STRATEGIC GOVERNMENT RESOURCE, INC.**

Corporate Resolution of Signing Authority

WHEREAS, the Corporation is determined to grant signing and authority to certain person(s) described hereunder.

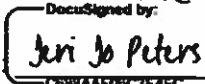
RESOLVED, that the Board of Directors is hereby authorized and approved to authorize and empower the following individual to make, execute, endorse and deliver in the name of and on behalf of the corporation, but shall not be limited to, any and all written instruments, agreements, documents, execution of deeds, powers of attorney, transfers, assignments, contracts, obligations, certificates and other instruments of whatever nature entered into by this Corporation.

Name: JJ PETERS

Position/Title: PRESIDENT OF RECRUITMENT AND HUMAN RESOURCES

Telephone Number: 817-753-3153

Email Address: JJPeters@GovernmentResource.com

Signature:  DocuSigned by:
C688A7AF06C3E4FC

The undersigned certifies that he/she is the properly elected and qualified Secretary of the books, records and seal of STRATEGIC GOVERNMENT RESOURCES, INC, a corporation duly conformed pursuant to the laws of the state of TEXAS, and that said meeting was held in accordance with state law and with the Bylaws of the above-named corporation.

This resolution has been approved by the Board of Directors of STRATEGIC GOVERNMENT RESOURCES, INC. on 5/27/2021 12:16 PM CDT.

I, as authorized by the Company, hereby certify and attest that all the information above is true and correct.

 DocuSigned by:
5D006388BA29477

Secretary

Commercial General Liability Requirements: \$1M occurrence / \$2M aggregate (can be combined with an Excess Liability to meet requirement). Commercial General Liability to include Products – Completion/OP, Personal and Advertising Injury, Contractual Liability, Fire Damage (any one fire), and Medical Expenses (any one person).

Professional Liability Requirements: \$1M occurrence / \$2M aggregate

Workers Compensation Requirements: Statutory. If the vendor is an independent contractor with no employees and are exempt from providing Workers' Compensation coverage, they must sign a waiver (obtained from COL Purchasing) and include a copy of their driver's license. Employer Liability (\$1) is required with Workers Compensation.

-
- The City of Lubbock (including its officials, employees and volunteers) shall be afforded additional insured status on a primary and non-contributory basis on all liability policies except professional liabilities and workers' comp.
 - Waivers of Subrogation are required for CGL, AL, and WC.
 - To Include Products of Completed Operations endorsement.
 - Carrier will provide a 30-day written notice of cancellation, 10-day written notice for non-payment.
 - Carriers must meet a A.M. Best rating of A- or better.
 - Subcontractors must carry same limits as listed above.



Purchasing and Contract Management

Project Summary

RFP 23-16872-MA- Executive Recruitment Services

Notice was published in the Lubbock Avalanche Journal on September 25, & October 2, 2022.

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

Notice was published on the State of Texas Electronic State Business Daily.

Notice was published on Bonfire.com from September 23 to October 11, 2022.

29 vendors downloaded the documents using Bonfire.com.

6 vendors were notified separately.

5 vendors submitted proposals.

Information

Agenda Item

Resolution - City Manager: Consider a resolution authorizing the Mayor to execute for and on behalf of the City of Lubbock, a Real Estate Purchase and Sale Agreement, for the purchase of certain real property located in Block B, Section 2, Abstract 659, Lubbock County, Texas, owned by BNSF Railway Company.

Item Summary

The BNSF Railway Company desires to sell a portion of the railroad of Right-of-Way located at Block B, Section 2, Abstract 659, Lubbock, Texas, to the City of Lubbock, as outlined in Exhibit A of the Real Estate Purchase and Sale Agreement. The land will be used for a public purpose determined by the City at a later date.

Fiscal Impact

The purchase price of the land is \$10,000 and is available in NonDepartmental Cost Center, 1115.9280, Capital Outlay Land.

Staff/Board Recommending

Erik Rejino, Assistant City Manager

Attachments

Resolution - BNSF

BNSF Real Estate Purchase and Sale Agmt

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Real Estate Purchase and Sale Agreement for the purchase of certain real property located in Block B, Section 2, Abstract 659, Lubbock County, Texas, by and between the City of Lubbock and the BNSF Railway Company, and all related documents. Said Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

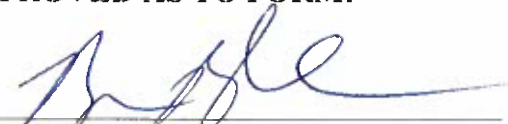
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Ryan Brooke, Assistant City Attorney

RES. Purchase and Sale Agreement, BNSF Railway Company
11.18.22

BNSF Railway Company

Real Estate Purchase and Sale Agreement

The undersigned, hereinafter called "Buyer" offers to purchase from BNSF Railway Company, hereinafter called "Seller", Seller's interests in a portion of its right-of-way (at or near) City of Lubbock, County of Lubbock, and State of Texas, as shown on Exhibit "A" ("Property"), attached hereto and made a part hereof.

Seller will convey its interests in the parcel to Buyer for a purchase price of Ten Thousand Dollars and No/100 (\$10,000.00). Seller will convey its interest by Deed Without Warranty reserving minerals as outlined below. Seller makes no representations or warranties whatsoever. Buyer expressly acknowledges that Buyer is acquiring Seller's interest in the parcel in an "AS IS" condition and that Buyer has relied upon its own independent investigation of the physical condition of the parcel. Buyer agrees to release and indemnify Seller and Seller's shareholders, officers, directors, agents and employees from all responsibility and liability regarding the condition (including, but not limited to, the physical or environmental condition, including the presence of hazardous materials), valuation or utility of the parcel. Any outstanding taxes and costs for survey, abstract, title insurance, documentary stamps, excise tax and other costs, are Buyer's responsibility. Buyer further agrees to indemnify Seller from future responsibility for the construction and maintenance of any railroad fences, road crossings, cattle guards, gates, farm crossings, buildings, and drainage or irrigation pipes located on or adjacent to the parcel to be conveyed.

Buyer's interest shall be subject to the rights and interests of Seller, Seller's licensees, permittees and other third parties in and to all existing driveways, roads, utilities, fiber optic lines, tracks, wires and easements of any kind whatsoever on the Property whether owned, operated, used or maintained by the Seller, Seller's licensees, permittees or other third parties and whether or not of public record.

For 99 years after the Closing Date, Buyer covenants and agrees that the Property shall be used solely for non-residential purposes and that the groundwater shall not be used for drinking water or irrigation purposes.

Buyer's interest shall be subject to a reservation to Seller of all coal, oil, gas, casing-head gas and all ores and minerals of every kind and nature including sand and gravel underlying the surface of the Property, together with the full right, privilege and license at any and all times to explore, or drill for and to protect, conserve, mine, take, remove and market any and all such products in any manner which will not damage structures on the surface of the Property, together with the right of access at all times to exercise said rights.

After the Effective Date, Buyer shall, at Buyer's sole cost and expense, cause to be prepared a survey of the Property certified to Seller, Buyer and such other parties as Buyer may choose showing the boundaries of the Property and any improvements located thereon (the "Survey"). Said Survey shall be delivered to Seller no later than twenty (20) days prior to the Closing Date. Seller shall have the right to review and require necessary changes to the Survey to more accurately describe the Property and any Easements located thereon. If Seller does not agree that the description of the Property contained on the Survey is the Property Seller wishes to sell or otherwise objects to the Survey then Seller may terminate this Agreement by written notice to Buyer in which case the Earnest Money shall be refunded to Buyer and neither party shall have any further obligation hereunder except those that expressly survive termination. If Seller agrees in writing that the Survey description is accurate then the description thereon shall be the definition of the Property for all purposes under this Agreement. In the event a city, county, or other governing authority where the Property is located (a "Municipality") requires a survey or plat to convey the Property (a "Plat"), the Buyer shall obtain, at Buyer's sole cost and expense, such Plat and the approval of such Municipality. Seller's obligations hereunder are conditioned upon Seller's approval of the Plat approved by the Municipality. Buyer shall provide the proposed Plat to Seller prior to submission to the Municipality and prior to the expiration of the Review Period.

Buyer understands the foregoing. Buyer further understands that railroad property may be subject to reversion on abandonment of use for railroad purposes; that Seller's quitclaim deed conveys only whatever interests it may have in the parcel, if any; and that the deed does not necessarily convey fee title or give Buyer ownership of the parcel as against the claims of anyone other than Seller. Buyer herewith deposits as earnest money the sum of Ten Thousand Dollars and No/100 (\$10,000.00) to be applied against the purchase price. Said check shall be made payable to The Bank of New York Mellon Trust Company, NA. Buyer acknowledges that a material consideration for this agreement, without which it would not be made, is the agreement between Buyer and Seller, that the Buyer shall pay upon return of this Agreement signed by Buyer to Seller's Broker a processing fee in the amount of Two Thousand Five Hundred Dollars and No/100 (\$2,500.00) over and above the agreed upon Purchase Price. Said fee shall be made payable to the BNSF Railway Company, by a separate check. Notwithstanding anything set forth herein to the contrary, the balance of the purchase price shall be due ten (10) days from notice that Seller's deed is ready for delivery. Time is of the essence of this contract, and if Buyer shall default or fail to perform the requirements of this contract within the time limits herein specified, the Seller may retain the deposit as agreed liquidated damages and just compensation, and not as a penalty or forfeiture, and declare this contract terminated. In the event of default by Seller, Buyer's sole remedy shall be a return of the earnest money deposit.

Buyer shall not be entitled to object to the lien of any of Seller's mortgages. Seller shall deliver to Buyer, who shall place of record, good and sufficient releases of the liens of any mortgages on the Property securing indebtedness to which Seller is obligated to pay within one hundred eighty (180) days after the first meeting of Seller's Board of Directors held after the Closing. In the event Seller shall be unable to obtain said releases for any reason, Seller shall have the right to repurchase the Property from Buyer for the Purchase Price and Buyer shall reconvey the Property to Seller free and clear of defects or objections arising after the Effective Date upon which this Agreement shall terminate and neither party shall have any further rights or obligations hereunder except those that expressly survive termination.

Seller may assign its rights (but not its obligations) under this Agreement to Goldfinch Exchange Company, LLC, (Goldfinch) an exchange intermediary, in order for Seller to effect an exchange under Section 1031 of the Internal Revenue Code. In such event, Seller shall provide Buyer with a Notice of Assignment, attached as Exhibit B, and Buyer shall execute an acknowledgement of receipt of such notice. Buyer may also assign its rights (but not its obligations) under this Agreement to an exchange intermediary in order for Buyer to effect an exchange under Section 1031 of the Internal of Revenue Code.

On or prior to the Effective Date, Broker has advised and hereby advises Seller and Buyer, by this writing and by other means, of the existence and availability of the Texas Real Estate Recovery Fund, which was and is established for the purpose of reimbursing certain aggrieved persons who suffer actual damages by reason of certain acts committed by a duly licensed real estate broker or salesman, or by an unlicensed employee or agent of a broker or salesman, provided the broker or salesman was licensed by the State of Texas at the time the act was committed and provided recovery is ordered by a court of competent jurisdiction against the broker or salesman, and Seller and Buyer hereby acknowledge that they have been so advised. Seller and Buyer are hereby advised that the Texas Real Estate Commission administers two recovery funds which may be used to satisfy judgments against inspectors and real estate licensees involving a violation of the law. Seller and Buyer are hereby advised that if they have any questions regarding the Texas Real Estate Recovery Fund or the Texas Real Estate Inspection Recovery Fund or if they desire to direct a complaint to the Texas Real Estate Commission, they should contact the Texas Real Estate Commission at the following address and telephone number: Texas Real Estate Commission, P. O. Box 12188, Capitol Station, Austin, Texas 78711-2188 (telephone no. (512) 465-3960).

Buyer has been allowed to make an inspection of the property and has knowledge as to the past use of the property. Based upon this inspection and knowledge, Buyer is aware of the condition of the property and BUYER SPECIFICALLY ACKNOWLEDGES THAT BUYER IS PURCHASING THE PROPERTY IN AN "AS-IS WITH ALL FAULTS" BASIS AND THAT BUYER IS NOT RELYING ON ANY REPRESENTATION OR WARRANTIES OF ANY KIND WHATSOEVER FROM SELLER AS TO ANY MATTERS CONCERNING THE PROPERTY, including without limitation the physical or environmental condition of the property and any defects thereof, the presence of any hazardous substances, wastes or

contaminants in, on or under the property, the condition or existence of any of the above ground or underground structures or improvements in, on or under the property, the condition of title to the property, and the leases, easements or other agreements affecting the property. Buyer assumes the risk that hazardous substances and contaminants may be present on the property, and indemnifies, holds harmless and hereby waives, releases and discharges forever Seller from any and all present or future claims or demands, and any and all damages, loss, injury, liability, claims or costs, including fines, penalties and judgments, arising from or in any way related to the condition of the property or presence of any hazardous substances or contaminants in, or under the property.

This indemnity specifically includes the obligation of Buyer to remove, close, remediate, reimburse or take other actions requested or required by any governmental agency concerning any hazardous substances or contaminants on the property.

By: _____ Date: _____

Title: _____

Printed below is the name(s) and address(s) as they should appear in the deed of conveyance:

Buyer's Phone: _____

ACCEPTED BY: BNSF RAILWAY COMPANY

By: _____ Date: _____

Print Name: Dean Ferris

Title: BNSF Director of Right of Way and Real Estate Management

SCALE: 1 IN = 400 FT

JUL 11, 2022
BIV Proj. No.: 12196.003
MAP REFERENCE
STA. = -
RW = 156796

This map used by BNSF RAILWAY COMPANY in the ordinary course of business, but it is subject to audit and should be used only with the expressed understanding the BNSF make no representations whatsoever about the quality, accuracy, errors or omissions relating to this map



TO: CITY OF LUBBOCK
AT: LUBBOCK
LUBBOCK COUNTY,
TX

LEGEND:
[Green outline] SALE AREA
[Yellow outline] RIGHT OF WAY LINE
[Thin black line] PARCEL LINES
[Thick black line] TRACK

Lamb	Hale	Floyd
Hockley	Lubbock	Crosby
Terry	USG	Garza
		Dickens

MEASUREMENTS BASED ON PROVIDED SURVEYS
(S) MEASUREMENTS TAKEN OFF SURVEY
(M) MEASUREMENT

RED RIVER DIVISION
SLATON SUBDIVISION - L.S. 0487-1
VAL SEC. 45012
FW&DSP RY TX-02, MAP 21
SURVEY: TT RR CO
DATE: 10/28/2022
OPP MP 676.39

DRAWN BY: TTR DRAWING NO. 86128

EXHIBIT “B”

NOTICE OF ASSIGNMENT

Goldfinch Exchange Company LLC

A Delaware limited liability company

2001 Western Avenue, Suite 330

Seattle, WA 98121

425-646-4020

206-728-0935 fax

NOTICE OF ASSIGNMENT

TO:

_____ and any assignees or exchange intermediaries of Buyer

You and BNSF Railway Company ("BNSF") have entered into the Real Estate Purchase and Sale Agreement, dated _____, 20__ for the sale of the real property described therein. You are hereby notified that BNSF has assigned its rights as Seller, but not its obligations, to Goldfinch Exchange Company LLC for the purpose of effecting a tax deferred exchange under Internal Revenue Code Section 1031. This is an assignment of rights only and BNSF will deed the property directly to you.

ACKNOWLEDGED:

By: _____

Print Name: _____

Title: _____

Information

Agenda Item

Ordinance 2nd Reading - Planning (District 1): Consider Ordinance No. 2022-00161, for Zone Case 0604-A, a request of George Castillo, for a zone change from General Retail District (C-3) to Reduced Setback Single-Family District (R-1A), at 303 North Avenue Q, located north of Baylor Street and west of North Avenue Q, Manson Heights Addition, Block 1, Lot 2.

Item Summary

On November 16, 2022, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on November 3, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance - 604-A
Staff Report - 604-A
Documentation - 604-A

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. 0604-A; A ZONING CHANGE FROM C-3 TO R-1A ZONING DISTRICT AT 303 NORTH AVENUE Q, LOCATED NORTH OF BAYLOR STREET AND WEST OF NORTH AVENUE Q, MANSON HEIGHTS ADDITION, BLOCK 1, LOT 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. 0604-A

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **C-3** to **R-1A** zoning district at **303 North Avenue Q, located north of Baylor Street and west of North Avenue Q, Manson Heights Addition, Block 1, Lot 2, 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 _____.

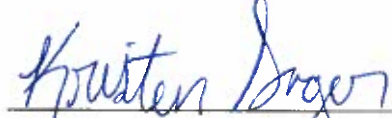
Passed by the City Council on second reading on _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kristen Sager, Director of Planning

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC0604-A
November 3, 2022

Staff Report		Zone Case 604-A
City Council Meeting		November 16, 2022

Applicant George Castillo

Property Owner George Castillo

Council District 1

Recommendations

- Staff recommends approval of this request.

Prior Board or Council Action

- December 15, 1949, Ordinance No. 941: The subject property was annexed into the City of Lubbock and zoned Single-Family District (A).
- January 11, 1951, Zone Case 242, Ordinance No. 1051: The subject property was zoned Local Retail District (F).
- July 24, 1952, Zone Case 383, Ordinance No. 1249: The subject property was rezoned from Local Retail District (F) to Multi-Family Residential District (R-3).
- November 20, 1956, Zone Case 604, Ordinance 2060: The subject property was rezoned from Multi-Family Residential District (R-3) to General Retail District (C-3).
- November 3, 2022, Zone Case 604-A: The Planning and Zoning Commission recommended approval of a zone change from General Retail District (C-3) to Reduced Setbacks Single-Family District (R-1A) by a vote of 9-0-0.

Notification Summary

- Notifications Sent: 18
- Received In Favor: 0
- Received In Opposition: 1

Site Conditions and History

The property was platted on September 13, 1948 as Manson Heights Addition, Block 1, Lot 2. On or around 1951 a single family home was constructed on this lot. In 1977, the structure was removed from the lot. The subject property has remained vacant since.

Adjacent Property Development

The surrounding properties are zoned Single-Family District (R-1), Multi-Family District (R-3), and General Retail District (C-3). To the north and west are single family homes with a commercial building to the south and vacant lots to the east.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 303 North Avenue Q, located north of Baylor Street and west of North Avenue Q. The applicant is requesting a zone change from General Retail District (C-3) to Reduced Setback Single-Family District (R-1A).

Current zoning: General Retail District (C-3)

Requested zoning: Reduced Setback Single-Family District (R-1A)

Intent Statements

The intent of the current C-3 zoning is "...to provide for general commercial uses which are medium activity centers in terms of generated traffic. Such districts should be adjacent to local or regional thoroughfares such as state or federal highways. Because of the commercial nature of the permitted uses, compatibility with adjacent residential areas should be considered."

The intent of the proposed 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."

Traffic Network/Infrastructure Impacts

The location is along North Avenue Q, which is designated as a local street. Local Streets typically provide access to smaller, destination oriented areas, such as neighborhoods, subdivisions or local business districts, and carry traffic to and from the main transportation system.

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 "Low-Density Residential" land uses. This request does conform to this designation, and would be appropriate next to adjacent residential districts. Therefore this request is in complete conformance with the Comprehensive Plan.

Conformance with Zoning Ordinance

The proposed zone change is in conformance with the zoning ordinance. The property is located along a local street and is compatible next to residential land uses.

Suitability of Property for Allowed Uses

The property is suitable for the proposed residential uses, though additional improvements may be necessary.

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 Responses

Staff Contacts

Shane Spencer
Planner
Planning Department
806-775-2103
sspencer@mylubbock.us

Victor Escamilla
Planning and Zoning Manager
Planning Department
806-775-3029
vescamilla@mylubbock.us

Case Information: Zone Case 604-A



Allowable Uses: [Reduced Setbacks Single-Family District \(R-1A\)](#)

Transportation: The proposed development has a point of access from North Avenue Q.

Thoroughfare	Existing	Per Thoroughfare Development Plan
North Avenue Q, Local Street, Completed	R.O.W. 30 feet, 2 lane, undivided, paved.	R.O.W. 30 feet, 2 lanes, 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

District 1

5.1 **Zone Case 0604-A:** George Castillo
Request for a zone change from General Retail District (C-3) to Reduced Setback Single-Family District (R-1A), at:

- 303 North Avenue Q, located north of Baylor Street and west of North Avenue Q, Manson Heights Addition, Block 1, Lot 2.

PLANNER SHANE SPENCER stated there were eighteen (18) notifications sent out with one (1) returned in opposition. Staff shared the location of the property including pictures, maps, and discussed the surrounding properties. Staff recommends approval of the request.

JAMES BELL asked staff what additional improvements would be needed. **MR. SPENCER** said he could not think of anything right off hand, since the street is already paved and full width, with water and sewer nearby.

APPLICANT was present but did not speak.

Opposed: **GARLAND BOWERS**, 1702 Baylor Street, owner of the building next door, said he is not opposed, but wants to make sure his property would remain zoned C-3 and not be affected by the zone change. **CHAIR SAWYER** said it would only apply to 303 North Avenue Q. **MR. BOWERS** said "I'm good with it, let them have it".

No one else spoke in favor or in opposition to the request.

Zone Case 604-A

In the matter of **Zone Case 0604-A**, a motion was made by **TANNER NOBLE** and seconded by **BRANDON HARDAWAY** to approve the request and the Commission members voted 9 (in favor) to 0 (in opposition) to approve the motion. The item will be forwarded to City Council for consideration.

Zoning Case 0604-A



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

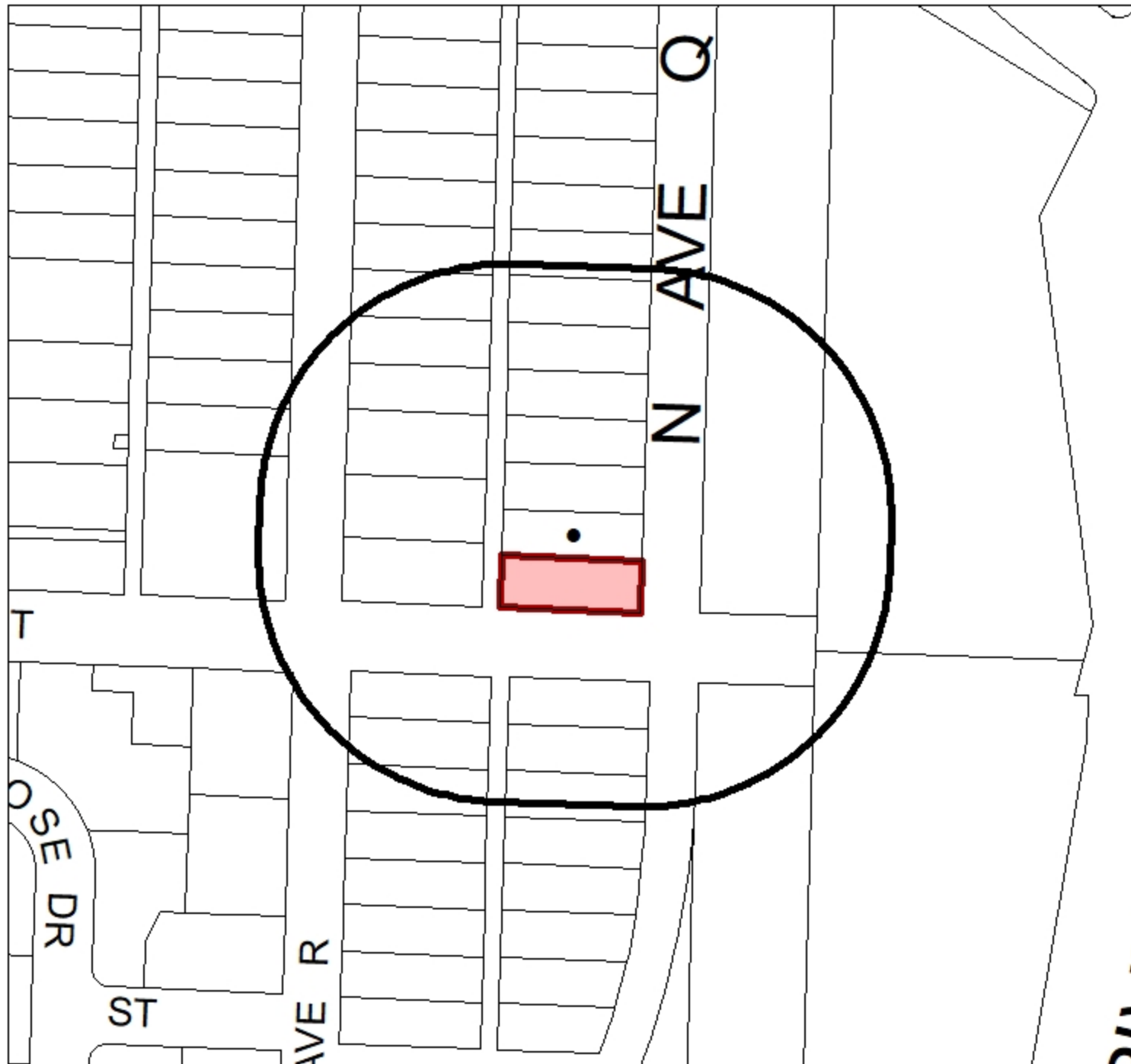


Legend

- LocatorPnt0604_A
- ◻ MailoutBuffer0604_A

Notification Result

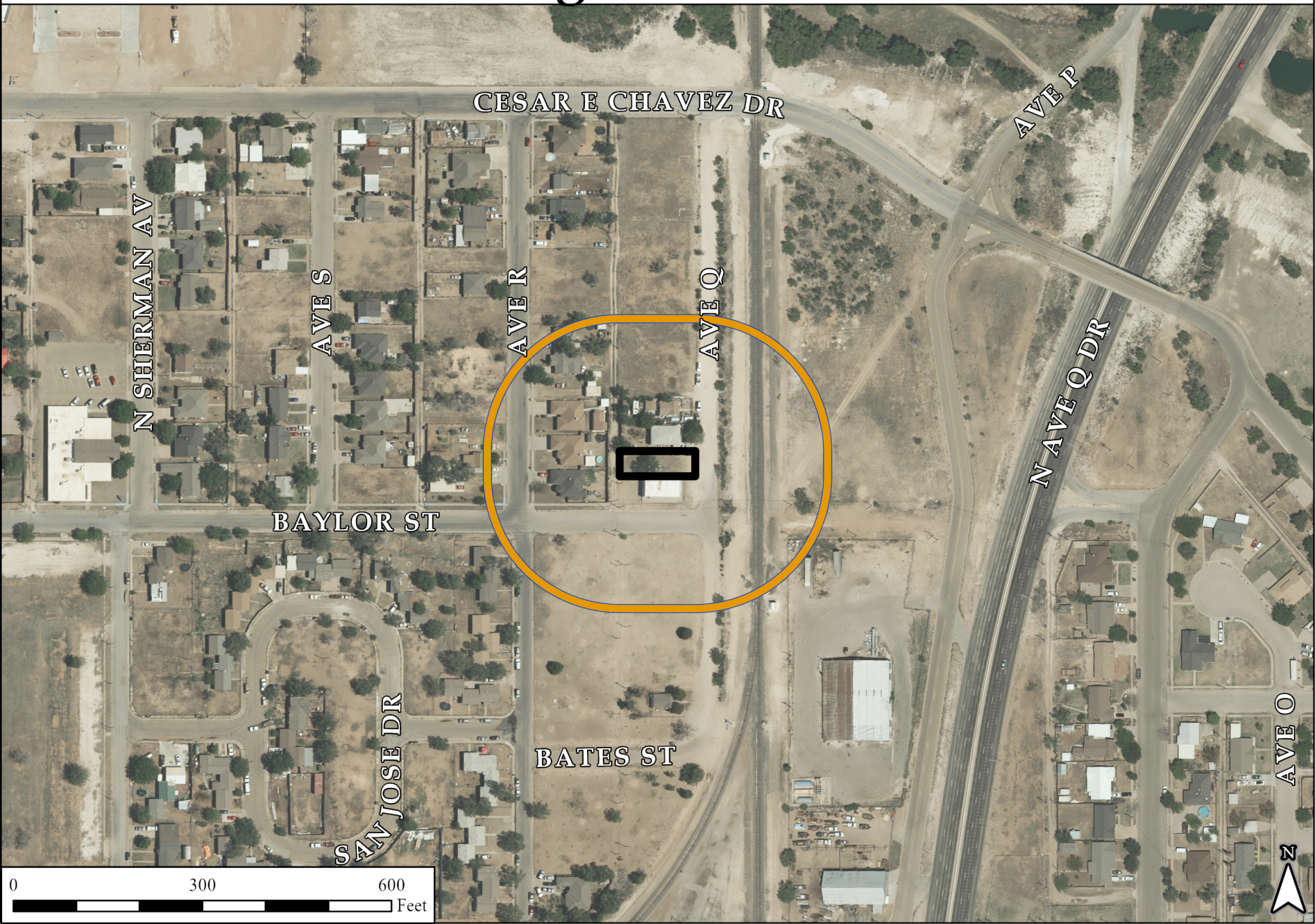
- ◻ In Favor
- ◻ Opposed



0 75 150 300 Feet

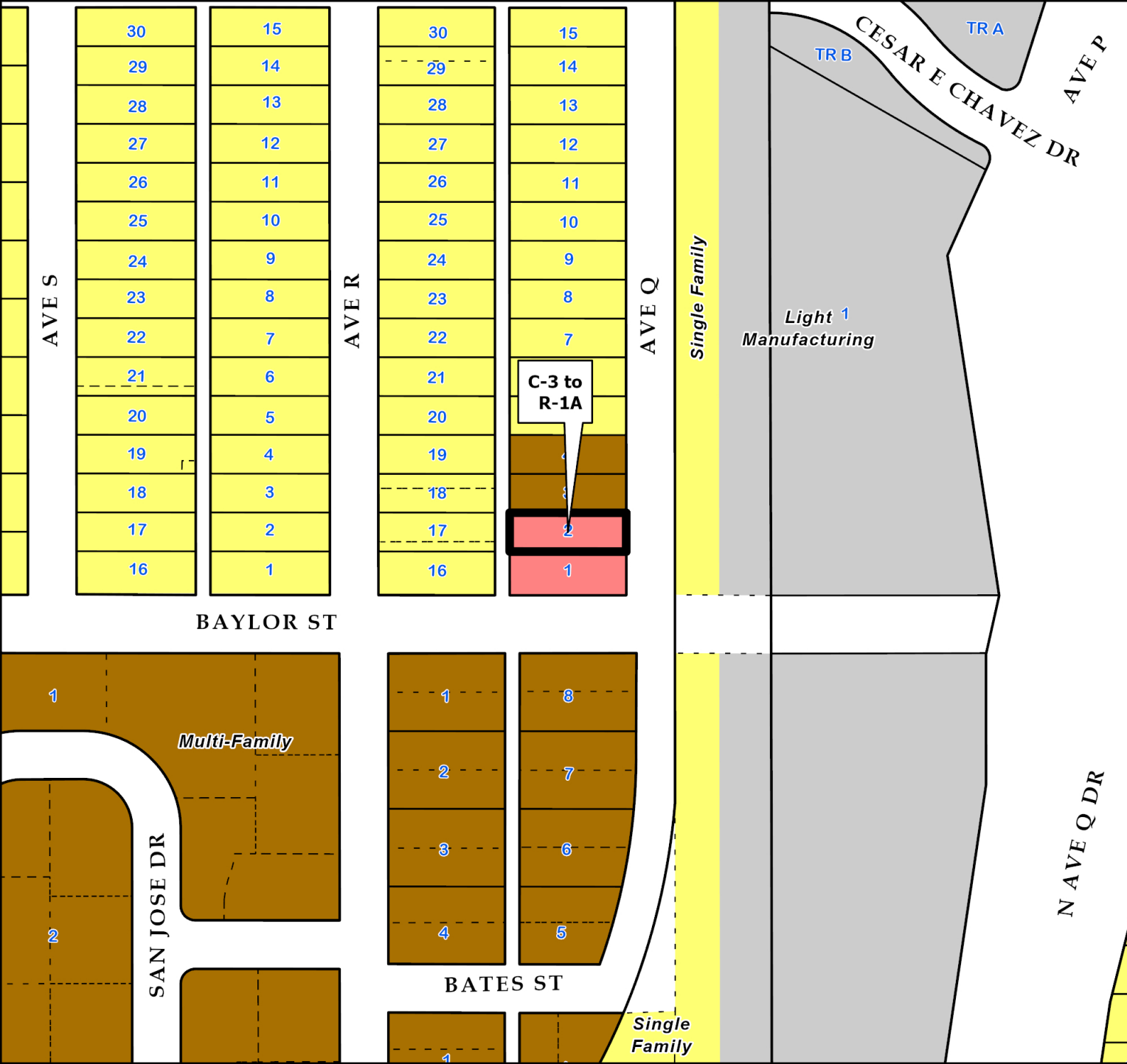
Created by Planning Department
Date: 10/28/2022

Zoning Case 0604-A







0 300 600 Feet

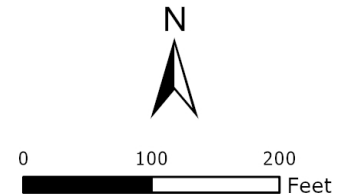


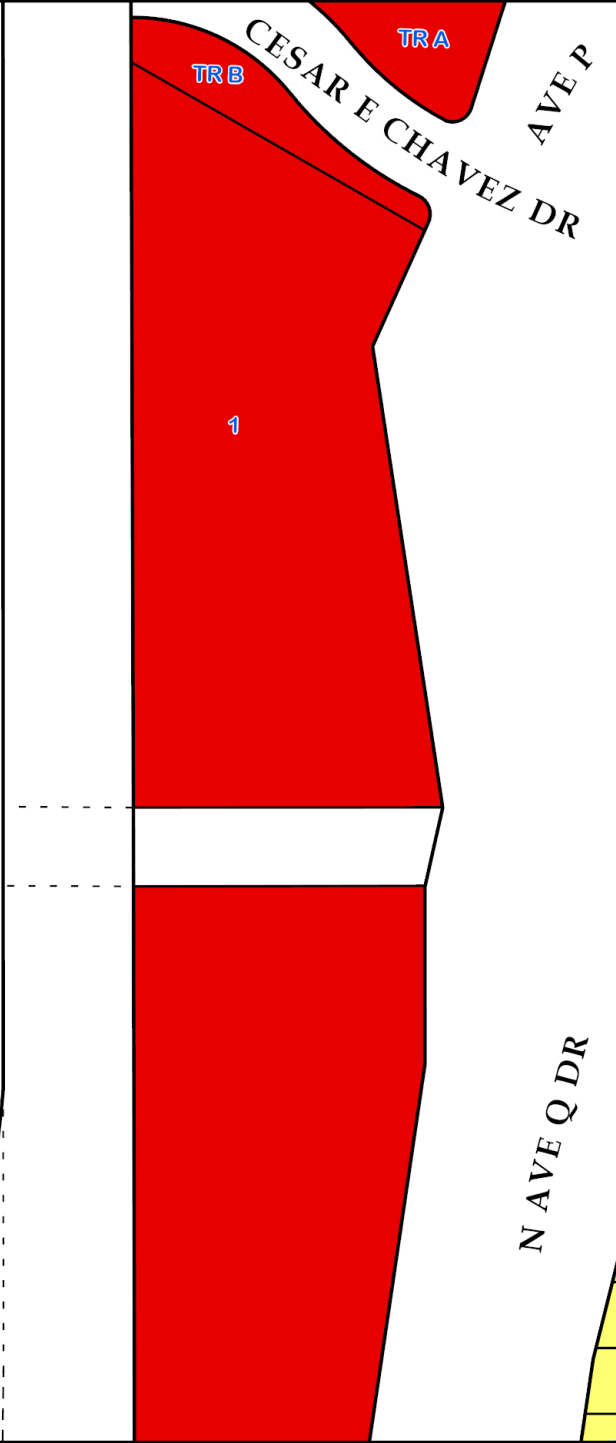
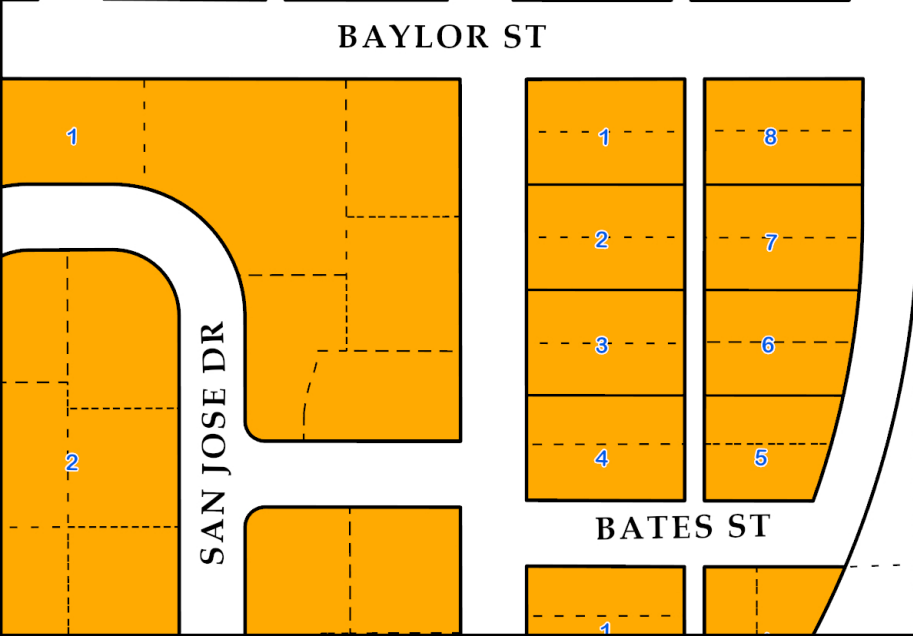
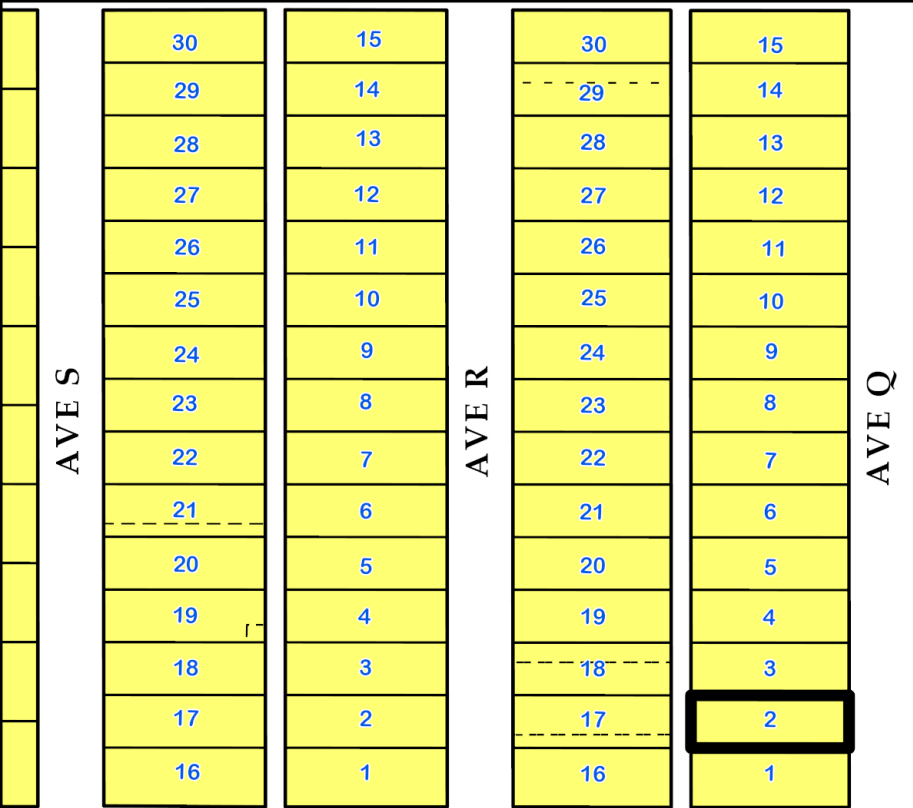


Current Zoning

0604-A Zoning Districts

-  General Retail
-  Light Manufacturing
-  Single Family
-  Multi-Family

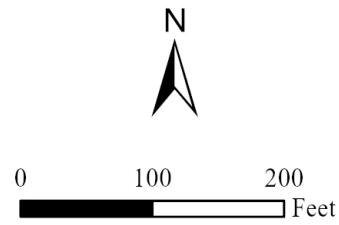




Future Land Use Plan Case 0604-A

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



604-A



View to the north.



View to the east.



View to the south.



View to the west. Subject Property.



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

0604-A

Project Information

Location or Address: 303 W Ave @
Lots/Tracts: Mason Heights BLK 1 L2
Survey & Abstract: _____
Metes and Bounds Attached: Yes ☐ No ☐ Total Acreage of Request: .11 acres
Existing Land Use: Vacant subdivided Existing Zoning: C-3
Requested Zoning: R-1A
If property is not subdivided, will a preliminary plat be submitted? Yes ☒ No ☐

Representative/Agent Information (if different from owner)

Firm Name: George Castillo
Name: Procedential Enterprise LLC
Address: 10620 Salem Ave City: Lubbock State: TX
ZIP Code: 79424 Telephone: 806 713-2578 Email: castillo100123@yahoo.com
Applicant's Signature: _____
Date: 9-7-2022 Printed Name: George Castillo

Owner Information

Firm Name: The same as Above PJ
Owner: _____
Address: _____ City: _____ State: _____
ZIP Code: _____ Telephone: _____ Email: _____
Property Owner's Signature: _____
Date: _____ Printed Name: _____

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.: **0604-A**

In Favor

Opposed



Reasons and/or Comments:

Print Name T. GARLAND BOWERS
Signature: *T. Garland Bowers*
Address: 401 N. I-27 Lubbock TX 79403
Address of Property Owned: 1702 Buylar
Phone Number: 806 763-5923
Email: Katy@bowersplastics.com

Zone Case Number: **0604-A** R94048
BOWERS PROPERTY MANAGEMENT LLC
401 N INTERSTATE 27
LUBBOCK TX 79403



Information

Agenda Item

Ordinance 2nd Reading - Planning (District 1): Consider Ordinance No. 2022-00162, for Zone Case 2565-F, a request of Jessie R. Romero, for a zone change from Interstate Highway Commercial District (IHC) to Reduced Setback Single-Family District (R-1A), at 915 32nd Street, located south of 32nd Street and west of Interstate 27, Flynn Place Addition, Block 3, the west 28.59 feet of Lot 10 and Lot 11.

Item Summary

On November 16, 2022, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on November 3, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance - 2565-F

Staff Report - 2565-F

Documentation - 2565-F

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. 2565-F; A ZONING CHANGE FROM IHC TO R-1A ZONING DISTRICT AT 915 32ND STREET, LOCATED SOUTH OF 32ND STREET AND WEST OF INTERSTATE 27, FLYNN PLACE ADDITION, BLOCK 3, THE WEST 28.59 FEET OF LOT 10 AND LOT 11, 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. 2565-F

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 **IHC** to **R-1A** zoning district at **915 32nd Street, located south of 32nd Street and west of Interstate 27, Flynn Place Addition, Block 3, the west 28.59 feet of Lot 10 and Lot 11, 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 _____.

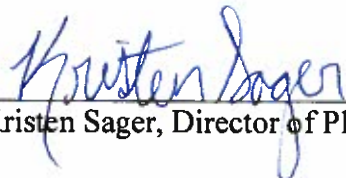
Passed by the City Council on second reading on _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kristen Sager, Director of Planning

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC2565-F
November 3, 2022

Staff Report		Zone Case 2565-F
City Council Meeting		November 16, 2022

Applicant Jessie R. Romero

Property Owner Jessie R. Romero

Council District 2

Recommendations

- Staff recommends approval of this request.

Prior Board or Council Action

- April 22, 1909, Ordinance V1 P12: The subject property was established as part of the original city limits.
- March 13, 1941, Original Zoning Ordinance No. 661: The subject property was zoned C District.
- May 22, 1952, Zone Case 0350, Ordinance No. 1217: The subject property was rezoned from C District to B District.
- December 8, 1966, Zone Case 1446-A, Ordinance No. 5134: The subject property was rezoned from Two-Family District (R-2) to Commercial District (C-4).
- August 14, 1986, Zone Case 2565, Ordinance No. 8947: The subject property was rezoned from C-4, General Retail District (C-3), Light Manufacturing District (M-1) and Heavy Manufacturing District (M-2) to Interstate Highway Commercial District (IHC).
- November 3, 2022, Zone Case 2565-F: The Planning and Zoning Commission recommended approval for a zone change from Interstate Highway Commercial (IHC) to Reduced Setback Single-Family District (R-1A) by a vote of 9-0-0.

Notification Summary

- Notifications Sent: 18
- Received In Favor: 1
- Received In Opposition: 0

Site Conditions and History

The subject property was platted as Flynn Place Addition, Block 3, Lots 10 and 11 on February 25, 1925 and remains vacant.

Adjacent Property Development

The properties to the north and west are zoned IHC and are developed with residential homes. The property to the south is zoned IHC and remains vacant. To the east is Interstate 27.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 915 32nd Street and is located south of 32nd Street and west of Interstate 27. The applicant requests a zone change from IHC to Reduced Setback Single-Family District (R-1A).

Current zoning: Interstate Highway Commercial District (IHC)

Requested zoning: Reduced Setback Single-Family District (R-1A)

Intent Statements

The intent of the current IHC zoning is, "...to provide for quality commercial office, retail and wholesale uses

which serve a city-wide or regional area. Such uses require careful consideration when adjacent to residential areas.”

The intent of the proposed 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.”

Traffic Network/Infrastructure Impacts

The proposed rezoning location will be along 32nd Street and Interstate 27. 32nd Street is designated as a Local Street and Interstate 27 is designated as a Freeway by the Master Thoroughfare Plan, 2018. Local Streets typically provide access to smaller, destination-oriented areas, such as neighborhoods, subdivisions or local business districts. Freeways are intended to move high volumes of automobile traffic at relatively high speeds over long distances.

Compatibility with Surrounding Property

The proposed zoning is compatible with the surrounding area and will not change the character of the existing development. There are residential homes to the north and west of the subject property.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The Future Land Use Map designates this area for “Low Density Residential” land uses. The proposed zone change to R-1A would be in conformance with the principles of the 2040 Comprehensive Plan and is appropriate in this location next to other residential homes that are already established. Note, the residential homes surrounding the subject property were developed prior to the zone change to IHC in 1986.

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 use and will not need additional public improvements to support the intensity of uses described in R-1A 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 Responses

Staff Contacts

Ashley Padilla
Planner
Planning Department
806-775-2107

ashleypadilla@mylubbock.us

Victor Escamilla
Planning and Zoning Manager
Planning Department
806-775-3029

vescamilla@mylubbock.us

Case Information: Zone Case 2565-F



Allowable Uses: [Reduced Setback Single-Family District \(R-1A\)](#)

Transportation: The proposed development has points of access from Interstate Highway 27 and 32nd Street.

Thoroughfare	Existing	Per Thoroughfare Development Plan
Interstate Highway 27, Freeway, Completed	R.O.W. 440 feet, thirteen-lane, undivided, paved	R.O.W. 440 feet, thirteen-lane, undivided, paved
32 nd Street, Local Street, Completed	R.O.W 50 feet, two-lane, undivided, not paved	R.O.W 52 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

District 2

5.2 **Zone Case 2565-F:** Jessie R. Romero

Request for a zone change from Interstate Highway Commercial District (IHC) to Reduced Setback Single-Family District (R-1A), at:

- 915 32nd Street, located south of 32nd Street and west of Interstate 27, Flynn Place Addition, Block 3, the west 28.59 feet of Lot 10 and Lot 11.

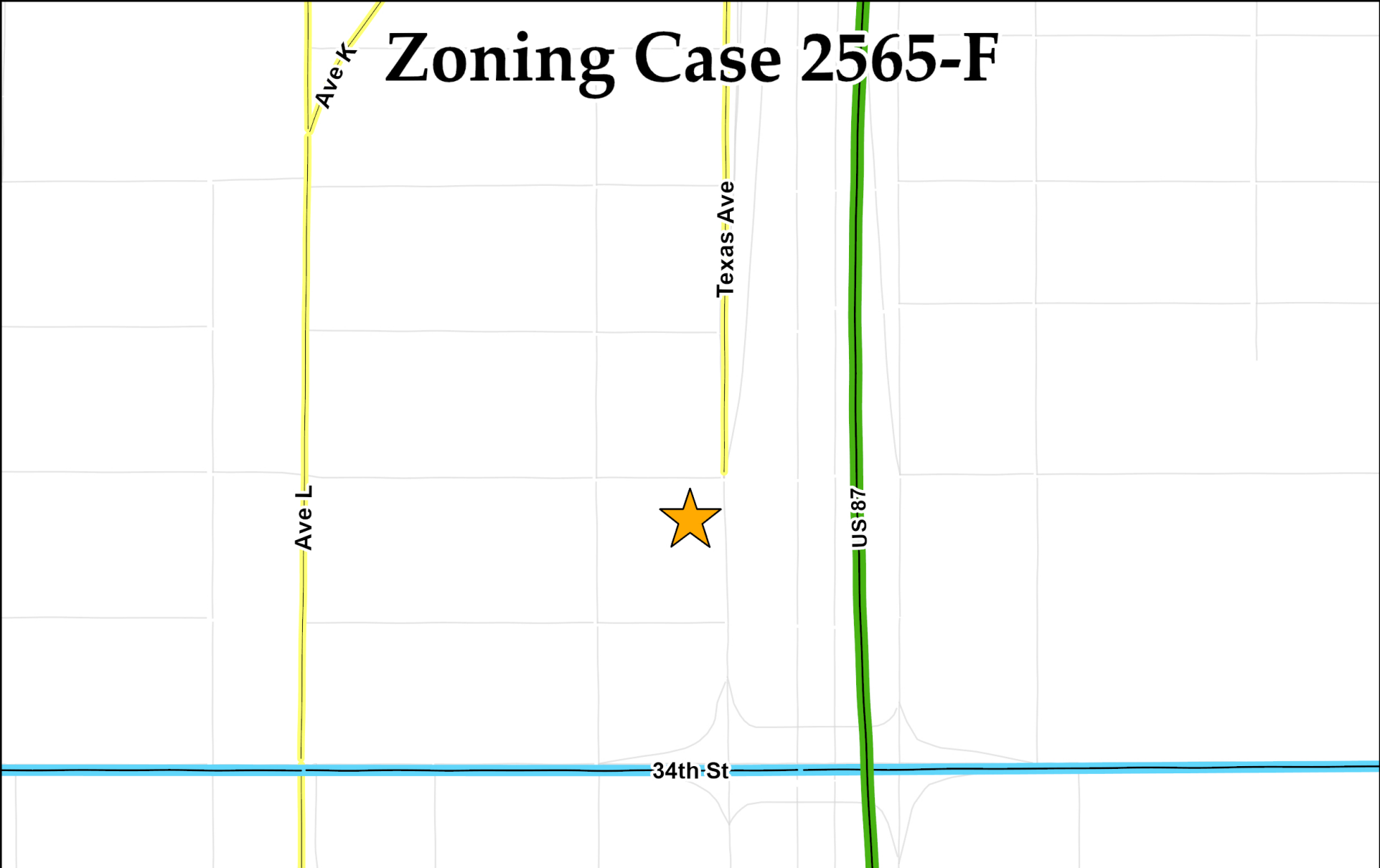
PLANNER ASHLEY PADILLA stated there were eighteen (18) notifications sent out with one (1) returned in favor. Staff shared the location of the property including pictures, maps, and discussed the surrounding properties. Staff recommends approval of the request.

APPLICANT JESSIE ROMERO, 915 32nd Street, said he wants to build a small house; the whole neighborhood has the same size homes he would like to build.




No one spoke in favor or in opposition to the request.

In the matter of **Zone Case 2565-F**, a motion was made by **SUSAN TOMLINSON** and seconded by **JAMES BELL** to approve the request and the Commission members voted 9 (in favor) to 0 (in opposition) to approve the motion. The item will be forwarded to City Council for consideration.




Zoning Case 2565-F





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

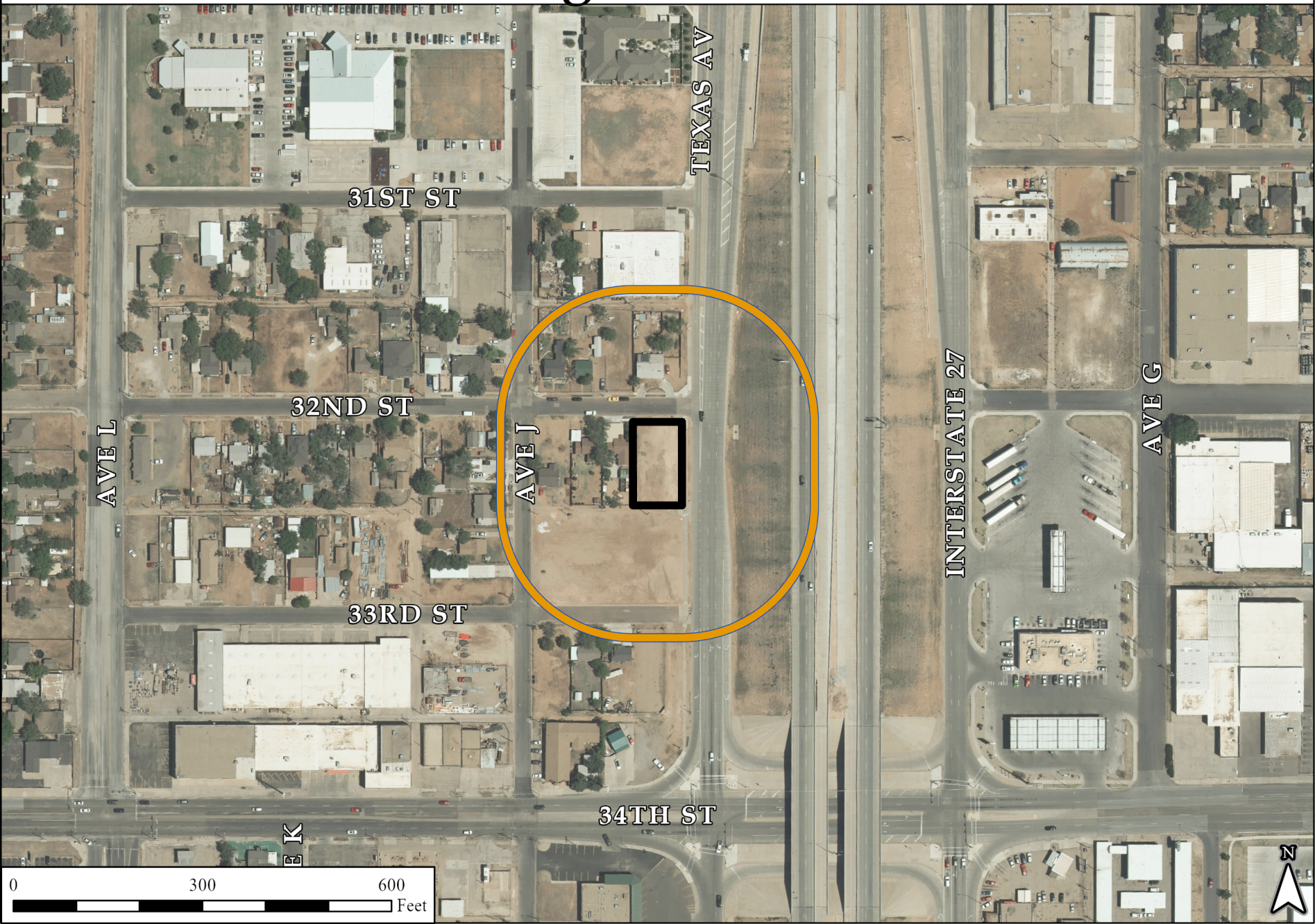


Legend

-  LocatorPnt2565_F
-  MailoutBuffer2565_F
-  <all other values>
- Notification Result**
-  In Favor
-  No Feedback
-  Opposed

Created by Planning Department
Date: 10/31/2022

Zoning Case 2565-F



AVE L

31ST ST

TEXAS AV

32ND ST

AVE J

33RD ST

INTERSTATE 27

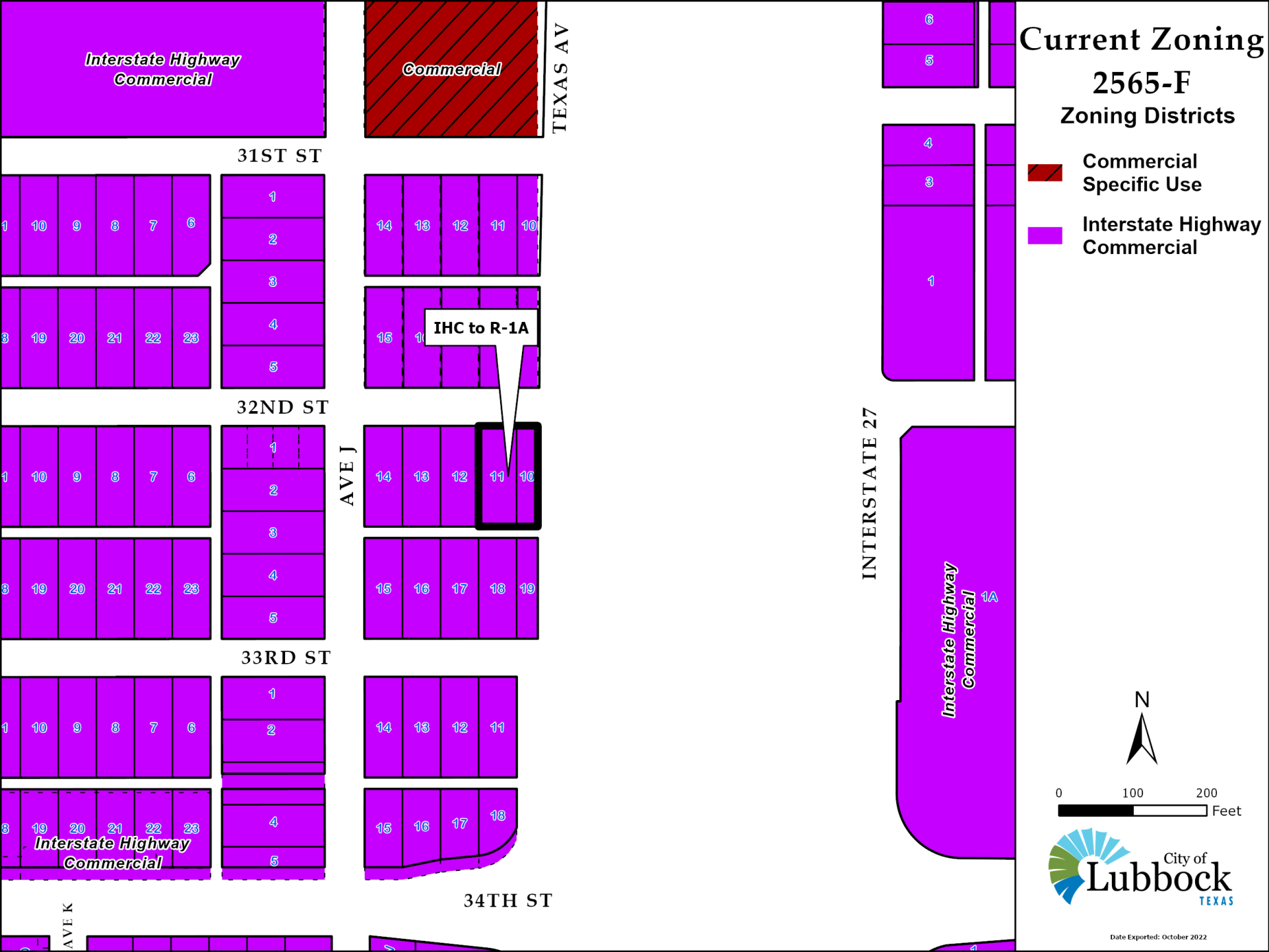
AVE G

34TH ST

AVE K

0 300 600 Feet





Future Land Use Plan Case 2565-F

Future Land Use Type

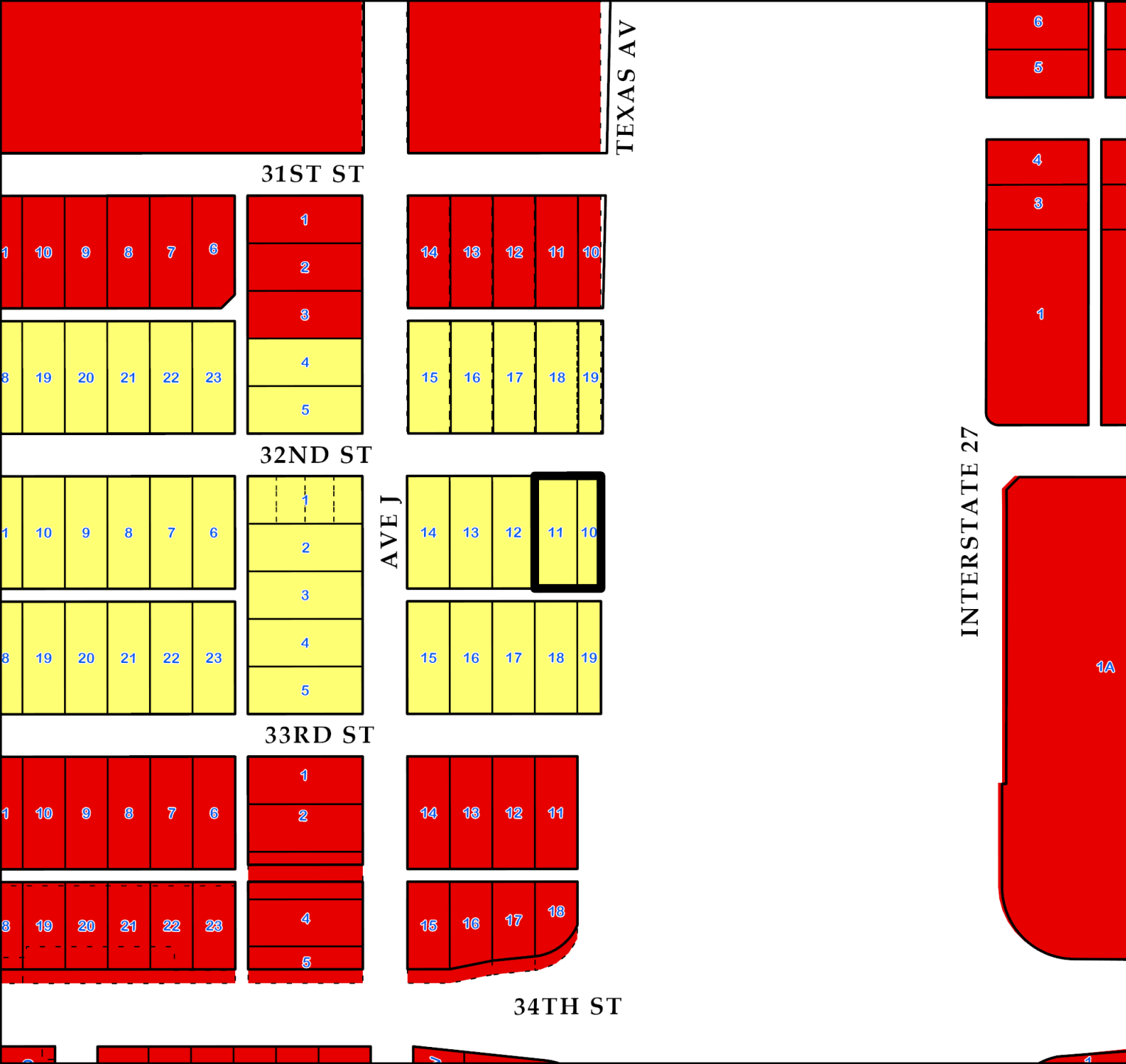
- Commercial
- Heavy Commercial
- Downtown
- Office
- Industrial
- Interstate Commercial
- Interstate Industrial
- Mixed Use
- Parks
- Public/ Semi-Public
- Residential Low Density
- Residential Medium Density
- Residential High Density



0 100 200
Feet



Date Exported: October 2022



2565-F



Subject property. View to the South.



View to the East.



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: 915-917 32nd Already combine as one Lot
Lots/Tracts: LOTS 10 and all of 11
Survey & Abstract: _____
Metes and Bounds Attached: Yes ☐ No ☒ Total Acreage of Request: _____
Existing Land Use: VACANT Existing Zoning: I-H-C
Requested Zoning: R-1-A
If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☐

Representative/Agent Information (if different from owner)

Firm Name: JESSIE R ROMERO
Name: _____
Address: _____ City: _____ State: _____
ZIP Code: _____ Telephone: _____ Email: _____
Applicant's Signature: _____
Date: _____ Printed Name: _____

Owner Information

Firm Name: Jessie R Romero
Owner: Jessie R Romero
Address: 915-917-32nd combine together City: P.O. Box 65 State: Lubbock TX
ZIP Code: 806559200 Telephone: _____ Email: 794 11
Property Owner's Signature: Jessie R Romero MARY E Romero
Date: 9-6-22 Printed Name: Jessie R Romero

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.: **2565-F**

In Favor

☒

Opposed

☐

Reasons and/or Comments:

Print Name Reinalda Cruz

Signature: *Reinalda Cruz*

Address: 921 32nd St. Lubbock, TX. 79411

Address of Property Owned: Same

Phone Number: (806) 252-3768

Email: _____

Zone Case Number: **2565-F**

R98428

Recipient 13 of 18

CRUZ, REINALDA

921 32ND ST

LUBBOCK TX 79411

RECEIVED
OCT 27 2022
BY: _____

Information

Agenda Item

Ordinance 2nd Reading - Planning (District 4): Consider Ordinance No. 2022-00163, for Zone Case 3257-I, a request of Seventeen Services LLC for Edge Concepts, for a zone change from Garden Office District (GO) to Apartment-Medical District (AM), at 3226 140th Street, located north of 140th Street and east of Indiana Avenue, Viridian Estates Addition, Tract D.

Item Summary

On November 16, 2022, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on November 3, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance - 3257-I

Staff Report - 3257-I

Documentation - 3257-I

ORDINANCE NO. _____

AN ORDINANCE AMENDING ZONING ORDINANCE NO. 7084 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: ZONE CASE NO. 3257-I; A ZONING CHANGE FROM GO TO AM ZONING DISTRICT AT 3226 140TH STREET, LOCATED NORTH OF 140TH STREET AND EAST OF INDIANA AVENUE, VIRIDIAN ESTATES ADDITION, TRACT D, 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. 3257-I

SECTION 1. THAT Ordinance No. 7084 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 40.01.005 of the Code of Ordinances of the City of Lubbock from **GO** to **AM** zoning district at **3226 140th Street, located north of 140th Street and east of Indiana Avenue, Viridian Estates Addition, Tract D, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:


Kristen Sager, Director of Planning

APPROVED AS TO FORM:


Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3257-1
November 3, 2022

Staff Report

Zone Case 3257-I

City Council Meeting

November 16, 2022

Applicant Seventeen Services LLC

Property Owner Edge Concepts

Council District 4

Recommendations

- Staff recommends approval of this request.

Prior Board or Council Action

- April 28, 2016, Ordinance No. 2016-00054: The subject property was annexed into city limits and zoned Transition District (T).
- October 13, 2016, Zone Case 3257-B, Ordinance No. 2016-00147: The subject property was rezoned from T to Single Family District (R-1) Specific Use.
- November 2, 2017, Zone Case 3257-D, Ordinance No. 2017-00141: The subject property was rezoned from R-1 Specific Use to Garden Office District (GO).
- November 3, 2022, Zone Case 3257-I: The Planning and Zoning Commission recommended approval of a zone change from Garden Office District (GO) to Apartment-Medical District (AM) by a vote of 9-0-0.

