

City of Lubbock, Texas
Regular City Council Meeting
October 24, 2023

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
Latrell Joy, Councilwoman, District 6



W. Jarrett Atkinson, City Manager
Chad Weaver, City Attorney
Courtney Paz, 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.

1:30 p.m. - City Council convenes in City Council Chambers in Open Session and immediately recesses to Executive Session.

1. Executive Session

1. 1. Hold an executive session in accordance with Texas Government Code Section 551.074, to discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Electric Utility Board, Permit & License Appeal Board, and the Planning & Zoning Commission.

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 October 24, 2023. Citizen Comments provide an opportunity for citizens to make comments and express a position on agenda items.**
4. **Minutes**
4. 1. August 23, 2023 Special City Council Meeting - Lubbock Economic Development Alliance
September 26, 2023 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. 2023-00133, Amendment 1, amending the FY 2023-24 Budget for municipal purposes respecting the Grant Fund to accept and appropriate from the U.S. Department Federal Highway Administration; providing for filing; and providing for a savings clause.
5. 2. **Budget Ordinance Amendment 1st Reading - Finance:** Consider Budget Ordinance Amendment 2, amending the FY 2023-24 Budget for municipal purposes respecting the Engineering Fees; providing for filing; and providing for a savings clause.
5. 2. 1. **Ordinance 1st Reading - Engineering:** Consider an ordinance amending the City of Lubbock Code of Ordinances, Chapter 22, "UTILITIES" and Chapter 36, "STREETS, SIDEWALKS, AND OTHER PUBLIC WAYS", and repealing certain inapplicable provisions, in order to comply with the engineering review and construction inspection fee requirements in House Bill 3492.
5. 3. **Resolution - Business Development:** Consider a resolution approving a Downtown Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Housing Trust Group Lubbock, LLC, located at 1202 Main Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.
5. 4. **Resolution - Business Development:** Consider a resolution approving a Downtown Grant Program (Permittable) expenditure of Market Lubbock, Inc. to be provided to Housing Trust Group Lubbock, LLC, located at 1202 Main Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

5. 5. **Resolution - Business Development:** Consider a resolution authorizing a Commercial Revitalization Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Weinerschnitzel, located at 301 University Avenue, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.
5. 6. **Resolution - Business Development:** Consider a resolution authorizing a Commercial Revitalization Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Hoff Gardens Apartments, located at 1919 34th Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.
5. 7. **Resolution - Business Development:** Consider a resolution authorizing a Commercial Revitalization Grant Program (Permittable) expenditure of Market Lubbock, Inc., to be provided to Hoff Gardens Apartments, located at 1919 34th Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.
5. 8. **Resolution - Business Development:** Consider a resolution authorizing a Commercial Revitalization Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Westminster Presbyterian Church, located at 3321 33rd Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.
5. 9. **Resolution - Business Development:** Consider a resolution authorizing a Commercial Revitalization Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Dixie Partners II, LP, located at 1805 Parkway Drive, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.
5. 10. **Resolution - Business Development:** Consider a resolution authorizing a Commercial Revitalization Grant Program (Permittable) expenditure of Market Lubbock, Inc., to be provided to Dixie Partners II, LP, located at 1805 Parkway Drive, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.
5. 11. **Ordinance 2nd Reading - Right-of-Way:** Consider Ordinance No. 2023-O0134, abandoning and closing portions of street and alley right-of-way in Section AK, Block 38, Lubbock County, Texas, in the West Milwaukee Ridge Subdivision, east of Upland Avenue between 37th Street and the Lubbock & Western Railway tracks.
5. 12. **Ordinance 2nd Reading - Right-of-Way:** Consider Ordinance No. 2023-O0135, abandoning and closing all remaining easements and right-of-way located in Block 130, Original Town of Lubbock, Lubbock County, Texas, south of Broadway and north of 13th Street, and west of Avenue L and east of Avenue M.

5. 13. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 17625, with Freese and Nichols, Inc., for engineering design services as it relates to Upland Avenue from 50th Street to 66th Street.
5. 14. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Professional Services Contract 17669, with dredgeSMART, for professional design services of the Terminal Storage Reservoir Improvements Project.
5. 15. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 17258, with Halff Associates, Inc., for professional services for watershed boundary and drainage studies.
5. 16. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 17620, with Parkhill, for engineer of record services and project assistance, as it relates to the 34th Street Back-of-Curb Project.
5. 17. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 17636, with Halff Associates, Inc., for engineering services for the reconstruction of Upland Avenue from 19th Street to 34th Street.
5. 18. **Resolution - Public Works Water:** Consider a resolution authorizing the Mayor to execute Contract 17410, with Rangeline Utility Services, Inc., for the installation of isolation valves and vaults associated with Pump Station No. 4.
5. 19. **Ordinance 2nd Reading - Building Safety:** Consider Ordinance No. 2023-00136, amending Article 2.03, Division 13, of the City of Lubbock Code of Ordinances, regarding the duties and responsibilities of the Model Codes and Construction Advisory Board.
5. 20. **Resolution - Public Health Services:** Consider a resolution ratifying the actions of the Mayor in executing Human Services Commission (HHSC) Contract No. HHS000537900338, and all related documents, under the Medicaid Administrative Claiming Program, by and between the City of Lubbock and the State of Texas Health and Human Services Commission.
5. 21. **Resolution - Public Health Services:** Consider a resolution authorizing the Mayor to execute Contract 17450, and all related documents, with Stages of Recovery, Inc., for Substance Use Treatment Provider Services.
5. 22. **Resolution - Civic Centers:** Consider a resolution accepting, on behalf of the City of Lubbock, a public art donation titled *The Naiads*, comprised of four sculptures by artist Glenna Maxey Goodacre, from Civic Lubbock, Inc., for the City of Lubbock Public Art Collection.

5. 23. **Resolution - Information Technology:** Consider a resolution authorizing the Mayor to execute Purchase Order 33001792, with Microsoft Corporation, for the annual renewal of the Enterprise Services Work Order Agreement, to provide technical assistance in maintaining Microsoft products and applications.

5. 24. **Resolution - Information Technology:** Consider a resolution authorizing the Mayor to execute Purchase Order 32501090, with Dailey & Wells Communications, Inc., for the scheduled replacement of portable radios for Public Safety.

6. **Regular Agenda**

6. 1. **Board Appointments - City Secretary:** Consider appointments to the Airport Board, Animal Services Advisory Board, Citizens Traffic Commission, Health/Educational Facilities Development Corporation Board, Lubbock Emergency Communications District Board of Managers, Lubbock Economic Development Alliance, Inc. Board of Directors, Market Lubbock Economic Development Corporation Board of Directors, Model Codes & Construction Advisory Board, Museum & Art Standing Sub-Committee, Permit & License Appeal Board, Planning & Zoning Commission, and the Veterans Advisory Committee.

6. 2. **Board Appointments - City Secretary:** Consider appointments to the Electric Utility Board.

6. 3. **Resolution - Business Development:** Consider a resolution making findings that the Cypress Ranch Public Improvement District (PID) meets the requirements of Chapter 372 of the Texas Local Government Code; accepting the Cypress Ranch PID Petition, which covers a portion of an area in the City of Lubbock, Lubbock County, Texas, generally bounded by the Levelland Highway to the North, agricultural land to the East, railroad tracks to the South, and Inler Avenue to the West; and calling for a public hearing to receive public comment on the formation of a public improvement district in the area depicted and described.

6. 4. **Resolution - Planning:** Consider a resolution approving and granting a variance from the applicable 300-foot minimum distance provision of the City of Lubbock Code of Ordinances No. 2009-O0060, at 5001 Avenue Q, Suite A, for an alcoholic beverage permit for Quince's Taco Shack.

6. 5. **Resolution - City Council:** Consider a resolution creating a citizen committee to study amortization and strategic downzoning in the City of Lubbock.

6. 6. **Resolution - Lubbock Power & Light:** Consider a resolution regarding the process which will be followed for assigning customers to the entities previously selected to serve as the Provider of Last Resort (POLR) in the Lubbock Power & Light (LP&L) certificated area upon LP&L's entry into retail competition.

6. 7. **Resolution - Lubbock Power & Light:** Consider a resolution regarding the process which will be followed for assigning customers to the entities previously selected to serve as the Default Retail Electric Providers (DREP) in Lubbock Power & Light's (LP&L) certificated area upon LP&L's entry into retail competition.
6. 8. **Resolution - Lubbock Power & Light:** Consider a resolution determining that condition #7 in the Customer Choice Resolution adopted by the City Council on February 22, 2022, related to the sufficiency of the number of retail electric providers, including a sufficient number of independent, unaffiliated retail electric providers within the Electric Reliability Council of Texas market, has been satisfied, such that competitive customer choice can be adequately provided to customers within the Lubbock Power & Light certificated service area.

Information

Agenda Item

Hold an executive session in accordance with Texas Government Code Section 551.074, to discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Electric Utility Board, Permit & License Appeal Board, and the Planning & Zoning Commission.

Item Summary

Hold an executive session in accordance with Texas Government Code Section 551.074, to discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Electric Utility Board, Permit & License Appeal Board, and the Planning & Zoning Commission.

Fiscal Impact

None

Staff/Board Recommending

Courtney Paz, City Secretary

Attachments

No file(s) attached.

Information

Agenda Item

August 23, 2023 Special City Council Meeting - Lubbock Economic Development Alliance
September 26, 2023 Regular City Council Meeting

Item Summary

August 23, 2023 Special City Council Meeting - Lubbock Economic Development Alliance
September 26, 2023 Regular City Council Meeting

Fiscal Impact

None

Staff/Board Recommending

Courtney Paz, City Secretary

Attachments

8.23.2023 S LEDA
9.26.2023

CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
August 23, 2023
8:30 A.M.

The City Council of the City of Lubbock, Texas met in special session on the 23rd of August, 2023, at the McDougal Companies Building, 1500 Broadway, 5th Floor, Suite 501, Lubbock, Texas at 8:30 a.m.

8:33 A.M. CITY COUNCIL CONVENED
McDougal Companies Building, 1500 Broadway, 5th Floor, Suite 501, 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; City Manager W. Jarrett Atkinson; City Secretary Courtney Paz; Senior Assistant City Attorney Kelli Leisure

Absent: Council Member Mark W. McBrayer; Council Member Dr. Jennifer Wilson

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

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

- *Executive Session; 1.1; 3.1-3.3; and 3.7.*
- *Item No.'s 3.4-3.6 and 3.7.1-3.8 were deleted.*

1. MINUTES

- 1. 1.** The Board will approve the minutes of the LEDA Board of Directors meeting of July 26, 2023 and the Special Called Board Meeting of August 3, 2023.

Motion by John Opperman, seconded by Bake Womble, to approve the minutes of the LEDA Board of Directors meeting of July 26, 2023.

Vote: 8-0 Motion carried

Other: Walter Cathey (ABSENT)

Steven Cate (ABSENT)

Motion by Blake Womble, seconded by James Conwright, to approve the minutes of the LEDA Board of Directors meeting of the Special Called Board Meeting of August 3, 2023.

Vote: 8-0 Motion carried

Other: Walter Cathey (ABSENT)

Steven Cate (ABSENT)

2. EXECUTIVE SESSION

This meeting was called into a closed session at 8:35 a.m. under the provisions of Section 551, Texas Government Code. The meeting was called back into a public session at 9:23 a.m.

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

3. REGULAR SESSION

3. 1. The Board will consider a resolution to approve the July 2023 LEDA Financial Report.

Jana Johnston, chief financial officer/chief operating officer of LEDA, gave comments and answered questions.

Motion by Chris Hurley Carpenter, seconded by Blake Womble, to approve the resolution approving the July 2023 LEDA financial report.

Vote: 8-0 Motion carried

Other: Walter Cathey (ABSENT)

Steven Cate (ABSENT)

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

Christine Allen, director of workforce development and foreign-trade zone 260 for LEDA, gave a presentation and answered questions. John Osborne, president and chief executive officer for LEDA, gave comments and answered questions.

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

Katherine White, director of marketing and communications for LEDA, gave a presentation and answered questions. John Osborne, president and chief executive officer for LEDA, gave comments and answered questions.

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

This item was deleted.

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

This item was deleted.

3. 5. 1. Discuss the current status of the plans for developing the parks.

This item was deleted.

3. 5. 2. Discuss the current status of efforts to use the properties by businesses.

This item was deleted.

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

This item was deleted.

3. 5. 4. Discuss and the Board will consider action, if needed, on possible financing options for improvements to the properties.

This item was deleted.

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

This item was deleted.

3. 5. 6. Discuss and the Board will consider action, if needed, on property to be used for future economic development opportunities.

This item was deleted.

3. 6. Architectural Review Committee Report

3. 7. CEO Report

John Osborne, president and chief executive officer for LEDA, presented the CEO Report and answered questions.

3. 7. 1. LEDA Dashboard

This item was deleted.

3. 7. 2. Employment Data Report

This item was deleted.

3. 8. Chairman's Report

9:44 A.M. CITY COUNCIL ADJOURNED

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

The August 23, 2023 Special City Council Meeting minutes were approved by the City Council on the 24th day of October, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
September 26, 2023
1:00 P. M.

The City Council of the City of Lubbock, Texas met in regular session on the 26th of September, 2023, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas at 1:00 p.m.

1:00 P.M. CITY COUNCIL CONVENED

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

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

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

- *Executive Session; 2.1-2.2; Citizen Comments 3; 4.1; 5.7; 5.1-5.6; 5.8-5.34; 6.1-6.2; and 6.3-6.18.*
- *Item No. 6.5 failed.*

1. Executive Session

The meeting recessed at 1:01 p.m. and reconvened in Executive Session under the provisions of Section 551, Texas Government Code. City Council reconvened in open session at 2:00 p.m., and the meeting was called to order at 2:02 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.** Parcel 74, a 19.246-acre Parcel Located in Section 31, Block AK, Lubbock County, Texas
- 1. 1. 2.** Parcel 74-A, a 1.141-acre Parcel Located in Section 31, Block AK, Lubbock County, Texas
- 1. 1. 3.** 98th Street – Alcove Avenue to Upland Avenue Road Bond Project
- 1. 1. 4.** Erskine Street Capital Improvements Project
- 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. Parcel 74, a 19.246-acre Parcel Located in Section 31, Block AK, Lubbock County, Texas
1. 2. 2. Parcel 74-A, a 1.141-acre Parcel Located in Section 31, Block AK, Lubbock County, Texas
1. 2. 3. 98th Street – Alcove Avenue to Upland Avenue Road Bond Project
1. 2. 4. Erskine Street Capital Improvements Project
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 Attorney
 1. 3. 2. City Manager
 1. 3. 3. City Secretary

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

City Council reconvened at 2:00 p.m.

2. Ceremonial Items

2. 1. Invocation

Reverend Johnny Perez, Church of the Blessed International, 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 2:02 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 2:00 p.m. on September 26, 2023. Citizen Comments provide an opportunity for citizens to make comments and express a position on agenda items.**

Sign ups:

- Mary Crites; Richard Murphy; Alastair Hamilton; Holle Humphries; Roger Settler; and Stephen Faulk appeared to speak on item 6.17 (Proposed amendments to the United Development Code).
- Josh Shankles appeared to speak in opposition of item 6.17 (Proposed amendments to the United Development Code).

4. Minutes

4. 1. August 22, 2023 Regular City Council Meeting

Motion by Council Member Christy Martinez-Garcia, seconded by Council Member Steve Massengale, to approve the August 22, 2023 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 Dr. Jennifer Wilson, seconded by Council Member Christy Martinez-Garcia, to approve items 5.1-5.6 and 5.8-5.34.

Vote: 7 - 0 Motion carried

- 5. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2023-O0110, Amendment 31, Amending the FY 2022-23 Budget for municipal purposes respecting the Grant Fund to accept and appropriate funding from the Texas Health and Human Services Commission; providing for filing; and providing for a savings clause.
- 5. 2. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2023-O0111, Amendment 33, amending the FY 2022-23 Budget for municipal purposes respecting the Civic Centers Fund; providing for filing; and providing for a savings clause.
- 5. 3. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2023-O0112, Amendment 36, amending the FY 2022-23 Budget for municipal purposes respecting the Grant Fund to accept and appropriate funding from the Federal Transit Administration; providing for filing; and providing for a savings clause.
- 5. 3. 1. **Resolution - Public Transit Services:** Resolution No. 2023-R0457 authorizing the Chief Financial Officer of the City of Lubbock to execute a Federal Transit Administration Section FY 2021 Section 5339(a) Grant, Project ID TX-2023-096-00, to be used for the purchase of ADA paratransit replacement vans.
- 5. 4. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2023-O0113, Amendment 37, Amending the FY 2022-23 Budget for municipal purposes respecting the Parks Capital Project Fund; providing for filing; and providing for a savings clause.

5. 5. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2023-O0118, Amendment 35, Amending the FY 2022-23 Budget for municipal purposes respecting Grant Fund to accept and appropriate funding from the Texas Health and Human Services Commission; providing for filing; and providing for a savings clause.
5. 6. **Resolution - Finance:** Resolution No. 2023-R0458 releasing the lien on 4701 121st Street, Unit #15, Vintage Township Lot 235, in the Vintage Township Public Improvement District.
5. 7. **Resolution - Business Development:** Resolution No. 2023-R0456 authorizing the Mayor to execute a Memorandum of Understanding (MOU) between the Central Business District Tax Increment Financing Zone (CBD TIF) Advisory Board and HTG Lubbock, LLC (HTG), for the provision of funding a portion of the Inn Town Lofts development project at 1202 Main Street in Downtown, Lubbock, Texas.

Jarrett Atkinson, city manager, gave a presentation and answered questions from City Council. Justin Tuttle, with Housing Trust Group, LLC., gave comments and answered questions from City Council.

Motion by Council Member Steve Massengale, seconded by Council Member Dr. Jennifer Wilson, to approve Resolution No. 2023-R0456.

Vote: 7 - 0 Motion carried

5. 8. **Resolution - Right-of-Way:** Resolution No. 2023-R0459 authorizing the Mayor to accept, for and on behalf of the City of Lubbock, a Street Dedication Deed, a Drainage Easement, and a Right-of Way-Deed, and all related documents, in connection with certain real property located in Section 2, Block JS, Lubbock County, Texas, (Parcel 2), to be utilized for the Erskine Street Roadway Project.
5. 9. **Resolution - Right-of-Way:** Resolution No. 2023-R0460 authorizing the Mayor to accept, for and on behalf of the City of Lubbock, a Street Dedication Deed, a Drainage Easement, and a Right-of Way-Deed, and all related documents, in connection with certain real property located in Section 2, Block JS, Lubbock County, Texas (Parcel 7), to be utilized for the Erskine Street Roadway Project.
5. 10. **Resolution - Right-of-Way:** Resolution No. 2023-R0461 authorizing the Mayor to execute a Parking Lease Agreement, and all related documents, by and between the City of Lubbock and Cast Iron Grill, for the use of parking spaces on City-owned property at 1801 Crickets Avenue.
5. 11. **Resolution - Right-of-Way:** Resolution No. 2023-R0462 authorizing the Mayor to accept, for and on behalf of the City of Lubbock, a Street and Public Use Dedication Deed, and all related documents, in connection with certain real property on the south side of 98th Street, east of Alcove Avenue, located in the west portion of the north half of Section 23, Block AK, Lubbock County, Texas, to be utilized for the 98th Street Roadway Project.

5. 12. **Resolution - Engineering:** Resolution No. 2023-R0463 authorizing the Mayor to execute Amendment No. 2 to Contract 15089, with Kimley-Horn and Associates Professional Engineering, for bid and construction phase services associated with the 114th Street Reconstruction Project, from Slide Road to Quaker Avenue.
5. 13. **Resolution - Engineering:** Resolution No. 2023-R0464 authorizing the Mayor to execute Amendment No. 1 to Contract 17265, with Plummer Associates, Inc., for an additional year to perform design services associated with the Reese Water Line Improvements Capital Improvements Project.
5. 14. **Resolution - Engineering:** Resolution No. 2023-R0465 authorizing the Mayor to execute Public Works Contract 17502, with Infrastructure Rehabilitation USA, Inc., for Sanitary Sewer Manhole Rehabilitation.
5. 15. **Resolution - Stormwater Compliance:** Resolution No. 2023-R0466 authorizing the Mayor to execute Service Contract 17428, with West Texas Services, Inc. dba Tom's Tree Place, for the Day Estates Detention Basin Maintenance Agreement,
5. 16. **Ordinance 1st Reading - Wastewater Utility:** Ordinance No. 2023-O0119 amending the City of Lubbock Code of Ordinances, Chapter 22, "UTILITIES", to provide for establishing new definitions, delineating sewer line repair and maintenance responsibilities, amending the regulation for city-participation for large mains, and repealing certain inapplicable provisions.
5. 17. **Resolution - Wastewater Utility:** Resolution No. 2023-R0467 authorizing the Mayor to execute Contract 17504, with Massey Irrigation, for maintenance and repair of center pivot systems at the Lubbock Land Application and the Hancock Land Application Sites.
5. 18. **Ordinance 2nd Reading - Water Utilities:** Ordinance No. 2023-O0115 amending Article 22.03.091 of the Code of Ordinances of the City of Lubbock, by deleting Section 22.03.091(h), which removes a special wholesale water rate for the Lubbock Reese Redevelopment Authority.
5. 19. **Ordinance 2nd Reading - Water Utilities:** Ordinance No. 2023-O0114 amending Article 22.03 of the Code of Ordinances of the City of Lubbock, by adding Section 22.03.098, to provide a definition of governmental agencies and subdivisions.
5. 20. **Resolution - Water Utilities:** Resolution No. 2023-R0468 authorizing the Mayor to execute an Interlocal Wholesale Wastewater Contract with Lubbock Cooper Independent School District, for continued wastewater services to its Woodrow Campus located outside the city limits.
5. 21. **Resolution - Water Utilities:** Resolution No. 2023-R0469 authorizing the Mayor to execute an Interlocal Wholesale Water Sales Contract with the Lubbock Reese Redevelopment Authority, to continue supplying potable water from the City's water system.
5. 22. **Resolution - Facilities Management:** Resolution No. 2023-R0470 authorizing the Mayor to execute Contract 17489, with Kleen-Tech Services, LLC, for custodial services for various City facilities.

5. 23. **Resolution - Public Health Services:** Resolution No. 2023-R0471 authorizing the Mayor to execute Amendment No. 2 to the Department of State Health Services Contract No. HHS001057600030 under the Health Disparities Program, by and between the City of Lubbock and the State of Texas Department of State Health Services (DSHS), and all related documents.
5. 24. **Resolution - Aviation:** Resolution No. 2023-R0472 authorizing the City Council to reject all bids for the Roof Replacement on the Horton Hangar and Hangar 302 at Lubbock Preston Smith International Airport.
5. 25. **Resolution - Public Transit Services:** Resolution No. 2023-R0473 authorizing the Mayor to execute Purchase Order 27123389, with Creative Bus Sales, to purchase six Lone Star Promaster paratransit vans.
5. 26. **Resolution - Municipal Court:** Resolution No. 2023-R0474 authorizing the Mayor to execute an Interlocal Agreement with Lubbock County for Juvenile Case Manager Services to be provided by Lubbock County, Texas.
5. 27. **Resolution - Parks and Recreation:** Resolution No. 2023-R0475 authorizing the Mayor to execute Purchase Order 10026771, with The PlayWell Group, Inc., for picnic tables and grills to be installed at multiple City parks.
5. 28. **Resolution - Information Technology:** Resolution No. 2023-R0476 authorizing the Mayor to execute Purchase Order 33001768, with Mythics, Inc, for a two-year renewal of Oracle software licenses, maintenance support for JD Edwards Enterprise One, and One View Reporting applications, for the City's financial management systems.
5. 29. **Resolutions - Fleet Services:** Resolution No.'s 2023-R0477, 2023-R0478, 2023-R0479, and 2023-R0480 authorizing the Mayor to execute Contract 17594 with Williams Brake Tune & Tire, LLC, Contract 17595 with Scott's Complete Car Care, Contract 17596 with Pinkerton's Garage, and Contract 17510 with Carizma Car Care, LLC, for maintenance and repair of the City's Light & Medium Duty Vehicles and Equipment.
5. 30. **Resolution - Fleet Services:** Resolution No. 2023-R0481 authorizing the Mayor to execute Purchase Order 31076607, with Lake Country Chevrolet, Inc of Jasper, Texas, for the purchase of fifteen (15) new Police SUV's.
5. 31. **Resolution - Fleet Services:** Resolution No. 2023-R0482 authorizing the Mayor to execute Purchase Order 31076524, with Frontier Dodge Chrysler Jeep Ram of Lubbock, Texas, for the purchase of two Mid-Size SUVs and one Compact SUV for various City Departments.
5. 32. **Resolution - Police:** Resolution No. 2023-R0483 authorizing the Mayor to execute a Local Administrative Agreement between the constituent agencies of the Lubbock Metropolitan Special Crimes Unit.

5. 33. **Resolution - City Manager:** Resolution No. 2023-R0484 confirming the appointment of Gregory Rushin, as Interim Police Chief of the City of Lubbock, by the City Manager, Jarrett Atkinson.

Jarrett Atkinson, city manager, gave comments and answered questions from City Council.

5. 34. **Resolution - City Manager:** Resolution No. 2023-R0485 ratifying the actions of the City Manager in executing an agreement with Strategic Government Resources (SGR), for Interim Police Chief services.

6. **Regular Agenda**

6. 1. **Board Appointments - City Secretary:** Consider appointments to the Upland Crossing Public Improvement District Advisory Board.

Motion by Council Member Latrelle Joy, seconded by Council Member Mark W. McBrayer, to appoint Tonya Jernberg to the Upland Crossing Public Improvement District Advisory Board.

Vote: 7 - 0 Motion carried

6. 2. **Board Appointments - City Secretary:** Consider appointments to the Bell Farms Public Improvement District (PID) Advisory Board.

Motion by Council Member Latrelle Joy, seconded by Council Member Mark W. McBrayer, to appoint Jennifer Roseberry to the Bell Farms Public Improvement District Advisory Board.

Vote: 7 - 0 Motion carried

6. 3. **Public Hearing - Planning (District 1):** Ordinance No. 2023-O0120, for Zone Case 59-B, a request of Roberta Beam, for a zone change from General Retail District (C-3) to Commercial-Apartment District (CA), at 2613 34th Street, located south of 34th Street, and east of Boston Avenue, Lisemby Addition, Block 1, Lots 5 through 7, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council. Roberta Beam, the proponent, gave comments and answered questions from City Council.

Mayor Payne opened the public hearing at 2:49 p.m.

No one appeared to speak in favor or opposition.

Mayor Payne closed the public hearing at 2:50 p.m.

Motion by Council Member Christy Martinez-Garcia, seconded by Council Member Dr. Jennifer Wilson, to approve Ordinance No. 2023-O0120.

Vote: 7 - 0 Motion carried

- 6. 4. Public Hearing - Planning (District 1):** Ordinance No. 2023-O0121, for Zone Case 0092-A, a request of Five Points Corporation for Heather Lea Hollingsworth, for a Specific Use for an Event Center on property zoned Local Retail District (C-2), at 4228, 4230, and 4232-A Boston Avenue, located south of 42nd Street and west of Boston Avenue, Modern Manors Addition, Blocks 1, 2, and 3, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council.

Mayor Payne opened the public hearing at 2:55 p.m.

Heather Hollingsworth, the proponent, appeared to speak in favor.

No one appeared to speak in opposition.

Mayor Payne closed the public hearing at 2:59 p.m.

Motion by Council Member Christy Martinez-Garcia, seconded by Council Member Mark W. McBrayer, to approve Ordinance No. 2023-O0121.

Vote: 7 - 0 Motion carried

- 6. 5. Public Hearing - Planning (District 2):** Consider a request for Zone Case 0769-A, a request of Omni Sacred LLC, for a zone change from Single-Family District (R-1) to Two-Family District (R-2), at 2523 69th Street, located south of 69th Street and east of Canton Avenue, Caprock Addition, Lot 1153, and consider an ordinance.

This item failed.

Kristen Sager, director of planning, gave a presentation and answered question from City Council.

Mayor Payne opened the public hearing at 3:02 p.m.

No one appeared to speak in favor or opposition.

Mayor Payne closed the public hearing at 3:02 p.m.

Motion by Council Member Latrelle Joy, seconded by Council Member Steve Massengale, to approve this item.

Vote: 0 - 7 Failed

NAY: 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

- 6. 6. Public Hearing - Planning (District 2):** Ordinance No. 2023-O0122, for Zone Case 3488, a request of BW Gas & Convenience Retail, LLC for Buffalos Partners, LLC & CMH Properties, LLC, for a zone change from Transition District (T) to General Retail District (C-3), at 9704 Highway 87, located north of 98th Street and west of Highway 87, on 2.8 acres of unplatted land out of Block E, Section 8, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council.

Mayor Payne opened the public hearing at 3:05 p.m.

No one appeared to speak in favor or opposition.

Mayor Payne closed the public hearing at 3:05 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Mayor Pro Tem Shelia Patterson Harris, to approve Ordinance No. 2023-O0122.

Vote: 7 - 0 Motion carried

- 6. 7. Public Hearing - Planning (District 4):** Ordinance No. 2023-O0123, for Zone Case 3351-B, a request of Seventeen Services, LLC for Two men and a baby, LLC, for a zone change from Local Retail District (C-2) to Interstate Highway Commercial District (IHC), at 3201 114th Street, located south of 114th Street and east of Indiana Avenue, on 5.57 acres of unplatted land out of Block E-2, Section 21, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council.

Mayor Payne opened the public hearing at 3:08 p.m.

No one appeared to speak in favor or opposition.

Mayor Payne closed the public hearing at 3:08 p.m.

Motion by Council Member Steve Massengale, seconded by Council Member Christy Martinez-Garcia, to approve Ordinance No. 2023-O0123.

Vote: 7 - 0 Motion carried

- 6. 8. Public Hearing - Planning (District 4):** Ordinance No. 2023-O0124, for Zone Case 3490, a request of Hugo Reed and Associates, Inc. for Red Canyon Development, LLC, for a Specific Use for an Athletic Center on property zoned Transition District (T), generally located south of 146th Street and west of Quaker Avenue, on 3.3 acres of unplatted land out of Block AK, Section 6, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council.

Mayor Payne opened the public hearing at 3:11 p.m.

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

No one appeared to speak in opposition.

Mayor Payne closed the public hearing at 3:13 p.m.

Motion by Council Member Mark W. McBrayer, seconded by Council Member Steve Massengale, to approve Ordinance No. 2023-O0124.

Vote: 7 - 0 Motion carried

- 6. 9. Public Hearing - Planning (District 4):** Ordinance No. 2023-O0125, for Zone Case 2968-D, a request of SK Architecture Group, LLC for James Morgan, Ltd., for a zone change from Apartment-Medical District (AM) to Garden Office District (GO), at 4007, 4009, 4011, 4013, 4015 and 4017 98th Street, located south of 98th Street and east of Orlando Avenue, on 1.23 acres of unplatted land out of Block E-2, Section 17, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council.

Mayor Payne opened the public hearing at 3:15 p.m.

Gabriel Sanchez, with SK Architecture Group, LLC, appeared to speak in favor.

No one appeared to speak in opposition.

Mayor Payne closed the public hearing at 3:16 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Steve Massengale, to approve Ordinance No. 2023-O0125.

Vote: 7 - 0 Motion carried

- 6. 10. Public Hearing - Planning (District 5):** Ordinance No. 2023-O0126, for Zone Case 3058-E, a request of Seventeen Services, LLC for Shag Holdings LLC, for a zone change from Single-Family District (R-1) Specific Use for Residential Estates to General Retail District (C-3), at 7214 50th Street, located north of 50th Street and east of Upland Avenue, on 5.151 acres of unplatted land out of Block AK, Section 38, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council.

Mayor Payne opened the public hearing at 3:19 p.m.

No one appeared to speak in favor or opposition.

Mayor Payne closed the public hearing at 3:19 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Christy Martinez-Garcia, to approve Ordinance No. 2023-O0126.

Vote: 7 - 0 Motion carried

- 6. 11. Public Hearing - Planning (District 5):** Ordinance No. 2023-O0127, for Zone Case 3205-A, a request of Seventeen Services, LLC for Paradise Business Park, LLC, for a zone change from Interstate Highway Commercial District (IHC) to Local Retail District (C-2), generally located west of Frankford Avenue and south of 116th Street, on 5.524 acres of unplatted land out of Block AK, Section 20, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council. Tyler Gentry, with Seventeen Services; Roy Lloyd; Patricia Castro; Kristen Sager, director of planning; and Jarrett Atkinson, city manager, gave comments and answered questions from City Council.

Mayor Payne opened the public hearing at 3:21 p.m.

Tyler Gentry, with Seventeen Services; and Gabriel Sanchez appeared to speak in favor.

Patricia Castro; and Roy Lloyd appeared to speak in opposition.

Mayor Payne closed the public hearing at 3:28 p.m.

Motion by Council Member Steve Massengale, seconded by Council Member Dr. Jennifer Wilson, to approve Ordinance No. 2023-O0127.

Vote: 5 - 2 Motion carried

NAY: Mayor Pro Tem Shelia Patterson Harris
Council Member Latrelle Joy

- 6. 12. Public Hearing - Planning (District 5):** Ordinance No. 2023-O0128, for Zone Case 3489, a request of Betenbough Homes, LLC, for a zone change from Transition District (T) to Two-Family District (R-2), generally located south of 146th Street and west of Frankford Avenue, on 207.15 acres of unplatted land out of Block AK, Section 10, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council.

Mayor Payne opened the public hearing at 3:51 p.m.

Wes Everett, with Betenbough Homes, appeared to speak in favor.

No one appeared to speak in opposition.

Mayor Payne closed the public hearing at 3:53 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Steve Massengale, to approve Ordinance No. 2023-O0128.

Vote: 7 - 0 Motion carried

- 6. 13. Public Hearing - Planning (District 6):** Ordinance No. 2023-O0129, for Zone Case 3032-B, a request of DLC Designs, LLC for Daniel Aaron Homes of West Texas, LLC, Drylands Homes, LLC, and KLeMer Real Estate, LLC, for a zone change from Single-Family District (R-1) Specific Use for Townhomes to Single-Family District (R-1) Specific Use for Garden Homes, at 50, 51, 52, 64, and 65 Amesbury Court and 66 and 67 Windsor Court, located north of Erskine Street and east of North Milwaukee Avenue, Wilshire Estates Addition, Lots 50, 51, 52, 64, 65, 66, and 67, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council.

Mayor Payne opened the public hearing at 3:56 p.m.

No one appeared to speak in favor or opposition.

Mayor Payne closed the public hearing at 3:56 p.m.

Motion by Council Member Latrelle Joy, seconded by Council Member Mark W. McBrayer, to approve Ordinance No. 2023-O0129.

Vote: 7 - 0 Motion carried

- 6. 14. Public Hearing - Planning (District 6):** Ordinance No. 2023-O0130, for Zone Case 2538-KK, a request of Delta Land Surveying for Red Yucca 806 Investments LLC, for a zone change from Single-Family District (R-1) to Two-Family District (R-2), at 2402 Urbana Place, located north of 25th Street and west of Urbana Place, Parkdale Addition, Block 2, Lots 3 through 5, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council. Kristen Sager, director of planning; and Chris Berry, with Betenbough Homes, gave comments and answered questions.

Mayor Payne opened the public hearing at 4:00 p.m.

Robert Kennedy, with Delta Land Surveying; and Wendy Jones, with Red Yucca 806 Investments LLC, appeared to speak in favor.

No one appeared to speak in opposition.

Mayor Payne closed the public hearing at 4:03 p.m.

Motion by Council Member Mark W. McBrayer, seconded by Council Member Dr. Jennifer Wilson, to approve Ordinance No. 2023-O0130.

Vote: 7 - 0 Motion carried

- 6. 15. Public Hearing - Planning (District 6):** Ordinance No. 2023-O0131, for Zone Case 3175-G, a request of SK Architecture Group for 806 Land Group LLC, for a zone change from Restricted Local Retail District (C-2A) and Reduced Setback Single-Family District (R-1A) to High-Density Apartment District (A-2), at 5914 Erskine Street, located north of Erskine Street, and west of North Genoa Avenue, on 3.475 acres of unplatted land out of Block JS, Section 7, and consider an ordinance.

Kristen Sager, director of planning, gave a presentation and answered question from City Council. Jason Nesloney, with Nesloney Homes; Gabriel Sanchez, with SK Architecture Group; and Jarrett Atkinson, city manager, gave comments and answered questions from City Council.

Mayor Payne opened the public hearing at 4:27 p.m.

Jordan Wheatley, with 806 Land Group; Jason Nesloney, with Nesloney Homes; and Gabriel Sanchez, with SK Architecture Group, appeared to speak in favor.

Robert Smith; and Cyndi Prattas appeared to speak in opposition.

Mayor Payne closed the public hearing at 4:36 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Steve Massengale, to approve Ordinance No. 2023-O0131.

Vote: 6 - 1 Motion carried

NAY: Council Member Latrelle Joy

- 6. 16. Ordinance 2nd Reading - Planning:** Ordinance No. 2023-O0117, for a request for annexation, from the Lubbock Economic Development Alliance, Inc., to annex an area of approximately 411 acres, adjacent to the eastern city limits of the City of Lubbock, north of East 4th Street and east of East Loop 289, into Lubbock's corporate limits.

Motion by Mayor Pro Tem Shelia Patterson Harris, seconded by Council Member Christy Martinez-Garcia, to approve Ordinance No. 2023-O0117.

Vote: 7 - 0 Motion carried

6. 17. Ordinance 1st Reading - Planning:

A. Ordinance No. 2023-O0132, the City of Lubbock Planning and Zoning Commission's final report of September 7, 2023 to the Lubbock City Council on proposed amendments to the Unified Development Code (Ordinance No. 2023-O0054) recommended for adoption, limited to the following:

1. Sections 39.02.006.a.3 & 39.02.006.b.3 (related to Lot Density and Dimensions);
2. Section 39.03.021.a.2 (related to Signs Exempt from Regulations);
3. Section 39.02.014 (related to the Reduction Overlay (RO) District);
4. Article 39.04 (related to Subdivision Standards);
5. Article 39.07 (related to Development Review Procedures);
6. Section 39.07.007(a) (related to Public Notice);
- 7.1. Section 39.02.016 (related to the Land Use Matrix);
- 7.2. Table 39.02.016-1 (related to Permitted Uses by District);
- 7.3. Table 39.02.006.e-1 (related to IP Permitted Uses);
- 7.4. Table 39.02.006.f-1 (related to LI Permitted Uses);
- 7.5. Table 39.02.006.g-1 (related to GI Permitted Uses);
8. Sections 39.02.020.b(4)(F)(A)(iii) and 39.02.020.b(4)(F)(B)(ii) (related to Residential Carport or Porte Cochere Locations);
9. Section 39.04.005-1 (related to Minimum Connection Spacing by Street Classification); and
10. Sections 39.02.005.d.3 and 39.02.018.c.7 and Tables 39.02.003-1 and 39.02.016-1 (related to Base Mixed Use Districts and Zoning Map)

B. Ordinance No. 2023-O0132, the City of Lubbock Planning and Zoning Commission's final report of September 7, 2023 to the Lubbock City Council on proposed amendments to the Unified Development Code (Ordinance No. 2023-O0054) recommended for denial, limited to the following:

1. Tables 39.02.004.d-3; 39.02.004.e-3; and 39.03.009-1 (related to Parking Requirements);
2. City of Lubbock zoning policies regarding property with abandoned, industrial, or nonconforming uses, and the zoning map for residential properties adjacent thereto;
3. Certain permitted uses in residential neighborhoods, limited to customary home occupation, commercial vehicles, short-term rentals, and the equal distribution in the City of group homes;
4. Designation of the U.N.I.T. Neighborhood (area bordered by University Avenue, 19th Street, Indiana Avenue, and 34th Street) as R-1 only, with certain exceptions made for R-2;
5. Staff recommendation regarding Section 39.02.020.e.1.A.ii (Previously Existing

- Accessory Dwelling Unit);
- 6. Section 39.10.002 (definition of "Family"; regarding proposals to modify the allowable number of unrelated persons constituting a Family);
- 7.1. Addition of Section 39.02.004.e(4)(A) (regarding a limitation of Vertical Mixed- Use in Residential Neighborhoods);
- 7.2. Section 39.02.004.e(4) and Table 39.02.004.e-2 (reducing the maximum building height for Vertical Mixed Use from 75 feet to 45 feet; allowing an increase by Specific Use)

Kristen Sager, director of planning, gave a presentation and answered questions from City Council.

Motion by Council Member Christy Martinez-Garcia, seconded by Council Member Dr. Jennifer Wilson, to approve item 6.17(A)(1).

Vote: 7 - 0 Motion carried

Motion by Council Member Steve Massengale, seconded by Council Member Dr. Jennifer Wilson, to approve item 6.17(A)(2).

Vote: 7 - 0 Motion carried

Motion by Council Member Steve Massengale, seconded by Council Member Christy Martinez-Garcia, to approve item 6.17(A)(3).

Vote: 7 - 0 Motion carried

Motion by Council Member Mark W. McBrayer, seconded by Council Member Christy Martinez-Garcia, to approve item 6.17(A)(4).

Vote: 7 - 0 Motion carried

Motion by Council Member Mark W. McBrayer, seconded by Council Member Latrelle Joy, to approve item 6.17(A)(5).

Vote: 7 - 0 Motion carried

Motion by Council Member Steve Massengale, seconded by Mayor Pro Tem Shelia Patterson Harris, to approve item 6.17(A)(6).

Vote: 7 - 0 Motion carried

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Latrelle Joy, to approve item 6.17(A)(7.1-7.5).

Vote: 7 - 0 Motion carried

Motion by Council Member Mark W. McBrayer, seconded by Council Member Christy Martinez-Garcia, to approve item 6.17(A)(8).

Vote: 7 - 0 Motion carried

Motion by Mayor Pro Tem Shelia Patterson Harris, seconded by Council Member Dr. Jennifer Wilson, to approve item 6.17(A)(9).

Vote: 7 - 0 Motion carried

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Steve Massengale, to approve item 6.17(A)(10).

Vote: 6 - 1 Motion carried

NAY: Council Member Latrelle Joy

Motion by Mayor Pro Tem Shelia Patterson Harris, seconded by Council Member Steve Massengale, to approve item 6.17 (B)(1).

Vote: 3 - 4 Failed

NAY: Mayor Tray Payne
Council Member Christy Martinez-Garcia
Council Member Steve Massengale
Council Member Dr. Jennifer Wilson

Motion by Mayor Pro Tem Shelia Patterson Harris, seconded by Council Member Steve Massengale, to approve item 6.17(B)(2).

Vote: 3 - 4 Failed

NAY: Mayor Tray Payne
Council Member Christy Martinez-Garcia
Council Member Steve Massengale
Council Member Dr. Jennifer Wilson

Motion by Council Member Latrelle Joy, seconded by Council Member Steve Massengale, to approve item 6.17(B)(3).

Vote: 0 - 7 Failed

NAY: 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

Motion by Council Member Latrelle Joy, seconded by Council Member Steve Massengale, to approve item 6.17(B)(4).

Vote: 0 - 7 Failed

NAY: 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

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Mark W. McBrayer, to approve item 6.17(B)(5).

Vote: 1 - 6 Failed

NAY: Mayor Tray Payne

Mayor Pro Tem Shelia Patterson Harris
Council Member Christy Martinez-Garcia
Council Member Steve Massengale
Council Member Mark W. McBrayer
Council Member Dr. Jennifer Wilson

Motion by Council Member Steve Massengale, seconded by Council Member Latrelle Joy, to approve item 6.17(B)(6).

Vote: 0 - 7 Failed

NAY: 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

Motion by Council Member Mark W. McBrayer, seconded by Council Member Steve Massengale, to approve item 6.17(B)(7.1).

Vote: 3 - 4 Failed

NAY: Mayor Tray Payne

Council Member Christy Martinez-Garcia
Council Member Steve Massengale
Council Member Dr. Jennifer Wilson

Motion by Mayor Pro Tem Shelia Patterson Harris, seconded by Council Member Mark W. McBrayer, to approve item 6.17(B)(7.2).

Vote: 3 - 4 Failed

NAY: Mayor Tray Payne
Council Member Christy Martinez-Garcia
Council Member Steve Massengale
Council Member Dr. Jennifer Wilson

- 6. 18. Resolution - Lubbock Power & Light:** Resolution No. 2023-R0486 authorizing publication of a Notice of Intention to issue Electric Light and Power System Revenue Bonds.

Harvey Hall, chief financial officer for LP&L, gave comments and answered questions from City Council.

Motion by Council Member Christy Martinez-Garcia, seconded by Council Member Steve Massengale, to approve Resolution No. 2023-R0486.

Vote: 7 - 0 Motion carried

5:37 P.M. CITY COUNCIL ADJOURNED

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

The September 26, 2023 Regular City Council Meeting minutes were approved by the City Council on the 24th day of October, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2023-O0133, Amendment 1, amending the FY 2023-24 Budget for municipal purposes respecting the Grant Fund to accept and appropriate from the U.S. Department Federal Highway Administration; providing for filing; and providing for a savings clause.

Item Summary

On October 10, 2023, the City Council approved the first reading of the ordinance.

- I. Accept and appropriate \$160,000 from the U.S. Department of Transportation Federal Highway Administration for the Safe Streets and Roads for All Grant. There is a \$40,000 local grant match.

The award will be used by the City of Lubbock to develop a comprehensive safety action plan. The action plan is the foundation of the Safe Streets and Roads for All Grant.. The goal of the action plan is to develop a holistic, well-defined strategy to prevent roadway fatalities and serious injuries in the region.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Budget Amendment 1

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2023-24 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE GRANT FUND TO ACCEPT AND APPROPRIATE FROM THE U.S. DEPARTMENT FEDERAL HIGHWAY ADMINISTRATION; 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 2023-24 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 2023-24 (Budget Amendment #1) for municipal purposes, as follows:

- I. Accept and appropriate \$160,000 from the U.S. Department of Transportation Federal Highway Administration for the Safe Streets and Roads for All Grant. There is a \$40,000 local grant match.

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:


Courtney Paz
City Secretary

APPROVED AS TO CONTENT:



D. Blum Kostelich
Chief Financial Officer

APPROVED AS TO FORM:



Amy Simas
Deputy City Attorney

Information

Agenda Item

Budget Ordinance Amendment 1st Reading - Finance: Consider Budget Ordinance Amendment 2, amending the FY 2023-24 Budget for municipal purposes respecting the Engineering Fees; providing for filing; and providing for a savings clause.

Item Summary

I. Amend Engineering Review and Inspection Fees to comply with House Bill 3492 as reflected in Exhibit A.

In response to House Bill 3492, the City of Lubbock Engineering Department is restructuring how engineering review and construction inspection fees are assessed. Review and inspection fees are currently based on the cost of construction. The proposed fees are based on staff time to complete work, as well as administrative costs, such as the costs of software, vehicles, personal protective equipment, etc.

Fiscal Impact

Included in Item Summary

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Budget Amendment #2

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2023-24 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE ENGINEERING FEES; 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 2023-24 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 2023-24 (Budget Amendment #2) for municipal purposes, as follows:

- I. Amend Engineering Review and Inspection Fees to comply with House Bill 3492 as reflected in Exhibit A.

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:

Courtney Paz
City Secretary

APPROVED AS TO CONTENT:



D. Blu Kostelich
Chief Financial Officer

APPROVED AS TO FORM:



Amy Sims
Deputy City Attorney

Exhibit A - Summary of Engineering Fee Changes

		Account	Rate	Budget	Amended	\$ Change
Department	Account Description	Number	Details	2023-24	2023-24	from Amended
Eliminate the following fees:						
Engineering Inspection Services	DEPT-NEW/SUB/OUTSIDE ENG	6473	Eng Review Fee \$75,001 - 150,000 Construction Cost	0.02	-	(0.02)
			Eng Review Fee \$50,001 - 75,000 Construction Cost	0.025	-	(0.03)
			Eng Review Fee \$40,001 - 50,000 Construction Cost	0.03	-	(0.03)
			Eng Review Fee \$30,001 - 40,000 Construction Cost	0.0325	-	(0.03)
			Eng Review Fee \$25,001 - 30,000 Construction Cost	0.035	-	(0.04)
			Eng Review Fee \$20,001 - 25,000 Construction Cost	0.0375	-	(0.04)
			Eng Review Fee \$0 - 20,000 Construction Cost	0.04	-	(0.04)
			Eng Review Fee Over \$150,000 Construction Cost	0.015	-	(0.02)
	Commercial Driveway Cut Inspection Fee	7505	Fees are collected from contractors as an administrative fee for inspection services of repaired cut streets (in connection with construction of commercial driveways).	100	-	(100.00)
	Commercial Approach Inspection	7505	Fee for inspections of Commercial Approach	150	-	(150.00)
Replace with the following fees:						
Engineering Inspection Services	DEPT-NEW/SUB/OUTSIDE ENG	6473	Water Testing and Inspection Fee Base (Administrative Fee)	-	200.00	200.00
			Water Testing and Inspection Fee Rate (per Linear foot of pipe)	-	0.65	0.65
			Sewer Testing and Inspection Fee Base (Administrative Fee)	-	200.00	200.00
			Sewer Testing and Inspection Fee Rate (per Linear foot of pipe)	-	0.95	0.95
			Pavement Testing and Inspection Fee Base (Administrative Fee)	-	200.00	200.00
			Pavement Testing and Inspection Fee Rate (per Sq. YD of pavement) includes paved alleys	-	0.65	0.65
			Engineering Water Plan Review (Per Linear Foot - \$100 min)	-	0.25	0.25
			Engineering Paving Plan Review (Per Linear Foot Curb and Gutter - \$100 min)	-	0.50	0.50
			Engineering Sewer Plan Review (Per Linear Foot - \$100 min)	-	0.30	0.30
			Drainage Analysis Review - by Rational Method	-	300.00	300.00
			Drainage Analysis Review - by Unit Hydrograph (i.e. models)	-	600.00	600.00
			Drainage Analysis Re-Review Fee (after 3rd Review)	-	100.00	100.00
			Engineering Cut and Fill plan review fee - \$100 minimum for 1 acre or less, plus \$25/additional acre with a max fee of \$3500	-	25.00	25.00
			Engineering Grading plan review fee - \$250 minimum for 1 acre or less, plus \$25/additional acre with a max fee of \$1000	-	25.00	25.00

Information

Agenda Item

Ordinance 1st Reading - Engineering: Consider an ordinance amending the City of Lubbock Code of Ordinances, Chapter 22, "UTILITIES" and Chapter 36, "STREETS, SIDEWALKS, AND OTHER PUBLIC WAYS", and repealing certain inapplicable provisions, in order to comply with the engineering review and construction inspection fee requirements in House Bill 3492.

Item Summary

The City of Lubbock currently assesses fees for Engineering plan review and construction inspection fees, based on the estimated cost of construction. House Bill 3492 prohibits engineering plan review and inspection fees to be based on the cost of construction, and prescribes the fee structure to be published annually. The City of Lubbock Engineering Department recommends amending Chapters 22 and 36, to eliminate language inconsistent with House Bill 3492, and to reference the engineering plan review and construction inspection fee structure in the annual budget.

Fiscal Impact

The proposed changes to the engineering review and construction inspection fees are in response to state legislature. The fee structure changes are expected to be revenue neutral.

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Ordinance

Ordinance (Redline)

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 22 "UTILITIES", ARTICLE 22.05 "CHARGES FOR EXTENSION OF WATER AND/OR SEWER SERVICE" AND CHAPTER 36 "STREETS, SIDEWALKS, AND OTHER PUBLIC WAYS", ARTICLE 36.07 "PAVING STREETS" OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS, WITH REGARD TO DEVELOPMENT REVIEW FEES; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; AND PROVIDING FOR PUBLICATION.

WHEREAS, the Texas Legislature adopted House Bill 3492 regulating municipalities with regard to fees assessed for development review; and

WHEREAS, the City Council of the City of Lubbock, Texas deems it in the best interest of the citizens of Lubbock to make the following amendments to Articles 22.05 and 36.07 of the Code of Ordinances of the City of Lubbock pursuant to state law; NOW THEREFORE:

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

SECTION 1. THAT Section 22.05.010 of the Code of Ordinances of the City of Lubbock, Texas, is hereby amended as follows:

Sec. 22.05.010 Developer installation.

(a) Installation by developers by private contract.

(1) A developer shall contract with a private engineering firm for the design and preparation of construction plans for water and sanitary sewer facilities to serve any new subdivision within the city and including any access or off-site facilities that may be required. These plans shall conform in all details to the city's standard as to design, grade, location, size, and quality of materials and construction.

(2) Plans and profiles submitted by the developer's engineer shall be inked on standard sheets as per city standard. All known existing or subsurface utility lines and obstructions shall be shown. Upon, and along with, submission of preliminary plans for engineering review by the city, the developer will submit an engineering estimate utilizing the pro rata values currently as outlined in section **22.05.015** to cover the costs of water and/or sanitary sewer main construction and then deposit with the engineering department the fee due as set forth in the most recently adopted annual City budget.

Construction shall be defined to include the value of materials and labor to install these materials, in accordance with section **22.05.015**, necessary to complete the proposed water and/or sewer improvements. The engineer preparing the plans and profiles must be a licensed or registered professional engineer in the state, and he must affix his seal and signature to all plans and profiles submitted for construction. In the instance that plans are submitted for re-review containing substantial changes and/or alterations, an additional fee due as set forth in the most recently adopted annual City budget shall be paid.

(3) Inspection fees.

(A) Water line construction.

Upon preliminary approval and before any construction can begin on a water line, the fee due as set forth in the most recently adopted annual City budget., shall be deposited with the water utilities division, and placed in the water pro rata fund, to cover the cost of water line inspection by city personnel. The cost of any construction required to be accomplished by city crews will be in addition to the above fees (see subsection (a)(8)).

(B) Sanitary sewer main construction.

Upon preliminary approval and before any construction can begin on a sanitary sewer main, the fee due as set forth in the most recently adopted annual City budget. shall be deposited with the engineering department, and placed in the sewer pro rata fund, to cover the cost of sanitary sewer main inspection by city personnel. The cost of any construction required to be accomplished by city crews will be in addition to the above fees (see subsection (a)(8)).

(4) Upon preliminary approval of the plans by the city, the developer may enter into a contract with a utility contractor to construct the system as so planned; provided, however, that the construction and installation of the water mains and sanitary sewer mains, or either of them, shall be inspected by the city to ensure that the installation is made in accordance with the plans and city's standard specifications which, in every instance, shall be part of said installation contract.

(5) When the project is ready for construction and the plat has been approved by the city, line and grade stakes will be set by the developer's engineer or surveyor. These stakes will not be set, however, until the developer's surveyor has properly staked on the ground with iron pins all points of curve and tangency, all block corners, and control points.

(6) The complete and accurate to-scale, in accordance with the current standards and specifications in the city water and sewer master plans, with the seal of the developer's engineering consultant, reflecting actual constructed water and sanitary sewer facilities shall be submitted to the water utilities department for final approval within three months of substantial completion of the project. Final approved record drawings will held by and become the permanent property of the city.

(7) The developer's contractor shall be responsible for all water valve, meter box, sewer manhole adjustments, and maintenance of infrastructure to utility lines not yet accepted into the city system.

(b) Alternate method of providing utilities under private contract. The city engineer may allow city personnel to perform engineering services on water and sewer improvements in accordance with section **22.05.012**. This alternative, if requested by the developer, would only be considered on small developments (less than twenty thousand dollars (\$20,000.00) in construction costs as estimated by the city engineering staff using the unit prices herein). With this alternate method of providing for city utilities under private contract, the developer shall deposit with the city engineer the fee due as set forth in the most recently adopted annual City budget.

(c) In an effort to preserve the integrity of utility lines and paved alleyways, the developer shall provide the necessary sewer and water services to the property line to serve all lots within that particular subdivision on new construction, and that do not abut any existing water and/or sewer mains. Where a new subdivision abuts or is adjacent to existing water and/or sewer mains the city will make a per lot basis according to prices included herein.

In the event the developer chooses to make water and sewer service connections to property adjacent to the developer's property and which is owned by another party, the cost of those services shall be paid by the developer and included as part of the refund contract based on the unit prices included herein and estimates made by the engineering department. All refunds will be made in accordance with section **22.05.013**.

All water and sewer service connections are to be constructed to the city design standards and specifications for water and sewer, as same may be amended from time to time. All water and sewer service connections made, with the exception of distribution connections and new construction, will be made solely by a city-approved contractor. On new construction, the developer will be required to install wyes, tees or tapping saddles for sewer connections and extended to the property line.

(d) No installation of water and sanitary sewer mains will be accepted by the city at any other location except a dedicated street, alley, or an easement in favor of the city which shall be filed of record by the owner of said addition.

(e) Under the private contract method of installation by developers, the valued unit pro rata cost for the water and/or sanitary sewer facilities shall be the pro rata for the subdivision.

(f) When existing water and/or sewer facilities or mains are lying along one or more sides of the property being platted, the owners or developers shall pay the city one-half of the valued unit pro rata cost of the existing mains as defined in section **22.05.009(a)**.

SECTION 2. THAT Section 36.07.010 of the Code of Ordinances of the City of Lubbock, Texas, is hereby amended to read as follows:

Sec. 36.07.010 Fees for paving improvements.

(a) The fees for engineering services, if any, on city council authorized paving and drainage projects shall be set by the city council in the most recently adopted annual City budget.

(b) Additional fees may be required by the city engineer on a cost basis for:

(1) Additional charges for testing, inspection and staking in accordance with current city policies for work requested by the developer, including, but not limited to, increased costs for city personnel working weekends and/or holidays.

(2) Those instances when additional inspection and testing occur due to deficiencies in construction materials or workmanship.

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

SECTION 4. THAT a violation of any provision of this Ordinance shall be deemed a misdemeanor punishable in accordance with state law and Section 1.01.004 of the Code of Ordinances of the City of Lubbock.

SECTION 5. THAT the City Secretary of the City of Lubbock, Texas, is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative means of publication provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2023.

Passed by the City Council on second reading this _____ day of _____, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

ccdocs// OrdAmend_Development Review Fees
10.9.23

Sec. 22.05.010 Developer installation.

(a) Installation by developers by private contract.

(1) A developer shall contract with a private engineering firm for the design and preparation of construction plans for water and sanitary sewer facilities to serve any new subdivision within the city and including any access or off-site facilities that may be required. These plans shall conform in all details to the city's standard as to design, grade, location, size, and quality of materials and construction.

(2) Plans and profiles submitted by the developer's engineer shall be inked on standard sheets as per city standard. All known existing or subsurface utility lines and obstructions shall be shown. Upon, and along with, submission of preliminary plans for engineering review by the city, the developer will submit an engineering estimate utilizing the pro rata values currently as outlined in section **22.05.015** to cover the costs of water and/or sanitary sewer main construction and then deposit with the engineering department ~~a minimum of fifty dollars (\$50.00) or one-half of one percent (0.5%), whichever is greater, for water line construction, and minimum of fifty dollars (\$50.00) or one-half of one percent (0.5%), whichever is greater, for sanitary sewer main construction to cover the cost of plan review by the city personnel.~~ the fee due as set forth in the most recently adopted annual City budget.

Construction shall be defined to include the value of materials and labor to install these materials, in accordance with section **22.05.015**, necessary to complete the proposed water and/or sewer improvements. The engineer preparing the plans and profiles must be a licensed or registered professional engineer in the state, and he must affix his seal and signature to all plans and profiles submitted for construction. In the instance that plans are submitted for re-review containing substantial changes and/or alterations, an additional fee due as set forth in the most recently adopted annual City budget shall be paid. ~~review fee of fifty dollars (\$50.00) or one-half of one percent (0.5%), whichever is greater, for water line and sewer line construction will be assessed.~~

(3) Inspection fees.

(A) Water line construction.

Upon preliminary approval and before any construction can begin on a water line, the fee due as set forth in the most recently adopted annual City budget. ~~a fee of one hundred twenty five dollars (\$125.00) or one and one-half percent (1.5%) of the estimated cost of construction, whichever is greater, will shall~~ be deposited with the water utilities division, and placed in the water pro rata fund, to cover the cost of water line inspection by city personnel. The cost of any construction required to be accomplished by city crews will be in addition to the above fees (see subsection **(a)(8)**).

(B) Sanitary sewer main construction.

Upon preliminary approval and before any construction can begin on a sanitary sewer main, the fee due as set forth in the most recently adopted annual City budget. ~~a fee of one hundred twenty five dollars (\$125.00) or one and one half percent (1.5%) of the estimated cost of construction, whichever is greater, will~~ shall be deposited with the engineering department, and placed in the sewer pro rata fund, to cover the cost of sanitary sewer main inspection by city personnel. The cost of any construction required to be accomplished by city crews will be in addition to the above fees (see subsection (a)(8)).

~~(4) In the instance that the actual cost of construction is less than or greater than the estimated construction costs, the plan review fee and the engineering fees will be adjusted accordingly, if appropriate, to accurately reflect the intent of subsections (a)(1), (2), and (3).~~

(54) Upon preliminary approval of the plans by the city, the developer may enter into a contract with a utility contractor to construct the system as so planned; provided, however, that the construction and installation of the water mains and sanitary sewer mains, or either of them, shall be inspected by the city to ensure that the installation is made in accordance with the plans and city's standard specifications which, in every instance, shall be part of said installation contract.

(65) When the project is ready for construction and the plat has been approved by the city, line and grade stakes will be set by the developer's engineer or surveyor. These stakes will not be set, however, until the developer's surveyor has properly staked on the ground with iron pins all points of curve and tangency, all block corners, and control points.

(76) The complete and accurate to-scale, in accordance with the current standards and specifications in the city water and sewer master plans, with the seal of the developer's engineering consultant, reflecting actual constructed water and sanitary sewer facilities shall be submitted to the water utilities department for final approval within three months of substantial completion of the project. Final approved record drawings will held by and become the permanent property of the city.

(87) The developer's contractor shall be responsible for all water valve, meter box, sewer manhole adjustments, and maintenance of infrastructure to utility lines not yet accepted into the city system.

(b) Alternate method of providing utilities under private contract.

The city ~~water utilities~~ engineer may allow city personnel to perform engineering services on water and sewer improvements in accordance with section **22.05.012**. This alternative, if requested by the developer, would only be considered on small developments (less than twenty thousand dollars (\$20,000.00) in construction costs as estimated by the city engineering staff using the unit prices herein). With this alternate method of providing for city utilities under private contract, the developer ~~will~~ shall deposit with the city engineer the fee due as set forth in the most recently adopted annual City budget. with the city ten (10) percent of the engineering estimate to cover the cost of surveying, engineering, testing and inspection by city personnel plus the estimated cost of any construction required to be accomplished by city personnel. The final cost and engineering will be adjusted upon completion of the particular project to reflect ten (10) percent of the actual contract cost.

(c) In an effort to preserve the integrity of utility lines and paved alleyways, the developer shall provide the necessary sewer and water services to the property line to serve all lots within that particular subdivision on new construction, and that do not abut any existing water and/or sewer mains. Where a new subdivision abuts or is adjacent to existing water and/or sewer mains the city will make a per lot basis according to prices included herein.

In the event the developer chooses to make water and sewer service connections to property adjacent to the developer's property and which is owned by another party, the cost of those services shall be paid by the developer and included as part of the refund contract based on the unit prices included herein and estimates made by the engineering department. All refunds will be made in accordance with section **22.05.013**.

All water and sewer service connections are to be constructed to the city design standards and specifications for water and sewer, as same may be amended from time to time. All water and sewer service connections made, with the exception of distribution connections and new construction, will be made solely by a city-approved contractor. On new construction, the developer will be required to install wyes, tees or tapping saddles for sewer connections and extended to the property line.

(d) No installation of water and sanitary sewer mains will be accepted by the city at any other location except a dedicated street, alley, or an easement in favor of the city which shall be filed of record by the owner of said addition.

(e) Under the private contract method of installation by developers, the valued unit pro rata cost for the water and/or sanitary sewer facilities shall be the pro rata for the subdivision.

(f) When existing water and/or sewer facilities or mains are lying along one or more sides of the property being platted, the owners or developers shall pay the city one-half of the valued unit pro rata cost of the existing mains as defined in section **22.05.009(a)**.

~~(g) The payment of fees based upon the projected cost of the project in this section shall increase only if the actual project cost is more than five percent (5%) higher or lower than the original estimate.~~

Sec. 36.07.010 Fees for paving improvements.

~~(a) The fees for engineering services, if any, on city council authorized paving and drainage projects shall be set by the city council: in the most recently adopted annual City budget.~~

~~(b) The fee to the proponent for all engineering services including staking, testing, and inspection by the city staff for street or alley use permit paving shall be six (6) percent of the total estimated cost of construction. Should the proponent choose to use an engineering consultant to perform allowed engineering services for street or alley use permit paving, the provisions of subsection (c) following will apply.~~

~~(c) The fee for engineering services on paving or drainage improvements required by chapter 38 (subdivision regulations) of this code shall conform to the following:~~

~~(1) The fee to be charged by the city for review of plans, specifications and estimates prepared by the developer's engineering consultant shall be fifty dollars (\$50.00) or five-tenths of one percent of the estimated cost of construction, whichever is greater.~~

~~(2) The fee to be charged by the city for testing and inspection services of the improvements shall conform to the following table:~~

Estimated Construction Cost	Percent of Estimated Construction Cost For Testing and Inspection Fee
\$0.00 to \$20,000.00	4.0
\$20,001.00 to \$25,000.00	3.75
\$25,001.00 to \$30,000.00	3.5
\$30,001.00 to \$40,000.00	3.25
\$40,001.00 to \$50,000.00	3.0
\$50,001.00 to \$75,000.00	2.5
\$75,001.00 to \$150,000.00	2.0
Greater than \$150,000.00	1.5

~~(d) The fee to be charged for engineering services described in section 36.07.009(4) of this article shall be six (6) percent of the estimated construction cost.~~

| **(eb)** Additional fees may be required by the city engineer on a cost basis for:

(1) Additional charges for testing, inspection and staking in accordance with current city policies for work requested by the developer, including, but not limited to, increased costs for city personnel working weekends and/or holidays.

(2) Those instances when additional inspection and testing occur due to deficiencies in construction materials or workmanship.

Information

Agenda Item

Resolution - Business Development: Consider a resolution approving a Downtown Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Housing Trust Group Lubbock, LLC, located at 1202 Main Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

Item Summary

Housing Trust Group (HTG) Lubbock, LLC is renovating their property at 1202 Main Street, which is located within the Downtown Tax Increment Financing District Boundary, as designated by the City of Lubbock. The scope of the facade project includes exterior painting, and new windows and doors.

The cost of the project is estimated to be \$50,000, and the requested grant amount is \$25,000. The Market Lubbock, Inc. Board of Directors approved this amount at their June 28, 2023 Board Meeting, and recommend approval by the City Council.

Fiscal Impact

The City of Lubbock does not have financial responsibility for this grant. The total cost of the project is estimated to be \$50,000, with \$25,000 to be paid by Market Lubbock, Inc. upon completion with the requested grant.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Market Lubbock, Inc. Board of Directors

Attachments

Resolution
Market Lubbock Resolution
Market Lubbock Support Documentation

RESOLUTION

WHEREAS, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of the Market Lubbock Economic Development Corporation (the "Corporation"), the City Council of the City of Lubbock (the "City Council"), as the Corporation's authorizing unit, has the authority to approve all programs and expenditures of the Corporation; and

WHEREAS, the City Council finds that it is in the best interest of the public to approve the program or expenditure, as proposed to the City Council by the Corporation, as set forth in Exhibit "A" attached hereto and incorporated herein by reference; **NOW THEREFORE:**

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

THAT the Downtown Façade Grant program or expenditure of the Corporation, in the amount set forth in Exhibit "A" attached hereto and incorporated herein by reference, to be provided to HTG Lubbock, LLC, is hereby approved pursuant to Section 5 of the Amended and Restated Bylaws of the Corporation.


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:



Kelli Leisure, Senior Assistant City Attorney

**RESOLUTION APPROVING
HOUSING TRUST GROUP (HTG) LUBBOCK AT 1202 MAIN STREET
DOWNTOWN FACADE AND PERMITTABLE GRANT**

THE STATE OF TEXAS

COUNTY OF LUBBOCK

At a regular meeting of the Board of Directors of MARKET LUBBOCK ECONOMIC DEVELOPMENT CORPORATION, INC., a Texas nonprofit corporation (MLI), on Wednesday, June 28, 2023, held in conformity with the bylaws, after due notice as therein provided, a quorum being present and acting, the following resolution was unanimously adopted:

WHEREAS, MLI presented to members of the Board the proposal of a possible Economic Development Grant and Contract to Housing Trust Group (HTG) Lubbock is making improvements to both the interior and exterior of the property at 1202 Main, located in the Downtown TIF. HTG Lubbock is honored to present the Inn Town Lofts, a proposed 56-unit mixed-income multifamily housing development. HTG will use housing tax credits, as well as state and historic tax credits to rehab and repurpose the Jim Kimmel Center (formerly the In Town Inn) as forty (40) residential units with resort style amenities. In addition to the adaptive re-use of the hotel, HTG is proposing a newly constructed building comprised of sixteen (16) residential units with added community space.

The scope of façade work will include exterior painting, windows, doors totaling \$50,000 in façade expenses. Permittable expenses will include electrical, demolition, plumbing and structural totaling \$12,618,897 for a total expense of \$12,668,897.

The terms and conditions of such Economic Development Grant and Contract, other than the normal terms and conditions applicable to all such Economic Development Grant and Contracts by the Corporation, are described generally as follows, to wit:

Grant a Downtown Facade Grant for HTG Lubbock, LLC, totaling \$25,000 and a Permittable Grant totaling \$100,000 at 1202 Main Street, which is in the Downtown TIF, once proof of payment has been submitted.

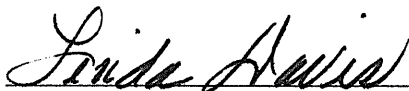
WHEREAS, The Board of Directors of MLI finds that an Economic Development Grant and Contract offering the incentive for providing assistance for renovations to their property, meet and comply with the qualifications and purposes of the Corporation for the granting of such Economic Development Grants and Contracts.

Upon Motion by Director, Mr. James Conwright, and Seconded by Director, Ms. Sarah Bevers.

IT WAS RESOLVED that MLI offer and, if accepted by Recipient, enter into an Economic Grant and Contract with HTG Lubbock, LLC, for improvements to the property at 1202 Main Street, Lubbock, Texas. This Economic Development Grant and Contract will be on the normal terms and conditions of such Downtown Grant Program and Contract offered by MLI to existing businesses and business prospects and authorize the CEO to enter into and execute all documents related to the Economic Grant and Contract.



John Osborne, President & CEO



Linda Davis, Secretary

MARKET LUBBOCK, INC. – DOWNTOWN GRANT PROGRAM



**1202 Main Street
(HTG Lubbock, LLC)**

TOTAL SCOPE OF WORK = \$12,668,897

TOTAL GRANTS = \$125,000

TOTAL FAÇADE SCOPE OF WORK = \$50,000

FAÇADE GRANT = \$25,000

TOTAL PERMITTABLE SCOPE OF WORK = \$12,618,897

PERMITTABLE GRANT = \$100,000



**Downtown Grant Program
Presented to MLI Board
June 28, 2023**

Project 1202 Main (Façade & Permittable)

Housing Trust Group (HTG) is making improvements to both the interior and exterior of the property at 1202 Main, located in the Downtown TIF.

HTG is honored to present the Inn Town Lofts, a proposed 56-unit mixed-income multifamily housing development. HTG will use housing tax credits, as well as state and historic tax credits to rehab and re-purpose the Jim Kimmel Center (formerly the In Town Inn) as forty (40) residential units with resort style amenities. In addition to the adaptive re-use of the hotel, HTG is proposing a newly constructed building comprised of sixteen (16) residential units with added community space.

The scope of façade work will include exterior painting, windows, doors totaling \$50,000 in façade expenses. Permittable expenses will include electrical, demolition, plumbing and structural totaling \$12,618,897 for a total expense of \$12,668,897.