Notification Summary

- Notifications Sent: 4
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The property was platted on June 8, 2018 as Viridian Estates Tract D, and is currently vacant land.

Adjacent Property Development

This property is surrounded by the Lubbock Cooper ISD office, zoned Apartment-Medical District (AM) to the north; to the south is a Lubbock Police station, zoned Apartment-Medical District (AM); and to the east and west is vacant land, zoned Garden Office District (GO).

Item Summary

The subject property is located at 3226 140th Street, north of 140th Street and east of Indiana Avenue. The applicant is requesting a zone change from Garden Office District (GO) to Apartment-Medical District (AM).

Current zoning: **Garden Office District (GO)**

Requested zoning: **Apartment-Medical District (AM)**

Intent Statements

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. ."

The intent of the proposed AM zoning is "...to provide for quality medical and related development through proper

planning and design. The regulations are intended to produce an attractive environment which will ensure the compatibility between medical and other uses; encourage and protect future development; provide modern facilities for the public; provide proper accessory uses; and promote, stabilize, and enhance the city as a medical center.”

Traffic Network/Infrastructure Impacts

The location is along 140th Street, which is designated as a Local Street and east of Indiana Avenue, which is designated as a Principal Arterial by the Master Thoroughfare Plan, 2018. Local Streets provide access to smaller, destination-oriented areas, such as neighborhoods, subdivisions or local business districts. Arterials are continuous routes whose function is to serve high volume needs of local and regional traffic.

Compatibility with Surrounding Property

The proposed zone change 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 Future Land Use Map designates this area for Residential Low Density uses. Although the proposed zone change to AM would not be consistent with the Future Land Use Plan. Due to the development of the surrounding area AM would be a compatible zoning district.

Conformance with Zoning Ordinance

The proposed zone change is in conformance with the zoning ordinance. The property is located in an appropriate location along a Principal Arterial and next to other similar zoned properties.

Suitability of Property for Allowed Uses

The property is suitable for the uses allowed in the AM district. Additional infrastructure improvements would not be necessary.

Attachments

- A. Case Information
- B. Thoroughfare Map
- C. Aerial Map
- D. Zoning Map
- E. Future Land Use Map
- F. Photos
- G. Application and supporting documentation

Staff Contacts

Gregory Hernandez
Planner
Planning Department
806-775-3147
ghernandez@mylubbock.us

Victor Escamilla
Planning and Zoning Manager
Planning Department
806-775-3029
vescamilla@mylubbock.us

Case Information: Zone Case 3257-I



Allowable Uses: [Apartment-Medical District \(AM\)](#)

Transportation: The proposed development has point of access from 140th street.

Thoroughfare	Existing	Per Thoroughfare Development Plan
140 th Street, <i>Local Street, Completed</i>	R.O.W. 60 feet, two-lane, undivided, paved	R.O.W. 60 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

District 4

5.5 **Zone Case 3257-I:** Seventeen Services LLC for Edge Concepts
Request for a zone change from Garden Office District (GO) to Apartment-Medical District (AM) at:

- 3226 140th Street, located north of 140th Street and east of Indiana Avenue, Viridian Estates Addition, Tract D.

PLANNER GREG HERNANDEZ stated there were four (4) notifications sent out with zero (0) returned. Staff shared the location of the property including pictures, maps, and discussed the surrounding properties. Staff recommends approval of the request.

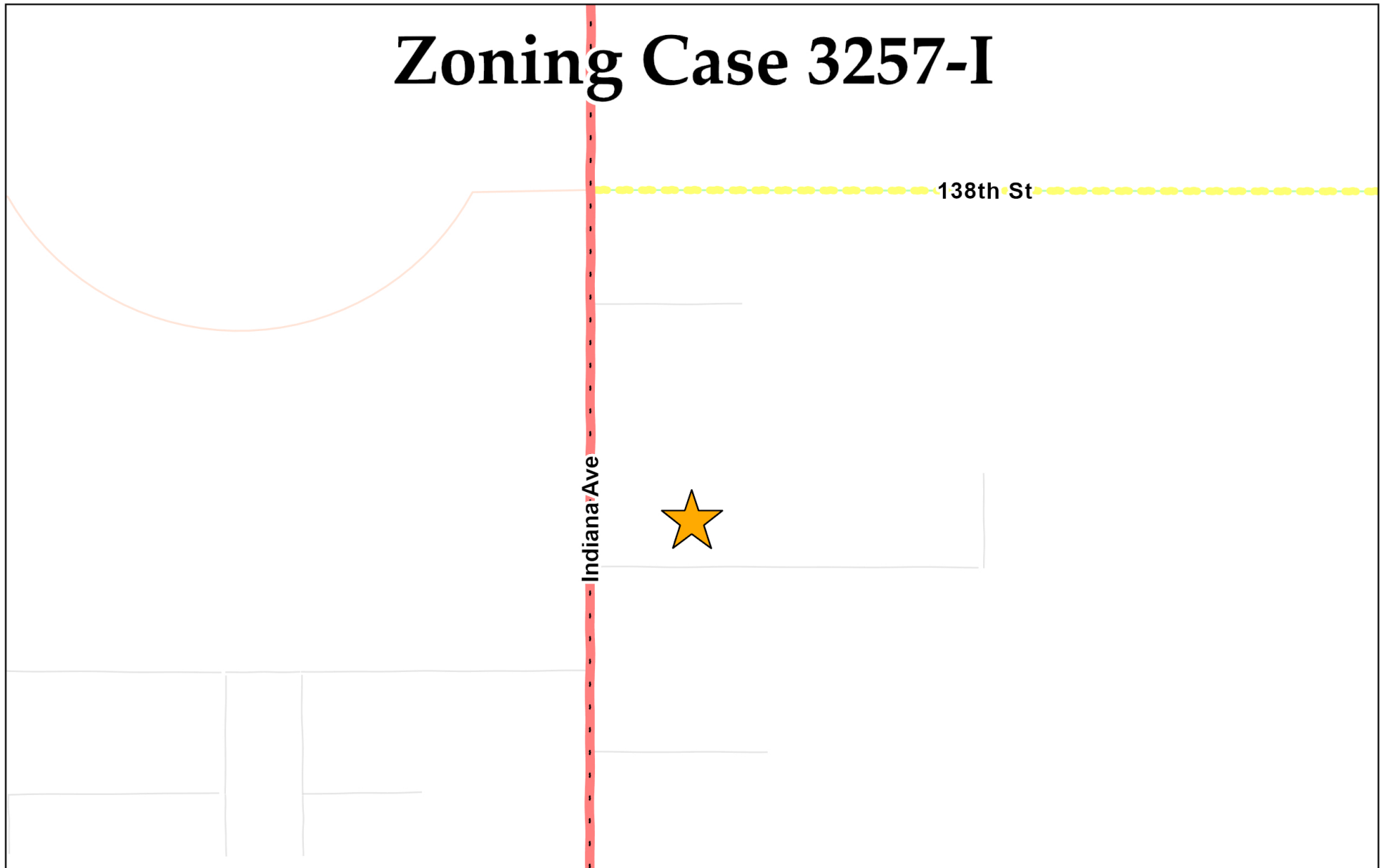
JAMES BELL asked the applicant why they were specifically requesting AM zoning.

APPLICANT ACE MADIVALA, 1500 Broadway Street, said they plan to build a daycare.




No one spoke in favor or in opposition to the request.

In the matter of **Zone Case 3257-I**, a motion was made by **JORDAN WHEATLEY** and seconded by **SUSAN TOMLINSON** to approve the request and the Commission members voted 9 (in favor) to 0 (in opposition) to approve the motion. The item will be forwarded to City Council for consideration.




Zoning Case 3257-I





Collector

-  Completed
-  Partial
-  Future

Minor Arterial

-  Completed
-  Partial
-  Future




Modified Arterial

-  Partial
-  Future

Principal Arterial

-  Completed
-  Partial
-  Future

Freeway

-  Completed
-  Partial
-  Proposed Outer Loop



Date Exported: October 2022








Zoning Case 3257-I



Current Zoning

3257-I

Zoning Districts

-  High Density Apartment
-  Apartment-Medical
-  Apartment-Medical Specific Use
-  Restricted Local Retail
-  Local Retail
-  Commercial Specific Use
-  Garden Office
-  Garden Office Specific Use
-  Industrial Park
-  Single Family
-  Single Family Specific Use

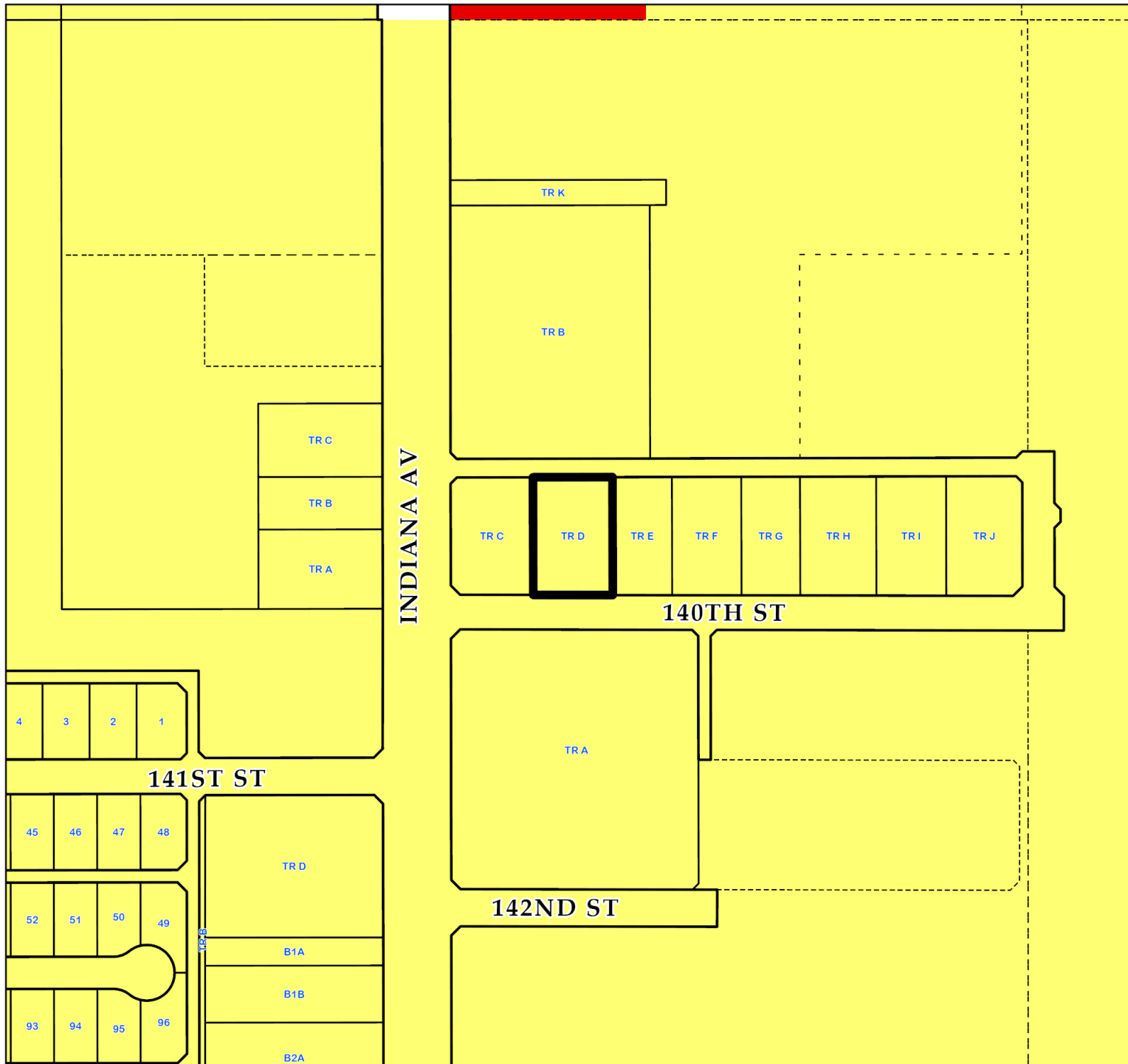


0 100 200 300 Feet



Date Exported: October 2022





Future Land Use Plan Case 3257-I

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 Feet



Date Exported: October 2022

3257-I



View of subject property to the north.



View to the east.



View to the south.



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: 3226 140th St
Lots/Tracts: Viridian Estates Tract D
Survey & Abstract: _____
Metes and Bounds Attached: Yes ☐ No ☒ Total Acreage of Request: 0.5615
Existing Land Use: _____ Existing Zoning: GO
Requested Zoning: AM
If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☒

Representative/Agent Information (if different from owner)

Firm Name: Seventeen Services LLC
Name: Ismael Rivera
Address: 1500 Broadway Ave Suite 203 City: Lubbock State: TX
ZIP Code: 79401 Telephone: 806-787-8533 Email: ismael@17services.com
Applicant's Signature: Ismael Rivera
Date: 9-08-2022 Printed Name: Ismael Rivera

Owner Information

Firm Name: Edge Concepts
Owner: Roger Billingsley
Address: 10210 Frankford Ave. Suite 110 City: Lubbock State: TX
ZIP Code: 79424 Telephone: 806-697-0033 Email: RogerB@edgeconceptsonline.com
Property Owner's Signature: Roger Billingsley
Date: 9/12/22 Printed Name: Roger Billingsley

Preparer Information

Preparer's Signature: Ismael Rivera
Date: 9-08-2022 Printed Name: Ismael Rivera

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

Ordinance 2nd Reading - Planning (District 4): Consider Ordinance No. 2022-00164, for Zone Case 3274-E, a request of Betenbough Homes, for a zone change from Interstate Highway Commercial District (IHC) to Reduced Setback Single-Family District (R-1A), generally located east of Avenue U and north of 133rd Street, Bell Farms Addition, Lots 1652 through 1676, 1681 through 1692, 1698 through 1709, 1718 through 1739 and Tracts CC and DD.

Item Summary

On November 16, 2022, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on November 3, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance - 3274-E
Staff Report - 3274-E
Documentation - 3274-E

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. 3274-E; A ZONING CHANGE FROM IHC TO R-1A ZONING DISTRICT GENERALLY LOCATED EAST OF AVENUE U AND NORTH OF 133RD STREET, BELL FARMS ADDITION, LOTS 1652 THROUGH 1676, 1681 THROUGH 1692, 1698 THROUGH 1709, 1718 THROUGH 1739 AND TRACTS CC AND DD, 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. 3274-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 IHC to R-1A zoning district **generally located east of Avenue U and north of 133rd Street, Bell Farms Addition, Lots 1652 through 1676, 1681 through 1692, 1698 through 1709, 1718 through 1739 and Tracts CC and DD, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kristen Sager, Director of Planning

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3274-E
November 3, 2022

Staff Report		Zone Case 3274-E
City Council Meeting		November 16, 2022

Applicant Ronnie Wallace

Property Owner Betenbough Homes

Council District 4

Recommendations

- Staff recommends approval of this request.

Prior Board or Council Action

- February 8, 2018, Ordinance No. 2018-00021: The subject property was annexed into city limits and zoned Transitional (T).
- August 9, 2018, Zone Case 3274-B, Ordinance No. 2018-00089: The subject property was rezoned from (T) to Interstate Highway Commercial (IHC).
- November 3, 2022, Zone Case: 3274-E: The Planning and Zoning Commission recommended approval for a zone change from Interstate Highway Commercial District (IHC) to Reduced Setback Single-Family District (R-1A) by a vote of 9-0-0.

Notification Summary

- Notifications Sent: 12
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The subject property was platted as Bell Farms Addition, Lots 1652 through 1676, 1681 through 1692, 1698 through 1709, 1718 through 1739 and Tracts CC and DD on May 7, 2021. The described lots are currently developed as vacant, subdivided land.

Adjacent Property Development

This property is surrounded by vacant land of mixed uses consisting of Interstate Highway Commercial (IHC), Family residences zoned T, Two Family District (R-2) and Single Family District (R-1) to the south and west with land outside the city limits to the north.

Zoning Request and Analysis

Item Summary

The subject property is generally located east of Avenue U and south of 130th Street. The applicant is requesting a zone change to Reduced Setback Single-Family District (R-1A).

Current zoning: Interstate Highway Commercial (IHC)

Requested zoning: Reduced Setback Single-Family District (R-1A)

Intent Statements

The intent of the current IHC zoning “...to provide for quality commercial office, retail and wholesale uses which serve a city-wide or regional area. Such uses require careful consideration when adjacent to residential areas.”

The intent of the proposed R-1A zoning “...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.”

Traffic Network/Infrastructure Impacts

The property is generally located south of 130th street (future loop 88) which is designated as a proposed freeway and east of Avenue U which is designated as a collector street. Freeways are intended to move high volumes of automobile traffic at relatively high speeds over long distances. Collectors are designed for medium volumes of vehicles operating at lower speeds.

Compatibility with Surrounding Property

The proposed zone change is compatible with the surrounding area and will not change the character of the existing development. It is appropriate adjacent to other residential uses.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The Future Land Use Map designates the subject property for Low Density Residential Uses. The requested zone change is consistent with this designation and is appropriate in this location, adjacent to other residential uses.

Conformance with Zoning Ordinance

The proposed zone change is in conformance with the zoning ordinance and the location is appropriate for (R1-A).

Suitability of Property for Allowed Uses

The property is suitable for the proposed use and will not require additional public improvements to support the intensity of this use.

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 Documentation

Staff Contacts

Cassie Bermea
Planner
Planning Department
806-775-2096
cassiebermea@mylubbock.us

Victor Escamilla
Planning and Zoning Manager
Planning Department
806-775-3029
vescamilla@mylubbock.us

Case Information: Zone Case 3274-E



Allowable Uses: Reduced Setback Single-Family District (R-1A)

Transportation: The proposed development has a point of access from 130th Street (Loop 88) and Avenue U.

Thoroughfare	Existing	Per Thoroughfare Development Plan
Loop 88 <i>Freeway, Proposed Outer Loop</i>	R.O.W. 50 feet, two-lane, undivided, paved	R.O.W. 320 feet, six-lane, undivided, paved
Avenue U <i>Collector</i>	R.O.W. 64 feet, two-lane, undivided, paved	R.O.W. 64 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

District 4

5.6 **Zone Case 3274-E:** Betenbough Homes

Request for a zone change from Interstate Highway Commercial District (IHC) to Reduced Setback Single-Family District (R-1A) at:

- Generally located east of Avenue U and north of 133rd Street, Bell Farms Addition, Lots 1652 through 1676, 1681 through 1692, 1698 through 1709, 1718 through 1739 and Tracts CC and DD.

PLANNER CASSIE BERMEA stated there were twelve (12) notifications sent out with zero (0) returned. Staff shared the location of the property including pictures, maps, and discussed the surrounding properties. Staff recommends approval of the request.

JAMES BELL asked if Avenue U is unpaved and how will it be addressed.

APPLICANT CHRIS BERRY, 7202 91st Street, with Betenbough Homes, said Avenue U is paved and full width as a Collector and this is a clean-up zone case.

No one spoke in favor or in opposition to the request.

Zone Case 3274-E

In the matter of **Zone Case 3274-E**, a motion was made by **JORDAN WHEATLEY** and seconded by **JAMES BELL** to approve the request and the Commission members voted 9 (in favor) to 0 (in opposition) to approve the motion. The item will be forwarded to City Council for consideration.

Zoning Case 3274-E

Ave U

Outside City Limits

Loop 88

Outside City Limits

Outside City Limits

Outside City Limits

CR 2250



Collector

- Completed
- Partial
- Future

Minor Arterial

- Completed
- Partial
- Future

Modified Arterial

- Partial
- Future

Principal Arterial

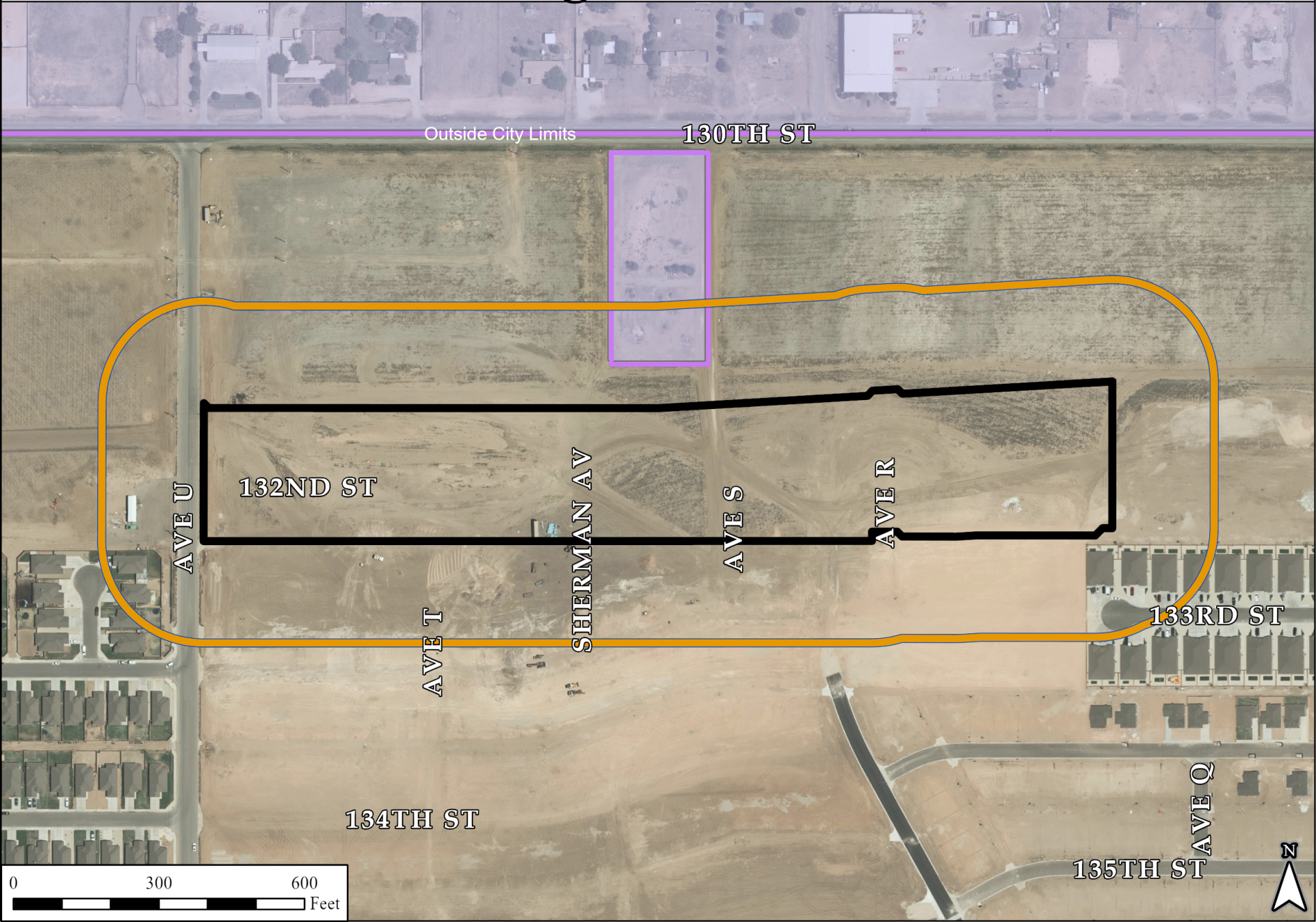
- Completed
- Partial
- Future

Freeway

- Completed
- Partial
- Proposed Outer Loop



Zoning Case 3274-E



Outside City Limits

130TH ST

AVE U

132ND ST

AVE T

SHERMAN AV

AVE S

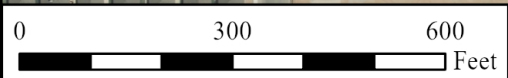
AVE R

133RD ST

134TH ST





135TH ST

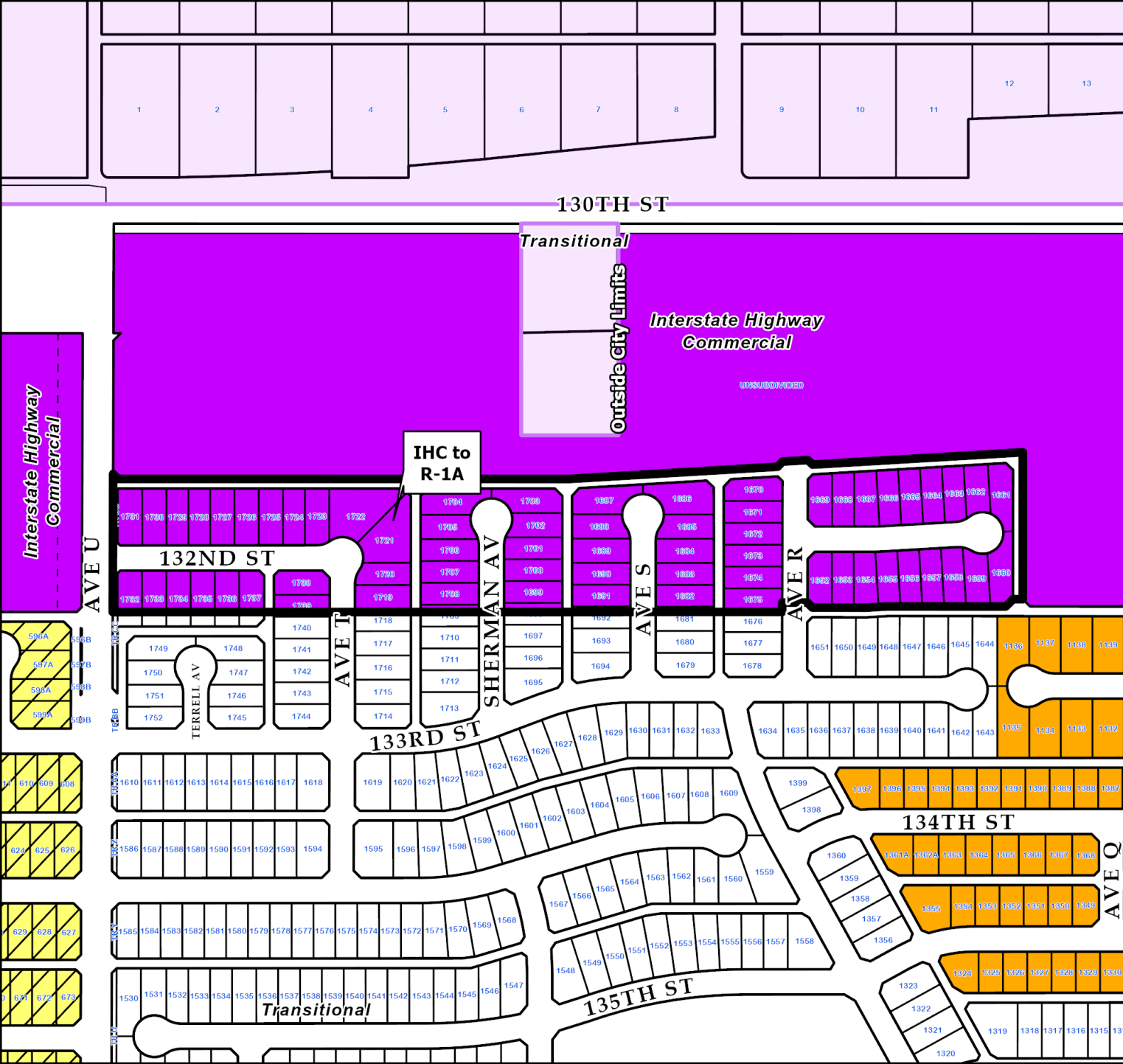
AVE Q



Current Zoning

3274-E Zoning Districts

-  Interstate Highway Commercial
-  Single Family Specific Use
-  Two Family
-  Transitional



0 100 200 300
Feet



Future Land Use Plan Case 3274-E

Future Land Use Type

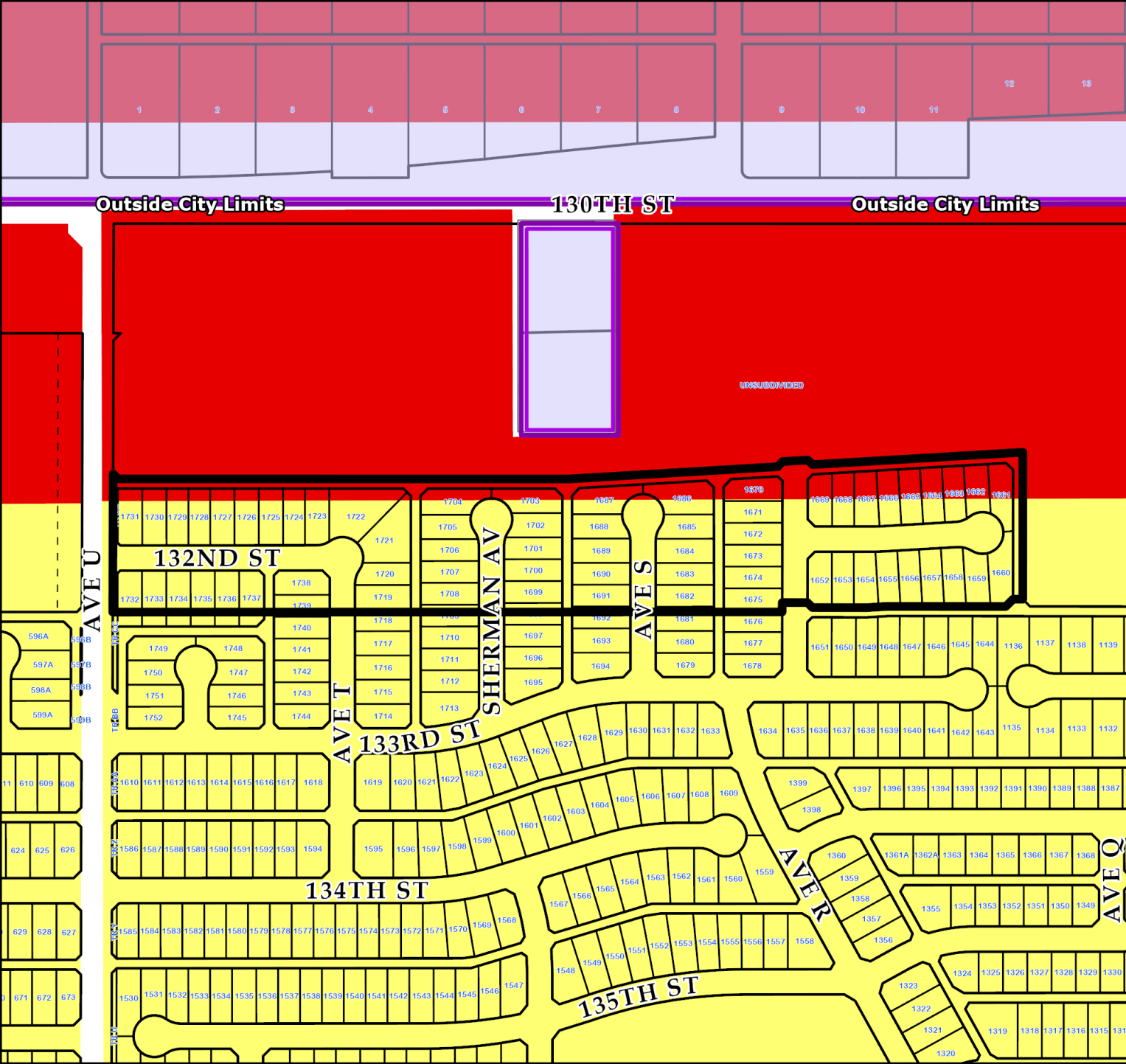
- Commercial
- Heavy Commercial
- Downtown
- Office
- Industrial
- Interstate Commercial
- Interstate Industrial
- Mixed Use
- Parks
- Public/ Semi-Public
- Residential Low Density
- Residential Medium Density
- Residential High Density



0 100 200 300
Feet



Date Exported: October 2022





West View.



East View.



North View.



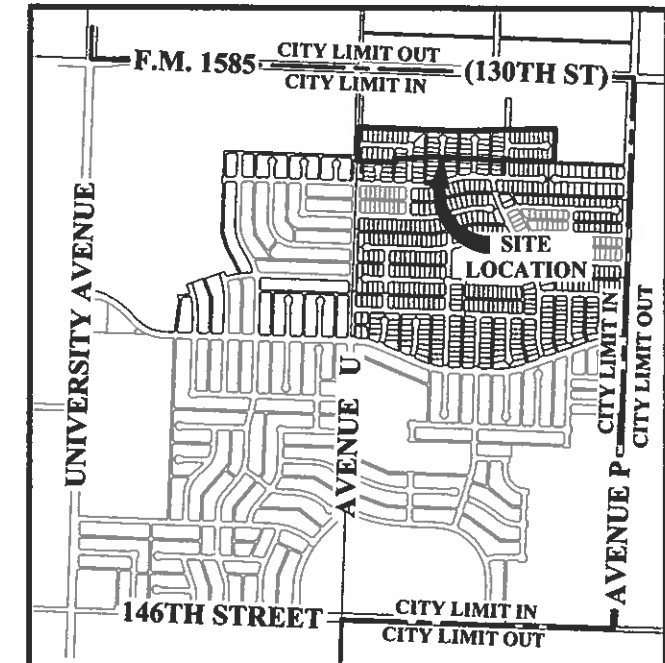
South View.

3274-E

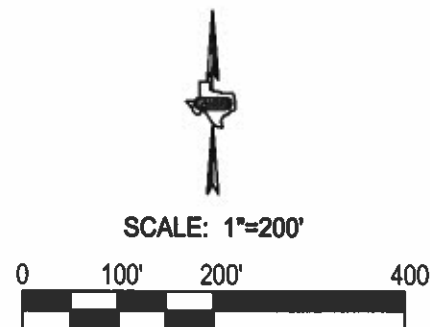
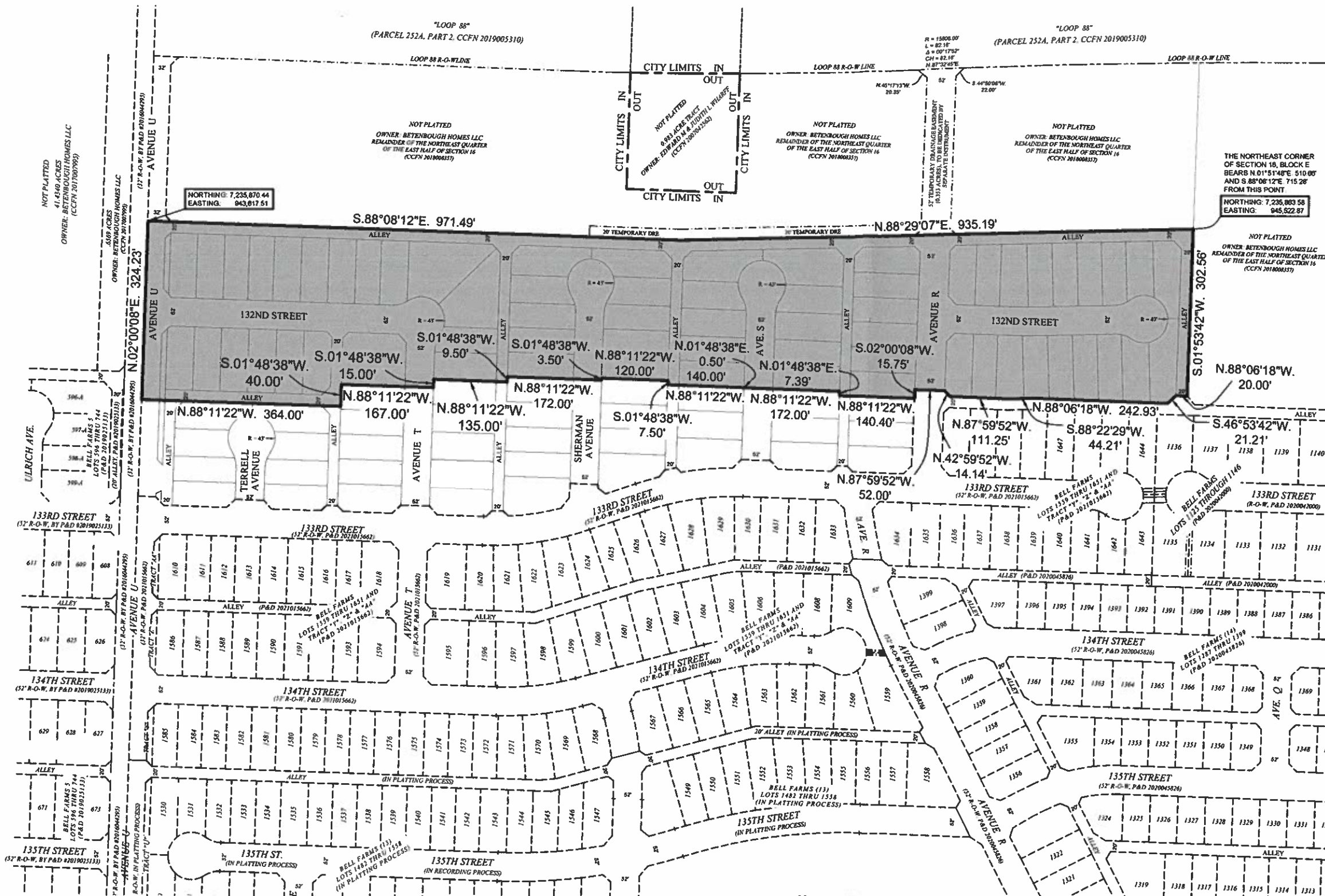
ZONE CHANGE APPLICATION
EXHIBIT
(SHEET 2)

A 12.670 ACRE TRACT OF LAND
BEING A PORTION OF BELL FARMS,
LOTS 1652 THROUGH 1752 AND
TRACTS "BB", "CC" AND "DD",
AN ADDITION TO THE CITY OF LUBBOCK
LUBBOCK COUNTY, TEXAS

(ACCORDING TO THE MAP, PLAT, AND/OR
DEDICATION DEED THEREOF RECORDED IN
COUNTY CLERK'S FILE NUMBER 2021022587 OF
THE OFFICIAL PUBLIC RECORDS OF
LUBBOCK COUNTY, TEXAS)



VICINITY MAP
NOT TO SCALE



NOTES:

SCALE: 1" = 200'

- ZONING REQUEST TO RIA FROM IHC
(12.670 ACRES)



AMD Engineering, LLC
6515 68th Street, Suite 300
Lubbock, TX 79424


CIVIL ENGINEERING
LAND SURVEYING

Phone: 806-771-5976
Fax: 806-771-7625
TBPE Reg. # F-9197

Accuracy - Efficiency - Integrity

BELL FARMS, LOTS 1652 THROUGH 1752 AND TRACTS "BB", "CC" AND "DD", AN ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS



- NOTES:
1. HEAVY LINES INDICATE PLAT LIMITS.
 2. ALL STREETS, ALLEYS, AND EASEMENTS WITHIN PLAT LIMITS ARE HEREIN DEDICATED, UNLESS NOTED OTHERWISE.
 3. NO BUILDING PERMIT SHALL BE ISSUED ON ANY SURVEY CERTIFICATE THAT IS NOT IN ACCORDANCE WITH AN APPROVED FINAL PLAT UNLESS AN EXCEPTION IS PROVIDED BY THE PLANNING AND ZONING COMMISSION POLICY OR BY THE LUBBOCK CODE OF ORDINANCES.
 4. ALL UTILITY SERVICE SHALL BE IN ACCORDANCE WITH THE "UNDERGROUND UTILITIES POLICY" STATEMENT BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF LUBBOCK, TEXAS AND THE PROVISIONS OF SECTION 36.09 OF THE LUBBOCK CODE OF ORDINANCES.
 5. ANY RELOCATION OR REVISION OF EXISTING FACILITIES SHALL BE THE SUBDIVIDER'S EXPENSE. COMPENSATION SHALL BE MADE PRIOR TO RECORDING OF THIS FINAL PLAT.
 6. ANY EXISTING OR PROPOSED UTILITY SERVICES TO AND ON TRACTS INDICATED BY THIS PLAT SHALL BE CONTAINED IN THE PUBLIC RIGHT-OF-WAY AND PUBLIC OR PRIVATE UTILITY EASEMENTS. UTILITY SERVICE INSTALLATION REQUESTED AT A FUTURE DATE AND NOT WITHIN AN EASEMENT INDICATED BY THIS PLAT SHALL BE WITHIN A PROPER UTILITY EASEMENT GRANTED BY THE OWNER OF SAID PROPERTY BY SEPARATE RECORDED INSTRUMENT PRIOR TO THE PROVISION OF SUCH SERVICE. SUCH EASEMENTS SHALL BE AT THE EXPENSE OF THE ENTITY REQUESTING SUCH INSTALLATION.
 7. ALL EASEMENTS HEREIN GRANTED SHALL ENTITLE THE CITY OR THE UTILITY COMPANY USING SUCH EASEMENTS TO THE RIGHT TO REMOVE, REPAIR OR REPLACE ANY LINES, PIPES, CONDUITS, OR POLES WITHIN SUCH EASEMENTS AS MAY BE DETERMINED BY THE CITY OR UTILITY COMPANY WITHOUT THE CITY OR UTILITY COMPANY BEING RESPONSIBLE OR LIABLE FOR THE REPLACEMENT OF IMPROVEMENTS, PAVING OR SURFACING OF THE EASEMENT NECESSITATED BY SUCH REPAIR, REMOVAL, OR REPLACEMENT. EASEMENTS DESIGNATED OR INTENDED FOR VEHICULAR PASSAGE (UTILITY AND EMERGENCY) OR PEDESTRIAN ACCESS SHALL NOT BE FENCED OR OTHERWISE OBSTRUCTED.
 8. ANY EASEMENTS OR RIGHTS-OF-WAY SHOWN AS "TO BE DEDICATED BY SEPARATE INSTRUMENT" ARE SHOWN ON THE PLAT FOR INFORMATION PURPOSES ONLY. THIS PLAT DOES NOT DEDICATE SAID EASEMENTS.
 9. MINIMUM FLOOR ELEVATIONS SHALL CONFORM TO THE REQUIREMENTS OF THE LUBBOCK DRAINAGE CRITERIA MANUAL, AS ADOPTED BY ORDINANCE 10032, AS AMENDED, AND SECTION 28.09.131, SECTION 28.14.004 AND SECTION 30.03.073 OF THE LUBBOCK CODE OF ORDINANCES.
 10. IN ORDER TO PREVENT DAMAGE TO PUBLIC AND PRIVATE UTILITIES AND TO MINIMIZE AND OR ELIMINATE INTERRUPTION OF UTILITY SERVICES, THE CITY OF LUBBOCK SOLID WASTE SERVICES DEPARTMENT REQUESTS THAT NO UTILITY RISERS, METER BASES, PEDESTALS, ETC., PUBLIC OR PRIVATE, BE PLACED IN THE CHAMFERED CORNERS OF ALLEYWAYS.
 11. PLAT REVISED MAY 04, 2021. CORRECTED WEST LOT LINE DIMENSION OF LOT 1660 AND ADDED BEARING AND DISTANCE TO THE WEST LINE OF TRACT "DD".
- DRB = DRAINAGE EASEMENT
GCE = GARBAGE COLLECTION EASEMENT
LPL = LUBBOCK POWER & LIGHT
PAE = PEDESTRIAN ACCESS EASEMENT
TPE = 4' X 6' (MINIMUM) TRANSFORMER PAD EASEMENT (SPEC. INDICATED BY SYMBOL) 
USE = UNDERGROUND STREET LIGHT CABLE EASEMENT TO LPL
UUE = UNDERGROUND UTILITY EASEMENT
LPL = LUBBOCK POWER & LIGHT
R.O.W. = RIGHT-OF-WAY
SPEC = SOUTH PLAINS ELECTRIC COOPERATIVE
CCM = CONTROLLING MONUMENT
CCFN = COUNTY CLERK'S FILE NUMBER
PMRD = PHYSICAL MONUMENT OF RECORD DIGNITY
ALL CORNERS MONUMENTED WITH 1/2" IRON ROD WITH CAP MARKED "AMD ENGINEERING" UNLESS OTHERWISE SPECIFIED.
BEARINGS ARE GRID BEARINGS RELATIVE TO THE TEXAS COORDINATE SYSTEM OF 1983, TEXAS NORTH CENTRAL ZONE. THE CONVERGENCE ANGLE TO TRUE NORTH IS 01°50'14".
COORDINATES SHOWN HEREON ARE BASED ON THE TEXAS COORDINATE SYSTEM OF 1983, TEXAS NORTH CENTRAL ZONE. DISTANCES AS SHOWN HEREON ARE AT SURFACE. IN U.S. SURVEY FEET.
THESE PLAT LIMITS CONTAIN 18.952 ACRES OF LAND.
DESCRIPTION OF THESE PLAT LIMITS ARE ON A SEPARATE DOCUMENT, OF SAME DATE HERWITH.

APPROVED THIS 4 DAY OF March, 2021
BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF LUBBOCK, TEXAS.

[Signature]
CHAIRMAN

[Signature]
DIRECTOR OF PLANNING

1984.21
2021022587

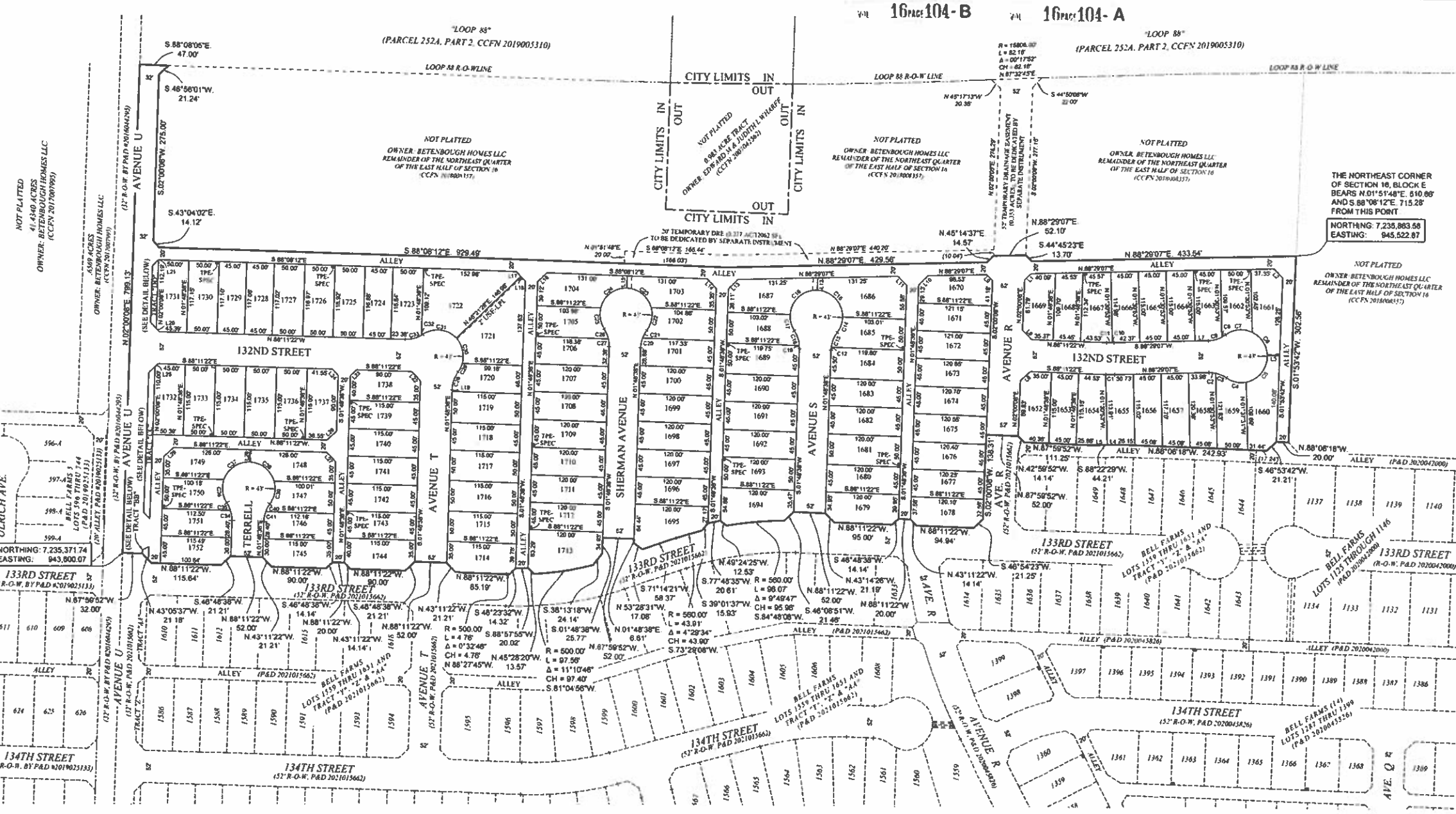
KNOW ALL MEN BY THESE PRESENTS:
THAT I, NORRIS STEVENS, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT I PREPARED THIS PLAT FROM AN ACTUAL AND ACCURATE SURVEY OF THE LAND AND THAT THE CORNER MONUMENTS AND/OR OTHER CONTROL SHOWN THEREON WERE PROPERLY PLACED UNDER MY PERSONAL SUPERVISION, IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS OF THE CITY OF LUBBOCK, TEXAS.

[Signature]
REGISTERED PROFESSIONAL LAND SURVEYOR # 4339
LUBBOCK, TEXAS

SURVEYED: APRIL 30, 2021
REVISED: MAY 04, 2021

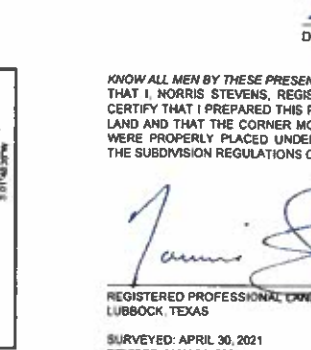
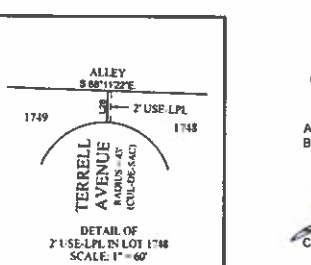
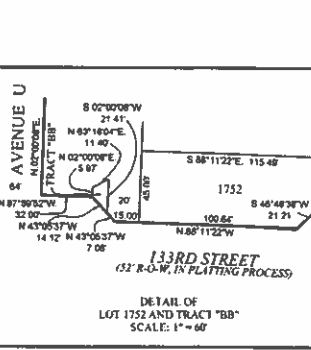
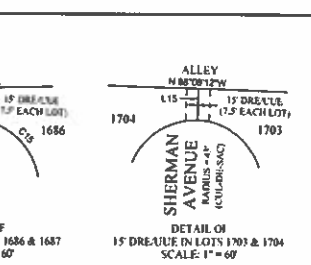
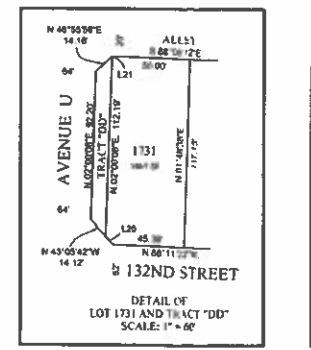
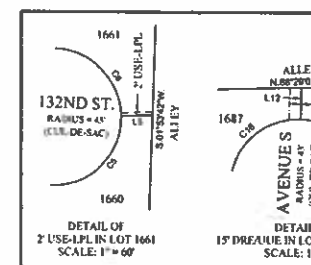
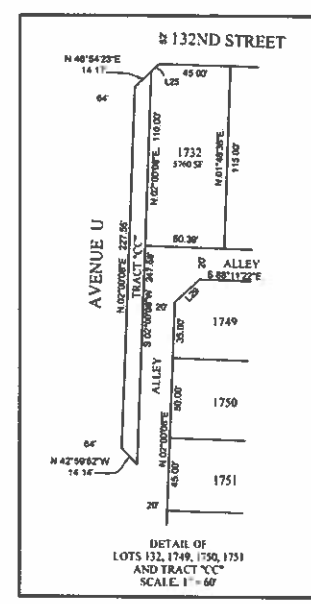


AMD
CIVIL ENGINEERING
LAND SURVEYING
AMD Engineering, LLC
6545 56th Street, Suite 300
Lubbock, TX 79424
Phone: 806-771-5076
Fax: 806-771-7625
TBELS Reg # 10178500
Accuracy - Efficiency - Integrity
PROPERTY OWNER: BETENBOUGH HOMES, LLC
ADDRESS: 6305 82ND STREET, LUBBOCK, TEXAS 79424
PHONE: 806-797-9494
JOB NUMBER: 20001
© 2021 ALL RIGHTS RESERVED



CURVE	RADIUS	ARC LENGTH	DELTA ANGLE	CHORD LENGTH	CHORD BEARING
C1	248.00'	14.28'	3°19'31"	14.27'	S.89°51'08"E.
C2	50.00'	11.11'	12°43'39"	11.08'	S.85°06'04"E.
C3	50.00'	19.61'	22°28'00"	19.48'	S.67°31'15"E.
C4	43.00'	33.87'	45°07'27"	33.00'	S.78°52'58"E.
C5	43.00'	60.09'	80°04'11"	58.32'	N.38°31'12"E.
C6	43.00'	47.80'	63°41'42"	45.38'	N.33°21'44"W.
C7	43.00'	48.15'	61°29'58"	43.97'	S.84°02'26"W.
C8	50.00'	7.20'	8°16'01"	7.19'	S.57°24'59"W.
C9	50.00'	23.51'	26°56'37"	23.30'	S.75°00'48"W.
C10	194.00'	2.63'	0°48'35"	2.63'	S.88°52'24"W.
C11	194.00'	8.63'	2°32'59"	8.63'	N.89°27'50"W.
C12	50.00'	4.51'	5°10'01"	4.51'	N.04°23'38"E.
C13	50.00'	26.20'	30°01'37"	25.90'	N.01°58'29"E.
C14	43.00'	27.32'	36°23'49"	26.86'	N.18°48'22"E.
C15	43.00'	66.84'	88°47'50"	60.17'	N.43°47'27"W.
C16	43.00'	66.14'	86°07'51"	58.81'	S.47°44'42"E.
C17	43.00'	27.82'	37°03'48"	27.33'	S.14°51'07"E.
C18	50.00'	25.70'	29°27'05"	25.42'	S.18°39'29"E.
C19	50.00'	5.01'	5°44'33"	5.01'	S.01°03'39"E.
C20	50.00'	16.41'	16°48'25"	16.34'	N.11°12'50"E.
C21	50.00'	14.30'	16°23'14"	14.25'	N.28°48'39"E.
C22	43.00'	39.12'	62°07'11"	37.78'	N.10°58'41"E.
C23	43.00'	54.84'	73°04'27"	51.20'	N.51°30'09"W.
C24	43.00'	58.48'	77°53'35"	54.08'	S.52°51'50"W.
C25	43.00'	35.50'	47°18'04"	34.50'	S.09°43'59"E.
C26	50.00'	17.98'	20°34'32"	17.86'	S.23°05'45"E.
C27	50.00'	12.78'	14°37'08"	12.72'	S.05°29'36"E.
C28	50.00'	30.71'	35°11'39"	30.23'	N.19°24'27"E.
C29	43.00'	16.32'	21°44'47"	16.22'	N.28°07'57"E.
C30	43.00'	43.86'	58°26'52"	41.98'	N.13°57'57"W.
C31	43.00'	60.18'	80°11'39"	55.38'	N.03°17'12"W.
C32	50.00'	2.84'	3°01'45"	2.84'	S.58°07'51"W.
C33	50.00'	28.07'	32°08'53"	27.70'	S.75°43'41"W.
C34	50.00'	16.92'	19°23'26"	16.84'	N.07°53'08"W.
C35	50.00'	13.79'	15°48'12"	13.75'	N.25°28'55"W.
C36	43.00'	39.62'	62°47'29"	38.23'	N.08°50'17"W.
C37	43.00'	54.34'	72°24'10"	50.78'	N.55°38'33"E.
C38	43.00'	54.34'	72°24'10"	50.78'	S.51°50'18"E.
C39	43.00'	39.62'	62°47'29"	38.23'	S.10°36'32"W.
C40	50.00'	13.79'	15°48'12"	13.75'	S.29°06'10"W.
C41	50.00'	16.92'	19°23'26"	16.84'	S.11°30'21"W.

LINE	BEARING	DISTANCE
L1	N.45°14'37"E.	14.57'
L2	S.44°45'00"E.	20.57'
L3	N.88°29'07"E.	20.57'
L4	S.88°22'29"W.	18.89'
L5	S.88°22'29"W.	25.32'
L6	N.48°54'23"E.	21.25'
L7	S.88°29'07"E.	22.34'
L8	N.43°05'37"W.	21.18'
L9	S.44°45'23"E.	13.70'
L10	N.45°08'32"E.	21.82'
L11	S.44°61'08"E.	20.50'
L12	N.01°48'38"E.	20.00'
L13	N.45°08'52"E.	21.62'
L14	S.43°08'47"E.	21.22'
L15	N.01°48'38"E.	19.98'
L16	N.48°50'13"E.	21.20'
L17	S.43°08'47"E.	10.81'
L18	S.43°08'47"E.	10.81'
L19	N.01°48'38"E.	2.40'
L20	N.43°05'37"W.	7.08'
L21	N.48°55'58"E.	0.00'
L22	S.43°11'22"E.	21.21'
L23	N.48°48'39"E.	14.34'
L24	S.43°11'22"E.	14.34'
L25	N.48°54'23"E.	7.08'
L26	S.48°48'38"W.	21.21'
L27	S.43°11'22"E.	21.21'
L28	N.01°48'38"E.	20.00'
L29	N.48°54'23"E.	21.25'





AMD Engineering and Surveying

**ZONE CHANGE DESCRIPTION FOR
A 12.670 ACRE TRACT OF LAND BEING A PORTION OF
BELL FARMS,
LOTS 1652 THROUGH 1752 AND TRACTS "BB", "CC" AND "DD",
AN ADDITION TO THE CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS**

Zone change description for a 12.670 acre tract of land being a portion of that certain Bell Farms, Lots 1652 through 1752 and Tracts "BB", "CC" and "DD", an addition to the City of Lubbock, Lubbock County, Texas, herein after referred to as Bell Farms 18, as described by the map, plat, and or dedication deed thereof recorded in County Clerk's File Number 2021022587 of the Official Public Records of Lubbock County, Texas, said 12.670 acres of land being further described by metes and bounds as follows:

BEGINNING at the northeast corner of said Bell Farms 18, having coordinates of Northing: 7,235,863.58 and Easting: 945,527.87 of the Texas Coordinate System of 1983 (2011), Texas North Central Zone, whence the northeast corner of said Section 16 bears N. 01° 51' 48" E. a distance of 510.66 feet and S. 88° 08' 12" E. a distance of 715.28 feet, said section corner having coordinates of Northing: 7,236,350.58 and Easting: 946,254.20 of the Texas Coordinate System of 1983 (2011), Texas North Central Zone;

THENCE S. 01° 53' 42" W. a distance of 302.56 feet to a point of intersection, for the most easterly southeast corner of this tract;

THENCE N. 88° 06' 18" W. a distance of 20.00 feet to a point of intersection for a corner of this tract;

THENCE S. 46° 53' 42" W. a distance of 21.21 feet to a point of intersection for the most southerly southeast corner of this tract;

THENCE N. 88° 06' 18" W. a distance of 242.93 feet to a point of intersection for a corner of this tract;

THENCE S. 88° 22' 29" W. a distance of 44.21 feet to a point of intersection for a corner of this tract;

THENCE N. 87° 59' 52" W. a distance of 111.25 feet to a point of intersection for a corner of this tract;

THENCE N. 42° 59' 52" W. a distance of 14.14 feet to a point of intersection in the east right-of-way line of Avenue R for a corner of this tract;

THENCE N. 87° 59' 52" W. a distance of 52.00 feet to a point of intersection in the west right-of-way line of said Avenue R for a corner of this easement;

THENCE S. 02° 00' 08" W. a distance of 15.75 feet to a point of intersection for a corner of this tract;

THENCE N. 88° 11' 22" W. a distance of 140.40 feet to a point of intersection for a corner of this tract;

THENCE N. 01° 48' 38" E. a distance of 7.39 feet, to a point of intersection for a corner of this tract;



AMD Engineering and Surveying

THENCE N. 88° 11' 22" W. a distance of 172.00 feet to a point of intersection for a corner of this tract;

THENCE N. 01° 48' 38" E. a distance of 0.50 feet, to a point of intersection for a corner of this tract;

THENCE N. 88° 11' 22" W. a distance of 140.40 feet to a point of intersection for a corner of this tract;

THENCE N. 01° 48' 38" E. a distance of 7.50 feet, to a point of intersection for a corner of this tract;

THENCE N. 88° 11' 22" W. a distance of 120.00 feet to a point of intersection for a corner of this tract;

THENCE N. 01° 48' 38" E. a distance of 3.50 feet, to a point of intersection for a corner of this tract;

THENCE N. 88° 11' 22" W. a distance of 172.00 feet to a point of intersection for a corner of this tract;

THENCE N. 01° 48' 38" E. a distance of 9.50 feet, to a point of intersection for a corner of this tract;

THENCE N. 88° 11' 22" W. a distance of 135.00 feet to a point of intersection for a corner of this tract;

THENCE N. 01° 48' 38" E. a distance of 15.00 feet, to a point of intersection for a corner of this tract;

THENCE N. 88° 11' 22" W. a distance of 167.00 feet to a point of intersection for a corner of this tract;

THENCE N. 01° 48' 38" E. a distance of 40.00 feet, to a point of intersection for corner of this tract;

THENCE N. 88° 11' 22" W. a distance of 364.00 feet to a point of intersection for the southwest corner of this tract;

THENCE N. 02° 00' 08" E. a distance of 324.23 feet, to a point of intersection for the northwest corner of this tract, having coordinates of Northing: 7,235,870.44 and Easting: 943,617.51 of the Texas Coordinate System of 1983 (2011), Texas North Central Zone;

THENCE S. 88° 08' 12" E. a distance of 971.49 feet to a point of intersection for a corner of this tract;

THENCE N. 88° 29' 07" E. a distance of 935.19 feet to the POINT OF BEGINNING. Bearings are relative to the Texas Coordinate System of 1983 (2011), Texas North Central Zone. The convergence angle to true north is -01° 50' 14". Distances are at surface, in U.S. Survey feet. All corners are monumented with 1/2" iron rods with caps marked "AMD ENGINEERING".



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: Avenue U & 132nd Street (Bell Farms Phase 18 Lots 1652 - 1752) - Plat Attached

Lots/Tracts: Portion of Lots located in Bell Farms Phase 18 Lots 1652 - 1752) - Plat Attached

Survey & Abstract: See Attached Plat

Metes and Bounds Attached: Yes ☐ No ☒ Total Acreage of Request: Portion of BF Phase 18 (approx 10 Acres)

Existing Land Use: Vacant

Existing Zoning: IHC

Requested Zoning: R1-A

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: Betenbough Homes

Owner: Ronnie Wallace

Address: 6305 82nd Street City: Lubbock State: Texas

ZIP Code: 79424 Telephone: 806-412-6611 Email: ronniew@betenbough.com

Property Owner's Signature: [Signature]

Date: 9/29/22 Printed Name: Ronnie Wallace

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

Ordinance 2nd Reading - Planning (District 4): Consider Ordinance No. 2022-00165, for Zone Case 3472, a request of Hugo Reed and Associates, Inc. for Red Canyon Development, LLC, for a zone change from Transition District (T) to Restricted Local Retail District (C-2A) and Local Retail District (C-2), generally located south of 146th Street and west of Quaker Avenue, on 19.4 acres of unplatted land out of Block AK, Section 6.

Item Summary

On November 16, 2022, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on November 3, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance - 3472
Staff Report - 3472
Documentation - 3472

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. 3472; A ZONING CHANGE FROM T TO C-2A AND C-2 ZONING DISTRICT GENERALLY LOCATED SOUTH OF 146TH STREET AND WEST OF QUAKER AVENUE, ON 19.4 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, 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. 3472

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-2A and C-2** zoning district **generally located south of 146th Street and west of Quaker Avenue, on 19.4 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kristen Sager, Director of Planning

APPROVED AS TO FORM:

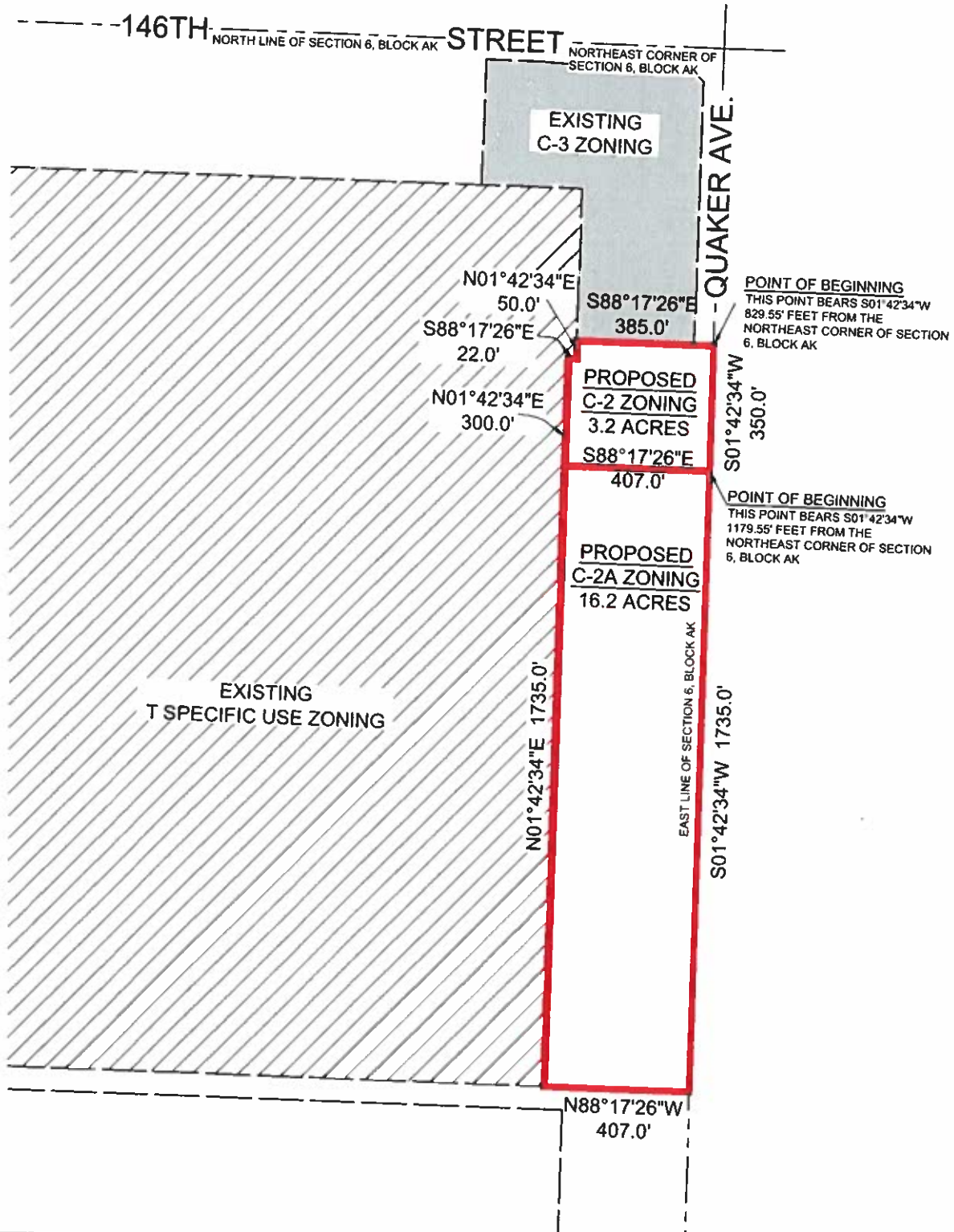


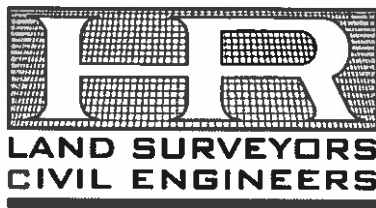
Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3472
November 3, 2022

PROPOSED C-2 & C-2A ZONING

LOCATED IN SECTION 6, BLOCK AK





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

EXHIBIT "A"

PROPOSED C-2 ZONING

METES AND BOUNDS DESCRIPTION of an approximate 3.2 acre tract of land located in Section 6, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the East line of Section 6, Block AK, for the Northeast corner of this tract which bears S. 01°42'34" W. a distance of 829.55 feet from the Northeast corner of Section 6, Block AK, Lubbock County, Texas;

THENCE S. 01°42'34" W., along the East line of said Section 6, an approximate distance of 350.0 feet to a point for the Southeast corner of this tract;

THENCE N. 88°17'26" W. an approximate distance of 407.0 feet to a point for the Southwest corner of this tract;

THENCE N. 01°42'34" E. an approximate distance of 300.0 feet to a point for the most Westerly Northwest corner of this tract;

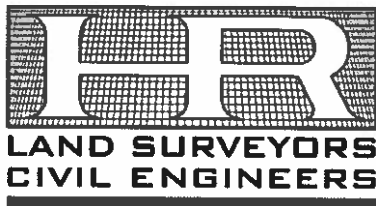
THENCE S. 88°17'26" E. an approximate distance of 22.0 feet to a point;

THENCE N. 01°42'34" E. an approximate distance of 50.0 feet to a point for the most Northerly Northwest corner of this tract;

THENCE S. 88°17'26" E. an approximate distance of 385.0 feet to the Point of Beginning.

PREPARED FOR ZONE CHANGE PURPOSES. DOES NOT REPRESENT AN ACTUAL SURVEY.

Prepared for Red Canyon Development LLC
Contains: 3.2 Acres
September 29, 2022



HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-6642 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100676-00

EXHIBIT "A"

PROPOSED C-2A ZONING

METES AND BOUNDS DESCRIPTION of an approximate 16.2 acre tract of land located in Section 6, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point in the East line of Section 6, Block AK, for the Northeast corner of this tract which bears S. $01^{\circ}42'34''$ W. a distance of 1179.55 feet from the Northeast corner of Section 6, Block AK, Lubbock County, Texas;

THENCE S. $01^{\circ}42'34''$ W., along the East line of said Section 6, an approximate distance of 1735.0 feet to a point for the Southeast corner of this tract;

THENCE N. $88^{\circ}17'26''$ W. an approximate distance of 407.0 feet to a point for the Southwest corner of this tract;

THENCE N. $01^{\circ}42'34''$ E. an approximate distance of 1735.0 feet to a point for the Northwest corner of this tract;

THENCE S. $88^{\circ}17'26''$ E. an approximate distance of 407.0 feet to the Point of Beginning.

PREPARED FOR ZONE CHANGE PURPOSES. DOES NOT REPRESENT AN ACTUAL SURVEY.

Prepared for Red Canyon Development LLC
Contains: 3.2 Acres
September 29, 2022

Staff Report		Zone Case 3472
City Council Meeting		November 16, 2022

Applicant Hugo Reed and Associates, Inc.

Property Owner Red Canyon Development, LLC

Council District 4

Recommendations

- Staff recommends approval of this request.

Prior Board or Council Action

- February 8, 2018, Ordinance No. 2018-00023: The subject property was annexed and zoned Transition District (T).
- November 3, 2022, Zone Case 3472: The Planning and Zoning Commission recommended approval for a zone change from Transition District (T) to Restricted Local Retail District (C-2A) and Local Retail District (C-2) by a vote of 9-0-0.

Notification Summary

- Notifications Sent: 7
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The subject property remains unplatted and vacant.

Adjacent Property Development

The property to the north is zoned General Retail District (C-3) and remains vacant. The property to the west is zoned Transition (T) Specific Use for a commercial athletic field, park, stadium or arena and remains vacant. The north portion of the property to the east is zoned Restricted Local Retail District (C-2A) and remains vacant. The south portion of the property to the east is outside of city limits.

Zoning Request and Analysis

Item Summary

The subject property is located west of Quaker Avenue. The applicant requests a zone change from T to Restricted Local Retail District (C-2A) and Local Retail District (C-2).

Current zoning: Transition District (T)

Requested zoning: Restricted Local Retail District (C-2A) and 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-2A zoning is, "...to provide limited local retail and service commercial uses which serve one or several neighborhoods. Such districts may be located on existing shallow commercial centers adjacent to thoroughfares."

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 will be along Quaker Avenue. Quaker Avenue is designated as Principal Arterial (Modified) 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 existing development.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The Future Land Use Map designates this area for “Low Density Residential” land uses. While the proposed zone change to C-2A and C-2 is not consistent with this designation, it is appropriate in this location next to other commercial zonings that are already established. This property also fronts onto Quaker Avenue, which is a Principal Arterial (Modified), making this request in moderate conformance with the Comprehensive Plan.

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 may need additional public improvements to support the intensity of uses described in the C-2A and C-2 zoning districts, as the property is currently 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 documentation

Staff Contacts

Ashley Padilla
Planner
Planning Department
806-775-2107
ashleypadilla@mylubbock.us

Victor Escamilla
Planning and Zoning Manager
Planning Department
806-775-3029
vescamilla@mylubbock.us

Case Information: Zone Case 3472



Allowable Uses: [Restricted Local Retail District \(C-2A\)](#), [Local Retail \(C-2\)](#)

Transportation: The proposed development has point of access from Quaker Avenue.

Thoroughfare	Existing	Per Thoroughfare Development Plan
Quaker Avenue, Principal Arterial (Modified), Partially Completed	R.O.W. 76 feet, two-lane, undivided, not 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

District 4

5.7 **Zone Case 3472:** Hugo Reed and Associates, Inc. for Red Canyon Development, LLC Request for a zone change from Transition District (T) to Restricted Local Retail District (C-2A) and Local Retail District (C-2), at:

- Generally located south of 146th Street and west of Quaker Avenue, on 19.4 acres of unplatted land out of Block AK, Section 6.

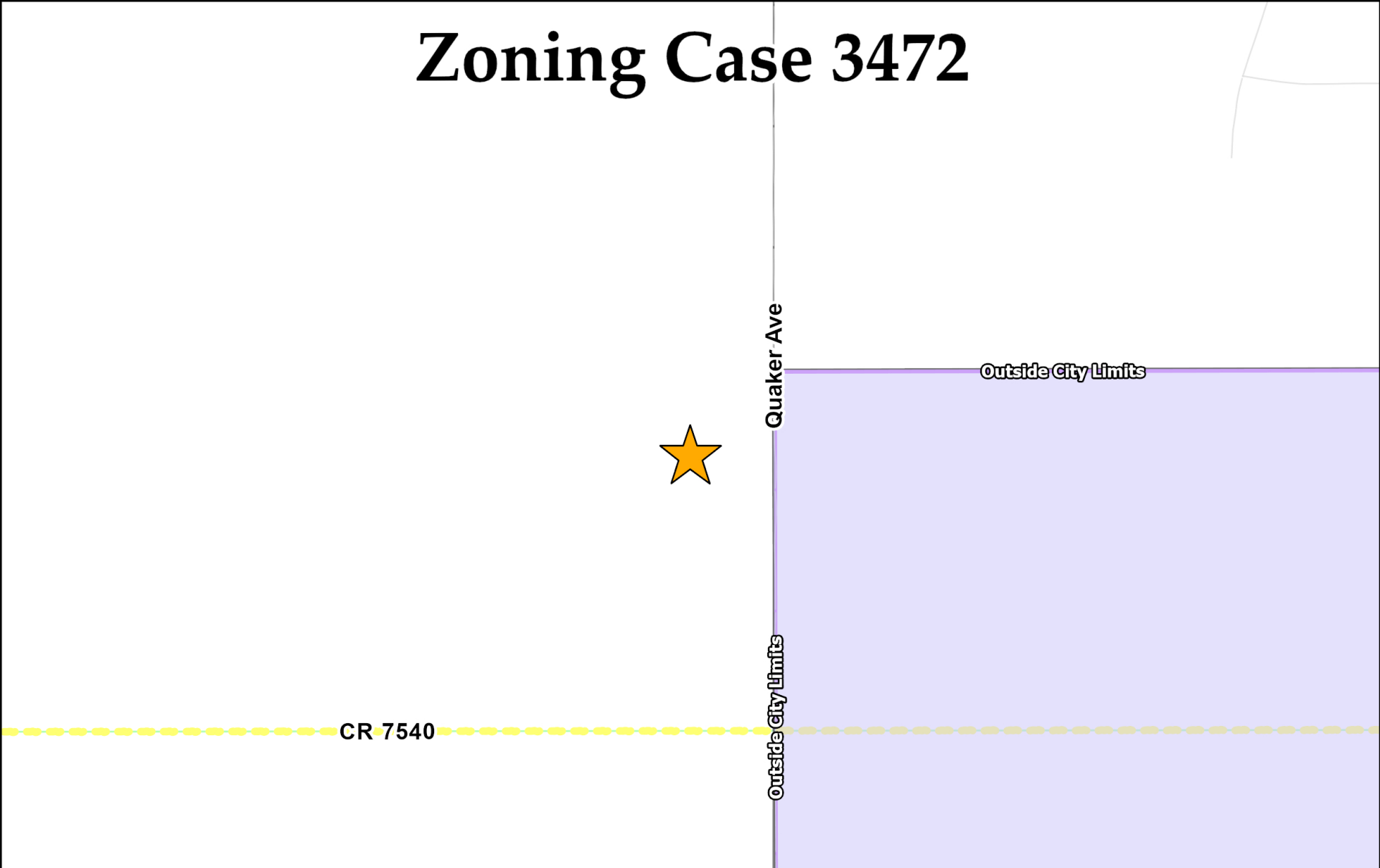
PLANNER ASHLEY PADILLA stated there were seven (7) notifications sent out with zero (0) returned. Staff shared the location of the property including pictures, maps, and discussed the surrounding properties. Staff recommends approval of the request.















APPLICANT TERRY HOLEMAN, 1601 Avenue N, said this request is part of the Red Feather development and a huge majority of this construction is a playa lake, where they are creating a golf course. They are left with a small strip of land and they are requesting C-2, because it allows drive-ups, with a downgrade into C-2A zoning further south.

No one spoke in favor or in opposition to the request.

In the matter of **Zone Case 3472**, a motion was made by **TANNER NOBLE** and seconded by **AVIRAJ PATEL** to approve the request and the Commission members voted 9 (in favor) to 0 (in opposition) to approve the motion. The item will be forwarded to City Council for consideration.

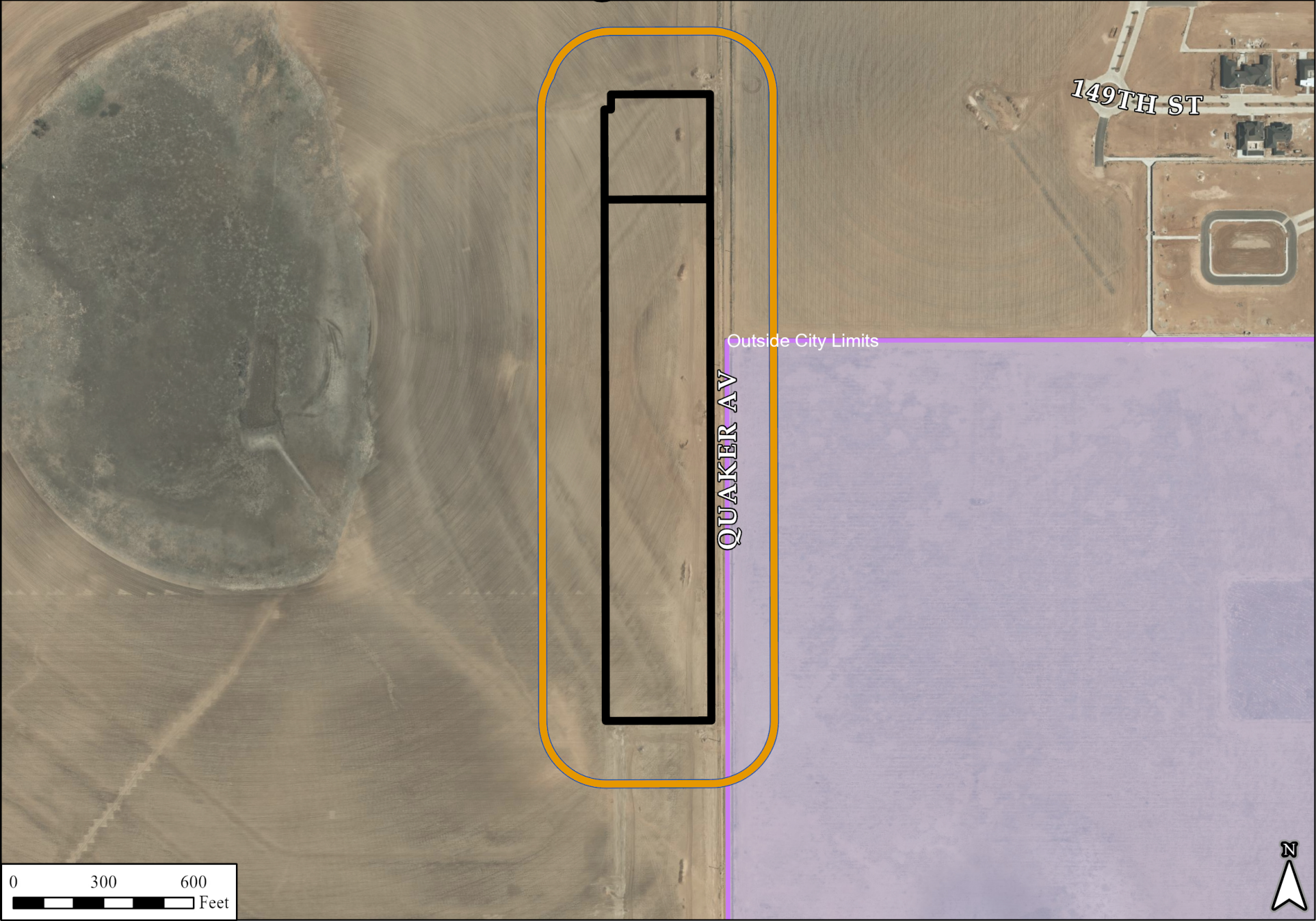
Zoning Case 3472



Collector	Minor Arterial	Modified Arterial	Principal Arterial	Freeway
 Completed	 Completed	 Partial	 Completed	 Completed
 Partial	 Partial	 Future	 Partial	 Partial
 Future	 Future		 Future	 Proposed Outer Loop



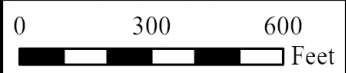
Zoning Case 3472



Outside City Limits

QUAKER AV





149TH ST

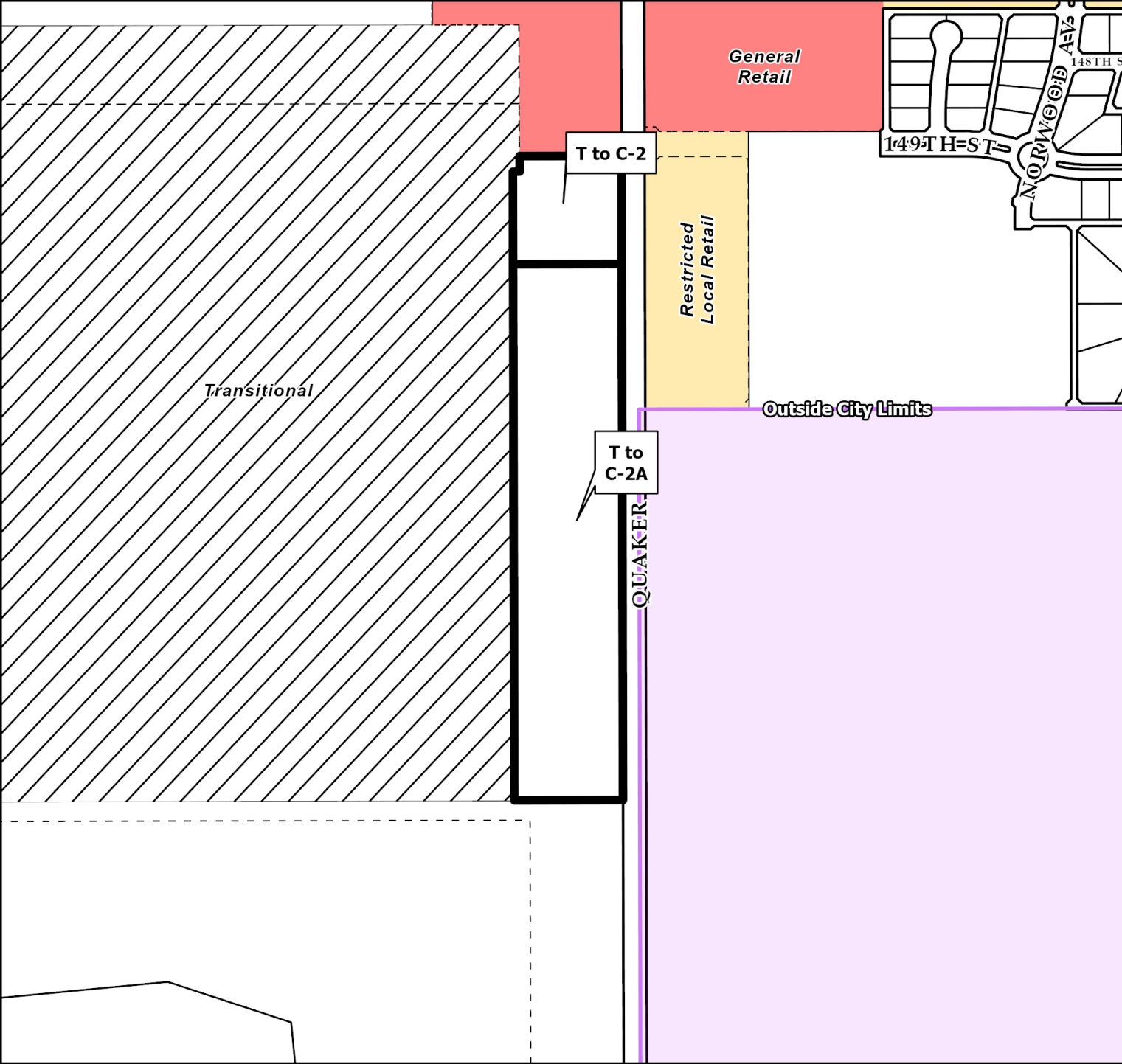


Current Zoning

3472

Zoning Districts

-  Restricted Local Retail
-  General Retail
-  Transitional
-  Transitional Specific Use



0 200 400 600 Feet



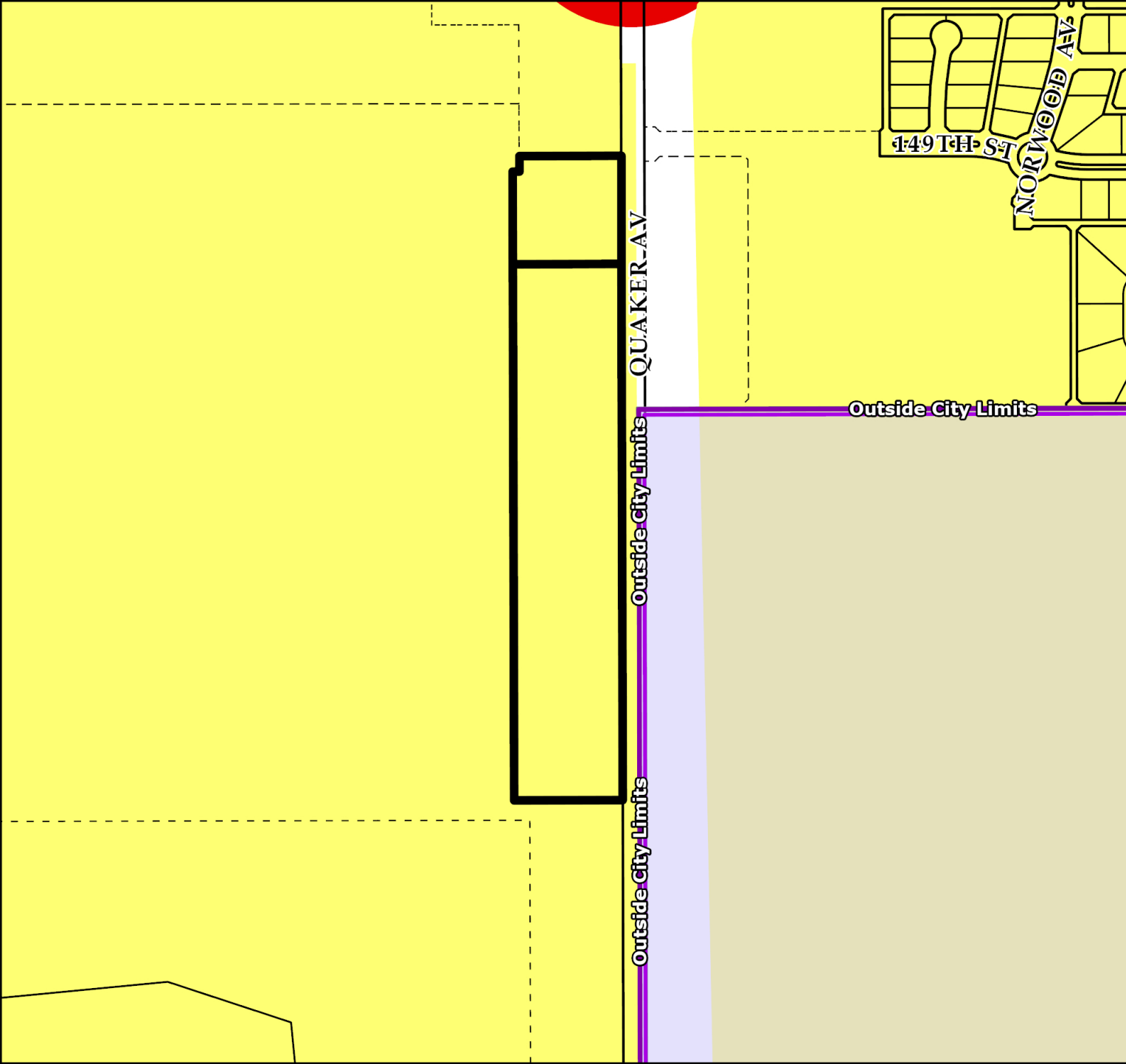
Future Land Use Plan Case 3472

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



0 200 400 600 Feet



3472



Subject property. View to the South.



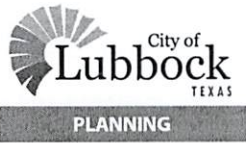
View to the East.



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: Quaker Avenue south of 146th Street
Lots/Tracts: Unplatted
Survey & Abstract: Section 6, Block AK
Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 19.4
Existing Land Use: Vacant Existing Zoning: T
Requested Zoning: C-2 and C-2A
If property is not subdivided, will a preliminary plat be submitted? Yes ☒ No ☐

Representative/Agent Information (if different from owner)

Firm Name: Hugo Reed and Associates, Inc.
Name: Terry Holeman
Address: 1601 Avenue N City: Lubbock State: Texas
ZIP Code: 79401 Telephone: 806-763-5642 Email: tholeman@hugoreed.com
Applicant's Signature: Terry Holeman
Date: September 29, 2022 Printed Name: Terry Holeman

Owner Information

Firm Name: _____
Owner: Red Canyon Development, LLC
Address: PO Box 64664 City: Lubbock State: Texas
ZIP Code: 79464 Telephone: 806-543-0667 Email: tpayn3@gmail.com
Property Owner's Signature: _____
Date: September 29, 2022 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.

Information

Agenda Item

Ordinance 2nd Reading - Planning (District 5): Consider Ordinance No. 2022-00166, for Zone Case 3126-D, a request of Hugo Reed and Associates, Inc. for SWLLD, LLC and FADEV, LLC, for a zone change from Transition District (T), Interstate Highway Industrial District (IHI), General Retail District (C-3) and High-Density Apartment District (A-2) to Two-Family District (R-2), High-Density Apartment District (A-2), Local Retail District (C-2) and Interstate Highway Commercial District (IHC), generally located north of 130th Street (proposed Loop 88) and west of Frankford Avenue, on 99.4 acres of land out of Block AK, Section 20.

Item Summary

On November 16, 2022, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on November 3, 2022, and recommended approval of the request by a vote of 8-0-1.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance - 3126-D

Staff Report - 3126-D

Documentation - 3126-D

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. 3126-D; A ZONING CHANGE FROM T, IHI, C-3 AND A-2 TO R-2, A-2, C-2 AND IHC ZONING DISTRICT GENERALLY LOCATED NORTH OF 130TH STREET (PROPOSED LOOP 88) AND WEST OF FRANKFORD AVENUE, ON 99.4 ACRES OF 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. 3126-D

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, IHI, C-3 and A-2** to **R-2, A-2, C-2 and IHC** zoning district **generally located north of 130th Street (proposed Loop 88) and west of Frankford Avenue, on 99.4 acres of 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kristen Sager, Director of Planning

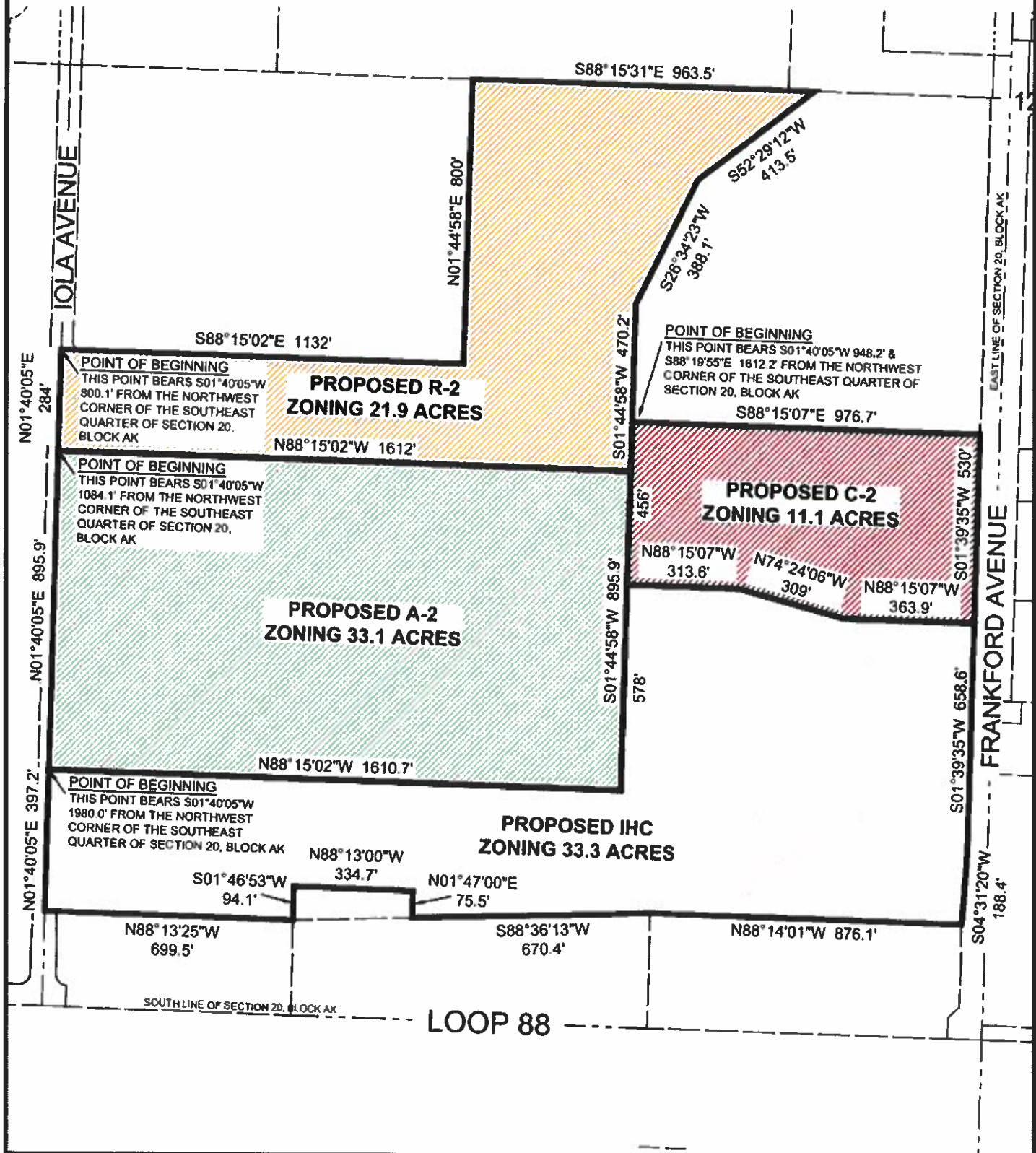
APPROVED AS TO FORM:

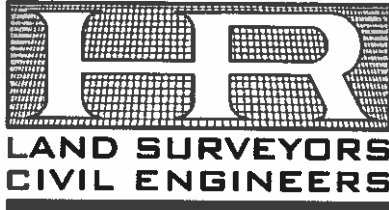


Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3126-D
November 3, 2022

PROPOSED R-2, C-2, A-2 & IHC ZONING LOCATED IN SECTION 20, BLOCK AK





HUGO REED AND ASSOCIATES, INC.
1601 AVENUE N / LUBBOCK, TEXAS 79401 / 806/763-5842 / FAX 806/763-3891
TEXAS REGISTERED ENGINEERING FIRM F-760
TEXAS LICENSED SURVEYING FIRM 100876-00

EXHIBIT "A"

PROPOSED A-2 ZONING

METES AND BOUNDS DESCRIPTION of an approximate 33.1 acre tract of land located in Section 20, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point for the Northwest corner of this tract which bears S. 01°40'05" W. a distance of 1084.1 feet from the Northwest corner of the Southeast Quarter of Section 20, Block AK, Lubbock County, Texas;

THENCE S. 88°15'02" E. an approximate distance of 1612.0 feet to a point for the Northeast corner of this tract;

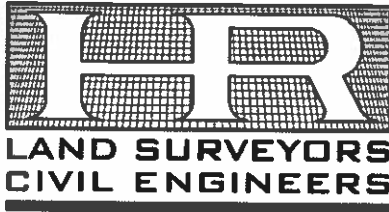
THENCE S. 01°44'58" W. an approximate distance of 895.9 feet to a point for the Southeast corner of this tract;

THENCE N. 88°15'02" W. an approximate distance of 1610.7 feet to a point for the Southwest corner of this tract;

THENCE N. 01°40'05" E. an approximate distance of 895.9 feet to the Point of Beginning.

PREPARED FOR ZONE CHANGE PURPOSES. DOES NOT REPRESENT AN ACTUAL SURVEY.

Prepared for SWLLD LLC
Contains: 33.1 Acres
September 29, 2022



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

EXHIBIT "A"

PROPOSED C-2 ZONING

METES AND BOUNDS DESCRIPTION of an approximate 11.1 acre tract of land located in Section 20, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point for the Northwest corner of this tract which bears S. $01^{\circ}40'05''$ W. a distance of 948.2 feet and S. $88^{\circ}19'55''$ E. a distance of 1612.2 feet from the Northwest corner of the Southeast Quarter of Section 20, Block AK, Lubbock County, Texas;

THENCE S. $88^{\circ}15'07''$ E. an approximate distance of 976.7 feet to a point in the West right-of-way line of Frankford Avenue for the Northeast corner of this tract;

THENCE S. $01^{\circ}39'35''$ W., along said West right-of-way line, an approximate distance of 530.0 feet to a point for the Southeast corner of this tract;

THENCE N. $88^{\circ}15'07''$ W. an approximate distance of 363.9 feet to a point;

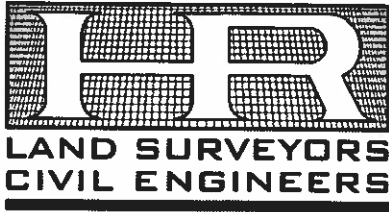
THENCE N. $74^{\circ}24'06''$ W. an approximate distance of 309.0 feet to a point;

THENCE N. $88^{\circ}15'07''$ W. an approximate distance of 313.6 feet to a point for the Southwest corner of this tract;

THENCE N. $01^{\circ}44'58''$ E. an approximate distance of 456.0 feet to the Point of Beginning.

PREPARED FOR ZONE CHANGE PURPOSES. DOES NOT REPRESENT AN ACTUAL SURVEY.

Prepared for SWLLD LLC
Contains: 11.1 Acres
September 29, 2022



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

EXHIBIT "A"

PROPOSED IHC ZONING

METES AND BOUNDS DESCRIPTION of an approximate 33.3 acre tract of land located in Section 20, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point for the most Westerly Northwest corner of this tract which bears S. 01°40'05" W. a distance of 1980.0 feet from the Northwest corner of the Southeast Quarter of Section 20, Block AK, Lubbock County, Texas;

THENCE S. 88°15'02" E. an approximate distance of 1610.7 feet to a point;

THENCE N. 01°44'58" E. an approximate distance of 578.0 feet to a point for the most Northerly Northwest corner of this tract;

THENCE S. 88°15'07" E. an approximate distance of 313.6 feet to a point;

THENCE S. 74°24'06" E. an approximate distance of 309.0 feet to a point;

THENCE S. 88°15'07" E. an approximate distance of 363.9 feet to a point in the West right-of-way line of Frankford Avenue for the for the Northeast corner of this tract;

THENCE S. 01°39'35" W., along said West right-of-way line, an approximate distance of 658.6 feet to a point;

THENCE S. 04°31'20" W., continuing along said West right-of-way line, an approximate distance of 188.4 feet to a point for the Southeast corner of this tract;

THENCE N. 88°14'01" W. an approximate distance of 876.1 feet to a point;

THENCE S. 88°36'13" W. an approximate distance of 670.4 feet to a point;

THENCE N. 01°47'00" E. an approximate distance of 75.5 feet to a point;

THENCE N. 88°13'00" W. an approximate distance of 334.7 feet to a point;

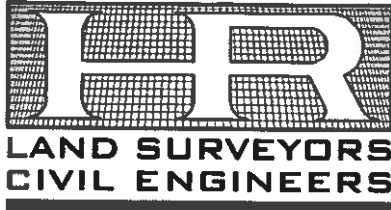
THENCE S. 01°46'53" W. an approximate distance of 94.1 feet to a point;

THENCE N. 88°13'25" W. an approximate distance of 699.5 feet to a point for the Southwest corner of this tract;

THENCE N. 01°40'05" E. an approximate distance of 397.2 feet to the Point of Beginning.

PREPARED FOR ZONE CHANGE PURPOSES. DOES NOT REPRESENT AN ACTUAL SURVEY.

Prepared for SWLLD LLC & FADEV LLC
Contains: 33.3 Acres
September 29, 2022



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

EXHIBIT "A"

PROPOSED R-2 ZONING

METES AND BOUNDS DESCRIPTION of an approximate 21.9 acre tract of land located in Section 20, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point for the most Westerly Northwest corner of this tract which bears S. 01°40'05" W. a distance of 800.1 feet from the Northwest corner of the Southeast Quarter of Section 20, Block AK, Lubbock County, Texas;

THENCE S. 88°15'02" E. an approximate distance of 1132.0 feet to a point;

THENCE N. 01°44'58" E. an approximate distance of 800.0 feet to a point for the most Northerly Northwest corner of this tract;

THENCE S. 88°15'31" E. an approximate distance of 963.5 feet to a point for the Northeast corner of this tract;

THENCE S. 52°29'12" W. an approximate distance of 413.5 feet to a point;

THENCE S. 26°34'23" W. an approximate distance of 388.1 feet to a point;

THENCE S. 01°44'58" W. an approximate distance of 470.2 feet to a point for the Southeast corner of this tract;

THENCE N. 88°15'02" W. an approximate distance of 1612.0 feet to a point for the Southwest corner of this tract;

THENCE N. 01°40'05" E. an approximate distance of 284.0 feet to the Point of Beginning.

PREPARED FOR ZONE CHANGE PURPOSES. DOES NOT REPRESENT AN ACTUAL SURVEY.

Prepared for SWLLD LLC
Contains: 21.9 Acres
September 29, 2022

Staff Report		Zone Case 3126-D
City Council Meeting		November 16, 2022

Applicant Hugo Reed and Associates, Inc.

Property Owner SWLLD, LLC & FADEV, LLC

Council District 5

Recommendations

- Staff recommends approval of this request.

Prior Board or Council Action

- December 04, 2008, Ordinance No. 2008-00104: The subject property was annexed into city limits and zoned Transition District (T).
- August 13, 2009, Zone Case 3126, Ordinance No. 2009-00070: Portions of the subject property were rezoned from T to High Density Apartment District (A-2), Garden Office District (GO) and General Retail District (C-3).
- November 8, 2012, Zone case 3126-A, Ordinance No. 2012-00123: A portion of the subject property was rezoned from (GO) to Interstate Highway Industrial District (IHI).
- March 10, 2016, Zone Case 3126-C, Ordinance No. 2016-00034: The southwestern portion of the subject property was rezoned from (T) and (A-2) to General Retail District (C-3).
- November 3, 2022, Zone Case 3126-D: The Planning and Zoning Commission recommended approval of a zone change from Transition District (T), Interstate Highway Industrial District (IHI), General Retail District (C-3), and High-Density Apartment (A-2) to Two-Family District (R-2), High-Density Apartment District (A-2), Local Retail District (C-2), and Interstate Highway Commercial District (IHC) by a vote of 8-0-1.

Notification Summary

- Notifications Sent: 15
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The property consists of 99.4 acres of unplatted, vacant land out of Block AK, Section 20. It is in the process of being platted as Pirate's Cove Addition Lots 1-90, and Tracts A-R.

Adjacent Property Development

This property is surrounded by baseball fields and vacant land zoned Transition (T) to the west; to the north is vacant land and a single family resident zoned Transition (T); to the east is commercial property and vacant land zoned Transition (T) and General Retail District (C-3); and to the south is commercial and residential property zoned Transition (T) and General Retail District (C-3) and the current city limits.

Item Summary

The subject property is generally located north of 130th Street (proposed Loop 88) and west of Frankford Avenue, on 99.4 acres of land out of Block AK, Section 20. The applicant is requesting a zone change from Transition District (T), Interstate Highway Industrial District (IHI), General Retail District (C-3) and High-Density Apartment District (A-2) to Two-Family District (R-2), High-Density Apartment District (A-2), Local Retail District (C-2) and Interstate Highway Commercial District (IHC).

Current zoning: Transition District (T), Interstate Highway Industrial District (IHI) General

Retail District (C-3), and High-Density Apartment District (A-2)

Requested zoning: **Two-Family District (R-2), High-Density Apartment District (A-2), Local Retail District (C-2), and Interstate Highway Commercial District (IHC)**

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 current IHI zoning is “... to provide for planned, quality industrial development within the interstate corridor so that persons entering the city along the corridor have a good first impression, and to maintain a quality appearance which will stabilize or increase real property values.”

The intent of the current C-3 zoning is “... to provide for general commercial uses which are medium activity centers in terms of generated traffic. Such districts should be adjacent to local or regional thoroughfares such as state or federal highways. Because of the commercial nature of the permitted uses, compatibility with adjacent residential areas should be considered.”

The intent of the current and proposed A-2 zoning is “...to promote high-density multi-family developments and compatible land uses in harmony with lower-density uses. The regulations are designed to provide the occupants with safe and convenient housing within an aesthetically pleasing environment in proper relationship to adjacent land uses. When proposed development in this district is adjacent to “RR,” “R-1,” “R-1A,” or “R-2” zoned property, the proposed development shall be designed to provide for maximum compatibility with the adjacent development. Architectural design, landscaping, screening and parking areas shall be properly provided to ensure maximum protection of lower-density uses.”

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.”

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.”

The intent of the proposed IHC zoning is “... to provide for quality commercial office, retail and wholesale uses which serve a city-wide or regional area. Such uses require careful consideration when adjacent to residential areas.”

Traffic Network/Infrastructure Impacts

The location is between Frankford Avenue, which is designated as a Minor Arterial and Iola Avenue, which is designated as a Collector and north of 130th Street (proposed Loop 88) which is designated as a Freeway by the Master Thoroughfare Plan, 2018. Arterials are continuous routes whose function is to serve high volume needs of local and regional traffic. Collectors provide access and movement within residential, commercial, and industrial areas. Freeways are intended to move high volumes of automobile traffic at relatively high speeds over long distances.

Compatibility with Surrounding Property

The proposed zone changes are 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 Future Land Use Map designates this area for Residential Low Density uses. Although the proposed zone changes to R-2, A-2, C-2, and IHC would not be consistent with the Future Land Use Plan. Due to the planned development, IHC is an appropriate use near future Loop 88 and C-2 is an appropriate use along an arterial. Both proposed zoning districts provide a buffer for the residential zoning district.

Conformance with Zoning Ordinance

The proposed zone change is in conformance with the zoning ordinance. The property is located in an appropriate location along a Principal Arterial and the IHC zoning allows for a buffer from the future Loop 88.

Suitability of Property for Allowed Uses

The property may be suitable for the proposed commercial and residential uses, though additional improvements may be necessary.

Attachments

- A. Case Information
- B. Thoroughfare Map
- C. Aerial Map
- D. Zoning Map
- E. Future Land Use Map
- F. Photos
- G. Application and supporting documentation

Staff Contacts

Gregory Hernandez
Planner
Planning Department
806-775-3147
ghernandez@mylubbock.us

Victor Escamilla
Planning and Zoning Manager
Planning Department
806-775-3029
vescamilla@mylubbock.us

Case Information: Zone Case 3126-D



Allowable Uses: [Two-Family District \(R-2\)](#), [High-Density Apartment District \(A-2\)](#), [Local Retail District \(C-2\)](#), [Interstate Highway Commercial District \(IHC\)](#)

Transportation: The proposed development has point of access from Frankford Avenue and Lola Avenue.

Thoroughfare	Existing	Per Thoroughfare Development Plan
Frankford Avenue, <i>Minor Arterial, Incomplete</i>	R.O.W. 110 feet, two-lane, undivided, paved	R.O.W. 100 feet, five-lane, undivided, paved
Lola Avenue, <i>Collector Avenue, Incomplete</i>	R.O.W. 30 feet, two-lane, undivided, unpaved	R.O.W 64 feet, two-lane, undivided, paved
130 th Street (proposed Loop 88) <i>Freeway, incomplete</i>	R.O.W 100 feet, two lane, Undivided, paved	R.O.W 300 feet, eight-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

District 5

5.8 Zone Case 3126-D: Hugo Reed and Associates, Inc. for SWLLD, LLC and FADEV, LLC

Request for a zone change from Transition District (T), Interstate Highway Industrial District (IHI), General Retail District (C-3) and High-Density Apartment District (A-2) to Two-Family District (R-2), High-Density Apartment District (A-2), Local Retail District (C-2) and Interstate Highway Commercial District (IHC) at:

- Generally located north of 130th Street (proposed Loop 88) and west of Frankford Avenue, on 99.4 acres of land out of Block AK, Section 20.

PLANNER GREG HERNANDEZ stated there were fifteen (15) notifications sent out with zero (0) returned. Staff shared the location of the property including pictures, maps, and discussed the surrounding properties. Staff recommends approval of the request.

APPLICANT TERRY HOLEMAN, 1601 Avenue N, provided the proposed zone change map and said the northwest corner on the map belongs to Cooper Independent School District. They are developing around a school and highway. The proposed IHC will be good for the new Loop 88 Freeway. The proposed C-2 is a step-down commercial zoning, with a retail area that will face the south. The northeast area is a playa lake so all of the C-2 zoning requested will not be developed. The proposed A-2 area shown in green on the map is a good fit because of the streets to the north, east and west of the area. For the A-2 and R-2 areas, they plan to build townhomes and duplexes, which will have less impact on the school.

Opposed: MIKE HAGGARD, 12112 Frankford Avenue, said he is not really opposed, but has questions. **MR. HAGGARD** expressed concerns over the playa lake and any elevation changes that might cause water runoff onto neighboring properties.

MR. HOLEMAN answered, there are strict regulations regarding playa lakes, they have to account for playa lake volumes.

MR. HAGGARD asked if there would be fencing separating his property from the proposed homes.

MR. HOLEMAN said they are not requesting any zoning that would require a fence and they are not planning any type of barrier. The townhomes will be entered from the alley to avoid congestion in the front.

MR. HAGGARD said he was opposed to his property facing an alley.

GARY YOUNG, 5909 119th Street, said he was not opposed or in favor but wanted to add any type of buffer or fence would be great.

No one else spoke in favor or in opposition to the request.

In the matter of **Zone Case 3126-D**, a motion was made by **SUSAN TOMLINSON** 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. The item will be forwarded to City Council for consideration.

TANNER NOBLE recused from hearing Case 3126-D

Zoning Case 3126-D






Iola Ave

Frankford Ave




Loop 88

Outside City Limits



Collector

-  Completed
-  Partial
-  Future



Minor Arterial

-  Completed
-  Partial
-  Future




Modified Arterial

-  Partial
-  Future

Principal Arterial

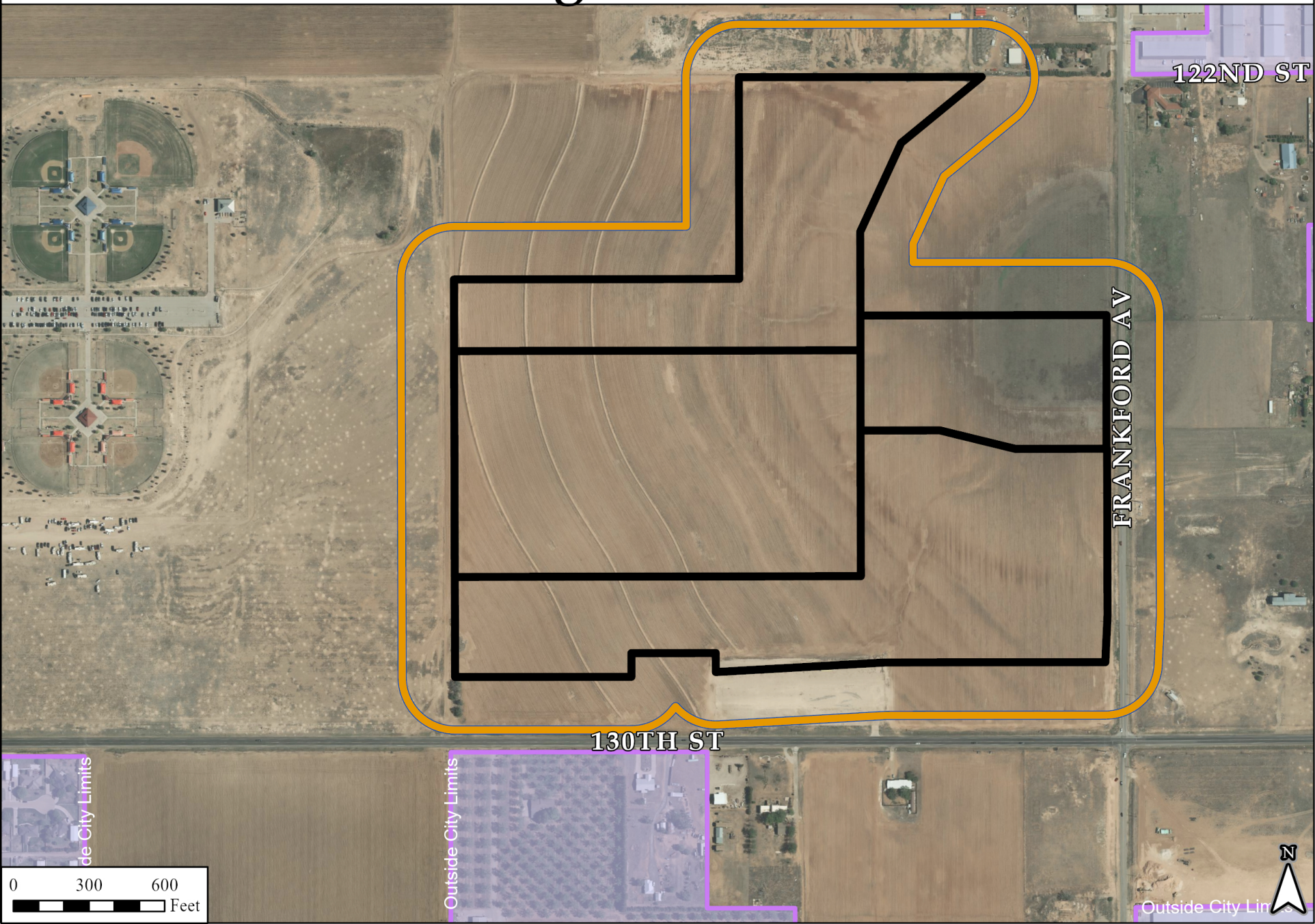
-  Completed
-  Partial
-  Future

Freeway

-  Completed
-  Partial
-  Proposed Outer Loop



Zoning Case 3126-D



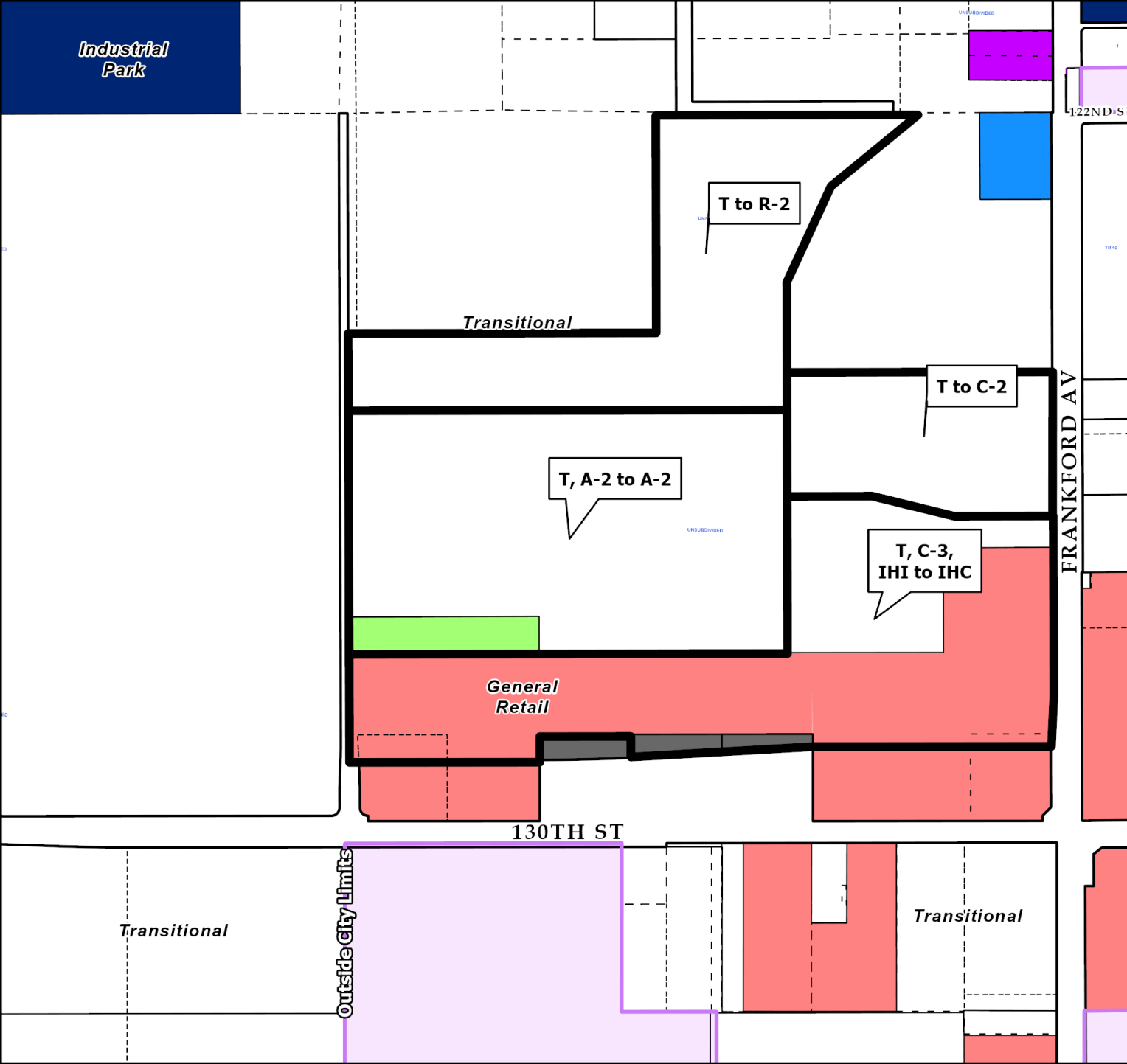
*Industrial
Park*

Current Zoning

3126-D

Zoning Districts

-  High Density Apartment
-  General Retail
-  Garden Office
-  Industrial Park
-  Interstate Highway Commercial
-  Interstate Highway Industrial
-  Transitional



0 200 400 600 Feet



Future Land Use Plan Case 3126-D

Future Land Use Type

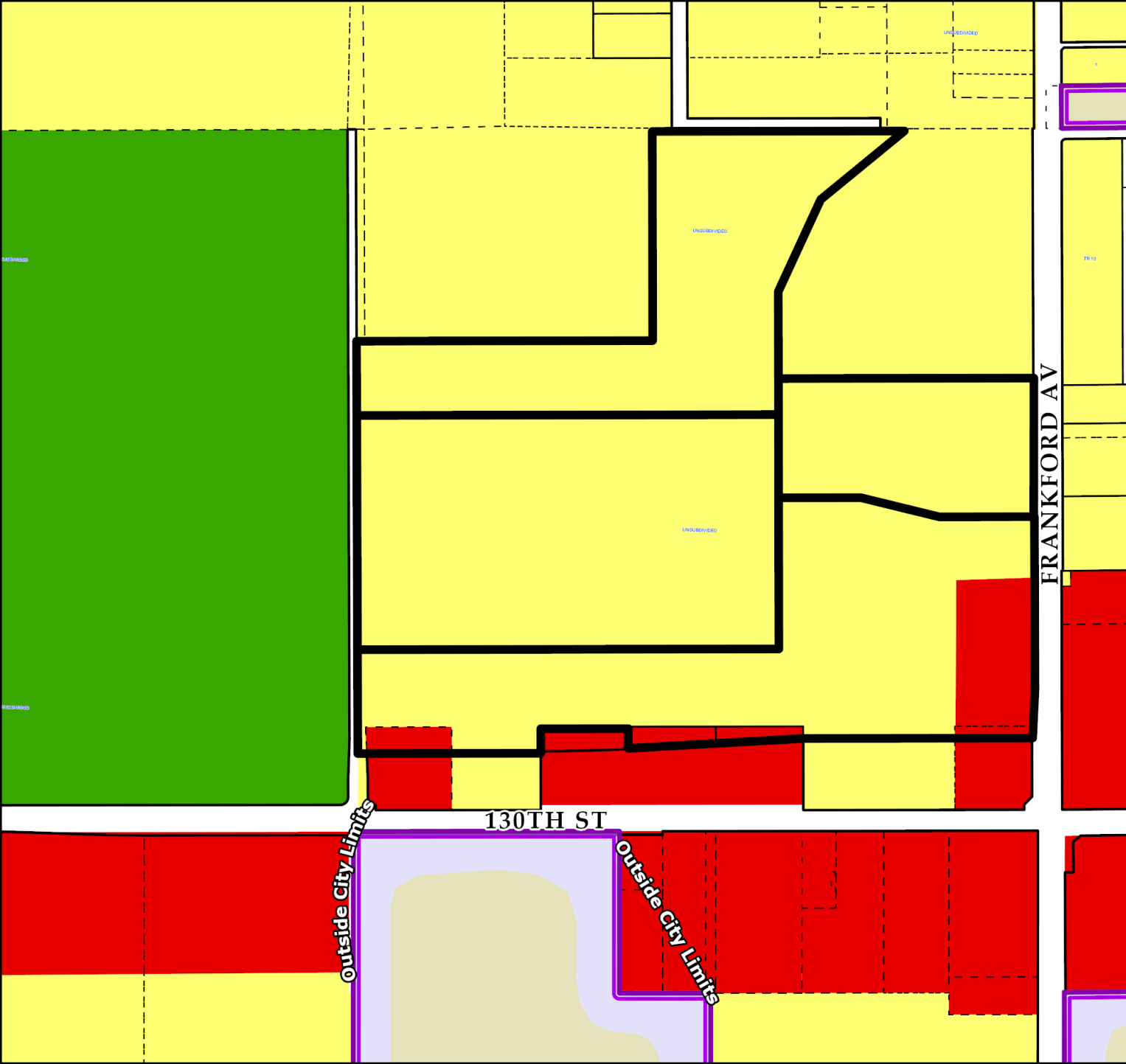
- Commercial
- Heavy Commercial
- Downtown
- Office
- Industrial
- Interstate Commercial
- Interstate Industrial
- Mixed Use
- Parks
- Public/ Semi-Public
- Residential Low Density
- Residential Medium Density
- Residential High Density



0 200 400 600 Feet



Date Exported: October 2022



3126-D



View of subject property to the west.



View to the east.



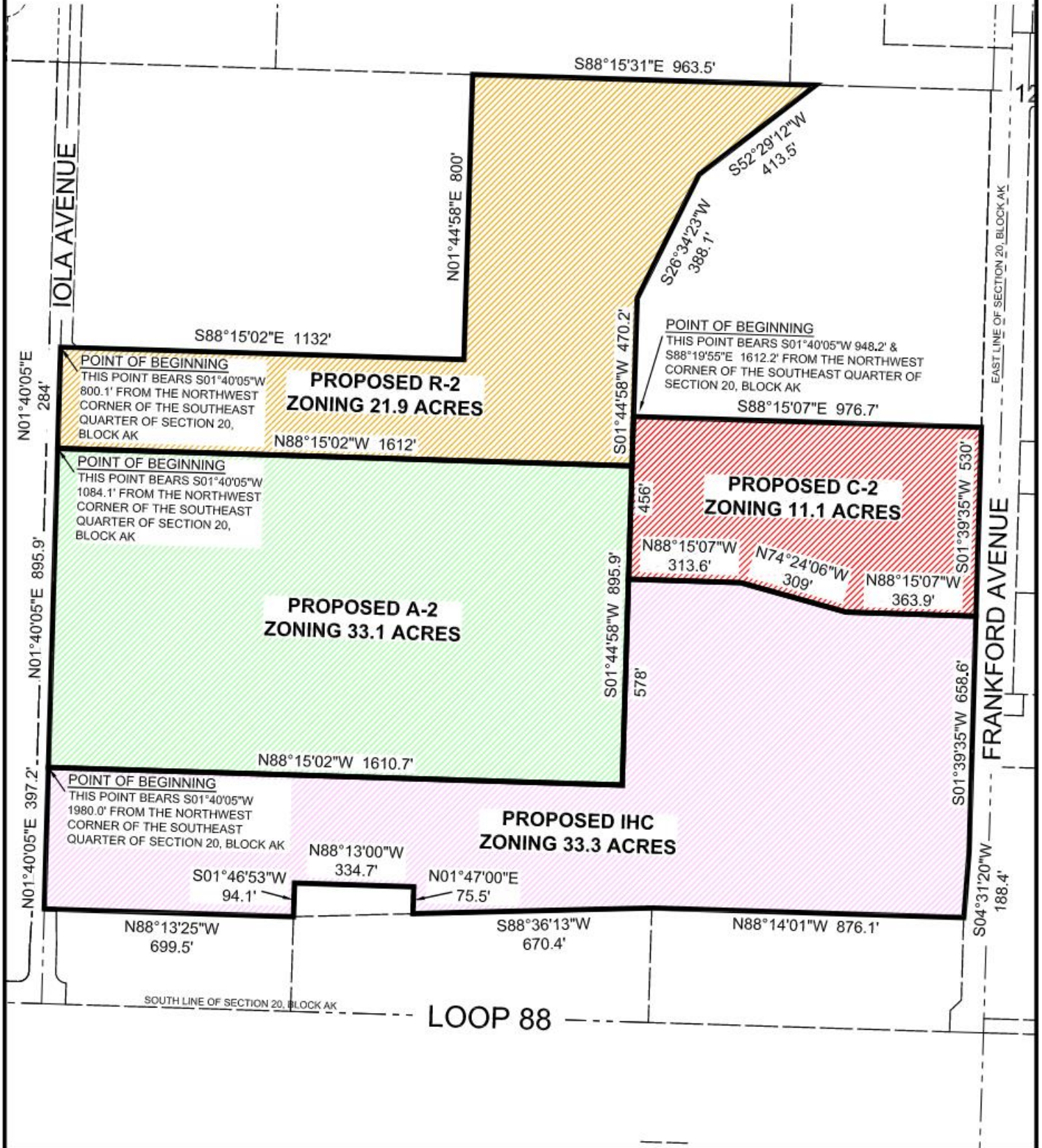
View to the south.

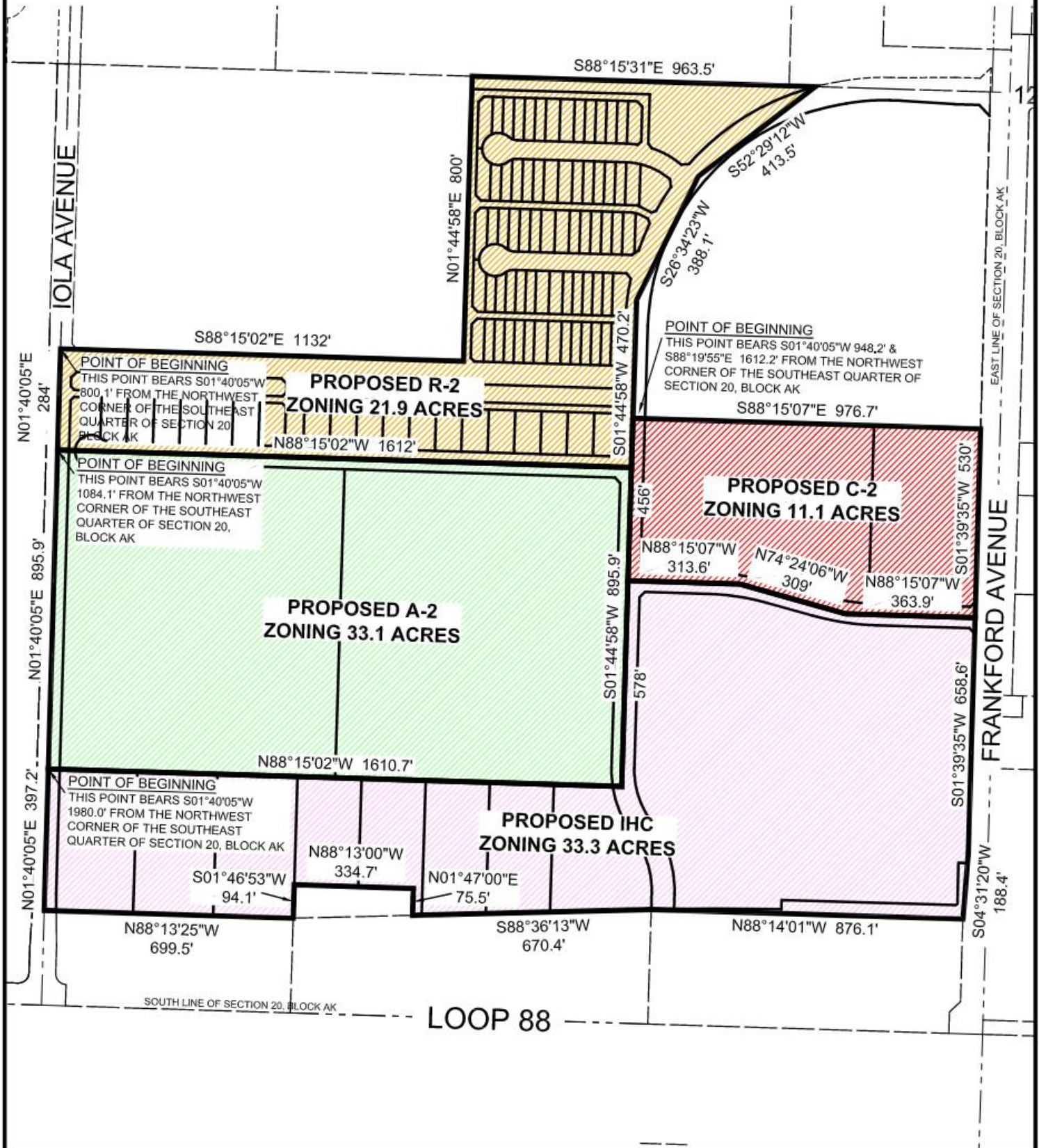


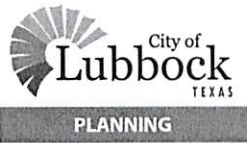
View to the north.

PROPOSED R-2, C-2, A-2 & IHC ZONING

LOCATED IN SECTION 20, BLOCK AK







Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 1601 Avenue N
Lots/Tracts: Unplatted
Survey & Abstract: Section 20, Block AK
Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 99.4
Existing Land Use: Vacant Existing Zoning: T, IHI, C-3, A-2
Requested Zoning: R-2, A-2, C-2, IHC
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: Texas
ZIP Code: 79401 Telephone: 806-763-5642 Email: tholeman@hugoreed.com
Applicant's Signature: Terry Holeman
Date: September 29, 2022 Printed Name: Terry Holeman

Owner Information

Firm Name: _____
Owner: SWLLD, LLC & FADEV, LLC
Address: PO Box 64664 City: Lubbock State: Texas
ZIP Code: 79464 Telephone: 806-543-0667 Email: tpayn3@gmail.com
Property Owner's Signature: _____
Date: September 29, 2022 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.

Information

Agenda Item

Ordinance 2nd Reading - Planning (District 6): Consider Ordinance No. 2022-00167, for Zone Case 1875-Y, a request of AMD Engineering, LLC for H&M Investments & Rentals LLC, for a zone change from High-Density Apartment District (A-2) to Two-Family District (R-2), at 6606 26th Street, located north of 26th Street and west of Norwich Avenue, Commanders Addition, the south 440 feet of the east 400 feet of Lot 2.

Item Summary

On November 16, 2022, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on November 3, 2022, and recommended approval of the request by a unanimous vote.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance - 1875-Y

Staff Report - 1875-Y

Documentation - 1875-Y

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. 1875-Y; A ZONING CHANGE FROM A-2 TO R-2 ZONING DISTRICT AT 6606 26TH STREET, LOCATED NORTH OF 26TH STREET AND WEST OF NORWICH AVENUE, COMMANDERS ADDITION, THE SOUTH 440 FEET OF THE EAST 400 FEET OF LOT 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. 1875-Y

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 **R-2** zoning district at **6606 26th Street, located north of 26th Street and west of Norwich Avenue, Commanders Addition, the south 440 feet of the east 400 feet of Lot 2, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kristen Sager, Director of Planning

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC1875-Y
November 3, 2022

Staff Report	Zone Case 1875-Y
City Council Meeting	November 16, 2022

Applicant H&M Investments & Rentals LLC

Property Owner Austin Martin

Council District 6

Recommendations

- Staff recommends approval of this request.