The MLI Board is being asked to consider a Downtown Façade Grant for HTG Lubbock, LLC totaling \$25,000 and a Downtown Permittable Grant totaling \$100,000 at 1202 Main.



Downtown Grant - Application

The information requested on this form will be used by Market Lubbock, Inc. for analysis of your project.

MLI CONTACT INFORMATION

Jorge Quirino - Director of Downtown & Special Projects Phone: 806.749.4500
Market Lubbock, Inc.
1500 Broadway, Sixth Floor, Lubbock, TX 79401 Email: jorge@marketlubbock.org

Date Initial Application Submitted (Due prior to start of construction or permits assigned) 1/25/2021 JQ

Projected Project Start Date 1/1/2023 JQ

Project Property Address 1202 Main Street, Lubbock, TX 79401
Property LCAD R# R105274

GENERAL INFORMATION ABOUT THE COMPANY

Company Name HTG Lubbock, LLC
Street Address 3225 Aviation Avenue, 6th floor
City, State, Zip Miami, FL 33133

GENERAL INFORMATION ABOUT THE COMPANY CONTACT

Name Justin Tuttle
Title Development Manager
Phone Number 305-860-8188 ext.128
Email Justint@htgf.com

INFORMATION ABOUT THE PROJECT

Property Ownership: Own ☒ Lease ☐
In process of purchasing from Gedala, Inc. Owner Approved ☐

Grant Type (May choose both if applicable): Permittable ☒ Façade ☒

Detailed Project Summary (including projected start date) and Description of Work:

The Inn Town Lofts is an adaptive reuse of the Jimm Kimmel Center, formerly known as the In Town Inn. Originally constructed in 1964, the building is being considered for historic designation, and the improvements will include façade, and on site improvements to bring the building to code, and to use for multifamily housing units.

Summary of Expenses (detailed bids attached)	Projected	MLI Approved Reimbursement
Permittable Expenses	\$12,618,897	\$100,000
Façade Expenses	\$50,000	\$25,000
		\$0
		\$0
		\$0
TOTAL	\$12,668,897	\$125,000

Final bids will be used to calculate the project cost and grant amount.

COMPANY BACKGROUND

List any person or entity that has at least 5% ownership in the Applicant Company:

Name	Percent	Name	Percent

Is the firm registered with the Secretary of State's Office to do business in Texas?

Yes ▼

Are you in good standing with the State of Texas?

Yes ▼

If you answered "No" to either of the above two questions, please explain

Is the firm and/or principals delinquent on any federal, state or local tax obligations?

No ▼

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If you answered "Yes" to either of the above two questions, please explain

APPLICANT'S RESPONSIBILITIES (PROPERTY OWNER OR LEASEE)**City of Lubbock requirements:**

City of Lubbock - Planning Department 806-775-2108

Contact the City of Lubbock to determine the following:

- ☒ Does the scope of work meet downtown standards and guidelines?
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- ☒ Are public improvements required?
- ☒ Is there a current Certificate of Occupancy on file for this property?

Market Lubbock, Inc. (MLI) requirements:

Manager of Downtown & Special Projects (Jorge Quirino) 806-749-4500

Application Packet:

- ☒ Initial application (page one of this document) must be received by MLI prior to the start of construction and/or before permits are assigned
- All remaining documents must be received and an application packet presented to the MLI Board no more than three months after the initial application is received by MLI.

Date Final Documents Received: _____

- ☐ Copies of City permits or City approval
- ☐ Copy of Current Certificate of Occupancy
- ☐ Detailed Construction Bids or Schedule of Values
- ☐ Before Picture (prior to construction beginning)
- ☐ Architectural Plans (if applicable)
- ☐ Architectural Renderings (if applicable)

After completion of construction:

- ☐ Certificate of Occupancy or Similar City Document Approving Completion
(Applicant responsible for final scope of work matching approved scope)

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- ☐ Processed Checks, Bank or Credit Card Statements matching PAID invoices (legible copies)

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- An Applicant must be a valid Owner or Tenant (Lessee) of the property needing improvements
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 - Improvements require a City of Lubbock permit
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 - Electrical
 - Structural
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 - Improvements must total a minimum of \$1,000
 - The façade grant reimburses 50% of approved expenses up to a \$25,000 grant
 - Façade scope of work that may be considered:
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 - New windows and doors
 - Signage
 - Landscaping
 - Parking lots
 - Awnings
 - Any other work that improves the appearance of the façade

Signature (not required for electronic submittals): Per email _____

Date: 1/25/2021 _____

Appendix V: Site Photographs



1 - North boundary looking east



2 - North boundary looking west



3 - East boundary looking south



4 - East boundary looking north



5 - South boundary looking west



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INN TOWN LOFTS				
SCHEDULE OF VALUES				
TOTAL UNITS:		#		
SITE ACRES:				
NET SF:		71171		
GROSS SF:				
DIVISION	DESCRIPTION	SCHEDULED VALUES	DIVISION TOTALS	NOTES
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			\$ -	
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	PAINTING	\$ 352,385.00		
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	TOILET PARTITIONS	incl		
	COMMON AREA BATHROOM & FITNESS ROOM MIRRORS	incl		
	FITNESS MIRRORS	\$ 1,500.00		allowance
	CODE & BUILDING SIGNAGE	incl		
	FIRE EXTINGUISHERS & CABINETS	\$ 11,400.00		
	CLEAN HISTORY WINDOWS AND RAILINGS	\$ 57,500.00		
	SPECIALTIES	\$ 18,672.00		POWELL??
			\$ 69,072.00	
DIVISION 11 - EQUIPMENT				
	RESIDENTIAL GE APPLIANCES	\$ 140,000.00		allowance
	COMMON AREA GE APPLIANCES (STAINLESS STEEL)	\$ 5,000.00		
			\$ 145,000.00	

DIVISION 12 - FURNISHINGS			
WINDOW TREATMENTS	\$	25,000.00	WINDOW
		\$	25,000.00
DIVISION 13 - SPECIAL CONSTRUCTION			
POOL	\$	-	
		\$	-
DIVISION 14 - CONVEYING SYSTEMS			
HOIST	\$	-	
TRASH CHUTES			
ELEVATORS W/ FINISHES (NONE)		\$213,300.00	
			\$213,300.00
DIVISION 15 - MECHANICAL			
FIRE PROTECTION	\$	175,000.00	
PLUMBING	\$	888,900.00	
PLUMBING FIXTURES		0.00	
DOMESTIC BOOSTER PUMP		0.00	
HVAC SYSTEMS	\$	415,000.00	
		\$	1,468,900.00
DIVISION 16 - ELECTRICAL			
ELECTRICAL	\$	1,028,000.00	USE
FIRE ALARM	\$	121,000.00	
EXTR LIGHTING FIXTURES	\$	86,000.00	0.00
INSTALL PRIMARY CONDUITS		0.00	
ACCESS CONTROL	\$	18,000.00	REFERENCE
CCTV	\$	18,000.00	REFERENCE
		\$	1,566,000.00
DIVISION 17 - MISCELLANEOUS			
NOT USED			
		\$	-
SUB TOTAL	\$	10,251,835.00	\$ 10,251,835.00
CONTRACTORS OVERHEAD	\$	288,820.79	\$ 288,820.79
GENERAL CONDITIONS	\$	815,882.19	\$ 815,882.19
CONTRACTORS FEE	\$	815,882.19	\$ 815,882.19
CONTRACTORS GENERAL LIABILITY INSURANCE	\$	87,886.83	\$ 87,886.83
PERFORMANCE AND PAYMENT BOND	\$	182,518.36	\$ 182,518.36
GROSS RECT TAXES	\$	812,588.02	\$ -
GRAND TOTAL	\$	12,668,897.08	\$ 11,868,347.08
COST PER SF GROSS			
COST PER SF NET			

TOTAL EXPENSE \$12,668,897.08

Information

Agenda Item

Resolution - Business Development: Consider a resolution approving a Downtown Grant Program (Permittable) expenditure of Market Lubbock, Inc. to be provided to Housing Trust Group Lubbock, LLC, located at 1202 Main Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

Item Summary

Housing Trust Group (HTG) Lubbock, LLC is renovating their property at 1202 Main Street, which is located within the Downtown Tax Increment Financing District Boundary, as designated by the City of Lubbock. The scope of the permittable project includes demolition, electrical, plumbing and structural improvements.

The cost of the project is estimated to be \$12,618,897, and the requested grant amount is \$100,000. The Market Lubbock, Inc. Board of Directors approved this amount at their June 28, 2023 Board Meeting, and recommend approval by the City Council.

Fiscal Impact

The City of Lubbock does not have financial responsibility for this grant. The total cost of the project is estimated to be \$12,618,897, with \$100,000 to be paid by Market Lubbock, Inc. upon completion with the requested grant.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Market Lubbock, Inc. Board of Directors

Attachments

Resolution
Market Lubbock Resolution
Market Lubbock Support Documentation

RESOLUTION

WHEREAS, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of the Market Lubbock Economic Development Corporation (the "Corporation"), the City Council of the City of Lubbock (the "City Council"), as the Corporation's authorizing unit, has the authority to approve all programs and expenditures of the Corporation; and

WHEREAS, the City Council finds that it is in the best interest of the public to approve the program or expenditure, as proposed to the City Council by the Corporation, as set forth in Exhibit "A" attached hereto and incorporated herein by reference; **NOW THEREFORE:**

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

THAT the Downtown Permittable Grant program or expenditure of the Corporation, in the amount set forth in Exhibit "A" attached hereto and incorporated herein by reference, to be provided to the HTG Lubbock, LLC is hereby approved pursuant to Section 5 of the Amended and Restated Bylaws of the Corporation.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

**RESOLUTION APPROVING
HOUSING TRUST GROUP (HTG) LUBBOCK AT 1202 MAIN STREET
DOWNTOWN FACADE AND PERMITTABLE GRANT**

THE STATE OF TEXAS

COUNTY OF LUBBOCK

At a regular meeting of the Board of Directors of MARKET LUBBOCK ECONOMIC DEVELOPMENT CORPORATION, INC., a Texas nonprofit corporation (MLI), on Wednesday, June 28, 2023, held in conformity with the bylaws, after due notice as therein provided, a quorum being present and acting, the following resolution was unanimously adopted:

WHEREAS, MLI presented to members of the Board the proposal of a possible Economic Development Grant and Contract to Housing Trust Group (HTG) Lubbock is making improvements to both the interior and exterior of the property at 1202 Main, located in the Downtown TIF. HTG Lubbock is honored to present the Inn Town Lofts, a proposed 56-unit mixed-income multifamily housing development. HTG will use housing tax credits, as well as state and historic tax credits to rehab and repurpose the Jim Kimmel Center (formerly the In Town Inn) as forty (40) residential units with resort style amenities. In addition to the adaptive re-use of the hotel, HTG is proposing a newly constructed building comprised of sixteen (16) residential units with added community space.

The scope of façade work will include exterior painting, windows, doors totaling \$50,000 in façade expenses. Permittable expenses will include electrical, demolition, plumbing and structural totaling \$12,618,897 for a total expense of \$12,668,897.

The terms and conditions of such Economic Development Grant and Contract, other than the normal terms and conditions applicable to all such Economic Development Grant and Contracts by the Corporation, are described generally as follows, to wit:

Grant a Downtown Facade Grant for HTG Lubbock, LLC, totaling \$25,000 and a Permittable Grant totaling \$100,000 at 1202 Main Street, which is in the Downtown TIF, once proof of payment has been submitted.

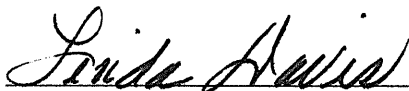
WHEREAS, The Board of Directors of MLI finds that an Economic Development Grant and Contract offering the incentive for providing assistance for renovations to their property, meet and comply with the qualifications and purposes of the Corporation for the granting of such Economic Development Grants and Contracts.

Upon Motion by Director, Mr. James Conwright, and Seconded by Director, Ms. Sarah Bevers.

IT WAS RESOLVED that MLI offer and, if accepted by Recipient, enter into an Economic Grant and Contract with HTG Lubbock, LLC, for improvements to the property at 1202 Main Street, Lubbock, Texas. This Economic Development Grant and Contract will be on the normal terms and conditions of such Downtown Grant Program and Contract offered by MLI to existing businesses and business prospects and authorize the CEO to enter into and execute all documents related to the Economic Grant and Contract.



John Osborne, President & CEO



Linda Davis, Secretary

MARKET LUBBOCK, INC. – DOWNTOWN GRANT PROGRAM



**1202 Main Street
(HTG Lubbock, LLC)**

TOTAL SCOPE OF WORK = \$12,668,897

TOTAL GRANTS = \$125,000

TOTAL FAÇADE SCOPE OF WORK = \$50,000

FAÇADE GRANT = \$25,000

TOTAL PERMITTABLE SCOPE OF WORK = \$12,618,897

PERMITTABLE GRANT = \$100,000



**Downtown Grant Program
Presented to MLI Board
June 28, 2023**

Project 1202 Main (Façade & Permittable)

Housing Trust Group (HTG) is making improvements to both the interior and exterior of the property at 1202 Main, located in the Downtown TIF.

HTG is honored to present the Inn Town Lofts, a proposed 56-unit mixed-income multifamily housing development. HTG will use housing tax credits, as well as state and historic tax credits to rehab and re-purpose the Jim Kimmel Center (formerly the In Town Inn) as forty (40) residential units with resort style amenities. In addition to the adaptive re-use of the hotel, HTG is proposing a newly constructed building comprised of sixteen (16) residential units with added community space.

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The MLI Board is being asked to consider a Downtown Façade Grant for HTG Lubbock, LLC totaling \$25,000 and a Downtown Permittable Grant totaling \$100,000 at 1202 Main.



Downtown Grant - Application

The information requested on this form will be used by Market Lubbock, Inc. for analysis of your project.

MLI CONTACT INFORMATION

Jorge Quirino - Director of Downtown & Special Projects Phone: 806.749.4500
Market Lubbock, Inc.
1500 Broadway, Sixth Floor, Lubbock, TX 79401 Email: jorge@marketlubbock.org

Date Initial Application Submitted (Due prior to start of construction or permits assigned) 1/25/2021 JQ

Projected Project Start Date 1/1/2023 JQ

Project Property Address 1202 Main Street, Lubbock, TX 79401
Property LCAD R# R105274

GENERAL INFORMATION ABOUT THE COMPANY

Company Name HTG Lubbock, LLC
Street Address 3225 Aviation Avenue, 6th floor
City, State, Zip Miami, FL 33133

GENERAL INFORMATION ABOUT THE COMPANY CONTACT

Name Justin Tuttle
Title Development Manager
Phone Number 305-860-8188 ext.128
Email Justint@htgf.com

INFORMATION ABOUT THE PROJECT

Property Ownership: Own ☒ Lease ☐
In process of purchasing from Gedala, Inc. Owner Approved ☐

Grant Type (May choose both if applicable): Permittable ☒ Façade ☒

Detailed Project Summary (including projected start date) and Description of Work:

The Inn Town Lofts is an adaptive reuse of the Jimm Kimmel Center, formerly known as the In Town Inn. Originally constructed in 1964, the building is being considered for historic designation, and the improvements will include façade, and on site improvements to bring the building to code, and to use for multifamily housing units.

Summary of Expenses (detailed bids attached)	Projected	MLI Approved Reimbursement
Permittable Expenses	\$12,618,897	\$100,000
Façade Expenses	\$50,000	\$25,000
		\$0
		\$0
		\$0
TOTAL	\$12,668,897	\$125,000

Final bids will be used to calculate the project cost and grant amount.

COMPANY BACKGROUND

List any person or entity that has at least 5% ownership in the Applicant Company:

Name	Percent	Name	Percent

Is the firm registered with the Secretary of State's Office to do business in Texas?

Yes ▼

Are you in good standing with the State of Texas?

Yes ▼

If you answered "No" to either of the above two questions, please explain

Is the firm and/or principals delinquent on any federal, state or local tax obligations?

No ▼

Has the company or principals of the company had prior bankruptcies or lawsuits?

No ▼

If you answered "Yes" to either of the above two questions, please explain

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Manager of Downtown & Special Projects (Jorge Quirino) 806-749-4500

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	COMMON AREA BATHROOM & FITNESS ROOM MIRRORS	incl		
	FITNESS MIRRORS	\$ 1,500.00		allowance
	CODE & BUILDING SIGNAGE	incl		
	FIRE EXTINGUISHERS & CABINETS	\$ 11,400.00		
	CLEAN HISTORY WINDOWS AND RAILINGS	\$ 37,500.00		
	SPECIALTIES	\$ 18,672.00		POWELL??
			\$ 59,072.00	
DIVISION 11 - EQUIPMENT				
	RESIDENTIAL GE APPLIANCES	\$ 140,000.00		allowance
	COMMON AREA GE APPLIANCES (STAINLESS STEEL)	\$ 5,000.00		
			\$ 145,000.00	

DIVISION 12 - FURNISHINGS			
WINDOW TREATMENTS	\$	25,000.00	WINDOW
		\$	25,000.00
DIVISION 13 - SPECIAL CONSTRUCTION			
POOL	\$	-	
		\$	-
DIVISION 14 - CONVEYING SYSTEMS			
HOIST	\$	-	
TRASH CHUTES			
ELEVATORS W/ FINISHES (NONE)		\$213,300.00	
			\$213,300.00
DIVISION 15 - MECHANICAL			
FIRE PROTECTION	\$	175,000.00	
PLUMBING	\$	888,900.00	
PLUMBING FIXTURES		0.00	
DOMESTIC BOOSTER PUMP		0.00	
HVAC SYSTEMS	\$	415,000.00	
		\$	1,468,900.00
DIVISION 16 - ELECTRICAL			
ELECTRICAL	\$	1,028,000.00	USE
FIRE ALARM	\$	121,000.00	
EXTR LIGHTING FIXTURES	\$	86,000.00	0.00
INSTALL PRIMARY CONDUITS		0.00	
ACCESS CONTROL	\$	18,000.00	REFERENCE
CCTV	\$	19,000.00	REFERENCE
		\$	1,566,000.00
DIVISION 17 - MISCELLANEOUS			
NOT USED			
		\$	-
SUB TOTAL	\$	10,251,835.00	\$ 10,251,835.00
CONTRACTORS OVERHEAD	\$	288,820.79	\$ 288,820.79
GENERAL CONDITIONS	\$	815,882.19	\$ 815,882.19
CONTRACTORS FEE	\$	815,882.19	\$ 815,882.19
CONTRACTORS GENERAL LIABILITY INSURANCE	\$	87,898.83	\$ 87,898.83
PERFORMANCE AND PAYMENT BOND	\$	182,518.36	\$ 182,518.36
GROSS RECT TAXES	\$	812,588.02	\$ -
GRAND TOTAL	\$	12,668,897.08	\$ 11,868,347.08
COST PER SF GROSS			
COST PER SF NET			

TOTAL EXPENSE \$12,668,897.08

Information

Agenda Item

Resolution - Business Development: Consider a resolution authorizing a Commercial Revitalization Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Weinerschnitzel, located at 301 University Avenue, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

Item Summary

In May 2023, the City Council authorized the continuation of the Lubbock East Neighborhood Empowerment Zone, and the establishment of the 34th Street Empowerment Zone and the North University Empowerment Zone. This action was taken to encourage redevelopment and revitalization with the City of Lubbock, through the promotion of economic development within the Zones. Through the establishment of the three Zones, Market Lubbock, Inc. has geographic boundaries within which it can implement its Commercial Revitalization Grant Program.

Weinerschnitzel is renovating their property at 301 University Avenue, located within the North University Empowerment Zone, as designated by the City of Lubbock. The scope of the facade project includes new signage, awning, fence and landscaping. The cost of the project is estimated to be \$50,165, and the requested grant amount is \$25,000. The Market Lubbock, Inc. Board of Directors approved this amount at their September 27, 2023 Board Meeting, and recommend approval by the City Council.

Fiscal Impact

The total cost of the project is estimated to be \$50,165, with \$25,000 to be paid upon completion by Market Lubbock, Inc. with the requested grant.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Market Lubbock, Inc. Board of Directors

Attachments

Resolution
Market Lubbock Resolution
Market Lubbock Support Documentation

RESOLUTION

WHEREAS, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of the Market Lubbock Economic Development Corporation (the "Corporation"), the City Council of the City of Lubbock (the "City Council"), as the Corporation's authorizing unit, has the authority to approve all programs and expenditures of the Corporation; and

WHEREAS, the City Council finds that it is in the best interest of the public to approve the program or expenditure, as proposed to the City Council by the Corporation, as set forth in Exhibit "A" attached hereto and incorporated herein by reference; **NOW THEREFORE:**

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

THAT the Commercial Revitalization Façade Grant program or expenditure of the Corporation, in the amount set forth in Exhibit "A" attached hereto and incorporated herein by reference, to be provided to Wienerschnitzel, is hereby approved pursuant to Section 5 of the Amended and Restated Bylaws of the Corporation.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Brianna Brown, Business Development Director

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

**RESOLUTION APPROVING
PALMETTO ASSETS, DBA WIENERSCHNITZEL#428 AT 301 UNIVERSITY
COMMERCIAL REVITALIZATION FAÇADE GRANT**

THE STATE OF TEXAS

COUNTY OF LUBBOCK

At a regular meeting of the Board of Directors of MARKET LUBBOCK ECONOMIC DEVELOPMENT CORPORATION, INC., a Texas nonprofit corporation (MLI), on Wednesday, September 27, 2023, held in conformity with the bylaws, after due notice as therein provided, a quorum being present and acting, the following resolution was unanimously adopted:

WHEREAS, MLI presented to members of the Board the proposal of a possible Economic Development Grant and Contract to Palmetto Assets, dba Wienerschnitzel #428, which is renovating its property at 301 University Ave, located within the Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Palmetto Assets, helmed by Lowry Hughes entered the Lubbock Marketplace in August 2007. After nearly 25 years at Galardi Group, Wienerschnitzel's Franchisor, Lowry became the franchisee of Wienerschnitzel 428 located at 301 University Blvd. By February of 2008, Palmetto Assets' 2nd location (785) was opened in the South Lubbock area at Milwaukee and 82nd. In April 2010, Palmetto Assets purchased two existing Wienerschnitzel locations and quickly began updates and upgrades. The Quaker and Loop location went through a significant renovation including the restoration of the beloved Baron Von Wienerschnitzel airplane that has been enjoyed for many years by kids and kids at heart. The South University Wienerschnitzel also received some operational based upgrades. Lubbock growth continued to be a great asset for Palmetto Assets and as such in February 2017 the 5th Palmetto Assets Lubbock location opened on 4th and Frankfort (857). That location was built with sale in mind to one of the longtime operators allowing those operators to become a Franchisee themselves. With the sale of 857 complete and another Lubbock location identified, Palmetto Assets purchased and renovated a building that had sustained significant fire damage. Lowry decided it was time for him to start planning for the continuation of his Lubbock investment and brought in the second generation to start training. Katie Hughes Mallory was hired and began her training to take over Palmetto Assets and continue the Lubbock Wienerschnitzel success. By October 2019, Wienerschnitzel 880 was open and Lubbockites were happy to have a Wienerschnitzel on 34th Street again. During the pandemic, Palmetto Assets kept the focus on safety while continuing to serve the Lubbock Community. Palmetto Assets is continuing to look for additional site options in the Lubbock area and updating and renovating the current locations in the meantime. As of 2023, Palmetto Assets owns 5 of the 7 Lubbock Wienerschnitzel locations.

The scope of the facade work includes new signage, awning, fence, and landscaping totaling \$50,165 in façade expenses.

The terms and conditions of such Economic Development Grant and Contract, other than the normal terms and conditions applicable to all such Economic Development Grant and Contracts by the Corporation, are described generally as follows, to wit:

Grant Palmetto Assets Commercial Revitalization Façade Grant for \$25,000 at 301 University, which is in the Lubbock Neighborhood Empowerment Zone designated by the City of Lubbock, once proof of payment has been submitted.


WHEREAS, The Board of Directors of MLI finds that an Economic Development Grant and Contract offering the incentive for providing assistance for renovations to their property, meet and comply with the qualifications and purposes of the Corporation for the granting of such Economic Development Grants and Contracts.

Upon Motion by Director, Mr. James Conwright, and Seconded by Director, Dr. John Opperman.

IT WAS RESOLVED that MLI offer and, if accepted by Recipient, enter into an Economic Grant and Contract with Palmetto Assets for improvements to the property at 301 University, Lubbock, Texas. This Economic Development Grant and Contract will be on the normal terms and conditions of such Commercial Revitalization Grant and Contract offered by MLI to existing businesses and business prospects and authorize the CEO to enter into and execute all documents related to the Economic Grant and Contract.



John Osborne, President & CEO



Linda Davis, Secretary

MARKET LUBBOCK, INC.
COMMERCIAL REVITALIZATION GRANT PROGRAM



301 University Ave
(Wiener Schnitzel)

TOTAL FAÇADE SCOPE OF WORK = \$50,165

FAÇADE GRANT = \$25,000



**Commercial Revitalization Grant Program
Presented to MLI Board
September 27, 2023**

Project 301 University (Façade)

Palmetto Assets, dba Wienerschnitzel #428, is renovating its property at 301 University Ave, located within the Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock.

Palmetto Assets, helmed by Lowry Hughes entered the Lubbock Marketplace in August 2007. After nearly 25 years at Galardi Group, Wienerschnitzel's Franchisor, Lowry became the franchisee of Wienerschnitzel 428 located at 301 University Blvd. By February of 2008, Palmetto Assets' 2nd location (785) was opened in the South Lubbock area at Milwaukee and 82nd. In April 2010, Palmetto Assets purchased 2 existing Wienerschnitzel locations and quickly began updates and upgrades. The Quaker and Loop location (405) went through a significant renovation including the restoration of the beloved Baron Von Wienerschnitzel airplane that has been enjoyed for many years by kids and kids at heart. The South University Wienerschnitzel (729) also received some operational based upgrades.

Lubbock growth continued to be a great asset for Palmetto Assets and as such in February 2017 the 5th Palmetto Assets Lubbock location opened on 4th and Frankfort (857). That location was built with sale in mind to one of the longtime operators allowing those operators to become a Franchisee themselves. With the sale of 857 complete and another Lubbock location identified, Palmetto Assets purchased and renovated a building that had sustained significant fire damage. Lowry decided it was time for him to start planning for the continuation of his Lubbock investment and brought in the second generation to start training. Katie Hughes Mallory was hired and began her training to take over Palmetto Assets and continue the Lubbock Wienerschnitzel success. By October 2019, Wienerschnitzel 880 was open with great fanfare and Lubbockites were happy to have a Wienerschnitzel on 34th Street again. During the pandemic, Palmetto Assets kept the focus on safety while continuing to serve the Lubbock Community. Palmetto Assets is continuing to look for additional site options in the Lubbock area and updating and renovating the current locations in the meantime.

As of 2023, Palmetto Assets owns 5 of the 7 Lubbock Wienerschnitzel locations and is grateful to the wonderful people of Lubbock who love Wienerschnitzel's World Famous Chili Dogs!

The scope of façade work includes new signage, awning, fence and landscaping totaling \$50,165 in façade expenses.

The MLI Board is being asked to consider a Commercial Revitalization Grant Program façade grant for Palmetto Assets totaling \$25,000 at 301 University Ave.



Commercial Revitalization Grant - Application

The information requested on this form will be used by Market Lubbock, Inc. for analysis of your project.

MLI CONTACT INFORMATION

Jorge Quirino - Special Projects

Phone: 806.23.8241

Market Lubbock, Inc.

1500 Broadway, Sixth Floor, Lubbock, TX 79401

Email: jorge@marketlubbock.org

Date Initial Application Submitted (Due prior to start of construction or permits assigned) 06/19/23

Projected Project Start Date 08/01/23

Project Property Address 301 University

Property LCAD R# 87751

GENERAL INFORMATION ABOUT THE COMPANY

Company Name Palmetto Assets / Wienerschnitzel 428

Street Address PO Box 6670

City, State, Zip Lubbock, TX 79493

GENERAL INFORMATION ABOUT THE COMPANY CONTACT

Name Katie Mallory

Title Director of Operations

Phone Number 843-412-4430

Email katie@palmettoassets.com

INFORMATION ABOUT THE PROJECT

Property Ownership: Own ☐ Lease ☒
Owner Approved ☒

Grant Type (May choose both if applicable): Permittable ☐ Façade ☒

Detailed Project Summary (including projected start date) and Description of Work:

This project aims to clean up and update the building at 301 University. The biggest visual change will be all new signage including building, awning and monument signs that are more modern. The landscaping will be updated in an effort to reduce our water usage needs and clean up the look from the street. Then a new fence will be erected at the rear of the property. Finally wood rot and other building needs will be addressed.

Summary of Expenses (detailed bids attached)	Projected	MLI Approved Reimbursement
Awning and Signage	\$25,672	\$12,836
Fence	\$10,580	\$5,290
Façade	\$8,930	\$4,465
Landscaping	\$3,495	\$1,748
Granite Gravel	\$537	\$269
Site One Landscaping	\$951	\$393
TOTAL	\$50,165	\$25,000

Final bids will be used to calculate the project cost and grant amount.

COMPANY BACKGROUND

List any person or entity that has at least 5% ownership in the Applicant Company:

Name	Percent	Name	Percent
Lowry Hughes	100%		

Is the firm registered with the Secretary of State's Office to do business in Texas?

Yes 

Are you in good standing with the State of Texas?

Yes 

If you answered "No" to either of the above two questions, please explain

Is the firm and/or principals delinquent on any federal, state or local tax obligations?

No 

Has the company or principals of the company had prior bankruptcies or lawsuits?

No 

If you answered "Yes" to either of the above two questions, please explain

Is the firm receiving tax revenue from any government agency?

No 

APPLICANT'S RESPONSIBILITIES (PROPERTY OWNER OR LEASEE)

City of Lubbock requirements:

City of Lubbock - Planning Department 806-775-2108

Contact the City of Lubbock to determine the following:

- ☐ Scope of work meets East Side/34th St./N. University standards and guidelines?
- ☐ Are permits required for any aspect of the scope of work?
- ☐ Are public improvements required?
- ☐ Is there a current Certificate of Occupancy on file for this property?

Market Lubbock, Inc. (MLI) requirements:

Manager of Downtown & Special Projects (Jorge Quirino) 806-749-4500

Application Packet:

- ☐ Initial application (page one of this document) must be received by MLI prior to the start of construction and/or before permits are assigned
- All remaining documents must be received and an application packet presented to the MLI Board no more than three months after the initial application is received by MLI.

Date Final Documents Received: _____

- ☐ Copies of City permits or City approval
- ☐ Copy of Current Certificate of Occupancy
- ☐ Detailed Construction Bids or Schedule of Values
- ☐ Before Picture (prior to construction beginning)
- ☐ Architectural Plans (if applicable)
- ☐ Architectural Renderings (if applicable)

After completion of construction:

- ☐ Certificate of Occupancy or Similar City Document Approving Completion
(Applicant responsible for final scope of work matching approved scope)

Proof of Payment:

- ☐ PAID Invoices (must reference the approved project)
- ☐ Processed Checks, Bank or Credit Card Statements matching PAID invoices (legible copies)

Overview

- An Applicant must be a valid Owner or Tenant (Lessee) of the property needing improvements
- Properties must fall within the East Side, 34th St., or N. Lubbock Neighborhood Empowerment Zones
- Single-Family residences and duplexes are excluded.
- An Applicant is eligible to receive a permissible grant and/or façade grant per property (LCAD R# or Development Lot), per enterprise, per year. Must wait one year from approval to apply again for the same property. (Expenses used in one application cannot be used in another application.)
- Applicant is not eligible for grant program funding if delinquent in property taxes according to LCAD records - includes all LCAD properties listed in the applicant's name
- MLI disbursements are characterized as "reimbursable grants" - Applicant pays expenses first
- Expenses eligible for reimbursement must relate to reasonable costs or expenses.
- Receipt of an application is not a guarantee of grant approval.

Grant Types

- **Permittable Projects**
 - Improvements require a City of Lubbock permit
 - Improvements may be made to the exterior and/or interior of the property
 - Improvements must total a minimum of \$5,000
 - The permissible grant reimburses 10% of approved expenses up to a \$50,000 grant
 - Permittable scope of work that may be considered:
 - HVAC
 - Plumbing
 - Electrical
 - Structural
 - Any other work requiring a City of Lubbock permit
- **Façade Projects**
 - Improvements may or may not require a City of Lubbock permit
 - Improvements must be made to the exterior of the property facing the most prominent street
 - Improvements must total a minimum of \$1,000
 - The façade grant reimburses 50% of approved expenses up to a \$25,000 grant
 - Façade scope of work that may be considered:
 - Painting
 - New windows and doors
 - Signage
 - Landscaping
 - Parking lots
 - Awnings
 - Any other work that improves the appearance of the façade

Signature (not required for electronic submittals): Katie Mallory per email

Date: 6/19/2023

301 University – Wienerschnitzel 428





Proposal

GRUBELNIK CONSTRUCTION

119 North Norwich • Lubbock, Texas 79416 • (806) 793-3114

Date _____ Phone _____
To Wiener Schnitzel Co Katie Hughes
Street N University City Lubbock

DESCRIPTION

AMOUNT

Drive thru plaster New
new light

paint grip metal over wood
facia upright pieces

paint Black Brick

paint behind sign (when off)

metal curb

ADA Sign Bolt Down (weld)

8930.00

+ tax

thank you

TAX

TOTAL

Received by

Pay requested every two weeks for work completed. Payment must be made on or before the 7th day after receiving bill. In the event that it might become necessary to place this account with an attorney for collection, Buyer agrees to pay in addition to the principal amount thereof with interest and other lawful charges, all costs and expenses of collection including a reasonable attorneys' fee. Past due accounts subject to a FINANCE CHARGE OF 1 1/2% per month which is an ANNUAL PERCENTAGE RATE OF 18%. All bills due and payable in Lubbock, Lubbock County, Texas.

LOOP

ESTIMATE



Prepared For

Katie Mallory - Wienerschnitzel
301 University
Lubbock, TX
(843) 412-4430

A + Fence Repair & Installation

5607 County Road 6170
Lubbock, TX 79415
Phone: (806) 535-5351
Email: fencerepairlubbock@gmail.com
Web: www.aplusfencerepair.com

Estimate # 8821
Date 06/19/2023

Description	Quantity	Total
Remove Vines & Haul Off (East Of Parking Lot)	1	\$400.00
Remove Cinder Block Fence (South Of Parking Lot)	50	\$750.00
1x4x6 Dogear Cedar (East Of Parking Lot) 1x4x6 dogear cedar w/2x4 rails & sch 20 metal posts	95	\$3,610.00
1x4x6 Dogear Cedar (Dumpster Encloser) 1x4x6 dogear cedar w/2x4 rails & sch 20 metal posts	19	\$608.00
Chain Link Double Drive Gate (Dumpster Encloser)	1	\$1,450.00
Privacy Slats For 6' Chain Link Gates	1	\$475.00
1x4x6 Dogear Cedar (South Of Parking Lot) 1x4x6 dogear cedar w/2x4 rails & sch 20 metal posts	50	\$2,250.00
Stain 6' Wood Fence	1,728	\$1,036.80

Note: Stain pricing includes all materials (Wood Defender @ recommended 150 sq ft per gallon), site preparation, labor, clean-up. The average life is expected to last between 3-4 years depending on stain selection and the fence itself.

Subtotal	\$10,579.80
<hr/>	
Total	\$10,579.80

PLEASE NOTE: Estimates are good for 7 days. In order to lock in your pricing on materials and a place on our schedule we will ask that you put down a 50% deposit to cover a portion of the costs. We will have to pay for 100% of your materials the day we lock it in with our suppliers. Any canceled orders will be subject to a 10% restocking fee. Thank you for understanding!

This price already includes a 4% discount for payment by cash, or check. If paying with a credit/debit card you will void that discount and the 4% will be added to your total. Any balance is due in full upon completion of job.

428

Texas Rock and Flagstone

Sales Receipt

Lubbock, Tx 79407

806-687-0104

Date

Sale No.

9/1/2023

862194

Sold To

Terry Holmes
301 University Ave.

Katie

Ship To

Christain Cook
794-4636

Check No.

Payment Method

Rep

Project

Other

Description

Qty

U/M

Rate

Amount

1/4 Decomposed Granite Gravel
Delivery

2

198.00

396.00

100.00

100.00

Christain Cook
order pending

Subtotal

\$496.00

Sales Tax (8.25%)

\$40.92

Total

\$536.92

Delivery
confirmation X

Proposal

Ambition Lawn

"Care"

806-730-8781

PROPOSAL SUBMITTED TO

ADDRESS

Katie (Wienerschnitzel)

JOB NAME

Wienerschnitzel #428

JOB LOCATION

Lubbock, TX

DATE

8-30-23

DATE OF PLANS

09-01-23

PHONE

806-747-6881

PAY #

ARCHITECT

Ambition Lawn

We hereby submit specifications and estimates for:

Ambition Lawn Care to be

- * Responsible for the Renovation of Flowerbeds on the north & South corners Facing University Ave. Plus Flowerbed South East of Drive-Throw on both Flower Box

Demo:

Removal of all existing plant life by the root.

Removal of existing sprinkler & Drip water Systems

Excavation of existing Stone, Soil & debris

Planting of New Selected Items

Preparation of bed for plants

addition of crushed granite & metal edge

to new & existing Flowerbeds

We propose hereby to furnish material and labor - complete in accordance with the above specifications for the sum of:

Wienerschnitzel is to furnish material. Job will be billed Dollars with payments to be made as follows: COST PLUS in the total Amount of

Any alteration or deviation from above specifications involving extra costs will be executed only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.

Respectfully submitted

[Signature]

Note - this proposal may be withdrawn by us if not accepted within

days

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.

Signature

Signature

Date of Acceptance

Grand total \$3495.00
Total 159.00

\$3,336.00

42.8

Bid



Stronger Together

Lubbock TX #207
5815 50th St
Lubbock, TX 79424-1103
W: (806)780-7995

Created	Quote#	Due Date	Expected Award Date	Expiration Date
09/01/2023	6500305	10/01/2023	10/01/2023	10/01/2023

Printed	Job Name	Job Description	Job Start Date
09/01/2023 12:30:51			10/01/2023

Bill To:

Cash Wholesale-#207 (#19321)
5815 50th St
Lubbock, TX 79424-1103
W: (806)780-7995

Ship To:

Cash Wholesale-#207 (#19321)
5815 50th St
Lubbock, TX 79424-1103
W: (806)780-7995

Line #	Item #	Item Desc	Qty	UOM	Unit Price	Extended Price
1	1014BK	Colmet Steel Landscape Edging Black 14 Gauge 1/16 in. x 4 in. x 10 ft.	35	PC	21.878	765.73
2	PT-WB1-PT	Pro-Trade Wheelbarrow 6 cu. ft. Steel Tray Pneumatic Tire Steel Handles <i>ADD 100</i>	1	EA	159.990	159.99
3	delivery		1		25.000	25.00

Total Price: \$ 950.72

Quoted price is for material only. Applicable sales tax will be charged when invoiced. All product and pricing information is based on the latest information available and is subject to change without notice or obligation.
Local tax may differ based on locations and local codes.



Stronger Together

Josh Hiers
Business Development Manager
jhiers@SiteOne.com | SiteOne.com
5815 50th St. | Lubbock, TX. 79424
m. 806.893.1920 | p. 806.780.7995

Chris Cook
order pending



May 10, 2023

Palmetto Assets
Katie Hughes Mallory
119 Coming St.
Charleston, SC 29403

Ref: Wienerschnitzel # 428 Lubbock

We are pleased to quote the following:

Manufacture (1) 15' illuminated canopy with turnbuckles.	\$6,243.00
Manufacture (2) 4' x 6' illuminated W logo wall signs.	\$4,098.00
Manufacture (1) 36" x 63" illuminated TF wall sign.	\$1,660.00
Manufacture (2) W faces and (2) TF faces for monument sign.	\$3,124.00
Crate and ship to Lubbock, TX with canopy for #785 (under separate order).	\$4,040.00
Remove/dispose of existing awning and banner frame on building. Install above signs and canopy as per our designs # 51504-001 – 008.	\$6,149.00
Design fees for permitting.	\$358.00
	=====
	\$25,672.00

Power to be brought to right building elevation by owner.

Price excludes sales tax.

Permit fees & acquisition will be billed at actual cost as an extra.

Patch and painting of building fascia after sign removal by owner.

Terms: 50% deposit, balance due upon completion.

This quote is valid for 15 days and is based on current material costs and availability.

Thank you for the opportunity to quote. Feel free to call me should you have any questions.

Best regards,

Encore Image, Inc.
Corey Northcott
Corey Northcott

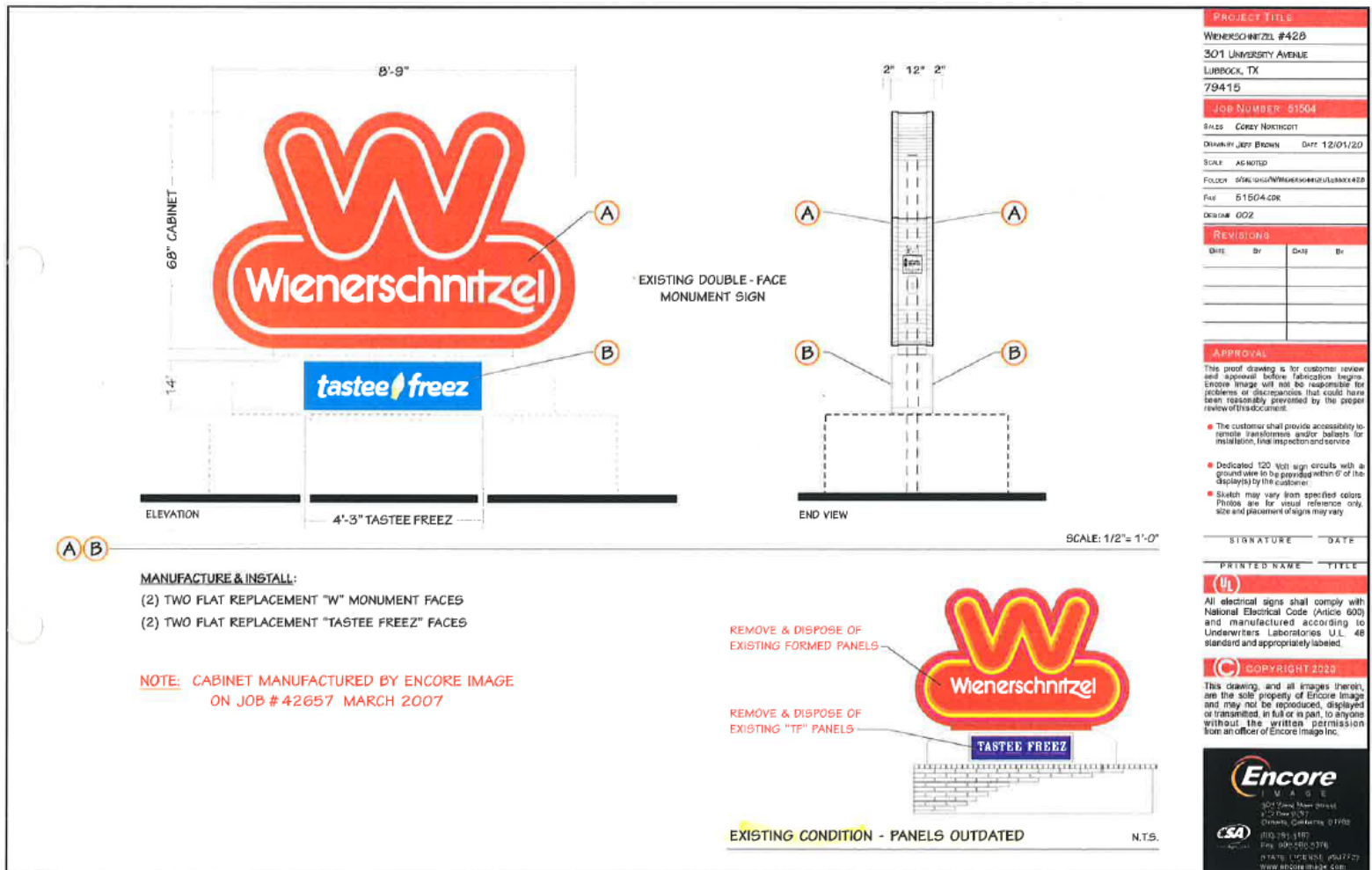
Approved by

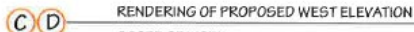
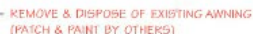
Date

Exceptional Signs and Awnings Since 1945

303 W. Main Street, P.O. Box 9297, Ontario, CA 91762-9297
800/791-1187, x303 F: 909/988-6376 D: 909/230-5577
State License #947727 C45

301 University – Wienerschnitzel 428





SCOPE OF WORK:

- MANUFACTURE AND INSTALL (1) 10" TALL X 15' WIDE INTERNALLY ILLUMINATED CANOPY.
- MANUFACTURE AND INSTALL (1) 48" X 74" INTERNALLY ILLUMINATED LOGO

SCALE: 1/4" = 1'-0"

PROJECT TITLE	
WIENERSCHNITZEL #428	
301 UNIVERSITY AVENUE	
LUBBOCK, TX	
79415	
JOB NUMBER 51504	
SALES	COREY NORTHOTT
DRAWING	JEB BROWN
DATE	12/01/20
SCALE	AS NOTED
FOLDER	51504CHS\W\Wienerschnitzel\28004428
FILE	515044.GRP
DESIGN#	004

REVISIONS			
DATE	BY	DATE	BY

APPROVAL

This proof drawing is for customer review and approval before fabrication begins. Encore Image will not be responsible for problems or discrepancies that could have been reasonably prevented by the proper review of this document.

- The customer shall provide accessibility to remote transformers and/or ballasts for installation, final inspection and service.
- Dedicated 120 Volt sign circuits with a ground wire to be provided within 5' of the display(s) by the customer.
- Sketch may vary from specified colors. Photos are for visual reference *only*. Size and placement of signs may vary.

SIGNATURE	DATE
-----------	------

PRINTED NAME	TITLE
--------------	-------



All electrical signs shall comply with National Electrical Code (Article 600) and manufactured according to Underwriters Laboratories U.L. 48 standard and appropriately labeled.

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EXISTING WALL SIGN TO BE REMOVED AND WEATHER PATCH HOLE

EXAMPLE

PROJECT TITLE	
WIENERSCHNITZEL Wienersch	
22500 SOUTHERN CHINA DRIVE	
WILLOW BROOK, ILLINOIS	
91765	
JOB NUMBER	
SALE#	COREY NORTHCOTT
BURNBY	L/E ROMO DATE 12/9/15
SCALE	AS NOTED
FOLDER	SPRINT-91765-Wienersch-COREY NORTHCOTT 12/9/2015
FILE	49471.WE.CDR
DESIGN#	002

REVISIONS	
DATE	BY
12/7/15	LR
12/22/15	LR

APPROVAL

This proof drawing is for customer review and approval before fabrication begins. Encore Image will not be responsible for problems or discrepancies that could have been reasonably prevented by the proper review of this document.

- The customer shall provide accessibility to remote transformers and/or ballasts for installation, final inspection and service.
- Dedicated sign circuits with a ground wire to be provided within 6' of the display(s) by the customer.
- Sketches may vary from specified colors. Photos are for visual reference only, size and placement of signs may vary.

SIGNATURE _____ DATE _____

PRINTED NAME	TITLE

All electrical signs shall comply with National Electrical Code (Article 600) and manufactured according to Underwriters Laboratories U.L. 48 standard and appropriately labeled.

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ENHANCED PHOTO SHOWING (2) TWO NEW WALL SIGNS TO REPLACE EXISTING WALL SIGN

NTS

Information

Agenda Item

Resolution - Business Development: Consider a resolution authorizing a Commercial Revitalization Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Hoff Gardens Apartments, located at 1919 34th Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

Item Summary

In May 2023, the City Council authorized the continuation of the Lubbock East Neighborhood Empowerment Zone, and the establishment of the 34th Street Empowerment Zone and the North University Empowerment Zone. This action was taken to encourage redevelopment and revitalization within the City of Lubbock, through the promotion of economic development within the Zones. Through the establishment of the three Zones, Market Lubbock, Inc. has geographic boundaries within which it can implement its Commercial Revitalization Grant Program.

Hoff Gardens Apartments is renovating their property at 1919 34th Street, located within the 34th Street Empowerment Zone, as designated by the City of Lubbock. The scope of the facade project includes a new parking lot, exterior paint, and a new pool fence. The cost of the project is estimated to be \$53,263, and the requested grant amount is \$25,000. The Market Lubbock, Inc. Board of Directors approved this amount at their September 27, 2023 Board Meeting, and recommend approval by the City Council.

Fiscal Impact

The total cost of the project is estimated to be \$53,263, with \$25,000 to be paid upon completion by Market Lubbock, Inc. with the requested grant.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Market Lubbock, Inc. Board of Directors

Attachments

Resolution
Market Lubbock Resolution
Market Lubbock Support Documentation

RESOLUTION

WHEREAS, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of the Market Lubbock Economic Development Corporation (the "Corporation"), the City Council of the City of Lubbock (the "City Council"), as the Corporation's authorizing unit, has the authority to approve all programs and expenditures of the Corporation; and

WHEREAS, the City Council finds that it is in the best interest of the public to approve the program or expenditure, as proposed to the City Council by the Corporation, as set forth in Exhibit "A" attached hereto and incorporated herein by reference; **NOW THEREFORE:**

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

THAT the Commercial Revitalization Façade Grant program or expenditure of the Corporation, in the amount set forth in Exhibit "A" attached hereto and incorporated herein by reference, to be provided to Hoff Garden Apartments, is hereby approved pursuant to Section 5 of the Amended and Restated Bylaws of the Corporation.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Brianna Brown, Business Development Director

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

**RESOLUTION APPROVING
HOFF GARDENS APARTMENTS AT 1919 34TH STREET
COMMERCIAL REVITALIZATION FAÇADE AND PERMITTABLE GRANTS**

THE STATE OF TEXAS

COUNTY OF LUBBOCK

At a regular meeting of the Board of Directors of MARKET LUBBOCK ECONOMIC DEVELOPMENT CORPORATION, INC., a Texas nonprofit corporation (MLI), on Wednesday, September 27, 2023, held in conformity with the bylaws, after due notice as therein provided, a quorum being present and acting, the following resolution was unanimously adopted:

WHEREAS, MLI presented to members of the Board the proposal of a possible Economic Development Grant and Contract to Houston Refugee Relief Organization, LLC, dba Hoff Gardens Apartments, which is renovating its property at 1919 34th Street, which is located in the Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Hoff Gardens Apartments is just minutes away from Texas Tech University, dining, entertainment, and downtown Lubbock.

The scope of the facade work includes a new parking lot, exterior paint and pool fence totaling \$53,263. The scope of permissible work includes new signage, new roof and, electrical work totaling \$59,750 in permissible expenses. Total expense for this project is \$113,013.

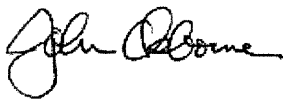
The terms and conditions of such Economic Development Grant and Contract, other than the normal terms and conditions applicable to all such Economic Development Grant and Contracts by the Corporation, are described generally as follows, to wit:

Grant Houston Refugee Relief Organization, LLC, dba Hoff Garden Apartments a Commercial Revitalization Façade Grant for \$25,000 and a Permissible Grant totaling \$5,975 at 1919 34th Street, which is in the Lubbock Neighborhood Empowerment Zone, once proof of payment has been submitted.

WHEREAS, The Board of Directors of MLI finds that an Economic Development Grant and Contract offering the incentive for providing assistance for renovations to their property, meet and comply with the qualifications and purposes of the Corporation for the granting of such Economic Development Grants and Contracts.

Upon Motion by Director, Mr. James Conwright, and Seconded by Director, Dr. John Opperman.

IT WAS RESOLVED that MLI offer and, if accepted by Recipient, enter into an Economic Grant and Contract with Houston Refugee Relief Organization, LLC, dba Hoff Garden Apartments for improvements to the property at 1919 34th Street, Lubbock, Texas. This Economic Development Grant and Contract will be on the normal terms and conditions of such Downtown Grant Program and Contract offered by MLI to existing businesses and business prospects and authorize the CEO to enter into and execute all documents related to the Economic Grant and Contract.



John Osborne, President & CEO



Linda Davis, Secretary

MARKET LUBBOCK, INC.
COMMERCIAL REVITALIZATION GRANT PROGRAM



1919 34th St.
(Hoff Gardens Apartments)

TOTAL COMBINED SCOPE OF WORK = \$113,013

COMBINED GRANT = \$30,975

TOTAL FAÇADE SCOPE OF WORK = \$53,263

FAÇADE GRANT = \$25,000

TOTAL PERMITTABLE SCOPE OF WORK = \$59,750

PERMITTABLE GRANT = \$5,975



**Commercial Revitalization Grant Program
Presented to MLI Board
September 27, 2023**

Project 1919 34th St. (Façade and Permittable)

Houston Refugee Relief Organization, LLC, dba Hoff Gardens Apartments, is renovating its property at 1919 34th St., located within a Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Hoff Gardens Apartments is just minutes away from Texas Tech, dining, entertainment, and downtown Lubbock.

The scope of façade work includes a new parking lot, exterior paint and pool fence totaling \$53,263. The scope of permittable work includes new signage, a new roof and, electrical work totaling \$59,750 in permittable expenses. Total expense for this project is \$113,013.

The MLI Board is being asked to consider a Commercial Revitalization Grant Program Façade Grant for Hoff Gardens Apartments totaling \$25,000 and a Commercial Revitalization Grant Program Permittable Grant totaling \$5,975 at 1919 34th St.



Commercial Revitalization Grant - Application

The information requested on this form will be used by Market Lubbock, Inc. for analysis of your project.

MLI CONTACT INFORMATION

Jorge Quirino - Special Projects Phone: 806.23.8241
 Market Lubbock, Inc.
 1500 Broadway, Sixth Floor, Lubbock, TX 79401 Email: jorge@marketlubbock.org

Date Initial Application Submitted (Due prior to start of construction or permits assigned) 7/17/23 (rcvd JQ)

Projected Project Start Date 08/01/23

Project Property Address 1919 34th Street
 Property LCAD R# 69449 (JQ)

GENERAL INFORMATION ABOUT THE COMPANY

Company Name Houston Refugee Relief Organization LLC, dba Hoff Gardens Apartments (JQ)
 Street Address PO BOX 44261
 City, State, Zip Pheonix, AZ 85064

GENERAL INFORMATION ABOUT THE COMPANY CONTACT

Name Brian Hoff
 Title Owner
 Phone Number 602-451-3864
 Email BrianNspain@hotmail.com ; krickett@onward-properties.com

INFORMATION ABOUT THE PROJECT

Property Ownership: Own ☒ Lease ☐

Grant Type (May choose both if applicable): Permittable ☒ Façade ☒

Detailed Project Summary (including projected start date) and Description of Work:

Signage, Roof, Electrical, parking lot, exterior paint, pool fence.

Summary of Expenses (detailed bids attached)	Projected	MLI Approved Reimbursement
PERMITTABLE		
Signage	\$19,178	\$1,918
Roof	\$36,975	\$3,698
Electrical	\$3,597	\$360
	\$59,750	\$5,975
FAÇADE		
Parking Lot	\$8,266	\$4,133
Fascia/Exterior Paint/Lighting	\$25,000	\$12,500
Pool Fence	\$19,997	\$8,367
	\$53,263	\$25,000
TOTAL	\$113,013	\$30,975

Final bids will be used to calculate the project cost and grant amount.

COMPANY BACKGROUND

List any person or entity that has at least 5% ownership in the Applicant Company:

Name	Percent	Name	Percent
Brian Hoff	100%		

Is the firm registered with the Secretary of State's Office to do business in Texas?

Yes ▼

Are you in good standing with the State of Texas?

Yes ▼

If you answered "No" to either of the above two questions, please explain

Is the firm and/or principals delinquent on any federal, state or local tax obligations?

No ▼

Has the company or principals of the company had prior bankruptcies or lawsuits?

No ▼

If you answered "Yes" to either of the above two questions, please explain

Is the firm receiving tax revenue from any government agency?

No ▼

APPLICANT'S RESPONSIBILITIES (PROPERTY OWNER OR LEASEE)

City of Lubbock requirements:

City of Lubbock - Planning Department 806-775-2108

Contact the City of Lubbock to determine the following:

- ☒ Scope of work meets East Side/34th St./N. University standards and guidelines?
- ☒ Are permits required for any aspect of the scope of work?
- ☐ Are public improvements required?
- ☐ Is there a current Certificate of Occupancy on file for this property?

Market Lubbock, Inc. (MLI) requirements:

Manager of Downtown & Special Projects (Jorge Quirino) 806-749-4500

Application Packet:

- ☒ Initial application (page one of this document) must be received by MLI prior to the start of construction and/or before permits are assigned
- All remaining documents must be received and an application packet presented to the MLI Board no more than three months after the initial application is received by MLI.

Date Final Documents Received: _____

- ☐ Copies of City permits or City approval
- ☐ Copy of Current Certificate of Occupancy
- ☐ Detailed Construction Bids or Schedule of Values
- ☐ Before Picture (prior to construction beginning)
- ☐ Architectural Plans (if applicable)
- ☐ Architectural Renderings (if applicable)

After completion of construction:

- ☐ Certificate of Occupancy or Similar City Document Approving Completion
(Applicant responsible for final scope of work matching approved scope)

Proof of Payment:

- ☐ PAID Invoices (must reference the approved project)
- ☐ Processed Checks, Bank or Credit Card Statements matching PAID invoices (legible copies)

Overview

- An Applicant must be a valid Owner or Tenant (Lessee) of the property needing improvements
- Properties must fall within the East Side, 34th St., or N. Lubbock Neighborhood Empowerment Zones
- Single-Family residences and duplexes are excluded.
- An Applicant is eligible to receive a permissible grant and/or façade grant per property (LCAD R# or Development Lot), per enterprise, per year. Must wait one year from approval to apply again for the same property. (Expenses used in one application cannot be used in another application.)
- Applicant is not eligible for grant program funding if delinquent in property taxes according to LCAD records - includes all LCAD properties listed in the applicant's name
- MLI disbursements are characterized as "reimbursable grants" - Applicant pays expenses first
- Expenses eligible for reimbursement must relate to reasonable costs or expenses.
- Receipt of an application is not a guarantee of grant approval.

Grant Types

- **Permittable Projects**
 - Improvements require a City of Lubbock permit
 - Improvements may be made to the exterior and/or interior of the property
 - Improvements must total a minimum of \$5,000
 - The permissible grant reimburses 10% of approved expenses up to a \$50,000 grant
 - Permittable scope of work that may be considered:
 - HVAC
 - Plumbing
 - Electrical
 - Structural
 - Any other work requiring a City of Lubbock permit
- **Façade Projects**
 - Improvements may or may not require a City of Lubbock permit
 - Improvements must be made to the exterior of the property facing the most prominent street
 - Improvements must total a minimum of \$1,000
 - The façade grant reimburses 50% of approved expenses up to a \$25,000 grant
 - Façade scope of work that may be considered:
 - Painting
 - New windows and doors
 - Signage
 - Landscaping
 - Parking lots
 - Awnings
 - Any other work that improves the appearance of the façade

Signature (not required for electronic submittals): _____

Date: _____

PROPOSAL

Proposal # : LS-230619

Date: 06/19/2023

ALL-STATE FENCE COMPANY

Supplies & Installation www.allstate-fence.com

12116 Slide Road - Lubbock, Texas

Phone: 806-799-3729 Fax: 806-783-8632

Mailing Address:

P.O. Box 93907

Lubbock, Texas 79493

PROPOSAL SUBMITTED TO:

WORK TO BE PERFORMED

Name: Hoff Gardens Apartments
Attn: Olga

Address:

Work Address:

806-744-2398


Phone: **Cell: 806-544-7800**

arborgardenlbk@gmail.com

Locate Confirmation#:

Pricing Includes Materials and Labor * All Footage Includes Gate Opening Footage Unless Stated Otherwise**

230'	6' Tall "Montage" 3-Rail "Majestic" Black Ornamental Iron Fence Made by "Ameristar"
1	Walk Gate
	Posts - 2" Square Tubing x 16 Gauge - Black - Set 2' 6" Deep with Concrete.
	New Galvanized Steel / Fuse Welded with Epoxy Primer and Acrylic Top Coat
	Posts Core-Drilled and Quick-Set in Concrete Where Necessary
**	20 Year Limited Warranty - by Manufacturer
**	Since Product is Special Order, a Down Payment is Required Prior to Starting Project.
We are Fully Insured for Your Protection: Workers Compensation and General Liability	
Guarantee: One Year - Materials & Workmanship	
All-State Fence Company will assume the responsibility for having underground public utilities located and marked. The customer will be responsible for locating property lines. The customer is responsible for moving all sprinkler heads/lines from the fence line. All-State Fence will not be liable for any damage done to sprinkler heads/lines due to the installation of the fence. The customer is responsible for notifying their neighbors of the time frame of this job (if applicable). Additional charges for extra work not covered in this contract that was requested by the customer will be added to the contract amount. The full amount of this contract along with any additional charges will become payable upon completion of this job. A finance charge of 1 1/4 % per month (which is an annual percentage rate of 18%) will be added to the accounts that are past due. The customer agrees to pay all finance charges plus all costs incurred in the collection of past due accounts.	
Respectfully submitted	
Brent Stewart	



Note: Price subject to materials price change.

Credit Cards Accepted with a Handling Fee

Early Payment Discount Terms: 1% 10 Days, Net 30

Contract Amount: \$ 19,997.00
(Tax Included)

Price is Good Through 07-05-23

ACCEPTANCE OF PROPOSAL

Customer Signature

Date _____

Ricardo Aranda
806-939-3639

Estimate
Hoff Gardens
1919 34th St

Estimate for 6 parking spots at the front of the building.

- Curb removal
- Saw cut the asphalt
- Remove bushes and rocks
- Pour new concrete
- Place 8 square tubing (4 on each side)
- Paint stripes for the parking

Labor and Material- Total \$8266

1919 34th St. – Permittable Expenses

Office: 806-799-7030
Fax: 806-785-7810
service@carpenterroof.com



P.O. Box 6054
Lubbock, TX 79493



Name: Hoff Gardens
Job: 1919 34th Street
Lubbock, TX
Contact: Olga: 806-544-7800
arborgardenlkb@gmail.com

Date: 06/09/23

Scope of work: Designated areas (65 squares)

1. Scrape, remove and haul away old gravel.
2. Sweep, prep and prime surface area.
3. Hot mop 1/2" fiberboard insulation.
4. Hot mop 75# base sheet & (2 layers) ply IV fiberglass.
5. Flash all roof penetrations.
6. Install over-sized metal edge detail around entire perimeter.
7. Flood coat & embed new #4 gravel.
8. Clean up and haul away debris.

Proposal/Contract Sum: The contract sum of the work shall be \$36,975.00

*** HVAC work & decking repairs are not included in our bid proposal***

5 YEAR WORKMANSHIP WARRANTY TO BE ISSUED UPON COMPLETION OF ROOF AND PAYMENT IN FULL.

We agree to furnish labor and material to complete scope of work. Our price is good for 30 days.

Payment is due upon completion, ten percent will be added if placed in the hands of attorney for collection.

"Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of Texas law for a seller of goods or services who reasonably expects to be paid wholly or partly from the proceeds of a property insurance claim to knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay, the applicable insurance deductible."

Accepted by _____

Date _____

By 
Dustin Carpenter



Haden Signs of Texas

6011 43rd Street
Lubbock, TX 79407
Ph: (806) 744-4404
FAX: (806) 744-1327
Email: ladonna@pmgdigital.com
Web: www.hadensigns.com

Estimate #: 28104

Page 1 of 3

Created Date:	3/9/2022 12:04:44PM	Prepared For:	Arbor Gardens Apartments
Salesperson:	David Snyder	Contact:	Olga Castillo, Office Mgr
Email:	david@pmgdigital.com	Office Phone:	(806) 744-2398
Office Phone:	(806) 747-7446	Email:	arborgardenibk@gmail.com
Office Fax:	(806) 747-4686	Address:	1919 34th Street
Entered by:	David Snyder		Lubbock, TX 79411

Description: Monument ID Sign

	Quantity	Price	Unit Price	Subtotal	
1	Product: Sign Cabinet Description: Double Sided Custom Sign Monument Cabinet: Aluminum frame with aluminum back panel, custom painted to resemble red cedar look. Second surface custom aluminum painted raised panels resembling red cedar. Alternate spacing of second surface panels. 18" x 50" double sided box sign cabinet (for advertisement) mounted to second surface aluminum panel of monument. Sign cabinet mounted on interior steel structure pipe: * 1, 84 in (H) x 72 in (W) x 12 in Double Sided Custom Sign Cabinet * Aluminum - .063 White 48x96 Cabinet Side 1: Skin Side 2: Skin Painting * Custom Mathews, Custom Mix Primary Paint * Custom Mathews, Custom Mix Detail Paint * Horizontal Lamping	1	\$10,198.25	\$10,198.25	\$10,198.25
1.A	Product: Sign Cabinet Description: Footer Cabinet painted gray * 1, 12 in (H) x 60 in (W) x 8 in Double Sided Custom Sign Cabinet * Aluminum - .063 Mill Finish 48 x 96 Cabinet Side 1: Skin Side 2: Skin Painting * Custom Mathews, Custom Mix Primary Paint				
1.B	Product: Sign Cabinet Description: Single Sided Custom Sign * 2, 18 in (H) x 50 in (W) x 3 in Single Sided Custom Sign Cabinet * Aluminum - .040 Bronze 48 x 96 Cabinet Side 1: Decorated Face * Cabinet Retainer 1in Retainer Side 2: Skin * LEDs Include: Qwik Mod 2 Series, 1, Principal 60 Watt Class II power supply, located Design Spec				
1.B.1	Product: Grand or Wide Format Print Description: Wide Format Prints * 2- 18 in (H) x 50 in (W) Single Sided Print(s) made from Cast Translucent White Vinyl 54 in stock material * Mounted on: Acrylic - 3/16 in White 48x96, Acrylic - 3/16 in 7328 White 48x96 * Laminated with Cast 1.3mil Gloss Laminate 54in on face				
1.B.1.A	Product: Design Description: Design * 1 Files * 0.3333333333333333 hr Setup Time Per File.				

Print Date: 3/10/2022 11:55:58AM

**Haden Signs of Texas**

6011 43rd Street
 Lubbock, TX 79407
 Ph: (806) 744-4404
 FAX: (806) 744-1327
 Email: ladonna@pmgdigital.com
 Web: www.hadensigns.com

Estimate #: 28104

Page 2 of 3

I.B.1.E**Product:** Electric Sign Service**Description:** Electric Sign Service City Sign Permit:

- Location: Customer Location:
1919 34th Street
Lubbock, TX 79411
- Reported Issue: Permit Fee

	Quantity	Price	Unit Price	Subtotal
2				
Product: Channel Letters and Logos	20	\$2,893.38	\$144.669	\$2,893.38
Description: Individual channel letters with internal led illumination: Letters mounted on face surface of sign cabinet and panels.				

Electrical Requirements: One 120V 20 Amp circuit ran from nearest available breaker panel to within five feet of sign. Electrical connection from sign to source of supply (within five feet) is included in quoted price. If power is not within five feet of sign at time of installation, final connection will be the responsibility of the customer.

- 1 Sets of Front Lit Channel reading Hoff Gardens Apartment with LED lighting
- Letter Size 1: 11 in Letters: HOFF GARDENS
- 11 Serif (Arial Bold)
- 4.75 In return, made from Bronze Letter Coil 5.3" 040 with Bronze-1in
- LEDs include: Single Stroke of Qwik Mod 2 Series, 2, Principal 60 Watt Class II power supply, located Design Spec
- Acrylic face, made from Acrylic - 316 in White 48x96
- Alupanel backing, made from AluPanel 3mm White 48x96
- Letter Size 2: 8 in Letters: APARTMENT
- 8 Serif (Arial)
- 4.75 In return, made from Bronze Letter Coil 5.3" 040 with Bronze-1in
- LEDs include: Single Stroke of Qwik Mod 2 Series
- Acrylic face, made from Acrylic - 316 in White 48x96
- Alupanel backing , made from AluPanel 3mm White 48x96

	Quantity	Price	Unit Price	Subtotal
3				
Product: Electric Sign Service	1	\$4,624.76	\$4,624.76	\$4,624.76

Description: Removal of existing monument: Installation of new monument:
 NOTE: Does not include any electrical repair or replacement: TBD

- Location: 3rd Party Location:
- Reported Issue: Fabrication - Removal - Install
- 1st Visit: Date to be Determined
- Service Time of 12 hr 0 min and Travel Time of 2 hr 0 min
- Crew of 2, Installation Labor
- Equipment :1, Boom Truck
- Misc:
- 1 Ea., 3000 psi concrete & hole bore & pad footing
- 1 Ea., Disposal Fee

Notes

MUST READ QUOTE/ESTIMATE DISCLAIMER. In general all quote/estimates are based on information, drawings, etc received by Haden Signs of Texas. Quotes are therefore based on rates according to travel time, on-site survey time or service and repairs. In addition, quoted prices may change based on an install and will require a new quote. Therefore it is essential when receiving and reviewing your quotes from Haden Signs of Texas that you have thoroughly read and understood each line item description, cost and total cost of project as per submitted quote. Haden Signs of Texas service encompasses many municipalities and each municipality generally has a complete set of requirements for obtaining permits and fees on basic repair service, to fabrication / or erection of new signage which will require an engineer drawing provided to us or obtained by Haden.

Haden Signs of Texas does require an Administrative and Document processing fee in addition to all other fees. This fee is necessary due to additional time on job-site for our technician(s) to obtain either drawings, and/or photographs outside of the standard service labor. In addition, this fee allows for on-site documents to be properly created and or scanned as requirements on some vendors to provide such documents to close the work order for proper invoicing. If you require such document processing, Haden will not forgive, nor waive this fee. It is our priority to provide you and accurate quote as possible and services. If you have any questions regarding this disclaimer, please contact your salesperson.

Estimate Total:	\$17,716.39
Subtotal:	\$17,716.39
Taxes:	\$1,461.60
Total:	\$19,177.99

Payment Terms: 50% Deposit and Balance COD**Client Reply Request**

- ☐ Estimate Accepted "As Is". Please proceed with Order.
- ☐ Changes required, please contact me.

☐ Other:**SIGN:****Date:** / /

Print Date: 3/10/2022 11:55:58AM



South Plains Service, LLC
Electrical Contracting and Service
PO Box 9
Lubbock, TX 79408

806-744-7055 Phone
806-744-7051 Fax
jay@spselectric.net
TECL#18542

BID PROPOSAL

Date: 6/28/23
To: Olga
Company: Onward Properties
Location: Huff Gardens
Phone: 806-544-7800
Email: arborgardenlbk@gmail.com

JOB DESCRIPTION: Install (10) soffit mounted multicolored spotlights.

- We will install the conduit as close to the edge of the soffit as possible, so it will not be as visible.
- We will come out of existing exterior lights J-Box area, replacing the J-box.
- We will install a photocell at the J-box.
- All tax is included.

BID PROPOSAL \$3,596.68

WE PROPOSE HEREBY TO FURNISH MATERIAL AND LABOR-COMPLETE IN ACCORDANCE WITH ABOVE SPECIFICATIONS, FOR THE SUM OF: \$3,596.68

JAY FLEWHARTY - PRESIDENT

THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN 30 CALENDAR DAYS. ANY SUBSTANTIAL CHANGES IN MATERIAL PRICING (EVEN BEFORE THE 30 CALENDAR DAY PERIOD ENDS) WILL CONSTITUTE A CHANGE IN THE CONTRACT AND WOULD BE TREATED AS A CHANGE ORDER. THIS BID WILL NOT BE VALID IF THESE CHANGES CANNOT BE ADHERED TO! THIS IS DUE TO THE VOLATILE COST OF COPPER WIRE. IF SOUTH PLAINS SERVICE IS NOT RESPONSIBLE FOR SALES TAX, WE MUST BE FURNISHED WITH A TEXAS RESALE CERTIFICATE OR TEXAS SALES AND USE TAX EXEMPTION CERTIFICATE.