Prior Board or Council Action

- December 14, 1972, Ordinance No. 6517: The subject property was annexed into city limits and zoned Single Family District (R-1).
- June 14, 1973, Zone Case 1875, Ordinance No. 6656-1973: The subject property was rezoned from R-1 to R-1 Specific Use for a Mobile Home park.
- March 11, 1982, Zone Case 1875-H, Ordinance No. 8297-1982: The subject property was rezoned from R-1 Specific Use to High Density Apartment District (A-2).
- November 3, 2022, Zone Case 1875-Y: The Planning and Zoning Commission recommended approval for zone change from High Density Apartment District (A-2) to Two-Family District (R-2) by a vote of 9-0-0.

Notification Summary

- Notifications Sent: 20
- Received In Favor: 2
- Received In Opposition: 1

Site Conditions and History

The subject property consists of 4.04 acres of land out of the southern portion of Commanders Addition, Lot 2, which was originally platted on August 8, 1973. Oakwood Baptist Church currently occupies the property.

Adjacent Property Development

This property is surrounded by a mobile home park, zoned R-1 Specific Use for a Mobile Home Park, to the north and west, single family residences zoned Single Family District (R-1) and Two Family District (R-2) to the east and northeast, and apartments zoned High density Apartment District (A-2) and Apartment medical District (AM) to the south.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 6606 26th Street, north of 26th Street and west of Norwich Avenue. The applicant is requesting a zone change to Two-Family District (R-2).

Current zoning: High- Density Apartment District (A-2)

Requested zoning: Two Family District (R-2)

Intent Statements

The intent of the current A-2 zoning “...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 (R-2) zoning”...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 property is located north of 26th Street, which is designated as a Collector Street and west of Norwich Avenue which is designated as a Local Street by the Master Thoroughfare Plan, 2018. Collector Streets are designed for medium volumes of vehicles operating at lower speeds (i.e., 30-35 mph). 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 and will not change the character of the existing development. It is appropriate adjacent to other residential uses.

Conformance with Comprehensive Plan Principles and Future Land Use Map

The Future Land Use Map designates the subject property for Residential High Density uses. The requested zone change is consistent with this designation and is appropriate in this location, adjacent to other commercial uses.

Conformance with Zoning Ordinance

The proposed zone change is in conformance with the zoning ordinance and the location is appropriate for R-2.

Suitability of Property for Allowed Uses

The property is suitable for the proposed use and will not require additional public improvements to support the intensity of this use.

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 Responses

Staff Contacts

Cassie Bermea
Planner
Planning Department
806-775-2096
cassiebermea@mylubbock.us

Victor Escamilla
Planning and Zoning Manager
Planning Department
806-775-3029
vescamilla@mylubbock.us

Case Information: Zone Case 1875-Y



Allowable Uses: Two-Family District (R-2)

Transportation: The proposed development has a point of access from 26th Street.

Thoroughfare	Existing	Per Thoroughfare Development Plan
26 th Street <i>Collector (Partial)</i>	R.O.W. 64 feet, two-lane, undivided, paved	R.O.W. 64 feet, four-lane, undivided, paved

Engineering Comments: No comments.

Public Works Comments: No comments.

Building Safety Comments: No comments.

Fire Marshal Comments: No comments.

Draft Planning and Zoning Commission Minutes

District 6

5.9 **Zone Case 1875-Y:** AMD Engineering, LLC for H&M Investments & Rentals LLC Request for a zone change from High-Density Apartment District (A-2) to Two-Family District (R-2) at:

- 6606 26th Street, located north of 26th Street and west of Norwich Avenue, Commanders Addition, the south 440 feet of the east 400 feet of Lot 2.

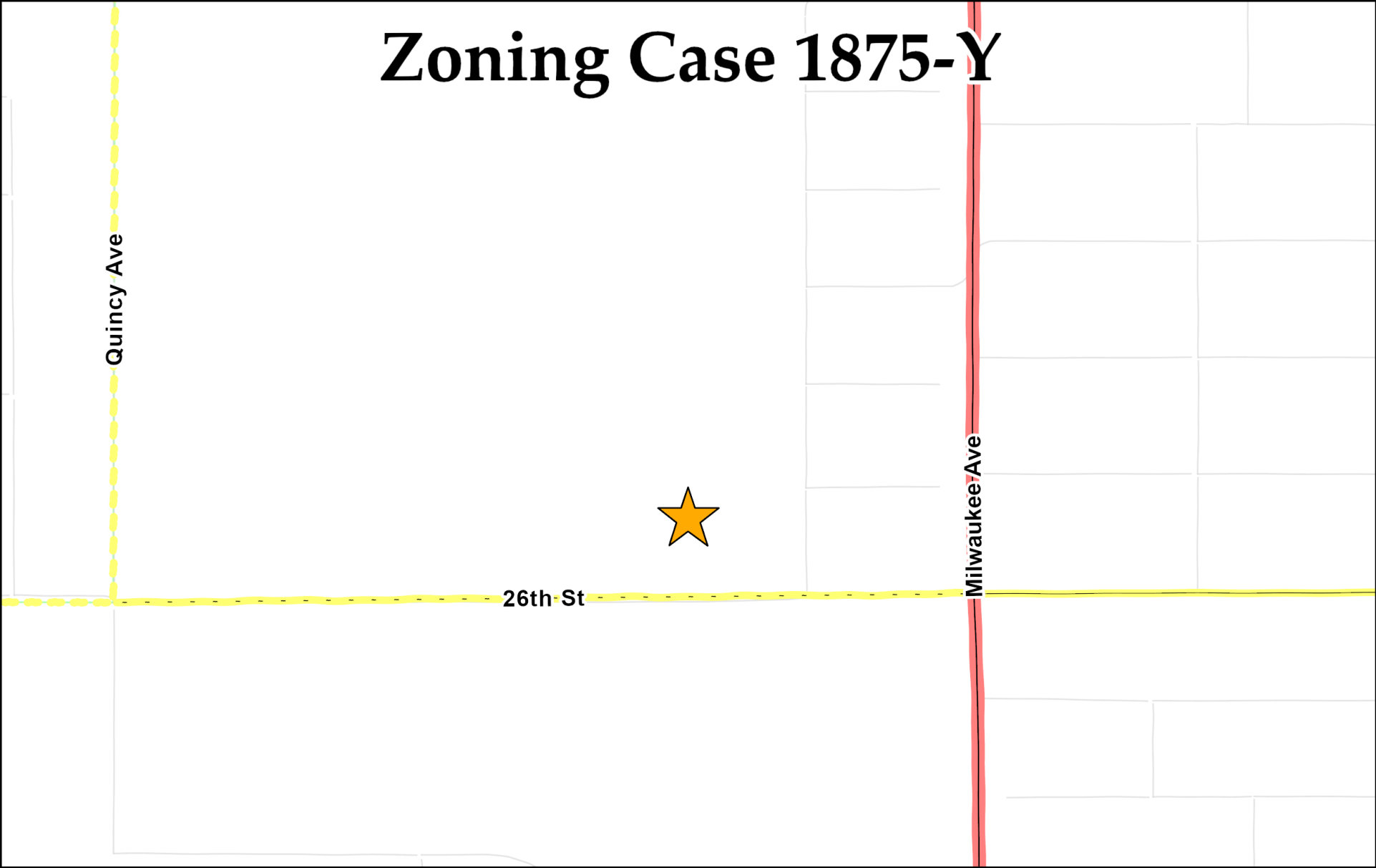
PLANNER CASSIE BERMEA stated there were twenty (20) notifications sent out with two (2) returned in favor and one (1) in opposition. Staff shared the location of the property including pictures, maps, and discussed the surrounding properties. Staff recommends approval of the request.

APPLICANT WILL STEPHENS, 6515 68th Street, representing AMD Engineering said it is a simple down zoning and they plan to build townhomes.

No one spoke in favor or in opposition to the request.

In the matter of **Zone Case 1875-Y**, a motion was made by **JAMES BELL** and seconded by **BRANDON HARDAWAY** to approve the request and the Commission members voted 9 (in favor) to 0 (in opposition) to approve the motion. The item will be forwarded to City Council for consideration.

Zoning Case 1875-Y



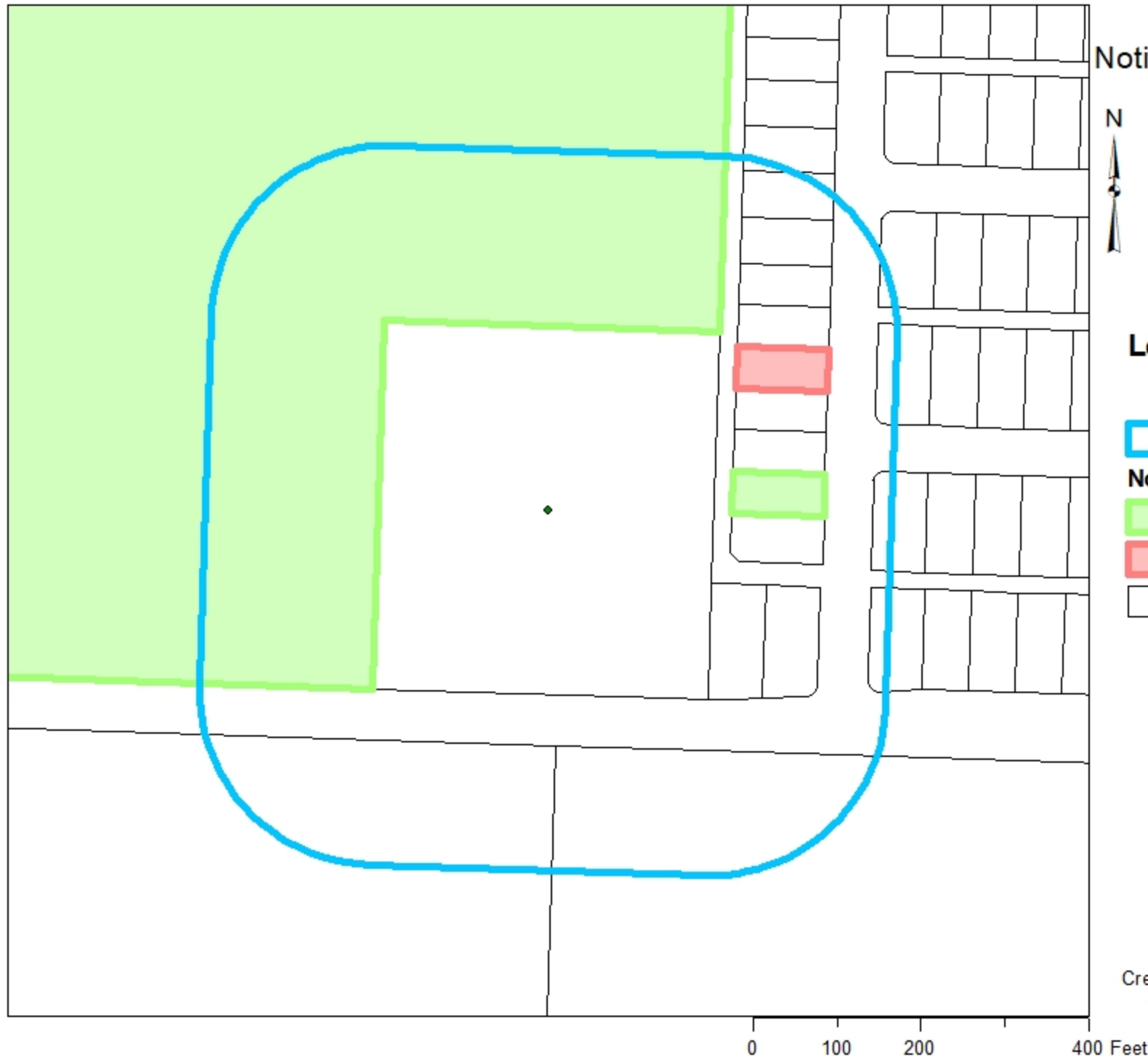
Collector	Minor Arterial	Modified Arterial	Principal Arterial	Freeway
Completed	Completed	Partial	Completed	Completed
Partial	Partial	Future	Partial	Partial
Future	Future		Future	Proposed Outer Loop

PZC Mailout Notifications Received



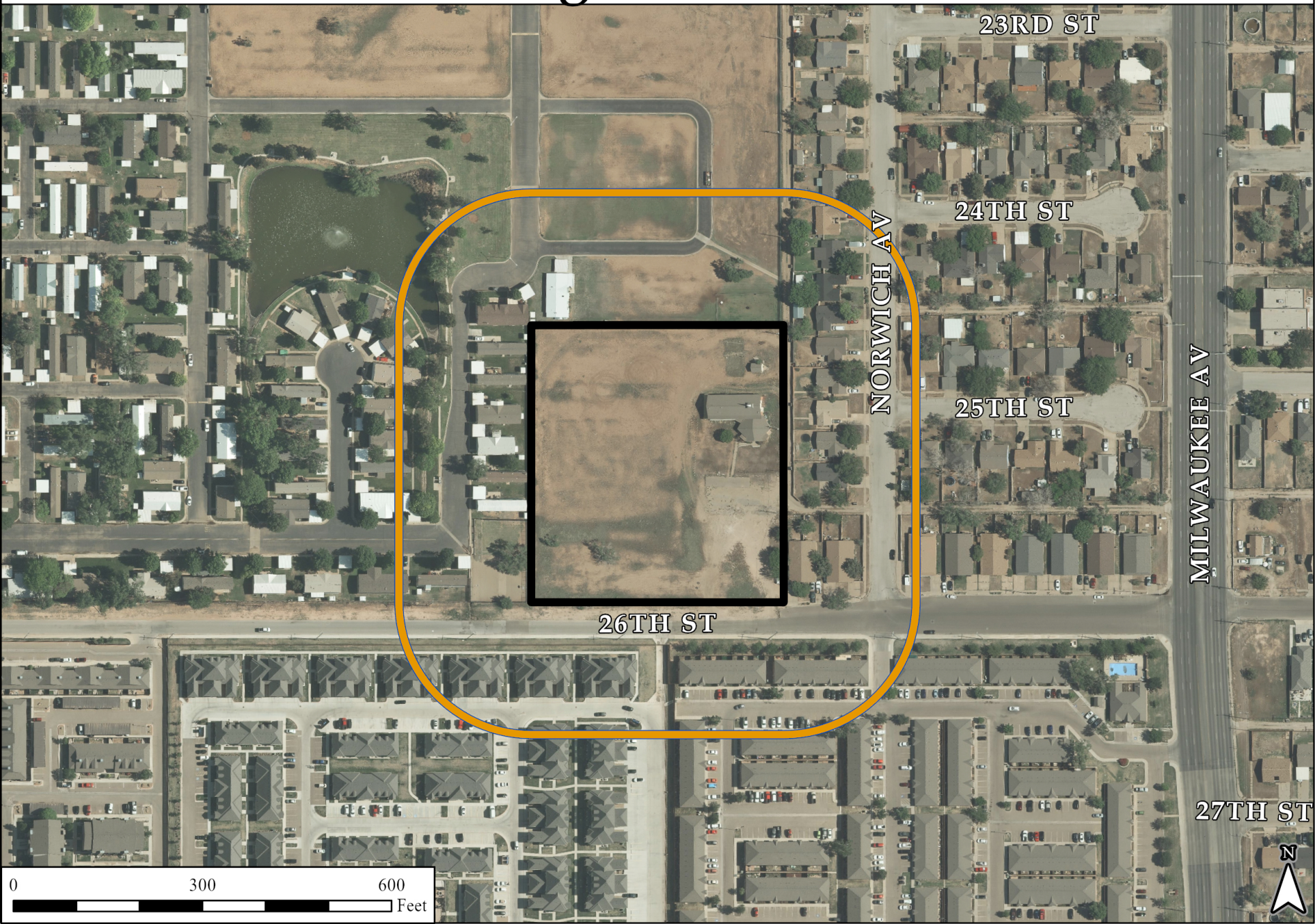
Legend

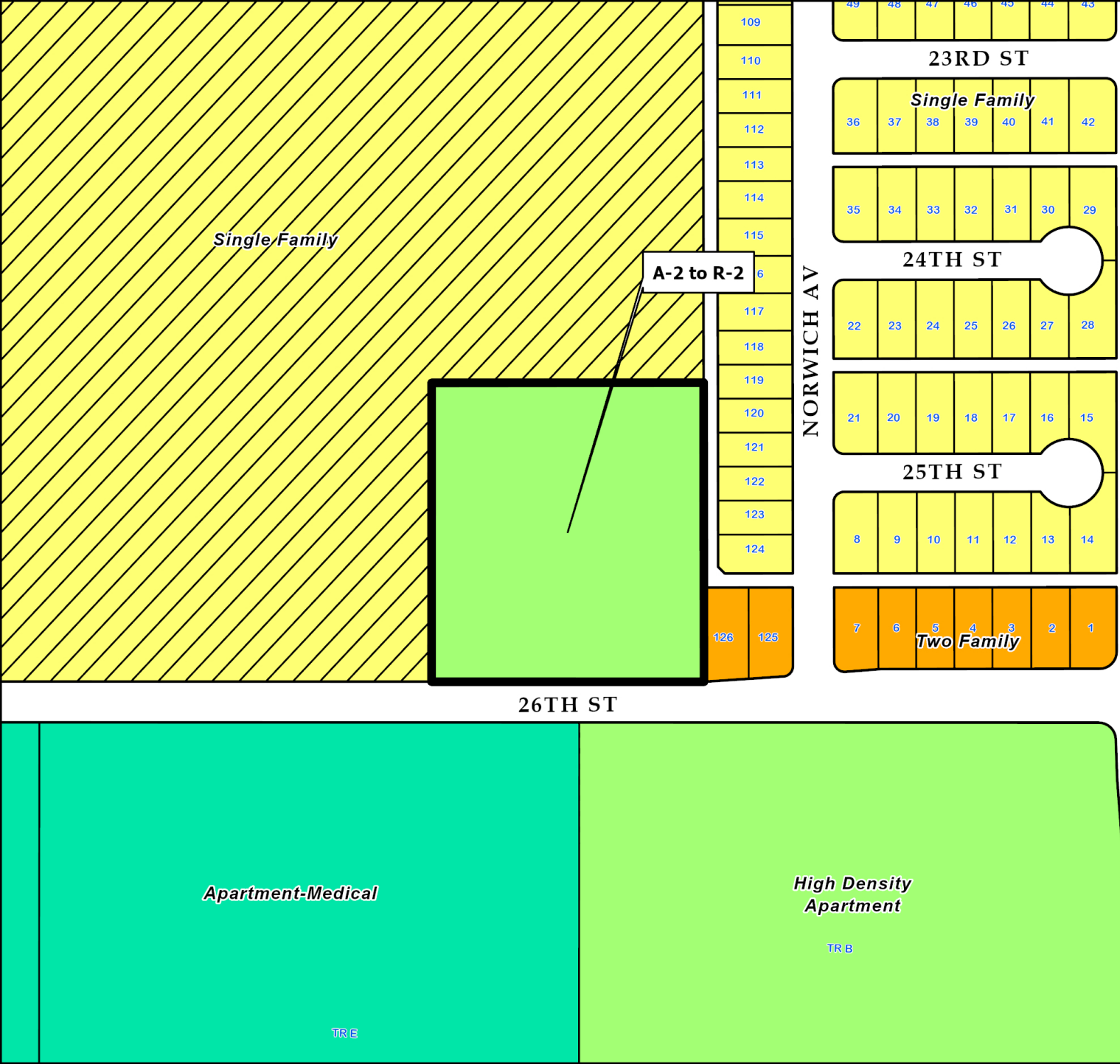
- ◆ LocatorPnt1875_Y
- MailoutBuffer1875_Y
- Notification Result**
 - In Favor
 - Opposed
 - LCAD.DBO.TaxParcel



Created by Planning Department
Date: 11/1/2022

Zoning Case 1875-Y










Current Zoning

1875-Y

Zoning Districts

-  High Density Apartment
-  Apartment-Medical
-  Single Family
-  Single Family Specific Use
-  Two Family



Date Exported: October 2022

1875-Y



South View



West View



East View



North View



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 4.04 acres generally located on the NW corner of Norwich Ave and 26th St.

Lots/Tracts: Commanders, S 440' of E 400' of Lot 2

Survey & Abstract: Section 43, Block AK

Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 4.04

Existing Land Use: _____ Existing Zoning: A-2

Requested Zoning: R-2

If property is not subdivided, will a preliminary plat be submitted? Yes ☒ No ☐


Representative/Agent Information (if different from owner)

Firm Name: AMD Engineering, LLC

Name: Will Stephens

Address: 6515 68th St., Suite 300 City: Lubbock State: TX

ZIP Code: 79424 Telephone: 806-771-5976 Email: wstephens@amdeng.com

Applicant's Signature: 

Date: 10/3/2022 Printed Name: Will Stephens, P.E.

Owner Information

Firm Name: H&M Investments & Rentals LLC

Owner: Austin Martin


Address: 4301 N. Frankford City: Lubbock State: TX

ZIP Code: 79416 Telephone: 806-241-0998 Email: austin.martinww@yahoo.com

Property Owner's Signature: 

Date: 10/3/2022 Printed Name: Austin Martin

Preparer Information

Preparer's Signature: 

Date: 10/3/2022 Printed Name: Will Stephens, P.E.

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.



**A 4.04 ACRE TRACT IN
SECTION 43, BLOCK AK,
E.L. & R.R. RR. CO. SURVEY, ABSTRACT NO. 184,
LUBBOCK COUNTY, TEXAS**

(Sheet 1 of 2, Sketch of tract attached as Sheet 2)

A 4.04 acre tract of land located in the northeast quarter (NE/4) of Section 43, Block AK, E.L. & R.R. RR. Co. Survey, Abstract No. 184, Lubbock County, Texas, and being that same tract of land described in a Warranty Deed recorded in County Clerk's File Number 2022-1674 of the Official Public Records of Lubbock County, Texas, said 4.04 acre tract of land being further described by metes and bounds as follows:

BEGINNING at a 3/8" iron rod found in the north right-of-way line of 26th Street recorded in Volume 1355, Page 618 of the Official Public Records of Lubbock County, Texas, same being the southwest plat limit of Ridgewood II Lots 1 through 126, an addition to the City of Lubbock, Lubbock County, Texas, a replat of Lot 7, Commanders Addition to the City of Lubbock, Lubbock County, Texas recorded in Volume 1629, Page 736 of the Official Public Records of Lubbock County, Texas, same being the southeast corner of this tract, having coordinates of Northing: 7,271,711.68 and Easting: 915,003.78 of the Texas Coordinate System of 1983 (2011), Texas North Central Zone, whence the northeast corner of Section 43, Block AK bears N. 00°02'00" W. a distance of 2610.80 feet and S. 89°59'00" E. a distance of 686.84 feet, and said section corner having calculated coordinates of Northing: 7,274,321.52 and Easting: 915689.45, of the Texas Coordinate System of 1983 (2011), Texas North Central Zone;

THENCE N. 88° 08' 56" W., along the north right-of-way line of said 26th Street, a distance of 400.00 feet to a 3" metal post found, which the center bears north 0.10 feet, and west 0.20 feet from the southern southeast corner of Commanders Addition, Lot 2 recorded in Volume 1355, Page 618 of the Official Public Records of Lubbock County, Texas, same being the southwest corner of this tract;

THENCE N. 01° 49' 34" E., along the westerly east line of said Commanders Addition, Lot 2 a distance of 440.00 feet to a 3" metal post found, which the center bears south 0.33 feet, and west 0.76 feet from an ell corner of said Commanders Addition Lot 2 same being the northwest corner of this tract;

THENCE S. 88° 08' 56" E., along the northerly south line of said Commanders Addition, Lot 2 a distance of 400.00 feet to a 3" metal post found in the west line of said Ridgewood II, which the center bears north 0.07 feet, and east 0.18 feet from the easterly

southeast corner of said Commanders Addition Lot 2 same being the northeast corner of this tract;

THENCE S. $01^{\circ} 49' 34''$ W., along the west line of said Ridgewood II, at a distance of 300.46 feet pass a 1/2" iron pipe found for the northwest corner of Lot 126, continuing for a total distance of 440.00 feet to the **POINT OF BEGINNING**. Bearings are relative to the Texas Coordinate System of 1983 (2011), Texas North Central Zone and are calculated from a point of origin at Northing: 7,271,625.408 and Easting: 914,826.400, with a convergence angle of $-01^{\circ} 53' 13.31''$ to True North, and a combined scale factor of 0.99976065. Distances are at surface in U.S. Survey Feet.

This description was prepared for purposes of a zoning request and does not represent a survey made upon the ground.

Prepared for: H&M INVESTMENTS & RENTALS LLC
October 3, 2022

ZONE CHANGE APPLICATION EXHIBIT

A 4.04 ACRE TRACT OF LAND IN
THE NORTHEAST QUARTER (NE 1/4) OF SECTION 43, BLOCK AK,
E.L. & R.R. RR CO., ABSTRACT 184
LUBBOCK COUNTY, TEXAS

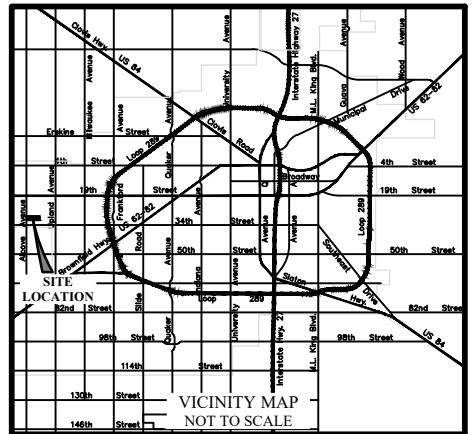
(PARENT TRACT RECORDED IN VOLUME 1355, PAGE 618
OF THE OFFICIAL PUBLIC RECORDS OF LUBBOCK COUNTY, TEXAS)

NOTES:
SCALE: 1" = 100'

 ZONING REQUEST TO R-2 FROM A-2



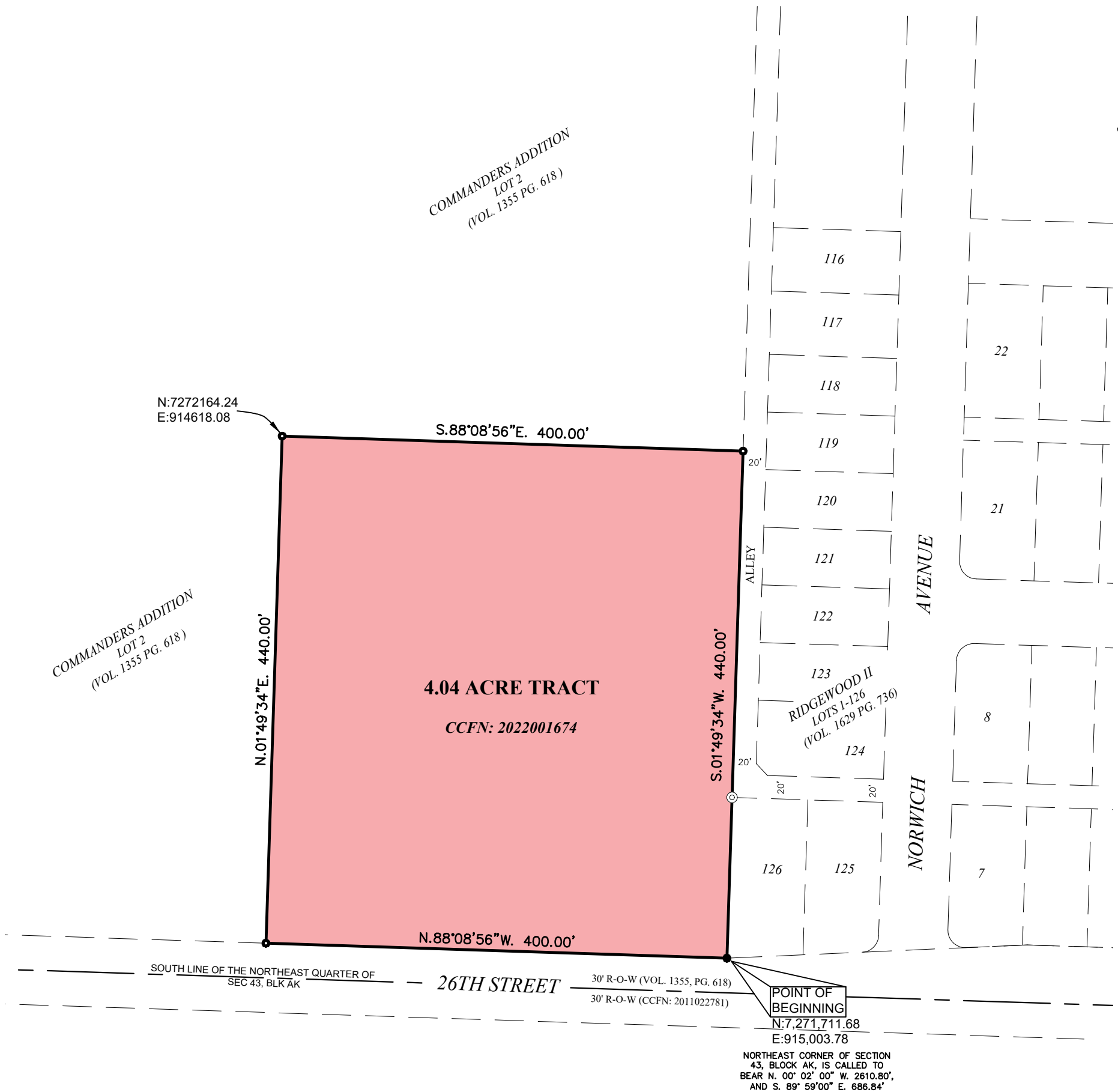
SCALE: 1"=100'



CIVIL ENGINEERING
LAND SURVEYING

AMD Engineering, LLC
6515 68th Street, Suite 300
Lubbock, TX 79424
Phone: 806-771-5976
Fax: 806-771-7625
TBPE Reg. # F-9197

Accuracy - Efficiency - Integrity



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.: **1875-Y**

In Favor ☒

Opposed ☐

Reasons and/or Comments:

Print Name Roy Helmstetler
Signature: Roy Helmstetler
Address: 126 Frankford Ct. 79416
Address of Property Owned: 2502 Norwich Ave 79407
Phone Number: 806-773-3970
Email: RNB 87@suddenlink.net

Zone Case Number: **1875-Y**
HELMSTETLER, ROY W
126 FRANKFORD CT
LUBBOCK TX 79416

R56470

Recipient 12 of 20



City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **1875-Y**

In Favor ☒

Opposed ☐

Reasons and/or Comments:

Print Name

Roy Helmstetler

Signature:

Roy Helmstetler

Address:

126 Frankford Ct. 79416

Address of Property Owned:

2502 Norwich Ave 79407

Phone Number:

806-773-3970

Email:

RNB 87@suddenlink.net

Zone Case Number: **1875-Y**

R56470

Recipient 12 of 20

HELMSTETLER, ROY W

126 FRANKFORD CT

LUBBOCK TX 79416

RECEIVED
OCT 25 2022

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.: **1875-Y**

In Favor ☐

Opposed ☒

Reasons and/or Comments:

There has been more crime in this area when they started building all Apartment Around me, more break-in And you want to put more directly behind my Property

Print Name William Jordan

Signature: William Jordan

Address: 2408 Norwich ave, Lubbock TX, 79407

Address of Property Owned: 2408 Norwich ave Lubbock TX 79407

Phone Number: 806-797-8175 - 806-438-4525

Email: bwjordan@icloud.com

Zone Case Number: **1875-Y**

R56402

Recipient 17 of 20

JORDAN, WILLIAM T

2408 NORWICH AVE

LUBBOCK TX 79407-1310



Information

Agenda Item

Board Appointment - City Secretary: Consider the appointment of the Chairperson of the Central Business District Tax Increment Financing (TIF) Reinvestment Zone Board of Directors, for the 2023 calendar year, with the term ending on December 31, 2023.

Item Summary

Per Section 311.009 (f) of the Tax Increment Financing Act, the governing body of the municipality that created the TIF shall appoint one member of the board to serve as chairman for a term of one year beginning January 1 of the following year. Dan Williams is the current chairperson of the Central Business District TIF Board of Directors and has served as chair since 2021.

Per the City Council Policy and Procedure for Boards, Commissions and Committees: “The Chair and Vice-Chair shall not serve more than two (2) consecutive one-year terms. The Council shall reserve the right, as deemed necessary in individual instances, to allow more than two (2) consecutive one-year terms.”

Fiscal Impact

None

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

No file(s) attached.

Information

Agenda Item

Board Appointment - City Secretary: Consider the appointment of the Chairperson of the Lubbock Business Park Tax Increment Financing (TIF) Reinvestment Zone Board of Directors, for the 2023 calendar year, with the term ending on December 31, 2023.

Item Summary

Per Section 311.009(f) of the Tax Increment Financing Act, the governing body of the municipality that created the TIF, shall appoint one member of the board to serve as chairman for a term of one year beginning January 1 of the following year. Sandy Henry is the current chairperson of the Lubbock Business Park TIF Board of Directors and has served as chair since 2010.

Per the City Council Policy and Procedure for Boards, Commissions and Committees: “The Chair and Vice-Chair shall not serve more than two (2) consecutive one-year terms. The Council shall reserve the right, as deemed necessary in individual instances, to allow more than two (2) consecutive one-year terms.”

Fiscal Impact

None

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

No file(s) attached.

Information

Agenda Item

Board Appointment - City Secretary: Consider the appointment of the Chairperson of the North Overton Tax Increment Financing Reinvestment Zone (TIF) Board of Directors, for the 2023 calendar year, with the term ending on December 31, 2023.

Item Summary

Per Section 311.009(f) of the Tax Increment Financing Act, the governing body of the municipality that created the TIF, shall appoint one member of the board to serve as chairman for a term of one year beginning January 1 of the following year. Jeff Dane is the current chairperson of the North Overton TIF Reinvestment Zone Board of Directors and has served as chair since 2018.

Per the City Council Policy and Procedure for Boards, Commissions and Committees: “The Chair and Vice-Chair shall not serve more than two (2) consecutive one-year terms. The Council shall reserve the right, as deemed necessary in individual instances, to allow more than two (2) consecutive one-year terms.”

Fiscal Impact

None

Staff/Board Recommending

Rebecca Garza, City Secretary

Attachments

No file(s) attached.

Information

Agenda Item

Public Hearing - Planning (District 4): Hold a public hearing and consider an ordinance for a request for annexation, from Red Canyon Development, LLC, to annex an area of approximately 17.33 acres, adjacent to the southern city limits of the City of Lubbock, north of Woodrow Road and west of Quaker Avenue.

Item Summary

On November 1, 2022, the City Council approved a resolution adopting the Municipal Service Plan, which was agreed upon by the City of Lubbock and the property owners.

The next step in the voluntary annexation process is to hold a public hearing. Following the public hearing, the City Council may consider an ordinance annexing approximately 17.33 acres, adjacent to the southern city limits of the City of Lubbock, north of Woodrow Road and west of Quaker Avenue.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning

Attachments

Annexation Ordinance - Woodrow & Quaker
Annexation Map - Woodrow & Quaker
Annexation Agreement - Woodrow & Quaker
Annexation Documents - Woodrow & Quaker
Metes and Bounds - Woodrow & Quaker

ORDINANCE NO. _____

AN ORDINANCE: ANNEXING INTO THE CITY OF LUBBOCK, TEXAS OF AN AREA GENERALLY DESCRIBED AS APPROXIMATELY 17.33 ACRES IN THE CITY OF LUBBOCK'S EXTRATERRITORIAL JURISDICTION, LUBBOCK COUNTY, TEXAS, WITH SUCH AREA BEING CONTIGUOUS TO THE EXISTING CITY LIMITS; PROVIDING FOR THE CORRECTION OF THE CITY MAP TO INCLUDE THE AREA ANNEXED THROUGH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock (the "City Council"), received from the property owner (the "Petitioner") of an area of land generally described as approximately 17.33 acres in the City of Lubbock's extraterritorial jurisdiction, Lubbock County, Texas contiguous to the city limits (the "Area"), a written petition requesting the annexation of the Area into the boundaries of the City of Lubbock; and

WHEREAS, in accordance with Sec. 43.0672 of the Texas Local Government Code, the City Council entered into an Annexation Agreement (the "Agreement"), by and between the City of Lubbock and the Petitioner at the City Council's regularly scheduled meeting on November 1, 2022, with a copy of the Agreement being attached to and incorporated herein as "Exhibit A"; and

WHEREAS, the City Council directed that the annexation of the Area contemplated in the Agreement be effectuated through this Ordinance; and

WHEREAS, the City Council deems it to be in the best interest of the citizens of the City of Lubbock to annex the Area into the City of Lubbock through this Ordinance; **NOW THEREFORE**,

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

SECTION 1. THAT the Area is hereby annexed into, and included within, the corporate limits of the City of Lubbock, Texas. Such Area is depicted and described in the attached "Exhibit B," and is incorporated herein for all intents and purposes. Such Area is contiguous to the existing corporate limits of the City of Lubbock, Texas.

SECTION 2. THAT the City Council hereby declares it to be its purpose to annex into the City of Lubbock every part of the Area. Should this Ordinance for any reason be ineffective as to any part or parts of the Area hereby annexed into the City of Lubbock for full purposes, the ineffectiveness of this Ordinance as to any such part or parts shall not affect the effectiveness of this Ordinance as to the remainder of the Area.

SECTION 3. THAT the City Engineer, or his designee, is hereby authorized and directed to correct the map of the City of Lubbock by adding thereto the Area annexed by this Ordinance, indicating on the map the date of annexation and the number of this Ordinance. The City Secretary and the City Engineer shall each keep in their respective offices an official

map of the City of Lubbock showing the boundaries of the municipal corporation, including this annexation.

SECTION 4. THAT upon the effective date of this Ordinance, any current or future inhabitant of the Area shall be entitled to the rights and privileges of other citizens of the City of Lubbock, Texas and shall be bound by the acts and ordinances adopted by the City of Lubbock, Texas.

SECTION 5. THAT should any paragraph, section, 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 6. 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 _____.


Passed by the City Council on second reading on _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kristen Sager, Director of Planning

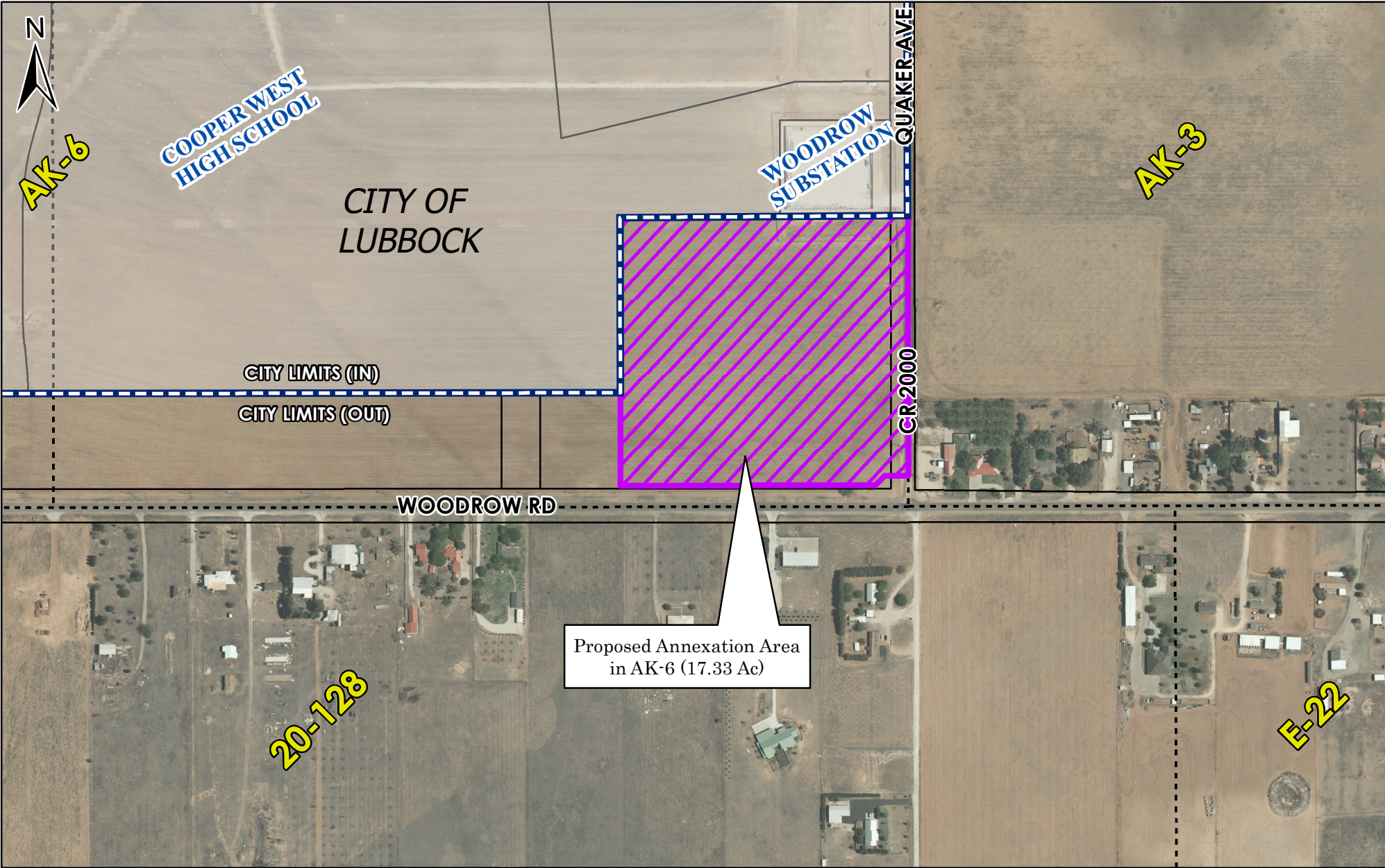
APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

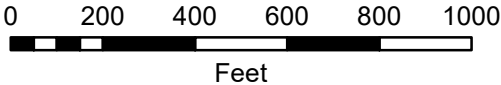
Ord. Annexation Red Canyon Dev Petition Annexation
11.10.22

**Proposed Annexation Area (17.33 Ac) Located in
 Section 6, Block AK, 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.



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 Red Canyon Development, LLC, and related documents. Said Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on November 1, 2022.



TRAY PAYNE, MAYOR

ATTEST:



Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

MUNICIPAL SERVICES AGREEMENT
BETWEEN THE CITY OF LUBBOCK, TEXAS
AND RED CANYON DEVELOPMENT, LLC, A TEXAS LIMITED LIABILITY
COMPANY

This Municipal Services Agreement ("Agreement") is entered into on 1st day of November, 2022 by and between the City of Lubbock, Texas, a home-rule municipality of the State of Texas, ("City") and Red Canyon Development, LLC, a Texas limited liability company ("Owner"), 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 Owner owns a certain parcel of land situated in Lubbock, Texas which consists of approximately 17.33 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 owner that sets forth the City services to be provided for the Property;

WHEREAS, Owner has filed a written request with the City for full-purpose annexation of the Property, and said petition for annexation is set forth as Exhibit "B" attached to and incorporated herein ("Petition");

WHEREAS, the City and the Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, the annexation and execution of this Agreement are subject to approval by the Lubbock City Council; and

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, the City and the Owner agree as follows:

1. **PROPERTY.** This Agreement is only applicable to the Property, which is the subject of the annexation.
2. **INTENT.** It is the intent of the City that this Agreement provide for the delivery of full, available municipal services to the Property in accordance with 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. 16, located at 4030 114th Street, Station No. 14, located at 2402 96th Street, and Station No. 19, located at 5826 98th Street. Station No. 16 is approximately 5.0 miles from the proposed annexation with an approximate response time of 6 to 7 minutes. Station 14 is approximately 6.0 miles from the proposed annexation with an approximate response time of 8 to 9 minutes. Station No. 19 is approximately 6.0 miles from the proposed annexation with an approximate response time of 8 to 9 minutes. Fire suppression activities can be afforded to the annexed area within current appropriation with a less than desirable response time. As these areas are developed an additional fire station(s) will be considered. Fire Prevention activities will be provided by the Fire Marshal's office as needed. This annexation would not require additional Outdoor Warning System sirens.

- 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. 16, located at 4030 114th Street, Station No. 14, located at 2402 96th Street, and Station No. 19, located at 5826 98th Street. Station No. 16 is approximately 5.0 miles from

the proposed annexation with an approximate response time of 6 to 7 minutes. Station 14 is approximately 6.0 miles from the proposed annexation with an approximate response time of 8 to 9 minutes. Station No. 19 is approximately 6.0 miles from the proposed annexation with an approximate response time of 8 to 9 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 Services

a. *Existing Services:* None

b.*Services to be Provided:* The City of Lubbock's Code Administration department 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 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. Environmental Health Department Services

a.*Existing Services:* None

b.*Services to be Provided:* The City of Lubbock's Environmental Health Departments will implement the enforcement of local, state, and federal rules, regulations, and ordinances on the effective date of the annexation. Such services can be provided with current Environmental 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.

x. 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.

xi. 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:* Newly annexed areas adjacent to, or bordering, unpaved arterials will require a two-lane section of roadway to be built along with the development with interconnectivity to adjacent paved arterial streets. The pavement structure will require an appropriate pavement design meeting a minimum design standard for an arterial street. These roadways will be required to be built once any connection including streets or alleyways is made to the unpaved arterial road by the voluntary

annexation area. The developer will receive offsets from impact fees as the adjacent unpaved arterial roadway is built.

xii. 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.

xiii. 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.

xiv. 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.

xv. Water and Sanitary Sewer Services

a. *Existing Services*: None

b. *Services to be Provided*: Water and sewer infrastructure is not currently adjacent to this area within the existing City Limits. Availability of water and sewer is at the request and expense of the user, and shall be provided within current policies and ordinances of the City (note below for an explanation of pro-rata charges). Water and sewer for domestic and commercial use, when installed, will be available at approved City rates. Water for fire protection will be available through lines only after service lines are installed by the developer.

Pro-Rata Charges:

Chapter 22, City Code establishes the charges or the actual cost of construction due on all property to which water and/or sewer lines are extended. The charge is generally known as “pro-rata” and is due and payable before service is provided. The pro-rata charge represents a portion of the costs of providing water and/or sewer facilities to serve the property on which the pro-rata is paid. When a person desires water and/or sewer service to property that requires an extension of existing facilities to provide service adjacent to the property or when the service connection will be made to a line constructed after April 1, 1952, the person desiring service shall pay non-refundable charge called pro-rata. When an extension of water/sewer facilities exceeds the above costs, the person(s) desiring service shall pay the entire cost and later be refunded that amount above pro-rata when other persons tie onto service and pay their pro-rata. Article 22.05 specifies other items including:

- a. pro-rata on property already platted, and extension of services.
- b. pro-rata and extensions to property being platted
- c. sizes of lines and meter sizes
- d. location for service connection
- e. deposits, charges, refunds
- f. cost of large mains may be partially paid by City, and other consideration, or
- g. when the City Council can declare a health hazard and install mains at public expense.

- e. The annexation area may require a lift station in order to receive sewer services. The lift station shall be sized as to minimize the number of lift stations which will be turned over to the City of Lubbock. The Lift Station will service the entirety of the voluntary annexed area if feasibly possible.

xvi. 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.

c. *Service Route:* Until such time as adjacent unpaved roadways are built all City Solid Waste services will be routed through and upon Paved Arterial Roadways only. Solid Waste will not route trucks down unpaved roadways to service alleyways in any case.

B. It is understood and agreed that the City is not required to provide a service that is not included in this agreement.

C. Owner understands and acknowledges that the City departments listed above may change name or be-reorganized by the City Manager. Any reference to a specific department also includes any subsequent department that will provide the same or similar services.

4. **AUTHORITY.** City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner 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 Landowner is not required to enter into this agreement, however if the Landowner desires 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 Landowner's property upon the Landowner's request;
 - C. The procedural mechanisms in order to annex the Landowners property shall be as follows:
 - 1. The Landowner of the property must petition the City requesting the annexation of Landowner's property;
 - 2. If the City desires to annex Landowner's 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 Landowner; 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.

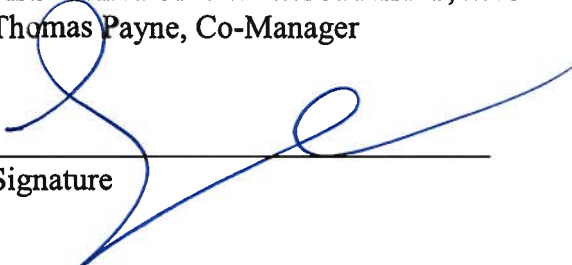
EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK



TRAY PAYNE, MAYOR

RED CANYON DEVELOPMENT, LLC
Thomas Payne, Co-Manager



Signature

ATTEST:


Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:


Kristen Sager, Director of Planning

APPROVED AS TO FORM:


Kelli Leisure, Assistant City Attorney

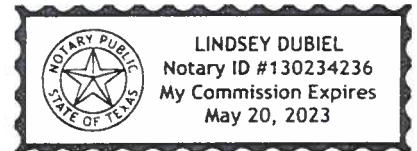
SUBSCRIBED AND SWORN TO BEFORE ME on the
day of 19 day of October, 2022, to
certify which witness my hand and official seal.

[Seal]

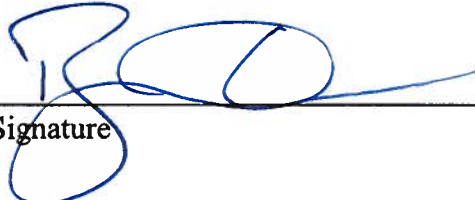
[Signature]

[Printed name]

Notary Public in and for
the State of Texas



RED CANYON DEVELOPMENT, LLC
Blake Womble, Co-Manager


Signature

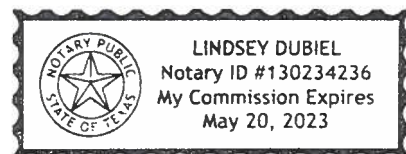
SUBSCRIBED AND SWORN TO BEFORE
ME on the day of 19 day of October,
2022, to certify which witness my hand and official
seal.

[Seal]

[Signature]

[Printed name]

Notary Public in and for
the State of Texas





PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF LUBBOCK, TEXAS:

The undersigned owner(s) of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby waive any requirement to be offered a development agreement pursuant to the Texas Local Government Code Section 43.016, and petition your Honorable Body to extend the present city limits so as to include as part of the City of Lubbock, Texas, the territory described in the attached Exhibit A, including a survey, field notes or legal description with subdivision, lot and block.

We certify that the above described tract of land is contiguous and adjacent to the City of Lubbock, Texas, falls within Lubbock County, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

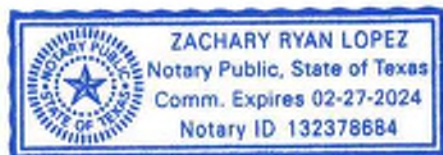
Signed: _____

THE STATE OF TEXAS

COUNTY OF LUBBOCK

BEFORE ME, the undersigned authority, on this day personally appeared THOMAS PAYNE,
_____, and _____, known to me to
be the persons whose names are subscribed to the foregoing instrument and each acknowledged to me that he or she executed
the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 31st day of MARCH, 2022



Zachary Ryan Lopez
Notary Public in and for LUBBOCK County,
Texas.



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): RED CANYON DEVELOPMENT, LLC

Address: PO Box 64664

Address: Lubbock, TX, 79464

Telephone: (806) 543-0667 **Email:** tpayn3@gmail.com

Telephone: () **Email:**

Acreage of property: 16.05 **Number of lots and proposed use:** Vacant, proposed residential

Check one:

- ☒ I will represent my application and petition before city staff and the City Council.
- ☐ I hereby authorize the person named in the attached affidavit to act as my representative in this application before city staff and the City Council.

Owner of record signature

Please note: The signature of owner authorizes the City of Lubbock staff to visit and inspect the property that is subject to this application. The representative is the official contact person for this project and the single point of contact. All correspondence and communication – and responsibility for responding to same – will be conducted with the representative.

RETURN: WEST TEXAS TITLE COMPANY
FILE NO. 36286

2017036785 7 PGS DEED

After Recording, Return To:

Brad Lowry, Esq.
Jackson Walker LLP
2323 Ross Avenue
Suite 600
Dallas, Texas 75201

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.

GENERAL WARRANTY DEED WITH VENDOR'S LIEN

THE STATE OF TEXAS §
 § KNOW ALL PERSONS BY THESE PRESENTS.
COUNTY OF LUBBOCK §

That, effective as of October 9th 2017, **GUETERMALOUF, LLC**, a Texas limited liability company, and **MALOUF'S DEVELOPMENTS, LLC**, a Texas limited liability company (collectively, "**Grantor**"), for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration to it in hand paid by **RED CANYON DEVELOPMENT, LLC**, a Texas limited liability company ("**Grantee**") having an address at P.O. Box 64664, Lubbock, Texas 79464, the receipt and sufficiency of which are hereby acknowledged and confessed, and for the further consideration of the execution and delivery by Grantee to Peoples Bank ("**Lender**") of a real estate lien note in the original principal amount of \$3,120,000.00 secured by a vendor's lien herein retained and by the lien of a deed of trust to Larry Allen, Trustee on behalf of Lender, has GRANTED, BARGAINED, SOLD, and CONVEYED, and by these presents does hereby GRANT, BARGAIN, SELL, and CONVEY, unto Grantee, but subject to the Permitted Exceptions, all that certain lot, tract or parcel of real property situated in Lubbock County, Texas, described on Exhibit A attached hereto and made part hereof for all purposes (the "**Land**"), along with all buildings, improvements, fixtures and other items of real estate located thereon, together with all and singular Grantor's right, title and interest, if any, in any and all easements, licenses, rights of way, petroleum and mineral interests and royalties, air and subsurface rights, water rights, covenants, entitlements, development rights, declarant rights, benefits, privileges, tenements, hereditaments and appurtenances thereon or in anywise appertaining thereto, and all right, title and interest of Grantor in and to all roads, streets, avenues or alleys, open or closed, in front of or adjoining the real property (collectively, the "**Property**").

This General Warranty Deed is made and accepted expressly subject to liens described as part of the consideration and any other liens described in this instrument as being either assumed or subject to which title is taken; all presently recorded and validly existing easements, rights-of-way, restrictions, reservations, covenants, conditions, oil and gas leases, mineral interests and water interests outstanding in persons other than Grantor, and other recorded instruments, other than conveyances of the surface fee estate, that affect the Property; validly existing 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 all restrictions, reservations, easements, covenants, conditions, and leases of record affecting the Property set forth on Exhibit B attached hereto and made a part hereof for all purposes Property (collectively the "**Permitted Exceptions**").

TO HAVE AND TO HOLD the Land, subject to the Permitted Exceptions, unto Grantee, its successors and assigns, forever; and Grantor does hereby bind itself and its successors, to WARRANT and FOREVER DEFEND all and singular the Land unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof, except as to the Permitted Exceptions to conveyance and warranty contained herein, by, through or under Grantor, but not otherwise.

But it is expressly agreed and stipulated that the vendor's lien, as well as superior title in and to the Property, is retained against the Property and assigned to Lender and its successors and assigns, without recourse, until the above-described note, all interest thereon and all other sums due and owing thereunder are fully paid according to the face, tenor, effect and reading thereof, when this deed shall become absolute.

***REMAINDER OF PAGE INTENTIONALLY BLANK.
SIGNATURE PAGE FOLLOWS.***

IN WITNESS WHEREOF, this General Warranty Deed has been executed by Grantor on the date set forth below to be effective as of the date first written above.

GRANTOR:

GUETERMALOUF, LLC,
a Texas limited liability company

By: 
Dain Guetersloh, Manager

By: 
Amanda Guetersloh, Manager

MALOUF'S DEVELOPMENTS, LLC,
a Texas limited liability company

By: 
Tony Malouf, President

STATE OF TEXAS §
 §
COUNTY OF LUBBOCK §

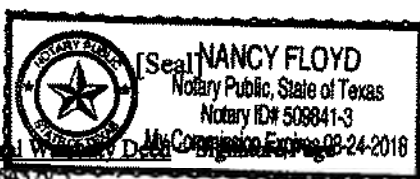
This instrument was acknowledged before me on the 9th day of October, 2017, by Tony Malouf, President of Malouf's Developments, LLC, a Texas limited liability company, in the capacity therein stated and on behalf of said limited liability company.




NOTARY PUBLIC, State of Texas

STATE OF TEXAS §
 §
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on the 9th day of October, 2017, by Dain Guetersloh, manager and member of GueterMalouf, LLC, a Texas limited liability company, in the capacity therein stated and on behalf of said limited liability company.




NOTARY PUBLIC, State of Texas

STATE OF TEXAS

§
§
§

COUNTY OF LUBBOCK

This instrument was acknowledged before me on the 9th day of October, 2017, by Amanda Guetersloh, manager and member of GueterMalouf, LLC, a Texas limited liability company, in the capacity therein stated and on behalf of said limited liability company.



[Signature]
NOTARY PUBLIC, State of Texas

Exhibit A – Property

Exhibit B – Permitted Exceptions

EXHIBIT A

DESCRIPTION OF THE PROPERTY

METES AND BOUNDS DESCRIPTION of a 407.91 acre tract of land, more or less, out of a 421.0 acre tract described under County Clerk File No. 2008029898 of the Official Public Records of Lubbock County, Texas, located in Section 6, Block AK, E.L. & R.R. Railroad Company Survey, Abstract No. 760, Lubbock County, Texas, being further described as follows:

BEGINNING at a 1" iron pipe found at the Northeast corner of Section 6, Block AK, E.L. & R.R. Railroad Company Survey, Abstract No. 760, Lubbock County, Texas, said 421.0 acre tract and this tract;

THENCE S. 01°42'34" W., along the East line of said Section 6 and the Eastern boundary of said 421.0 acre tract a distance of 5285.50 feet to a 1/2" iron rod with cap marked "HRA" set for the Southeast corner of said Section 6, said 421.0 acre tract and this tract;

THENCE N. 88°12'57" W., along the South line of said Section 6 and the Southern boundary of said 421.0 acre tract a distance of 2850.29 feet to a "MAG" nail found at the Southeast corner of a 1.5 acre tract, described under County Clerk File No. 2016040572 of the Official Public Records of Lubbock County, Texas and the most Southerly Southwest corner of this tract, from whence a 1/2" iron rod with cap marked "HRA" found at the Southwest corner of a 11.6 acre tract described under County Clerk File No. 2012010954 of the Official Public Records of Lubbock County, Texas and the Southwest corner of said 421.0 acre tract bears N. 88°12'57" W. a distance of 620.00 feet;

THENCE N. 01°43'00" E., along the Eastern boundary of said 1.5 acre tract at 40.00 feet pass a 1/2" iron rod with cap marked "STEVENS" found in the North line of a 40 foot right-of-way easement described in Volume 595, Page 29 of the Deed Records of Lubbock County, Texas, at 55.00 feet pass a point for the North line of a 55 foot right-of-way easement described in Volume 2356, Page 290 of the Real Property Records of Lubbock County, Texas, continuing for a total distance of 918.30 feet to a 1/2" iron rod with cap marked "STEVENS" found at the Northeast corner of said 1.5 acre tract and an "ell" corner of this tract;

THENCE N. 88°12'57" W., along the Northern boundary of said 1.5 acre tract a distance of 620.00 feet to a 1/2" iron rod found in the Eastern boundary of a 10.0 acre tract described in Volume 5475, Page 160 of the Real Property Records of Lubbock County, Texas and Volume 8961, Page 113 (Tract 1) of the Official Public Records of Lubbock County, Texas, at the Northwest corner of said 1.5 acre tract and the most Westerly Southwest corner of this tract, from whence a 1/2" iron rod with cap marked "HRA" found at the Southwest corner of said 11.6 acre tract and the Southwest corner of said 421.0 acre tract bears S. 01°43'00" W. a distance of 918.30 feet;

THENCE N. 01°43'00" E., along the Eastern boundary of said 10.0 acre tract, a 10.0 acre tract described in Volume 5475, Page 160 of the Real Property Records of Lubbock County, Texas and Volume 8961, Page 113 (Tract 2) of the Official Public Records of Lubbock County, Texas, a 8.5 acre tract described under County Clerk File No. 2012012167 of the Official Public Records of Lubbock County, Texas, a 3.1 acre tract, and a 0.62 acre tract described under County Clerk File No. 2007011235 of the Official Public Records of Lubbock County, Texas, a 0.62 acre tract described under County Clerk File No. 2010006136 of the Official Public Records of Lubbock County, Texas, a 9.9 acre tract described under County Clerk File No. 2017024987 of the Official Public Records of Lubbock County, Texas, a 9.9 acre tract described under County Clerk File No. 2017024313 of the Official Public Records of Lubbock County, Texas, a 5.0 acre tract described in Volume 1768, Page 541 of the Deed Records of Lubbock County, Texas, a 14.9 acre tract described in Volume 4938, Page 95 of the Real Property Records of Lubbock County, Texas, a

9.9 acre tract described under County Clerk File No. 2013049808 of the Official Public Records of Lubbock County, Texas, Lot 9, Tumbleweed Pass Estates, an Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 4845, Page 206 of the Real Property Records of Lubbock County, Texas, Lot 8, Tumbleweed Pass Estates, an Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 4564, Page 280 of the Real Property Records of Lubbock County, Texas, a 3.3 acre tract described under County Clerk File No. 2008022288 of the Official Public Records of Lubbock County, Texas and the Western boundary of said 421.0 acre tract for a total distance of 4365.73 feet to a 3/8" iron rod found in the North line of said Section 6 at the Northeast corner of said 3.3 acre tract, the Northwest corner of said 421.0 acre tract and this tract;

THENCE S. 88°14'24" E., along the North line of said Section 6 and the Northern boundary of said 421.0 acre tract a distance of 3469.63 feet to the Point of Beginning. Bearings are relative to Grid North, Texas Coordinate System of 1983, North-Central Zone, 2011 (epoch 2010.0). Distances are Surface, U.S. Survey Feet.

EXHIBIT B

PERMITTED ENCUMBRANCES

1. Lien for taxes and assessments for the year 2017 and subsequent years, not yet due and payable, and subsequent taxes and assessments by any taxing authority for prior years due to this sale or Grantee's use of the Property after the date hereof.
2. All leases, grants, exceptions or reservations of coal, lignite, oil, gas or other minerals, together with all rights, privileges and immunities relating thereto, appearing in the Official Real Property Records of Lubbock County, Texas, whether listed in this Exhibit "B" or not.
3. Right of way easement granted in favor of Lubbock County in instrument recorded in Volume 595, Page 29, of the Deed Records, Lubbock County, Texas.
4. Transmission right of way easement granted in favor of South Plains Electric Cooperative in instrument recorded in Volume 672, Page 92, of the Deed Records, Lubbock County, Texas.
5. Pipeline easement granted in favor of Adobe Gas Company in instrument recorded in Volume 1925, Page 966, of the Deed Records, Lubbock County, Texas.
6. Right of way easement granted in favor of Lubbock County in instrument recorded in Volume 2356, Page 290, of the Deed Records, Lubbock County, Texas.
7. Right of way easement granted in favor of Lubbock County in instrument recorded in Volume 3275, Page 91, of the Deed Records, Lubbock County, Texas.
8. Rights of any third parties relating to approximately 20 feet along the North portion of the Land lying within public road (146th Street) as set forth in Commissioners Court Minutes dated October 21, 1922, as shown on survey dated August 1, 2017, revised October 4, 2017, and October 6, 2017, prepared by Brent Carroll, Registered Professional Land Surveyor #5410.
9. Grantor excepts from this conveyance and reserves to themselves, and their successors and assigns, all of their interest in the oil, gas and other minerals in, on and under and that may be produced from the Property.

FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Kelly Pinion

Kelly Pinion, County Clerk
Lubbock County, TEXAS
10/11/2017 03:48 PM
FEE: \$50.00
2017036785

**COMPANY AGREEMENT
OF
RED CANYON DEVELOPMENT, LLC,
A TEXAS LIMITED LIABILITY COMPANY**

This Company Agreement of **RED CANYON DEVELOPMENT, LLC**, a Texas Limited Liability Company is executed as of the Effective Date, by each of the persons who signs this Agreement under the caption "Members" on the signature page of this Agreement.

**ARTICLE 1.
DEFINITIONS**

1.1 *Certain Definitions.* As used in this Agreement, each of the following terms has the meaning given to it below:

"*Affiliate*" shall mean (i) any person directly or indirectly controlling, controlled by or under common control with another person; (ii) any person that, directly or indirectly, owns or controls 10% or more of the outstanding voting securities or beneficial interests of such other person; (iii) any officer, director, trustee member, manager or general partner of such person; (iv) if such other person is an officer, director, member or manager, trustee or partner of another entity, then the entity for which that person acts in any such capacity; (v) any spouse or issue of the person or any person who is of a relationship described in Section 267 (b) of the IRS Code substituting 10% in place of 50%, where applicable, and (vi) an entity formed which is to be owned directly or indirectly for the benefit of any of the persons described in subparagraph (v) above. For purposes of this paragraph and for determining when a person is directly or indirectly controlling, controlled by or under, or controlled with any other person, the term "control" shall refer to an interest of 10% or more of the outstanding voting securities or beneficial interest of such person.

"*Agreement*" means this Company Agreement, as amended from time to time.

"*Assignee*" means a Person who receives a Transfer of all or a portion of the Membership Interest of a Member, but who has not been admitted to the Company as a Member in connection with such Transfer.

"*Base Rate*" means a rate per annum that from day to day is equal to the lesser of (a) the prime rate of interest as cited by *The Wall Street Journal* and (b) the maximum rate permitted by applicable laws, with each change in the rate to be made on the same date as any change in (a) or (b), as appropriate.

"*Business Day*" means any day other than a Saturday, a Sunday, or a holiday on which national banks in the State of Texas are permitted to be closed.

"*Capital Account*" means, with respect to any Member, the capital account maintained for a Member in accordance with the rules of Section 1.704-1(b)(2)(iv) of the Regulations.

"Capital Contribution" means, with respect to any Member, the amount of money and the initial Gross Asset Value of property (other than money) contributed to the Company by such Member (or its predecessors in interest) with respect to their Membership Interest in the Company reduced by any indebtedness either assumed by the Company in connection with such contribution or to which such property is subject when contributed.

"Certificate" means, at any time, the certificate of formation of the Company filed with the Secretary of State of the State of Texas pursuant to the TBOC, as amended or restated at such time.

"Charity" or "Charities" means an organization or organizations described in each of Sections 170(c), 2055(a) and 2522(a) of the Internal Revenue Code of 1986, as amended.

"Claims" means all losses, costs, liabilities, damages, and expenses (including court costs and fees and disbursements of counsel) incurred in connection with a Proceeding.

"Company" means the limited liability company formed pursuant to this Agreement.

"Distributable Cash" means all cash funds of the Company on hand at any time after payment of all expenses of the Company due as of such time, as reduced by the amount of the Working Capital Reserve and Liquidation Reserve, if any, at such time.

"Effective Date" means the later of (i) date all of the parties required to sign this Agreement have signed and delivered the Agreement, or (ii) the date the Company is formed, as set out herein.

"Fair Value" means, the fair value of the item being valued, as determined by an appraiser selected in accordance with the terms of this Agreement.

"Fiscal Year" means the fiscal year of the Company's operations as selected by the Managers of the Company for accounting purposes.