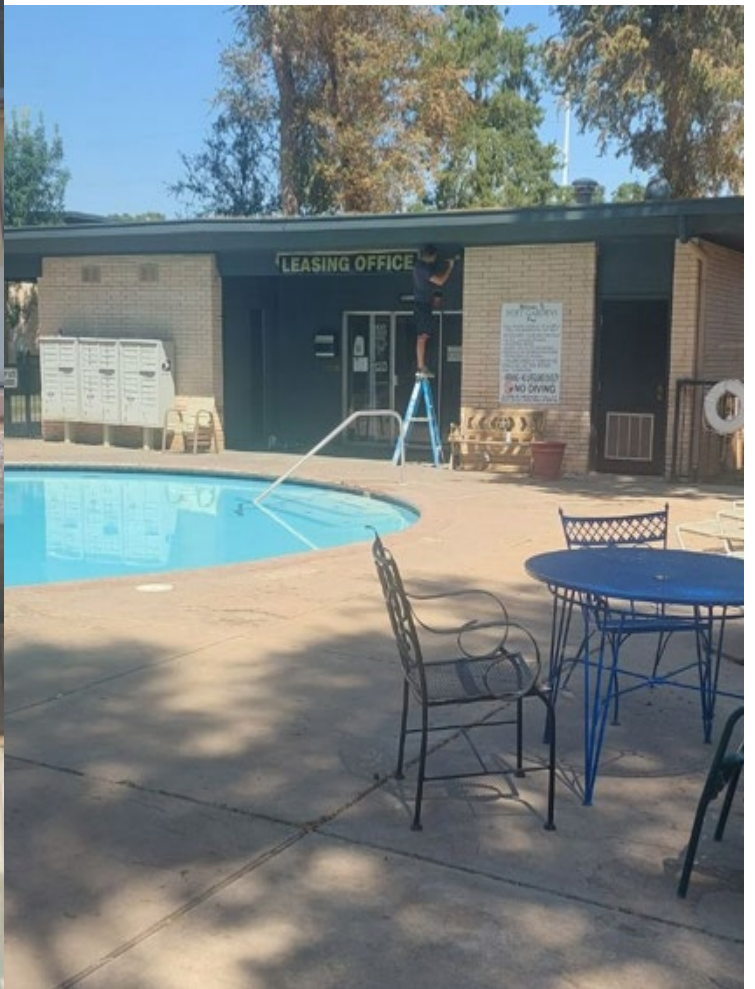
Acceptance of proposal- The above prices, specifications and conditions are satisfactory and hereby accepted. You are authorized to do the work as specified.

AUTHORIZED SIGNATURE

DATE OF ACCEPTANCE

Regulated by The Texas Department of Licensing and Regulation, P. O. Box 12157, Austin, Texas 78711,
1-800-803-9202, 512- 463-6599; website: www.license.state.tx.us/complaints

1919 34th St. – Hoff Gardens Apartments





Information

Agenda Item

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Item Summary

In May 2023, the City Council authorized the continuation of the Lubbock East Neighborhood Empowerment Zone, and the establishment of the 34th Street Empowerment Zone and the North University Empowerment Zone. This action was taken to encourage redevelopment and revitalization within the City of Lubbock, through the promotion of economic development within the Zones. Through the establishment of the three Zones, Market Lubbock, Inc. has geographic boundaries within which it can implement its Commercial Revitalization Grant Program.

Hoff Gardens Apartments is renovating their property at 1919 34th Street, located within the 34th Street Empowerment Zone, as designated by the City of Lubbock. The scope of the permittable project includes new signage, a new roof, and electrical work. The cost of the project is estimated to be \$59,750, and the requested grant amount is \$5,975. The Market Lubbock, Inc. Board of Directors approved this amount at their September 27, 2023 Board Meeting, and recommend approval by the City Council.

Fiscal Impact

The total cost of the project is estimated to be \$59,750, with \$5,975 to be paid upon completion by Market Lubbock, Inc. with the requested grant.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Market Lubbock, Inc. Board of Directors

Attachments

Resolution
Market Lubbock Resolution
Market Lubbock Support Documentation

RESOLUTION

WHEREAS, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of the Market Lubbock Economic Development Corporation (the "Corporation"), the City Council of the City of Lubbock (the "City Council"), as the Corporation's authorizing unit, has the authority to approve all programs and expenditures of the Corporation; and

WHEREAS, the City Council finds that it is in the best interest of the public to approve the program or expenditure, as proposed to the City Council by the Corporation, as set forth in Exhibit "A" attached hereto and incorporated herein by reference; **NOW THEREFORE:**

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

THAT the Commercial Revitalization Permittable Grant program or expenditure of the Corporation, in the amount set forth in Exhibit "A" attached hereto and incorporated herein by reference, to be provided to Hoff Gardens Apartments, is hereby approved pursuant to Section 5 of the Amended and Restated Bylaws of the Corporation.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:


Brianna Brown, Business Development Director

APPROVED AS TO FORM:


Kelli Leisure, Senior Assistant City Attorney

**RESOLUTION APPROVING
HOFF GARDENS APARTMENTS AT 1919 34TH STREET
COMMERCIAL REVITALIZATION FAÇADE AND PERMITTABLE GRANTS**

THE STATE OF TEXAS

COUNTY OF LUBBOCK

At a regular meeting of the Board of Directors of MARKET LUBBOCK ECONOMIC DEVELOPMENT CORPORATION, INC., a Texas nonprofit corporation (MLI), on Wednesday, September 27, 2023, held in conformity with the bylaws, after due notice as therein provided, a quorum being present and acting, the following resolution was unanimously adopted:

WHEREAS, MLI presented to members of the Board the proposal of a possible Economic Development Grant and Contract to Houston Refugee Relief Organization, LLC, dba Hoff Gardens Apartments, which is renovating its property at 1919 34th Street, which is located in the Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Hoff Gardens Apartments is just minutes away from Texas Tech University, dining, entertainment, and downtown Lubbock.

The scope of the facade work includes a new parking lot, exterior paint and pool fence totaling \$53,263. The scope of permittable work includes new signage, new roof and, electrical work totaling \$59,750 in permittable expenses. Total expense for this project is \$113,013.

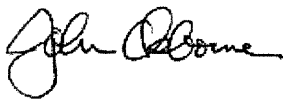
The terms and conditions of such Economic Development Grant and Contract, other than the normal terms and conditions applicable to all such Economic Development Grant and Contracts by the Corporation, are described generally as follows, to wit:

Grant Houston Refugee Relief Organization, LLC, dba Hoff Garden Apartments a Commercial Revitalization Façade Grant for \$25,000 and a Permittable Grant totaling \$5,975 at 1919 34th Street, which is in the Lubbock Neighborhood Empowerment Zone, once proof of payment has been submitted.

WHEREAS, The Board of Directors of MLI finds that an Economic Development Grant and Contract offering the incentive for providing assistance for renovations to their property, meet and comply with the qualifications and purposes of the Corporation for the granting of such Economic Development Grants and Contracts.

Upon Motion by Director, Mr. James Conwright, and Seconded by Director, Dr. John Opperman.

IT WAS RESOLVED that MLI offer and, if accepted by Recipient, enter into an Economic Grant and Contract with Houston Refugee Relief Organization, LLC, dba Hoff Garden Apartments for improvements to the property at 1919 34th Street, Lubbock, Texas. This Economic Development Grant and Contract will be on the normal terms and conditions of such Downtown Grant Program and Contract offered by MLI to existing businesses and business prospects and authorize the CEO to enter into and execute all documents related to the Economic Grant and Contract.



John Osborne, President & CEO



Linda Davis, Secretary

MARKET LUBBOCK, INC.
COMMERCIAL REVITALIZATION GRANT PROGRAM



1919 34th St.
(Hoff Gardens Apartments)

TOTAL COMBINED SCOPE OF WORK = \$113,013

COMBINED GRANT = \$30,975

TOTAL FAÇADE SCOPE OF WORK = \$53,263

FAÇADE GRANT = \$25,000

TOTAL PERMITTABLE SCOPE OF WORK = \$59,750

PERMITTABLE GRANT = \$5,975



**Commercial Revitalization Grant Program
Presented to MLI Board
September 27, 2023**

Project 1919 34th St. (Façade and Permittable)

Houston Refugee Relief Organization, LLC, dba Hoff Gardens Apartments, is renovating its property at 1919 34th St., located within a Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Hoff Gardens Apartments is just minutes away from Texas Tech, dining, entertainment, and downtown Lubbock.

The scope of façade work includes a new parking lot, exterior paint and pool fence totaling \$53,263. The scope of permittable work includes new signage, a new roof and, electrical work totaling \$59,750 in permittable expenses. Total expense for this project is \$113,013.

The MLI Board is being asked to consider a Commercial Revitalization Grant Program Façade Grant for Hoff Gardens Apartments totaling \$25,000 and a Commercial Revitalization Grant Program Permittable Grant totaling \$5,975 at 1919 34th St.



Commercial Revitalization Grant - Application

The information requested on this form will be used by Market Lubbock, Inc. for analysis of your project.

MLI CONTACT INFORMATION

Jorge Quirino - Special Projects Phone: 806.23.8241
 Market Lubbock, Inc.
 1500 Broadway, Sixth Floor, Lubbock, TX 79401 Email: jorge@marketlubbock.org

Date Initial Application Submitted (Due prior to start of construction or permits assigned) 7/17/23 (rcvd JQ)

Projected Project Start Date 08/01/23

Project Property Address 1919 34th Street
 Property LCAD R# 69449 (JQ)

GENERAL INFORMATION ABOUT THE COMPANY

Company Name Houston Refugee Relief Organization LLC, dba Hoff Gardens Apartments (JQ)
 Street Address PO BOX 44261
 City, State, Zip Pheonix, AZ 85064

GENERAL INFORMATION ABOUT THE COMPANY CONTACT

Name Brian Hoff
 Title Owner
 Phone Number 602-451-3864
 Email BrianNspain@hotmail.com ; krickett@onward-properties.com

INFORMATION ABOUT THE PROJECT

Property Ownership: Own ☒ Lease ☐

Grant Type (May choose both if applicable): Permittable ☒ Façade ☒

Detailed Project Summary (including projected start date) and Description of Work:

Signage, Roof, Electrical, parking lot, exterior paint, pool fence.

Summary of Expenses (detailed bids attached)	Projected	MLI Approved Reimbursement
PERMITTABLE		
Signage	\$19,178	\$1,918
Roof	\$36,975	\$3,698
Electrical	\$3,597	\$360
	\$59,750	\$5,975
FAÇADE		
Parking Lot	\$8,266	\$4,133
Fascia/Exterior Paint/Lighting	\$25,000	\$12,500
Pool Fence	\$19,997	\$8,367
	\$53,263	\$25,000
TOTAL	\$113,013	\$30,975

Final bids will be used to calculate the project cost and grant amount.

COMPANY BACKGROUND

List any person or entity that has at least 5% ownership in the Applicant Company:

Name	Percent	Name	Percent
Brian Hoff	100%		

Is the firm registered with the Secretary of State's Office to do business in Texas?

Yes ▼

Are you in good standing with the State of Texas?

Yes ▼

If you answered "No" to either of the above two questions, please explain

Is the firm and/or principals delinquent on any federal, state or local tax obligations?

No ▼

Has the company or principals of the company had prior bankruptcies or lawsuits?

No ▼

If you answered "Yes" to either of the above two questions, please explain

Is the firm receiving tax revenue from any government agency?

No ▼

APPLICANT'S RESPONSIBILITIES (PROPERTY OWNER OR LEASEE)

City of Lubbock requirements:

City of Lubbock - Planning Department 806-775-2108

Contact the City of Lubbock to determine the following:

- ☒ Scope of work meets East Side/34th St./N. University standards and guidelines?
- ☒ Are permits required for any aspect of the scope of work?
- ☐ Are public improvements required?
- ☐ Is there a current Certificate of Occupancy on file for this property?

Market Lubbock, Inc. (MLI) requirements:

Manager of Downtown & Special Projects (Jorge Quirino) 806-749-4500

Application Packet:

- ☒ Initial application (page one of this document) must be received by MLI prior to the start of construction and/or before permits are assigned
- All remaining documents must be received and an application packet presented to the MLI Board no more than three months after the initial application is received by MLI.

Date Final Documents Received: _____

- ☐ Copies of City permits or City approval
- ☐ Copy of Current Certificate of Occupancy
- ☐ Detailed Construction Bids or Schedule of Values
- ☐ Before Picture (prior to construction beginning)
- ☐ Architectural Plans (if applicable)
- ☐ Architectural Renderings (if applicable)

After completion of construction:

- ☐ Certificate of Occupancy or Similar City Document Approving Completion
(Applicant responsible for final scope of work matching approved scope)

Proof of Payment:

- ☐ PAID Invoices (must reference the approved project)
- ☐ Processed Checks, Bank or Credit Card Statements matching PAID invoices (legible copies)

Overview

- An Applicant must be a valid Owner or Tenant (Lessee) of the property needing improvements
- Properties must fall within the East Side, 34th St., or N. Lubbock Neighborhood Empowerment Zones
- Single-Family residences and duplexes are excluded.
- An Applicant is eligible to receive a permissible grant and/or façade grant per property (LCAD R# or Development Lot), per enterprise, per year. Must wait one year from approval to apply again for the same property. (Expenses used in one application cannot be used in another application.)
- Applicant is not eligible for grant program funding if delinquent in property taxes according to LCAD records - includes all LCAD properties listed in the applicant's name
- MLI disbursements are characterized as "reimbursable grants" - Applicant pays expenses first
- Expenses eligible for reimbursement must relate to reasonable costs or expenses.
- Receipt of an application is not a guarantee of grant approval.

Grant Types

- **Permittable Projects**
 - Improvements require a City of Lubbock permit
 - Improvements may be made to the exterior and/or interior of the property
 - Improvements must total a minimum of \$5,000
 - The permissible grant reimburses 10% of approved expenses up to a \$50,000 grant
 - Permittable scope of work that may be considered:
 - HVAC
 - Plumbing
 - Electrical
 - Structural
 - Any other work requiring a City of Lubbock permit
- **Façade Projects**
 - Improvements may or may not require a City of Lubbock permit
 - Improvements must be made to the exterior of the property facing the most prominent street
 - Improvements must total a minimum of \$1,000
 - The façade grant reimburses 50% of approved expenses up to a \$25,000 grant
 - Façade scope of work that may be considered:
 - Painting
 - New windows and doors
 - Signage
 - Landscaping
 - Parking lots
 - Awnings
 - Any other work that improves the appearance of the façade

Signature (not required for electronic submittals): _____

Date: _____

PROPOSAL

Proposal # : LS-230619

Date: 06/19/2023

ALL-STATE FENCE COMPANY

Supplies & Installation www.allstate-fence.com

12116 Slide Road - Lubbock, Texas

Phone: 806-799-3729 Fax: 806-783-8632

Mailing Address:

P.O. Box 93907

Lubbock, Texas 79493

PROPOSAL SUBMITTED TO:

WORK TO BE PERFO

Name:	Hoff Gardens Apartments Attn: Olga
-------	---------------------------------------

Address:

Work Address:


806-744-2398

Phone: **Cell: 806-544-7800**

arborgardenlbk@gmail.com

Locate Confirmation#:

Pricing Includes Materials and Labor * All Footage Includes Gate Opening Footage Unless Stated Otherwise**

230'	6' Tall "Montage" 3-Rail "Majestic" Black Ornamental Iron Fence Made by "Ameristar"
1	Walk Gate
	Posts - 2" Square Tubing x 16 Gauge - Black - Set 2' 6" Deep with Concrete.
	New Galvanized Steel / Fuse Welded with Epoxy Primer and Acrylic Top Coat
	Posts Core-Drilled and Quick-Set in Concrete Where Necessary
**	20 Year Limited Warranty - by Manufacturer
**	Since Product is Special Order, a Down Payment is Required Prior to Starting Project.
We are Fully Insured for Your Protection: Workers Compensation and General Liability	
Guarantee: One Year - Materials & Workmanship	
All-State Fence Company will assume the responsibility for having underground public utilities located and marked. The customer will be responsible for locating property lines. The customer is responsible for moving all sprinkler heads/lines from the fence line. All-State Fence will not be liable for any damage done to sprinkler heads/lines due to the installation of the fence. The customer is responsible for notifying their neighbors of the time frame of this job (if applicable). Additional charges for extra work not covered in this contract that was requested by the customer will be added to the contract amount. The full amount of this contract along with any additional charges will become payable upon completion of this job. A finance charge of 1 1/2 % per month (which is an annual percentage rate of 18%) will be added to the accounts that are past due. The customer agrees to pay all finance charges plus all costs incurred in the collection of past due accounts.	
Respectfully submitted	
Brent Stewart	
	
Note: Price subject to materials price change.	

Credit Cards Accepted with a Handling Fee

Early Payment Discount Terms: 1% 10 Days, Net 30

Contract Amount: \$ 19,997.00
(Tax Included)

Price is Good Through 07-05-23

ACCEPTANCE OF PROPOSAL

Customer Signature

Date _____

Ricardo Aranda
806-939-3639

Estimate
Hoff Gardens
1919 34th St

Estimate for 6 parking spots at the front of the building.

- Curb removal
- Saw cut the asphalt
- Remove bushes and rocks
- Pour new concrete
- Place 8 square tubing (4 on each side)
- Paint stripes for the parking

Labor and Material- Total \$8266

1919 34th St. – Permittable Expenses

Office: 806-799-7030
Fax: 806-785-7810
service@carpenterroof.com



P.O. Box 6054
Lubbock, TX 79493



Name: Hoff Gardens
Job: 1919 34th Street
Lubbock, TX
Contact: Olga: 806-544-7800
arborgardenlkb@gmail.com

Date: 06/09/23

Scope of work: Designated areas (65 squares)

1. Scrape, remove and haul away old gravel.
2. Sweep, prep and prime surface area.
3. Hot mop 1/2" fiberboard insulation.
4. Hot mop 75# base sheet & (2 layers) ply IV fiberglass.
5. Flash all roof penetrations.
6. Install over-sized metal edge detail around entire perimeter.
7. Flood coat & embed new #4 gravel.
8. Clean up and haul away debris.

Proposal/Contract Sum: The contract sum of the work shall be \$36,975.00

*** HVAC work & decking repairs are not included in our bid proposal***

5 YEAR WORKMANSHIP WARRANTY TO BE ISSUED UPON COMPLETION OF ROOF AND PAYMENT IN FULL.

We agree to furnish labor and material to complete scope of work. Our price is good for 30 days.

Payment is due upon completion, ten percent will be added if placed in the hands of attorney for collection.

"Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of Texas law for a seller of goods or services who reasonably expects to be paid wholly or partly from the proceeds of a property insurance claim to knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay, the applicable insurance deductible."

Accepted by _____

Date _____

By 
Dustin Carpenter



Haden Signs of Texas

6011 43rd Street
Lubbock, TX 79407
Ph: (806) 744-4404
FAX: (806) 744-1327
Email: ladonna@pmgdigital.com
Web: www.hadensigns.com

Estimate #: 28104

Page 1 of 3

Created Date:	3/9/2022 12:04:44PM	Prepared For:	Arbor Gardens Apartments
Salesperson:	David Snyder	Contact:	Olga Castillo, Office Mgr
Email:	david@pmgdigital.com	Office Phone:	(806) 744-2398
Office Phone:	(806) 747-7446	Email:	arborgardenibk@gmail.com
Office Fax:	(806) 747-4686	Address:	1919 34th Street
Entered by:	David Snyder		Lubbock, TX 79411

Description: Monument ID Sign

	Quantity	Price	Unit Price	Subtotal	
1	Product: Sign Cabinet Description: Double Sided Custom Sign Monument Cabinet: Aluminum frame with aluminum back panel, custom painted to resemble red cedar look. Second surface custom aluminum painted raised panels resembling red cedar. Alternate spacing of second surface panels. 18" x 50" double sided box sign cabinet (for advertisement) mounted to second surface aluminum panel of monument. Sign cabinet mounted on interior steel structure pipe: * 1, 84 in (H) x 72 in (W) x 12 in Double Sided Custom Sign Cabinet * Aluminum - .063 White 48x96 Cabinet Side 1: Skin Side 2: Skin Painting * Custom Mathews, Custom Mix Primary Paint * Custom Mathews, Custom Mix Detail Paint * Horizontal Lamping	1	\$10,198.25	\$10,198.25	\$10,198.25
1.A	Product: Sign Cabinet Description: Footer Cabinet painted gray * 1, 12 in (H) x 60 in (W) x 8 in Double Sided Custom Sign Cabinet * Aluminum - .063 Mill Finish 48 x 96 Cabinet Side 1: Skin Side 2: Skin Painting * Custom Mathews, Custom Mix Primary Paint				
1.B	Product: Sign Cabinet Description: Single Sided Custom Sign * 2, 18 in (H) x 50 in (W) x 3 in Single Sided Custom Sign Cabinet * Aluminum - .040 Bronze 48 x 96 Cabinet Side 1: Decorated Face * Cabinet Retainer 1in Retainer Side 2: Skin * LEDs Include: Qwik Mod 2 Series, 1, Principal 60 Watt Class II power supply, located Design Spec				
1.B.1	Product: Grand or Wide Format Print Description: Wide Format Prints * 2- 18 in (H) x 50 in (W) Single Sided Print(s) made from Cast Translucent White Vinyl 54 in stock material * Mounted on: Acrylic - 3/16 in White 48x96, Acrylic - 3/16 in 7328 White 48x96 * Laminated with Cast 1.3mil Gloss Laminate 54in on face				
1.B.1.A	Product: Design Description: Design * 1 Files * 0.3333333333333333 hr Setup Time Per File.				

Print Date: 3/10/2022 11:55:58AM



Haden Signs of Texas

6011 43rd Street
Lubbock, TX 79407
Ph: (806) 744-4404
FAX: (806) 744-1327
Email: ladonna@pmgdigital.com
Web: www.hadensigns.com

Estimate #: 28104

Page 2 of 3

I.B.1.E

Product: Electric Sign Service

Description: Electric Sign Service City Sign Permit:

- Location: Customer Location:
1919 34th Street
Lubbock, TX 79411
- Reported Issue: Permit Fee

		Quantity	Price	Unit Price	Subtotal
2	Product: Channel Letters and Logos	20	\$2,893.38	\$144.669	\$2,893.38
	Description: Individual channel letters with internal led illumination: Letters mounted on face surface of sign cabinet and panels.				

Electrical Requirements: One 120V 20 Amp circuit ran from nearest available breaker panel to within five feet of sign. Electrical connection from sign to source of supply (within five feet) is included in quoted price. If power is not within five feet of sign at time of installation, final connection will be the responsibility of the customer.

- 1 Sets of Front Lit Channel reading Hoff Gardens Apartment with LED lighting
- Letter Size 1: 11 in Letters: HOFF GARDENS
- 11 Serif (Arial Bold)
- 4.75 in return, made from Bronze Letter Coil 5.3" 040 with Bronze-1in
- LEDs include: Single Stroke of Qwik Mod 2 Series, 2, Principal 60 Watt Class II power supply, located Design Spec
- Acrylic face, made from Acrylic - 316 in White 48x96
- Alupanel backing, made from Alupanel 3mm White 48x96
- Letter Size 2: 8 in Letters: APARTMENT
- 8 Serif (Arial)
- 4.75 in return, made from Bronze Letter Coil 5.3" 040 with Bronze-1in
- LEDs include: Single Stroke of Qwik Mod 2 Series
- Acrylic face, made from Acrylic - 316 in White 48x96
- Alupanel backing , made from Alupanel 3mm White 48x96

		Quantity	Price	Unit Price	Subtotal
3	Product: Electric Sign Service	1	\$4,624.76	\$4,624.76	\$4,624.76
	Description: Removal of existing marquee and lettering				

Description: Removal of existing monument: Installation of new monument:
NOTE: Does not include any electrical repair or replacement: TBD

- Location: 3rd Party Location:
- Reported Issue: Fabrication - Removal - Install
- 1st Visit: Date to be Determined
- Service Time of 12 hr 0 min and Travel Time of 2 hr 0 min
- Crew of 2, Installation Labor
- Equipment :1, Boom Truck
- Misc:
- 1 Ea., 3000 psi concrete & hole bore & pad footing
- 1 Ea., Disposal Fee

Notes

MUST READ QUOTE/ESTIMATE DISCLAIMER. In general all quote/estimates are based on information, drawings, etc received by Haden Signs of Texas. Quotes are therefore based on rates according to travel time, on-site survey time or service and repairs. In addition, quoted prices may change based on an install and will require a new quote. Therefore it is essential when receiving and reviewing your quotes from Haden Signs of Texas that you have thoroughly read and understood each line item description, cost and total cost of project as per submitted quote. Haden Signs of Texas service encompasses many municipalities and each municipality generally has a complete set of requirements for obtaining permits and fees on basic repair service, to fabrication / or erection of new signage which will require an engineer drawing provided to us or obtained by Haden.

Haden Signs of Texas does require an Administrative and Document processing fee in addition to all other fees. This fee is necessary due to additional time on job-site for our technician(s) to obtain either drawings, and/or photographs outside of the standard service labor. In addition, this fee allows for on-site documents to be properly created and or scanned as requirements on some vendors to provide such documents to close the work order for proper invoicing. If you require such document processing, Haden will not forgive, nor waive this fee. It is our priority to provide you and accurate quote as possible and services. If you have any questions regarding this disclaimer, please contact your salesperson.

Estimate Total:	\$17,716.39
Subtotal:	\$17,716.39
Taxes:	\$1,461.60
Total:	\$19,177.99

Payment Terms: 50% Deposit and Balance COD

Client Reply Request

- ☐ Estimate Accepted "As Is". Please proceed with Order.
- ☐ Changes required, please contact me.

☐ Other:

SIGN: _____

Date: / /

Print Date: 3/10/2022 11:55:58AM



South Plains Service, LLC
Electrical Contracting and Service
PO Box 9
Lubbock, TX 79408

806-744-7055 Phone
806-744-7051 Fax
jay@spselectric.net
TECL#18542

BID PROPOSAL

Date: 6/28/23
To: Olga
Company: Onward Properties
Location: Huff Gardens
Phone: 806-544-7800
Email: arborgardenlbk@gmail.com

JOB DESCRIPTION: Install (10) soffit mounted multicolored spotlights.

- We will install the conduit as close to the edge of the soffit as possible, so it will not be as visible.
- We will come out of existing exterior lights J-Box area, replacing the J-box.
- We will install a photocell at the J-box.
- All tax is included.

BID PROPOSAL \$3,596.68

WE PROPOSE HEREBY TO FURNISH MATERIAL AND LABOR-COMPLETE IN ACCORDANCE WITH ABOVE SPECIFICATIONS, FOR THE SUM OF: \$3,596.68

JAY FLEWHARTY - PRESIDENT

THIS PROPOSAL MAY BE WITHDRAWN BY US IF NOT ACCEPTED WITHIN 30 CALENDAR DAYS. ANY SUBSTANTIAL CHANGES IN MATERIAL PRICING (EVEN BEFORE THE 30 CALENDAR DAY PERIOD ENDS) WILL CONSTITUTE A CHANGE IN THE CONTRACT AND WOULD BE TREATED AS A CHANGE ORDER. THIS BID WILL NOT BE VALID IF THESE CHANGES CANNOT BE ADHERED TO! THIS IS DUE TO THE VOLATILE COST OF COPPER WIRE. IF SOUTH PLAINS SERVICE IS NOT RESPONSIBLE FOR SALES TAX, WE MUST BE FURNISHED WITH A TEXAS RESALE CERTIFICATE OR TEXAS SALES AND USE TAX EXEMPTION CERTIFICATE.

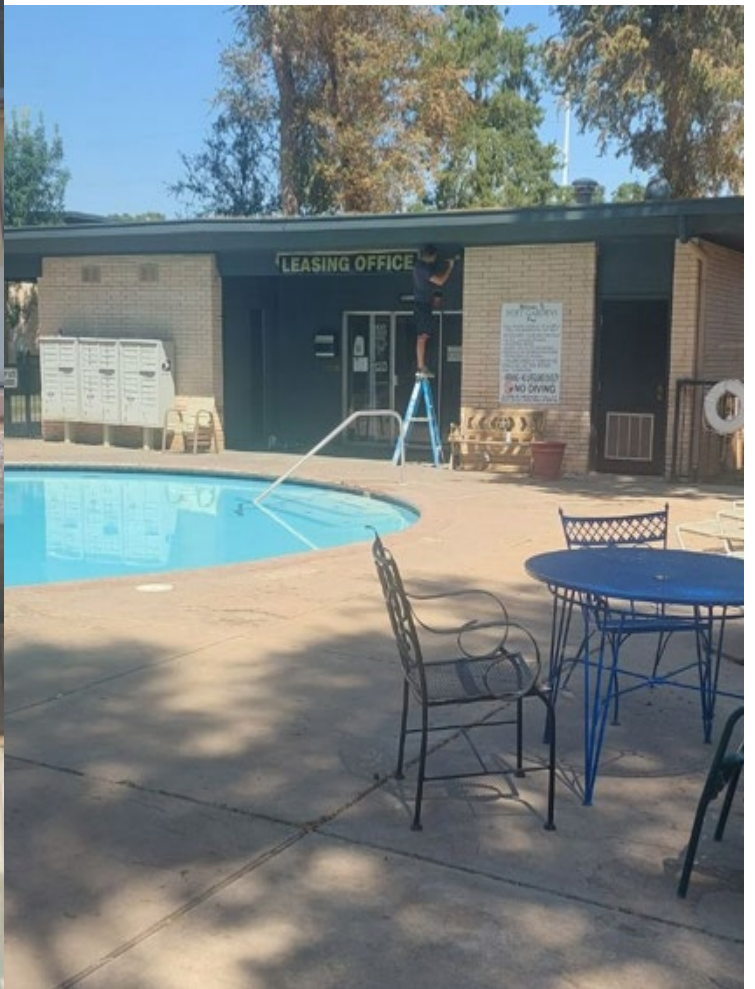
Acceptance of proposal- The above prices, specifications and conditions are satisfactory and hereby accepted. You are authorized to do the work as specified.

AUTHORIZED SIGNATURE

DATE OF ACCEPTANCE

Regulated by The Texas Department of Licensing and Regulation, P. O. Box 12157, Austin, Texas 78711, 1-800-803-9202, 512- 463-6599; website: www.license.state.tx.us/complaints

1919 34th St. – Hoff Gardens Apartments





Information

Agenda Item

Resolution - Business Development: Consider a resolution authorizing a Commercial Revitalization Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Westminster Presbyterian Church, located at 3321 33rd Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

Item Summary

In May 2023, the City Council authorized the continuation of the Lubbock East Neighborhood Empowerment Zone, and the establishment of the 34th Street Empowerment Zone and the North University Empowerment Zone. This action was taken to encourage redevelopment and revitalization within the City of Lubbock, through the promotion of economic development within the Zones. Through the establishment of the three Zones, Market Lubbock, Inc. has geographic boundaries within which it can implement its Commercial Revitalization Grant Program.

Westminster Presbyterian Church is renovating their property at 3321 33rd Street, located within the 34th Street Empowerment Zone, as designated by the City of Lubbock. The scope of the facade project includes replacing 68 exterior windows. The cost of the project is estimated to be \$49,844, and the requested grant amount is \$24,922. The Market Lubbock, Inc. Board of Directors approved this amount at their September 27, 2023 Board Meeting, and recommend approval by the City Council.

Fiscal Impact

The total cost of the project is estimated to be \$49,844, with \$24,922 to be paid upon completion by Market Lubbock, Inc. with the requested grant.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Market Lubbock, Inc. Board of Directors

Attachments

Resolution
Market Lubbock Resolution
Market Lubbock Support Documentation

RESOLUTION

WHEREAS, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of the Market Lubbock Economic Development Corporation (the "Corporation"), the City Council of the City of Lubbock (the "City Council"), as the Corporation's authorizing unit, has the authority to approve all programs and expenditures of the Corporation; and

WHEREAS, the City Council finds that it is in the best interest of the public to approve the program or expenditure, as proposed to the City Council by the Corporation, as set forth in Exhibit "A" attached hereto and incorporated herein by reference; **NOW THEREFORE:**

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

THAT the Commercial Revitalization Façade Grant program or expenditure of the Corporation, in the amount set forth in Exhibit "A" attached hereto and incorporated herein by reference, to be provided to Westminster Presbyterian Church, is hereby approved pursuant to Section 5 of the Amended and Restated Bylaws of the Corporation.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Brianna Brown, Business Development Director

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

**RESOLUTION APPROVING
WESTMINSTER PRESBYTERIAN CHURCH AT 3321 33RD STREET
COMMERCIAL REVITALIZATION FAÇADE GRANT**

THE STATE OF TEXAS

COUNTY OF LUBBOCK

At a regular meeting of the Board of Directors of MARKET LUBBOCK ECONOMIC DEVELOPMENT CORPORATION, INC., a Texas nonprofit corporation (MLI), on Wednesday, September 27, 2023, held in conformity with the bylaws, after due notice as therein provided, a quorum being present and acting, the following resolution was unanimously adopted:

WHEREAS, MLI presented to members of the Board the proposal of a possible Economic Development Grant and Contract to Westminster Presbyterian Church, which is renovating its property at 3321 33rd Street, which is located in the Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Westminster Presbyterian Church is located along the 34th Street corridor and serves the community through its church services, daycare, foundation and much more.

The scope of the facade work includes replacing 68 windows on the south side of the property totaling \$49,844 in expenses.

The terms and conditions of such Economic Development Grant and Contract, other than the normal terms and conditions applicable to all such Economic Development Grant and Contracts by the Corporation, are described generally as follows, to wit:

Grant Westminster Presbyterian Church a Commercial Revitalization Façade Grant for \$24,922 at 3321 33rd Street, which is in the Lubbock Neighborhood Empowerment Zone, once proof of payment has been submitted.


WHEREAS, The Board of Directors of MLI finds that an Economic Development Grant and Contract offering the incentive for providing assistance for renovations to their property, meet and comply with the qualifications and purposes of the Corporation for the granting of such Economic Development Grants and Contracts.

Upon Motion by Director, Mr. James Conwright, and Seconded by Director, Dr. John Opperman, with Mr. Sonny Garza abstaining.

IT WAS RESOLVED that MLI offer and, if accepted by Recipient, enter into an Economic Grant and Contract with Westminster Presbyterian Church to the property at 3321 33rd Street, Lubbock, Texas. This Economic Development Grant and Contract will be on the normal terms and conditions of such Commercial Revitalization Grant Program and Contract offered by MLI to existing businesses and business prospects and authorize the CEO to enter into and execute all documents related to the Economic Grant and Contract.



John Osborne, President & CEO



Linda Davis, Secretary

MARKET LUBBOCK, INC.
COMMERCIAL REVITALIZATION GRANT PROGRAM



3321 33rd St.
(Westminster Presbyterian Church)

TOTAL FAÇADE SCOPE OF WORK = \$49,844

FAÇADE GRANT = \$24,922



**Commercial Revitalization Grant Program
Presented to MLI Board
September 27, 2023**

Project 3321 33rd St. (Façade)

Westminster Presbyterian Church is renovating its property at 3321 33rd St., located within the Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock.

Westminster Presbyterian Church is located along the 34th Street corridor and serves the community through its church services, daycare, foundation and much more.

The scope of façade work will include replacing 68 windows on the south side of the property totaling \$49,844 in expenses.

The MLI Board is being asked to consider a Commercial Revitalization Grant Program façade grant for Westminster Presbyterian Church totaling \$24,922 3321 33rd St.



Commercial Revitalization Grant - Application

The information requested on this form will be used by Market Lubbock, Inc. for analysis of your project.

MLI CONTACT INFORMATION

Jorge Quirino - Special Projects

Phone: 806.23.8241

Market Lubbock, Inc.

1500 Broadway, Sixth Floor, Lubbock, TX 79401

Email: jorge@marketlubbock.org

Date Initial Application Submitted (Due prior to start of construction or permits assigned) 09/08/23

Projected Project Start Date TBD

Project Property Address 3321 33rd St., Lubbock, TX 79410

Property LCAD R# 58327

GENERAL INFORMATION ABOUT THE COMPANY

Company Name Westminster Presbyterian Church

Street Address 3321 33rd St.

City, State, Zip Lubbock, TX 79410

GENERAL INFORMATION ABOUT THE COMPANY CONTACT

Name Christie Moreno

Title Executive Director

Phone Number 806-799-3621

Email christie@wpclubbock.org

INFORMATION ABOUT THE PROJECT

Property Ownership: Own ☒ Lease ☐

Grant Type (May choose both if applicable): Permittable ☐ Façade ☒

Detailed Project Summary (including projected start date) and Description of Work:

68 windows to be replaced on the south side of the property.

	Projected	MLI Approved Reimbursement
Façade		
Windows	\$49,844	\$24,922
TOTAL	\$49,844	\$24,922

Final bids will be used to calculate the project cost and grant amount.

COMPANY BACKGROUND

List any person or entity that has at least 5% ownership in the Applicant Company:

Name	Percent	Name	Percent
N/A			

Is the firm registered with the Secretary of State's Office to do business in Texas?

Yes 

Are you in good standing with the State of Texas?

Yes 

If you answered "No" to either of the above two questions, please explain

Is the firm and/or principals delinquent on any federal, state or local tax obligations?

No 

Has the company or principals of the company had prior bankruptcies or lawsuits?

No 

If you answered "Yes" to either of the above two questions, please explain

Is the firm receiving tax revenue from any government agency?

No 

APPLICANT'S RESPONSIBILITIES (PROPERTY OWNER OR LEASEE)

City of Lubbock requirements:

City of Lubbock - Planning Department 806-775-2108

Contact the City of Lubbock to determine the following:

- ☐ Scope of work meets East Side/34th St./N. University standards and guidelines?
- ☐ Are permits required for any aspect of the scope of work?
- ☐ Are public improvements required?
- ☐ Is there a current Certificate of Occupancy on file for this property?

Market Lubbock, Inc. (MLI) requirements:

Manager of Downtown & Special Projects (Jorge Quirino) 806-749-4500

Application Packet:

- ☐ Initial application (page one of this document) must be received by MLI prior to the start of construction and/or before permits are assigned
- All remaining documents must be received and an application packet presented to the MLI Board no more than three months after the initial application is received by MLI.

Date Final Documents Received: _____

- ☐ Copies of City permits or City approval
- ☐ Copy of Current Certificate of Occupancy
- ☐ Detailed Construction Bids or Schedule of Values
- ☐ Before Picture (prior to construction beginning)
- ☐ Architectural Plans (if applicable)
- ☐ Architectural Renderings (if applicable)

After completion of construction:

- ☐ Certificate of Occupancy or Similar City Document Approving Completion
(Applicant responsible for final scope of work matching approved scope)

Proof of Payment:

- ☐ PAID Invoices (must reference the approved project)
- ☐ Processed Checks, Bank or Credit Card Statements matching PAID invoices (legible copies)

Overview

- An Applicant must be a valid Owner or Tenant (Lessee) of the property needing improvements
- Properties must fall within the East Side, 34th St., or N. Lubbock Neighborhood Empowerment Zones
- Single-Family residences and duplexes are excluded.
- An Applicant is eligible to receive a permissible grant and/or façade grant per property (LCAD R# or Development Lot), per enterprise, per year. Must wait one year from approval to apply again for the same property. (Expenses used in one application cannot be used in another application.)
- Applicant is not eligible for grant program funding if delinquent in property taxes according to LCAD records - includes all LCAD properties listed in the applicant's name
- MLI disbursements are characterized as "reimbursable grants" - Applicant pays expenses first
- Expenses eligible for reimbursement must relate to reasonable costs or expenses.
- Receipt of an application is not a guarantee of grant approval.



Grant Types

- **Permittable Projects**
 - Improvements require a City of Lubbock permit
 - Improvements may be made to the exterior and/or interior of the property
 - Improvements must total a minimum of \$5,000
 - The permissible grant reimburses 10% of approved expenses up to a \$50,000 grant
 - Permittable scope of work that may be considered:
 - HVAC
 - Plumbing
 - Electrical
 - Structural
 - Any other work requiring a City of Lubbock permit
- **Façade Projects**
 - Improvements may or may not require a City of Lubbock permit
 - Improvements must be made to the exterior of the property facing the most prominent street
 - Improvements must total a minimum of \$1,000
 - The façade grant reimburses 50% of approved expenses up to a \$25,000 grant
 - Façade scope of work that may be considered:
 - Painting
 - New windows and doors
 - Signage
 - Landscaping
 - Parking lots
 - Awnings
 - Any other work that improves the appearance of the façade

Signature (not required for electronic submittals): Christie Moreno per email

Date: 9/8/2023

3321 33rd St. – Westminster Presbyterian Church (Window Bid)

AGREEMENT				Page No. _____ of _____ Pages
 JONES & Associates		701 E. 40th Street Lubbock, Texas 79404-3005 office@thejonesboys.com		"When You Need It Right the First Time" 806-796-1913 432-618-8899 1-800-658-2060 fax: 806-798-8762
SUBMITTED TO Westminster Presbyterian Church		PHONE 806-799-3621		DATE September 7, 2023
STREET 3321 33rd Street		JOB NAME Wood Siding 806-235-3300		
CITY, STATE AND ZIP CODE Lubbock, TX		JOB LOCATION		
SUBMITTED TO		DATE OF PLANS		JOB PHONE
We hereby certify specifications and estimate for:				
Both projects to include the removal and disposal of existing windows. All windows are to be				
Simonton Perfection Platinum dual lite casement windows. The only exception to be one operable				
in a children's area. All windows to be insulated with low expansion foam insulation, with				
interior and exterior caulking. Windows are to be driftwood in color.				
Caution - South (68)				
We Agree hereby to furnish material and labor-complete in accordance with above specifications, for the sum of:				
Payment to be made as follows: dollars \$ 49,866.00				
50% down, 50% of balance due upon 90% completion of project.				
Final balance due upon final completion of work.				
All material is guaranteed to be as specified. All work to be completed in a work-man-like manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will become an extra charge, over and above the estimate. All Agreements contingent upon strikes, accidents, delays or conditions beyond our control. Owner to carry fire, tornado and other necessary insurance.				
JONES & ASSOCIATES warrants against any defects of workmanship involving the installation of siding, trim, concrete coating, roofing, and windows for a period of ten (10) years from the date of completion. This warranty covers any defects in workmanship that would prohibit the fitness of the products intended purpose. JONES & ASSOCIATES will provide the labor only to repair or replace any material installed by JONES & ASSOCIATES, if, in fact, there is evidence that said products were installed in an unprofessional manner that deviated from standard industry practices. This warranty only covers workmanship defects and does not include defects or damages attributable to manufacturing defects or product failure. This warranty does not cover any damages or other defects caused by accidents or fires, floods, or other acts of God, vandalism, misuse, abuse, building settlement or structural failure of roofs, walls, or foundations, cracks in concrete coatings, or conditions that can be attributed to forces outside the scope of contracted improvements performed by JONES & ASSOCIATES. Any claim for defects under this warranty should be submitted in writing to Jones & Associates, 701 E. 40th Street, Lubbock, Texas 79404-3005, promptly after discovery, describing the defect claimed. This warranty shall be for the benefit of the original property owner only.				
TEXAS LAW HB 2102: Texas law requires a person insured under a property insurance policy to pay any deductible applicable to a claim made under the policy. It is a violation of Texas Law for a seller of goods or services who reasonably expects to be paid wholly to partly from the proceeds of a property insurance claim to knowingly allow the insured person to fail to pay, or assist the insured person's failure to pay the applicable deductible.				
I consent for Jones & Associates, my contractor, to contact my insurance carrier to discuss their estimate. Supplements approved by my insurance carrier will become part of this contract. I acknowledge Jones & Associates as a General Contractor when applicable _____ Initials.		Insurance Claim: Yes ___ No ___ Claim# _____ Deductible Amount \$ _____ Insurance Company: _____		
Seller herein assigns all warranties issued by the manufacture of any products used, expressed or implied. SELLER MAKES NO OTHER WARRANTIES, PROMISES OR STATEMENTS EITHER EXPRESSED OR IMPLIED. IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED. All unused materials shall remain the property of Seller and Buyer has no rights in any materials until installed or attached to the above described premises. There are no representations, guarantees, or warranties except as contained herein or incorporated in writing, not is the contract dependent or subject to any conditions not stated. Any subsequent agreement shall be binding only if in writing and signed by the parties. Buyer agrees to pay Court costs and reasonable attorney's fees necessary to collect any amounts to be paid under this contract.				
Buyers Right to Cancel YOU THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION.				
Acceptance As owner of the above described property, I understand that my signature below is proof of my acceptance, I agree that my acceptance is a final buying decision and will result in the ordering of necessary materials for which I am obligated to purchase excepting agreements that are specifically noted as involving third party financing. Those agreements are not considered binding until finance documents are signed. This agreement shall not be binding on Contractor unless properly accepted by Jeff Jones as is witnessed by his signature as owner.				
 JONES & Associates		Signed <u><i>Jeff Jones</i></u> (Owner(s))		
By _____ (Authorized Representative)		Signed _____ (Owner(s))		
By _____ (Owner)		Date <u>9/7/23</u>		

Information

Agenda Item

Resolution - Business Development: Consider a resolution authorizing a Commercial Revitalization Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to Dixie Partners II, LP, located at 1805 Parkway Drive, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

Item Summary

In May 2023, the City Council authorized the continuation of the Lubbock East Neighborhood Empowerment Zone, and the establishment of the 34th Street Empowerment Zone and the North University Empowerment Zone. This action was taken to encourage redevelopment and revitalization within the City of Lubbock, through the promotion of economic development within the Zones. Through the establishment of the three Zones, Market Lubbock, Inc. has geographic boundaries within which it can implement its Commercial Revitalization Grant Program.

Dixie Partners II, LP is renovating their property at 1805 Parkway Drive, located within the Lubbock East Neighborhood Empowerment Zone, as designated by the City of Lubbock. The scope of the facade project includes a new exterior face on the building. The cost of the project is estimated to be \$50,000, and the requested grant amount is \$25,000. The Market Lubbock, Inc. Board of Directors approved this amount at their September 27, 2023 Board Meeting, and recommend approval by the City Council.

Fiscal Impact

The total cost of the project is estimated to be \$50,000, with \$25,000 to be paid upon completion by Market Lubbock, Inc. with the requested grant.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Market Lubbock, Inc. Board of Directors

Attachments

Resolution
Market Lubbock Resolution
Market Lubbock Support Documentation

RESOLUTION

WHEREAS, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of the Market Lubbock Economic Development Corporation (the "Corporation"), the City Council of the City of Lubbock (the "City Council"), as the Corporation's authorizing unit, has the authority to approve all programs and expenditures of the Corporation; and

WHEREAS, the City Council finds that it is in the best interest of the public to approve the program or expenditure, as proposed to the City Council by the Corporation, as set forth in Exhibit "A" attached hereto and incorporated herein by reference; **NOW THEREFORE:**

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

THAT the Commercial Revitalization Façade Grant program or expenditure of the Corporation, in the amount set forth in Exhibit "A" attached hereto and incorporated herein by reference, to be provided to Dixie Partners II, LP, is hereby approved pursuant to Section 5 of the Amended and Restated Bylaws of the Corporation.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

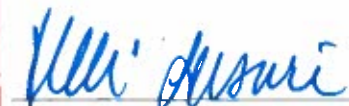
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Brianna Brown, Business Development Director

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

**RESOLUTION APPROVING
DIXIE PARTNERS II, LP AT 1805 PARKWAY DRIVE
COMMERCIAL REVITALIZATION FAÇADE AND PERMITTABLE GRANTS**

THE STATE OF TEXAS

COUNTY OF LUBBOCK

At a regular meeting of the Board of Directors of MARKET LUBBOCK ECONOMIC DEVELOPMENT CORPORATION, INC., a Texas nonprofit corporation (MLI), on Wednesday, September 27, 2023, held in conformity with the bylaws, after due notice as therein provided, a quorum being present and acting, the following resolution was unanimously adopted:

WHEREAS, MLI presented to members of the Board the proposal of a possible Economic Development Grant and Contract to Dixie Partners II, LP, who is renovating their building at 1805 Parkway Drive, which is located in the East Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Dixie Partners II, LP was founded in 2009 and is excited to be part of the revitalization of East Lubbock.

The scope of the facade work includes a new exterior face totaling \$50,000. The scope of permittable work includes demolition, HVAC, plumbing, and electrical work totaling \$1,189,539 in permittable expenses. Total expense for this project is \$1,239,539.

The terms and conditions of such Economic Development Grant and Contract, other than the normal terms and conditions applicable to all such Economic Development Grant and Contracts by the Corporation, are described generally as follows, to wit:

Grant Dixie Partners II, LP a Commercial Revitalization Façade Grant for \$25,000 and a Permittable Grant totaling \$100,000 at 1805 Parkway Drive, which is in the East Lubbock Neighborhood Empowerment Zone, once proof of payment has been submitted.

WHEREAS, The Board of Directors of MLI finds that an Economic Development Grant and Contract offering the incentive for providing assistance for renovations to their property, meet and comply with the qualifications and purposes of the Corporation for the granting of such Economic Development Grants and Contracts.

Upon Motion by Director, Mr. James Conwright, and Seconded by Director, Dr. John Opperman.

IT WAS RESOLVED that MLI offer and, if accepted by Recipient, enter into an Economic Grant and Contract with Dixie Partners II, LP for improvements to the property at 1805 Parkway Drive, Lubbock, Texas. This Economic Development Grant and Contract will be on the normal terms and conditions of such Downtown Grant Program and Contract offered by MLI to existing businesses and business prospects and authorize the CEO to enter into and execute all documents related to the Economic Grant and Contract.



John Osborne, President & CEO



Linda Davis, Secretary

MARKET LUBBOCK, INC.
COMMERCIAL REVITALIZATION GRANT PROGRAM



1805 Parkway Drive
(Dixie Partners II, LP)

TOTAL COMBINED SCOPE OF WORK = \$1,239,539

COMBINED GRANT = \$125,000

TOTAL FAÇADE SCOPE OF WORK = \$50,000

FAÇADE GRANT = \$25,000

TOTAL PERMITTABLE SCOPE OF WORK = \$1,189,539

PERMITTABLE GRANT = \$100,000



**Commercial Revitalization Grant Program
Presented to MLI Board
September 27, 2023**

Project 1805 Parkway Drive (Façade and Permittable)

Dixie Partners II, LP is renovating its building at 1805 Parkway Drive, located within the East Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Dixie Partners II, P was founded in 2009 and is excited to be a part of the revitalization of East Lubbock.

The scope of façade work includes a new exterior face totaling \$50,000. The scope of permittable work includes demolition, HVAC, plumbing, and electrical work totaling \$1,189,539 in permittable expenses. Total expense for this project is \$1,239,539.

The MLI Board is being asked to consider a Commercial Revitalization Grant Program Façade Grant for Dixie Partners II, LP totaling \$25,000 and a Commercial Revitalization Grant Program Permittable Grant totaling \$100,000 at 1805 Parkway Drive.



Commercial Revitalization Grant - Application

The information requested on this form will be used by Market Lubbock, Inc. for analysis of your project.

MLI CONTACT INFORMATION

Jorge Quirino - Special Projects

Phone: 806.749.4500

Market Lubbock, Inc.

1500 Broadway, Sixth Floor, Lubbock, TX 79401

Email: jorge@marketlubbock.org

Date Initial Application Submitted (Due prior to start of construction or permits assigned) **05/02/23**

Projected Project Start Date **05/22/23**

Project Property Address **1805 Parkway Dr. Lubbock, Texas 79403**

Property LCAD R# **83192**

GENERAL INFORMATION ABOUT THE COMPANY

Company Name **Dixie Partners II, LP**
 Street Address **P O Box 270874**
 City, State, Zip **Flower Mound, TX. 75027**

GENERAL INFORMATION ABOUT THE COMPANY CONTACT

Name **David Spada**
 Title **Project Manager**
 Phone Number **940-595-1969**
 Email **David@bigdprop.com**

INFORMATION ABOUT THE PROJECT

Property Ownership: Own ☒ Lease ☐
 Owner Approved ☐

Grant Type (May choose both if applicable): Permittable ☒ Façade ☒

Detailed Project Summary (including projected start date) and Description of Work:

Complete renovation on this property. Roof, façade, exterior lighting, parking lot, plumbing, electrical, HVAC, etc.

Summary of Expenses (detailed bids attached)	Projected	MLI Approved Reimbursement
Façade	\$50,000	\$25,000
Permittable - Madewell (Interior and Exterior)	\$133,341	\$13,334
Permittable - Madewell (Misc.)	\$18,334	\$1,833
Permittable - LiquiPro Roofing	\$268,881	\$26,888
Permittable - Cinder Block	\$199,400	\$19,940
Permittable - Comfort Masters (HVAC)	\$79,000	\$7,900
Permittable - Comfort Masters (Sewer Line)	\$27,200	\$2,720
Permittable - SK Architecture	\$74,500	\$7,450
Permittable - King Consulting (Asbestos)	\$165,863	\$16,586
Permittable - SPS Electric	\$223,020	\$3,348
TOTAL	\$1,239,539	\$125,000

Final bids will be used to calculate the project cost and grant amount.

COMPANY BACKGROUND

List any person or entity that has at least 5% ownership in the Applicant Company:

Name	Percent	Name	Percent
James Michael Kevlin	100%		

Is the firm registered with the Secretary of State's Office to do business in Texas?

Yes 

Are you in good standing with the State of Texas?

Yes 

If you answered "No" to either of the above two questions, please explain

Is the firm and/or principals delinquent on any federal, state or local tax obligations?

No 

Has the company or principals of the company had prior bankruptcies or lawsuits?

No 

If you answered "Yes" to either of the above two questions, please explain

Is the firm receiving tax revenue from any government agency?

No 

APPLICANT'S RESPONSIBILITIES (PROPERTY OWNER OR LEASEE)

City of Lubbock requirements:

City of Lubbock - Planning Department 806-775-2108

Contact the City of Lubbock to determine the following:

- ☐ Does the scope of work meet East Side standards and guidelines?
- ☐ Are permits required for any aspect of the scope of work?
- ☐ Are public improvements required?
- ☐ Is there a current Certificate of Occupancy on file for this property?

Market Lubbock, Inc. (MLI) requirements:

Manager of Downtown & Special Projects (Jorge Quirino) 806-749-4500

Application Packet:

- ☐ Initial application (page one of this document) must be received by MLI prior to the start of construction and/or before permits are assigned
- All remaining documents must be received and an application packet presented to the MLI Board no more than three months after the initial application is received by MLI.

Date Final Documents Received: _____

- ☐ Copies of City permits or City approval
- ☐ Copy of Current Certificate of Occupancy
- ☐ Detailed Construction Bids or Schedule of Values
- ☐ Before Picture (prior to construction beginning)
- ☐ Architectural Plans (if applicable)
- ☐ Architectural Renderings (if applicable)

After completion of construction:

- ☐ Certificate of Occupancy or Similar City Document Approving Completion
(Applicant responsible for final scope of work matching approved scope)

Proof of Payment:

- ☐ PAID Invoices (must reference the approved project)
- ☐ Processed Checks, Bank or Credit Card Statements matching PAID invoices (legible copies)

Overview

- An Applicant must be a valid Owner or Tenant (Lessee) of the property needing improvements
- Properties must fall within the Lubbock Downtown TIF boundaries (Central Business District TIF)
- Single-Family residences and duplexes are excluded.
- An Applicant is eligible to receive a permissible grant and/or façade grant per property (LCAD R# or Development Lot), per enterprise, per year. Must wait one year from approval to apply again for the same property. (Expenses used in one application cannot be used in another application.)
- Applicant is not eligible for grant program funding if delinquent in property taxes according to LCAD records - includes all LCAD properties listed in the applicant's name
- MLI disbursements are characterized as "reimbursable grants" - Applicant pays expenses first
- Expenses eligible for reimbursement must relate to reasonable costs or expenses.
- Receipt of an application is not a guarantee of grant approval.

Grant Types

- **Permittable Projects**
 - Improvements require a City of Lubbock permit
 - Improvements may be made to the exterior and/or interior of the property
 - Improvements must total a minimum of \$5,000
 - The permissible grant reimburses 10% of approved expenses up to a \$50,000 grant
 - Permittable scope of work that may be considered:
 - HVAC
 - Plumbing
 - Electrical
 - Structural
 - Any other work requiring a City of Lubbock permit
- **Façade Projects**
 - Improvements may or may not require a City of Lubbock permit
 - Improvements must be made to the exterior of the property facing the most prominent street
 - Improvements must total a minimum of \$1,000
 - The façade grant reimburses 50% of approved expenses up to a \$25,000 grant
 - Façade scope of work that may be considered:
 - Painting
 - New windows and doors
 - Signage
 - Landscaping
 - Parking lots
 - Awnings
 - Any other work that improves the appearance of the façade

Signature (not required for electronic submittals): David Spada

Date: 5/2/23 per email

Madewell Construction Inc.

Proposal

7314 73rd St
Lubbock, Texas 79424
Jordan: 806-570-0264
Devin: 806-243-1716
Office: 806-368-0710

DATE: September 12, 2022

Bill To:

Kyle Wooldridge@gmail.com

Lubbock, TX

?

kwooldridge@gmail.com

Work Address:

1530 E 19th St

Lubbock, TX

DESCRIPTION	AMOUNT
Commercial Make Ready for Strip Center off 19th and MLK Jr Blvd Scope of Work Includes:	
Exterior Portion	\$ 102,600.00
- Approx. 500sq ft of EIFS on Front Elevation	
- New Glass Fronts for All Store Fronts	
- Removal and Repour of Sidewalk	
- Parking Lot Reno - 6500sq ft of Existing Concrete Sealed and Stripped	
5000sq ft of New Parking Prepped, Laid and Stripped	
- Approx. 2840sq ft of Exterior Painting	
Interior Portion	\$ 80,740.80
- Demizing Walls as Needed, Repaired and/or Cleaned Up and Refurbished	
- Paint and Texture Repairs Throughout	
- HVAC Repairs and Service to Existing Set Up	
- Flooring as Needed Throughout Tenant Spaces	
- Electrical Work to Refurbish and Replace as Needed	
Overhead and Profit - 10%	\$ 18,334.08
Progress Draws for Milestones Being Met - Any Balance Due Upon Completion	
JQ: Façade \$50,000 / Permittable \$151,675	
TOTAL	\$ 201,674.88

Customer Signature: _____ Date: _____

****We Accept Cash, Check, or Credit Card(with handling fee)****

Make all checks payable to Madewell Construction Inc., 7314 73rd Street Lubbock, TX 79424

If you have any questions concerning this invoice, contact Jordan, 806-570-0264, jordan@madewell-construction.co

THANK YOU FOR YOUR BUSINESS!

Roof Proposal

Prepared by Liqui-Pro

1807 Parkway Drive, Lubbock, Texas





Table of Contents

1. PROPOSAL SUMMARY
2. PROJECT DIAGRAM
3. SQ. FT. OF AREAS
4. RTU SUPPORT DETAIL
5. SCOPE OF WORK & PRICE



Proposal Summary

FROM

John Austin, President
Liqui-Pro Industries, Inc.
PO Box 550, Texas City, Texas 77592
409-370-5178

PROJECT

Strip Center
1807 Parkway Dr.
Lubbock, Texas

ABSTRACT

At the request of Mr. David Spada, Liqui-Pro Completed estimates to Tear off and replace the roof system, install silicone restoration system and install VacuSeal TPO system. The most economical roof system is the VacuSeal TPO system.

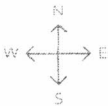
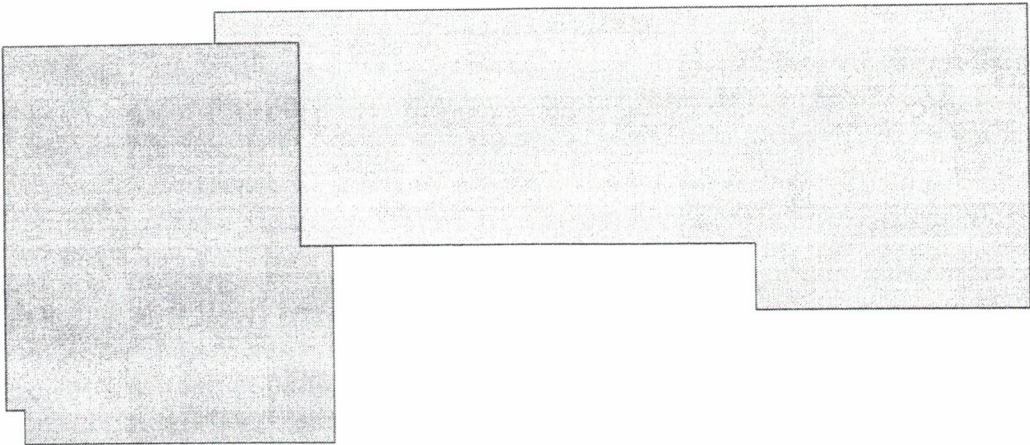
PROJECT SUMMARY

Per information obtained from the customer the existing roof consists of a tectum deck, BUR mopped to the tectum, insulation board and a BUR with gravel. Due to the building having two separate roof systems the VacuSeal system is a perfect fit for this application. Since we are removing the gravel before installation the new roof system will not add much weight if any at all the building structure. Also included in the proposal is the installation of (5) RTU support systems mounted to the concrete deck beams. This also includes sealing the curbs after the RTU contractor finishes the installation. We have provided an allowance in this proposal for the replacement of (3) separate areas of roofing and tectum deck not exceeding 2 panels per area.

This roof system is UL approved and compliant with Florida building code for high velocity hurricane zones.

Diagram

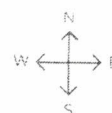
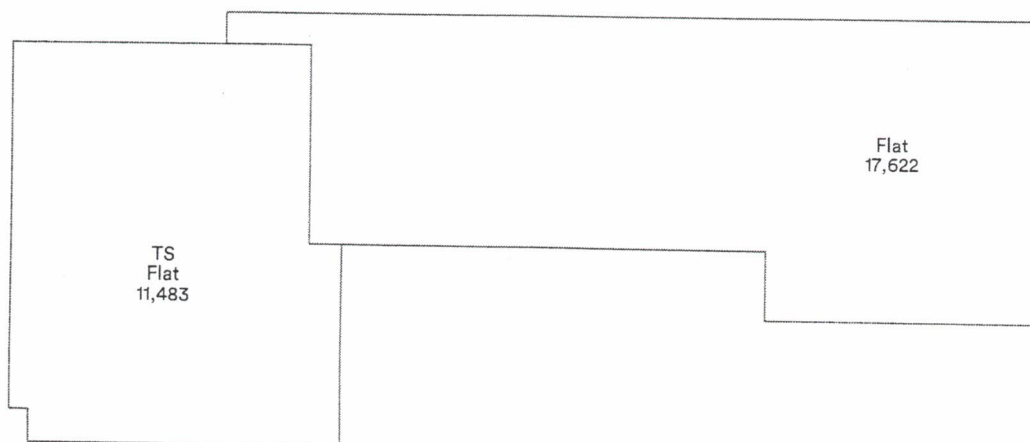
1807 Parkway Drive, Lubbock, Texas, United States



Area Measurement Report

1807 Parkway Drive, Lubbock, Texas, United States

Total Roof Area: 29105 sqft



LIQUI-PRO

Waterproofing • Roofing • Construction

Proposal

DATE: August 25, 2023

ATTN: Mr. David Spada

PROJECT: Strip Center VacuSeal TPO Roof System

ADDRESS: 1807 Parkway Dr
Lubbock, Texas

SCOPE OF WORK

1. Setup all safety and perimeter warning as needed.
2. Acquire **roofing permit** from the city of Lubbock.
3. **Vacuum** all loose gravel and debris off of roof.
4. Install **½" gypsum board** loose laid.
5. Install **VacuSeal Air Distribution Strips** per manufacturer's specifications.
6. Install new **24-gauge TPO-coated edge metal** around all perimeters.
7. Install **60 mil TPO membrane** and all related roof flashings.
8. **Heat-weld** all laps per manufacturer's specifications.
9. Attach TPO roof system perimeters per manufacturer's specifications.
10. Install **VacuSeal Vents** at designated locations provided by manufacturer.
11. **Cut out and replace** (3) deteriorated sections of roof. Total of (6) tectum boards included in proposal.
12. **Install (5) new support structures** to receive new RTUs.
13. **Seal roof system to new RTU curbs** after installation.
14. Remove all debris generated from project.
15. Provide a (2) Year workmanship warranty from Liqui-Pro Industries, Inc.
16. Provide a (15) Year warranty from the manufacturer.

For the Sum Of: **\$248,389.00** plus sales tax if applicable

Exclusions:

- Windstorm fees.
- Mechanical, electrical and plumbing disconnects or re-connects if necessary.
- Roof or deck replacement other than described in scope of work.

PROJECT PICTURES

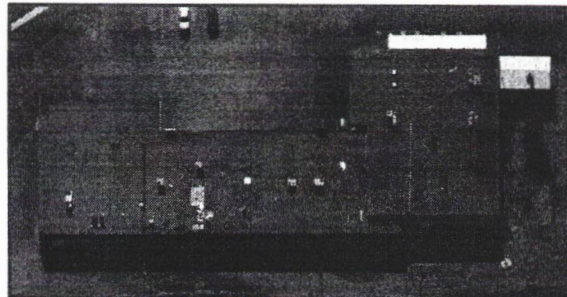


Figure 1



Figure 2

\$268,881 with Tax

Owner recognizes that if moisture has entered the dwelling prior to the contractor beginning work, contractor is not liable for property damage or bodily injury claims allegedly resulting from insect damage or fungus and mold infestation. I have seen and understand the terms and conditions of the standard warranty issued by Liqui-Pro Industries, Inc.
All materials are guaranteed to be as specified. All work to be completed in a workman like manner according to standard construction practices. All workmanship to be covered for a period of (1) year unless otherwise stated in this proposal. Any alteration or deviation from specifications outlined above involving extra cost will be executed only upon written approval, and will become an extra charge over and above the estimate. Agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by workman's compensation insurance.

ACCEPTANCE OF PROPOSAL - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be 40% at mobilization and balance due upon completion unless outlined above.

LP REPRESENTATIVE: **John Austin Jr.**

ACCEPTED BY SIGNATURE:

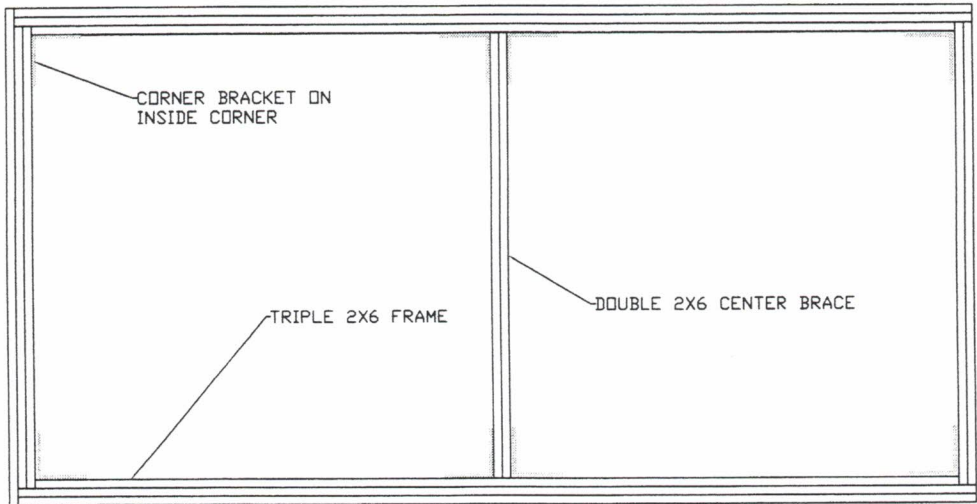
PRINTED NAME:

SIGNATURE:

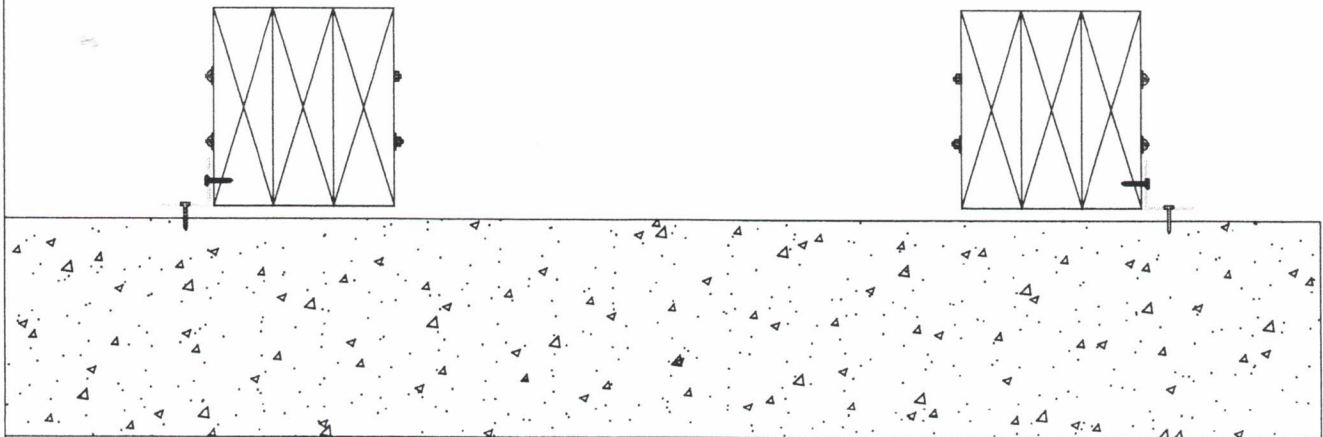
DATE:

David J. Spada
David Spada
David J. Spada
8-28-2023

TOP VIEW



END VIEW



RTU CURB SUPPORT

SCALE NTS

DETAIL

SHEET 1



LUBBOCK MASONRY, INC.

7720 - 19th Street • Telephone: 806.795.2954 • Lubbock, Texas 79407
Fax: 806.793.0135

OCTOBER 26, 2022

HUB CERT#1752355275400

BIG D PROPERTIES

ATTN: DAVID

RE: CINDER BLOCK FENCE @ 1805 PARKWAY

REVISED BID PROPOSAL

LABOR AND MATERIAL

\$135,000.00

INCLUDES:

FOOTING

BLOCK

CONCRETE AND REBAR IN BLOCK WALL

TRASH HAULING

EXISTING FENCE REMOVED

GREY SPLITFACE

ADD \$27,600.00

RED SPLITFACE

ADD \$36,800.00

WE MAINTAIN WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE
AND A CERTIFICATE IS AVAILABLE UPON REQUEST.

WE APPRECIATE THE OPPORTUNITY OF SUBMITTING THIS PROPOSAL AND
SHOULD YOU HAVE ANY QUESTIONS CONCERNING THE ABOVE, DO NOT
HESITATE TO CALL.

SINCERELY,

KEVIN SISSON

TOTAL - \$199,400

Proposal

Page 1 of 1



Comfort Masters
Plumbing*Heating*Air Conditioning
1101 East 58th
Lubbock, Texas 79404
(806)749-1000 ph. (806)749-1002 fax

No. **001264**

Date 7/31/2023

PROPOSAL SUBMITTED TO David (West Side Plaza)		PHONE 940-595-1969	OTHER PHONE
ADDRESS 5001 Marsha Sharp Freeway		E-MAIL ADDRESS david@bigdprop.com	FAX NUMBER
CITY, STATE AND ZIP CODE Lubbock, Texas 79407		JOB NAME 1807 Parkway Drive DT	
ARCHITECT None	DATE OF PLANS	JOB LOCATION 1807 Parkway Drive - Lubbock Texas	

We hereby submit specifications and estimates for:

*******REVISED*******

90,000.00

Proposal is Good for 30 Days From Quoted Date Due to Volatility of Material Cost. Additionally, Submittals must be returned within 30 days of submission. If not, additional price increases may occur.