"Family Member" or "Family Members" means the individual Member or Members, all of their descendants and any person who is married to any of such individuals (or was married to any of such individuals at the time of such individual's death).

"Gross Asset Value" means, the value of any asset contributed to the Company as determined by the contributing Member and the Managers, and if no such agreement is reached, the assets adjusted basis for Federal income tax purposes.

"Gross Income" means, an amount equal to the Company's gross income as determined for Federal income tax purposes but computed with the adjustments in paragraphs (a) and (b) of the definition of "Profits" and "Losses."

"IRS Code" means, at any time, the Internal Revenue Code of 1986, as amended, or, from and after the date any successor statute becomes, by its terms, applicable to the Company, such successor statute, in each case as amended at such time by amendments that are,

at that time, applicable to the Company. All references to sections of the IRS Code include any corresponding provision or provisions of any such successor statute.

"Liquidation Reserve" means that reserve of Company funds held by the Company in connection with its process of winding up for the purpose of addressing obligations of the Company which may become due during the winding up process or after the termination of the Company.

"Majority" means, with respect to any group entitled to vote on a matter, more than Fifty Percent (50%) of the votes of that group.

"Management Fee" means, with respect to any calendar year, an amount determined for that year by the Members, if any (See, Section 6.4).

"Manager" means any Person named in the Articles as an initial manager of the Company and any Person hereafter elected as a manager of the Company as provided in this Agreement, but does not include any Person who has ceased to be a manager of the Company.

"Member" means each of the persons who execute this Agreement as a Member and becomes a Member under the terms of this Agreement as well as each person who is otherwise admitted to the Company as a Member under the terms of this Agreement.

"Membership Interest" means, at any time, the interest of a Member in the Company, including the right to receive distributions of Company assets and the right to receive allocations of income, gain, loss, deduction, or credit of the Company, but does not include the voting rights or management rights reserved to the Members under the terms of this Agreement (or the right to vote the Units relating thereto) until such holder of the Membership Interest has been admitted to the Company as a Member as to that Membership Interest.

"Notice" means any notice delivered in the manner set out in the "Miscellaneous" Section of this Agreement.

"Person" means any business entity, trust, estate, executor, administrator, or individual.

"Proceeding" means any threatened, pending, or completed action, suit, or proceedings, whether civil, criminal, administrative, arbitrative, or investigative, any appeal in such an action, suit, or proceeding, and any inquiry or investigation that could lead to such an action, suit, or proceeding.

"Profits and Losses" means, the Company's taxable income or taxable loss as determined under the IRS Code but with the following adjustments:

- (a) Any income of the Company that is exempt from Federal income tax and not otherwise taken into account in computing Profits and Losses pursuant to the definition of "Profits" and "Losses" will be added to such taxable income or loss;

- (b) Any expenditures of the Company described in IRS Code Section 705(a)(2)(B) or treated as IRS Code Section 705(a)(2)(B) expenditures pursuant to Section 1.704-1 (b)(2)(iv)(i) of the Regulations that are not otherwise taken into account in computing Profits and Losses will be subtracted from such taxable income or loss.

"Section" means a section of this Agreement, unless the text indicates otherwise.

"Sharing Ratio" means the ratio in which the Members share Profits and Losses, from time to time, as set out under the terms of this Agreement.

"Super Majority" means, with respect to the Members or any group of Members entitled to vote on a matter, one or more members of that group who hold more than sixty six and 2/3rds of the votes held by that group.

"TBOC" means, at any time, the Business Organizations Code of the State of Texas, as amended, or, from and after the date any successor statute becomes, by its terms, applicable to the Company, such successor statute, in each case as amended at such time by amendments that are, at that time, applicable to the Company. All references to sections of the Business Organizations Code include any corresponding provision or provisions of any such successor statute.

"Transfer" means (a) any sale, transfer, encumbrance, gift, donation, assignment, pledge, hypothecation, or other transfer of any Membership Interest or any interest therein, whether voluntary or involuntary, and whether during the transferor's lifetime or upon or after the transferor's death, including any transfer by operation of law, by court order, by judicial process, or by foreclosure, levy, or attachment; or (b) the act of making any of the foregoing.

"Treasury Regulations" or "Regulations" means, at any time, the Federal income tax regulations promulgated under the IRS Code that are in effect at such time and that, by their terms, are applicable to the Company at such time. All references to sections of the regulations include any corresponding provision or provisions of any such successor regulations.

"Unit" means an increment of interest in the Company assigned to each Member in connection with a Membership Interest that represents an original Capital Contribution of \$100.00 and which, in each case where the Members, or a group of Members are entitled to vote or make a decision under the terms of this Agreement, will carry one vote

"Working Capital Reserve" means those reserves which the Managers determine to be necessary or useful in their reasonable discretion for future cost, expenses, capital investment, or contingencies which may be incurred by the Company.

1.2 *Other Definitions; References to Definitions.* Other terms defined herein have the meanings so given them. Each reference in this Agreement to a definition is a reference to a definition contained in this Agreement, unless the context expressly provides otherwise.

ARTICLE 2. ORGANIZATIONAL MATTERS

2.1 *Formation.* The Members hereby form the Company pursuant to the TBOC, as of the Effective Date.

2.2 *Name.* The name of the Company is “**RED CANYON DEVELOPMENT, LLC.**” The business of the Company will at all times be conducted under such name and such other name or names as the Managers may select, from time to time.

2.3 *Name and Address of Initial Members.* The name and address of each Member is set forth on **Exhibit A**. Each such person shown on **Exhibit A** on the effective date of this Agreement is admitted to the Company as a Member upon its formation. Any change in the name or address of a Member of which the Company is given notice will be as set forth in the records of the Company and **Exhibit A** will be deemed amended appropriately. The Managers may substitute a new **Exhibit A** (indicating its effective date) to reflect such additional and/or different information. The records of the Company will be *prima facie* evidence of the status of any person as a Member.

2.4 *Registered Office and Registered Agent.* The address of the registered office of the Company in the State of Texas will be at **12402 Slide Road, Ste. 201, Lubbock, Texas 79424** and the name of the registered agent of the Company at such address will be **Thomas K. Payne**. The Managers may at any time, and from time to time, designate a new or successor registered office or registered agent, or both.

2.5 *Principal Office and Other Offices.* The principal address and place of business of the Company will be **12402 Slide Road, Ste. 201, Lubbock, Texas 79424** or such other place that is consistent with the purpose of the Company as the Managers may designate from time to time by notice to the Members. The Company may have such other office or offices as the Managers may designate from time to time by notice to the Members.

2.6 *Purpose.* The purpose of the Company is for the transaction of any and all lawful purposes for which a limited liability company may be organized under the TBOC.

2.7 *Certificate; Foreign Qualification.* A certificate of formation that meets the requirements of the TBOC will be filed with the Secretary of State of the State of Texas and will be amended from time to time as required by the TBOC. Upon the request of the Managers, each Member will immediately execute all certificates and other documents consistent with the terms of this Agreement that the Managers believe are necessary or desirable for the Managers to accomplish all filing, recording, publishing, and other acts as may be appropriate to comply with all requirements to form, operate, qualify, and continue the Company as a (a) limited liability company under the TBOC and the laws of the State of Texas and (b) limited liability company, or a company in which each Member has limited liability in all other jurisdictions where the Company proposes to operate.

2.8 *Term.* The Company's existence will commence on the effective date of the initial filing of the Certificate with the Secretary of State of the State of Texas and will continue until the Company terminates pursuant to the terms of this Agreement. The Company may not

conduct business until the Certificate has been filed with the Secretary of State of the State of Texas.

2.9 *Merger, Conversion, Interest Exchange.* The Company may effect or participate in a merger, conversion, or interest exchange (as such terms are defined in the TBOC) or enter into an agreement to do so with the consent of the Managers and of a Super Majority of the Members.

ARTICLE 3. MEMBERSHIP

3.1 *Initial Members.* The initial Members of the Company are the Persons executing this Agreement as Members as of the Effective Date of this Agreement, each of which is admitted to the Company as a Member effective contemporaneously with the execution by such Person of this Agreement and the formation of the Company.

3.2 *Sharing Ratio.* The Sharing Ratio for each of the Members is set out below.

<u>Member</u>	<u>Sharing Ratio</u>
3 Wiggle, LLC	60.00%
Blake Womble	20.00%
<u>Thomas K. Payne</u>	<u>20.00%</u>
Total	100.00%

3.3 *Limitations on Members' Rights.* Except as otherwise specifically provided in these Regulations to the contrary, no Member shall have the right:

- (a) To participate in the control of the business affairs of the Company except as expressly provided herein; transact any business on behalf of or in the name of the Company; or have any power or authority to bind or obligate the Company; such powers being vested in the Managers.
- (b) To have his/her capital contribution repaid except to the extent provided in this Agreement.
- (c) To require partition of the Company's property or to compel any sale or appraisal of the Company's assets.
- (d) To sell, transfer, or assign his/her interest in the Company, except as provided in this Agreement.

3.4 *New Members.* The Managers may admit additional Members and issue additional Membership Interest with additional Units in the Company on the terms and conditions which are approved by a Super Majority of the Members. At the time any new Members are admitted to the Company the Sharing Ratios shall be adjusted to reflect the terms and conditions upon which the new Members have been admitted.

ARTICLE 4.
CAPITAL CONTRIBUTIONS AND LOANS

4.1 *Contribution.* Simultaneously with the execution of this Agreement, the Members will contribute to the Company that property set out opposite their respective name on Exhibit B attached hereto. In consideration for such contribution, the Company shall cause to be issued to each of the Members (i) the Membership Interest and (ii) the number of Units in the Company set out on Exhibit A attached hereto.

4.2 (a) No later than September 15, 2017 each Member shall contribute to the company the following amounts in order to provide for equity required to purchase that certain land described as approximately 400 acres purchased from Guetermalouf, LLC. The Purchase Price of the land is \$4,750,000.00. The Managers will secure Debt equal to 65% of the Purchase Price. The Members will contribute the following percentages of the 35% Equity required:

<u>Member</u>	<u>Sharing Ratio of Equity</u>
3 Wiggle, LLC	75.00%
Blake Womble	25.00%
<u>Thomas K. Payne</u>	<u>0.00%</u>
Total	100.00%

The Members will contribute the following percentages into the Company each month for the Member's portion of the monthly payment due on the 65% Debt:

<u>Member</u>	<u>Sharing Ratio of Debt Payment</u>
3 Wiggle, LLC	60.00%
Blake Womble	20.00%
<u>Thomas K. Payne</u>	<u>20.00%</u>
Total	100.00%

(b) *Subsequent Additional Contributions.* If Members by a Super Majority vote at a duly called regular or special meeting of the Members or pursuant to a consent without meeting determine that additional capital for the Company is required (above and beyond that set forth in paragraph 4.2(a) above), each Member shall make contribution to the additional capital in the same proportion as each Member's Sharing Ratio, within thirty (30) days after the Super Majority vote approving the additional capital. A Member's obligation to make any such additional capital contribution is binding upon the Member and any permitted successor to the Member, notwithstanding the Member's or successor's death, disability, or other change in circumstance. A failure by a Member to timely make a capital contribution (a "Failing Member") shall allow the Members who did timely make their capital contributions to elect, by a Majority vote of the Members who did make such capital contribution, one of the following options:

- (a) Make the Failing Member's capital contribution, but in that event, the non-failing Members who make such capital contribution shall be entitled to receive all distributions from the Company to which the Failing Member is entitled until such time as the non-failing Members have received an amount equal to the amount they so contributed on behalf of the Failing Member plus an amount the equivalent of interest at the rate of ten percent (10%) per annum. In the event the provisions of this subparagraph (a) are elected, each non-failing Member shall contribute the proportion of the Failing Member's required capital contribution as represents each such non-failing Member's Sharing Ratio as compared to the total Sharing Ratios of all non-failing Members; or
- (b) Allow the Failing Member to continue as a Member, but with the Company retaining an amount of cash distributions to which the Failing Member is entitled until such time as the amount so retained is equal to the amount of the capital contribution required of the Failing Member plus an amount the equivalent of interest at the rate of ten percent (10%) per annum.

4.3 *No Additional Contributions.* No Member will be required to make any Capital Contributions to the Company beyond those described in this Agreement, otherwise agreed to in writing by the Members from whom such additional Capital Contribution is sought or as may be required by a non-waivable provision of the TBOC.

4.4 *Return of Contributions.* No Member is entitled to the return of any part of its Capital Contributions or to be paid interest in respect of either its Capital Account or its Capital Contributions. An unreturned Capital Contribution is not a liability of the Company or of any Member.

4.5 *Loans by Members.* Any Member, with the Managers' consent, may loan funds to or on behalf of the Company. Unless otherwise agreed by the Company and the lending Member, a loan described in this Section is payable on demand, bears interest at the Base Rate from the date of the advance until the date of payment, and is not a Capital Contribution.

4.6 *Capital Accounts.* There will be established for each Member a Capital Account on the books of the Company to be maintained and adjusted pursuant to this Agreement, including adjustments for contributions, distributions, and allocations of Profits and Losses.

4.7 *Other Provisions With Respect to Capital Contributions.* Except as otherwise provided in this Agreement, no Member will be entitled to priority over any other Member with respect to a return of its Capital Contributions.

ARTICLE 5.

DISTRIBUTIONS AND ALLOCATIONS OF PROFITS AND LOSSES

5.1 *Distributions of Distributable Cash.* Except as set out in Section 5.2, Distributable Cash will be distributed to the Members at such times as the Managers determine,

in their sole reasonable discretion. Distributions of cash or property in respect of a Company Interest will be made only to the Person who, according to the books and records of the Company, is the holder of a Membership Interest in the Company on the date of such distribution. The date for any distribution of Distributable Cash will be determined by the Managers, in their sole discretion. The Distributable Cash of the Company (if any) will be distributed to the record owners of the Membership Interest in accordance with their Sharing Ratios. In the event of disagreement between the as to distributing or not distributing available cash will be resolved via a vote of the Members.

5.2 *Prohibited Distributions.* Distributions may not be made to the Members of the Company if, immediately after the making of the distribution, the liabilities of the Company will exceed the Fair Value of the Company's assets in the manner determined in Section 101.206 of the TBOC.

5.3 *Working Capital Reserve.* From time to time, the Managers, in their sole discretion, may establish and maintain a Working Capital Reserve. If and to the extent the Managers determine, in their sole discretion, that funds in the Working Capital Reserve that have not been utilized by the Company are no longer required to be so maintained, such funds will be released from the Working Capital Reserve and distributed in the manner in which they would have been distributed had they not been set aside to fund such Working Capital Reserve. The Managers will determine, in their sole discretion, the periods to which any funds released from the Working Capital Reserve are attributable.

5.4 *Distribution in Kind.* No assets will be distributed in kind, regardless of any potential unrealized depreciation or appreciation in respect thereof. Any in-kind distributions will be made proportionately among the Members in accordance with the percentage of the distributions the Members are entitled to receive, as set out in this Agreement.

5.5 *Allocation of Profits and Losses.* Profits and Losses for each Adjustment Period will be allocated among the Members in accordance with their Sharing Ratio as set out in this Agreement.

5.6 *Special Allocations.* The following special allocations will be made in the following order before allocations of Profits and Losses are made: None.

5.7 *Qualified Income Offset* Notwithstanding any other provision of this Article, in the event any Member unexpectedly receives any adjustments, allocations, or distributions described in Regulations Sections 1.704(b)(2)(ii)(d)(4), 1.704-1(b)(2)(ii)(d)(5), or 1.704-1(b)(2)(ii)(d)(6) of the IRS Code, items of Company income and gain shall be specifically allocated to each such Member in an amount and manner sufficient to eliminate, to the extent required by the Regulations, the Adjusted Capital Account Deficit of such Member as quickly as possible, provided that an allocation pursuant to this Section shall be made if and only to the extent that such Member would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article have been tentatively made as if this Section were not in the Agreement. For the purpose of this Agreement, the term Adjusted Capital Account shall mean that Member's Capital Account after (i) crediting to the Capital Account any amount which the Member is deemed to be obligated to restore pursuant to 1.704-1(b)(2)(g)(1) and 1.704-1(b)(2)(5), crediting to the Capital Account any sums the Member is unconditionally obligated to

contribute to the Company, and (ii) debiting the items set out in 1.704(1)(b)(ii)(d)(4),(5) and (6). An Adjusted Capital Account Deficit means the deficit balance in such Adjusted Capital Account.

5.8 *Minimum Gain Chargeback.* Except as otherwise provided in Section 1.704-2(f) of the Treasury Regulations relating to the IRS Code, notwithstanding any other provision to this Article, if there is a net decrease in the Member's Minimum Gain during any Company fiscal year and it is required for the allocations under this Article to have substantial economic effect, each Member shall be specially allocated items of Company income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Member's share of the net decrease in Members Minimum Gain, determined in accordance with Treasury Regulation Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Member pursuant thereto. The items to be so allocated shall be determined in accordance with applicable Treasury Regulations. This Section is intended to comply with the minimum gain chargeback requirements of Section 1.704-2(f) of the Treasury Regulations and shall be interpreted consistently therewith.

5.9 *Basis Adjustments.* To the extent an adjustment to the adjusted tax basis of any Company asset is required pursuant to IRS Code Section 732(d), Code Section 734(b), or Code Section 743(b), the Capital Accounts of the Member will be adjusted pursuant to Section 1.704-1(b)(2)(iv)(m) of the Regulations.

5.10 *Allocations Under Section 704(c) of the Code.* In accordance with IRS Section 704(c) and the Treasury Regulations promulgated thereunder, income, gain, loss, and deduction with respect to any asset contributed to the capital of the Company will, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such asset to the Company for federal income tax purposes and the Gross Asset Value of the property. Allocations under this Section 5.9 are solely for purposes of federal, state, and local taxes and will not affect, on in any way be taken into account in computing, any Member's Capital Account on share of Profits and Losses or other items or distributions under any provision of this Agreement.

5.11 *Curative Allocations.* The allocations set forth in this Article 5 (the "Regulatory Allocations") are intended to comply with certain requirements of Regulations Sections 1.704-1(b). Notwithstanding any other provisions of this Article 5, the Regulatory Allocations shall be taken into account in allocating other Profits and Losses and items of income, gain, loss, and deduction among the Members so that, to the extent possible, the net amount of such allocations of other Profits and Losses, and other items and the Regulatory Allocations to each Member shall be equal to the net amount that would have been allocated to each such Member if the Regulatory Allocations had not occurred. The Managers shall have the discretion to make any modification to this Agreement deemed reasonably necessary to cause the allocations described in this Article 5 to more properly reflect the allocations intended hereunder, and each Member does hereby appoint each Manager, acting pursuant to a proper determination of the Managers, to act as attorney-in-fact through a power of attorney coupled with an interest to do so.

5.12 Other Distribution and Allocation Rules.

- (a) *Withholding.* Notwithstanding anything to the contrary contained in this Agreement, the Managers, in their sole discretion, may withhold from any distribution of Distributable Cash or other cash or other property to any Member contemplated by this Agreement any amounts due from such Member to the Company, or any other Member in connection with the business of the Company to the extent not otherwise paid. If any provision of the IRS Code, the Regulations, or state or local law or regulations requires the Company to withhold any tax with respect to a Member's distributive share of Company income, gain, loss, deduction, or credit, the Company will withhold the required amount and pay the same over to the taxing authorities as required by such provision. The amount withheld will be deducted from the amount that would otherwise be distributed to that Member, but will be treated as though it had been distributed to the Member with respect to which the Company is required to withhold. If at any time the amount required to be withheld by the Company exceeds the amount of money that would otherwise be distributed to the Member with respect to which the withholding requirement applies, then that Member will make a Capital Contribution to the Company equal to the excess of the amount required to be withheld over the amount, if any, of money that would otherwise be distributed to that Member and that is available to be applied against the withholding requirement. Each of the Members represent that each such Member is not aware of any provision of the IRS Code, the Regulations, or state or local law or regulations that currently require withholding of any tax by the Company with respect to such Member.
- (b) *Allocations Upon Transfers of Company Interests.* If the Sharing Ratios are increased or decreased by reason of the admission of a new Member or otherwise, then Profits and Losses for a fiscal year will be assigned pro rata to each day in the particular period of such fiscal year to which such item is attributable (*i.e.*, the day on or during which it is accrued or otherwise incurred) and the amount of each such item so assigned to any such day will be allocated among the Members based upon their respective interests in the Company at the close of such day. For the purpose of accounting convenience and simplicity, the Company will treat a Transfer of, or an increase or decrease in Membership Interest that occurs at any time during a semimonthly period as having been consummated on the first day of such semi-monthly period, regardless of when during such semi-monthly period such Transfer, increase or decrease actually occurs (*i.e.*, Transfers or increases or decreases made during the first 15 days of any month will be deemed to have been made on the first day of the month and Transfers or increases or decreases thereafter will be deemed to have been made on the 16th day of the month).
- (c) *Other Items.* Except as otherwise provided in this Agreement, all items of Company income, gain, loss, deduction, and other allocations not

otherwise provided for will be divided among the Members in proportions to their Sharing Ratios for the period during which such items were allocated.

ARTICLE 6. MANAGEMENT; RIGHTS AND DUTIES OF MANAGERS

6.1 *Management of Company Affairs.* The Company will have one or more Managers who will have the full, complete, and exclusive authority to manage and control the business, affairs, and properties of the Company, to make all decisions regarding those matters, and to perform any and all other acts or activities customary or incident to the management of the Company's business, all subject to any restrictions imposed by applicable law or expressly imposed by this Agreement. In addition to the powers now or hereafter granted to the Managers of a limited liability company under applicable law or that are granted to the Managers under any provision of this Agreement (but subject to the limitations described in Section 6.1 and elsewhere in this Agreement), the Managers will have the power, for and on behalf and in the name of the Company, to carry out and implement the purpose of the Company set forth in Section 2.6 and to do all things necessary or desirable or expedient in connection therewith on incidental thereto and to manage, conduct, and supervise the day-to-day business affairs of the Company and, without limiting the generality of the foregoing, to cause the Company to do the following:

- (a) to acquire, purchase, own, hold, maintain, develop, operate, sell, exchange, lease, sublet, assign, transfer, or otherwise dispose of tangible and intangible properties of any kind and character, including but not limited to real estate, whether improved or unimproved; and, to utilize the real estate and personal property of the Company as collateral for loans to the Company;
- (b) to enter into, become bound by, and perform obligations under contracts and instruments and to make all decisions and waivers thereunder;
- (c) to open, maintain, and close bank accounts, make withdrawals therefrom, and designate and change signatories on such accounts;
- (d) to procure and maintain with responsible companies insurance, including general liability, bodily injury, and property damage insurance, in amounts that are available and that are generally carried by similar entities;
- (e) to incur all legal, accounting, investment banking, independent financial consulting, litigation, brokerage, registration, and other fees and expenses as it may deem necessary or appropriate for carrying on and performing the powers and authorities herein conferred;
- (f) to collect amounts due the Company, settle claims, prosecute and defend lawsuits, and handle matters with governmental agencies;
- (g) to exercise the voting rights of the Company on account of its ownership in any other Person; provided however, that if the action to be voted on is

one that, if taken by the Company itself, would require the approval of the Members, such approval will be required before the Managers exercise such voting rights to approve such action;

- (h) to borrow funds or otherwise commit the credit of the Company; and
- (i) to make, constitute, and appoint, by written document duly executed and acknowledged, any Person who does not suffer any legal disability, contractual or otherwise, that would prohibit such Person from so acting, as the Company's true and lawful attorney and agent for it and in its name, place, and stead and for its use and benefit to perform any act or exercise any power or authority, all as specified in such document, that the Managers might perform or exercise in accordance with this Agreement; provided, however, that no such appointment will relieve the Managers of the duties and obligations imposed on them under this Agreement or the TBOC.

6.2 *Limitations on Powers and Authority of the Managers.* Notwithstanding the provisions of Section 6.1, the Managers may not cause the Company to do any of the following without the consent of a Majority of the Members:

- (a) do any act in violation of this Agreement;
- (b) do any act that would make it impossible to carry on the ordinary business of the Company (except in connection with the winding up of the Company's business);
- (c) admit a Person as a Member except as otherwise expressly permitted by this Agreement;
- (d) possess Company property or assign its rights in Company property, other than for a Company purpose;
- (e) amend this Agreement except as otherwise expressly permitted by this Agreement;
- (f) any acts which require the prior approval of the Members; or
- (g) sell substantially all of the assets of the Company.

6.3 *Reliance on Authority.* In its dealings with the Company, a third party may rely on the authority of the Managers to bind the Company without reviewing the provisions of this Agreement or confirming compliance with the provisions of this Agreement.

6.4 *Compensation.* Beginning as of the date of this Agreement, the Managers will be entitled to receive a Management Fee for their services provided in managing the Company and its operations, in an amount to be determined by the Members. The Management Fee and any other compensation will be paid from time to time as determined by the Members.

6.5 *Reimbursement.* The Managers are not required to advance any funds to pay costs and expenses of the Company. If the Managers do incur out-of-pocket costs and expenses in performing their duties under this Agreement, including the portion of its overhead costs and expenses that the Managers determine are allocable to the Company, the Managers are entitled to be reimbursed by the Company for such costs and expenses.

6.6 *Standards of Performance.* Except as otherwise provided in this Agreement, the Managers will perform their duties with respect to the Company in good faith and will devote such time and effort to the Company business and operations as the Managers believe is reasonably necessary to manage the affairs of the Company prudently and only to the extent that the Company has the funds available to permit the Managers to perform such duties. The Managers and their respective affiliates, and all officers, directors, employees and agents acting in that capacity, shall not be liable to the Company or its Members for any losses sustained or liabilities incurred as a result of any act or omission of such Person, if they acted in good faith and in a manner it believed to be in, or not opposed to, the interests of the Company. In the event a question should arise as to a Manager regarding their liability in connection with their duties hereunder to the Company or another Member of the Company they shall have no more duty or liability in connection therewith than if they were acting as a member of the board of directors of a Texas company which was carrying out the duties and responsibilities of the corporation

ARTICLE 7. MEETINGS OF THE MANAGERS

7.1 *Management.* The powers of the Company shall be exercised by and under the authority of, and business and affairs of the Company shall be managed under the direction of, the Managers of the Company.

7.2 *Number; Qualification; Election; Term.* The Managers shall consist of at least one (1), but not more than three (3) Managers, none of whom need to be Members or residents of any particular state. The initial and sole Manager, as set out in the Certificate, is:

Thomas K. Payne

The Members hereby vote unanimously that subsequent to the initial formation of the Company Blake Womble and Thomas K. Payne will be the Co-Managers of the Company.

There shall remain two Managers unless the Members vote (as provided in Section 7.3 of this Agreement by Super Majority) to increase the number to not more than three Managers. Future or additional Managers shall be elected by a Majority of the Members, except as provided in Sections 7.3 and 7.5 of this Agreement. Each Manager elected shall hold office until his or her successor shall be elected and shall qualify.

7.3 *Change in Number.* The number of Managers may be increased or decreased from time to time by amendment to this Agreement only with the vote of a Super Majority of all the Members, but no decrease shall have the effect of shortening the term of any incumbent Manager. Any Manager's position to be filled by reason of an increase in the number of Managers shall be filled by election of a Majority of the Members.

7.4 *Removal.* Any Manager may be removed either for or without cause at any meeting of Members, by the affirmative vote of a Super Majority of the Members if notice of intention to act upon such matter shall have been given in the notice calling such meeting.

7.5 *Vacancies.* Any vacancy occurring in the Managers by reason of the increase in the number of Managers, may be filled by vote of a Super Majority of the remaining Managers though less than a quorum of the Managers. A Manager elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

7.6 *Election.* Each Manager shall be elected by the vote of a Majority of the Members at a meeting of Members at which a quorum is present.

7.7 *Meetings.* Regular meetings of the Managers shall be held on such date or dates as may be determined by the Managers, from time to time. At least one regular meeting of the Managers will be conducted each year. Meetings of the Managers may be called by the President or any Manager on three (3) days' notice to each Manager, either personally or by mail or by facsimile. Except as otherwise expressly provided by this Agreement, neither the business to be transacted at, nor the purpose of, any meeting need be specified in a notice or waiver of notice.

7.8 *Place of Meetings.* Meetings of the Managers may be held within or outside of the State of Texas.

7.9 *Quorum; Unanimous Vote of Managers; Number of Votes Allocated to Each Manager.* At meetings of the Managers, a majority of the Managers fixed by this Agreement must be present to constitute a quorum for the transaction of business. The majority act of the Managers present at a meeting at which a quorum is present shall be required for the act of the Managers, except as otherwise specifically provided by statute, the Certificate, or this Agreement. If a quorum is not present at a meeting of the Managers, the Managers present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. With respect to all matters voted upon by the Managers, each Manager shall have one vote for each Unit owned by the Manager in the Company. Managers who are not Members shall be entitled to one vote.

7.10 *Notice of Meetings.* Notice stating the place, day and hour of the meeting shall be delivered to each Manager not less than three (3), nor more than sixty (60) days before the date of the meeting, by or at the direction of the Member or Members who called the meeting, the President, or other person calling the meeting. The actions or activities to be addressed at a meeting of the Managers (general or special) is not required to be set out in the notice.

7.11 *Waiver of Notice.* Attendance of a Manager at a meeting shall constitute a waiver of notification of the meeting, except where such Manager attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Notification of a meeting may also be waived in writing. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the notification of the meeting but not so included, if the objection is expressly made at the meeting,

7.12 *Minutes of Meeting.* The Managers shall keep regular Minutes of its proceedings. The Minutes shall be placed in the records of the Company.

7.13 *Action Without Meeting.* Any action that may be taken, or that is required by law or this Agreement to be taken by the Managers, or any group thereof, may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, will have been signed by the Managers whose consent is necessary to take the action. The consent may be in one or more counterparts. For purposes of this Section, a telegram, telex, cablegram, or similar transmission by a Person or a photographic, photostatic, facsimile, or similar reproduction of a writing signed by a Person will be regarded as signed by that Person. In any request for consent or approval from another Manager, the requesting Manager(s) may specify a response period, ending no earlier than the fifth day following the date on which the Manager whose consent or approval is sought receives the request. If the receiving Manager does not respond by the end of this period, it will be deemed to have not consented to or approved the action set forth in the request. The signed consent, or a signed copy, shall be placed in the Records of the Company.

7.14 *Action by Telephone Conference.* Members may participate in and hold a meeting by means of a conference telephone or similar communications equipment or other suitable electronic communications equipment, including video conferencing technology, or the internet, or a combination thereof, by means of which all Persons participating in the meeting can hear each other and participate in the meeting. Participation in such meeting will constitute attendance and presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

7.15 *Proxies.* Managers are entitled to vote by and through a person holding a valid written proxy. A telegram, telex, cablegram, or similar transmission by the Manager, or a photographic, photostatic, facsimile, or similar reproduction of a writing executed by the Manager, shall be treated as an execution in writing for the purposes of this Agreement. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Each proxy shall be revocable unless expressly provided therein to be irrevocable and unless otherwise made irrevocable by law. Each proxy shall be filed with the Secretary of the Company prior to or at the time of the meeting.

ARTICLE 8. COMMITTEES; DELEGATION OF AUTHORITY TO INDIVIDUAL MANAGERS

8.1 *Designation.* The Managers may, by the affirmative vote of a Super Majority of the Managers (or by the act of the sole Manager, if there be only one Manager), designate one or more committees, each of which shall be comprised of one or more Manager, and may designate one or more of its Managers as alternate participant of any committee, who may, subject to the limitations imposed by the Managers, replace absent or disqualified Managers at any meeting of that committee. In addition, the Managers may, by the affirmative vote of a Super Majority of the Managers, delegate to one or more Managers such authority and duties, and assign to them such titles, as the Managers may deem advisable; any such delegation may be revoked at any time by the Managers.

8.2 *Authority.* All committees and designated Managers, to the extent provided in such resolution, shall have and may exercise all of the authority of the Managers in the management of the business and affairs of the Company.

8.3 *Term.* All committees shall serve for the term appointed by the Managers.

8.4 *Change in Number.* The number of committee members of a particular committee may be increased or decreased from time to time by resolution adopted by the Managers.

8.5 *Removal.* Any member of a committee may be removed by the Managers.

8.6 *Vacancies.* A vacancy occurring on a committee (by death, resignation, removal or otherwise) may be filled by the Managers.

8.7 *Meetings.* Time, place and notice (if any) of a committee meeting shall be determined by the committee.

8.8 *Quorum; Vote of a Majority.* At meetings of a committee, a Majority of the number of committee members designated by the Managers shall constitute a quorum for the transaction of business. The act of a Majority of the committee members present at any meeting at which a quorum is present shall be the act of the committee, except as otherwise specifically provided by statute, the Certificate or this Agreement. If a quorum is not present at a meeting of a committee, the committee members present may adjourn the meeting from time to time, without notice other than an announcement at the meeting, until a quorum is present. Each committee member shall have one vote. Committee members are entitled to vote by and through a person holding a valid written proxy. A telegram, telex, cablegram, or similar transmission by the Committee member, or a photographic, photostatic, facsimile, or similar reproduction of a writing executed by the Committee member, shall be treated as an execution in writing for the purposes of this Agreement. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Each proxy shall be revocable unless expressly provided therein to be irrevocable and unless otherwise made irrevocable by law. Each proxy shall be filed with the Secretary of the Company prior to or at the time of the meeting.

8.9 *Compensation.* By resolution of the Managers, the members of a committee may be paid their expenses, if any, of attendance at each meeting of the committee and may be paid a fixed sum for attendance at each meeting of the committee or a stated salary as a member of the committee. No such payment shall preclude any committee member from serving the Company in any other capacity and receiving compensation therefore.

8.10 *Procedure.* Each committee shall keep regular minutes of its proceedings and report the same to the Managers when required. The minutes of the proceedings of a committee shall be placed in the records of the Company.

8.11 *Action Without Meeting.* Any action that may be taken, or that is required by law or this Agreement to be taken by the committee may be taken without a meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, will have been signed by the committee members whose consent is necessary to take the action.

The consent may be in one or more counterparts. For purposes of this Section, a telegram, telex, cablegram, or similar transmission by a Person or a photographic, photostatic, facsimile, or similar reproduction of a writing signed by a Person will be regarded as signed by that Person. The signed consent, or a signed copy, shall be placed in the Records of the Company.

8.12 *Telephone and Similar Meetings.* Committee members may participate in and hold a meeting by means of conference telephone, similar communications equipment on other suitable electronic communications equipment, including video conferencing technology, or the internet, or a combination thereof, by means of which all Persons participating in the meeting can hear each other and participate in the meeting. Participation in such meeting will constitute attendance and presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

8.13 *Responsibility.* The designation of a committee and the delegation of authority to it shall not operate to relieve the Managers, or any member thereof, of any responsibility imposed upon it or him by law.

ARTICLE 9. OFFICERS AND AGENTS

9.1 *Number; Qualification; Election; Term.* The Company may have a President, Secretary; and such other officers (including any Vice Presidents and a Treasurer) and assistant officers and agents as the Managers may deem necessary.

- (a) No officer or agent need be a Member, a Manager or a resident of Texas.
- (b) Officers shall be elected by the Managers.
- (c) Unless otherwise specified by the Managers at the time of election or appointment, or in an employment contract approved by the Managers, each officer's and agent's term shall end one year from the date of appointment or, if earlier, his death, resignation, or removal.
- (d) Any two or more offices may be held by the same person.

9.2 *Removal.* Any officer or agent elected or appointed by the Managers may be removed by the Managers. Election or appointment of an officer or agent shall not of itself, nor shall anything in this Agreement, create contract rights.

9.3 *Vacancies.* Any vacancy occurring in any office of the Company (by death, resignation, removal or otherwise) may be filled by the Managers.

9.4 *Authority.* Officers and agents shall have such authority and perform such duties in the management of the Company as are provided in this Agreement or as may be determined by resolution of the Managers not inconsistent with this Agreement.

9.5 *President.* If the Company should elect to have one, the President shall be the Chief Executive Officer of the Company; he shall preside at all meetings of the Members and Managers, shall have general and active management of the business and affairs of the Company, and shall see that all orders and resolutions of the Members and Managers are carried into effect.

He shall perform such other duties and have such other authority and powers as the Managers may from time to time prescribe.

9.6 *Vice Presidents.* If the Company should elect to have one, the Vice Presidents, if any, in the order of their seniority, unless otherwise determined by the Managers, shall, in the absence or disability of the President, perform the duties and have the authority and exercise the powers of the President. They shall perform such other duties and have such other authority and powers as the Managers may from time to time prescribe or as the President may from time to time delegate.

9.7 *Secretary.* If the Company should elect to have one, the Secretary shall attend all meetings of the Managers and all meetings of the Members and record all votes, actions and minutes of all proceedings in the Records of the Company to be kept for that purpose and shall perform like duties for any committees when required. The Secretary shall perform such other duties and have such other authority and powers as the Managers may from time to time prescribe or as the President may from time to time delegate.

9.8 *Treasurer.* If the Company should elect to have one, the Treasurer, if any, shall have the custody of the Company funds and securities, shall keep full and accurate accounts of receipts and disbursements of the Company, and shall deposit all funds and other valuables in the name and to the credit of the Company in depositories designated by the Managers. The Treasurer shall perform such other duties and have such other authority and powers as the Managers may from time to time prescribe or as the President may from time to time delegate.

9.9 *Compensation.* The compensation of officers and agents shall be fixed from time to time by the Managers.

ARTICLE 10. MEETINGS AND CONSENTS OF MEMBERS

10.1 *Voting Rights.* Where Members are to make a determination under the terms of this Agreement, each Member is entitled to one vote for each Unit they hold in the Company. Only a Person who has been admitted to the Company as a Member shall be entitled to vote. A Person who receives a Transfer of all or a portion of the Membership Interest, or any other rights of a Member, shall not be entitled to vote as a Member until he has been admitted to the Company as a Member. The initial votes to which each initial Member is entitled is as follows:

<u>Member</u>	<u>Number of Votes</u>	<u>Percentage</u>
3 Wiggle, LLC	6.0	60.00%
Blake Womble	2.0	20.00%
<u>Thomas K. Payne</u>	<u>2.0</u>	<u>20.00%</u>
Total Votes	10.0	100.0%

10.2 *Voting List.* At least ten (10) days before each meeting of the Members, a complete list of the Members entitled to vote at the meeting, with the address of each and the number of Units held by each, shall be prepared by the Secretary. The list, for a period of ten

(10) days prior to the meeting, shall be kept on file at the registered office of the Company and shall be subject to inspection by any Member at any time during usual business hours.

10.3 *Record Date.* The date upon which the notice of a meeting of the Members is mailed shall be the record date for the purpose of determining the Members entitled to vote at the Meeting. The record date for determining Members entitled to consent to action in writing without a meeting shall be the first date on which a written consent setting forth the action taken or proposed to be taken, is first delivered to the registered office, its principal place of business, or an officer or agent of the Company.

10.4 *Method of Voting.* At any meeting of the Members, every Member having the right to vote may vote either in person, or by proxy executed in writing by the Member. A telegram, telex, cablegram, or similar transmission by the Member, or a photographic, photostatic, facsimile, or similar reproduction of a writing executed by the Member, shall be treated as an execution in writing for the purposes of this Agreement. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy. Each proxy shall be revocable unless expressly provided therein to be irrevocable and unless otherwise made irrevocable by law. Each proxy shall be filed with the Secretary of the Company prior to or at the time of the meeting.

10.5 *Meetings.* At any time, either the Managers or Members owning Units entitling them to at least 10% of the Units of all Members may call a meeting of the Members to transact business that the Members or any group of Members may conduct as provided in this Agreement. A meeting may be called by notice to all Members entitled to vote at such meeting on or before the tenth (10th) day prior to the date of the meeting specifying the location and the time and stating the business to be transacted at the meeting. The chairperson of the meeting will be a Member selected by a Majority of the Members. At the meeting, the Members may take any action whether or not included in the notice of the meeting. Unless otherwise provided in this Agreement, all decisions of the Members shall be determined by a Super Majority of the Members.

10.6 *Notice.* Written or printed Notice stating the place, day and hour of the meeting shall be delivered not less than ten (10) nor more than sixty (60) days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Secretary, or the officer or person calling the meeting, to each Member of record entitled to vote at the meeting.

10.7 *Waiver of Notice.* Attendance of a Member at a meeting shall constitute a waiver of Notification of the meeting, except where such Member attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened. Notification of a meeting may also be waived in writing. Attendance at a meeting is not a waiver of any right to object to the consideration of matters required to be included in the Notification of the meeting but not so included, if the objection is expressly made at the meeting.

10.8 *Place of Meetings.* Meetings of the Members may be held in or out of the State of Texas.

10.9 *Action Without Meeting.* Any action that may be taken, or that is required by law or this Agreement to be taken, by the Members or any group thereof, may be taken without a

meeting, without prior notice, and without a vote, if a consent or consents in writing, setting forth the action so taken, will have been signed by the Member(s) whose consent is necessary to take the action. The consent may be in one or more counterparts. In any request for consent or approval from another Member, the requesting Member(s) may specify a response period, ending no earlier than the fifth day following the date on which the Member whose consent or approval is sought receives the request. If the receiving Member does not respond by the end of this period, it will be deemed to have not consented to or approved the action set forth in the request.

10.10 *Action by Telephone Conference.* Members may participate in and hold a meeting by means of a conference telephone, similar communications equipment or other suitable electronic communications equipment, including video conferencing technology, or the internet, or a combination thereof, by means of which all Persons participating in the meeting can hear each other and participate in the meeting. Participation in such meeting will constitute attendance and presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called on convened.

ARTICLE 11.

CONTRACTS WITH RELATED PARTNERS AND INDEMNIFICATION OF MEMBERS, MANAGERS AND OFFICERS

11.1 *Interested Managers, Officers and Members.* If Section 11.2 is satisfied, no contract or other transaction between the Company and any of its Members, Managers, or officers or any company or firm in which any of them are directly or indirectly interested, shall be invalid solely because of their relationship with the Company or because of the presence of the Member, Manager, or officer at the meeting authorizing the contract or transaction, or his participation or vote in the meeting or authorization.

11.2 *Disclosure, Approval; Fairness.* Section 11.1 shall apply only if:

(A) the material facts of the relationship or interest of each such Member, Manager, or officer are known or disclosed:

- (1) to the Managers, and they nevertheless authorize or ratify the contract or transaction, provided however, while any such interested Manager shall be counted in determining whether a quorum is present, their vote shall not be calculated in determining the Majority necessary to carry the vote; or
- (2) to the Members, and the Members nevertheless authorize or ratify the contract or transaction by a Super Majority, with each such interested person to be counted for quorum and voting purposes; or

(B) if the contract or transaction is fair to the Company as of the time it is authorized or ratified by the Managers or the Members, as the case may be.

(C) the parties hereto acknowledge that Shaw Services, LLC is a construction company owned by Thomas K. Payne. Shaw Services, LLC will perform services such as water line and

sewer line installation and street construction, subject to the provisions contained in paragraphs 11.2(A) and 11.2(B) above.

11.3 *Indemnifications.* The Company agrees to indemnify, defend, and hold harmless each of the following:

- (a) The Members, Managers and officers of the Company as well as their officers, managers, members, partners, owners, employees, and agents, (the "Indemnified Person") if any, from and against all Claims they may incur as a result of having been, being, on threatened to be made a named defendant or respondent in a Proceeding because it is or was a Member, Manager or officer in the Company or is performing or had performed the obligations of the Member, Manager or officer with respect to the Company, **SPECIFICALLY INCLUDING CLAIMS BASED ON OR ARISING FROM THEIR SOLE, PARTIAL, OR CONCURRENT NEGLIGENCE**, but excluding any such items incurred as a result of acts of gross negligence, willful or intentional acts against the Company.
- (b) Each Indemnified Person from and against all Claims such Person may incur as a result of appearing as a witness or other participation in a Proceeding that involves or affects the Company;
- (c) Each Indemnified Person from and against all Claims such Person may incur as a result of having performed or performing services for the Company, **SPECIFICALLY INCLUDING CLAIMS BASED ON OR ARISING FROM THE INDEMNIFIED PERSONS SOLE, PARTIAL, OR CONCURRENT NEGLIGENCE**.
- (d) The rights of an Indemnified Person under this Section include the right to be paid on reimbursed by the Company for reasonable expenses incurred in defending any Proceeding in advance of its final disposition.
- (e) If a claim for indemnification on advancement of expenses hereunder is not paid in full by the Company within 90 days after a written claim has been received by the Company, the Person seeking a remedy under this Section may at any time thereafter bring suit against the Company to recover the unpaid amount of the claim, and if successful in whole or in part, the Person seeking a remedy under this Section will also be entitled to be paid the expenses of prosecuting such claim.
- (f) The right of any Indemnified Person under this Section will survive the termination of that Person's status as an Indemnified Person and the termination of this Agreement and the dissolution of the Company.
- (g) In the event of the death of a Person seeking a remedy under this Section, the right under this Section will inure to the benefit of such Person's heirs, executors, administrators, and personal representatives.

- (h) The rights conferred in this Section will not be exclusive of any other right that a Person seeking a remedy under this Section may have or hereafter acquire under any statute, resolution of Members, Managers agreement, or otherwise.

**ARTICLE 12.
RIGHTS, OBLIGATIONS,
AND REPRESENTATIONS OF MEMBERS**

12.1 *Representations of Members.* Each Member hereby severally represents and warrants to, and agrees with, the Company and each other Member as follows:

- (a) Authorization and Validity of Agreement. Such Member has full power and authority to execute and deliver this Agreement, to perform the obligations of such Member hereunder, and to consummate the transactions contemplated hereby. The execution, delivery, and performance of this Agreement by such Member, and the consummation by such Member of the transactions contemplated hereby, have been duly authorized and approved by such Member. This Agreement has been duly executed and delivered by such Member and is a valid and binding obligation of such Member, enforceable against such Member in accordance with its terms, except to the extent that its enforceability may be subject to applicable Bankruptcy Laws and to general equitable principles. The execution and delivery of this Agreement does not, and the consummation of the transactions contemplated hereby will not, violate any provision of any agreement, instrument, order, regulation, judgment, or decree to which such Member is subject or by which such Member or any asset of such Member is bound. Such Member is under no legal disability, contractual or otherwise, that prohibits such Member from entering into this Agreement and performing the obligations of such Member hereunder. Such Member is the sole party in interest in the Units of such Member under this Agreement and, as such, is vested with all legal and equitable rights in such Units.
- (b) Such Member is acquiring the Units of the Company for the account of such Member and not with a view to distribution thereof within the meaning of the Securities Act of 1933, as amended, or any state securities laws. The Member will not Transfer the Units in contravention of that act or any applicable state or Federal securities laws.
- (c) Such Member acknowledges and understands that the Managers are granted broad discretion and authority under this Agreement and that the Managers' exercise of such broad discretion and authority may impair the value of such Member's Membership Interest. Such Member further acknowledges and understands that the Managers would not cause the Company to issue Membership Interest to the Member if the Managers did not have such broad discretion and authority and such Member agrees not to challenge the Manager's exercise of such discretion and authority.

- (d) Pursuant to the Texas Securities Act, Art. 581-1 et seq. (the "*Texas Securities Act*"), the liability under the Texas Securities Act of a lawyer, accountant, consultant, the firm of any of the foregoing, and any other Person engaged to provide services relating to an offering of securities of the Company (such Persons, "*Service Providers*") is limited to a maximum of three times the fee paid by the Company or seller of the Company's securities to the Service Provider for the services related to the offering of the Company's securities, unless the trier of fact finds that such Service Provider engaged in intentional wrongdoing in providing the services. By signing below, each Member hereby acknowledges the disclosure provided in this paragraph.

ARTICLE 13.
BANK ACCOUNTS, INVESTMENTS,
GENERAL ACCOUNTING PROVISIONS, AND REPORTS

13.1 *Books of Account; Access; Fiscal Year.* The Managers, at the expense of the Company, shall maintain for the Company those books and records required by Sections 3.151 and 101.501 of TBOC and such other books and records of account as the Managers, in their reasonable discretion, deem appropriate. Books and records of the accounts of the Company shall be maintained on a basis consistent with appropriate provisions of the IRS Code, containing, among other entries, a Capital Account for each Member.

13.2 *Access to Books and Records.* Books of account are to be kept at the principal office of the Company. Except as set out herein, the Managers may restrict the access of one or more Members to certain books, records, and accounts to the extent the Managers believes it to be in the best interest of the Company to do so. The Managers may require any Person to whom confidential information of the Company is provided pursuant to this Section to maintain the confidentiality of such information on such terms as the Managers may prescribe. The above notwithstanding:

- (a) The Company shall make available to a Member, or Assignee, at its registered office, the address of the principal office of the Company;
- (b) The Company shall make available to a Member or Assignee, within five (5) days following their delivery of written request, each of those items required to be maintained under Sections 3.152 and 101.502 of the TBOC and such other information regarding the business of the Company that is reasonable for the person to examine and copy;
- (c) The Company shall make available to a Member or Assignee free of cost, the Certificate, this Agreement with all amendments, and the last 6 years Federal tax returns; and
- (d) The Company shall make available to a Manager or Committee Member and records pursuant to Sections 3.151, 3.152 and 3.153 of the TBOC and

such other information regarding the business of the Company that is reasonably related to the person's services.

- (e) The Company will provide Balance Sheet and P & L statements to each Member no less often than quarterly.

13.3 *Annual Reports.* As soon as reasonably practicable after the end of each Fiscal Year, the Managers will use commercially reasonable efforts to cause the Members to be furnished with a balance sheet, an income statement, and a statement of changes in Members' capital of the Company for, and as of the end of, such year. These financial statements shall be certified by certified public accountants chosen by the Managers pursuant to a compilation review of the financial records of the Company conducted by the certified public accountants. The Managers also may cause to be prepared or delivered such other reports as it may deem appropriate. The Company will bear the costs of such reports.

13.4 *Periodic Reports.* As soon as reasonably practicable within ten (10) days following the end of each month, the Managers will use commercially reasonable efforts to cause the Members to be furnished with a balance sheet, and an income statement, as of the end of such period reflecting the information for that period of the Fiscal Year, as well as a year to date presentation of that information. These financial statements may be created internally by the Company, or, at the sole discretion of the Managers, prepared by certified public accountants chosen by the Managers. The Managers also may cause to be prepared or delivered such other reports as it may deem appropriate. The Company will bear the costs of all such reports.

13.5 *Reliance on Third Party Reports.* In connection with the discharge of their duties under the terms of this Agreement, or the exercise of their powers, Managers, Committee Members and Officers of the Company shall have the right to rely upon information, opinions, reports and statements, including financial statements and other financial data concerning the Company or another Person presented by an officer, employee, legal counsel, certified public accountant, investment banker, committee of which they are not a member, or other person they reasonably believe possess professional expertise in the matter, unless they have knowledge of matters that would make this reliance unwarranted.

13.6 *Bank Accounts.* The Managers will establish and maintain, in the name of the Company, one or more accounts at one or more banks. All Company funds will be deposited into such account(s). No other funds will be deposited into any such account. Funds deposited in any such account may be withdrawn only to pay Company debts or obligations, to make distributions to the Members pursuant to this Agreement, or to make Permitted Investments.

13.7 *Permitted Investments.* Company funds may be invested in such investments as the Managers determine.

13.8 *Audits at Request of Member.* Any Member shall have the right to have a compilation, review or audit conducted of the Company books (the "Audit"), which may be requested with respect to the annual financial statements of the Company. The cost of the Audit shall be borne by the Member or Members requesting the performance of the Audit. The Audit shall be performed by an accounting firm that provides accounting services for the Company. Not more than one (1) Audit shall be required by any or all of the Members for any fiscal year.

ARTICLE 14.

TAXES

14.1 *Tax Returns.* The Managers will use commercially reasonable efforts to cause to be prepared and filed all necessary federal and state income tax returns for the Company. Each Member will furnish to the Managers all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

14.2 *Tax Elections.* The Company will make those tax elections the Managers may deem appropriate and in the best interests of the Members. The above notwithstanding, neither the Company nor any Member may make an election for the Company to be excluded from the application of the provisions of subchapter K of chapter 1 of subtitle A of the IRS Code or any similar provisions of applicable state law.

14.3 *Tax Matters Partner.* The Managers will appoint one of the Managers to be the "tax matters partner" of the Company pursuant to section 6231(a)(7) of the IRS Code and may change the tax matters partner from time to time as they may determine necessary. In the event the Person appointed as the tax matters partner shall be removed, resign this position or no longer qualify, a Majority of the Members shall designate another Manager to be the "tax matters partner" of the Company pursuant to section 6231 (a)(7) of the IRS Code. Any Manager who is designated tax matters partner" shall take such action as may be necessary to cause each Member to become a "notice partner" within the meaning of section 6223 of the IRS Code. Any Manager who is designated "tax matters partner" shall inform each Member of all significant matters that may come to its attention in its capacity as "tax matters partner" by giving notice thereof as soon as reasonably possible.

ARTICLE 15.

ASSIGNMENT OF MEMBERSHIP INTERESTS

15.1 *Assignment by Member.* Except as hereinafter expressly permitted in this Article and except for a sale to another Member which satisfies the provisions of Section 15.3, a Member's interest in the Company shall not be sold, transferred, pledged, assigned or otherwise disposed of, in whole or in part, without (i) the written consent of all Members, which consent may be granted or denied in the sole and absolute discretion of the Members and (ii) complying with the applicable terms of this Article. Unless a transferee becomes a substituted Member in accordance with the provisions set forth below, such transferee shall not be entitled to any of the rights or powers granted to a Member hereunder, other than the right to receive allocations of income, gain, loss, deduction, credit, and similar items and distributions to which the assignor would otherwise be entitled to the extent such items are assigned.

15.2 *Permitted Transfers.* During his or her lifetime, or upon death, an individual who is a Member (or a trust that is a Member) may, without the prior written consent of the other Members, sell, transfer, convey, assign or bequeath any part or all of the Member's interest in the Company to:

any Family Member;

any Charity; and

any trust for the exclusive benefit of one or more Family Members, Charities or spouses of Family Members, provided that such trust may not distribute an interest in the Company to the spouse of a Family Member. A remote contingent beneficiary shall not be considered a trust beneficiary.

15.3 *Right of First Refusal on Sale.*

(a) In the event a Member, representative of a Member or any Person to whom a Member's interest has been validly assigned under the terms of this Agreement (collectively, a "Selling Party") desires to sell all or any portion of its Membership Interest, the Selling Party shall first offer to sell such portion of its Membership Interest to the Members in accordance with the terms of this Section. The offer to sell (herein so called) to the Members (i) shall be in writing and shall grant to the Members the right to purchase such interest for the consideration (which shall be expressed in monetary terms, in U.S. Dollars) and on the terms as set forth in such offer, and (ii) shall not expire until the date 30 days from the date the Members receive the offer (the "Expiration Date"). The Members shall have the prior right and option to accept the offer to purchase the portion of the Selling Party's interest in the Company so offered during the 30-day period ending on the Expiration Date. The Members that accept the offer to sell prior to the Expiration Date (the "Purchasing Members") shall purchase the offered interest in the Company in accordance with their respective Membership Interests or such other ratio as the Purchasing Members so agree.

The date the offer to sell is accepted by any Purchasing Member shall be the date the notice of acceptance is postmarked (or, if not mailed, the date the Selling Party acknowledges in writing receipt of the notice of acceptance). Acceptance of the offer shall be effective only if the Purchasing Members accept, in the aggregate, the offer to purchase the entire portion of the Selling Party's interest in the Company so offered. If the offer to sell is not accepted by the Purchasing Members, the Selling Party may transfer that portion of its interest in the Company to which the offer to sell pertains to any transferee (subject to the provisions of Section 15.4) on terms and conditions no less favorable to the Selling Party than those contained in the offer to sell at any time during a period that shall end 180 days after the Expiration Date, provided that the transferee thereof shall execute and deliver to the Managers a valid and binding agreement to the effect that the interest in the Company so transferred shall continue to be subject to the provisions of this Section and that the right of first offer of the Members shall extend to any proposed disposition of such interest by the transferee. If, however, no sale to a transferee is consummated during the period that ends 180 days after the Expiration Date, the Members' right of first refusal as to the portion of the Selling Party's interest in the Company to which the offer to sell pertains shall continue in full force and effect and any proposed transfer thereof shall first be subject to the Members' right of first offer as set forth in this Section. Additionally, the sale to a transferee of the portion of the Selling Party's interest in the Company to which the offer to sell pertains in accordance with the provisions of this Section shall not affect the Members' right of first offer pursuant to this Section with respect to the remainder of the Selling Party's interest in the Company.

In the event that Purchasing Members elect to purchase that portion of the Selling Party's interest in the Company to which the offer to sell pertains, the Purchasing Members and the Selling Party shall be bound to proceed with the sale for the consideration and upon the terms applicable thereto, which shall be consummated at such location as shall be agreed upon by the Purchasing Members and the Selling Party on or before the first business day after the expiration of 90 days from the date of the Expiration Date. At the time of closing, the Purchasing Members shall deliver such consideration as required pursuant to the offer to sell and the Selling Party shall deliver or cause to be delivered to the Purchasing Members, against receipt of such consideration, such assignments and other instruments of conveyance, warranty of title, transfer and assignment of the portion of the Selling Party's interest in the Company to be conveyed hereunder as shall be effective to vest in the Purchasing Members good title and interest in and to such interest in the Company, free and clear of any and all liens, encumbrances, conditions, assessments, and restrictions (to the extent consistent with the offer to sell). From the time of such closing, the Selling Party, from time to time at the request of a Purchasing Member and without further consideration, shall do, execute, acknowledge and deliver, or shall cause to be done, executed, acknowledged and delivered, all such further acts, deeds, assignments, transfers, conveyances, powers of attorney and assurances as a Purchasing Members interest in the Company so conveyed to such Purchasing Member, his or her successors and assigns.

15.4 *Substitution of Members.* In addition to compliance with the provisions of Section 15.1 to the extent applicable, a transferee of the interest of a Member may become a substituted Member subject to the following terms, conditions and limitations:

(b) The transferor has given the transferee the right to become a substituted Member;

All Members have given their written consent to the substitution of the transferee as a Member;

The transferee has paid to the Company all costs and expenses incurred in connection with such transferee's substitution as a Member, which costs and expenses will include, without limitation, all legal and accounting fees and expenses incurred by the Company or its counsel and all costs incurred in amending this Agreement and in preparing, filing, recording and publishing any certificates and instruments necessary or appropriate in connection therewith; and

The transferee shall have executed and delivered such instruments and documents, in form and content satisfactory to the Managers, as the Managers may deem necessary, advisable or appropriate to effect the substitution of such transferee as a Member.

The Company and the Managers will be entitled to consider the owner of any Membership Interest in the Company as set forth in the records of the Company as the absolute owner thereof for all purposes. Neither the Company nor the Managers will incur any liability for distributions of cash or other property made in good faith to the owner of an interest in the Company as reflected on the Company's records until such time as a written assignment of such interest has been received and accepted by the Managers and recorded on the books of the Company. No

Member shall under any circumstances sell, pledge, transfer, assign or otherwise dispose of its interest in the Company other than as provided in this Article, and in the event any such action should be attempted, such will be null, void and ineffectual and will not bind the Company or the Managers. In no event will any purported transfer of a Membership Interest in the Company, by operation of law or otherwise, require the Managers to account to more than one person with respect to such transferred interest. In the event of a transfer by a Member, for purposes of allocations between the transferor and the transferee of deductions, credits and income of the Company for federal, state and local income tax purposes, the transfer shall be recognized by the Company effective as of the first day of the month following the date of the transfer.

ARTICLE 16 COMPETITION

Neither this Agreement nor the relationship created hereby will preclude or limit, in any respect, the right of any Member or Manager on any Affiliate of any Member or Manager to engage, directly or indirectly, through participation, investment, or otherwise, in any opportunity or business of any type, including those that may be the same as or similar to the Company or its business, those that compete with the Company, and those in which the Company has invested. No Member, Manager, or any Affiliate of a Member or Manager will have any obligation to offer to the Company or any other Member the right to participate in any such activity. Neither the Company nor any other Member or Manager or any Affiliate of a Member or Manager will have any right, by virtue of this Agreement or the relationship created by this Agreement, with respect to any such activity.

ARTICLE 17. DEFAULT BY MEMBER

17.1 *Default of a Member.* Any one of the following events shall be deemed to be an Event of Default (the "Default") by a Member:

- (a) Failure to make a Capital Contribution in the manner or time periods set out herein.
- (b) A material violation of any other provisions of this Agreement.
- (c) The gross negligence, fraud, theft or willful misconduct committed by the Member against the Company or one or more of the Members in connection with the operation of the Company.

17.2 *Terminations of Defaulting Member.* In the event of a default by a Member, the Member shall be provided written notification to cure such Default from the Company or any one or more Members who are not in default (the "Non-Defaulting Members"). The defaulting Member (the "Defaulting Member") shall have thirty (30) days following receipt of such notice to cure said Default (the "Cure Period"). If the Defaulting Member fails to cure the Default within the Cure Period, the Company shall provide Notice to the Non-Defaulting Members (the "Default Notice") and the Non-Defaulting Members may pursue any and all remedies that may be available, at law and in equity, to cure such Default, including the remedy of specific performance if it is available.

17.3 *Right to Purchase Upon Default.* In addition to each of the remedies for a Default by a Member, as set out above, should a Default occur, each of the Non-Defaulting Members shall have the right to purchase all or a portion of the Defaulting Member's Membership Interest (the "Defaulting Interest") for Eighty-Five Percent (85%) of its Fair Value determined as of the date of such Default Notice. Such right may be exercised by any one or more of the Non-Defaulting Members giving, within forty five (45) days after such Default Notice, to the Defaulting Member notice of its desire to purchase all or a portion of such Defaulting Interest (for the purpose of this Section the "Notification Date"). If a Member provides a timely notice to purchase all or any portion of the Defaulting Interest, as soon as possible thereafter, the Company shall cause the Fair Value of the Defaulting Interest to be determined as of the date of such Default Notice. If there is more than one Non-Defaulting Members who desires to exercise such right (each, a "Purchasing Member"), the Defaulting Interest will be allocated among all Purchasing Members as follows: First, a portion of the Defaulting Interest will be allocated to each Non-Defaulting Member to the extent of the lesser of (i) the Non-Defaulting Member's pro rata portion (based on the number of Units owned by such Non-Defaulting relative to the number of Units of all Non-Defaulting Members) of the Defaulting Interest and (ii) the portion of the Defaulting Interest that such Non-Defaulting Member expressed a desire to purchase in such notice. If, after such allocation, any portion of the Defaulting Interest has not been allocated to the Non-Defaulting Members (the "Residual Defaulting Interest"), a similar allocation will be made of the Residual Defaulting Interest among the Non-Defaulting Members who have not been allocated the full portion of the Defaulting Interest that such Non-Defaulting Members expressed a desire to purchase in their respective notices. Such procedure will be continued until all of the Defaulting Interest has been fully allocated, if possible.

17.4 *Closing.* If one or more Members elect to purchase the Defaulting Interest under the terms of this Article, the Closing shall be on or before that date which is the later of thirty (30) days after (i) the Notification Date or (ii) the determination of the Fair Value under the terms of this Agreement. At the Closing, the Defaulting Member will transfer the Membership Interest to be sold to the Non-Defaulting Members, free and clear of any liens or encumbrances (other than those which may have been created to secure any indebtedness or obligations of the Company). At the Closing, the purchase price to be paid for the Defaulting Interest shall be paid to the Defaulting Member in cash.

17.5 *Cumulative Remedies.* Except as otherwise expressly set forth in this Agreement, the rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party will not preclude or constitute a waiver of its right to use any or all other remedies. Such rights and remedies are given in addition to any other rights the Members may have by law, statute, ordinance, or otherwise.

17.6 *Cure of Default.* The Default of any Member may be remedied by any one or more Non-Defaulting Members; provided however, to the extent such Default has occurred a remedy shall not terminate the rights of the Company or Non-Defaulting Members under this Article. In such event, any amount paid out to cure such Default, together with all reasonable expense and interest at the highest lawful rate not to exceed the Base Rate, shall be repaid to the Non-Defaulting Members by the Defaulting Member. Such advance with interest shall be repaid out of either (i) the distributions to the Defaulting Member pursuant to this Agreement, until the Non-Defaulting Member is fully reimbursed, or (ii) shall be paid out of the proceeds from the

sale of the Defaulting Member's Membership Interest pursuant to this Article. Any cure of a Default under this Article shall have no effect on the other Member's rights to acquire a Defaulting Member's Membership Interest under the terms of this Agreement.

ARTICLE 18. WINDING UP

18.1 *Event Requiring a Winding Up.* Except as set out below, upon the happening of the first to occur of the following events, the Company will begin to wind up its affairs;

- (a) the execution of an instrument approving the winding up of the Company by a Super Majority of the Members;
- (b) the entry of a decree of judicial dissolution under Section 11.051(5) of the TBOC.
- (c) the last remaining Member discontinues being a Member of the Company.
- (d) the occurrence of a non-waivable event under the terms of the TBOC which requires the winding up of the Company.

No other event will require the winding up of the Company.

18.2 *Revocation.* If an event of the type described in Section 19.1(a) occurs or any other voluntary act of the Members which require a winding up of the Company, the event may be revoked at any time prior to the termination of the Company by a determination of a Super Majority of the Members.

18.3 *Cancellation.*

- (a) If an event of the type described in Section 19.1(c) occurs, the event may be cancelled, in writing, at any time within 1 year after the occurrence of such event if (a) the personal representative of the last Member agrees in writing to (i) a continuation of the Company and (ii) the admission of the personal representative of the Member or its nominee or designee as a Member, or (b) a new Member is admitted to the Company by either the personal representative of the last Member, the Managers, or a Majority of the Assignees (in this case only, allowing the assignees of such Membership Interest to vote the Units of the Membership Interest they have been assigned).
- (b) If an event of the type described in Section 19.1(d) occurs, the event may be cancelled, in writing, at any time within 1 year after the occurrence of such event by a determination of a Super Majority of the Members.

18.4 *Interim Manager.* If an event requiring winding up occurs and there is no remaining Managers, a Majority of the Members may appoint an interim manager of the

Company, who will have and may exercise only the rights, powers, and duties of the Managers necessary to preserve the Company assets, until new Managers, if any, are elected.

18.5 *Effect of Event Requiring a Winding Up.* If an event requiring a winding up occurs and is not canceled or revoked, the Company will begin winding up its affairs and will continue until the assets have been distributed as set out below.