Mechanical Only, No plans or specs. Sales Tax Included

All work to be done in a normal work week: Mon. - Fri. 8-5.

Add for Payment and Performance Bond \$2,700.00

Deduct for Using 14 seer FC Carrier Units: \$11,000.00

(11,000.00)

Included: Installation of Five(5) Carrier Brand Rooftop Units. Four Units to be 6-Ton, (Gas Heat) Units, and One Unit to be a 5-Ton(Gas Heat) Unit. This price includes Curbs, Units, Duct Drops, Labor, Crane Services, Permits, Taxes and all other Applicable Fees.

Excluding the following items: Any and All Plumbing, Commissioning of Mechanical Equipment, Temporary Heating, Cooling, Low Temp Refrigeration, Ventilating and Sanitary Facilities, Saw Cutting and Concrete Removal, Trash Container and Hauling, Lead Flashing(to be done by roofers), Roofing, Roof Cutting, Painting, Patching, Concrete, Bond, and Fire Protection. Metal or Wood Blocking to Raise the Height of Curbs, Electrical Wiring (Power & Control).

We Propose hereby to furnish material and labor complete in accordance with the above specifications, for the sum of:

SEVENTY-NINE THOUSAND DOLLARS

dollars (\$ **79,000.00**)

Payment to be made as follows:

Progress Payments

Terms and Conditions:

Regulated by Texas State Board of Plumbing Examiners
P.O. Box 4200 Austin, Tx 78765-4200 1-800-845-6584
Texas Department of Licensing and Regulation
P.O. Box 12157 Austin, Tx 78711 1-800-803-9202 / 512-463-6599
Master Plumber Glenn Davis

Authorized
Signature

J.C. Burt

Note: This proposal may be
withdrawn by us if not accepted within 30 days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: 8/7/2023Signature:
Signature: _____



Proposal

Comfort Masters PLG & HVAC

1318 E. 50th Street
Lubbock, Texas 79404
(806) 749-1000
RPM- Glenn Davis M-18772, TACL-003497C

Proposal Submitted To Dixie Partners 2LP	Date May 23, 2023
Address	Phone 940-595-1969
	E-mail Address David@bigdprop.com

Job Name and Location Parkway Center At 1805 Parkway Drive
Lubbock, Texas

We hereby submit specifications and estimates, subject to all terms and conditions as set forth on both sides, as follows:

This is an estimate to install new sewer services for the six (6) suites at 1805 Parkway Drive in Lubbock, Texas. The cost to replace the sewer services from the building to one (1) foot past the property line for each space will be \$27,200.00. The city is responsible for the lateral lines in the alley to the city sewer main.

Thank you, Brian Thompson - Plumbing Manager.

Texas State Board of Plumbing Examiners

P.O. Box 4200 - Austin, Texas 78765-4200 - 1(800)845-6584

Regulated by The Texas Department of Licensing and Regulation

P.O. Box 12157 - Austin, Texas 78711 - 1(800)803-9202 - (512)463-6599

We propose hereby to furnish material and labor - complete in accordance with the above specifications for the sum of: **\$27,200.00**

Authorized
Signature:

Brian A. Thompson

Note: This proposal may be withdrawn by us if not accepted within: **30** days.

Accepted: The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature:

Date: **May 23, 2023**



SK Architecture Group, LLC
Lori Martin • (806) 300-8151
PO Box 64565, Lubbock, Texas, 79464 • License Number: 25582

Bill To
David Spada
david@bigdprop.com
No address provided

Proposal ES-10004

Date Created: Oct 31, 2022

Proposal for 1805 Parkway - As-builts

Items



1. As-Built Drawings

Total: \$12,200.00

As-Built Drawings to include interior and exterior existing conditions of 25,530 SF retail building (dimensioned plans and elevations with locations of walls, windows, doors, ceilings, visible structural elements, plumbing locations, roof conditions with mechanical unit locations, and utility meter locations).

Status: **PENDING** Quantity: 1 Unit: Flat Fee Cost: \$12,200.00



2. As-Built Electrical Survey and Analysis

Total: \$1,800.00

Survey, as-builts, and recommendations for existing electrical system

Status: **PENDING** Quantity: 1 Unit: Hours Cost: \$1,800.00

Subtotal \$14,000.00

Tax \$0.00

Total \$14,000.00

Amount Paid \$0.00

Balance **\$14,000.00**

Payments

\$2,100.00

Deposit

Due: Nov 7, 2022

Definitions

Design Consultants Fee: the amount(s) set forth in the Agreement as being payable by the Client to the Design Consultant for the Agreed Services. **Agreed Services:** the services to be provided by the Design Consultant to the Client as disclosed in Part 1 of this Agreement.

Agreement: the agreement between the Client and the Design Consultant consisting of Parts 1, 2 and 3 of this document and all attachments listed. **Brief:** the statements, plans, drawings blueprints, charts and other materials and documents assembled by the Client in a Project requirement document, brief or a request for proposal document or any other similar document to summarize the Client's expressed requirements, to address the Client's preferences and priorities, and to summarize the impact of context, environment, and prevailing legislation, at the time of signing the Agreement. **Client:** the Person named as the Client in this Agreement. **Project:** the project identified in this Agreement. **Working Day:** any calendar day other than a Saturday, Sunday or a public holiday within the jurisdiction where the Project is located. **Works:** any permanent or temporary structure, building, fixture or access constructed or required to be constructed on the Site based on the Design Consultant's documents as part of the Project.

A. Obligations

A.1 The Design Consultant shall perform the Agreed Services set out in this Agreement exercising a reasonable level of skill, care and diligence ordinarily provided by Design Consultants working in the same or similar locality under the same or similar circumstances.

A.2 The Design Consultant undertakes to advise the Client of any matter that may affect the performance of the Agreed Services including circumstances or instructions that may require a variation of the service and a change to the Design Consultant's Fee.

A.3 The Client agrees to directly appoint all other consultants required by the Project that are not part of this Agreement, including the sub-consultants presented to the Client by the Design Consultant in Part 1 of this Agreement. The Client will ensure that all other consultants/sub-consultants/ contractors/subcontracts maintain professional liability insurance as appropriate for the services provided.

A.4 The Client agrees to provide the Design Consultant with a Brief and shall advise the Design Consultant of the relative priorities of the Brief, construction cost and Project schedule by way of meetings and written directions or communications as necessary to ensure complete understanding of such Project priorities by the Design Consultant.

A.5 The Client will ensure that there is no change made at any time to the Design Consultant's Agreed Services, the Brief, construction cost or the Project Schedule without the prior written consent of the Design Consultant.

A.6 The Client shall hold each sub-consultant/contractor/sub-contractor however appointed, and not the Design Consultant, responsible for the proper performance of their work.

B. Fees

B.1 The Client must pay the Design Consultant in accordance with Part 1 of this Agreement all fees due plus applicable sales, property, use and other taxes and other mandatory government charges and duties related to the performance of the Agreed Services (other than the Design Consultants income taxes) and the Design Consultants expenses. Payment of the Design Consultant's account must be made within seven (7) Working Days of the date of the invoice. All fees that remain unpaid thereafter will incur interest charges at a rate of 10% per annum or the highest rate of interest permitted under the applicable law, whichever is lower.

B.2 Where this Agreement has been entered into by an Agent (or a person purporting to be an Agent) on behalf of the Client, the Agent and the Client shall be jointly and severally liable for the payment of all fees due to the Design Consultant under this Agreement.

B.3 The Client cannot deduct, withhold or reduce any sum payable to the Design Consultant under this Agreement by reason of claims or alleged claims against the Design Consultant.

B.4 The Client must promptly notify the Design Consultant in writing of any dispute regarding fees, and give the Design Consultant sufficient details to be able to respond. The dispute resolution procedure in section F shall apply to any such disputes on fees.

B.5 Where, for any reason, the Design Consultant provides only part of the Agreed Services as set out in Part 1 of the Agreement, the Design Consultant shall be entitled to payment in full for all services completed together with a fair and equitable proportion of the outstanding fee, to reflect the portion of partial services completed.

C. Insurance

C.1 The Design Consultant shall take out and use reasonable endeavors to maintain professional indemnity insurance in the sum of not less than \$250,000, subject to the various terms, exclusions and limitations of the policy such as; an exclusion for toxic material, leaky buildings, weathertightness claims.

C.2 The Design Consultant will use all reasonable efforts to maintain insurance for a period of 3 years from completion of the Design Consultant's work under this Agreement.

C.3 The Client must provide to the Design Consultant evidence of the separate consultants', sub-consultants, contractors and sub-contractors professional indemnity insurance.

D. Liability

D.1 If the Design Consultant is liable to the Client (whether in contract, tort or otherwise), the Design Consultant will only be liable for any reasonable foreseeable and fully mitigated damage, loss or expense incurred by the Client, caused directly by a material breach of the Design Consultant's legal obligations pursuant to this Agreement. The Design Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential, punitive or special loss of profit, howsoever arising whether in contract, tort or otherwise, nor for ordinary negligence.

D.2 The extent of the Design Consultant's liability (whether in contract tort or otherwise) is reduced proportionately to the extent that the Client and/or any other person, including any third party, has contributed to the claim, liability, damage, loss or expense and irrespective of whether such contribution arises in contract, tort or otherwise.

D.3 Neither the Design Consultant nor the Client shall be liable to the other for any loss or damage unless a claim (whether in contract, tort or otherwise) has been filed in court, in arbitration proceedings or in any tribunal which has jurisdiction to determine a claim, within three years of the date of the act or omission giving rise to the claim or within the limitation period set by the applicable limitation of action statute to which the claim relates, whichever is the earlier, provided always that nothing in this clause shall be construed to exclude any compulsory limitation of action provisions which cannot by law be excluded or restricted in any contracts made between the parties.

D.4 In the circumstances where the Agreed Services (as described in this Agreement) are reduced, limited or varied by later agreement or the Agreement is ended prior to the completion of the Agreed Services, the Design Consultant's liability will attach only to those services actually performed and then only to the extent that the reduction of that part of the Agreed Services has not compromised or not denied the Design Consultant the opportunity to correct the performed services or to otherwise mitigate the Client's loss.

D.5 The Design Consultant is not liable for any damage, loss or expense incurred by the Client as a consequence of any change that the Client or any other person makes to the Design Consultant's documents, or from any variation to the Works from the Design Consultant's documents, made without prior written approval by the Design Consultant, or any changes to the approvals, consents or authorizations received in connection with the construction or occupancy of the Works or the Project not made known to the Design Consultant in writing.

D.6 The Design Consultant shall not be liable to any person other than the Client, and disclaims responsibility, in tort or otherwise, for any liability, damage, loss or expenses suffered or incurred by such person. In the event that the Project to which the Design Consultant's services relate is leased, transferred, sold, or otherwise disposed of in part or whole to other persons, then the Client warrants that such persons shall be advised in writing that the Design Consultant accepts no legal responsibility to them. In the event of breach of this clause, the Client shall fully indemnify the Design Consultant against any claim by such persons, whether such claim is in tort or otherwise.

D.7 The maximum aggregate amount payable by the Design Consultant under this Agreement, whether in contract, tort or otherwise, in relation to claims, liabilities, damages, losses or expenses is limited to **\$250,000** or five times the Design Consultant's total fee for the Agreed Services, whichever is the lesser.

D.8 The Client shall indemnify, defend and hold the Design Consultant harmless against the adverse effects of all claims including claims by third parties which arise out of or have a connection with the Agreement and are made after the expiry of the period of liability referred to in clause D.3. For avoidance of doubt, the indemnity includes claims in negligence made against the Design Consultant.

D.9 The Client acknowledges that the Design Consultant operates through employees, directors, officers, agents and sub-consultants and agrees that no reliance has or will be placed on them personally by the Client in connection with this Agreement on the performances of the Agreed Services.

D.10 The limitations of liability as described above will apply to the maximum extent permitted by law and will confer to any extent relevant a benefit on the employees, directors, officers, agents or sub-consultants of the Design Consultant.

D.11 Except as expressly stated in this agreement, the Design Consultant makes no warranties, express or implied, statutory or otherwise to the Client whatsoever, including but not limited to implied warranties of merchantability or fitness for a particular purpose.

E. Copyright and License

E.1 The Design Consultant retains copyright in all designs, drawings, blueprints, models, plans, specifications, design details, photographs, and any other materials produced or provided by the Design Consultant or its sub-consultants in connection with the Project ("**the Materials**").

E.2 The Design Consultant grants, subject to payment of all outstanding fees due to the Design Consultants under this Agreement, to the Client a non-exclusive, limited license to use and reproduce the Materials for all purposes relating to the Project.

E.3 The Design Consultant shall have no liability for any use of the Materials other than that for which the same were originally prepared and provided and then only to the extent provided in the Agreement.

E.4 If the Design Consultant rightfully terminates the Agreement for causes as specified in section H, the license granted under section E will be revoked.

E.5 If the Client wishes to use any parts of the Materials for any further stage or extension of the Project, any major alterations to the completed works or for any other project, and the Design Consultant is not appointed to provide related services, the Client must obtain the Design Consultant's prior written consent which may include conditions relating to each re-use including but not limited to the payment of a reasonable license fee.

E.6 At the completion of the Agreed Services or in the event of the early ending of this Agreement, the Client will be entitled to retain one copy of the Materials in printed or passive electronic form such as PDF. The Design Consultant will not be required to provide any of the Materials in CAD or any other active electronic form.

F. Dispute Resolution

F.1 Any disputes between the Client and the Design Consultant in relation to this Agreement must first be attempted to be settled in good faith. Failing resolution the Client or the Design Consultant may by notice require that the matter in dispute be referred to mediation.

F.2 If mediation has not occurred or settlement is not achieved within 30 Working Days of the written notice requiring mediation the Client and the Design Consultant may agree to refer the dispute to arbitration in accordance with clause F.3. In the event of a dispute the Design Consultant may by notice in writing to the Client suspend its obligations under this Agreement. In that event the Design Consultant will not be liable to the Client or any other person for losses arising from such suspension of work.

F.3 Any dispute or claim that cannot be resolved by mediation arising out of or related to this Agreement as provided in clause F.2, its performance, breach, or interpretation (including issues about its validity or enforceability), will thereafter be exclusively (except as provided below) resolved by binding arbitration before the American Arbitration Association ("**AAA**") before a single mutually-agreeable neutral arbitrator. The arbitrator will not award attorney's fees, or punitive, indirect, incidental, special, consequential, treble or other multiple or exemplary damages, and the Parties hereby agree to waive and not seek such damages. All costs of arbitration shall be borne by the losing party. The losing party shall be the party designated as such by the arbitrator. In the event both Parties prevail on certain issues and lose on others the arbitration costs shall be apportioned between the Parties in any manner the arbitrator orders. Either Party may seek judicial relief to compel the other Party to comply with the provisions of this clause F.3, or seek injunctive or other equitable relief as long as (unless prohibited by applicable law) the remainder of the dispute or claim is submitted to arbitration. The arbitration will be held in [STATE] [COUNTY]. Both Parties hereby give their irrevocable consent to the processes of the AAA in [STATE] as well as the jurisdiction of the courts of [STATE] for enforcement purposes. Awards will be final, binding and non-appealable (except on the minimal grounds required under the U.S. Federal Arbitration Act or other applicable law). All awards may be filed with one or more courts, state, federal or foreign, having jurisdiction over the Party against whom such award is rendered or its property, as a basis of judgment and of the issuance of execution for its collection.

G. Notice of Defects and Timelines

G.1 If, during the term of this Agreement or after completion of it, the Client becomes aware of any problem with the design, fault or defect in the Project, or non-compliance with the Project's contract documents, the Client must promptly, but not later than 30 Working Days after becoming aware of it, notify the Design Consultant about it in writing. If the Client does not do this the Client will be treated as having waived any claim the Client may have against the Design Consultant (in contract, tort or otherwise) in relation to the problem, fault or non-compliance.

G.2 Unless otherwise expressly agreed by the Design Consultant in writing, all timelines, schedules, milestones or dates provided by the Design Consultant or specified in the Brief or any of the Design Consultant's documents which relate to the performance of the Agreed Services by the Design Consultant are estimates only and the Design Consultant shall not be in any way liable for any loss or damage arising from, or incurred in respect of, a delay in the performance of any part of the Agreed Services if performance is prevented by any reason, including because of the negligence or fault of the Design Consultant, its employees, directors, officers, agents and sub-consultants.

H. Termination and Suspension

H.1 The Client or the Design Consultant may end this Agreement by writing to the other at their last known address. This Agreement will end 20 Working Days after the date the written notice is sent.

H.2 Without limiting any other rights the Design Consultant may have in this Agreement or in law or equity, the Design Consultant may suspend the performance of any part of the Agreed Services by way of a notice in writing to the Client if the Client fails to make full payment of all amounts due and payable by the Client under this Agreement within the due date(s) for the duration until such payment is made.

I. General

- I.1 The law applicable to this Agreement shall be the law of the state or province of the Design Consultant's address stated in the Agreement without regard to its conflicts of law principles
- I.2 The Design Consultant shall be entitled to rely upon the accuracy and completeness of the information furnished by the Client.
- I.3 Neither party shall assign or transfer this Agreement without the prior written consent of the other party.
- I.4 The Agreement contains the entire agreement between the Parties and supersedes all previous verbal and written agreements.
- I.5 Unless otherwise provided in the Agreement, no modification or waiver of any of the provisions, or any future representation, promise or addition shall be binding upon the Parties unless made in writing and signed by both the Parties.

Signature

SK Architecture Group, LLC

Company Signature

Client Signature



SK Architecture Group, LLC
Lori Martin • (806) 300-8151
PO Box 64565, Lubbock, Texas, 79464 • License Number: 25582

Bill To
David Spada
david@bigdprop.com
No address provided

Proposal ES-10052

Date Sent: May 22, 2023

Proposal for 1807 Parkway Exterior Improvements

Items

1. Architectural Plan Set				Total: \$9,600.00
Includes permit and construction set of drawings for exterior improvements of 1807 Parkway retail building.				
Quantity: 1	Unit: Flat Fee	Cost: \$9,600.00	Room:	
2. Structural Engineering				Total: \$4,000.00
Structural engineering for a new facade and front canopy features expected to be framed out of steel studs with new openings in existing walls as required.				
Quantity: 1	Unit: Consultant Fee	Cost: \$4,000.00	Room:	
3. Mechanical, Electrical, and Plumbing Engineering				Total: \$2,800.00
Electrical engineering for any new lighting and electrical required				
Quantity: 1	Unit: Consultant Fee	Cost: \$2,800.00	Room:	

Subtotal	\$16,400.00
Tax	\$0.00
Total	\$16,400.00
Amount Paid	\$0.00
Balance	\$16,400.00

Payments

\$1,640.00

Deposit

Due: May 22, 2023

Definitions

Design Consultants Fee: the amount(s) set forth in the Agreement as being payable by the Client to the Design Consultant for the Agreed Services. **Agreed Services:** the services to be provided by the Design Consultant to the Client as disclosed in Part 1 of this Agreement.

Agreement: the agreement between the Client and the Design Consultant consisting of Parts 1, 2 and 3 of this document and all attachments listed. **Brief:** the statements, plans, drawings blueprints, charts and other materials and documents assembled by the Client in a Project requirement document, brief or a request for proposal document or any other similar document to summarize the Client's expressed requirements, to address the Client's preferences and priorities, and to summarize the impact of context, environment, and prevailing legislation, at the time of signing the Agreement. **Client:** the Person named as the Client in this Agreement. **Project:** the project identified in this Agreement. **Working Day:** any calendar day other than a Saturday, Sunday or a public holiday within the jurisdiction where the Project is located. **Works:** any permanent or temporary structure, building, fixture or access constructed or required to be constructed on the Site based on the Design Consultant's documents as part of the Project.

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A.2 The Design Consultant undertakes to advise the Client of any matter that may affect the performance of the Agreed Services including circumstances or instructions that may require a variation of the service and a change to the Design Consultant's Fee.

A.3 The Client agrees to directly appoint all other consultants required by the Project that are not part of this Agreement, including the sub-consultants presented to the Client by the Design Consultant in Part 1 of this Agreement. The Client will ensure that all other consultants/sub-consultants/ contractors/subcontracts maintain professional liability insurance as appropriate for the services provided.

A.4 The Client agrees to provide the Design Consultant with a Brief and shall advise the Design Consultant of the relative priorities of the Brief, construction cost and Project schedule by way of meetings and written directions or communications as necessary to ensure complete understanding of such Project priorities by the Design Consultant.

A.5 The Client will ensure that there is no change made at any time to the Design Consultant's Agreed Services, the Brief, construction cost or the Project Schedule without the prior written consent of the Design Consultant.

A.6 The Client shall hold each sub-consultant/contractor/sub-contractor however appointed, and not the Design Consultant, responsible for the proper performance of their work.

B. Fees

B.1 The Client must pay the Design Consultant in accordance with Part 1 of this Agreement all fees due plus applicable sales, property, use and other taxes and other mandatory government charges and duties related to the performance of the Agreed Services (other than the Design Consultants income taxes) and the Design Consultants expenses. Payment of the Design Consultant's account must be made within seven (7) Working Days of the date of the invoice. All fees that remain unpaid thereafter will incur interest charges at a rate of 10% per annum or the highest rate of interest permitted under the applicable law, whichever is lower.

B.2 Where this Agreement has been entered into by an Agent (or a person purporting to be an Agent) on behalf of the Client, the Agent and the Client shall be jointly and severally liable for the payment of all fees due to the Design Consultant under this Agreement.

B.3 The Client cannot deduct, withhold or reduce any sum payable to the Design Consultant under this Agreement by reason of claims or alleged claims against the Design Consultant.

B.4 The Client must promptly notify the Design Consultant in writing of any dispute regarding fees, and give the Design Consultant sufficient details to be able to respond. The dispute resolution procedure in section F shall apply to any such disputes on fees.

B.5 Where, for any reason, the Design Consultant provides only part of the Agreed Services as set out in Part 1 of the Agreement, the Design Consultant shall be entitled to payment in full for all services completed together with a fair and equitable proportion of the outstanding fee, to reflect the portion of partial services completed.

C. Insurance

C.1 The Design Consultant shall take out and use reasonable endeavors to maintain professional indemnity insurance in the sum of not less than \$250,000, subject to the various terms, exclusions and limitations of the policy such as; an exclusion for toxic material, leaky buildings, weathertightness claims.

C.2 The Design Consultant will use all reasonable efforts to maintain insurance for a period of 3 years from completion of the Design Consultant's work under this Agreement.

C.3 The Client must provide to the Design Consultant evidence of the separate consultants', sub-consultants, contractors and sub-contractors professional indemnity insurance.

D. Liability

D.1 If the Design Consultant is liable to the Client (whether in contract, tort or otherwise), the Design Consultant will only be liable for any reasonable foreseeable and fully mitigated damage, loss or expense incurred by the Client, caused directly by a material breach of the Design Consultant's legal obligations pursuant to this Agreement. The Design Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential, punitive or special loss of profit, howsoever arising whether in contract, tort or otherwise, nor for ordinary negligence.

D.2 The extent of the Design Consultant's liability (whether in contract tort or otherwise) is reduced proportionately to the extent that the Client and/or any other person, including any third party, has contributed to the claim, liability, damage, loss or expense and irrespective of whether such contribution arises in contract, tort or otherwise.

D.3 Neither the Design Consultant nor the Client shall be liable to the other for any loss or damage unless a claim (whether in contract, tort or otherwise) has been filed in court, in arbitration proceedings or in any tribunal which has jurisdiction to determine a claim, within three years of the date of the act or omission giving rise to the claim or within the limitation period set by the applicable limitation of action statute to which the claim relates, whichever is the earlier, provided always that nothing in this clause shall be construed to exclude any compulsory limitation of action provisions which cannot by law be excluded or restricted in any contracts made between the parties.

D.4 In the circumstances where the Agreed Services (as described in this Agreement) are reduced, limited or varied by later agreement or the Agreement is ended prior to the completion of the Agreed Services, the Design Consultant's liability will attach only to those services actually performed and then only to the extent that the reduction of that part of the Agreed Services has not compromised or not denied the Design Consultant the opportunity to correct the performed services or to otherwise mitigate the Client's loss.

D.5 The Design Consultant is not liable for any damage, loss or expense incurred by the Client as a consequence of any change that the Client or any other person makes to the Design Consultant's documents, or from any variation to the Works from the Design Consultant's documents, made without prior written approval by the Design Consultant, or any changes to the approvals, consents or authorizations received in connection with the construction or occupancy of the Works or the Project not made known to the Design Consultant in writing.

D.6 The Design Consultant shall not be liable to any person other than the Client, and disclaims responsibility, in tort or otherwise, for any liability, damage, loss or expenses suffered or incurred by such person. In the event that the Project to which the Design Consultant's services relate is leased, transferred, sold, or otherwise disposed of in part or whole to other persons, then the Client warrants that such persons shall be advised in writing that the Design Consultant accepts no legal responsibility to them. In the event of breach of this clause, the Client shall fully indemnify the Design Consultant against any claim by such persons, whether such claim is in tort or otherwise.

D.7 The maximum aggregate amount payable by the Design Consultant under this Agreement, whether in contract, tort or otherwise, in relation to claims, liabilities, damages, losses or expenses is limited to **\$250,000** or five times the Design Consultant's total fee for the Agreed Services, whichever is the lesser.

D.8 The Client shall indemnify, defend and hold the Design Consultant harmless against the adverse effects of all claims including claims by third parties which arise out of or have a connection with the Agreement and are made after the expiry of the period of liability referred to in clause D.3. For avoidance of doubt, the indemnity includes claims in negligence made against the Design Consultant.

D.9 The Client acknowledges that the Design Consultant operates through employees, directors, officers, agents and sub-consultants and agrees that no reliance has or will be placed on them personally by the Client in connection with this Agreement on the performances of the Agreed Services.

D.10 The limitations of liability as described above will apply to the maximum extent permitted by law and will confer to any extent relevant a benefit on the employees, directors, officers, agents or sub-consultants of the Design Consultant.

D.11 Except as expressly stated in this agreement, the Design Consultant makes no warranties, express or implied, statutory or otherwise to the Client whatsoever, including but not limited to implied warranties of merchantability or fitness for a particular purpose.

E. Copyright and License

E.1 The Design Consultant retains copyright in all designs, drawings, blueprints, models, plans, specifications, design details, photographs, and any other materials produced or provided by the Design Consultant or its sub-consultants in connection with the Project ("**the Materials**").

E.2 The Design Consultant grants, subject to payment of all outstanding fees due to the Design Consultants under this Agreement, to the Client a non-exclusive, limited license to use and reproduce the Materials for all purposes relating to the Project.

E.3 The Design Consultant shall have no liability for any use of the Materials other than that for which the same were originally prepared and provided and then only to the extent provided in the Agreement.

E.4 If the Design Consultant rightfully terminates the Agreement for causes as specified in section H, the license granted under section E will be revoked.

E.5 If the Client wishes to use any parts of the Materials for any further stage or extension of the Project, any major alterations to the completed works or for any other project, and the Design Consultant is not appointed to provide related services, the Client must obtain the Design Consultant's prior written consent which may include conditions relating to each re-use including but not limited to the payment of a reasonable license fee.

E.6 At the completion of the Agreed Services or in the event of the early ending of this Agreement, the Client will be entitled to retain one copy of the Materials in printed or passive electronic form such as PDF. The Design Consultant will not be required to provide any of the Materials in CAD or any other active electronic form.

F. Dispute Resolution

F.1 Any disputes between the Client and the Design Consultant in relation to this Agreement must first be attempted to be settled in good faith. Failing resolution the Client or the Design Consultant may by notice require that the matter in dispute be referred to mediation.

F.2 If mediation has not occurred or settlement is not achieved within 30 Working Days of the written notice requiring mediation the Client and the Design Consultant may agree to refer the dispute to arbitration in accordance with clause F.3. In the event of a dispute the Design Consultant may by notice in writing to the Client suspend its obligations under this Agreement. In that event the Design Consultant will not be liable to the Client or any other person for losses arising from such suspension of work.

F.3 Any dispute or claim that cannot be resolved by mediation arising out of or related to this Agreement as provided in clause F.2, its performance, breach, or interpretation (including issues about its validity or enforceability), will thereafter be exclusively (except as provided below) resolved by binding arbitration before the American Arbitration Association ("**AAA**") before a single mutually-agreeable neutral arbitrator. The arbitrator will not award attorney's fees, or punitive, indirect, incidental, special, consequential, treble or other multiple or exemplary damages, and the Parties hereby agree to waive and not seek such damages. All costs of arbitration shall be borne by the losing party. The losing party shall be the party designated as such by the arbitrator. In the event both Parties prevail on certain issues and lose on others the arbitration costs shall be apportioned between the Parties in any manner the arbitrator orders. Either Party may seek judicial relief to compel the other Party to comply with the provisions of this clause V.7, or seek injunctive or other equitable relief as long as (unless prohibited by applicable law) the remainder of the dispute or claim is submitted to arbitration. The arbitration will be held in [STATE] [COUNTY]. Both Parties hereby give their irrevocable consent to the processes of the AAA in [STATE] as well as the jurisdiction of the courts of [STATE] for enforcement purposes. Awards will be final, binding and non-appealable (except on the minimal grounds required under the U.S. Federal Arbitration Act or other applicable law). All awards may be filed with one or more courts, state, federal or foreign, having jurisdiction over the Party against whom such award is rendered or its property, as a basis of judgment and of the issuance of execution for its collection.

G. Notice of Defects and Timelines

G.1 If, during the term of this Agreement or after completion of it, the Client becomes aware of any problem with the design, fault or defect in the Project, or non-compliance with the Project's contract documents, the Client must promptly, but not later than 30 Working Days after becoming aware of it, notify the Design Consultant about it in writing. If the Client does not do this the Client will be treated as having waived any claim the Client may have against the Design Consultant (in contract, tort or otherwise) in relation to the problem, fault or non-compliance.

G.2 Unless otherwise expressly agreed by the Design Consultant in writing, all timelines, schedules, milestones or dates provided by the Design Consultant or specified in the Brief or any of the Design Consultant's documents which relate to the performance of the Agreed Services by the Design Consultant are estimates only and the Design Consultant shall not be in any way liable for any loss or damage arising from, or incurred in respect of, a delay in the performance of any part of the Agreed Services if performance is prevented by any reason, including because of the negligence or fault of the Design Consultant, its employees, directors, officers, agents and sub-consultants.

H. Termination and Suspension

H.1 The Client or the Design Consultant may end this Agreement by writing to the other at their last known address. This Agreement will end 20 Working Days after the date the written notice is sent.

H.2 Without limiting any other rights the Design Consultant may have in this Agreement or in law or equity, the Design Consultant may suspend the performance of any part of the Agreed Services by way of a notice in writing to the Client if the Client fails to make full payment of all amounts due and payable by the Client under this Agreement within the due date(s) for the duration until such payment is made.

I. General

- I.1 The law applicable to this Agreement shall be the law of the state or province of the Design Consultant's address stated in the Agreement without regard to its conflicts of law principles
- I.2 The Design Consultant shall be entitled to rely upon the accuracy and completeness of the information furnished by the Client.
- I.3 Neither party shall assign or transfer this Agreement without the prior written consent of the other party.
- I.4 The Agreement contains the entire agreement between the Parties and supersedes all previous verbal and written agreements.
- I.5 Unless otherwise provided in the Agreement, no modification or waiver of any of the provisions, or any future representation, promise or addition shall be binding upon the Parties unless made in writing and signed by both the Parties.

Signature

SK Architecture Group, LLC

Company Signature

Client Signature



SK Architecture Group, LLC
Lori Martin • (806) 300-8151
PO Box 64565, Lubbock, Texas, 79464 • License Number: 25582

Bill To
David Spada
david@bigdprop.com
No address provided

Proposal ES-10052

Date Sent: May 22, 2023

Proposal for 1807 Parkway Exterior Improvements

Items

1. Architectural Plan Set I and II

Total: \$15,800.00



- Permit and construction set of drawings for exterior improvements to shell building
- Permit and construction set of drawings related to Exhibit C - Landlord's Work - Construction Criteria for Dollar Tree Shell - Items I thru VII. Package to be issued and permitted separately from overall shell building exterior improvements if required by owner.

Quantity: 1	Unit: Flat Fee	Cost: \$15,800.00		
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2. Structural Engineering

Total: \$4,500.00



Structural engineering for a new facade and front canopy features expected to be framed out of steel studs with new openings in existing walls as required.

Quantity: 1	Unit: Consultant Fee	Cost: \$4,500.00		
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3. Mechanical, Electrical, and Plumbing Engineering

Total: \$11,800.00



- Electrical engineering for any new lighting and electrical required for overall shell improvements.
- MEP permit and construction documents for the work described under "Landlord's Box" in Exhibit C

Quantity: 1	Unit: Consultant Fee	Cost: \$11,800.00		
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4. Civil Engineering

Total: \$12,000.00



Includes topographic survey and site civil design (site plan review, site dimension control plan, site demolition plan, site grading and paving plan and details, striping and signage plan, and construction specifications for site improvements).

Quantity: 1	Unit: Consultant Fee	Cost: \$12,000.00		
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Subtotal	\$44,100.00
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Tax	\$0.00
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Total	\$44,100.00
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Amount Paid	\$0.00
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Balance	\$44,100.00
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\$4,410.00

Deposit

Due: Jun 27, 2023

Definitions

Design Consultants Fee: the amount(s) set forth in the Agreement as being payable by the Client to the Design Consultant for the Agreed Services. **Agreed Services:** the services to be provided by the Design Consultant to the Client as disclosed in Part 1 of this Agreement.

Agreement: the agreement between the Client and the Design Consultant consisting of Parts 1, 2 and 3 of this document and all attachments listed. **Brief:** the statements, plans, drawings blueprints, charts and other materials and documents assembled by the Client in a Project requirement document, brief or a request for proposal document or any other similar document to summarize the Client's expressed requirements, to address the Client's preferences and priorities, and to summarize the impact of context, environment, and prevailing legislation, at the time of signing the Agreement. **Client:** the Person named as the Client in this Agreement. **Project:** the project identified in this Agreement. **Working Day:** any calendar day other than a Saturday, Sunday or a public holiday within the jurisdiction where the Project is located. **Works:** any permanent or temporary structure, building, fixture or access constructed or required to be constructed on the Site based on the Design Consultant's documents as part of the Project.

A. Obligations

A.1 The Design Consultant shall perform the Agreed Services set out in this Agreement exercising a reasonable level of skill, care and diligence ordinarily provided by Design Consultants working in the same or similar locality under the same or similar circumstances.

A.2 The Design Consultant undertakes to advise the Client of any matter that may affect the performance of the Agreed Services including circumstances or instructions that may require a variation of the service and a change to the Design Consultant's Fee.

A.3 The Client agrees to directly appoint all other consultants required by the Project that are not part of this Agreement, including the sub-consultants presented to the Client by the Design Consultant in Part 1 of this Agreement. The Client will ensure that all other consultants/sub-consultants/ contractors/subcontracts maintain professional liability insurance as appropriate for the services provided.

A.4 The Client agrees to provide the Design Consultant with a Brief and shall advise the Design Consultant of the relative priorities of the Brief, construction cost and Project schedule by way of meetings and written directions or communications as necessary to ensure complete understanding of such Project priorities by the Design Consultant.

A.5 The Client will ensure that there is no change made at any time to the Design Consultant's Agreed Services, the Brief, construction cost or the Project Schedule without the prior written consent of the Design Consultant.

A.6 The Client shall hold each sub-consultant/contractor/sub-contractor however appointed, and not the Design Consultant, responsible for the proper performance of their work.

B. Fees

B.1 The Client must pay the Design Consultant in accordance with Part 1 of this Agreement all fees due plus applicable sales, property, use and other taxes and other mandatory government charges and duties related to the performance of the Agreed Services (other than the Design Consultants income taxes) and the Design Consultants expenses. Payment of the Design Consultant's account must be made within seven (7) Working Days of the date of the invoice. All fees that remain unpaid thereafter will incur interest charges at a rate of 10% per annum or the highest rate of interest permitted under the applicable law, whichever is lower.