ARTICLE 19. WINDING UP AND TERMINATION

19.1 *Winding Up and Termination.*

- (a) **General.** As expeditiously as possible following the occurrence of an event requiring a winding up, the Managers will proceed to wind up the affairs of the Company, liquidate assets, pay liabilities, and make liquidating distributions to the Members, in the following order of priority:
 - (i) the Managers shall cause an accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities, and operations through the last day of the calendar month in which the event requiring winding up occurs;
 - (ii) the Managers will use commercially reasonable efforts to maximize the value of the Company assets and then to sell Company assets. Any resulting Profits or Losses from each sale will be computed and allocated to the Capital Accounts of the Members in the manner described in Article 5;
 - (iii) the Managers shall cause the notice described in article 11.052 of TBOC to be mailed to each known creditor of and claimant against the Company in the manner described in that Section);
 - (iv) the Managers will pay, to the extent there are funds available therefor, all of the Company's obligations and establish such reserves as the Managers deems prudent (the "Liquidation Reserve");
 - (v) all remaining assets of the Company shall be distributed to the Members as follows:
 - (A) with respect to all Company property that has not been sold, the Fair Value of that property shall be determined and the Capital Accounts of the Members shall be adjusted to reflect the manner in which the unrealized income, gain, loss, and deduction inherent in property that has not been

reflected in the Capital Accounts previously would be allocated among the Members if there were a taxable disposition of that property for the Fair Value of that property on the date of distribution; and

- (B) Company property shall be distributed among the Members in accordance with the positive capital account balances of the Members, as determined after taking into account all capital account adjustments for the taxable year of the Company during which the liquidation of the partnership occurs; and those distributions shall be made by the end of the taxable year of the Company during which the liquidation of the Company occurs (or, if later, 90 days after the date of the liquidation).
 - (C) All distributions in kind to the Members shall be made subject to the liability of each distributee for costs, expenses, and liabilities theretofore incurred or for which the Company has committed prior to the date of termination and those costs, expenses, and liabilities shall be allocated to the distributee pursuant to this Article.
 - (D) all remaining cash and other Company property (other than the Liquidation Reserve) will be distributed among the Members as set out in Article 5.
 - (E) The distribution of cash and/or property to a Member in accordance with this Article constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member of its Membership Interest.
- (b) **Powers.** Until final distribution, the Managers will continue to operate the Company properties with all of the power and authority of the Managers.
 - (c) **Cost of Liquidation.** The costs of liquidation will be borne as a Company expense.
 - (d) **Termination; Release of Liquidation Reserve.** At the time such distributions are made and the Liquidation Reserve established in accordance with subsection (a), the Company will terminate, but if at any time thereafter any of the funds in the Liquidation Reserve are released because, in the opinion of the Managers, the need for such reserve has ended, such funds will be distributed in accordance with subsection (a).

- (e) **No Recourse.** No Member will have any recourse against the Company or any other Member for the return of its Capital Contributions or any distributions not required by this Agreement.

19.2 *Cancellation of Certificate.* On completion of the distribution of Company assets as provided herein, the Company is terminated, and the Managers (or such other Person or Persons as the TBOC may require or permit) will cause the cancellation of the Certificate and any other filings made by the Company and will take such other actions as may be necessary to terminate or reflect the termination of the Company.

ARTICLE 20. MISCELLANEOUS

20.1 *Amendment or Modification.* Except to the extent this Agreement otherwise provides for a change to be effected without the approval required in this Section, this Agreement may be amended or modified at any time and from time to time only by a written instrument approved by the Managers and a Super Majority of the Members; *provided, however,* that (a) an amendment or modification (i) reducing a Member's share of profits, losses, distributions or Units (other than as a result of the issuance of additional Company Interests or adjustments to Sharing Ratios authorized without violation of this Agreement) or (ii) increasing the obligation of a Member to make Capital Contributions, requires the additional approval of the Member affected, (b) an amendment that disproportionately and adversely affects a Member requires the additional approval of the Member affected, (c) an amendment or modification reducing the required measure for any consent or vote in this Agreement requires the additional consent or vote of Members having their rights reduced, and (d) an amendment or modification made solely to reflect the admission or withdrawal of a Member need not be approved by any Member if the requirements set forth in this Agreement with respect to such admission or withdrawal are otherwise satisfied. In the event an amendment is properly adopted under the terms of this Agreement which require an amendment to the Certificate, the parties authorized to amend the Agreement are also authorized to amend the Certificate, as well.

20.2 *Notices.* All notices required or permitted to be given pursuant to this Agreement will be in writing and will be (i) personally delivered, (ii) mailed, first class postage prepaid, or delivered by a nationally recognized express courier service, charges prepaid, (iii) delivered by fax, or (iv) electronic message, if to the Company to the address of the Company's registered office (as reflected on the records of the Secretary of State of the State of Texas) or its email address of _____, or fax number (806) _____, and if to a Member, to the appropriate address set forth on **Exhibit A** to this Agreement, and if to a Manager, to the address shown on the records of the Company. Any such notice, when sent in accordance with the provisions of the preceding sentence, will be deemed to have been given and received (a) on the day personally delivered, (b) on the third day following the date mailed, (c) the date of actual delivery by a courier, and (d) the date of delivery and confirmation of delivery by the recipient if delivered by fax or electronic message. The Company or a Member may change its address, as set out above, by giving notice in writing to all other Members in the manner set forth in this Section, stating the new address.

20.3 *Failure to Pursue Remedies.* The failure of any party to seek redress for violation, or to insist upon the strict performance of any provision of this Agreement will not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

20.4 *Section Headings.* The headings in this Agreement are inserted for convenience and identification only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any provision hereof.

20.5 *Severability of Provisions.* Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this Agreement and the illegal or invalid provision will be enforced to the maximum extent possible to still be legal and valid.

20.6 *Governing Law; Venue.* This Agreement, and the application or interpretation thereof, will be governed exclusively by its terms and by the laws of the State of Texas. Except for those actions, proceedings, or claims that this Agreement provides will be settled by arbitration, any action, proceeding, or claim arising out of or relating to this Agreement commenced by any Member in its individual capacity must be prosecuted in Lubbock County, Texas. Each Member waives any plea of privilege that might exist in the absence of such Member's agreement to prosecute such claim in Lubbock County, Texas, and each Member irrevocably submits to the non-exclusive jurisdiction of the state and federal courts of the State of Texas and consents to service of process upon such Member in any legal proceeding arising out of or in connection with this Agreement.

20.7 *Counterparts.* This Agreement may be executed in any number of counterparts with the same effect as if the Members had all signed the same document. All counterparts will be construed together and will constitute one instrument. In making proof of this Agreement, it will not be necessary to account for more than one counterpart executed by the Person against whom enforcement is sought.

20.8 *Successors and Assigns.* Each and every covenant, term, provision, and agreement herein contained will be binding upon each of the Members and their respective heirs, legal representatives, successors, and assigns and will inure to the benefit of each of the Members. Unless and until properly admitted as a Member, no assignee will have any rights of a Member beyond those provided by the TBOC to assignees or otherwise expressly provided herein to assignees.

20.9 *Construction, Sections, Exhibits, Etc.* Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter. Each reference to an "Exhibit" herein is, unless specifically indicated otherwise, a reference to an exhibit attached hereto, all of which are made a part hereof for all purposes, it being understood that if any Exhibit that is to be executed and delivered pursuant to the terms hereof contains blanks, it will be completed correctly and completely in accordance with the terms and provisions hereof and as contemplated herein prior to or at the time of its execution and delivery.

20.10 *Further Assurances.* In connection with this Agreement and the transactions contemplated by it, each Member will execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Agreement and those transactions.

20.11 *Waiver of Certain Rights.* Each Member irrevocably waives any right it may have to maintain any action for dissolution of the Company (other than pursuant to Section 19.1) or for partition of the property of the Company.

20.12 *Attorneys' Fees.* If the Company or any Member brings any legal action to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees, costs, and expenses, in addition to any other relief to which such party may be entitled.

20.13 *Entire Agreement.* This Agreement sets forth the entire Agreement among the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, if any, related thereto.

20.14 *Third Party Beneficiaries.* Except for the Indemnified Persons, there are no third party beneficiaries of this Agreement.

20.15. *Subscription Agreements Control.* On or prior to the date of this Agreement, each of the undersigned Members has executed a subscription agreement related to its respective purchase of its Membership Interest in the Company. In the event of any conflict between the terms, conditions and agreements contained in said subscription agreement, and the terms, conditions and agreements set forth in this Agreement, the subscription agreement shall control. Each subscription agreement shall be filed with the records of the Company, and shall govern to the extent of any conflicts with this Agreement.

Executed on the date or dates indicated below, to be effective as of the date first set forth above.

MANAGERS:

Name: **THOMAS K. PAYNE**

Date: August 8, 2017

Name: **BLAKE WOMBLE**

Date: August 8, 2017

MEMBERS:

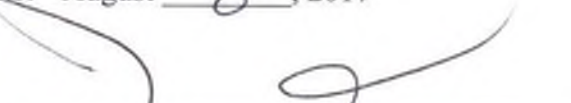
3 WIGGLE, LLC


By: KEITH MCNEESE, Manager

Date: August 8, 2017


Name: **BLAKE WOMBLE**

Date: August 8, 2017


THOMAS K. PAYNE

Date: August 8, 2017

EXHIBIT "A"

NAME, ADDRESS, AND UNITS OF MEMBERS

	<u>Name</u>	<u>Address</u>	<u>Units</u>
Members:	3 Wiggle, LLC	8207 Ithaca Avenue Suite C Lubbock, Tx 79423	60.00
	Blake Womble	4513 8th St Lubbock, TX 79413	20.00
	Thomas K. Payne	12402 Slide Rd., Suite 201 Lubbock, Tx 79424	20.00

EXHIBIT "B"

INITIAL CAPITAL CONTRIBUTIONS

3 Wiggle, LLC	\$ 12,000.00
Blake Womble	4,000.00
<u>Thomas K. Payne</u>	<u>\$ 4,000.00</u>
TOTAL INITIAL CAPITAL CONTRIBUTIONS:	\$ 20,000.00

EXHIBIT "C"

ADDITIONAL CAPITAL CONTRIBUTIONS

**Form 205—General Information
(Certificate of Formation—Limited Liability Company)**

The attached form is designed to meet minimal statutory filing requirements pursuant to the relevant code provisions. This form and the information provided are not substitutes for the advice and services of an attorney and tax specialist.

Commentary

The limited liability company (hereinafter LLC) is neither a corporation nor a partnership; rather, it is a distinct type of entity. An LLC is governed by title 3, chapter 101 of the Texas Business Organizations Code (BOC). Title 1, chapter 3, subchapter A of the BOC governs the formation of an LLC and sets forth the provisions required or permitted to be contained in the certificate of formation.

The owners of an LLC are called “*members*.” An LLC may have one or more members. Members may be individuals, partnerships, corporations, and any other type of legal entity.

Taxes: LLCs are subject to a state franchise tax. Contact the Texas Comptroller of Public Accounts, Tax Assistance Section, Austin, Texas, 78774-0100, (512) 463-4600 or (800) 252-1381 for franchise tax information. For information relating to federal employer identification numbers, federal income tax filing requirements, tax publications, and forms call (800) 829-3676 or visit the Internal Revenue Service web site at www.irs.gov.

Instructions for Form

- **Article 1—Entity Name and Type:** Provide a company name and organizational designation. Under section 5.053 of the BOC, if the name chosen is the same as, deceptively similar to, or similar to the name of any existing domestic or foreign filing entity, or any name reservation or registration filed with the secretary of state, the document cannot be filed. The administrative rules adopted for determining entity name availability (Texas Administrative Code, title 1, part 4, chapter 79, subchapter C) may be viewed at www.sos.state.tx.us/tac/index.shtml. If you wish the secretary of state to provide a preliminary determination on name availability, you may call (512) 463-5555, dial 7-1-1 for relay services, or e-mail your name inquiry to corpinfo@sos.state.tx.us. A final determination cannot be made until the document is received and processed by the secretary of state. Do not make financial expenditures or execute documents based on a preliminary clearance. Also note that the preclearance of a name or the issuance of a certificate of formation under a name does not authorize the use of a name in violation of another person’s rights to the name.
- **Article 2—Registered Agent and Registered Office:** The registered agent can be either (option A) a domestic entity or a foreign entity that is registered to do business in Texas or (option B) an individual resident of the state. The limited liability company cannot act as its own registered agent; do not enter the limited liability company name as the name of the registered agent.

Consent: Effective January 1, 2010, a person designated as the registered agent of an entity must have consented, either in a written or electronic form, to serve as the registered agent of the entity. Although consent is required, a copy of the person’s written or electronic consent need not be submitted with the certificate of formation. *The liabilities and penalties imposed by sections 4.007 and 4.008 of the BOC apply with respect to a false statement in a filing instrument that names a person as the registered agent of an entity without that person’s consent.* (BOC § 5.207)

Office Address Requirements: The registered office address must be located at a street address where service of process may be personally served on the entity's registered agent during normal business hours. Although the registered office is not required to be the entity's principal place of business, the registered office may not be solely a mailbox service or telephone answering service (BOC § 5.201).

- **Article 3—Governing Authority:** The certificate of formation must state whether the LLC will or will not have managers. If the LLC will have managers, select option A and provide the name and address of each initial manager in the space provided. If the LLC will not have managers, select option B and provide the name and address of each initial member of the LLC in the space provided. A minimum of one person is required.

If the governing person is an individual, set forth the name of the individual in the format specified. Do not use prefixes (e.g., Mr., Mrs., Ms.). Use the suffix box only for titles of lineage (e.g., Jr., Sr., III) and not for other suffixes or titles (e.g., M.D., Ph.D.). If the governing person is an organization, set forth the legal name of the organization. For each governing person, only one name should be entered. Do not include both the name of an individual and the name of an organization. An address is always required for each governing person.

Please note that a document on file with the secretary of state is a public record that is subject to public access and disclosure. When providing address information for a manager or member, use a business or post office box address rather than a residence address if privacy concerns are an issue.

- **Article 4—Purpose:** An LLC may be formed for any lawful purpose or purposes not expressly prohibited under chapter 2 of title 1 or title 3 of the BOC. This form provides for the creation of an LLC with a general purpose. Please note that while the BOC allows a general purpose, other laws, including the Internal Revenue Code, may require that the certificate of formation include more specific purposes or language as a basis for granting a license or tax-exempt or tax-deductible status. The additional space provided in the “Supplemental Provisions/Information” section may be used to set forth a more specific purpose or purposes.

This form cannot be used to engage in a licensed activity when such license cannot be issued to the LLC. To form a professional limited liability to provide a professional service use Form 206.

- **Supplemental Provisions/Information:** Additional space has been provided for additional text to an article within this form or to provide for additional articles to contain optional provisions.

Duration: Pursuant to section 3.003 of the BOC, a Texas LLC exists perpetually unless provided otherwise in the certificate of formation. If formation of an LLC with a stated period of duration is desired, use the “Supplemental Provisions/Information” section of this form to provide for a limited duration.

- **Organizer:** Only one organizer is required for the formation of an LLC. An organizer may be any person having the capacity to contract for the person or for another; that is, a natural person 18 years of age or older, or a corporation or other legal entity. There are no residency requirements for an organizer.
- **Effectiveness of Filing:** A certificate of formation becomes effective when filed by the secretary of state (option A). However, pursuant to sections 4.052 and 4.053 of the BOC the effectiveness of the instrument may be delayed to a date not more than ninety (90) days from the date the instrument is

signed (option B). The effectiveness of the instrument also may be delayed on the occurrence of a future event or fact, other than the passage of time (option C). If option C is selected, you must state the manner in which the event or fact will cause the instrument to take effect and the date of the 90th day after the date the instrument is signed. In order for the certificate to take effect under option C, the entity must, within ninety (90) days of the filing of the certificate, file a statement with the secretary of state regarding the event or fact pursuant to section 4.055 of the BOC.

On the filing of a document with a delayed effective date or condition, the computer records of the secretary of state will be changed to show the filing of the document, the date of the filing, and the future date on which the document will be effective or evidence that the effectiveness was conditioned on the occurrence of a future event or fact. In addition, at the time of such filing, the status of the entity will be shown as “in existence” on the records of the secretary of state.

- **Execution:** The organizer must sign the certificate of formation, but it does not need to be notarized. However, before signing, please read the statements on this form carefully. The designation or appointment of a person as registered agent by an organizer is an affirmation that the person named in the certificate of formation has consented to serve in that capacity. (BOC § 5.2011, effective January 1, 2010)

A person commits an offense under section 4.008 of the BOC if the person signs or directs the filing of a filing instrument the person knows is materially false with the intent that the instrument be delivered to the secretary of state for filing. The offense is a Class A misdemeanor unless the person's intent is to harm or defraud another, in which case the offense is a state jail felony.

- **Payment and Delivery Instructions:** The filing fee for a certificate of formation for an LLC is **\$300**. Fees may be paid by personal checks, money orders, LegalEase debit cards, or American Express, Discover, MasterCard, and Visa credit cards. Checks or money orders must be payable through a U.S. bank or financial institution and made payable to the secretary of state. Fees paid by credit card are subject to a statutorily authorized convenience fee of 2.7 percent of the total fees.

Submit the completed form in duplicate along with the filing fee. The form may be mailed to P.O. Box 13697, Austin, Texas 78711-3697; faxed to (512) 463-5709; or delivered to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. If a document is transmitted by fax, credit card information must accompany the transmission (Form 807). On filing the document, the secretary of state will return the appropriate evidence of filing to the submitter together with a file-stamped copy of the document, if a duplicate copy was provided as instructed.

- **FYI:** An LLC is required to maintain a registered agent and a registered office address in Texas. If the registered agent or registered office address changes, it is important to file a statement with the secretary of state to effect a change to the certificate of formation. Failure to maintain a registered agent and registered office may result in the involuntary termination of the LLC.

Revised 05/11

**Form 205
(Revised 05/11)**

Submit in duplicate to:
Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
512 463-5555
FAX: 512 463-5709
Filing Fee: \$300



This space reserved for office use.

**Certificate of Formation
Limited Liability Company**

Article 1 – Entity Name and Type

The filing entity being formed is a limited liability company. The name of the entity is:

RED CANYON DEVELOPMENT, LLC

The name must contain the words "limited liability company," "limited company," or an abbreviation of one of these phrases.

Article 2 – Registered Agent and Registered Office

(See instructions. Select and complete either A or B and complete C.)

☐ A. The initial registered agent is an organization (cannot be entity named above) by the name of:

OR

☒ B. The initial registered agent is an individual resident of the state whose name is set forth below:

Thomas	K.	Payne	
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>

C. The business address of the registered agent and the registered office address is:

12402 Slide Road, Suite 201	Lubbock	TX	79424
<i>Street Address</i>	<i>City</i>	<i>State</i>	<i>Zip Code</i>

Article 3—Governing Authority

(Select and complete either A or B and provide the name and address of each governing person.)

☒ A. The limited liability company will have managers. The name and address of each initial manager are set forth below.

☐ B. The limited liability company will not have managers. The company will be governed by its members, and the name and address of each initial member are set forth below.

GOVERNING PERSON 1

NAME (Enter the name of either an individual or an organization, but not both.)

IF INDIVIDUAL

Thomas	K.	Payne	
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>

OR

IF ORGANIZATION

Organization Name

ADDRESS

12402 Slide Road, Suite 201	Lubbock	TX	USA	79424
<i>Street or Mailing Address</i>	<i>City</i>	<i>State</i>	<i>Country</i>	<i>Zip Code</i>

GOVERNING PERSON 2				
NAME (Enter the name of either an individual or an organization, but not both.)				
IF INDIVIDUAL				
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
OR				
IF ORGANIZATION				
<i>Organization Name</i>				
ADDRESS				
<i>Street or Mailing Address</i>		<i>City</i>	<i>State</i>	<i>Country Zip Code</i>

GOVERNING PERSON 3				
NAME (Enter the name of either an individual or an organization, but not both.)				
IF INDIVIDUAL				
<i>First Name</i>	<i>M.I.</i>	<i>Last Name</i>	<i>Suffix</i>	
OR				
IF ORGANIZATION				
<i>Organization Name</i>				
ADDRESS				
<i>Street or Mailing Address</i>		<i>City</i>	<i>State</i>	<i>Country Zip Code</i>

Article 4 – Purpose

The purpose for which the company is formed is for the transaction of any and all lawful purposes for which a limited liability company may be organized under the Texas Business Organizations Code.

Supplemental Provisions/Information

Text Area: [The attached addendum, if any, is incorporated herein by reference.]

--

Organizer

The name and address of the organizer:

John Waesch

Name

2323 Ross Avenue, Suite 600

Street or Mailing Address

Dallas

City

TX

State

75201

Zip Code

Effectiveness of Filing (Select either A, B, or C.)

A. ☒ This document becomes effective when the document is filed by the secretary of state.

B. ☐ This document becomes effective at a later date, which is not more than ninety (90) days from the date of signing. The delayed effective date is: _____

C. ☐ This document takes effect upon the occurrence of the future event or fact, other than the passage of time. The 90th day after the date of signing is: _____

The following event or fact will cause the document to take effect in the manner described below:

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

Date: 7/20/2017

Signature of organizer

John Waesch

Printed or typed name of organizer

**MINUTES OF THE ORGANIZATIONAL
MEETING OF MEMBERS OF
RED CANYON DEVELOPMENT, LLC**

The organizational meeting of the members of the above captioned Limited Liability Company was held at 12402 Slide Road, Ste. 201 Lubbock, Texas 79424, on July 21, 2017.

There was present the following members: 3 Wiggle, LLC (60.0% Membership Interest), Blake Womble (20.0% Membership Interest) and Thomas K. Payne (20.0% Membership Interest).

The meeting was called to order by Thomas K. Payne. It was moved, and unanimously carried that Thomas K. Payne act as Chairman and Secretary of the meeting.

1. ***Formation.***

The Chairman presented and read to the meeting a copy of the Certificate of Formation, and reported that on July 21, 2017, the original of said Certificate was filed in the Office of the Secretary of State of the State of Texas, and that the Secretary of State issued a "Certificate of Filing" certifying that the Certificate of Formation had been received and had been found to conform to the applicable provisions of Texas law.

Upon motion duly made, seconded and carried, it was:

RESOLVED, that the Certificate of Formation of the Limited Liability Company be accepted and approved in all respects.

2. ***Organization; Managers.***

The Chairman then stated that all of the outstanding membership interest of the Limited Liability Company was represented. The Chairman also noted that the initial capital contribution of each member was as follows:

3 Wiggle, LLC	\$ 12,000.00
Blake Womble	\$ 4,000.00
<u>Thomas K. Payne</u>	<u>\$ 4,000.00</u>
Total:	\$ 20,000.00

The Chairman noted that it was in order to consider electing Managers for the ensuing year. Upon nominations duly made, and unanimously carried, the following persons were elected as the Managers of the Limited Liability Company, to serve for a period of one year and until such time as his successor is elected and qualified: **Thomas K. Payne and Blake Womble.**

3. *Company Agreement.*

The Chairman then presented a proposed form of Company Agreement for the regulation and management of the affairs of the Limited Liability Company. The proposed Company Agreement was read at the meeting, considered and upon motion duly made, seconded and unanimously adopted, it was:

RESOLVED, that the form of the Company Agreement submitted and reviewed at this meeting is adopted as the Company Agreement of this Limited Liability Company.

4. *Officers.*

The Chairman of the meeting then discussed the option of electing officers of the Limited Liability Company. It was determined that at this time, no officers of the Limited Liability Company are needed. Instead, the Managers of the Limited Liability Company will manage the Limited Liability Company in accordance with the Company Agreement.

5. *Membership Interest Certificate.*

The Chairman submitted to the meeting a specimen membership interest certificate proposed for use as the Limited Liability Company certificate for membership interest. Upon motion duly made, seconded and carried, it was:

RESOLVED, that the specimen membership interest certificate presented to this meeting be and hereby is adopted as the form of certificate for membership interest to be issued to represent membership interest in the Limited Liability Company. It was ordered that the specimen membership interest certificate be appended to the Minutes of the Meeting.

6. *Company Record Book.*

The Chairman presented a record book of the Limited Liability Company, containing a copy of the Certificate of Formation, the Company Agreement previously approved at the meeting, the membership interest certificate stubs, and the membership interest transfer ledger. On motion duly made, seconded and unanimously adopted, it was:

RESOLVED, that (1) the Limited Liability Company record book presented to this meeting by the Chairman is approved and adopted, and the action of the Secretary in inserting in it the Certificate of Formation, the Certificate of Filing, and the Company Agreement, is ratified and approved, and (2) the Secretary is instructed to authenticate the Limited Liability Company record book and to retain custody of it, and to insert in it the minutes of this meeting and of other proceedings of the Members, Managers and any committee established by the Managers; a current list of the name and mailing address of each Member and the amount of the cash contribution and a description and statement of the agreed value of any other contribution made by each Member, and the amount of the cash contribution and a description and statement of the agreed value of any other contributions that the Member has agreed to make in the future as an

additional contribution; any records pertaining to the issuance and transfer of membership interest in the membership interest certificate stubs and membership interest transfer book respectively; and copies of federal, state, and local information or income tax returns for each of the Limited Liability Company's most recent tax years.

7. ***Membership Interest Issued.***

The Chairman of the meeting noted that the Members of the Limited Liability Company are **3 Wiggle, LLC, Blake Womble and Thomas K. Payne.** Upon motion duly made, seconded and carried, it was:

RESOLVED, that the Managers of the Limited Liability Company be, and they are hereby authorized to issue from time to time the authorized membership interest of the Limited Liability Company for money paid, labor done, promissory note, or personal property or real estate or leases thereof actually acquired by the Limited Liability Company, upon such terms as the Managers, in their discretion may determine.

The Chairman stated that an offer to purchase 100% of the membership interest of the Limited Liability Company had been received. On motion duly made, and unanimously adopted, it was:

RESOLVED, that 100% of the membership interest of **RED CANYON DEVELOPMENT, LLC** be issued to the following persons, and for the capital contribution stated next to his name:

<u>Name of Member:</u>	<u>Percentage</u>	<u>Capital Contribution</u>
3 Wiggle, LLC	60.0%	\$ 12,000.00
Blake Womble	20.0%	\$ 4,000.00
Thomas K. Payne	20.0%	\$ 4,000.00

The Managers of the Limited Liability Company are authorized to issue additional membership interest to appropriately qualified purchasers.

8. ***Organizational Expenses.***

Upon motion duly made, seconded and carried, it was:

RESOLVED, that the Manager of the Limited Liability Company be and hereby is authorized to pay all charges and expenses incident to or arising out of the organization of the Limited Liability Company and to reimburse any person who had made any disbursement therefore.

9. ***Bank Account.***

The Chairman then stated that it was desirable to maintain a depository for the funds of the Limited Liability Company. Upon motion duly made, seconded and unanimously adopted, it was:

RESOLVED, that the Managers be and hereby are authorized to open a bank account on behalf of the Limited Liability Company with the banks the Managers deem appropriate.

10. *Office.*

Upon motion duly made, seconded and carried, it was:

RESOLVED, that an office of the Limited Liability Company be established and maintained at **12402 Slide Road, Ste. 201, Lubbock, Texas 79424**, and that meetings of the Managers from time to time be held either at the principal office or at such other place as the Manager shall from time to time order.

11. *Licenses, Permits.*

Additionally, the Manager of the Limited Liability Company was directed to obtain in the name of the Limited Liability Company such other licenses and tax permits as may be required for the conduct of the business of the Limited Liability Company by any federal, state, county, or municipal governmental statute, ordinance, or regulations, and to do all things necessary or convenient to qualify the Limited Liability Company to transact its business in compliance with the laws and regulations of any appropriate federal, state, or municipal governmental authority.

12. *Other States.*

Upon motion duly made, seconded and carried, it was:

RESOLVED, that for the purpose of authorizing the Limited Liability Company to do business in any state, territory or dependence of the United States or any foreign country in which it is necessary or expedient for this Limited Liability Company to transact business, the Manager of this Limited Liability Company is hereby authorized to appoint and substitute all necessary agents or attorneys for service of process, to designate and change the location of all necessary statutory offices and to make and file all necessary certificates, reports, powers of attorney and other instruments, as may be required by the laws of such state, territory, dependence or country to authorize the Limited Liability Company to transact business therein.

13. *Fiscal Year.*

Upon motion duly made, seconded and unanimously adopted, it was:

RESOLVED, that the fiscal year of the Limited Liability Company shall be the year ending December 31st.

14. *Carry On Business.*

Upon motion duly made, seconded and carried, it was:

RESOLVED, that the Limited Liability Company proceed to carry on the business for which it was organized.

By the signing of these minutes, the members hereby consent, confirm, adopt, ratify and approve of the holding of the above meeting, the actions taken in such meeting and waive receipt of notice of such meeting.

There being no further business to come before the meeting, upon motion duly made, seconded and unanimously carried, it was adjourned.

Dated the 8th day of August, 2017.

MEMBERS:

3 WIGGLE, LLC

By: _____
Keith McNeese, Manager

By: _____
Brad Ralston

Blake Womble

Thomas K. Payne

RESOLVED, that the Limited Liability Company proceed to carry on the business for which it was organized.

By the signing of these minutes, the members hereby consent, confirm, adopt, ratify and approve of the holding of the above meeting, the actions taken in such meeting and waive receipt of notice of such meeting.

There being no further business to come before the meeting, upon motion duly made, seconded and unanimously carried, it was adjourned.

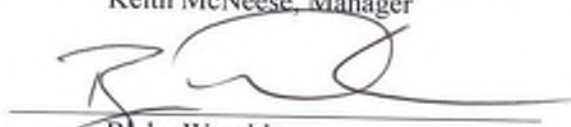
Dated the 8 day of August, 2017.

MEMBERS:

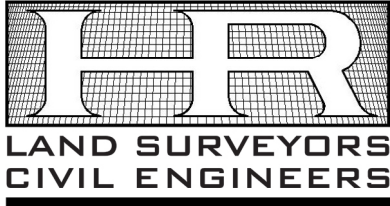
3 WIGGLE, LLC

By: 

Keith McNeese, Manager


Blake Womble


Thomas K. Payne



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

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION of a 17.33 acre tract of land located in Section 6, Block AK, Lubbock County, Texas, being further described as follows:

BEGINNING at a point which bears N. 88°12'57" W. a distance of 105.08 feet and N. 01°47'03" E. a distance of 65.00 feet from the Southeast corner of Section 6, Block AK, being the most Southerly Southeast corner of this tract;

THENCE N. 88°12'57" W., along a line 65 feet North of and parallel to the South line of said Section 6, a distance of 796.09 feet to a point for the Southwest corner of this tract;

THENCE N. 01°47'03" E., at 290.00 feet pass a point in the Southern boundary of Tract A, Cooper West High School, an addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded under County Clerk File Number (CCFN) 2021044896, Official Public Records of Lubbock County, Texas (OPRLCT), said point also being the Southern boundary of the current Lubbock city limits, continuing along the Southern boundary of said Tract A and the Southern boundary of the current city limits, for a total distance of 838.17 feet to a point for the Northwest corner of this tract;

THENCE S. 88°38'26" E., continuing along the Southern boundary of said Tract A and the Southern boundary of said current city limits, at 500.01 feet pass a corner of said Tract A and the Southwest corner of Tract "A" Woodrow Substation, an addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded under CCFN 2021006622, OPRLCT, continuing for a total distance of 799.99 feet to a point;

THENCE S. 88°16'26" E., along the Southern boundary of said Tract "A", a distance of 100.03 feet to a point in the East line of said Section 6, said point being the Southeast corner of said Tract "A" and the Northeast corner of this tract;

THENCE S. 01°42'34" W., along the East line of said Section 6, a distance of 814.20 feet to a point for the most Easterly Southeast corner of this tract, whence the Southeast corner of said Section 6 bears S. 01°42'34" W. a distance of 95.00 feet;

THENCE N. 88°12'57" W., along a line 95 feet North of and parallel to the South line of said Section 6, a distance of 75.00 feet to a point;

THENCE S. 46°44'49" W. a distance of 42.40 feet to the Point of Beginning.

Contains: 17.33 acres

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

June 6, 2022

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



This document was prepared under 22 TAC §138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Information

Agenda Item

Ordinance 2nd Reading - Planning (District 3): Consider Ordinance No. 2022-00168, for Zone Case 0417-A, a request of AMD Engineering, LLC for Gary Randall Andrews, for a zone change from Single-Family District (R-1) to Garden Office District (GO), generally located north of 23rd Street and west of Slide Road, on 2.02 acres of land from Sisco Addition, Lot 1-A.

Item Summary

On November 16, 2022, the City Council approved the first reading of the ordinance.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of the request. The Planning and Zoning Commission heard this case on November 3, 2022, and recommended approval of the request by an 8-1-0 vote.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance - 417-A

Staff Report - 417-A

Documentation - 417-A

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. 0417-A; A ZONING CHANGE FROM R-1 TO GO ZONING DISTRICT GENERALLY LOCATED NORTH OF 23RD STREET AND WEST OF SLIDE ROAD, ON 6.39 ACRES OF SISCO ADDITION, LOTS 1-A AND 3, AND UNPLATTED LAND OUT OF BLOCK E2, SECTION 5, 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. 0417-A

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-1** to **GO** zoning district **generally located north of 23rd Street and west of Slide Road, on 6.39 acres of Sisco Addition, Lots 1-A and 3, and unplatted land out of Block E2, Section 5, 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 _____.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



Kristen Sager, Director of Planning

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney

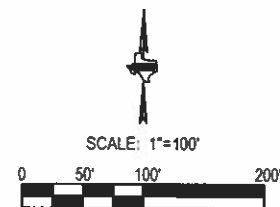
vw/cityatt/Kelli/ZoneCase/ZC0417-A
November 3, 2022

ZONE CHANGE APPLICATION
EXHIBIT
(SHEET 2)

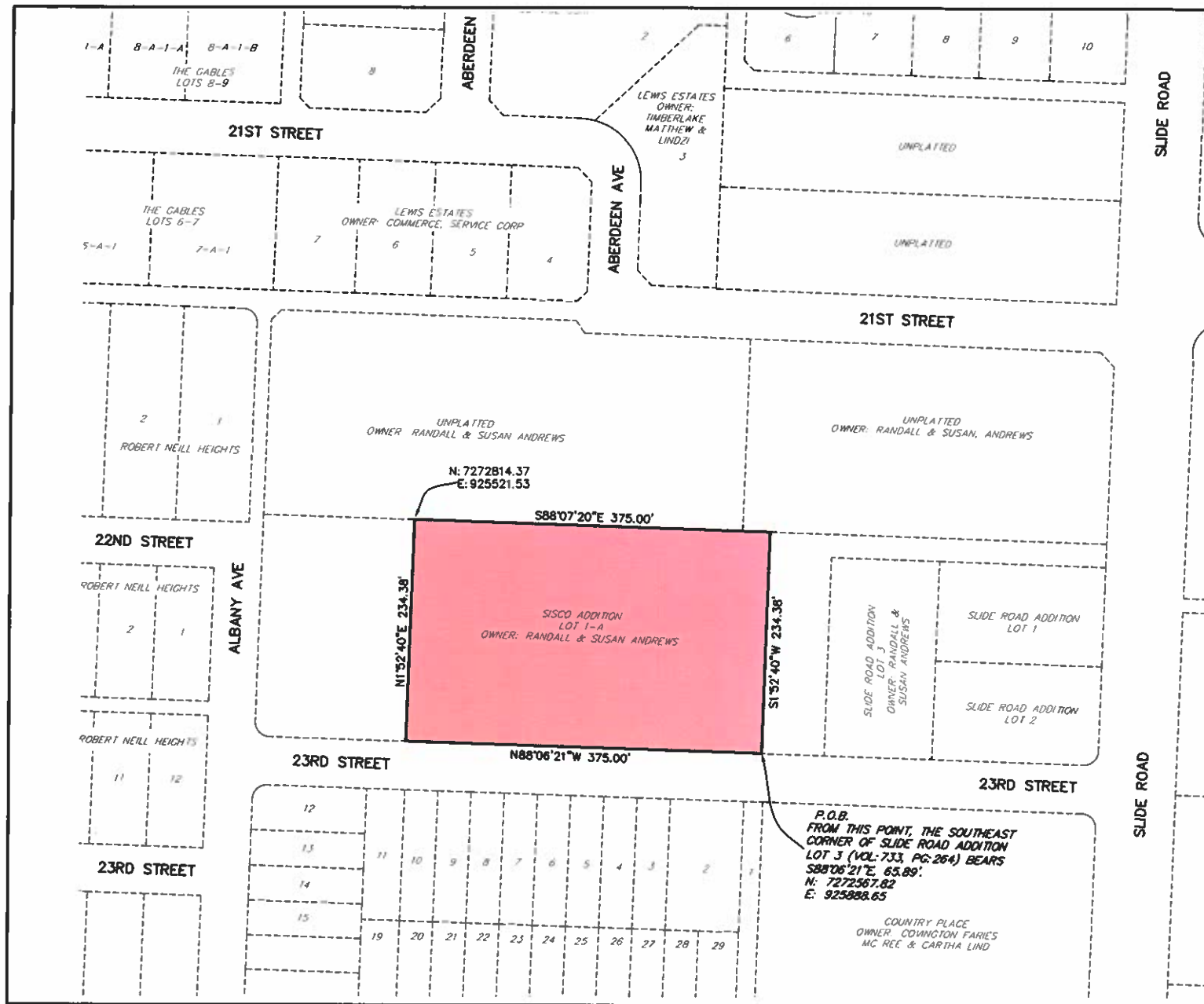
A 2.02 ACRE TRACT OF LAND
LOCATED IN SECTION 5,
BLOCK E-2, LUBBOCK
COUNTY, TEXAS

NOTES:
SCALE: 1" = 100'

 - ZONING REQUEST TO GO-GARDEN OFFICE FROM
R-1, SINGLE FAMILY DISTRICT.



AMD CIVIL ENGINEERING
LAND SURVEYING
AMD Engineering, LLC
6515 58th Street, Suite 300
Lubbock, TX 79424
Phone: 806-771-6976
Fax: 806-771-7625
TDE Reg. # F-0107
Accuracy - Efficiency - Integrity





DESCRIPTION FOR A ZONING CHANGE REQUEST IN
SECTION 5, BLOCK E-2,
LUBBOCK COUNTY, TEXAS

(Sheet 1 of 2, Sketch of tract attached as Sheet 2)

METES AND BOUNDS DESCRIPTION of a 2.02-acre tract of land located in Section 9, Block E-2, Lubbock County, Texas, prepared for Zone Change Purposes only and being further described as follows:

BEGINNING at a point that bears S 88° 06' 21" E an approximate distance of 65.89 feet to the southeast corner of Slide Road Addition Lot 3 (Volume:733, Page:264).

THENCE N 88° 06' 21" W an approximate distance of 375.00 feet;

THENCE N 01° 52' 40" E an approximate distance of 234.38 feet;

THENCE S 88° 07' 20" E an approximate distance of 375.00 feet;

THENCE S 01° 52' 40" W an approximate distance of 234.38 feet to the Point of Beginning and containing approximately 2.02-acres.

This description was prepared for purposes of a zoning request and does not represent a survey made upon the ground.

Prepared for: Randy and Susan Andrews
October 11, 2022

Staff Report		Zone Case 417-A
City Council Meeting		November 16, 2022

Applicant AMD Engineering LLC

Property Owner Gary Randall Andrews

Council District 3

Recommendations

- Staff recommends approval of this request.

Prior Board or Council Action

- December 19, 1952, Ordinance No. 1304: The subject property was annexed into the City of Lubbock.
- April 23, 1953, Zone Case 417, Ordinance No. 1365: The subject property was zoned Single-Family District (A).
- November 3, 2022, Zone Case 417-A: The Planning and Zoning Commission recommended approval for a zone change from Single-Family District (R-1) to Garden Office District (GO) by a vote of 8-1-0.

Notification Summary

- Notifications Sent: 32
- Received In Favor: 17 (14 from outside the notification boundary)
- Received In Opposition: 43 (31 from outside notification boundary)

Site Conditions and History

The subject property was platted on June 6, 1975 as Sisco Addition, Lot 1, and then re-platted on September 2, 1997 as Sisco Addition, Lot 1-A. There is a house and secondary buildings, built in 1990.

Adjacent Property Development

The surrounding properties are zoned Single-Family District (R-1) and Single-Family District (R-1) Specific Use for Townhomes. There are single-family homes on all sides and townhomes to the south.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 2202 Slide Road, generally located north of 23rd Street and west of Slide Road. The applicant is requesting a zone change from Single-Family District (R-1) to Garden Office District (GO).

Current zoning: **Single-Family District (R-1)**

Requested zoning: **Garden Office District (GO)**

Intent Statements

The intent of the current R-1 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 Garden Office 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 location is along 23rd Street and Slide Road. 23rd Street is a Local Street and Slide Road is designated as a Principal Arterial. Local Streets typically provide access to smaller, destination oriented areas, such as neighborhoods, subdivisions or local business districts. Arterials are major thoroughfares 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 "Low-Density Residential" land uses. This request does not conform to this designation, though the requested zoning is appropriate next to residential land uses as a buffer district and is in conformance with the Comprehensive Plan Principles. Therefore this request is in moderate conformance with the Comprehensive Plan.

Conformance with Zoning Ordinance

The proposed zone change is in conformance with the zoning ordinance. The property is located along a thoroughfare and is compatible next to residential land uses.

Suitability of Property for Allowed Uses

The property is suitable for the proposed office uses, though additional improvements such as parking may be necessary.

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 Responses

Staff Contacts

Shane Spencer
Planner
Planning Department
806-775-2103
sspencer@mylubbock.us

Victor Escamilla
Planning and Zoning Manager
Planning Department
806-775-3029
vescamilla@mylubbock.us

Case Information: Zone Case 417-A



Allowable Uses: [Garden Office District \(GO\)](#)

Transportation: The proposed development has a point of access from Slide Road and 23rd Street.

Thoroughfare	Existing	Per Thoroughfare Development Plan
Slide Road, Minor Arterial, Completed	R.O.W. 66 feet, 5 lane, undivided, paved.	R.O.W. 66 feet, 5 lanes, undivided, paved
23 rd Street, Local Street, Completed	R.O.W. 32 feet, 2 lane, undivided, paved.	R.O.W. 32 feet, 2 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

District 3

5.3 **Zone Case 0417-A:** AMD Engineering, LLC for Gary Randall Andrews
Request for a zone change from Single-Family District (R-1) to Garden Office District (GO):

- Generally located north of 23rd Street and west of Slide Road, on 2.02 acres of land from Sisco Addition, Lot 1-A.

PLANNER SHANE SPENCER stated there were thirty-two (32) notifications sent out with seventeen (17) returned in favor, in which fourteen (14) were outside of the notification boundary and. Twenty-seven (27) were returned in opposition, plus an additional nine (9) or ten (10) which were turned in right before the start of the meeting, with twenty-three (23) confirmed to be outside of the notification boundary. The ones handed in right before the meeting had not been checked. Staff shared the location of the property including pictures, maps, and discussed the surrounding properties. Staff recommends approval of the request.

APPLICANT GARY ANDREWS, 4701 21st Street, said the property has been his family's home since 1997. They have been part of the neighborhood since then and their intent is to be part of it for the next twenty-five years. His mother had an accident, which caused them to look at other options for the 8 acres of property. They were advised it would be better to divide the lots into multiple residential lots, but they prefer to keep the property as a whole. Garden Office zoning seemed to be the most compatible way to make the land function for them and to preserve the neighborhood. When they originally submitted the request, they included all 8 acres. When the opposition letters started coming in and they realized they could rezone a smaller section they withdrew the request and started addressing neighbor's concerns. They plan to leave over four acres zoned residential. **MR. ANDREWS** said they have horses that are

grandfathered in and do not plan to change that aspect of the land, which was a major neighborhood concern. It is a unique tract of land with an eight-foot-tall barrier fence and sits directly across from Slide Road, which has a turning lane, so there will not be an increase in congestion to the neighborhood. There will not be signage or a large parking lot. The buildings will have small clusters with four to six parking spaces in designated areas. There will be fifteen to eighteen people at the offices with less than one to two customers per day. It will be extremely restrictive by design, as most business is conducted online.

JAMES BELL asked if they would be using the existing house. **MR. ANDREWS** said it will be modified, but there will be an acre to keep with the house.

CHAIR SAWYER asked if 23rd Street is gated. **MR. ANDWERS** said yes and it will remain gated. **MR. ANDWERS** said the property has higher barriers than most, and they are requesting to use the family home for a business. The home has not been lived in for two years.

TANNER NOBLE asked what would keep anyone in the future from turning all of the property into garden office space. **MR. ANDREWS** said they are taking measures to hamstring the property by leaving over six acres within the area zoned residential.

Opposed: JACK STAGNER, 2302 Slide Road #4, representing five people who are in opposition, said from his front door he can see the house. He loves the area because it is quiet and pristine and does not want a commercial property across from him. **MR. STAGNER** is concerned the business will be closest to 23rd Street and feels that will cause traffic issues. **MR. STAGNER** said most garden office space is in South Lubbock and not completely surrounded by residential property.

Opposed: JIMMY RASER, 5305 21st Street, moved into the area four years ago to be away from commercial properties. He spoke to the applicant and thinks he has a good proposal, but he is concerned about the future.

Opposed: WILL DODGE, 2406 Slide Road, said Garden Office zoning has a height limit and the home is four stories, which exceeds the height limit.

DIRECTOR OF PLANNING KRISTEN SAGER said garden office does have a height limit, but this is an existing building that was constructed legally. If there was new construction it would be bound with the height limits.

No one else spoke in favor or in opposition to the request.

Board discussion:

JAMES BELL said he would not have been in favor the first time it was on the agenda but this time he understands what is trying to be done.

JORDAN WHEATLEY said the applicant has boxed himself in, so he is not concerned about the zoning. Garden office is a downgrade on traffic and businesses do not operate nights or weekends, plus there is already a wall all the way around the property.

CHAIR SAWYER said if the property was divided and used as R-1, the traffic would be worse and he feels this is a good use.

JORDAN WHEATLEY said it could be divided into 2,500 square foot lots for townhomes, which would be a bigger issue.

ABLE HERNANDEZ said with the secured boundary of R-1 there will be limited traffic.

SUSAN TOMLINSON said if the owner sold the property as a complete parcel, someone might want to turn it all into garden office space which could have an impact on traffic. There is no guarantee that it would stay R-1.

JAMES BELL said if someone wanted to change the entire parcel to garden office it would have to come back before the board to change the rest of the property.

In the matter of **Zone Case 0417-A**, a motion was made by **JAMES BELL** and seconded by **AVIRAJ PATEL** to approve the request and the Commission members voted 8 (in favor) to 1 (in opposition) to approve the motion. The item will be forwarded to City Council for consideration.

RENEE CAGE cast the vote in opposition.

19th St

Zoning Case 417-A



Slide Rd

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

-  MailoutInfo417_A
-  LCAD.DBO.TaxParcel
-  LocatorPnt417_A
-  MailoutBuffer417_A
-  <all other values>

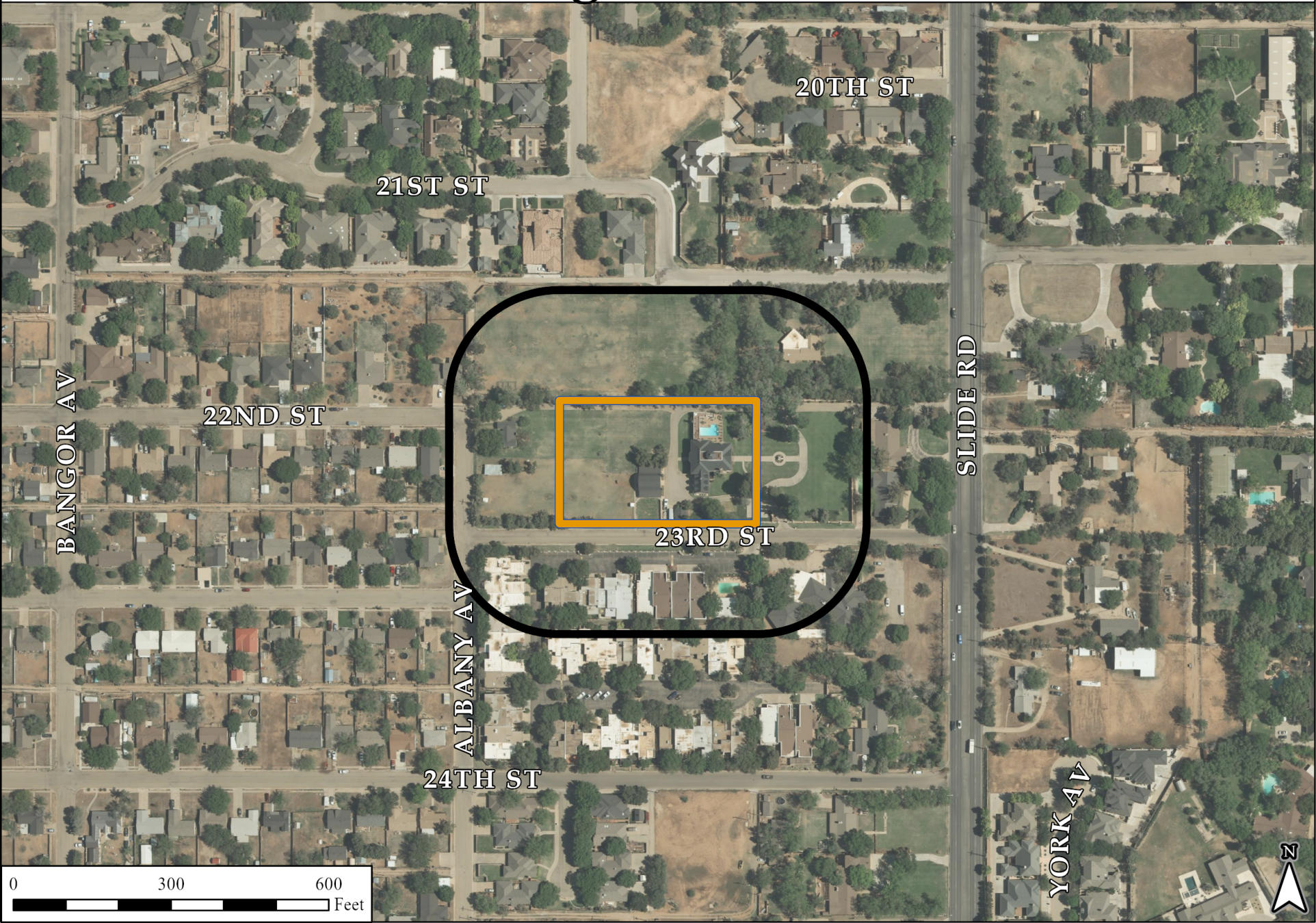
Notification Result

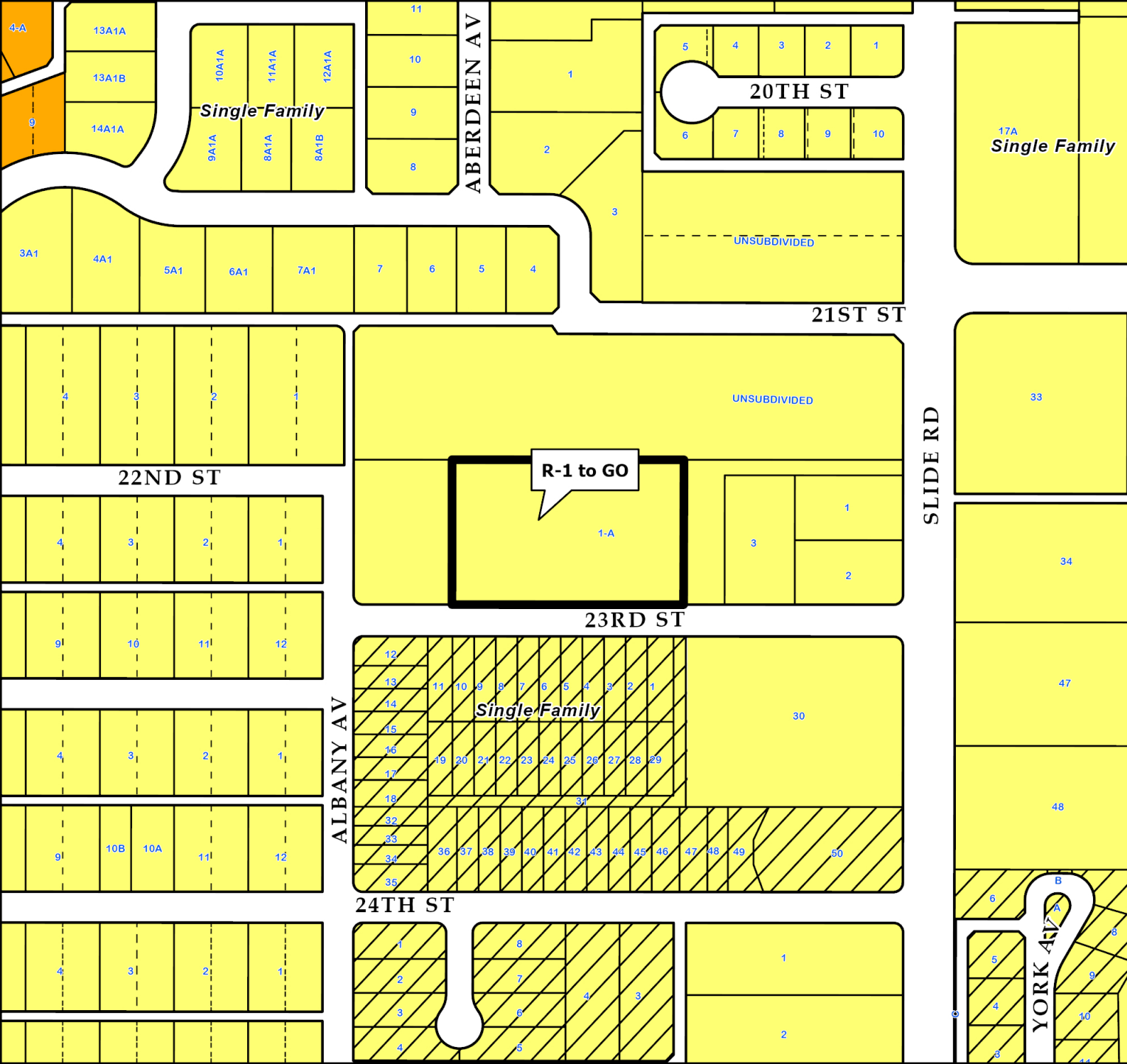
-  In Favor
-  No Feedback
-  Opposed



Created by Planning Department
Date: 11/4/2022

Zoning Case 417-A






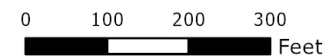


Current Zoning

417-A

Zoning Districts

-  Single Family
-  Single Family Specific Use
-  Two Family



Future Land Use Plan Case 417-A

Future Land Use Type

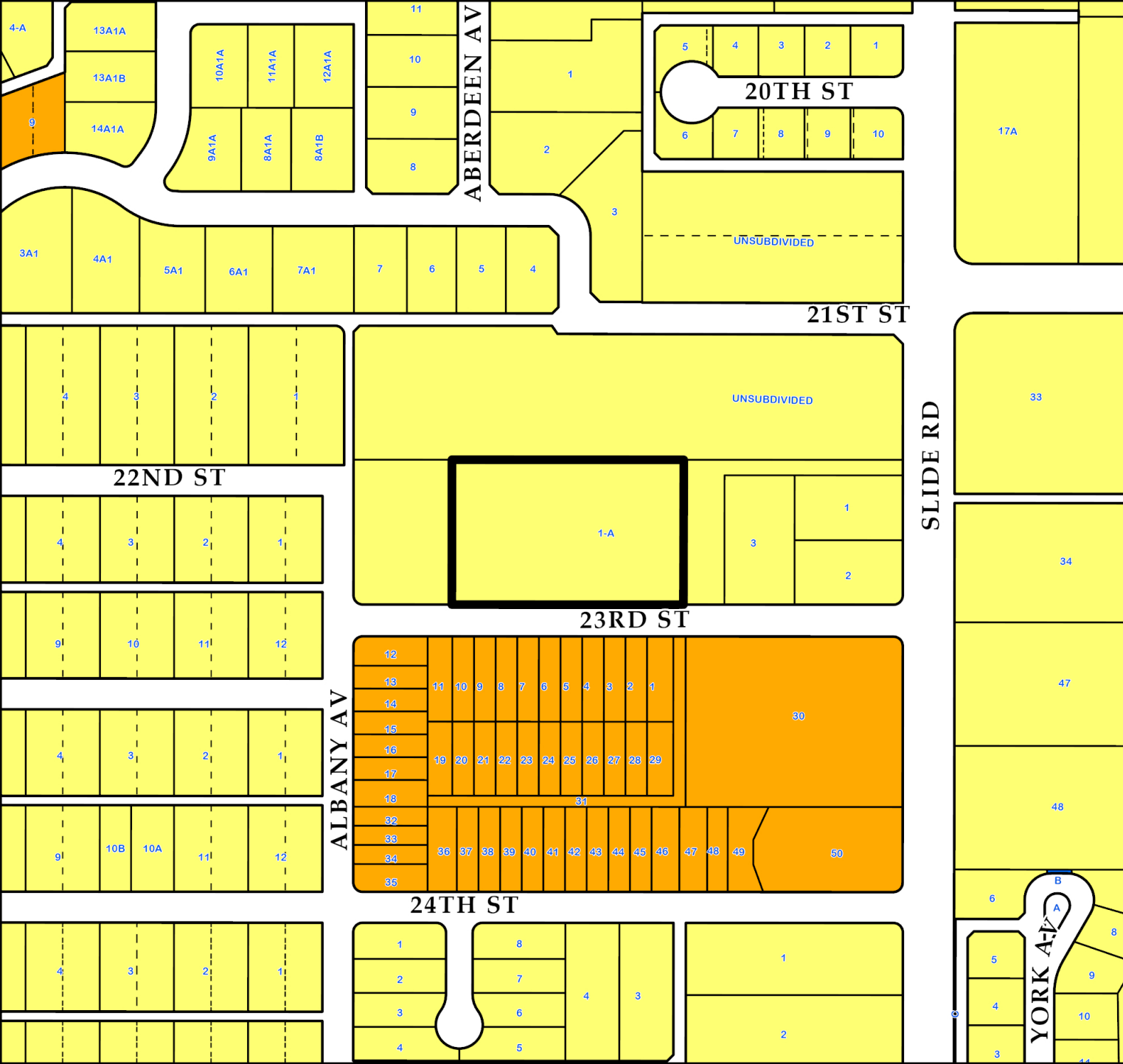
- Commercial
- Heavy Commercial
- Downtown
- Office
- Industrial
- Interstate Commercial
- Interstate Industrial
- Mixed Use
- Parks
- Public/ Semi-Public
- Residential Low Density
- Residential Medium Density
- Residential High Density



0 100 200 300
Feet



Date Exported: October 2022



417-A



View to the north. Subject Property.



View to the east.



View to the south.



View to the west.

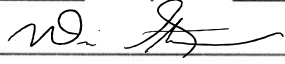


Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
APPLICATION FOR ZONING CHANGE


Project Information

Location or Address: Northwest corner of 23rd Street and Slide Road
Lots/Tracts: Sisco Addition, Lot 1-A (3.39 acres), Slide Road Addition, Lot 3 (0.54 acres), and 2.46 acres of un-platted Land
Survey & Abstract: 6.39 acres of land in Section 9, Block E-2
Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 6.39 acres
Existing Land Use: _____ Existing Zoning: R-1
Requested Zoning: GO - Garden Office
If property is not subdivided, will a preliminary plat be submitted? Yes ☒ No ☐

Representative/Agent Information (if different from owner)

Firm Name: AMD Engineering, LLC
Name: Will Stephens
Address: 6515 68th Street, Suite 300 City: Lubbock State: TX
ZIP Code: 79424 Telephone: 806-771-5976 Email: wstephens@amdeng.com
Applicant's Signature: 
Date: 9/1/2022 Printed Name: Will Stephens, P.E.

Owner Information

Firm Name: _____
Owner: Gary Randall Andrews
Address: 2202 Slide Road City: Lubbock State: Texas
ZIP Code: 79407 Telephone: 806.535.9718 Email: gra@graco.dev
Property Owner's Signature: 
Date: 09/01/2022 Printed Name: Gary Randall Andrews

Preparer Information

Preparer's Signature: 
Date: 9/1/2022 Printed Name: Will Stephens, P.E.

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.



DESCRIPTION FOR A ZONING CHANGE REQUEST IN
SECTION 5, BLOCK E-2,
LUBBOCK COUNTY, TEXAS

(Sheet 1 of 2, Sketch of tract attached as Sheet 2)

METES AND BOUNDS DESCRIPTION of a 2.02-acre tract of land located in Section 9, Block E-2, Lubbock County, Texas, prepared for Zone Change Purposes only and being further described as follows:

BEGINNING at a point that bears S 88° 06' 21" E an approximate distance of 65.89 feet to the southeast corner of Slide Road Addition Lot 3 (Volume:733, Page:264).

THENCE N 88° 06' 21" W an approximate distance of 375.00 feet;

THENCE N 01° 52' 40" E an approximate distance of 234.38 feet;

THENCE S 88° 07' 20" E an approximate distance of 375.00 feet;

THENCE S 01° 52' 40" W an approximate distance of 234.38 feet to the Point of Beginning and containing approximately 2.02-acres.


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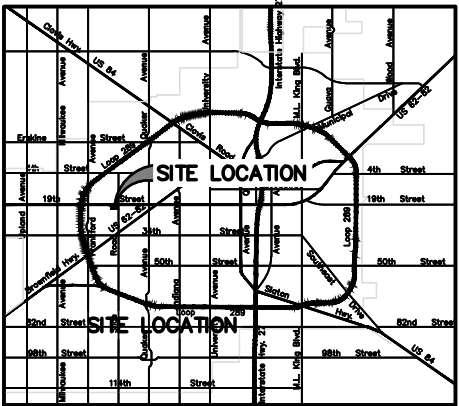
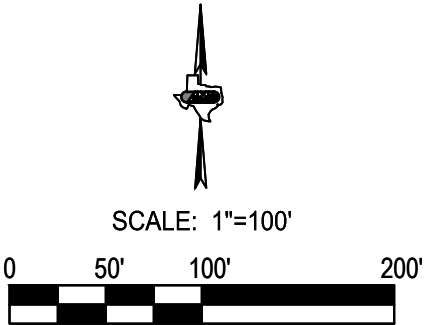
Prepared for: Randy and Susan Andrews
October 11, 2022

ZONE CHANGE APPLICATION
EXHIBIT
(SHEET 2)

A 2.02 ACRE TRACT OF LAND
LOCATED IN SECTION 5,
BLOCK E-2, LUBBOCK
COUNTY, TEXAS

NOTES:
SCALE: 1" = 100'

 - ZONING REQUEST TO GO-GARDEN OFFICE FROM R-1, SINGLE FAMILY DISTRICT.



VICINITY MAP
NOT TO SCALE

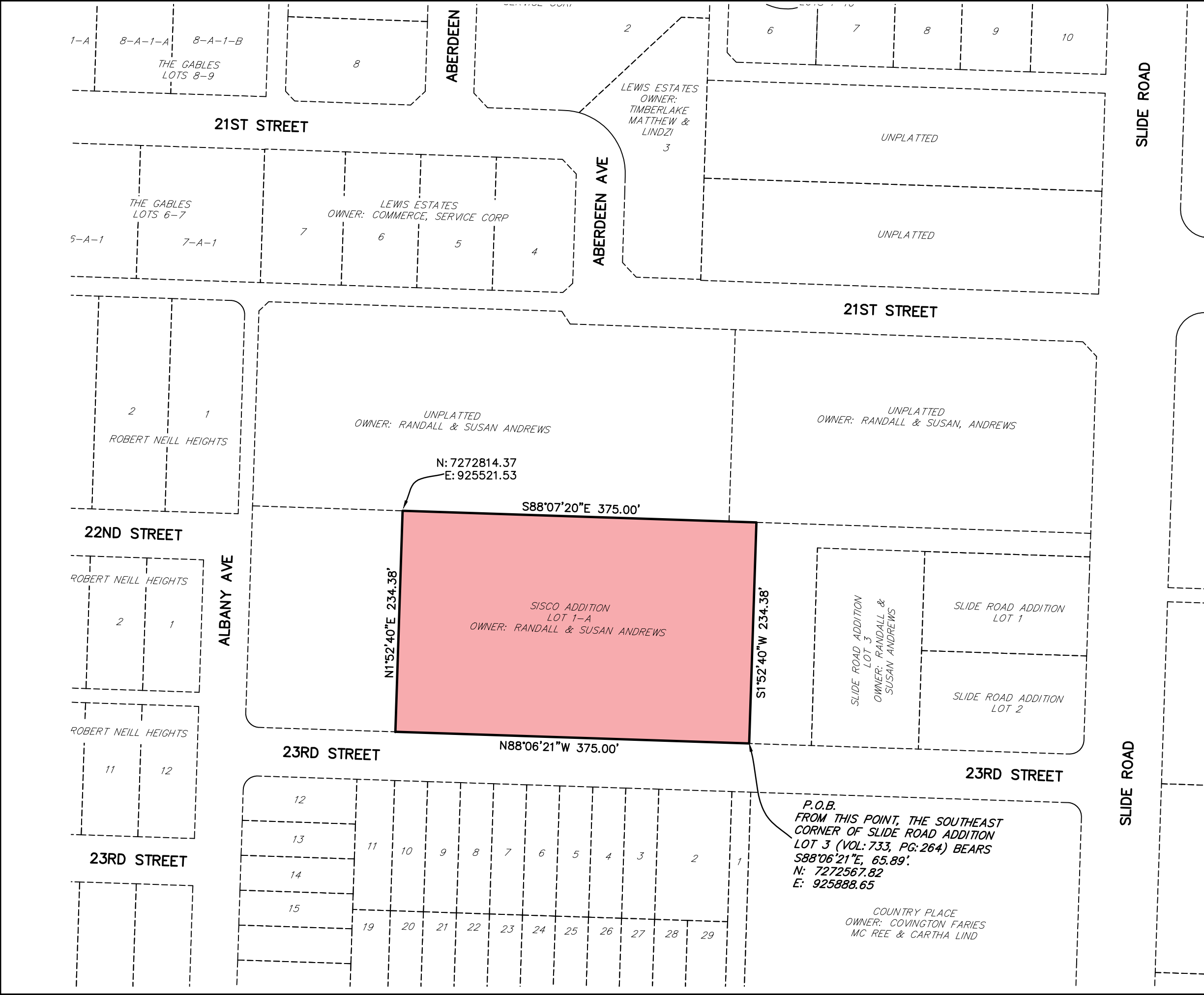


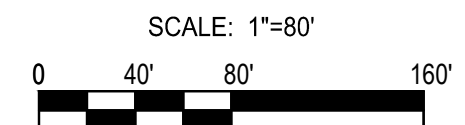
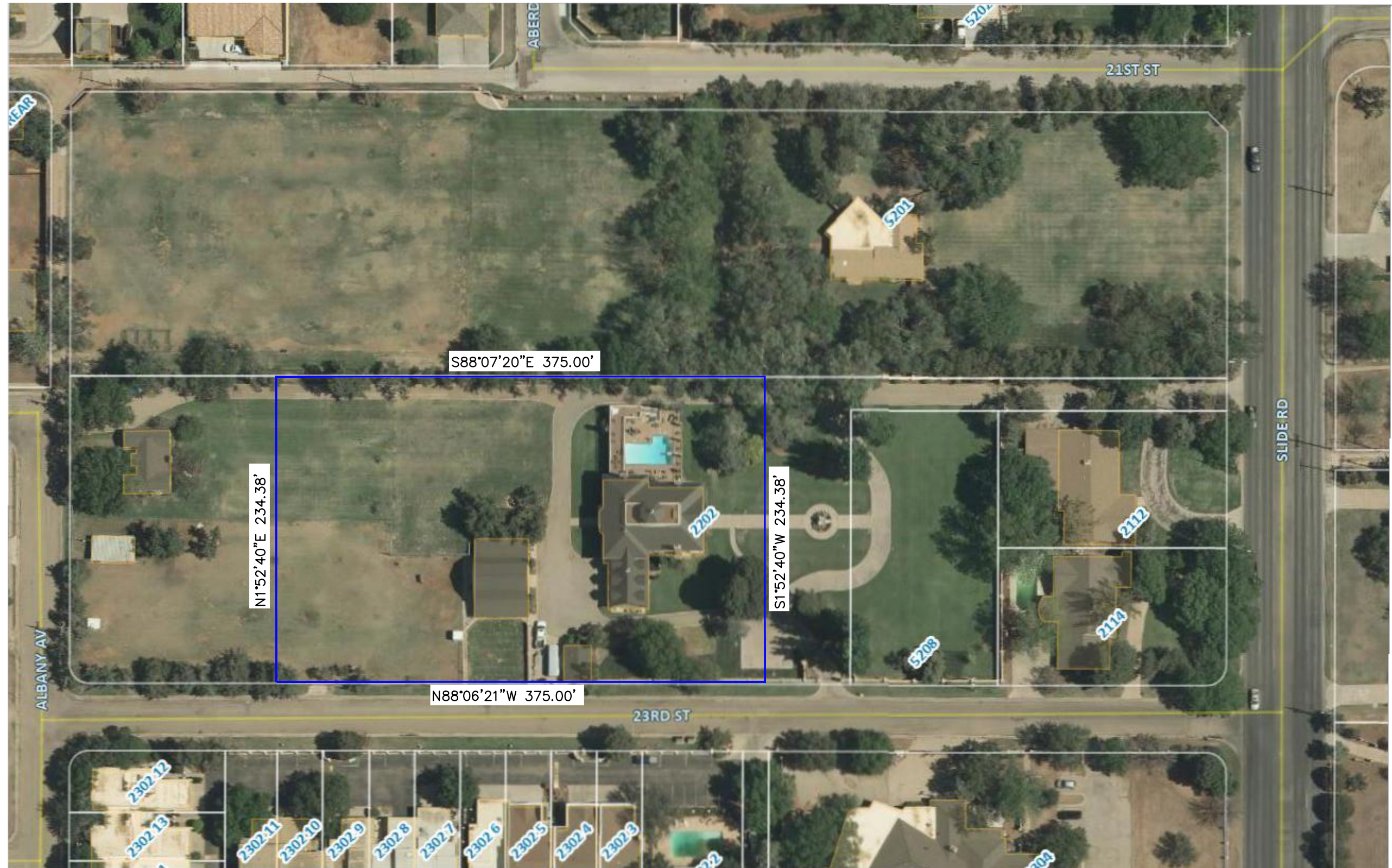
CIVIL ENGINEERING
LAND SURVEYING

AMD Engineering, LLC
6515 68th Street, Suite 300
Lubbock, TX 79424

Phone: 806-771-5976
Fax: 806-771-7625
TBPE Reg. # F-9197

Accuracy - Efficiency - Integrity





AMD Engineering, LLC
6515 68th Street, Suite 300
Lubbock, TX 79424

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LAND SURVEYING

Phone: 806-771-5976
Fax: 806-771-7625
TBPE Reg. # F-9197

Accuracy - Efficiency - Integrity

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.: **417-A**

In Favor ☐

Opposed ☒

Reasons and/or Comments: I do not want my property value impacted due to Lubbock's largest real estate developer's poor investment. Additionally, I do not want additional traffic or issues to arise by having a business in my backyard.

Print Name

Wesley Condray

Signature:

Wesley Condray

Address:

2302 Slide Rd #21

Address of Property Owned:

2302 Slide Rd #21

Phone Number:

806.928.4000

Email:

wes.condraywright@gmail.com

Zone Case Number: **417-A**

R73300

Recipient 7 of 32

CONDRAE WESLEY ET AL

2302 #21 SLIDE RD

LUBBOCK TX 79407

RECEIVED
OCT 20 2022
BY
Re: Zoning Case 417-A

1905 Albany Avenue
Lubbock, TX 79407
October 2, 2022

Planning & Zoning Commission
City of Lubbock
P.O. Box 2000
Lubbock, TX 79457

Dear Sirs:

My name is Ann Williams.
I live at 1905 Albany Avenue and
have just been made aware of
Zoning Case 417-A submitted by
Randy Andrews. I am against
the rezoning of his property west of
Slide Road, as stated in his
request, from Single-Family District
(R-1) to Garden Office District (GO).
An office district doesn't have a
place in the middle of nice
housing!!!

Thank you. Ann Williams

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.

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Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **417-A**

In Favor _____

Opposed ☒ _____

Reasons and/or Comments:

I live across the street from the proposed change. I would not object to using the house on the property as an office but would be against making all parts of the property into office zoning. The property would be better developed as Garden Homes.

Print Name Janet Stout Morgan
Signature: Janet S. Morgan
Address: 2201 Slide Rd
Address of Property Owned: 2201 Slide Rd Lubbock 79407
Phone Number: 806 799 6810 home 806 928 4156 cell
Email: Janetmorgan@gmail.com

Zone Case Number: **417-A** R103481

Recipient 40 of 50

STOUT JAN & EST OF M GLYNN MORGAN
2201 SLIDE RD
LUBBOCK TX 79407



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.: **417-A**

In Favor

Opposed



Reasons and/or Comments:

We strongly oppose this request for the simple reason that this property is in the midst of a residential area + to avail anyone the opportunity to develop commercial property in this setting is an affront to the dignity + privacy of our living environment. NOT to mention the de-valuation of our property!!

Print Name: Robert J. SALEM M.D.; Kay R. Trust, Trustees
Signature: Robert J. Salem M.D.; Kay R. Trust, Trustees
Address: 5235 21st ST Lubbock, TX 79407

Address of Property Owned: 5235 21st ST. Lubbock, TX 79407

Phone Number: 806 543 6025; 806 789 7024

Email: rsalem@covhs.org; rsalem8109@aol.com

Zone Case Number: **417-A** R127938
SALEM ROBERT J & KAY R TRUST
ROBERT J & KAY R SALEM C 5235 21ST STREET
LUBBOCK TX 79407





Field, Manning, Stone,
Hawthorne & Aycock P.C.

ATTORNEYS AT LAW

2112 Indiana Avenue, Lubbock, Texas 79410

Phone: 806-792-0810 Fax: 806-792-9148

Email: mfield@lubbocklawfirm.com

www.lubbocklawfirm.com

LUBBOCK • SEMINOLE • BIG SPRING • MIDLAND

September 30, 2022

City of Lubbock Planning & Zoning Commission
P. O. Box 2000
Lubbock, Texas 79457

RE: Zoning Case 417-A

Dear Sirs:

I represent Mike and Martha Ann McDonald who live at 5234 21st Street, Lubbock, Texas. Their house is approximately 250 to 275 feet from the property requesting the zoning change in the above-referenced case. I have been asked to reply to this request on their behalf which they totally and unequivocally object to. They bought their home in 2000, based on the neighborhood that existed and has existed for the last twenty-five or so years. To entertain the idea of injecting a business office park in the middle of a mature neighborhood is contrary to anything they or any of their neighbors wish to see occur. We ask you to please deny this request for zone change. They know of no one in the existing neighborhood on 21st Street that is in favor of this request.

Thanking you for your consideration in this matter, I remain

Very truly ours,

T. Mike Field

APPROVED BY:

Mike McDonald

Martha McDonald



MARCIA M. ABBOTT, PH.D.

5238-21st Street

Lubbock, Texas 79407

City of Lubbock Planning and Zoning Commission

P.O. Box 2000

Lubbock, Texas 79457

Dear Board Members,

I am writing to inform you of my strong opposition to the re-zoning case 417-a, a request by Randy Andrews to change the designation of his property between 21st and 23rd street and Slide road and Albany from Single Family District (R-1) to Garden Office District (GO).

I have lived at 5238-21st Street for 30 years. I chose this location to build my home because I wanted to be in a safe, stable neighborhood far away from any commercial property. Now the neighborhood is filled with families who want the same kind of atmosphere that I do. We feel safe to walk in the neighborhood, free from the traffic and intrusion that a commercial project would bring. There are families with small children living on 21st Street who would really be affected by the congestion..

There is no commercial property in this area at all. Allowing it would devalue the property value of the existing homes and create more traffic, much like the medical district in our city where offices and single family homes are next to each other.

Even though Mr. Andrews has revised his original request to include a small buffer zone between the homes and his project, we know from experience in Lubbock that once commercial zoning is allowed it would be easy for Mr Andrews to convince the Zoning Commission to let him build on that property also.

I hope that you Board Members would seriously consider this issue which, if approved, would change the face of our neighborhood for years to come. Please vote against this re-zoning request.

Sincerely,

Marcia M, Abbott, Ph.D.

Oct 28, 2022

case 417-A

To Whom It May Concern,

As a homeowner in Lattock Texas for 60 years, I strongly oppose the request of Mr. Andrews to rezone his residential property to commercial. This would result in an intrusion into the residential owners' privacy, as well as having a potential devaluation of their homes.

I therefore would simply ask Mr. Andrews and the Council/Committee members, would any of you want to have commercial property development adjacent to your home? Of course you would not.

So I respectfully ask that you vote accordingly
Thank you -

Robert J. Salem, MD. FACS
CMO Emeritus, Covenant Health
Vice Dean TTU HSC, Covenant Campus

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 806-775-2108.

Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: **P&Z Case No.: 417-A**

In Favor

Opposed

Reasons and/or Comments:

Increased traffic will pose a danger
to families in our neighborhood.
None of these families moved into this
neighborhood wanting or anticipating a commercial
complex near by.

Print Name

Signature:

Address:

Address of Property Owned:

Phone Number:

Email:

Zone Case Number: **417-A**

R72827

KILLOUGH MATTHEW & WENDY

2302 SLIDE RD

UNIT 5

LUBBOCK

TX 79407



City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 806-775-2108.

Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **417-A**

In Favor

Opposed

Reasons and/or Comments:

Print Name Ferris K. & Linda L. Moffett
Signature: Ferris K. Moffett
Address: 5306 22nd Street
Address of Property Owned: 5304, 5306, 5308 22nd St.
Phone Number: (806) 744-6266
Email: _____

Zone Case Number: **417-A** R32052
MOFFETT FERRIS K &
LINDA L 5306 22ND ST
LUBBOCK TX 79407-2117



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.: 417-A**

In Favor ☐

Opposed ☒

Reasons and/or Comments:

Print Name FERRIS K. & LINDA L. MOFFETT
Signature: Linda L. Moffett
Address: 5306 22ND STREET
Address of Property Owned: 5304, 5306, 5308 22ND ST.
Phone Number: (806) 799-6266
Email: _____

Zone Case Number: **417-A**
MOFFETT FERRIS K & LINDA L
5306 22ND ST
LUBBOCK TX 79407-2117

R32128

Recipient 45 of 50

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.: **417-A**

In Favor ☐

Opposed ☒

Reasons and/or Comments:

PLEASE READ ATTACHED LETTER.

Print Name

MARY BETH ROGERS

Signature:

Mary Beth Rogers

Address:

5233-21ST ST, LUBBOCK TX 79407

Address of Property Owned:

SAME

Phone Number:

806 368 8797

Email:

Zone Case Number: **417-A**

R127962

Recipient 41 of 50

ROGERS, MARY BETH

5233 21ST ST

LUBBOCK

TX 79407



September 29, 2022

Planning and Zoning Commission :

I oppose the zone change
from Single-Family District (R-1)
to Garden Office District (GO)

I am a homeowner on 21st Street.

Please consider my opposition.

Thank you,
Mary Beth Rogers
5233 - 21st Street
Lubbock, Texas
79407

P+Z Case No : 417-A



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.: **417-A**

In Favor

Opposed



Reasons and/or Comments:

THIS PROPOSED CHANGE OF ZONING WILL HAVE A DELTERIOUS EFFECT ON ALL SURROUNDING RESIDENCES. IT IS INAPPROPRIATE TO PLACE AN OFFICE BUILDING COMPLEX IN THE MIDDLE OF A RESIDENTIAL AREA. SUCH CHANGE WILL BENEFIT ONE PROPERTY OWNER (MR. ANDREWS) BY INCREASING THE VALUE OF HIS PROPERTY - BY ROBBING THE PROPERTY VALUES OF DOZENS OF PROPERTY OWNERS SURROUNDING THE PROPERTY IN QUESTION.

Print Name

MARK MORTON

Signature:

Mark Morton

Address:

2302 SLIDE RD #22 79407

Address of Property Owned:

SAME

Phone Number:

806/317-5218

Email:

markmortonbass@gmail.com

Zone Case Number: **417-A**

R73358

Recipient 27 of 50

MORTON, MARK

2302 SLIDE RD

22

LUBBOCK

TX 79407





Field, Manning, Stone,
Hawthorne & Aycock P.C.

ATTORNEYS AT LAW

2112 Indiana Avenue, Lubbock, Texas 79410

Phone: 806-792-0810 Fax: 806-792-9148

Email: mfield@lubbocklawfirm.com

www.lubbocklawfirm.com

LUBBOCK • SEMINOLE • BIG SPRING • MIDLAND

September 29, 2022

City of Lubbock Planning & Zoning Commission
P. O. Box 2000
Lubbock, Texas 79457

RE: Zoning Case 417-A

Dear Sirs:

My wife and I are homeowners in the subdivision adjacent to the property involved in the above-reference zoning case. Specifically, we live at 1916 Aberdeen on the corner which is approximately 250 feet from the North boundary of the subject property. Even though we were not within the boundary required for giving notice of the zoning request, we are aware of it and feel our interest will be affected no differently than those within the 200 feet boundary. We are opposed to this zoning case in its entirety. Specifically, this neighborhood has been built as a single-family neighborhood and, at this point in the history of the neighborhood, an interior office development makes absolutely no sense. There are sufficient office buildings located in and around Lubbock, and I know of no commercial need for an office park in the middle of a single family neighborhood. The subject property is surrounded by single family, and there is no reason why this tract in question should not continue as single family.

My wife and I thank you in advance for your serious consideration of denying the subject zone request. Because of a previously planned trip, we will be unable to be present at the October 6th hearing.

Very truly yours,

Mike & Jayne Field



From the desk of

Michael A. Seger, M.D., P.A.

10-9-22

RE CASE 417-A

Planning & Zoning Commission, City of Lubbock

This letter is to inform you of
my strenuous objection to the changes
requested in ZONING CASE 417-A.

This property is in the middle of a
residential area (INCLUDING MINE!) and
should not be converted to Garden Office
District (GO).

There is plenty of opportunity for
this along the Marsha Sharp freeway
southwest from State Road

Sincerely

Michael A. Seger MD

1909 ALBANY AVE

LUBBOCK 79407

City of Lubbock Planning & Zoning Commission
P.O. Box 2000
Lubbock, Texas 79457

RE: Zoning Case 417-A

We are writing regarding the above-mentioned zoning case and the request for a zoning change. We live at 5236 21st Street which is approximately 275 feet from the North side of the property in question. We are opposed to this zoning change, and we ask that this request be denied by the Zoning Commission.

My wife, Tammy and I moved to the quiet neighborhood which is referred to as the Gables 2 years ago. This neighborhood is quiet and a favorite path for walkers and joggers. We are a neighborhood where we get to know our neighbors and the last thing, we thought we were doing was moving one street over from an office park.

Once again, we ask that you deny this request and keep our neighborhood the way it is.

Thank you for your consideration in this matter.

Sincerely,



Brian Pitaniello



Tammy Pitaniello



NOTICE OF PUBLIC HEARING
PLANNING AND ZONING COMMISSION



NOTICE IS HEREBY GIVEN that the Planning and Zoning Commission will hold a public hearing **Thursday, October 6, 2022 at 6:00 P.M.** held in the City Council Chambers at Citizen's Tower at 1314 Avenue K, Lubbock, Texas.

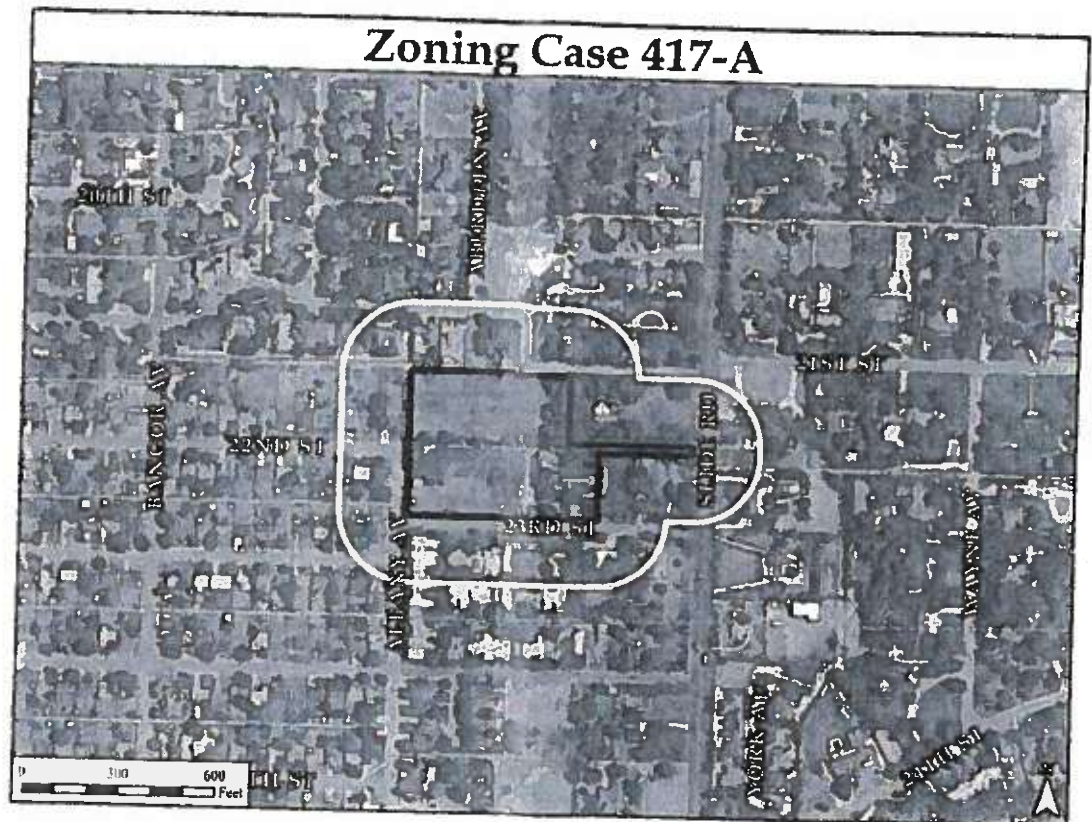
City of Lubbock Planning and Zoning Commission meetings are available to all persons regardless of disability. If you require special assistance, please contact the Planning Department at 775-2108 (Monday-Friday 8 a.m.-5:00 p.m.) or write to us at P.O. Box 2000, Lubbock, Texas 79457 at least 48 hours in advance of the meeting.

At this hearing, the following zone change proposal will be heard and all interested persons will be given the opportunity to speak. Then, the Planning and Zoning Commission will consider the recommendations it will make to the City Council concerning this proposal. The proposal is as follows:

5.1 417-A: AMD Engineering LLC for Gary Randall Andrews

Request a zone change from Single-Family District (R-1) to Garden Office District (GO):

- Generally located north of 23rd Street and west of Slide Road, on 6.39 acres of Sisco Addition, Lot 1-A and 3, and unplatted land out of Block E2, Section 5.



The Commission may make recommendations, which would result in a different proposal before the City Council. The recommendation of the Planning and Zoning Commission will be forwarded to City Council. A City Council action will be undertaken after a Public Hearing before them. Watch the Legal Notices of the Lubbock Avalanche-Journal for notice of any such hearing. This is the only notice that you will receive.

If you have any questions concerning this Zone Case, please call the City of Lubbock Planning Department at 775-2108.

A reply form has been included on the reverse side of this notice for your convenience.

P.O. Box 2000, Lubbock, Texas 79457 • 1314 Avenue K, Lubbock, Texas 79401
(806) 775-2108 • Email: 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.: **417-A**

In Favor ☒

Opposed ☐

Reasons and/or Comments:

Print Name G. RANDALL ANDREWS
Signature: [Signature]
Address: 7002 SHINE RD
Address of Property Owned: 7002 SHINE RD
Phone Number: (806) 745-9718
Email: [Redacted]

Zone Case Number: **417-A**
ANDREWS G RANDALL & SUSAN E
PO BOX 65207
LUBBOCK TX 79464

R58025



Receipt 18 of 32

October 31, 2022

To Whom It May Concern:

It has recently been brought to my attention that Gary Andrews is requesting to change a Single Family District to a Garden Office District. My husband and I are **strongly** opposed to this request. We bought our home because of its location in a residential area. It is **wrong** to now change the rules which will not only **devalue** our property, but destroy a quiet and beautiful neighborhood.

Jim and Linda Risley
5237 20th Street
Lubbock, TX 79407
806-773-2362

Jim Risley
Linda Risley



From

Reena and Roy Jacob

5231 21st st, Lubbock, 79407

To

City of Lubbock Planning and Zoning Commission

PO Box 2000

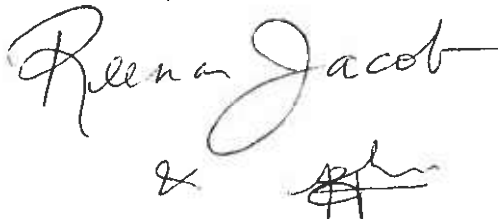
Lubbock, 79457

Subject: Zoning case 417-A

We are homeowners in the subdivision, adjacent to the property involved in the above referenced zoning case. We live in a property that borders this property and are within 200 feet to the boundary. We are opposed to this zoning case in its entirety. This neighborhood has been built as a single family neighborhood and there is no other office development currently in this area. My daughter and her friends cycle and walk our dog through this neighborhood all the time and it is dangerous to add an office park in the middle of a single family neighborhood. It would be best for this beautiful property to remain as a single family property, than rezoning it into a commercial office space.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Reena Jacob". Below the main signature, there are two smaller, less distinct handwritten marks, possibly initials or a second signature.

Reena and Roy Jacob

October 10, 2022



October 27, 2022

City of Lubbock Planning & Zoning Commission
P.O. Box 2000
Lubbock, Texas 79457

RE: Zoning Case 417-A

Dear Sirs:

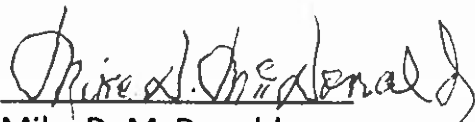
We live at 5234 21st Street, Lubbock, Texas, 79407. Our house is approximately 275 feet from the property requesting zoning change in the above referenced zoning case, 417-A.


We appreciate the fact that the second proposal requesting the zone change has sized down. However, we unequivocally object to any commercial property. We assume it will still be commercial business in the middle of a mature neighborhood contrary to anything or any of their neighbors wish to see occur.

We ask you to deny this request for zoning change. We know of no one in the existing 21st Street that is in favor of this zoning request.

Thank you for your consideration in this matter.

Very truly yours,


Mike D. McDonald


Martha Ann McDonald

From: CityPlanning
Sent: Thursday, October 6, 2022 8:10 AM
To: Shane Spencer
Subject: FW: 417-A

-----Original Message-----

From: John Teague <jandsteague@sbcglobal.net>
Sent: Thursday, October 06, 2022 6:45 AM
To: CityPlanning <cityplanning@mail.ci.lubbock.tx.us>
Subject: 417-A

<p style="margin:0in;margin-bottom:.0001pt;font-size:16px;font-family:"Times New Roman",serif;text-align:center;">WARNING: This message was sent from outside the City of Lubbock's email system. <p style="margin:0in;margin-bottom:.0001pt;font-size:16px;font-family:"Times New Roman",serif;text-align:center;">It could contain harmful attachments or links to harmful web pages.

P&Z Case No: 417-A
OPPOSED
R103451
Teague John & Sarah
5005 21st
Lubbock,Tx 79407
26 of 50

Opposed

1. This is a residential neighborhood.
2. Lubbock has MANY prime unoccupied office building available in much more visible areasnot hidden in housing neighborhoods.

Opposed

John and Sarah Teague
806-787-4432

Sent from my iPhone

From: CityPlanning
Sent: Sunday, October 16, 2022 8:03 PM
To: Shane Spencer
Subject: FW: Proposed Zoning Change

From: Margaret BEEBE <megbeebe@sbcglobal.net>
Sent: Sunday, October 16, 2022 2:19 PM
To: CityPlanning <cityplanning@mail.ci.lubbock.tx.us>
Subject: Proposed Zoning Change

WARNING: This message was sent from outside the City of Lubbock's email system.

It could contain harmful attachments or links to harmful web pages.

Attn: Shane Spencer

In regard to the proposed zoning change-Zoning Case 417-A, please note I am opposed to the zoning change! This is a single family district and I feel it should remain as a such!! In my opinion this change would take away from the integrity of the neighborhood.

Sincerely,
Margaret Beebe
1906 Albany Ave.
Lubbock, Texas 79407

From: CityPlanning
Sent: Tuesday, October 4, 2022 2:53 PM
To: Shane Spencer; Ashley Padilla
Subject: FW: Zone Case number 417-A

Follow Up Flag: Follow up
Flag Status: Flagged

From: Carol King <cking53@aol.com>
Sent: Tuesday, October 4, 2022 1:44 PM
To: CityPlanning <cityplanning@mail.ci.lubbock.tx.us>
Subject: Zone Case number 417-A

WARNING: This message was sent from outside the City of Lubbock's email system.

It could contain harmful attachments or links to harmful web pages.

I am opposed to the above referenced zone change.

Carol King
5303 21st Street
Lubbock, Texas 79407

[Sent from the all new AOL app for iOS](#)

From: CityPlanning
Sent: Friday, October 7, 2022 8:04 AM
To: Shane Spencer
Subject: FW: Zoning Case 417-A

-----Original Message-----

From: Jimmy Rasor <jimmyrasor@windstream.net>
Sent: Thursday, October 06, 2022 3:55 PM
To: CityPlanning <cityplanning@mail.ci.lubbock.tx.us>
Subject: Zoning Case 417-A

<p style="margin:0in;margin-bottom:.0001pt;font-size:16px;font-family:"Times New Roman",serif;text-align:center;">WARNING: This message was sent from outside the City of Lubbock's email system. <p style="margin:0in;margin-bottom:.0001pt;font-size:16px;font-family:"Times New Roman",serif;text-align:center;">It could contain harmful attachments or links to harmful web pages.

Dear Sirs: My wife and I live at 5305 21st on the corner of 21st and Bangor, Lubbock, Tx. We are vehemently opposed to/object to the above referenced zoning change. We live in a mature neighborhood. We bought our home in 2017, moving to Lubbock from Midland. We could have bought a home in a newer area, but did not want to chance being close to offices and retail establishments. Please deny this proposed zoning request.

We were not notified of the proposed zoning change because we live beyond 200' of the referenced property, but we feel this proposed zoning change could affect traffic and property values in our area. It would seem to me when a zoning request change is proposed from a residential district to another type of zoning district, all owners within that area (in this case Bowie) should be sent notification. Thank you for your consideration in this matter.

James and Carolyn Rasor

Sent from my iPhone

From: CityPlanning
Sent: Monday, October 31, 2022 10:35 AM
To: Shane Spencer
Subject: FW: Zoning Case 417-A

Follow Up Flag: Follow up
Flag Status: Flagged

-----Original Message-----

From: Dona Richardson <donarichardsonssb@icloud.com>
Sent: Monday, October 31, 2022 9:37 AM
To: CityPlanning <cityplanning@mail.ci.lubbock.tx.us>
Subject: Zoning Case 417-A

<p style="margin:0in;margin-bottom:.0001pt;font-size:16px;font-family:"Times New Roman",serif;text-align:center;">WARNING: This message was sent from outside the City of Lubbock's email system. <p style="margin:0in;margin-bottom:.0001pt;font-size:16px;font-family:"Times New Roman",serif;text-align:center;">It could contain harmful attachments or links to harmful web pages.

To the City of Lubbock and Zoning Commission:

My name is Dona Richardson, and I live at 1910 Albany Avenue. I am writing this to oppose Zoning Case 417-A which would allow the property to become garden offices. Please vote against this to protect our neighbor hoods from the influx of more traffic and noise.

Sincerely,

Dona Richardson

Sent from my iPhone

From: CityPlanning
Sent: Friday, October 28, 2022 2:14 PM
To: Shane Spencer
Subject: FW: Zoning Case 417-A

From: Jimmy Rasor <jimmyrasor@windstream.net>
Sent: Friday, October 28, 2022 2:11 PM
To: CityPlanning <cityplanning@mail.ci.lubbock.tx.us>
Subject: Fwd: Zoning Case 417-A

WARNING: This message was sent from outside the City of Lubbock's email system.

It could contain harmful attachments or links to harmful web pages.

Dear Sirs,

My wife and I live at 5305 21st and are outside the notification area in regards to Zoning Case 417-A. It is my understanding the property involved in Case 417-A has been revised to a smaller area. Even though the proposed zoning area has been reduced, we are still very much opposed to this proposed zoning change from Single Family District (R-1) to Garden Office District (GO). Please include this E-Mail with letters sent to your office opposed to this proposed zoning change.

Thank you
Jimmy Rasor

Sent from my iPhone

Begin forwarded message:

From: Jimmy Rasor <jimmyrasor@windstream.net>
Date: October 6, 2022 at 3:55:12 PM CDT
To: cityplanning@mylubbock.us
Subject: Zoning Case 417-A

Dear Sirs: My wife and I live at 5305 21st on the corner of 21st and Bangor, Lubbock, Tx. We are vehemently opposed to/object to the above referenced zoning change. We live in a mature neighborhood. We bought our home in 2017, moving to Lubbock from Midland. We could have bought a home in a newer area, but did not want to chance being close to offices and retail establishments. Please deny this proposed zoning request. We were not notified of the proposed zoning change because we live beyond 200' of the referenced property, but we feel this proposed zoning change could affect

traffic and property values in our area. It would seem to me when a zoning request change is proposed from a residential district to another type of zoning district, all owners within that area (in this case Bowie) should be sent notification.

Thank you for your consideration in this matter.

James and Carolyn Rasor

Sent from my iPhone



Field, Manning, Stone,
Hawthorne & Aycock P.C.

ATTORNEYS AT LAW

2112 Indiana Avenue, Lubbock, Texas 79410
Phone: 806-792-0810 Fax: 806-792-9148
Email: mfield@lubbocklawfirm.com
www.lubbocklawfirm.com
LUBBOCK • SEMINOLE • BIG SPRING • MIDLAND

September 30, 2022

City of Lubbock Planning & Zoning Commission
P. O. Box 2000
Lubbock, Texas 79457

RE: Zoning Case 417-A

Dear Sirs:

I represent Mike and Martha Ann McDonald who live at 5234 21st Street, Lubbock, Texas. Their house is approximately 250 to 275 feet from the property requesting the zoning change in the above-referenced case. I have been asked to reply to this request on their behalf which they totally and unequivocally object to. They bought their home in 2000, based on the neighborhood that existed and has existed for the last twenty-five or so years. To entertain the idea of injecting a business office park in the middle of a mature neighborhood is contrary to anything they or any of their neighbors wish to see occur. We ask you to please deny this request for zone change. They know of no one in the existing neighborhood on 21st Street that is in favor of this request.

Thanking you for your consideration in this matter, I remain

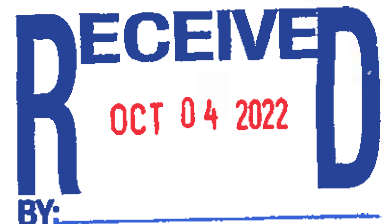
Very truly ours,

T. Mike Field

APPROVED BY:

Mike McDonald

Martha McDonald



NOTICE OF PUBLIC HEARING
PLANNING AND ZONING COMMISSION



NOTICE IS HEREBY GIVEN that the Planning and Zoning Commission will hold a public hearing on **Thursday, October 6, 2022** at 6:00 P.M. held in the City Council Chambers at Citizen's Tower at 1314 Avenue K, Lubbock, Texas.

City of Lubbock Planning and Zoning Commission meetings are available to all persons regardless of disability. If you require special assistance, please contact the Planning Department at 775-2108 (Monday-Friday, 8:00 a.m.-5:00 p.m.) or write to us at P.O. Box 2000, Lubbock, Texas 79457 at least 48 hours in advance of the meeting.

At this hearing, the following zone change proposal will be heard and all interested persons will be given an opportunity to speak. Then, the Planning and Zoning Commission will consider the recommendations it will make to the City Council concerning this proposal. The proposal is as follows:

5.1 **417-A: AMD Engineering LLC for Gary Randall Andrews**

Request a zone change from Single-Family District (R-1) to Garden Office District (GO):

- Generally located north of 23rd Street and west of Slide Road, on 6.39 acres of Sisco Addition, Lot 1-A and 3, and unplatted land out of Block E2, Section 5.



The Commission may make recommendations, which would result in a different proposal before the City Council. The recommendation of the Planning and Zoning Commission will be forwarded to City Council. Any City Council action will be undertaken after a Public Hearing before them. Watch the Legal Notices of the Lubbock Avalanche-Journal for notice of any such hearing. This is the only notice that you will receive.

If you have any questions concerning this Zone Case, please call the City of Lubbock Planning Department at 775-2108.

A reply form has been included on the reverse side of this notice for your convenience.

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.: **417-A**

In Favor

Opposed

X

Reasons and/or Comments:

Print Name

Teresa A. Vitela

Signature:

Teresa A. Vitela

Address:

2302 Slide RD, Unit 20

Address of Property Owned:

See above

Phone Number:

806-789-5541 cell

Email:

tavitela@yahoo.com

Zone Case Number: **417-A**

R73268

Recipient 29 of 50

VITELA, TERESA A

2302 SLIDE RD

UNIT 20

LUBBOCK

TX 79407

This neighborhood is residential property and zoning for offices will be detrimental to the RESIDENTIAL neighborhood. The property in question is beautiful and many people in the neighborhood enjoy walking past it because of that beauty. Turning it into offices, will turn it into an eyesore. I believe traffic will increase and this is not something, as homeowners, still living in this neighborhood, want. I am worried this will decrease property values, because who wants to move into an all-residential neighborhood, except for one commercial office space? No one! Many of the residence *that live in* Country Place are over 70. They hope to sell their units for top dollar when they no longer can live on their own. This could diminish funds for these individuals. Re-zoning this area benefits one family yet negatively impacts dozens. I implore you to not approve this re-zoning.

Sincerely,

Teresa A. Vitela

**NOTICE OF PUBLIC HEARING
PLANNING AND ZONING COMMISSION**



NOTICE IS HEREBY GIVEN that the Planning and Zoning Commission will hold a public hearing on **Thursday, November 3, 2022** at 6:00 P.M. held in the City Council Chambers at Citizen's Tower at 1314 Avenue K, Lubbock, Texas.

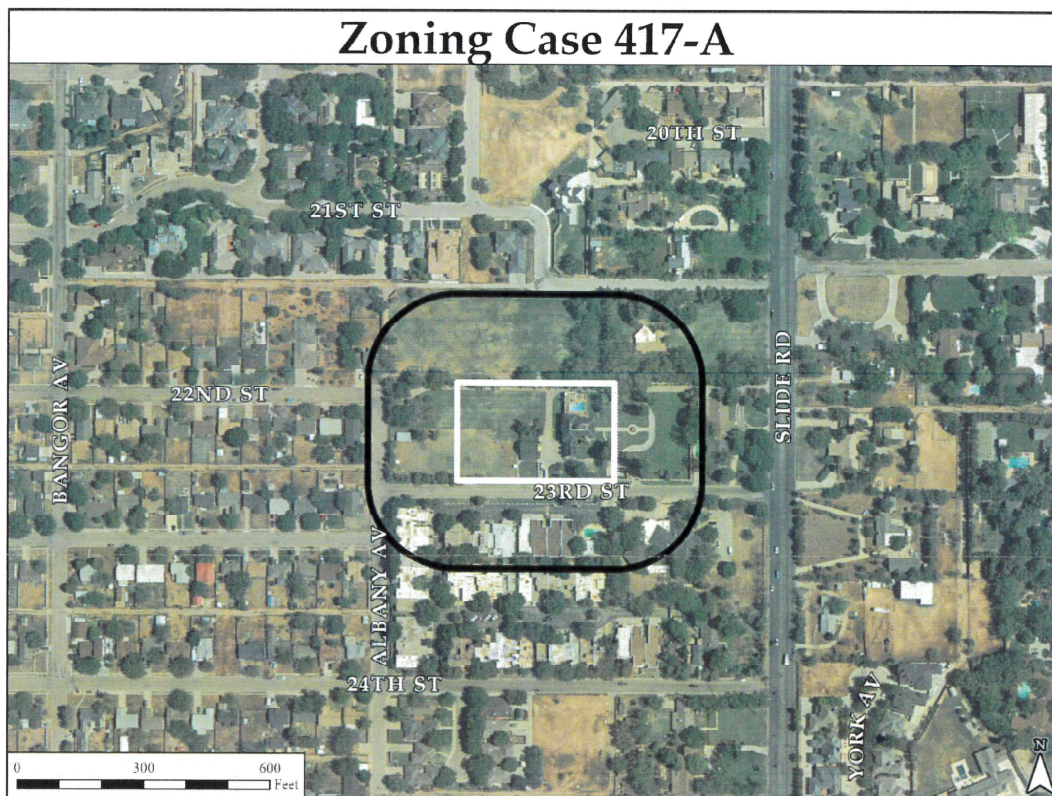
City of Lubbock Planning and Zoning Commission meetings are available to all persons regardless of disability. If you require special assistance, please contact the Planning Department at 775-2108 (Monday-Friday, 8:00 a.m.-5:00 p.m.) or write to us at P.O. Box 2000, Lubbock, Texas 79457 at least 48 hours in advance of the meeting.

At this hearing, the following zone change proposal will be heard and all interested persons will be given an opportunity to speak. Then, the Planning and Zoning Commission will consider the recommendations it will make to the City Council concerning this proposal. The proposal is as follows:

5.3 Zone Case 0417-A: AMD Engineering, LLC for Gary Randall Andrews

Request for a zone change from Single-Family District (R-1) to Garden Office District (GO):

- Generally located north of 23rd Street and west of Slide Road, on 2.02 acres of land from Sisco Addition, Lot 1-A.



The Commission may make recommendations, which would result in a different proposal before the City Council. The recommendation of the Planning and Zoning Commission will be forwarded to City Council. Any City Council action will be undertaken after a Public Hearing before them. Watch the Legal Notices of the Lubbock Avalanche-Journal for notice of any such hearing. This is the only notice that you will receive.

If you have any questions concerning this Zone Case, please call the City of Lubbock Planning Department at 775-2108.

A reply form has been included on the reverse side of this notice for your convenience.

P.O. Box 2000, Lubbock, Texas 79457 • 1314 Avenue K, Lubbock, Texas 79401
(806) 775-2108 • Email: 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.

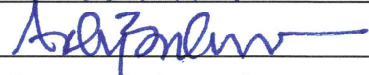
If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 806-775-2108.

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.: 417-A**

In Favor ✓

Opposed

Reasons and/or Comments:

Print Name ANDY BURHAM for Lubbock Christian University
Signature: 
Address: 5601 19th Street
Address of Property Owned: multiple - see list
Phone Number: 806-720-7408
Email: andy.burham@lcu.edu

Zone Case Number: **417-A**
LUBBOCK CHRISTIAN UNIVERSITY
5601 19TH ST
LUBBOCK TX 79407-2099

R32953

Recipient 23 of 32

Properties owned by Lubbock Christian University:

5315 22nd Street
5409 22nd Street
5411 23rd Street
5302 23rd Street
5425 25th Street
5404 22nd Street
5402 22nd Street
5416 23rd Street
5323 22nd Street
5302 22nd Street
5422 22nd Street
5419 22nd Street
5305 22nd Street
5411 24th Street
5424 22nd Street
5414 22nd Street

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: **P&Z Case No.: 417-A**

In Favor _____


Opposed X

Reasons and/or Comments:

I appreciate the owners' clarification of intent for the property in a meeting with Country Place (CP) on 10-18-22, however, I still have the following concerns and questions:

- Owners indicated that any new construction would be north of the barn. The proposed area extends significantly west of the barn. What kinds of structures are planned for the area west of the barn?
- Owners indicated that they do not plan a "parking jungle", and that any parking would be in clusters of 5-6 spaces and landscaped. However, even a cluster of 5-6 parking spaces, if built west of the barn, would mean that those of us whose properties face 23rd Street would be looking out the window at metal cars, and potentially experience additional noise and fumes from idling and moving vehicles.
- Owners indicated that GRACO currently has 18-20 employees, but that potentially 40 parking spaces would be built. This seems excessive.

I would be more likely to support a proposal that 1) clearly limited the number of parking spaces to the number of employees plus a limited number of extra visitor spaces; 2) clearly specified the plans for the space west of the barn, with a guarantee that this would not be an eyesore or a noise/vehicle pollution nuisance.

Print Name Kristen Michelson
Signature: 
Address: 2302 Slide Road #11
Address of Property Owned: 2302 Slide Road #11
Phone Number: NA - I am reachable by email
Email: kemhome12@gmail.com

Zone Case Number: **417-A**

R72995

Recipient 20 of 32

MICHELSON, KRISTEN

2302 SLIDE RD

UNIT 11

LUBBOCK

TX

79407

From: Neugebauer, Janet <Janet.Neugebauer@ttu.edu>
Sent: Saturday, October 29, 2022 3:24 PM
To: CityPlanning
Cc: Shane Spencer
Subject: Zoning Case 417-A

Follow Up Flag: Follow up
Flag Status: Flagged

**WARNING: This message was sent from outside the City of Lubbock's email system.
It could contain harmful attachments or links to harmful web pages.**

I am a homeowner in the Gables and I am opposed to the change requested in Zoning Case 417-A. The area of requested change is currently a residential district and there is enough empty property further west on 19th Street to meet the need for a Garden Office District. If the area in this case is rezoned it would very likely make it easier to get the rest of the district rezoned. Most homeowners have lived in this residential district for many years and moving would be a hardship for them, as some of them are becoming elderly.

Janet Neugebauer
1904 Albany Ave.
Lubbock, Texas 79407

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 806-775-2108.

Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **417-A**

In Favor ☐

Opposed ☒

Reasons and/or Comments:

I am opposed to this change because this area is residential and should remain residential. I also believe it could hurt my property value if this new zoning takes place, and it would open this area up to more commercial zoning.

Print Name

TRUDY Gamble

Signature:

Trudy Gamble

Address:

2302 Slide Rd., #6

Address of Property Owned:

2302 Slide Rd., #6

Phone Number:

806 441-7918

Email:

trudygamble47@yahoo.com

Zone Case Number: **417-A**

R72856

Recipient 4 of 50

GAMBLE, TRUDY

2302 SLIDE RD

UNIT 6

LUBBOCK

TX

79407-2246

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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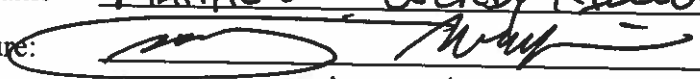
Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **417-A**

In Favor ☐

Opposed ☒

Reasons and/or Comments:

Lowery property Values.

Print Name MATTHEW : Wendy Killovett
Signature: 
Address: 2302 Slide Rd Unit 5 79407
Address of Property Owned: SAME
Phone Number: 806 777 5174
Email: _____

Zone Case Number: **417-A** R72827
KILLOUGH MATTHEW & WENDY
2302 SLIDE RD UNIT 5
LUBBOCK TX 79407

Recipient 22 of 32

October 29, 2022

2302 Slide Road Unit # 5
Lubbock, TX 79407

City of Lubbock Planning and Zoning Commission
P.O. Box 2000
Lubbock TX 79457

To the City of Lubbock Planning and Zoning Commission:

I understand that a zone change request has been made by AMD Engineering LLC for Gary Randall Andrews for the property located north of 23rd street, west of Slide Road in the Sisco addition (ref. zoning case 417-A). I understand that the request is to change from a Single-Family District (R-1) to a Garden Office District (GO).

I strongly oppose this proposal.

The zone in question is located squarely in the middle of an entirely residential neighborhood. It is situated immediately to the north of the quiet residential community that I call home: **Country Place**.

Re-zoning this property into a Garden Office zone with the potential for business activity will permanently alter the residential character of our neighborhood.

Increased business activity will mean more traffic, and more people passing through our neighborhood. Such changes could lower our quality of living with additional construction in the short-term; and traffic congestion and noise in the long term.

Additionally, this change could result in decreased property values for those of us who have invested in Country Place, as well as for the surrounding neighborhood. This is undesirable for anyone, and especially for more than half of our owners who are between the ages of 65 and 85 and living on a fixed income. Many owners are relying on being able to sell their unit for a good price to help fund their last years in a more structured environment when they reach the point where they need more assistance.

As homeowners in Country Place, we have chosen to live in a community that is quiet and peaceful, within a quiet and peaceful neighborhood. For many of us here, this is our sanctuary.

In closing, I would like to point out that this proposed change benefits only one household but would have adverse effects on the quality of living for scores of households in the neighborhood.


Thank you for your consideration.

Sincerely,

MATTHEW KILLOUGH (Printed name)

 (Signed)

Wendy Killough (Printed name)

 (Signed)

City of Lubbock, TX
Planning Department
Planning and Zoning Commission
Reply Form

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Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **417-A**

In Favor

Opposed

☒

Reasons and/or Comments:

SEE ATTACHED

Print Name

JACK M STAGNER JR + SUE E STAGNER

Signature:

Address:

2302 SLIDE RD UNIT 4

Address of Property Owned:

2302 SLIDE RD UNIT 4

Phone Number:

505 2017617

Email:

JSTAGNER@JSTAGNER.COM

Zone Case Number: **417-A**

R72797

Recipient 32 of 32

STAGNER JACK M JR & SUE E

2302 SLIDE RD

UNIT 4

LUBBOCK

TX 79407

Good Evening

Thank you for allowing me to address you tonight regarding Zoning Case 417-A and let me start by saying that I am completely against the approval of the zoning change.

My name is Jack Stagner and my wife, Sue, and I live at 2302 Slide Rd in Unit 4. Our townhouse is located in the Country Place townhouse complex directly across 23rd street from the Gary Randall Andrews property at 2202 Slide Rd.

I was introduced to the Country Place complex in 2004 when I visited one of my friends who lived there. Sue and I would drive through the complex almost every time we were visiting Lubbock when we were attending Monterey High School class reunions as we both graduated from Monterey and subsequently from Texas Tech. When our daughter, Jennifer, married and moved to the Lubbock area in 2007, our trips through the Complex increased.

As a bit of background, Sue and I had moved to Albuquerque in 1976 to go into business with my family. We had a construction company with 70 employees and a real estate company with 30 agents. The experience with both companies allowed me to understand a lot about real estate leasing, construction, and selling. I am a CPA and a former New Mexico Real Estate Broker (1977 thru 1993) and have worked with construction companies for over 40 years.

When we decided to move back to Lubbock in 2012, Country Place was our first choice. Country Place is a quite serene complex with 45 Townhouses and is still in demand as a good place to live. Several owners have told me that they are often asked if any units are for sale, and when I bought here, I never had any idea that the property across the street would possibly be rezoned and interfere with our lives. We have been assured that there will be a minimal increase in traffic, but I'm not convinced since this will be a company with several employees. And allowing any commercial use of the property changes the original residential character of the neighborhood. This could be just a first step to further zoning changes on that property.

I also have reviewed the City of Lubbock zoning map for several hours and cannot find a single parcel zoned Garden Office that is completely surrounded by residential properties. The Andrews property IS completely surrounded by residential property and would be the only one in the City of Lubbock zoned as such. Do you want to set a precedent for future zone changes such as this?

Please deny the zoning change. A change such as this will have a negative impact for several hundred nearby residents.

Thank you very much.

October 29, 2022

MARK MORTON & GRACE MARIN

2302 Slide Road Unit # 22
Lubbock, TX 79407

City of Lubbock Planning and Zoning Commission
P.O. Box 2000
Lubbock TX 79457

To the City of Lubbock Planning and Zoning Commission:

I understand that a zone change request has been made by AMD Engineering LLC for Gary Randall Andrews for the property located north of 23rd street, west of Slide Road in the Sisco addition (ref. zoning case 417-A). I understand that the request is to change from a Single-Family District (R-1) to a Garden Office District (GO).

I strongly oppose this proposal.

The zone in question is located squarely in the middle of an entirely residential neighborhood. It is situated immediately to the north of the quiet residential community that I call home: **Country Place**.

Re-zoning this property into a Garden Office zone with the potential for business activity will permanently alter the residential character of our neighborhood.

Increased business activity will mean more traffic, and more people passing through our neighborhood. Such changes could lower our quality of living with additional construction in the short-term; and traffic congestion and noise in the long term.

Additionally, this change could result in decreased property values for those of us who have invested in Country Place, as well as for the surrounding neighborhood. This is undesirable for anyone, and especially for more than half of our owners who are between the ages of 65 and 85 and living on a fixed income. Many owners are relying on being able to sell their unit for a good price to help fund their last years in a more structured environment when they reach the point where they need more assistance.

As homeowners in Country Place, we have chosen to live in a community that is quiet and peaceful, within a quiet and peaceful neighborhood. For many of us here, this is our sanctuary.

In closing, I would like to point out that this proposed change benefits only one household but would have adverse effects on the quality of living for scores of households in the neighborhood.

Thank you for your consideration.

Sincerely,

MARK MORTON (Printed name)

Mark Morton (Signed)

Grace Marin (Printed name)

Grace Marin (Signed)

October 29, 2022

Don R. Kidd

2302 Slide Road Unit # 25
Lubbock, TX 79407

City of Lubbock Planning and Zoning Commission
P.O. Box 2000
Lubbock TX 79457

To the City of Lubbock Planning and Zoning Commission:

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In closing, I would like to point out that this proposed change benefits only one household but would have adverse effects on the quality of living for scores of households in the neighborhood.

Thank you for your consideration.

Sincerely,

Don R. Kidd (Printed name)

Don R. Kidd (Signed)

____ (Printed name)

____ (Signed)

October 29, 2022

2302 Slide Road Unit # 6
Lubbock, TX 79407

City of Lubbock Planning and Zoning Commission
P.O. Box 2000
Lubbock TX 79457

To the City of Lubbock Planning and Zoning Commission:

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In closing, I would like to point out that this proposed change benefits only one household but would have adverse effects on the quality of living for scores of households in the neighborhood.

Thank you for your consideration.

Sincerely,

Trudy Gamble (Printed name)

Trudy Gamble (Signed)

____ (Printed name)

____ (Signed)

October 29, 2022

MIKE McPHAIL
2302 Slide Road Unit # 23
Lubbock, TX 79407

City of Lubbock Planning and Zoning Commission
P.O. Box 2000
Lubbock TX 79457

To the City of Lubbock Planning and Zoning Commission:

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In closing, I would like to point out that this proposed change benefits only one household but would have adverse effects on the quality of living for scores of households in the neighborhood.

Thank you for your consideration.

Sincerely,

MIKE McPHAIL (Printed name)

[Signature] (Signed)

____ (Printed name)

____ (Signed)

October 29, 2022

Rita Harmon

2302 Slide Road Unit # 28
Lubbock, TX 79407

City of Lubbock Planning and Zoning Commission
P.O. Box 2000
Lubbock TX 79457

To the City of Lubbock Planning and Zoning Commission:

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In closing, I would like to point out that this proposed change benefits only one household but would have adverse effects on the quality of living for scores of households in the neighborhood.

Thank you for your consideration.

Sincerely,

Rita Harmon (Printed name)

Rita Harmon (Signed)

____ (Printed name)

____ (Signed)

October 29, 2022

2302 Slide Road Unit # 47
Lubbock, TX 79407

City of Lubbock Planning and Zoning Commission
P.O. Box 2000
Lubbock TX 79457

To the City of Lubbock Planning and Zoning Commission:

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Re-zoning this property into a Garden Office zone with the potential for business activity will permanently alter the residential character of our neighborhood.

Increased business activity will mean more traffic, and more people passing through our neighborhood. Such changes could lower our quality of living with additional construction in the short-term; and traffic congestion and noise in the long term.

Additionally, this change could result in decreased property values for those of us who have invested in Country Place, as well as for the surrounding neighborhood. This is undesirable for anyone, and especially for more than half of our owners who are between the ages of 65 and 85 and living on a fixed income. Many owners are relying on being able to sell their unit for a good price to help fund their last years in a more structured environment when they reach the point where they need more assistance.

As homeowners in Country Place, we have chosen to live in a community that is quiet and peaceful, within a quiet and peaceful neighborhood. For many of us here, this is our sanctuary.

In closing, I would like to point out that this proposed change benefits only one household but would have adverse effects on the quality of living for scores of households in the neighborhood.

Thank you for your consideration.

Sincerely,

Patsy Anderson (Printed name)

Patsy Anderson (Signed)

____ (Printed name)

____ (Signed)

October 29, 2022

Sylvia Joyce Lynch
2302 Slide Road Unit # 07
Lubbock, TX 79407

City of Lubbock Planning and Zoning Commission
P.O. Box 2000
Lubbock TX 79457

To the City of Lubbock Planning and Zoning Commission:

I understand that a zone change request has been made by AMD Engineering LLC for Gary Randall Andrews for the property located north of 23rd street, west of Slide Road in the Sisco addition (ref. zoning case 417-A). I understand that the request is to change from a Single-Family District (R-1) to a Garden Office District (GO).

I strongly oppose this proposal.

The zone in question is located squarely in the middle of an entirely residential neighborhood. It is situated immediately to the north of the quiet residential community that I call home: **Country Place**.

Re-zoning this property into a Garden Office zone with the potential for business activity will permanently alter the residential character of our neighborhood.

Increased business activity will mean more traffic, and more people passing through our neighborhood. Such changes could lower our quality of living with additional construction in the short-term; and traffic congestion and noise in the long term.

Additionally, this change could result in decreased property values for those of us who have invested in Country Place, as well as for the surrounding neighborhood. This is undesirable for anyone, and especially for more than half of our owners who are between the ages of 65 and 85 and living on a fixed income. Many owners are relying on being able to sell their unit for a good price to help fund their last years in a more structured environment when they reach the point where they need more assistance.

As homeowners in Country Place, we have chosen to live in a community that is quiet and peaceful, within a quiet and peaceful neighborhood. For many of us here, this is our sanctuary.

In closing, I would like to point out that this proposed change benefits only one household but would have adverse effects on the quality of living for scores of households in the neighborhood.

Thank you for your consideration.

Sincerely,

Sylvia Joyce Lynch (Printed name)

Sylvia J. Lynch (Signed)

____ (Printed name)

____ (Signed)

October 29, 2022

2302 Slide Road Unit # 3
Lubbock, TX 79407

City of Lubbock Planning and Zoning Commission
P.O. Box 2000
Lubbock TX 79457

To the City of Lubbock Planning and Zoning Commission:

I understand that a zone change request has been made by AMD Engineering LLC for Gary Randall Andrews for the property located north of 23rd street, west of Slide Road in the Sisco addition (ref. zoning case 417-A). I understand that the request is to change from a Single-Family District (R-1) to a Garden Office District (GO).

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As homeowners in Country Place, we have chosen to live in a community that is quiet and peaceful, within a quiet and peaceful neighborhood. For many of us here, this is our sanctuary.

In closing, I would like to point out that this proposed change benefits only one household but would have adverse effects on the quality of living for scores of households in the neighborhood.

Thank you for your consideration.

Sincerely,

DORIS KAY CADEL (Printed name)

Doris Kay Cadel (Signed)

____ (Printed name)

____ (Signed)

Information

Agenda Item

Resolution - Finance: Consider adoption of a Resolution authorizing publication and posting of notices of intention to issue (i) water and wastewater system revenue bonds in a principal amount not to exceed \$17,500,000 for the purpose of acquiring, purchasing, constructing, improving, renovating, enlarging and equipping property, buildings, structures, facilities and related infrastructure for the City's Water and Wastewater System and (ii) combination tax and revenue certificates of obligation in a principal amount not to exceed \$18,750,000 for the purpose of funding improvements to the City's Solid Waste Disposal System.

Item Summary

This resolution authorizes Finance to publish a notice of intent in the Lubbock Avalanche Journal to issue Water and Wastewater System Revenue Bonds (Revenue Bonds) and Combination Tax and Revenue Certificates of Obligation (COs).

The Revenue Bonds are being issued for the following purposes:

1. Paying the costs of acquiring, purchasing, constructing, improving, renovating, enlarging and equipping property, buildings, structures, facilities and related infrastructure for the System;
2. Funding capitalized interest on the Bonds;
3. Funding the reserve fund requirement for the Bonds; and
4. Paying the costs of issuing the Bonds (collectively, with items 1-3, the "Project").

Specifically, the Revenue Bonds are designated to fund the North Terminal Storage Reservoir Improvements, Southeast Lubbock Water System Expansion, West Lubbock Water System Expansion, and Downtown Sewer Line Replacement projects that approved in the FY 2023 Operating and Capital Budget.

The Certificates of Obligation (CO) are being issued for the following purposes:

1. Improvements to the City's Solid Waste Disposal System (the "Project"); and
2. Payment of professional services of attorneys, financial advisors, engineers and other professionals in connection with the Project and the issuance of the Certificates.

Specifically, these COs will fund all activities related to the Solid Waste Transfer Station that is an approved project in the FY 2023 Operating and Capital Budget.

Fiscal Impact

The total amount of the Project costs financed with Revenue Bonds will not exceed the \$17,500,000 total principal amount. The annual debt service payments for the Revenue Bonds are budgeted through the annual operating budget process and are included in long-term financial planning and rate models. The annual payments are made from all or part of the net revenues of the City's Water and Wastewater System.

The total amount of the Project costs financed will not exceed the \$18,750,000 total principal amount of one or more series of COs. The annual debt service payments for the COs are budgeted through the annual operating budget process and are included in long-term financial planning and rate models. The annual payments are made from all or part of the net revenues of the City's Solid Waste fees.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Resolution - Notice of Intent

A RESOLUTION AUTHORIZING PUBLICATION AND POSTING OF
NOTICES OF INTENTION TO ISSUE CITY OF LUBBOCK, TEXAS WATER
AND WASTEWATER SYSTEM REVENUE BONDS AND COMBINATION
TAX AND REVENUE CERTIFICATES OF OBLIGATION

WHEREAS, the City of Lubbock, Texas (the “City”), pursuant to Chapter 1502, Texas Government Code, as amended, is authorized to issue its water and wastewater system revenue bonds (the “Bonds”) for the purposes set forth in Exhibit A hereto; and

WHEREAS, the City Council of the City has found and determined that a notice of intention to issue the Bonds should be published in accordance with the requirements of applicable law and the City’s charter; and

WHEREAS, the City, pursuant to Subchapter C, Chapter 271, Texas Local Government Code, as amended, is authorized to issue its certificates of obligation (the “Certificates”) for the purpose of paying contractual obligations to be incurred for the purposes set forth in Exhibit B hereto; and

WHEREAS, the City Council of the City has found and determined that a notice of intention to issue the Certificates should be published and posted in accordance with the requirements of applicable law;

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

Section 1. The findings and determinations set forth in the preambles hereto are hereby incorporated by reference for all purposes.

Section 2. The City Secretary of the City is hereby authorized and directed to publish a notice of intention to issue the Bonds, in substantially the form set forth in Exhibit A hereto (the “Bond Notice”) incorporated herein by reference for all purposes. The Bond Notice shall be published once a week for a period of thirty (30) days prior to the date set forth in the Bond Notice for passage of the ordinance authorizing the Bonds. Such Bond Notice shall be published in a newspaper of general circulation in the area of the City.

Section 3. The City Secretary of the City is hereby authorized and directed to publish and post a notice of intention to issue the Certificates, in substantially the form set forth in Exhibit B hereto (the “Certificate Notice”) incorporated herein by reference for all purposes.

The Certificate Notice shall be published once a week for two consecutive weeks, the date of the first publication being not later than the forty-sixth (46th) day before the date set forth in the Certificate Notice for passage of the ordinance authorizing issuance of the Certificates. Such Certificate Notice shall be published in a newspaper of general circulation in the area of the City.

In addition, the Certificate Notice shall be posted continuously on the City's website for at least forty-five (45) days before the date set forth in the Certificate Notice for passage of the ordinance authorizing issuance of the Certificates.

Section 4. For purposes of the Certificate Notice and Section 271.049(e), Texas Local Government Code, the City Council hereby designates the public securities identified in the attached Exhibit C as self-supporting (collectively, the "Self-Supporting Debt"), the debt service on which the City currently pays (and intends to continue paying) from sources other than ad valorem tax receipts. The City expects to continue to pay debt service on the Self-Supporting Debt from sources other than ad valorem tax receipts; however, in the event that such other sources are not budgeted in amounts sufficient to pay debt service in respect to the Self-Supporting Debt, the City may be required to levy and collect ad valorem taxes sufficient to offset any deficiency in the amounts provided by such other sources.

Section 5. The Mayor, the City Manager, the Chief Financial Officer, the City Secretary and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

Section 6. This resolution shall take effect from and after the date of its passage.

[Signature Page Follows.]

Resolution No. 2022 – R____
December 6, 2022
Item No. ____

ADOPTED THIS 6th day of December 2022, by the City Council of the City of Lubbock,
Texas.

CITY OF LUBBOCK, TEXAS

TRAY PAYNE, MAYOR

ATTEST:

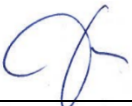
Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:



D. Blu Kostelich, Chief Financial Officer

APPROVED AS TO FORM:



Jerry V. Kyle, Jr., Bond Counsel

Exhibit A

NOTICE OF INTENTION TO ISSUE CITY OF LUBBOCK, TEXAS
WATER AND WASTEWATER SYSTEM REVENUE BONDS

NOTICE IS HEREBY GIVEN that on January 24, 2023, at 2:00 p.m. at a regular meeting of the City Council of the City of Lubbock, Texas, to be held in the City Council Chambers at Citizens Tower, 1314 Avenue K, Lubbock, Texas, the regular meeting place of the City Council, the City Council intends to pass one or more ordinances authorizing the issuance of not to exceed \$17,500,000 total principal amount of water and wastewater system revenue bonds, in one or more series (collectively, the “Bonds”), for the following purposes, to wit: (i) paying the costs of acquiring, purchasing, constructing, improving, renovating, enlarging and equipping property, buildings, structures, facilities and related infrastructure for the Water and Wastewater System, (ii) funding capitalized interest for the Bonds, (iii) funding the reserve fund requirement for the Bonds, and (iv) paying the costs of issuing the Bonds.

THIS NOTICE is given in accordance with law and as directed by the City Council of the City of Lubbock, Texas on December 6, 2022.

Exhibit B

NOTICE OF INTENTION TO ISSUE CITY OF LUBBOCK, TEXAS
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that on January 24, 2023, at 2:00 p.m. at a regular meeting of the City Council of the City of Lubbock, Texas, to be held in the City Council Chambers at Citizens Tower, 1314 Avenue K, Lubbock, Texas, the regular meeting place of the City Council, the City Council intends to pass one or more ordinances authorizing the issuance of not to exceed \$18,750,000 total principal amount of certificates of obligation, in one or more series (collectively, the "Certificates"), bearing interest at any rate or rates not to exceed the maximum interest rate authorized by law, as shall be determined within the discretion of the City Council at the time of issuance of the Certificates, and maturing over a period of not to exceed twenty-one (21) years from their date of issuance, for the purpose of paying contractual obligations to be incurred for the following purposes, to wit: (i) improvements to the City's Solid Waste Disposal System (the "Project"), and (ii) payment of professional services of attorneys, financial advisors, engineers and other professionals in connection with the Project and the issuance of the Certificates. Said Certificates shall be payable from the levy of a direct and continuing ad valorem tax, levied within the limits prescribed by law, against all taxable property within the City sufficient to pay the interest on said Certificates as due and to provide for the payment of the principal thereof as the same matures, as authorized by Subchapter C, Chapter 271, Texas Local Government Code, as amended, and from all or a part of the surplus net revenues of the City's Water and Wastewater System, such pledge of surplus net revenues being limited to \$1,000. The estimated combined principal and interest required to pay the Certificates on time and in full is \$26,595,872. Such estimate is provided for illustrative purposes only and is based on an assumed interest rate of 4.605%. Market conditions affecting interest rates vary based on numerous factors beyond the control of the City, and the City cannot provide any assurance regarding the rate of interest that the Certificates will bear upon their issuance. As of the date of this notice, the aggregate principal amount of outstanding public securities of the City secured by and payable from ad valorem taxes (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting) is \$218,411,812, and based on the City's expectations, as of the date of this notice, the combined principal and interest required to pay all of the outstanding public securities of the City secured by and payable from ad valorem taxes (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting) on time and in full is \$254,848,674.

THIS NOTICE is given in accordance with law and as directed by the City Council of the City of Lubbock, Texas on December 6, 2022.

Exhibit C

SELF-SUPPORTING DEBT

Public Securities Designated as Self-Supporting	Self-Supporting Principal
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2013	\$2,220,000
General Obligation Refunding and Improvement Bonds, Series 2013	\$2,535,000
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2014	\$7,510,000
General Obligation Refunding Bonds, Series 2014	\$18,440,000
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2015	\$58,730,000
General Obligation Refunding Bonds, Series 2015	\$60,800,000
General Obligation Refunding Bonds, Taxable Series 2015	\$21,450,000
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2016	\$28,235,000
General Obligation Refunding Bonds, Series 2016	\$19,430,000
General Obligation Refunding Bonds, Series 2016A	\$18,560,000
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2017	\$26,250,000
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2017A	\$14,685,000
Tax Notes, Series 2017	\$881,955
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2018A	\$7,330,000
Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2018B	\$12,590,000
General Obligation Refunding Bonds, Series 2018	\$59,360,000
Tax Notes, Series 2018	\$566,388
Tax and Water and Wastewater System Surplus Revenue Certificates of Obligation, Series 2019	\$18,650,000
General Obligation Refunding Bonds, Series 2019	\$6,600,000
General Obligation Refunding Bonds, Taxable Series 2019A	\$26,665,000
Tax Notes, Series 2019	\$2,014,552
Combination Tax and Revenue Certificates of Obligation, Series 2020	\$6,650,000
General Obligation Refunding Bonds, Series 2020	\$14,645,000
Tax Notes, Series 2020	\$337,000
Combination Tax and Revenue Certificates of Obligation, Series 2021	\$0
Combination Tax and Revenue Certificates of Obligation, Series 2021A	\$0
Tax Notes, Series 2021	\$1,386,293
Tax Notes, Series 2022	\$0
Total	\$436,521,188

Information

Agenda Item

Resolution - Business Development: Consider adoption of a Resolution approving the resolution of the Lubbock Economic Development Alliance, Inc., authorizing the issuance of sales tax revenue bonds in a principal amount not to exceed \$32,500,000 for the purpose of funding projects for the promotion and development of new and expanded business enterprises, including the acquisition of interests in land and the design, construction, acquisition, rehabilitation, renovation, expansion, improvement and equipment of streets, roads, water and sewer utilities, and related infrastructure and improvements; approving a Sales Tax Remittance Agreement; and resolving other matters related thereto.

Item Summary

This resolution authorizes Lubbock Economic Development Alliance (LEDA) for the issuance and sale of the LEDA's Sales Tax Revenue Bonds (Bonds). The Bonds will have no recourse to the City of Lubbock and all debt service obligations will be solely secured by LEDA's voter-authorized 1/8 of 1-cent sales tax.

The LEDA Bonds will provide funds to:

1. Finance the costs of the purchase of land for the promotion and development of new and expanded business enterprises, to wit: development, retention, or expansion of projects authorized by Section 501.101 of the Local Government Code that will create or retain primary jobs (the "Land Projects")
2. Finance the costs of designing, constructing, acquiring, and improving infrastructure within the City, including streets and roads, storm sewer, sanitary sewer and water utilities, detention and drainage improvements, site improvements, and related improvements to promote or develop new or expanded business enterprises ("Infrastructure Projects")
3. Pay costs of issuing the Bonds, in conformity with the Constitution and laws of the State of Texas, including the Act, the Texas Nonprofit Corporation Act, and Chapter 22 of the Texas Business Organizations Code.

Fiscal Impact

The total amount of the Bonds will not exceed the \$32,500,000 total principal amount for one or more series of Sales Tax Revenue Bonds. The annual debt service payments will be paid solely from LEDA's authorized 1/8 of 1-cent sales tax, and the debt carried by LEDA will have no recourse to or obligation from the City of Lubbock.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Lubbock Economic Development Alliance Board of Directors

Attachments

COL Resolution
LEDA Resolution

CONSIDER ADOPTION OF A RESOLUTION APPROVING THE RESOLUTION OF LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC. AUTHORIZING THE ISSUANCE OF SALES TAX REVENUE BONDS; AND RESOLVING OTHER MATTERS RELATED THERETO

WHEREAS, the Lubbock Economic Development Alliance, Inc. (the “Corporation”) has been incorporated and exists and operates as a duly constituted authority and instrumentality of the City of Lubbock, Texas (the “City”), created pursuant to Section 4A of Article 5190.6 of the Revised Civil Statutes of Texas, as amended, and now operates under Chapters 501-504, Texas Local Government Code (the “Act”);

WHEREAS, there has been presented to this City Council a resolution (the “Bond Resolution”) of the Board of Directors of the Corporation authorizing the issuance and sale of the Corporation’s Sales Tax Revenue Bonds for the public purposes described therein, including funding the Projects (as defined within the Bond Resolution);

WHEREAS, there has been presented to this City Council a Sales Tax Remittance Agreement, between the Corporation and the City, pursuant to which sales taxes collected by the City for the benefit of the Corporation pursuant to the Act shall be transferred and deposited into a fund for the use by the Corporation in the furtherance of its authorized powers and purposes; and

WHEREAS, this City Council finds and determines that it is necessary and appropriate to approve the Bond Resolution and to approve the execution and delivery of said Sales Tax Remittance Agreement for the purposes herein provided.

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

Section 1. The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. The Bond Resolution, attached hereto as Exhibit A, is hereby approved together with the issuance by the Corporation of Sales Tax Revenue Bonds in the aggregate principal amount not to exceed \$32,500,000 (the “Bonds”) for the public purposes described within the Bond Resolution.

Section 2. The Sales Tax Remittance Agreement by and between the City and the Corporation, in substantially the form attached hereto as Exhibit B, is hereby approved and the Mayor is hereby authorized and directed to execute said agreement and the City Secretary is authorized to attest to same. For so long as the Bonds remain outstanding, the City covenants, agrees and warrants, to the extent permitted by law, to cause no reduction, abatement or exemption in the sales tax below the rate voted at the election held by and within the City on November 4, 2003, and to cause such sales tax to be collected and deposited in accordance with the Sales Tax Remittance Agreement.

Section 3. The approvals herein given are in accordance with Section 501.204(a) of the Act and the Bylaws of the Corporation, and the Bonds shall never be construed as an indebtedness or

pledge of the City, or the State of Texas (the “State”), within the meaning of any constitutional or statutory provision, and the owner of the Bonds shall never be paid in whole or in part out of any funds raised or to be raised by taxation (other than sales tax proceeds as authorized pursuant to the Act) or any other revenues of the Corporation, the City, or the State, except those revenues assigned and pledged pursuant to the Bond Resolution.

Section 4. The Mayor, the City Secretary, the City Manager, and Chief Financial Officer of the City and all other appropriate officials of the City are hereby authorized, jointly and severally, to execute and deliver such endorsements, instruments, certificates, documents, or other papers necessary and advisable to carry out the intent and purposes of this Resolution and the Bond Resolution.

Section 5. This Resolution shall be effective immediately upon adoption.

[Signature page follows]

ADOPTED THIS 6th day of December, 2022 by the City Council of the City of Lubbock, Texas.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza
City Secretary

APPROVED AS TO CONTENT:



D. Blu Kostelich
Chief Financial Officer

APPROVED AS TO FORM:



Jerry V. Kyle, Jr.
Bond Counsel

EXHIBIT A
Bond Resolution

[To be attached]

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC. SALES TAX REVENUE BONDS, IN ONE OR MORE SERIES; ESTABLISHING PROCEDURES AND DELEGATING AUTHORITY FOR THE SALE AND DELIVERY OF THE BONDS; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, Lubbock Economic Development Alliance, Inc. (the “Corporation”) has been duly created by the City of Lubbock, Texas (the “City”) and organized pursuant to the provisions of the Development Corporation Act, Texas Local Government Code, Title 12, Subtitle C1, as amended (the “Act”) (formerly known as the Development Corporation Act of 1979, Tex. Rev. Civ. Stat. Ann. Article 5190.6), specifically Chapters 501 and 504 of the Local Government Code; and

WHEREAS, a sales and use tax at the rate of 1/8th of one percent for the promotion and development of new and expanded business enterprises was approved by qualified voters of the City at an election held November 4, 2003 (the “Election”); and

WHEREAS, the Election was held in accordance with the Constitution and laws of the State of Texas, including the Texas Election Code; and

WHEREAS, the Board of Directors of the Corporation (the “Board”) hereby finds and determines that bonds should be issued at this time, in one or more series, for Land Projects and Infrastructure Projects (each as defined herein and collectively, the “Projects”); and

WHEREAS, the Board hereby finds and determines that the Projects are within the meaning of the Act and as approved by the voters at the Election; and

WHEREAS, the Board hereby finds and determines that the expenditures for the Land Projects are required and suitable for the development, retention or expansion of projects authorized by the Act; and

WHEREAS, the Board of Directors of the Corporation further finds that the expenditures for the Infrastructure Projects are required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises in the City; and

WHEREAS, the Board hereby finds and determines that it is in the best interests of the Corporation to authorize the issuance of the bonds in one or more series and that the terms of each such series of bonds should be included in a pricing certificate (each, a “Pricing Certificate”) to be executed by a Pricing Officer (hereafter designated); and

WHEREAS, it is officially found, determined, and declared that the meeting at which this Resolution has been adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered and acted upon at said meeting, including this Resolution, was given, all as required by the applicable provisions of Texas Government Code, Chapter 551.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC.:

Section 1. Definitions; Authorization; Designation; Principal Amount; Purpose.

(a) Bonds of the Corporation shall be and are hereby authorized to be issued in the maximum aggregate principal amount specified in this Resolution to be designated and bear the title set forth in the applicable Pricing Certificate (defined herein), hereinafter referred to as the "Bonds", to provide funds to: (a) finance the costs of the purchase of land for the promotion and development of new and expanded business enterprises, to wit: development, retention, or expansion of projects authorized by Section 501.101 of the Local Government Code that will create or retain primary jobs (the "Land Projects"), (b) finance the costs of designing, constructing, acquiring, and improving infrastructure within the City, including streets and roads, storm sewer, sanitary sewer and water utilities, detention and drainage improvements, site improvements, and related improvements to promote or develop new or expanded business enterprises ("Infrastructure Projects"), and (c) pay costs of issuing the Bonds, in conformity with the Constitution and laws of the State of Texas, including the Act, the Texas Nonprofit Corporation Act, and Chapter 22, Texas Business Organizations Code.

(b) For all purposes of this Resolution and in particular for clarity with respect to the issuance of the Bonds herein authorized and the pledge and appropriation of revenues to the payment of the Bonds, the following definitions are provided:

"Act" - The Development Corporation Act, Texas Local Government Code, Title 12, Subtitle C1, as amended (formerly known as the Development Corporation Act of 1979, Tex. Rev. Civ. Stat. Ann. Article 5190.6), specifically Chapters 501 and 504 of the Local Government Code.

"Additional Obligations" - Bonds, notes or other evidences of indebtedness which the Corporation reserves the right to issue or enter into, as the case may be, in the future in accordance with the terms and conditions provided in Section 18 hereof and which, together with the Bonds and any Previously Issued Bonds, are equally and ratably secured by a parity pledge of and claim on the Pledged Revenues under the terms of this Resolution and any Supplemental Resolution.

"Average Annual Debt Service" - That amount which, at the time of computation, is derived by dividing the total amount of Debt Service to be paid over a period of years as the same is scheduled to become due and payable by the number of years taken into account in determining the total Debt Service. Capitalized interest payments provided from bond proceeds, accrued interest on any Additional Obligations, and interest earnings thereon shall be excluded in making such computation.

"Beneficial Owners" - Shall have the meaning set forth in Section 6 herein.

"Board" - The Board of Directors of the Corporation.

"Bond Date" - Shall have the meaning set forth in Section 2 herein.

"Bond Fund" - Shall have the meaning set forth in Section 13 herein.

“Bonds” - The bonds authorized by this Resolution.

“City” - The City of Lubbock, Texas.

“Code” - Shall have the meaning set forth in Section 42 herein.

“Comptroller” - Shall have the meaning set forth in Section 21 herein.

“Corporation” - Lubbock Economic Development Alliance, Inc., a non-profit industrial development corporation organized and existing under and pursuant to the laws of the State of Texas, including the Act and on behalf of the City of Lubbock, Texas.

“Debt Service” - As of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the Corporation as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of obligations without a fixed numerical rate, that such obligations bear, or would have borne, interest at the maximum legal per annum rate applicable to such obligations (which shall be the lesser of the applicable statutory maximum and the maximum permitted by the proceedings authorizing such obligations), and further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to maturity, the principal amounts thereof will be redeemed prior to maturity in accordance with the mandatory redemption provisions applicable thereto. Capitalized interest payments provided from bond proceeds, accrued interest on any Additional Obligations, and interest earnings thereon shall be excluded in making such computation.

“Depository” - A commercial bank or other qualified financial institution eligible and qualified to serve as the custodian of the Corporation’s monetary accounts and funds.

“Depository Agreement” - Shall have the meaning set forth in Section 6 herein.

“Designated Financial Officer” - The Corporation’s Chief Financial Officer, Treasurer, or other officer of the Corporation then having the primary responsibility for the financial affairs of the Corporation or the Corporation’s President/CEO or the Chair of the Corporation’s Board.

“Designated Payment/Transfer Office” - Shall have the meaning set forth in Section 4 herein.

“DTC” - Shall have the meaning set forth in Section 6 herein.

“DTC Participants” - Shall have the meaning set forth in Section 6 herein.

“Election” - Shall have the meaning set forth in the recitals of this Resolution.

“Fiscal Year” - The twelve-month financial accounting period used by the Corporation ending September 30 in each year, or such other twelve consecutive month period established by the Corporation.

“Financial Obligation” - A (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Government Obligations” - Unless otherwise provided in the Pricing Certificate, (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the Corporation are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and on the date of their acquisition or purchase by the Corporation, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and (iv) any other then authorized securities or obligations under applicable State law that may be used to defease obligations such as the Bonds.

“Gross Sales Tax Revenues” - All of the revenues or receipts due or owing to, or collected or received by or on behalf of the Corporation by the City or otherwise pursuant to the Act and the election held November 4, 2003, less any amounts due and owed to the Comptroller of Public Accounts of the State of Texas as charges for the collection of the Sales Tax or retention by said Comptroller for refunds and to redeem dishonored checks and drafts, to the extent such charges and retention are authorized or required by law.

“Holders” - Shall have the meaning set forth in Section 4 herein.

“Infrastructure Projects” - Shall have the meaning set forth in Section 1 herein.

“Initial Bond(s)” - Shall have the meaning set forth in Section 8 herein.

“Land Projects” - Shall have the meaning set forth in Section 1 herein.

“Maximum Annual Debt Service” - With respect to any obligations, the highest amount of Debt Service due on all such obligations that are Outstanding, in any Fiscal Year. Capitalized interest payments provided from bond proceeds, accrued interest on any Additional Obligations, and interest earnings thereon shall be excluded in making such computation.

“Maximum Reserve Requirement” - With respect to any amount required by the Pricing Certificate or any Supplemental Resolution to be deposited into the Reserve Fund or any account or subaccount therein, the maximum amount that can be invested without restriction as to yield in a reasonably required reserve fund pursuant to Subsection (d) of Section 148 of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

“MSRB” - The Municipal Securities Rulemaking Board or its successor.

“Outstanding” - When used in this Resolution with respect to Bonds or Parity Obligations, as the case may be, means, as of the date of determination, all Bonds and Parity Obligations theretofore sold, issued and delivered by the Corporation, except:

(1) those Bonds or Parity Obligations canceled or delivered to the transfer agent or registrar for cancellation in connection with the exchange or transfer of such obligations;

(2) those Bonds or Parity Obligations paid or deemed to be paid in accordance with the provisions of Section 24 hereof or similar provisions of any Supplemental Resolution authorizing the issuance of Additional Obligations; and

(3) those Bonds or Parity Obligations that have been mutilated, destroyed, lost, or stolen and replacement obligations have been registered and delivered in lieu thereof in accordance with the provisions of Section 26 hereof.

“Parity Obligations” - Collectively, any Previously Issued Bonds, the Bonds and Additional Obligations.

“Pledged Revenues” - Collectively (i) Gross Sales Tax Revenues from time to time deposited or owing to the Pledged Revenue Fund and (ii) such other money, income, revenue, receipts or other property as may be specifically dedicated, pledged or otherwise encumbered in a Supplemental Resolution for the payment and security of Parity Obligations.

“Previously Issued Bonds” – The Corporation’s previously issued bonds on parity with the Bonds, of which there are currently none.

“Pricing Officer” - Shall have the meaning set forth in Section 3 herein.

“Projects” - Shall have the meaning set forth in the recitals of this Resolution.

“Purchasers” - Shall have the meaning set forth in Section 29 herein.

“Purchase Contract” - Shall have the meaning set forth in Section 29 herein.

“Regulations” - Shall have the meaning set forth in Section 42 herein.

“Rule” - SEC Rule 15c2-12, as amended from time to time.

“Sales Tax” - The local sales and use tax authorized under Section 4A of the Development Corporation Act of 1979, Tex. Rev. Civ. Stat. Ann. Article 5190.6 (now codified as the Development Corporation Act as described above), approved at an election held on November 4, 2003, within the corporate limits of the City, together with any increases in the rate of such Sales Tax authorized and provided by law.

“SEC” - The United States Securities and Exchange Commission.

“Security Register” - Shall have the meaning set forth in Section 4 herein.

“Special Record Date” - Shall have the meaning set forth in Section 4 herein.

“Reserve Fund” - Shall have the meaning set forth in Section 14 herein.

“State” - The State of Texas.

“Stated Maturities” - Shall have the meaning set forth in Section 2 herein.

“Supplemental Resolution” - Any resolution of the Board supplementing this Resolution for the purpose of authorizing and providing the terms and provisions of the Bonds or Additional Obligations, or supplementing or amending this Resolution for any other authorized purpose permitted in Section 18 or 25 hereof, including resolutions authorizing the issuance of Additional Obligations or pledging and encumbering income, revenues, receipts or property other than the Gross Sales Tax Revenues to the payment and security of the Parity Obligations.

“Tax-Exempt Bonds” - Bonds, the interest on which is intended by the Corporation to be excludable from gross income or federal income tax purposes, as determined and set forth in the Pricing Certificate therefor.

“Taxable Bonds” - Bonds the interest on which is not intended by the Corporation to be excludable from gross income for federal income tax purposes, as determined and set forth in the Pricing Certificate therefor.

“Transfer Agreement” - The Sales Tax Remittance Agreement dated for convenience as of even date herewith, between the City and the Corporation.

Section 2. Fully Registered Obligations; Authorized Denominations; Stated Maturities; Date. The Bonds shall be issued as fully registered obligations, without coupons, shall be dated as specified in the Pricing Certificate (the “Bond Date”), shall be in denominations of \$5,000 in principal or any integral multiple (within a Stated Maturity) thereof, shall be numbered consecutively from One (1) upward and shall become due and payable on the date(s) in each of the years and in principal amounts (the “Stated Maturities”) and bear interest at per annum rates in accordance with the details set forth in the Pricing Certificate.

The Bonds shall bear interest on the unpaid principal amounts from the date specified in the Pricing Certificate at the per annum rates shown in the Pricing Certificate (calculated on the basis of a 360 day year of twelve 30 day months). Interest on the Bonds shall be payable in each year on the dates, and commencing on the date, set forth in the Pricing Certificate.

Section 3. Delegation of Authority to Pricing Officer.

(a) The Corporation’s President & CEO, its Chief Operating Officer/Chief Financial Officer/Treasurer or the Chair of the Board (each a “Pricing Officer”) are each hereby authorized to act on behalf of the Corporation in selling and delivering the Bonds, and carrying out the other procedures specified in this Resolution, including determining the aggregate original principal

amount of the Bonds (within the maximum amount herein authorized), the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, whether the Bond shall be sold and delivered in one or more series and the date and sale and delivery of each such series and which Projects a particular series will finance, the price at which the Bonds will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the interest payment dates, whether to obtain municipal bond insurance and/or surety policies for all or any portion of the Bonds (including the execution of any commitment agreements, membership agreements in mutual insurance companies, and other similar agreements), the record dates, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the Corporation, as well as any mandatory sinking fund redemption provisions, the designation of a paying agent/registrar for the Bonds, the terms of any bond insurance or surety policies applicable to the Bonds, and all other matters relating to the issuance, sale and delivery of the Bonds, all of which shall be specified in the Pricing Certificate, provided that:

- (i) the aggregate original principal amount of the Bonds shall not exceed \$32,500,000;
- (ii) the true interest cost rate for the Bonds shall not exceed 8.00%; and
- (iii) the maximum maturity date for the Bonds shall not exceed twenty-two (22) years from the applicable Bond Date.

The execution of the Pricing Certificate shall evidence the sale date of the Bonds by the Corporation to the Purchaser (hereinafter defined).

- (b) The delegation made hereby shall expire if not exercised by a Pricing Officer within 180 days from the date of adoption hereof.

Section 4. Terms of Payment; Paying Agent/Registrar. The principal of, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of the Paying Agent/Registrar for the Bonds shall be as provided in the Pricing Certificate. Books and records relating to the registration, payment, exchange and transfer of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the Corporation by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement", substantially in the form presented to the Board herewith. A Pricing Officer and/or other appropriate officers of the Corporation are hereby authorized to execute and deliver such Agreement in connection with the delivery of the Bonds. The Corporation covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid in full and discharged. Any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and

authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the Corporation agrees to promptly cause a written notice to be sent to the Holder affected by United States Mail, first class postage prepaid, which notice shall identify and give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or upon their earlier redemption, only upon presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices as provided in the Pricing Certificate (the "Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose name appear in the Security Register at the close of business on the Record Date (which shall be set forth in the Pricing Certificate) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located is authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a non-payment of interest on one or more maturities on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment for such maturity or maturities (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Corporation. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder of such maturity or maturities appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

Section 5. Registration; Transfer; Exchange of Bonds; Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each registered owner of the Bonds issued under and pursuant to the provisions of this Resolution. Any Bond may, in accordance with its terms and the terms hereof, be transferred or exchanged for Bonds of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of a Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar, one or more new certificates evidencing the Bonds, in authorized denominations, of like Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrender for transfer shall be registered and issued to the assignee or transferee of the previous Holders.

At the option of the Holder, Bonds may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new printed certificates evidencing the Bonds, executed on behalf of, and furnished by, the Corporation, to the Holder requesting the exchange.

All Bonds issued upon any transfer or exchange of Bonds shall be delivered at the Designated Payment/Transfer Office of the Paying Agent/Registrar, or sent by United States Mail, first class postage prepaid, to the Holder and, upon the delivery thereof, the same shall be valid obligations of the Corporation, evidencing the same obligation to pay, and entitled to the same benefits under this Resolution, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be “Predecessor Bonds,” evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term “Predecessor Bonds” shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered and delivered in lieu thereof pursuant to Section 26 hereof and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the Corporation nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

Section 6. Book-Entry Only Transfers and Transactions. Notwithstanding anything to the contrary herein, this Section 6 shall not apply to any series of the Bonds sold by private placement. Notwithstanding the provisions contained in Sections 3 and 5 hereof and in the Pricing Certificate relating to the payment, and transfer/exchange of the Bonds, the Corporation hereby approves and authorizes the use of “Book-Entry Only” securities clearance, settlement and transfer system provided by The Depository Trust Company (“DTC”), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representations by and between the Corporation and DTC (the “Depository Agreement”), the execution, delivery and performance of which by one or more appropriate officers is hereby authorized and approved.

Pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the “DTC Participants”). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC,

notwithstanding the ownership of each actual purchaser or owner of each Bond (the “Beneficial Owners”) being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the Corporation determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the Corporation covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 3 and 5 hereof.

Section 7. Execution; Registration. The Bonds shall be executed on behalf of the Corporation by its Chair of the Board of Directors of the Corporation under its seal reproduced or impressed thereon and attested by the Secretary of the Corporation. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the Corporation on the date of adoption of this Resolution shall be deemed to be duly executed on behalf of the Corporation, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchasers and with respect to Bonds delivered in subsequent exchanges and transfers.

No Bond shall be entitled to any right or benefit under this Resolution, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided herein, executed by the Comptroller of Public Accounts of the State of Texas or his duly authorized agent, or a certificate of registration substantially in the form provided herein, executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate upon any Bond duly signed shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

Section 8. Initial Bond(s). The Bonds herein authorized shall be initially issued either (i) as a single fully registered bond in the total principal amount and with principal installments to become due and payable as provided in the Pricing Certificate and numbered T-1, or (ii) as multiple fully registered bonds registered to the initial purchasers in principal amounts and denominations in accordance with the Pricing Certificate and to be numbered consecutively from T-1 and upward (hereinafter called the “Initial Bond(s)”) and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

Section 9. Forms.

(a) Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas (to appear on the Initial Bond(s) only), the Registration Certificate of Paying Agent/Registrar (to appear on definitive Bonds only), and the form of Assignment to appear on each of the Bonds, shall be substantially in the forms set forth in Exhibit A attached hereto and incorporated fully herein, as such forms may be modified in the Pricing Certificate with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Resolution and with the Bonds to be completed with the information set forth in the Pricing Certificate, and may have such letters, numbers, or other marks of identification (including CUSIPs or other identifying numbers) and such legends and endorsements (including insurance legends on insured Bonds and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the Board or determined by a Pricing Officer. The Pricing Certificate shall set forth the final and controlling terms of the Bonds. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The Bonds, including the Initial Bond(s), shall be typewritten, printed, lithographed, or engraved or produced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

Section 10. Pledge. The Corporation hereby covenants and agrees that the Pledged Revenues, with the exception of those in excess of the amounts required for the payment and security of the Parity Obligations, are hereby irrevocably pledged to the payment and security of the Bonds, any Previously Issued Bonds and Additional Obligations, if issued, including the establishment and maintenance of the special funds created and established in this Resolution and any Supplemental Resolution, all as hereinafter provided. The Corporation hereby resolves the Parity Obligations shall constitute a lien on the Pledged Revenues in accordance with the terms of this Resolution and any Supplemental Resolution, which lien shall be valid and binding and fully perfected from and after the date of adoption of this Resolution without physical delivery or transfer of control of the Pledged Revenues, the filing of this Resolution or any other act; all as provided in Chapter 1208 of the Texas Government Code.

Chapter 1208, Government Code, applies to the issuance of the Bonds and the pledge of the Pledged Revenues granted by the Corporation under this Section, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are Outstanding such that the pledge of the Pledged Revenues granted by the Corporation under this Section is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the Corporation agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

Section 11. Accounts and Subaccounts. The Corporation reserves the right to establish and maintain accounts and/or subaccounts within any Fund established or permitted to be established by this Resolution or any Supplemental Resolution. The Pricing Certificate and any Supplemental Resolution may contain any relevant provisions related to such accounts and/or subaccounts.

Section 12. Pledged Revenue Fund. The Corporation hereby covenants and agrees to establish and maintain a fund or account at a Depository for the deposit of the Pledged Revenues as received by the Corporation, which fund or account shall continue to be known on the books and records of the Corporation as the “Pledged Revenue Fund.” All Pledged Revenues deposited to the credit of such Fund shall continue to be accounted for separate and apart from all other revenues, receipts and income of the Corporation and, with respect to the Gross Sales Tax Revenues, the Corporation shall further account for such funds separate and apart from the other Pledged Revenues deposited to the credit of the Pledged Revenue Fund. All Pledged Revenues deposited to the credit of the Pledged Revenue Fund shall be appropriated and expended to the extent required by this Resolution and any Supplemental Resolution for the following uses and in the order of priority shown:

First: To the payment of the amounts required to be deposited in the Bond Fund for the payment of Debt Service on the Parity Obligations as the same becomes due and payable;

Second: To the payment of the amounts required to be deposited in the Reserve Fund in accordance with the provisions of the resolutions authorizing any Previously Issued Bonds, this Resolution and any Supplemental Resolution, if any;

Third: To the payment of amounts required to be deposited in any other fund or account required by any Supplemental Resolution authorizing the issuance of Parity Obligations; and

Fourth: To any fund or account held at any place or places, or to any payee, required by any other resolution of the Board which authorized the issuance of obligations or the creation of debt of the Corporation having a lien on the Pledged Revenues subordinate to the lien created herein on behalf of the Parity Obligations.

Any Pledged Revenues remaining in the Pledged Revenue Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used for any other lawful purpose now or hereafter permitted by law.

Section 13. Bond Fund. For the purpose of providing funds to pay the principal of and interest on Parity Obligations, the Corporation covenants and agrees to maintain a separate and special account or fund on the books and records of the Corporation known as the “Lubbock Economic Development Alliance, Inc. Debt Service Fund” (the “Bond Fund”), and all monies deposited to the credit of the Bond Fund shall continue to be held in a special banking fund or account maintained at a Depository of the Corporation. In addition to the amounts required to be deposited to the credit of the Bond Fund for the payment of any Previously Issued Bonds, the Corporation covenants that there shall be deposited into the Bond Fund prior to each principal and interest payment date from the Pledged Revenues an amount equal to one hundred per centum (100%) of the interest on and the principal of the Bonds then falling due and payable, and such deposits to pay principal and accrued interest on the Bonds shall be made in substantially equal monthly installments on or before the 10th day of each month, beginning on or before the 10th day of the month next following the delivery of the Bonds to the initial purchasers.

The required deposits to the Bond Fund for the payment of principal of and interest on the Bonds shall continue to be made as hereinabove provided until (i) the total amount on deposit in the Bond Fund and Reserve Fund is equal to the amount required to fully pay and discharge all Parity Obligations (principal and interest) then Outstanding or (ii) the Bonds are no longer Outstanding.

Section 14. Reserve Fund. The Corporation reserves the right to establish and maintain a separate and special fund or account known as the "Reserve Fund" (the "Reserve Fund"). The Pricing Certificate may contain all provisions related to the Reserve Fund deemed necessary or appropriate for the Bonds by a Pricing Officer; provided, however, any required amount to be on deposit in the Reserve Fund or any account or subaccount therein shall not exceed the Maximum Reserve Requirement.

Section 15. Deficiencies. If on any occasion there shall not be sufficient Pledged Revenues to make the required deposits into the Bond Fund or Reserve Fund, such deficiency shall be cured as soon as possible from the next available Pledged Revenues, or from any other sources available for such purpose.

Section 16. Payment of Bonds. While any of the Bonds are Outstanding, a Designated Financial Officer of the Corporation shall cause to be transferred to the Paying Agent/Registrar, from funds on deposit in the Bond Fund, and, if necessary, in the Reserve Fund, amounts sufficient to fully pay and discharge promptly as each installment of interest and principal of the Bonds accrues or matures; such transfer of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the business day next preceding the date of payment for the Bonds.

Section 17. Investments; Security of Funds. Money in any Fund required to be maintained pursuant to this Resolution may, at the option of the Corporation, be invested in obligations and in the manner prescribed by the Public Funds Investment Act (Texas Government Code, Chapter 2256), including investments held in book-entry form; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from any Fund will be available at the proper time or times and provided further the maximum stated maturity for any investment acquired with money deposited to the credit of the Reserve Fund shall be limited to five (5) years from the date of the investment of such money. Such investments shall be valued in terms of current market value within 45 days of the close of each Fiscal Year and, with respect to investments held for the account of the Reserve Fund, within 45 days of the date of passage of each authorizing document of the Board pertaining to the issuance of Additional Obligations. All interest and income derived from deposits and investments in the Bond Fund immediately shall be credited to, and any losses debited to, the appropriate account of the Bond Fund. All interest and income derived from deposits in and investments of the Reserve Fund shall, subject to the limitations provided in Section 14 hereof and any limitations in the Pricing Certificate or any Supplemental Resolution, be credited to and deposited in the Pledged Revenue Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Parity Obligations.

Money deposited to the credit of the Pledged Revenue Fund, Bond Fund and Reserve Fund, to the extent not invested and not otherwise insured by the Federal Deposit Insurance Corporation

or similar agency, shall be secured by a pledge of direct obligations of the United States of America, or obligations unconditionally guaranteed by the United States of America.

Section 18. Issuance of Additional Parity Obligations. Subject to the provisions hereinafter appearing as to conditions precedent which must be satisfied, the Corporation reserves the right to issue, from time to time as needed, Additional Obligations for any lawful purpose. Such Additional Obligations may be issued in such form and manner as the Corporation shall determine, provided, however, prior to issuing or incurring such Additional Obligations, the following conditions precedent for the authorization and issuance of the same are satisfied, to wit:

(a) A Designated Financial Officer shall have executed a certificate stating that, to the best of his or her knowledge and belief, the Corporation is not then in default as to any covenant, obligation or agreement contained in the Resolution or a Supplemental Resolution.

(b) The Corporation has secured from a certified public accountant or a Designated Financial Officer a certificate or report to the effect that, according to the books and records of the Corporation, the Pledged Revenues for either (i) the last completed Fiscal Year next preceding the adoption of the Supplemental Resolution authorizing the issuance of the proposed Additional Obligations or (ii) any twelve (12) consecutive months out of the previous fifteen (15) months next preceding the adoption of the Supplemental Resolution authorizing the Additional Obligations were equal to not less than (y) 1.50 times the Average Annual Debt Service for all Parity Obligations then Outstanding after giving effect to the issuance of the Additional Obligations then being issued, and (z) 1.25 times the Maximum Annual Debt Service for all Parity Obligations then Outstanding after giving effect to the issuance of the Additional Obligations then being issued; provided, however, that in the event an increase in the rate of the Sales Tax is approved by voters at an election held prior to the date of a resolution authorizing the issuance of Additional Obligations, such certificate or report shall calculate the Pledged Revenues for the calculation period as if such increased rate were in effect during the calculation period.

Section 19. Refunding Bonds. The Corporation reserves the right to issue refunding bonds to refund all or any part of the Parity Obligations (pursuant to any then applicable laws) upon such terms and conditions as the Board may deem to be in the best interest of the Corporation, and if less than all such Parity Obligations then Outstanding are refunded, the conditions precedent prescribed (for the issuance of Additional Obligations) set forth in Section 18 hereof shall be satisfied, and shall give effect to the refunding.

Section 20. Right to Create Subordinate Debt. Except as may be limited by a Supplemental Resolution, the Corporation shall have the right to issue or create any debt payable from or secured by a lien on all or any part of the Pledged Revenues for any lawful purpose without complying with the provisions of Section 18 or 19 hereof, provided the pledge and the lien securing such debt is subordinate to the pledge and lien established, made and created in Section 10 of this Resolution with respect to the Pledged Revenues to the payment and security of the Parity Obligations.

Section 21. Confirmation and Levy of Sales Tax.

(a) The Board hereby represents the City has duly complied with the provisions of the Act for the levy of the Sales Tax at the rate voted at the Election, and such Sales Tax is to be imposed

within the corporate limits of the City and the receipts of such Sales Tax are to be remitted to the City by the Comptroller of Public Accounts on a monthly basis.

(b) While any Bonds are Outstanding, the Corporation covenants, agrees and warrants to take and pursue all action permissible to cause the Sales Tax, at said rate or at a higher rate if legally permitted, to be levied and collected continuously, in the manner and to the maximum extent permitted by law, and to cause no reduction, abatement or exemption in the Sales Tax or rate of tax below the rate stated, confirmed and ordered in subsection (a) of this Section to be ordered or permitted while any Bonds shall remain Outstanding.

(c) If hereafter authorized by law to apply, impose and levy the Sales Tax on any taxable items or transactions that are not subject to the Sales Tax on the date of the adoption hereof, to the extent it legally may do so, the Corporation agrees to use its best efforts to cause the City to take such action as may be required to subject such taxable items or transactions to the Sales Tax.

(d) The Corporation agrees to take and pursue all action legally permissible to cause the Sales Tax to be collected and remitted and deposited as herein required and as required by the Act, at the earliest and most frequent times permitted by law.

(e) The Corporation agrees to use its best efforts to cause the City to comply with the Act and shall cause the Gross Sales Tax Revenues to be deposited to the credit of the Pledged Revenue Fund in their entirety immediately upon receipt by the City. In the alternative and if legally authorized, the Corporation shall, by appropriate notice, direction, request or other legal method, use its good-faith efforts to cause the Comptroller of Public Accounts of the State of Texas (the "Comptroller") to pay all Gross Sales Tax Revenues directly to the Corporation for deposit to the Pledged Revenue Fund.

Section 22. Records and Accounts. The Corporation hereby covenants and agrees that while any of the Bonds are Outstanding, it will keep and maintain complete records and accounts in accordance with generally accepted accounting principles, and following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of certified public accountants. Each such audit, in addition to whatever other matters may be thought proper by the accountant, shall particularly include the following:

(1) A statement in reasonable detail regarding the receipt and disbursement of the Pledged Revenues for such Fiscal Year; and

(2) A balance sheet for the Corporation as of the end of such Fiscal Year.

Such annual audit of the records and accounts of the Corporation shall be in the form of a report (and may be reflected in the audit of the City) and be accompanied by an opinion of the accountant to the effect that such examination was made in accordance with generally accepted auditing standards and contain a statement to the effect that in the course of making the examination necessary for the report and opinion, the accountant obtained no knowledge of any default of the Corporation on the Bonds or in the fulfillment of any of the terms, covenants or provisions of this Resolution, or under any other evidence of indebtedness, or of any event which, with notice or lapse of time, or both, would constitute a failure of the Corporation to comply with the provisions of this Resolution or if, in the opinion of the accountants, any such failure to comply

with a covenant or agreement hereof, a statement as to the nature and status thereof shall be included.

Copies of each annual audit report shall be furnished upon written request, to any Holders of any of said Bonds. The audits herein required shall be made within 180 days following the close of each Fiscal Year insofar as is possible.

The Holders of any Bonds or any duly authorized agent or agents of such Holders shall have the right to inspect such records, accounts and data of the Corporation during regular business hours.

Section 23. Representations and Covenants as to Security for the Bonds.

(a) The Corporation represents and warrants that, except for Parity Obligations, the Pledged Revenues are and will be and remain free and clear of any pledge, lien, charge or encumbrance thereon or with respect thereto prior to, or of equal rank with, the pledge and lien created in or authorized by this Resolution except as expressly provided herein.

(b) The Bonds and the provisions of this Resolution are and will be the valid and legally enforceable obligations of the Corporation in accordance with their terms and the terms of this Resolution, subject only to any applicable bankruptcy or insolvency laws or to any laws affecting creditors rights generally.

(c) The Corporation shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Pledged Revenues and all the rights of the Holders against all claims and demands of all persons whomsoever.

(d) The Corporation will take, and use its best efforts to cause the City to take, all steps reasonably necessary and appropriate to collect all delinquencies in the collection of the Sales Tax to the fullest extent permitted by the Act.

(e) The provisions, covenants, pledge and lien on and against the Pledged Revenues, as herein set forth, are established and shall be for the equal benefit, protection and security of the owners and holders of Parity Obligations without distinction as to priority and rights under this Resolution.

(f) The Parity Obligations shall constitute special obligations of the Corporation, payable solely from, and equally and ratably secured by a parity pledge of and lien on, the Pledged Revenues, and not from any other revenues, properties or income of the Corporation. The Bonds may not be paid in whole or in part from any property taxes raised or to be raised by the City and shall not constitute debts or obligations of the State or of the City, and the Holders, shall never have the right to demand payment out of any funds raised or to be raised by any system of ad valorem taxation.

Section 24. Satisfaction of Obligation of Corporation. If the Corporation shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Resolution, then the pledge

of the Pledged Revenues under this Resolution and all other obligations of the Corporation to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Bonds or any principal amount(s) shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Obligations shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Obligations have been certified by an independent accounting firm or consulting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the Bonds on the Stated Maturities thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor accepted to the Paying Agent/Registrar have been made) the redemption date thereof. The Corporation covenants that no deposit of moneys or Government Obligations will be made under this Section and no use made of any such deposit which would cause the Tax-Exempt Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section in excess of the amount required for the payment of the Bonds shall be remitted to the Corporation or deposited as directed by the Corporation. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of four (4) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall, upon the request of the Corporation, be remitted to the Corporation against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the Corporation shall be subject to any applicable unclaimed property laws of the State of Texas.

Section 25. Resolution a Contract; Amendments. This Resolution, together with the Pricing Certificate, shall constitute a contract with the Holders from time to time, be binding on the Corporation, and shall not be amended or repealed by the Corporation while any Bond remains Outstanding except as permitted in this Section and in Section 39 hereof and the Pricing Certificate. The Corporation, may, without the consent of or notice to any Holders, from time to time and at any time, amend this Resolution in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the Corporation may, with the written consent from the owners holding a majority in aggregate principal amount of the Parity Obligations then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Resolution; provided that, without the written consent of all Holders of Outstanding Bonds affected, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Bonds, reduce the principal amount thereof, the redemption price therefor, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the

aggregate principal amount of Bonds or Parity Obligations, as the case may be, required to be held for consent to any such amendment, addition, or rescission.

Section 26. Mutilated; Destroyed; Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the Corporation and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the Corporation and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every new Bond issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Bond shall constitute a replacement of the prior obligation of the Corporation, whether or not the mutilated, destroyed, lost, or stolen Bond shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Resolution equally and ratably with all other Outstanding Bonds.

Section 27. Notices to Holders; Waiver. Wherever this Resolution provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if: (a) in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder as it appears in the Security Register, or (b) posted to the MSRB's EMMA website or any successor website thereto.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Resolution provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 28. Cancellation. All Bonds surrendered for payment, redemption, transfer or exchange, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it and, if surrendered to the Corporation, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The Corporation may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the Corporation may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Bonds held by the Paying Agent/Registrar shall be destroyed as directed by the Corporation.

Section 29. Sale of Bonds; Official Statement. The Bonds authorized by this Resolution are to be sold by the Corporation to the underwriter(s) or initial purchaser(s) (herein referred to as the “Purchasers”) in accordance with a bond purchase agreement, an accepted official bid form, private placement letter or other contract of purchase (the “Purchase Contract”), the terms and provisions of which Purchase Contract are to be determined by a Pricing Officer, in accordance with Section 3 hereof. Any and all such details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Bonds may be included in the Purchase Contract. A Pricing Officer is hereby authorized and directed to execute said Purchase Contract for and on behalf of the Corporation and as the act and deed of this Board.

Except for Bonds sold in a private placement, the Pricing Officers and other appropriate officers of the Corporation are further authorized and directed to deliver for and on behalf of the Corporation copies of a Preliminary Official Statement (including, if applicable, a notice of sale and bid form) and Official Statement, prepared in connection with the offering of the Bonds by the Purchasers, in final form as may be required by the Purchasers, and such Preliminary Official Statement and final Official Statement in the form and content as approved by a Pricing Officer or as executed by said officials shall be deemed to be approved by the Board of Directors of the Corporation and constitute the Official Statement authorized for distribution and use by the Purchasers.

Section 30. Proceeds of Sale. Immediately following the delivery of the Bonds, the proceeds of sale (less those proceeds of sale designated to pay costs of issuance and accrued interest received from the Purchasers of the Bonds and premium in the amount specified in the Pricing Certificate) shall be deposited in a construction fund. Pending expenditure for the Projects, such proceeds of sale may be invested in authorized investments and any investment earnings realized shall be expended for the Projects or deposited in the Bond Fund. All surplus proceeds of sale of the Bonds, including investment earnings, remaining after completion of the Projects, together with the accrued interest received from the Purchasers, shall be deposited to the credit of the Bond Fund.

Section 31. Legal Opinion. The obligation of the Purchasers to accept delivery of the Bonds is subject to being furnished final opinions of Orrick, Herrington & Sutcliffe LLP approving such Bonds as to their validity, said opinions to be dated and delivered as of the date of delivery and payment for such Bonds. A true and correct reproduction of each opinion is hereby authorized to be printed on the definitive Bonds or an executed counterpart thereof shall accompany the global Bonds deposited with the Depository Trust Company. The Board ratifies, confirms and approves of the engagement of Orrick, Herrington & Sutcliffe LLP as the Corporation’s bond counsel and the execution of an engagement letter with such firm.

Section 32. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof and neither the Corporation nor attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

Section 33. Control and Custody of Bonds. The Chair of the Board shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, and shall take and have charge and control of the Initial

Bond(s) pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

Furthermore, the Chair of the Board, each Pricing Officer, and any Director (including any Ex-Officio Member of the Board), individually, jointly or collectively, are hereby authorized and directed to furnish and execute such documents and certifications relating to the Corporation and the issuance of the Bonds, as may be necessary for the approval of the Attorney General, registration by the Comptroller of Public Accounts and delivery of the Bonds to the initial purchasers and, together with the Corporation's financial advisor, general counsel, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond(s) to the Purchasers and the initial exchange thereof for definitive Bonds.

Section 34. Benefits of Resolution. Nothing in this Resolution, expressed or implied, is intended or shall be construed to confer upon any person other than the Corporation, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Resolution or any provision hereof, this Resolution and all its provisions being intended to be and being for the sole and exclusive benefit of the Corporation, the Paying Agent/Registrar and the Holders.

Section 35. Inconsistent Provisions. All orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict and the provisions of this Resolution shall be and remain controlling as to the matters contained herein.

Section 36. Governing Law. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 37. Severability. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution and the application thereof to other circumstances shall nevertheless be valid, and the Board hereby declares that this Resolution would have been enacted without such invalid provision.

Section 38. Construction of Terms. If appropriate in the context of this Resolution, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

Section 39. Continuing Disclosure Undertaking. This Section shall apply unless the Pricing Officer determines in the Pricing Certificate that an undertaking is not required pursuant to the Rule.

(a) *Reserved*.

(b) *Annual Reports*. The Corporation shall provide annually to the MSRB (1) within six months after the end of each fiscal year of the Corporation beginning in the year stated in the Pricing Certificate, financial information and operating data with respect to the Corporation of the general type included in the final Official Statement approved by the Pricing Officer and described in the Pricing Certificate, and (2) if not provided as part such financial information and operating

data, financial statements of the Corporation. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the Corporation may be required to employ from time to time pursuant to state law or regulation, and in substantially the form included in the Official Statement, and (ii) audited, if the Corporation commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within six (6) months after any such fiscal year end, then the Corporation shall file unaudited financial statements within such six-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available.

If the Corporation changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the Corporation otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(c) *Notice of Certain Events.* The Corporation shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the Corporation, which as described below;
13. The consummation of a merger, consolidation, or acquisition involving the Corporation or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material;

15. Incurrence of a Financial Obligation of the Corporation, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the Corporation, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the Corporation, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding subsection (c)(12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the Corporation in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Corporation, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Corporation, and (b) the Corporation intends the words used in the immediately preceding subsections (c)(15) and (c)(16) in this Section to have the meanings ascribed to them in SEC Release No. 34-83885, dated August 20, 2018.

The Corporation shall notify the MSRB, in a timely manner, of any failure by the Corporation to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) *Limitations, Disclaimers, and Amendments.* The Corporation shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the Corporation remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the Corporation in any event will give the notice required by subsection (c) of this Section of any Bond calls and defeasance that cause the Corporation to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds; and, nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The Corporation undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section. Except as expressly provided within this Section, the Corporation does not undertake to provide any other information, whether or not it may be relevant or material to a complete presentation of the Corporation’s financial results, condition, or prospects; nor does the Corporation undertake to update any information provided in accordance with this Section or otherwise. Furthermore, the Corporation does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CORPORATION BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM

ANY BREACH BY THE CORPORATION, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the Corporation in observing or performing its obligations under this Section shall constitute a breach of or default under this Resolution for purposes of any other provision of this Resolution.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the Corporation under federal and state securities laws.

(e) *Amendments.* Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the Corporation from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the Corporation, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Resolution that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the Corporation (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the Corporation if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the Corporation's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the Corporation so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

Section 40. Further Procedures. Any one or more of the Chair or Vice Chair of the Board, any other member of the Board, Secretary of the Corporation, any Director, or a Pricing Officer are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the Corporation all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Resolution and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, all officials named in the immediately preceding sentence or Bond Counsel to the Corporation are each hereby authorized and directed to approve any changes or corrections to this Resolution or to any of the documents authorized and approved by this Resolution: (i) in order to cure any ambiguity, formal defect or omission in this Resolution or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such

changes are consistent with the intent and purpose of the Resolution, which determination shall be final. In the event that any officer of the Corporation whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 41. Transfer.

(a) The Transfer Agreement is hereby authorized and approved, and each Pricing Officer and other appropriate official of the Corporation is authorized and directed to execute same. Pursuant to the provisions of the Transfer Agreement, the City has agreed to do any and all things necessary to accomplish the transfer of the Gross Sales Tax Revenues collected for the benefit of the Corporation to the Pledged Revenue Fund on a monthly basis. The Transfer Agreement shall continue to govern matters with respect to the collection of sales and use taxes from the Comptroller, credits and refunds due and owing to the Comptroller, and other matters with respect to the collection and transfer of the Gross Sales Tax Revenues.

(b) The Chair and Vice Chair of the Board and each Pricing Officer is hereby ordered to do any and all things necessary to accomplish the transfer of money to the Funds established hereby in ample time to pay the principal of and interest on the Bonds.

Section 42. Covenants to Maintain Tax Exempt Status. For any Tax-Exempt Bonds for which the Corporation intends that the interest on the Tax-Exempt Bonds shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and all applicable temporary, proposed and final regulations (the "Regulations") and procedures promulgated thereunder and applicable to the Tax-Exempt Bonds, the Corporation covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Tax-Exempt Bonds (including all property the acquisition, construction or improvement of which is to be financed directly or indirectly with the proceeds of the Tax-Exempt Bonds) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause interest on the Tax-Exempt Bonds to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Tax-Exempt Bonds for federal income tax purposes. Without limiting the generality of the foregoing, the Corporation shall comply with each of the following covenants:

(a) The Corporation will use all of the proceeds of the Tax-Exempt Bonds to (i) provide funds for the purposes described in Section 1 hereof, which will be owned and operated by the Corporation and (ii) to pay the costs of issuing the Tax-Exempt Bonds. The Corporation will not use any portion of the proceeds of the Tax-Exempt Bonds to pay the principal of or interest or redemption premium on, any other obligation of the Corporation or a related person.

(b) The Corporation will not directly or indirectly take any action, or omit to take any action, which action or omission would cause the Tax-Exempt Bonds to constitute "private activity bonds" within the meaning of Section 141(a) of the Code.

(c) Principal of and interest on the Tax-Exempt Bonds will be paid solely from ad valorem taxes collected by the Corporation and investment earnings on such collections.

(d) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Tax-Exempt Bonds are delivered, the Corporation reasonably expects that the proceeds of the Tax-Exempt Bonds will not be used in a manner that would cause the Tax-Exempt Bonds or any portion thereof to be an “arbitrage bond” within the meaning of Section 148 of the Code.

(e) At all times while the Tax-Exempt Bonds are outstanding, the Corporation will identify and properly account for all amounts constituting gross proceeds of the Tax-Exempt Bonds in accordance with the Regulations. The Corporation will monitor the yield on the investments of the proceeds of the Tax-Exempt Bonds and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Tax-Exempt Bonds. To the extent necessary to prevent the Tax-Exempt Bonds from constituting “arbitrage bonds,” the Corporation will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Tax-Exempt Bonds to be less than the yield that is materially higher than the yield on the Tax-Exempt Bonds.

(f) The Corporation will not take any action or knowingly omit to take any action that, if taken or omitted, would cause the Tax-Exempt Bonds to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.

(g) The Corporation represents that not more than fifty percent (50%) of the proceeds of the Tax-Exempt Bonds will be invested in nonpurpose investments (as defined in Section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and the Corporation reasonably expects that at least eighty-five percent (85%) of the spendable proceeds of the Tax-Exempt Bonds will be used to carry out the governmental purpose of the Tax-Exempt Bonds within the three-year period beginning on the date of issue of the Tax-Exempt Bonds.

(h) The Corporation will take all necessary steps to comply with the requirement that certain amounts earned by the Corporation on the investment of the gross proceeds of the Tax-Exempt Bonds, if any, be rebated to the federal government. Specifically, the Corporation will

(i) maintain records regarding the receipt, investment, and expenditure of the gross proceeds of the Tax-Exempt Bonds as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the Corporation allocable to other obligations of the Corporation or moneys which do not represent gross proceeds of any obligations of the Corporation and retain such records for at least six years after the day on which the last outstanding Bond is discharged,

(ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid in

whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of any gross proceeds,

(iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Tax-Exempt Bonds, and

(iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the Corporation will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, interest thereon and any penalty.

(i) The Corporation will not directly or indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Tax-Exempt Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the Tax-Exempt Bonds not been relevant to either party.

(j) The Corporation will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Tax-Exempt Bonds on such form and in such place as the Secretary may prescribe.

(k) The Corporation will not issue or use the Tax-Exempt Bonds as part of an "abusive arbitrage device" (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Tax-Exempt Bonds are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the Corporation to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(l) Proper officers of the Corporation charged with the responsibility for issuing the Tax-Exempt Bonds are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the date of issuance of the Tax-Exempt Bonds and stating whether there are facts, estimates or circumstances that would materially change the Corporation's expectations. On or after the date of issuance of the Tax-Exempt Bonds, the Corporation will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(m) The covenants and representations made or required by this Section are for the benefit of the Bond holders and any subsequent Bond holder, and may be relied upon by the Bond holders and any subsequent Bond holder and bond counsel to the Corporation.

In complying with the foregoing covenants, the Corporation may rely upon an unqualified opinion issued to the Corporation by nationally recognized bond counsel that any action by the Corporation or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Tax-Exempt Bonds to be includable in gross income for federal income tax purposes under existing law.

Notwithstanding any other provision of this Order, the Corporation's representations and obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Tax-Exempt Bonds for as long as such matters are relevant to the exclusion of interest on the Tax-Exempt Bonds from the gross income of the owners for federal income tax purposes.

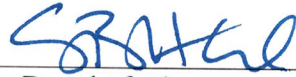
Section 43. Qualified Tax-Exempt Obligations. In the event that the Tax-Exempt Bonds are eligible to be issued as "qualified tax-exempt obligations" as defined in Section 265(b)(3) of the Code, the Pricing Officer is authorized to designate or deem the Tax-Exempt Bonds as "qualified tax-exempt obligations" and, with respect to such designation, the Pricing Officer (acting on behalf of the Board) is authorized to make the following representations, which the Board hereby approves: (a) that during the calendar year in which the Tax-Exempt Bonds are issued, the Corporation (including all entities which issue obligations on behalf of the Corporation) shall not have designated and will not designate obligations, which when aggregated with the Tax-Exempt Bonds, will result in more than \$10 million of "qualified tax-exempt obligations" being issued and (b) that the Corporation has examined its financing needs for the calendar year in which the Tax-Exempt Bonds are issued and reasonably anticipates that the amount of bonds, leases, loans or other obligations, together with the Tax-Exempt Bonds and any other tax-exempt obligations heretofore issued by the Corporation (plus those of all entities which issue obligations on behalf of the Corporation) during the calendar year in which the Tax-Exempt Bonds are issued, when the higher of the face amount or the issue price of each such tax-exempt obligations issued for the calendar year in which the Tax-Exempt Bonds are issued by the Corporation is taken into account, will not exceed \$10 million.

Section 44. Public Meeting. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Texas Government Code, Chapter 551, as amended.

Section 45. Effective Date. In accordance with the provisions of Section 1201.028, Government Code this Resolution shall be effective immediately upon its adoption by the Board.

[Remainder of page left blank intentionally]

PASSED, APPROVED AND EFFECTIVE this November 28, 2022.



Chair, Board of Directors
Lubbock Economic Development Alliance, Inc.

ATTEST:



Secretary
Lubbock Economic Development Alliance, Inc.

(a) Form of Bond.

NO. R-	UNITED STATES OF AMERICA STATE OF TEXAS	PRINCIPAL AMOUNT \$[-]
LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC. SALES TAX REVENUE BOND [TAXABLE] SERIES [2023]		

<u>Interest Rate</u>	<u>Bond Date</u>	<u>Delivery Date</u>	<u>Maturity Date</u>	<u>CUSIP No.</u>
[-]	[-]	[-]	[-]	[-]

REGISTERED OWNER:

PRINCIPAL AMOUNT:

LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC. (hereinafter referred to as the “Corporation”), a non-profit industrial development corporation organized and existing under the laws of the State of Texas, including the Development Corporation Act, Texas Local Government Code, Title 12, Subtitle C1, as amended (the “Act”) (formerly known as the Development Corporation Act of 1979, Tex. Rev. Civ. Stat. Ann. Article 5190.6), specifically Chapters 501 and 504 of the Local Government Code, with its principal office located in Lubbock County, Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues and sources pledged under the Resolution identified below, the Principal Amount stated above (or so much thereof as shall not have been paid upon prior redemption) on the Stated Maturity date specified above and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) on the unpaid Principal Amount hereof from the interest payment date next preceding the “Registration Date” of this Bond appearing below (unless this Bond bears a “Registration Date” as of an interest payment date, in which case it shall bear interest from such date, or unless the “Registration Date” of this Bond is prior to the initial interest payment date in which case it shall bear interest from the _____) at the per annum rate of interest specified above; such interest being payable on _____ and _____ of each year, commencing _____, until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity or redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Bond. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the resolution hereinafter referenced) whose name appears on the “Security Register” maintained by the Paying Agent/Registrar at the close of business on the “Record Date”, which is the _____ day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the

Exhibit A

Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located is authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of \$_____ (herein referred to as the "Bonds") to provide funds to finance the [Land Projects and Infrastructure Projects] and to pay costs of issuance, in conformity with the Constitution and laws of the State of Texas, including the Act, the Texas Nonprofit Corporation Act, and Chapter 22, Texas Business Organizations Code, and pursuant to a Resolution adopted by the governing body of the Corporation (herein referred to as the "Resolution").

[The Bonds maturing on _____, and _____ (the "Term Bonds"), are subject to mandatory redemption at a price of par plus accrued interest to the date of redemption, as follows:

Sinking Fund Redemption Schedule(s) to be inserted

The particular Term Bonds to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a Stated Maturity required to be redeemed pursuant to the operation of such mandatory redemption provisions may be reduced, at the option of the Corporation, by the principal amount of Term Bonds of like maturity which, at least 45 days prior to a mandatory redemption date, (1) shall have been acquired by the Corporation at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.]

The Bonds maturing on and after _____ may be redeemed prior to their Stated Maturities, at the option of the Corporation, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on _____ or on any date thereafter at the redemption price of par plus accrued interest thereon to the redemption date.

At least thirty days prior to the date fixed for any redemption of Bonds, the Corporation shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Resolution. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its

principal sum to be redeemed) shall become due and payable, and, if moneys for the payment of the redemption price and the interest accrued on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable from and after the redemption date on the principal amount hereof redeemed.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided in the Resolution for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is called for redemption, in whole or in part, the Corporation and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the Holder within 45 days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless certain prerequisites to such redemption required by the Resolution have been met and moneys sufficient to pay the redemption price of the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the Corporation shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds, together with the outstanding Previously Issued Bonds (as defined in the Resolution), if any, and any Additional Obligations issued in the future are payable solely from and equally and ratably secured by a pledge of the "Pledged Revenues" (as defined in the Resolution) received by the Corporation, including the "Gross Sales Tax Revenues" (as defined in the Resolution) levied for the benefit of the Corporation pursuant to the Act and an election held in the City. The Bonds do not constitute a legal or equitable, pledge, charge, lien or encumbrance upon any property of the Corporation or the City of Lubbock, Texas (the "City") except with respect to the "Pledged Revenues". This Bond may not be paid in whole or in part from any property taxes raised or to be raised by the City and is not a debt of and does not give rise to a claim for payment against the City, except as to the sales and use tax revenues held by the City and required under the Act to be paid over to the Corporation. Neither the State of Texas, the City or any political corporation, subdivision or agency of the State of Texas shall be obligated to pay this Bond or the interest hereon and neither the faith and credit nor the taxing power of the State, the City or any other political corporation, subdivision or agency thereof is pledged to the payment of the principal of and interest on this Bond except as noted above.

Subject to satisfying the terms and conditions prescribed therefor, the Corporation has reserved the right to issue additional revenue obligations payable, in whole or in part, from the “Pledged Revenues” and equally and ratably secured in like manner and effect as the Bonds.

Reference is hereby made to the Resolution, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the payment of the Bonds; the rights of Holders of the Bonds the terms and conditions for the issuance of additional obligations; the terms and conditions relating to the payment, transfer or exchange of this Bond; the conditions upon which the Resolution may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the Corporation and the Paying Agent/Registrar; the terms and provisions upon which the encumbrances, pledges, charges and covenants made therein may be discharged; and for the other terms and provisions contained therein. Capitalized terms used herein have the same meanings assigned in the Resolution.

This Bond, subject to certain limitations contained in the Resolution, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The Corporation and the Paying Agent/Registrar, and any agent of either, may treat the registered owner hereof whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the Corporation nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of non-payment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a “Special Record Date”) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the Corporation. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and covenanted that the Corporation is a non-profit industrial development corporation duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas, including the Act; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid special obligations of the Corporation have been properly done, have happened and have been performed in regular and due time, form and manner as required by law; and that due provision has been made for the payment of the principal of and interest on the Bonds

from the sources and in the manner provided in the Resolution. In case any provision in this Bond or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Resolution shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the Board of Directors of the Corporation has caused this Bond to be duly executed under the official seal of the Corporation.

_____ (signature) Secretary	_____ (signature) [Vice] Chair, Board of Directors
-----------------------------------	--

(b) Form of Paying Agent/Registrar's Authentication Certificate.

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE
(To be executed if this Bond is not accompanied by an executed Registration
Certificate of the Comptroller of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Resolution described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in exchange for, a Bond, Bonds, or a portion of a Bond or Bonds of a series that originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated: _____	[Name of Paying Agent/Registrar] [Paying Agent/Registrar's Location] Paying Agent/Registrar By: _____ Authorized Representative
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(c) Form of Registration Certificate of the Comptroller of Public Accounts.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that there is on file and of record in my office a true and correct copy of the opinion of the Attorney General of the State of Texas approving this Bond and that this Bond has been registered this day by me.

Witness my signature and seal this _____.

Comptroller of Public Accounts of the State of Texas

(COMPTROLLER'S SEAL)

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee:) _____ (Social Security or other identifying number _____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED:

Signature guaranteed:

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular

(e) The Initial Bond(s) shall be in the form set forth in paragraph (b) of this Section as modified in accordance with the Pricing Certificate, except that the form of a single fully registered Initial Bond shall be modified as follows or as provided in the Pricing Certificate:

NO. R-

UNITED STATES OF AMERICA
STATE OF TEXAS

PRINCIPAL
AMOUNT
\$[-]

LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC.
SALES TAX REVENUE BOND
[TAXABLE] SERIES [2023]

Bond Date

Delivery Date

[-]

[-]

REGISTERED OWNER:

PRINCIPAL AMOUNT:

The Lubbock Economic Development Alliance, Inc. (hereinafter referred to as the "Corporation"), a non-profit industrial development corporation organized and existing under the laws of the State of Texas, including the Development Corporation Act, Texas Local Government Code, Title 12, Subtitle C1, as amended (the "Act") (formerly known as the Development Corporation Act of 1979, Tex. Rev. Civ. Stat. Ann. Article 5190.6), specifically Chapters 501 and 504 of the Local Government Code, with its principal office located in Lubbock County, Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues and sources pledged under the Resolution identified below, the Principal Amount hereinabove stated on _____ in each of the years and in

principal amounts and bearing interest at per annum rates in accordance with the following schedule:

[Schedule from Pricing Certificate to be inserted]

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest (computed on the basis of a 360-day year of twelve 30-day months) on the unpaid Principal Amount hereof from the _____ at the per annum rate of interest specified above; such interest being payable on _____ and _____ of each year, commencing _____. Principal installments of this Bond are payable at its Stated Maturity or on a _____ prepayment date to the registered owner hereof by _____ (the "Paying Agent/Registrar"), upon its presentation and surrender, at its designated office in _____ (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the resolution hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the _____ day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located is authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

EXHIBIT B
Sales Tax Remittance Agreement

[To be attached]

SALES TAX REMITTANCE AGREEMENT

THIS SALES TAX REMITTANCE AGREEMENT (the “Agreement”), dated for convenience as of November 28, 2022, executed by and between the **CITY OF LUBBOCK, TEXAS** (the “City”) and the **LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC.** (the “Corporation”).

WITNESSETH:

WHEREAS, the Corporation was created by the City pursuant to authority granted by Article 5190.6, Texas Revised Civil Statutes, as amended (the “Act”), specifically with the Corporation to possess the powers granted by Section 4A of the Act, and now operates under Chapters 501-504, Texas Local Government Code; and

WHEREAS, on November 4, 2003, the citizens of the City voting at an election on said date approved the levy of a 1/8th of one percent sales and use tax, pursuant to the Act (the “Economic Development Sales Tax”); and

WHEREAS, under the Act and the provisions of the Texas Tax Code, disbursements of sales and use taxes are made to cities, such as the City, by the Comptroller of Public Accounts of Texas (the “Comptroller”); and

WHEREAS, under authority of the Act, the Corporation was created to fund and finance eligible projects under the Act, particularly Section 4A thereof, and to secure said obligations with the Economic Development Sales Tax collected by the City under authority of Section 4A of the Act; and

WHEREAS, the parties hereto find it necessary and advisable to enter into this Agreement to evidence the duties and responsibilities of the respective parties with respect to the collection, remittance and transfer of such sales and use tax revenues.

NOW THEREFORE, in consideration of the covenants and agreements herein made, and subject to the conditions herein set forth, the City and the Corporation contract and agree as follows:

Section 1. Creation of Fund. The City agrees to establish (to the extent not yet established) and maintain at an official depository bank of the City (the “Depository”), a fund to be entitled “Lubbock Economic Development Alliance, Inc. Sales and Use Tax Fund” (the “Sales Tax Fund”). The Sales Tax Fund shall be maintained as a separate fund at the Depository, and no other moneys of the City shall be commingled with the Sales Tax Fund. The City shall also maintain separate investment accounts into which all deposits shall be transferred when funds are received.

Section 2. Deposits to Fund. The revenues received by the City from the Comptroller from the charge and levy of the Economic Development Sales Tax shall be deposited as received, or transmitted by the Comptroller directly, to the credit of the Sales Tax Fund, for the benefit of

the Corporation, and shall be made available to the Corporation from time to time as hereinafter provided in this Agreement.

Section 3. Security for Fund. The City hereby agrees that moneys on deposit in the Sales Tax Fund shall at all times be collateralized in the manner and with the collateral required by the City for its own funds.

Section 4. Change in Depository. The City reserves the right from time to time to change its official depository bank.

Section 5. Collection of Economic Development Sales Tax. (a) Until the Comptroller is able to determine and report the amount of the Economic Development Sales Tax levied for the benefit of the Corporation and any rebate, charge-back or adjustment thereof on a point of collection basis, the City will allocate a portion of the undivided sales and use tax receipts to the Corporation on the basis of the total sales and use taxes collected, multiplied by the pro rata portion of the Economic Development Sales Tax. In addition, the City will allocate the costs of any rebate or charge-back applicable to the undivided sales and use tax receipts between the City and the Corporation on a pro rata basis.

(b) The Chair and Vice Chair of the Board of Directors of the Corporation, the President & CEO and the CFO/COO of the Corporation and the City Manager and Chief Financial Officer of the City (collectively, the "Authorized Representatives") shall take such actions as are required to cause the Economic Development Sales Tax to be delivered and transferred by the Texas Comptroller to the City for use by the Corporation by the fastest and most economically feasible means available.

Section 6. Sales Tax Fund. The Corporation confirms the City's depository bank as the depository bank for the Sales Tax Fund all as provided herein.

Section 7. Transfers from Sales Tax Fund to Pledged Revenue Fund. On or before the 1st day of each month, the City shall direct the Depository to transfer funds on deposit in the Sales Tax Fund to the credit of the Pledged Revenue Fund of the Corporation created in connection with the issuance of its Sales Tax Revenue Bonds. The City shall cause the Depository to make such transfers promptly upon receipt of such direction to the extent that there are moneys on deposit in the Sales Tax Fund to effect such transfer.

Section 8. Use of Moneys by Corporation. The Corporation agrees to use the moneys on deposit in the Corporation's Pledged Revenue Fund in a manner consistent with the terms and conditions of the Act and the election of November 4, 2003.

Section 9. Covenant of the City. Recognizing that the Economic Development Sales Tax shall provide the security for the Corporation's bonds and other obligations, so long as such bonds and other obligations are outstanding, the City covenants and agrees that it will take and pursue all possible action permitted by the Act and other applicable State law to cause the Economic Development Sales Tax to be levied and collected continuously at a rate not less than

1/8th of one percent, and the City will not cause a reduction, abatement or exemption in the Economic Development Sales Tax or in the rate at which it is authorized to be collected.

Section 10. Reserved.

Section 11. Fees of Depository. In connection with the establishment and maintenance of the Sales Tax Fund, the Corporation agrees to pay the reasonable costs and expenses of the Depository associated with the administration of the Sales Tax Fund and such costs and expenses, if any, shall never constitute a cost, liability, or obligation of the City.

Section 12. Severability. If any clause, provision, or section of this Agreement should be held illegal or invalid by any court of competent jurisdiction, the invalidity of such clause, provision, or section shall not affect any of the remaining clauses, provisions, or sections hereof and this Agreement shall be construed and enforced as if such illegal or invalid clause, provision, or section had not been contained herein. In case any agreement or obligation contained in this Agreement should be held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of the City and the Corporation, as the case may be, to the full extent permitted by law.

Section 13. Modifications. This Agreement shall not be changed orally, and no executory agreement shall be effective to waive, change, modify or discharge this Agreement in whole or in part unless such executory agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought.

Section 14. Entire Agreement. This Agreement contains the entire agreement between the parties pertaining to the subject matter hereof and fully supersedes all prior agreements and understandings between the parties pertaining to such subject matter.

Section 15. Applicable Law. This Agreement shall in all respects be governed by, and construed in accordance with, the substantive federal laws of the United States and the laws of the State of Texas.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date and year first above written.

**LUBBOCK ECONOMIC DEVELOPMENT
ALLIANCE, INC.**

Chair, Board of Directors

ATTEST:

Secretary

CITY OF LUBBOCK, TEXAS

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

RE 22-48

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC. SALES TAX REVENUE BONDS, IN ONE OR MORE SERIES; ESTABLISHING PROCEDURES AND DELEGATING AUTHORITY FOR THE SALE AND DELIVERY OF THE BONDS; AND ENACTING OTHER PROVISIONS RELATING TO THE SUBJECT

UPON MOTION by Director, Matt Bumstead, and Seconded by Director Mr. Walter Cathey, with Directors Mr. James Conwright and Mr. Sonny Garza abstaining, it was RESOLVED BY THE BOARD OF DIRECTORS OF LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC. approved the Resolution 22-48 presented at the November 28, 2022, LEDA Board of Director Meeting. Resolution is attached and will be included in the minutes of the LEDA Board Meeting for November 28, 2022.

Approved by Lubbock Economic Development Board of Directors on November 28, 2022.