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D.1 If the Design Consultant is liable to the Client (whether in contract, tort or otherwise), the Design Consultant will only be liable for any reasonable foreseeable and fully mitigated damage, loss or expense incurred by the Client, caused directly by a material breach of the Design Consultant's legal obligations pursuant to this Agreement. The Design Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential, punitive or special loss of profit, howsoever arising whether in contract, tort or otherwise, nor for ordinary negligence.

D.2 The extent of the Design Consultant's liability (whether in contract tort or otherwise) is reduced proportionately to the extent that the Client and/or any other person, including any third party, has contributed to the claim, liability, damage, loss or expense and irrespective of whether such contribution arises in contract, tort or otherwise.

D.3 Neither the Design Consultant nor the Client shall be liable to the other for any loss or damage unless a claim (whether in contract, tort or otherwise) has been filed in court, in arbitration proceedings or in any tribunal which has jurisdiction to determine a claim, within three years of the date of the act or omission giving rise to the claim or within the limitation period set by the applicable limitation of action statute to which the claim relates, whichever is the earlier, provided always that nothing in this clause shall be construed to exclude any compulsory limitation of action provisions which cannot by law be excluded or restricted in any contracts made between the parties.

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D.6 The Design Consultant shall not be liable to any person other than the Client, and disclaims responsibility, in tort or otherwise, for any liability, damage, loss or expenses suffered or incurred by such person. In the event that the Project to which the Design Consultant's services relate is leased, transferred, sold, or otherwise disposed of in part or whole to other persons, then the Client warrants that such persons shall be advised in writing that the Design Consultant accepts no legal responsibility to them. In the event of breach of this clause, the Client shall fully indemnify the Design Consultant against any claim by such persons, whether such claim is in tort or otherwise.

D.7 The maximum aggregate amount payable by the Design Consultant under this Agreement, whether in contract, tort or otherwise, in relation to claims, liabilities, damages, losses or expenses is limited to **\$250,000** or five times the Design Consultant's total fee for the Agreed Services, whichever is the lesser.

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D.10 The limitations of liability as described above will apply to the maximum extent permitted by law and will confer to any extent relevant a benefit on the employees, directors, officers, agents or sub-consultants of the Design Consultant.

D.11 Except as expressly stated in this agreement, the Design Consultant makes no warranties, express or implied, statutory or otherwise to the Client whatsoever, including but not limited to implied warranties of merchantability or fitness for a particular purpose.

E. Copyright and License

E.1 The Design Consultant retains copyright in all designs, drawings, blueprints, models, plans, specifications, design details, photographs, and any other materials produced or provided by the Design Consultant or its sub-consultants in connection with the Project ("**the Materials**").

E.2 The Design Consultant grants, subject to payment of all outstanding fees due to the Design Consultants under this Agreement, to the Client a non-exclusive, limited license to use and reproduce the Materials for all purposes relating to the Project.

E.3 The Design Consultant shall have no liability for any use of the Materials other than that for which the same were originally prepared and provided and then only to the extent provided in the Agreement.

E.4 If the Design Consultant rightfully terminates the Agreement for causes as specified in section H, the license granted under section E will be revoked.

E.5 If the Client wishes to use any parts of the Materials for any further stage or extension of the Project, any major alterations to the completed works or for any other project, and the Design Consultant is not appointed to provide related services, the Client must obtain the Design Consultant's prior written consent which may include conditions relating to each re-use including but not limited to the payment of a reasonable license fee.

E.6 At the completion of the Agreed Services or in the event of the early ending of this Agreement, the Client will be entitled to retain one copy of the Materials in printed or passive electronic form such as PDF. The Design Consultant will not be required to provide any of the Materials in CAD or any other active electronic form.

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F.2 If mediation has not occurred or settlement is not achieved within 30 Working Days of the written notice requiring mediation the Client and the Design Consultant may agree to refer the dispute to arbitration in accordance with clause F.3. In the event of a dispute the Design Consultant may by notice in writing to the Client suspend its obligations under this Agreement. In that event the Design Consultant will not be liable to the Client or any other person for losses arising from such suspension of work.

F.3 Any dispute or claim that cannot be resolved by mediation arising out of or related to this Agreement as provided in clause F.2, its performance, breach, or interpretation (including issues about its validity or enforceability), will thereafter be exclusively (except as provided below) resolved by binding arbitration before the American Arbitration Association ("**AAA**") before a single mutually-agreeable neutral arbitrator. The arbitrator will not award attorney's fees, or punitive, indirect, incidental, special, consequential, treble or other multiple or exemplary damages, and the Parties hereby agree to waive and not seek such damages. All costs of arbitration shall be borne by the losing party. The losing party shall be the party designated as such by the arbitrator. In the event both Parties prevail on certain issues and lose on others the arbitration costs shall be apportioned between the Parties in any manner the arbitrator orders. Either Party may seek judicial relief to compel the other Party to comply with the provisions of this clause F.3, or seek injunctive or other equitable relief as long as (unless prohibited by applicable law) the remainder of the dispute or claim is submitted to arbitration. The arbitration will be held in [STATE] [COUNTY]. Both Parties hereby give their irrevocable consent to the processes of the AAA in [STATE] as well as the jurisdiction of the courts of [STATE] for enforcement purposes. Awards will be final, binding and non-appealable (except on the minimal grounds required under the U.S. Federal Arbitration Act or other applicable law). All awards may be filed with one or more courts, state, federal or foreign, having jurisdiction over the Party against whom such award is rendered or its property, as a basis of judgment and of the issuance of execution for its collection.

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G.1 If, during the term of this Agreement or after completion of it, the Client becomes aware of any problem with the design, fault or defect in the Project, or non-compliance with the Project's contract documents, the Client must promptly, but not later than 30 Working Days after becoming aware of it, notify the Design Consultant about it in writing. If the Client does not do this the Client will be treated as having waived any claim the Client may have against the Design Consultant (in contract, tort or otherwise) in relation to the problem, fault or non-compliance.

G.2 Unless otherwise expressly agreed by the Design Consultant in writing, all timelines, schedules, milestones or dates provided by the Design Consultant or specified in the Brief or any of the Design Consultant's documents which relate to the performance of the Agreed Services by the Design Consultant are estimates only and the Design Consultant shall not be in any way liable for any loss or damage arising from, or incurred in respect of, a delay in the performance of any part of the Agreed Services if performance is prevented by any reason, including because of the negligence or fault of the Design Consultant, its employees, directors, officers, agents and sub-consultants.

H. Termination and Suspension

H.1 The Client or the Design Consultant may end this Agreement by writing to the other at their last known address. This Agreement will end 20 Working Days after the date the written notice is sent.

H.2 Without limiting any other rights the Design Consultant may have in this Agreement or in law or equity, the Design Consultant may suspend the performance of any part of the Agreed Services by way of a notice in writing to the Client if the Client fails to make full payment of all amounts due and payable by the Client under this Agreement within the due date(s) for the duration until such payment is made.

I. General

- I.1 The law applicable to this Agreement shall be the law of the state or province of the Design Consultant's address stated in the Agreement without regard to its conflicts of law principles
- I.2 The Design Consultant shall be entitled to rely upon the accuracy and completeness of the information furnished by the Client.
- I.3 Neither party shall assign or transfer this Agreement without the prior written consent of the other party.
- I.4 The Agreement contains the entire agreement between the Parties and supersedes all previous verbal and written agreements.
- I.5 Unless otherwise provided in the Agreement, no modification or waiver of any of the provisions, or any future representation, promise or addition shall be binding upon the Parties unless made in writing and signed by both the Parties.

Signature

SK Architecture Group, LLC

Company Signature

Client Signature

King Consultants, Inc.

1205 East 46th Street
Lubbock, TX 79404

Invoice

Phone #	806-763-6157
Fax #	806-763-6160

Date	Invoice #
11/16/2022	A-00-106004

Bill To

Dixie Partners II, LP
David Spada
PO Box 270874
Flower Mound, Texas 75027

Sales Rep

J Hassoldt

Terms

Due on receipt

Project

22-10-419

Description	Qty	Rate	Amount
Limited asbestos inspection and reports for the Parkway Center, 1807-1809, 1811, 1811A, 1813, 1815, 1817, 1819, & 1821 Parkway Drive in Lubbock, Texas - 11/02/22 & 11/04/22	1	2,750.00	2,750.00
Bulk asbestos samples (per each) in 1807-1809 Parkway Drive	45	20.00	900.00
Bulk asbestos samples (per each) in 1811 Parkway Drive	24	20.00	480.00
Bulk asbestos samples (per each) in 1811A Parkway Drive	18	20.00	360.00
Bulk asbestos samples (per each) in 1813 Parkway Drive	18	20.00	360.00
Bulk asbestos samples (per each) in 1815 Parkway Drive	15	20.00	300.00
Bulk asbestos samples (per each) in 1817 Parkway Drive	18	20.00	360.00
Bulk asbestos samples (per each) in 1819 Parkway Drive	21	20.00	420.00
Bulk asbestos samples (per each) in 1821 Parkway Drive	18	20.00	360.00
Specification development for asbestos abatement at the Parkway Center	1	2,500.00	2,500.00
Thank you for your business.		Total	\$8,790.00

Balance Due

\$8,790.00



Proposal		Date	05/02/2023
Client	Dixie Partners II, L.P.		
Contact	David Spada	Title:	
Address	P.O. Box 270874	City/State	Flower Mound, Texas 75027
Phone #		Email	David@Bigdprop.com
Site Name	Parkway Center		
Site Address	1811A-1821 Parkway Drive	City/State	Lubbock, Texas 79403

Scope of Work

I. PROJECT DESIGN/SPECIFICATIONS

- Utilize licensed/accredited individuals to design asbestos abatement specifications.
- Prepare drawings of project areas for inclusion in specifications.
- Conduct site reviews/inspection as necessary to design project and prepare specifications.
- Prepare bid documents for the project.

II. PROJECT ADMINISTRATION/COMPLIANCE MONITORING

- Act as Owner's full time project representative throughout the abatement project and coordinate project with all staff.
- Conduct pre-construction conference with selected Contractor prior to beginning work.
- Utilize licensed/accredited individuals to conduct full-time monitoring of the activities of the Contractor throughout the project.
- Coordinate activities of Contractor, General Contractor, Construction Management Team, Air monitoring technicians, etc., required for the project.
- Help ensure compliance with all state and Federal laws regulating asbestos abatement projects.
- Document project activities for Owner's records.
- Review, verify, and approve Applications for payment from the Contractor prior to payment by Owner.
- Evaluate all bids received from Abatement Contractors.
- Review Abatement Contractor's pre and post job submittals.
- Review required ten (10) day notification.

III. AIR MONITORING ACTIVITIES

- Utilize NIOSH-582 trained and licensed/accredited individuals to collect air samples.
- Complete detailed daily air sampling analytical sheet showing location, volume, and other pertinent data for each air sample.
- Collection and archiving of PCM baseline samples for project documentation and contractor's reference prior to beginning project.
- Collection and analysis by a licensed/accredited laboratory of PCM area samples included with full-time project administration.

ENVIRONMENTAL SPECIALISTS

BEDFORD
805 FOREST RIDGE, SUITE 107
76022
817.354.9890

ABILENE
2032 EAST HIGHWAY 80
79601
325.669.8487

SAN ANGELO
324 WEST 26TH STREET, STE. B
76901
325.944.0931

- Collection of PCM final clearance samples as required by all regulatory agencies.
- Review and/or interpretation of analysis results.
- Collection and preparation of appropriate documentation for Owner's records.

Break Down of Estimated Cost

- | | |
|---|---|
| <ul style="list-style-type: none"> • Specifications for asbestos abatement by King Consultants • Project managing/air monitoring by King Consultants • Asbestos Abatement performed by Arlo Environmental (See bid attached) | Previously Billed
\$ 29,000.00
\$128,073.00 |
|---|---|

*All utilities required for abatement will be provided by the owner.

Total Estimated Cost

\$157,073.00

Please note: There will be an additional fee for the notification submitted to the TDSHS for the quantity of asbestos containing building material to be removed from the building.

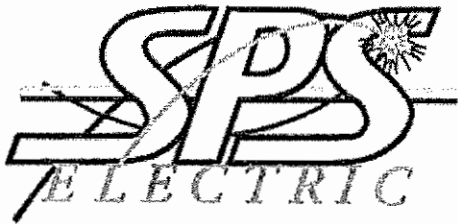
The above services include \$1,000,000 per claim/\$1,000,000 aggregate Professional Liability Insurance (with pollution liability coverage) on a "claims made" basis, as well as \$1,000,000 General Liability Insurance for each project.

We trust this estimate answers all the questions you might have regarding our activities on this project. If you should have any questions or require additional information, please contact me at 806-763-6157.

Authorization Signature



Jace Hassoldt
 Environmental Consultant
 King Consultants, Incorporated



South Plains Service, LLC
DBA SPS Electric
PO Box 9
Lubbock, TX 79408

806-744-7055 Phone
806-744-7051 Fax
jay@spselectric.net
TECL#18542

CONTRACT

This is an agreement made on 8/23/2023 between SPS Electric and Dixie Partners II, LP. Dixie Partners II, LP is located at PO Box 270874, Flower Mound, Texas 75027. Their representative for this work is David Spada. SPS Electric will provide labor and materials to complete Electrical work as follows on the facility at 1805 Parkway Drive in Lubbock, Texas.

Phase 1.) Dollar Tree Service and RTU's

1.) Install a new 600 amp service as per the drawings received from Kyle Wilson, Architectural Project Manager from Dollar Tree. This includes:

- a.) 1ea 600 amp fused disconnect
- b.) 1ea 600 amp main lug, 3 phase, 54 circuit panel
- c.) 1ea 225 amp, 3 phase 54 circuit panel fed with a 125 amp breaker.
- d.) All necessary metering to be installed according to LP&L

2.) Install conduit, wire, boxes, disconnect, fuses, and breakers for 5ea A/C RTU's

- a.) Each RTU will be fed with a 60 amp 3 phase circuit with a disconnect on the roof.
- b.) Each RTU will have a GFCI convenience outlet installed below the disconnect as per NEC requirements.

Total Item Phase 1: 58,712.00 Plus Tax

Phase 1 & 2 - \$223,020

Phase 2.) Parking Lot Lighting

1.) Install all conduit and wire for up to 22ea light poles and re-feed power to the existing monument sign.

- a.) Dig trenches at 24" deep
- b.) Lay 1 1/4" PVC conduit in the trench
- c.) Stub the PVC up in each pole base and at the building lighting control panel
- d.) Install two separate circuits for the lighting. 1ea for the West side and 1ea for the East side. Both circuits are to be single phase 208 volt circuits on 30 amp 2 pole breakers fed from the dedicated House panel and lighting controls.

e.) Compact all trenches by tamping, or by flow fill depending on our needs

2.) Excavate holes, install rebar, and pour concrete Pole bases 6 feet deep and standing 30" above grade, 24" round, complete with anchor bolts for the poles.

3.) Install lighting fixtures onto the light poles and run wire through the poles to the fixtures. (Poles and Lights by others.)

4.) Stand the light poles onto the light bases, level, secure, and terminate all wiring. (requires a crane)

5.) Connect the existing monument sign to one of the lighting circuits

6.) All trenching, backfill, tamping, and concrete is included in this section of the bid. Asphalt patch and repair is NOT included.

Phase 2.) House Panel, Lighting controls, and Equipment room.

- 1.) Install a House panel, lighting controls and all associated conduit and wire.
- a.) Supply and Install a dedicated 200 amp meter
- b.) Supply and Install a 200 amp fused disconnect
- c.) Supply and install a 200 amp panel in a location chosen by the building owner.
- d.) Supply and install all necessary breakers for building and parking lights.
- e.) Supply and install a lighting contactor box complete with contactors as needed for building and parking lot lighting.
- f.) Supply and Install a Photo eye and timeclock to control the lighting contactor
- g.) Supply and Install 1ea convenience receptacle on a dedicated circuit for Security equipment.
- h.) Supply and install 1ea light switch
- i.) Supply and install 2ea LED shop lights with protective lenses

Phase 2.) Building Lights

- 1.) Install conduit, boxes, wire, cable and straps for all building lights
- a.) Install up to 15ea Wall pack lights on the West, North, and East side of the building. (Lights supplied by others)
- b.) Install up to 40 ea 8" round flat panel lights in the south soffit to illuminate the walkway at the front doors of all units. These lights will require cutting them into the soffits. (Lights provided by others)
- c.) Terminate all wires at the House lighting control panel
- d.)

Total Item Phase 2 only: \$164,308.00 Plus tax

NOT Included:

Asphalt patch and repair Not included.

Lighting fixtures and Poles Not included.

Unknown charges from the utility company Not included.

Taxes Not included in the quoted price.

Unknown charges for registered blueprints ,if required by the city, are Not included.

General lighting circuits, pipe, wire, boxes, and switches for the individual units are Not included.

Rewire and rehab for the existing monument sign Not included.

Due to the fact that Efficient Power Tech and their representatives are not on site, we will act in their stead. Decisions and changes in lighting type or quantities will be directed to Efficient Power tech. Decisions and changes in electrical wiring or scope will be directed to SPS Electric.

This project is of a size that would generally be engineered by a licensed commercial engineering firm. Due to this fact, and that we do not have exact needs, loads, startup data, inrush calculations, arc flash studies, or overcurrent determinations we will have to calculate and determine each suite based on its size and any information given to us ahead of time.

This is in no way a guarantee that the system we design will be of sufficient size at a later date, but it will be code compliant. City of Lubbock permits are included.

WE PROPOSE HEREBY TO FURNISH MATERIAL AND LABOR-COMPLETE IN ACCORDANCE WITH ABOVE SPECIFICATIONS, FOR THE SUM OF: \$223,020.00 + tax (8.25%)

Acceptance of contract- The above prices, specifications and conditions are satisfactory and hereby accepted. SPS Electric will submit invoices for work done in the current month by the 5th day of the next month. Payment will be due by the 30th of the same month. If payment is not made we reserve the right to stop all work until payment is made. All materials will be guaranteed for a period of one year after the date of substantial completion. By signing below, you are authorizing SPS Electric to do the work as specified above and make payments as described above until the total amount is paid.

NAME: AUTHORIZED SIGNATURE



DATE OF ACCEPTANCE

8-24-2023

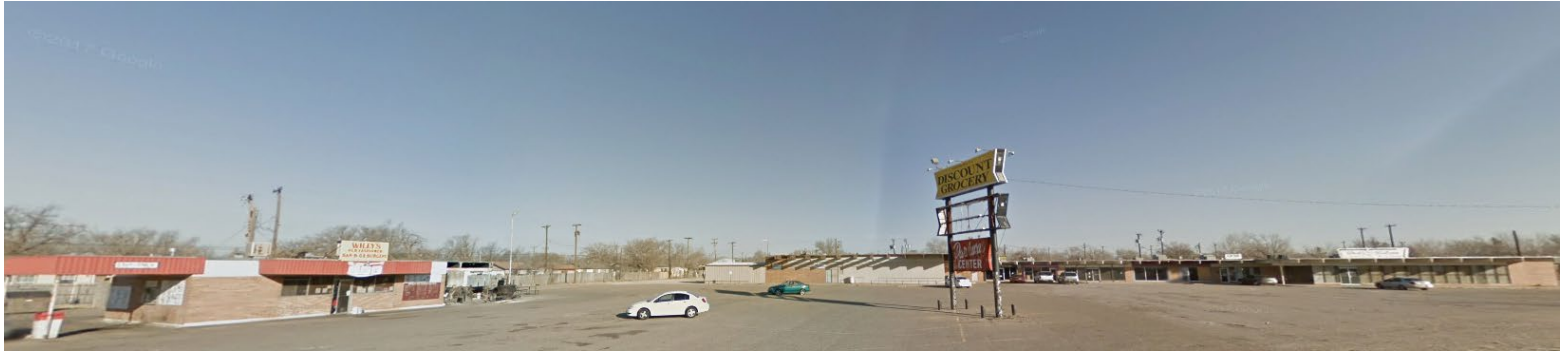
JAY FLEWHARTY -SPS ELECTRIC

DATE



8/24/2023

1805 Parkway Drive









PARKWAY DRIVE RETAIL CENTER EXISTING CONDITIONS



ARCHITECTURE GROUP
COMMERCIAL / RESIDENTIAL DEVELOPMENT

ARCHITECT:
SARA BRADSHAW, AIA
SK ARCHITECTURE GROUP
6302 70TH ST.
LUBBOCK, TEXAS 79424
806.300.8151

PRELIMINARY NOT FOR
REGULATORY
APPROVAL
PERMITTING, OR
CONSTRUCTION
806.300.8151

OWNER CONTACT:
DAVID SPADA
BIG D PROPERTY
940.595.1969

SHEET INDEX	
01	PLAN SITE
02	SECTION ELEVATION
03	SECTION ELEVATION
04	SECTION ELEVATION



PROJECT KEYNOTES	
1	EXISTING METAL ROOF
2	EXISTING METAL ROOF
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A301

PRELIMINARY NOT FOR
REGULATORY
APPROVAL
PERMITTING, OR
CONSTRUCTION
806.300.8151

PARKWAY DRIVE RETAIL CENTER
EXISTING CONDITIONS
1807 PARKWAY DRIVE
LUBBOCK, TEXAS

ARCHITECTURE GROUP
COMMERCIAL / RESIDENTIAL DEVELOPMENT

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ARCHITECTURE GROUP
COMMERCIAL / RESIDENTIAL DEVELOPMENT

A301

EXTERIOR ELEVATIONS



CS1

Information

Agenda Item

Resolution - Business Development: Consider a resolution authorizing a Commercial Revitalization Grant Program (Permittable) expenditure of Market Lubbock, Inc., to be provided to Dixie Partners II, LP, located at 1805 Parkway Drive, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

Item Summary

In May 2023, the City Council authorized the continuation of the Lubbock East Neighborhood Empowerment Zone, and the establishment of the 34th Street Empowerment Zone and the North University Empowerment Zone. This action was taken to encourage redevelopment and revitalization within the City of Lubbock, through the promotion of economic development within the Zones. Through the establishment of the three Zones, Market Lubbock, Inc. has geographic boundaries within which it can implement its Commercial Revitalization Grant Program.

Dixie Partners II, LP is renovating their property at 1805 Parkway Drive, located within the Lubbock East Neighborhood Empowerment Zone, as designated by the City of Lubbock. The scope of the permittable project includes demolition, HVAC, plumbing and electrical work. The cost of the project is estimated to be \$1,189,539, and the requested grant amount is \$100,000. The Market Lubbock, Inc. Board of Directors approved this amount at their September 27, 2023 Board Meeting, and recommend approval by the City Council.

Fiscal Impact

The total cost of the project is estimated to be \$1,189,539, with \$100,000 to be paid upon completion by Market Lubbock, Inc. with the requested grant.

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer
Market Lubbock, Inc. Board of Directors

Attachments

Resolution
Market Lubbock Resolution
Market Lubbock Support Documentation

RESOLUTION

WHEREAS, pursuant to Article IV, Section 5 of the Amended and Restated Bylaws of the Market Lubbock Economic Development Corporation (the "Corporation"), the City Council of the City of Lubbock (the "City Council"), as the Corporation's authorizing unit, has the authority to approve all programs and expenditures of the Corporation; and

WHEREAS, the City Council finds that it is in the best interest of the public to approve the program or expenditure, as proposed to the City Council by the Corporation, as set forth in Exhibit "A" attached hereto and incorporated herein by reference; **NOW THEREFORE:**

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

THAT the Commercial Revitalization Permittable Grant program or expenditure of the Corporation, in the amount set forth in Exhibit "A" attached hereto and incorporated herein by reference, to be provided to Dixie Partners II, LP, is hereby approved pursuant to Section 5 of the Amended and Restated Bylaws of the Corporation.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Brianna Brown, Business Development Director

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

**RESOLUTION APPROVING
DIXIE PARTNERS II, LP AT 1805 PARKWAY DRIVE
COMMERCIAL REVITALIZATION FAÇADE AND PERMITTABLE GRANTS**

THE STATE OF TEXAS

COUNTY OF LUBBOCK

At a regular meeting of the Board of Directors of MARKET LUBBOCK ECONOMIC DEVELOPMENT CORPORATION, INC., a Texas nonprofit corporation (MLI), on Wednesday, September 27, 2023, held in conformity with the bylaws, after due notice as therein provided, a quorum being present and acting, the following resolution was unanimously adopted:

WHEREAS, MLI presented to members of the Board the proposal of a possible Economic Development Grant and Contract to Dixie Partners II, LP, who is renovating their building at 1805 Parkway Drive, which is located in the East Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Dixie Partners II, LP was founded in 2009 and is excited to be part of the revitalization of East Lubbock.

The scope of the facade work includes a new exterior face totaling \$50,000. The scope of permittable work includes demolition, HVAC, plumbing, and electrical work totaling \$1,189,539 in permittable expenses. Total expense for this project is \$1,239,539.

The terms and conditions of such Economic Development Grant and Contract, other than the normal terms and conditions applicable to all such Economic Development Grant and Contracts by the Corporation, are described generally as follows, to wit:

Grant Dixie Partners II, LP a Commercial Revitalization Façade Grant for \$25,000 and a Permittable Grant totaling \$100,000 at 1805 Parkway Drive, which is in the East Lubbock Neighborhood Empowerment Zone, once proof of payment has been submitted.

WHEREAS, The Board of Directors of MLI finds that an Economic Development Grant and Contract offering the incentive for providing assistance for renovations to their property, meet and comply with the qualifications and purposes of the Corporation for the granting of such Economic Development Grants and Contracts.

Upon Motion by Director, Mr. James Conwright, and Seconded by Director, Dr. John Opperman.

IT WAS RESOLVED that MLI offer and, if accepted by Recipient, enter into an Economic Grant and Contract with Dixie Partners II, LP for improvements to the property at 1805 Parkway Drive, Lubbock, Texas. This Economic Development Grant and Contract will be on the normal terms and conditions of such Downtown Grant Program and Contract offered by MLI to existing businesses and business prospects and authorize the CEO to enter into and execute all documents related to the Economic Grant and Contract.



John Osborne, President & CEO



Linda Davis, Secretary

MARKET LUBBOCK, INC.
COMMERCIAL REVITALIZATION GRANT PROGRAM



1805 Parkway Drive
(Dixie Partners II, LP)

TOTAL COMBINED SCOPE OF WORK = \$1,239,539

COMBINED GRANT = \$125,000

TOTAL FAÇADE SCOPE OF WORK = \$50,000

FAÇADE GRANT = \$25,000

TOTAL PERMITTABLE SCOPE OF WORK = \$1,189,539

PERMITTABLE GRANT = \$100,000



**Commercial Revitalization Grant Program
Presented to MLI Board
September 27, 2023**

Project 1805 Parkway Drive (Façade and Permittable)

Dixie Partners II, LP is renovating its building at 1805 Parkway Drive, located within the East Lubbock Neighborhood Empowerment Zone as designated by the City of Lubbock. Dixie Partners II, P was founded in 2009 and is excited to be a part of the revitalization of East Lubbock.

The scope of façade work includes a new exterior face totaling \$50,000. The scope of permittable work includes demolition, HVAC, plumbing, and electrical work totaling \$1,189,539 in permittable expenses. Total expense for this project is \$1,239,539.

The MLI Board is being asked to consider a Commercial Revitalization Grant Program Façade Grant for Dixie Partners II, LP totaling \$25,000 and a Commercial Revitalization Grant Program Permittable Grant totaling \$100,000 at 1805 Parkway Drive.



Commercial Revitalization Grant - Application

The information requested on this form will be used by Market Lubbock, Inc. for analysis of your project.

MLI CONTACT INFORMATION

Jorge Quirino - Special Projects

Phone: 806.749.4500

Market Lubbock, Inc.

1500 Broadway, Sixth Floor, Lubbock, TX 79401

Email: jorge@marketlubbock.org

Date Initial Application Submitted (Due prior to start of construction or permits assigned) **05/02/23**

Projected Project Start Date **05/22/23**

Project Property Address **1805 Parkway Dr. Lubbock, Texas 79403**

Property LCAD R# **83192**

GENERAL INFORMATION ABOUT THE COMPANY

Company Name **Dixie Partners II, LP**
 Street Address **P O Box 270874**
 City, State, Zip **Flower Mound, TX. 75027**

GENERAL INFORMATION ABOUT THE COMPANY CONTACT

Name **David Spada**
 Title **Project Manager**
 Phone Number **940-595-1969**
 Email **David@bigdprop.com**

INFORMATION ABOUT THE PROJECT

Property Ownership: Own ☒ Lease ☐
 Owner Approved ☐

Grant Type (May choose both if applicable): Permittable ☒ Façade ☒

Detailed Project Summary (including projected start date) and Description of Work:

Complete renovation on this property. Roof, façade, exterior lighting, parkinglot, plumbing, electrical, HVAC, etc.

Summary of Expenses (detailed bids attached)	Projected	MLI Approved Reimbursement
Façade	\$50,000	\$25,000
Permittable - Madewell (Interior and Exterior)	\$133,341	\$13,334
Permittable - Madewell (Misc.)	\$18,334	\$1,833
Permittable - LiquiPro Roofing	\$268,881	\$26,888
Permittable - Cinder Block	\$199,400	\$19,940
Permittable - Comfort Masters (HVAC)	\$79,000	\$7,900
Permittable - Comfort Masters (Sewer Line)	\$27,200	\$2,720
Permittable - SK Architecture	\$74,500	\$7,450
Permittable - King Consulting (Asbestos)	\$165,863	\$16,586
Permittable - SPS Electric	\$223,020	\$3,348
TOTAL	\$1,239,539	\$125,000

Final bids will be used to calculate the project cost and grant amount.

COMPANY BACKGROUND

List any person or entity that has at least 5% ownership in the Applicant Company:

Name	Percent	Name	Percent
James Michael Kevlin	100%		

Is the firm registered with the Secretary of State's Office to do business in Texas?

Yes 

Are you in good standing with the State of Texas?

Yes 

If you answered "No" to either of the above two questions, please explain

Is the firm and/or principals delinquent on any federal, state or local tax obligations?

No 

Has the company or principals of the company had prior bankruptcies or lawsuits?

No 

If you answered "Yes" to either of the above two questions, please explain

Is the firm receiving tax revenue from any government agency?

No 

APPLICANT'S RESPONSIBILITIES (PROPERTY OWNER OR LEASEE)

City of Lubbock requirements:

City of Lubbock - Planning Department 806-775-2108

Contact the City of Lubbock to determine the following:

- ☐ Does the scope of work meet East Side standards and guidelines?
- ☐ Are permits required for any aspect of the scope of work?
- ☐ Are public improvements required?
- ☐ Is there a current Certificate of Occupancy on file for this property?

Market Lubbock, Inc. (MLI) requirements:

Manager of Downtown & Special Projects (Jorge Quirino) 806-749-4500

Application Packet:

- ☐ Initial application (page one of this document) must be received by MLI prior to the start of construction and/or before permits are assigned
- All remaining documents must be received and an application packet presented to the MLI Board no more than three months after the initial application is received by MLI.

Date Final Documents Received: _____

- ☐ Copies of City permits or City approval
- ☐ Copy of Current Certificate of Occupancy
- ☐ Detailed Construction Bids or Schedule of Values
- ☐ Before Picture (prior to construction beginning)
- ☐ Architectural Plans (if applicable)
- ☐ Architectural Renderings (if applicable)

After completion of construction:

- ☐ Certificate of Occupancy or Similar City Document Approving Completion
(Applicant responsible for final scope of work matching approved scope)

Proof of Payment:

- ☐ PAID Invoices (must reference the approved project)
- ☐ Processed Checks, Bank or Credit Card Statements matching PAID invoices (legible copies)

Overview

- An Applicant must be a valid Owner or Tenant (Lessee) of the property needing improvements
- Properties must fall within the Lubbock Downtown TIF boundaries (Central Business District TIF)
- Single-Family residences and duplexes are excluded.
- An Applicant is eligible to receive a permissible grant and/or façade grant per property (LCAD R# or Development Lot), per enterprise, per year. Must wait one year from approval to apply again for the same property. (Expenses used in one application cannot be used in another application.)
- Applicant is not eligible for grant program funding if delinquent in property taxes according to LCAD records - includes all LCAD properties listed in the applicant's name
- MLI disbursements are characterized as "reimbursable grants" - Applicant pays expenses first
- Expenses eligible for reimbursement must relate to reasonable costs or expenses.
- Receipt of an application is not a guarantee of grant approval.

Grant Types

- **Permittable Projects**
 - Improvements require a City of Lubbock permit
 - Improvements may be made to the exterior and/or interior of the property
 - Improvements must total a minimum of \$5,000
 - The permissible grant reimburses 10% of approved expenses up to a \$50,000 grant
 - Permittable scope of work that may be considered:
 - HVAC
 - Plumbing
 - Electrical
 - Structural
 - Any other work requiring a City of Lubbock permit
- **Façade Projects**
 - Improvements may or may not require a City of Lubbock permit
 - Improvements must be made to the exterior of the property facing the most prominent street
 - Improvements must total a minimum of \$1,000
 - The façade grant reimburses 50% of approved expenses up to a \$25,000 grant
 - Façade scope of work that may be considered:
 - Painting
 - New windows and doors
 - Signage
 - Landscaping
 - Parking lots
 - Awnings
 - Any other work that improves the appearance of the façade

Signature (not required for electronic submittals): David Spada

Date: 5/2/23 per email

Madewell Construction Inc.

Proposal

7314 73rd St
Lubbock, Texas 79424
Jordan: 806-570-0264
Devin: 806-243-1716
Office: 806-368-0710

DATE: September 12, 2022

Bill To:
Kyle Wooldridge@gmail.com

Lubbock, TX
?
kwooldridge@gmail.com

Work Address:

1530 E 19th St
Lubbock, TX

DESCRIPTION	AMOUNT
Commercial Make Ready for Strip Center off 19th and MLK Jr Blvd Scope of Work Includes:	
Exterior Portion	\$ 102,600.00
- Approx. 500sq ft of EIFS on Front Elevation	
- New Glass Fronts for All Store Fronts	
- Removal and Repour of Sidewalk	
- Parking Lot Reno - 6500sq ft of Existing Concrete Sealed and Stripped	
5000sq ft of New Parking Prepped, Laid and Stripped	
- Approx. 2840sq ft of Exterior Painting	
Interior Portion	\$ 80,740.80
- Demizing Walls as Needed, Repaired and/or Cleaned Up and Refurbished	
- Paint and Texture Repairs Throughout	
- HVAC Repairs and Service to Existing Set Up	
- Flooring as Needed Throughout Tenant Spaces	
- Electrical Work to Refurbish and Replace as Needed	
Overhead and Profit - 10%	\$ 18,334.08
Progress Draws for Milestones Being Met - Any Balance Due Upon Completion	
JQ: Façade \$50,000 / Permittable \$151,675	
TOTAL	\$ 201,674.88

Customer Signature: _____ Date: _____

****We Accept Cash, Check, or Credit Card(with handling fee)****

Make all checks payable to Madewell Construction Inc., 7314 73rd Street Lubbock, TX 79424

If you have any questions concerning this invoice, contact Jordan, 806-570-0264, jordan@madewell-construction.co

THANK YOU FOR YOUR BUSINESS!

Roof Proposal

Prepared by Liqui-Pro

1807 Parkway Drive, Lubbock, Texas





Table of Contents

1. PROPOSAL SUMMARY
2. PROJECT DIAGRAM
3. SQ. FT. OF AREAS
4. RTU SUPPORT DETAIL
5. SCOPE OF WORK & PRICE



Proposal Summary

FROM

John Austin, President
Liqui-Pro Industries, Inc.
PO Box 550, Texas City, Texas 77592
409-370-5178

PROJECT

Strip Center
1807 Parkway Dr.
Lubbock, Texas

ABSTRACT

At the request of Mr. David Spada, Liqui-Pro Completed estimates to Tear off and replace the roof system, install silicone restoration system and install VacuSeal TPO system. The most economical roof system is the VacuSeal TPO system.

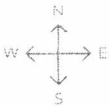
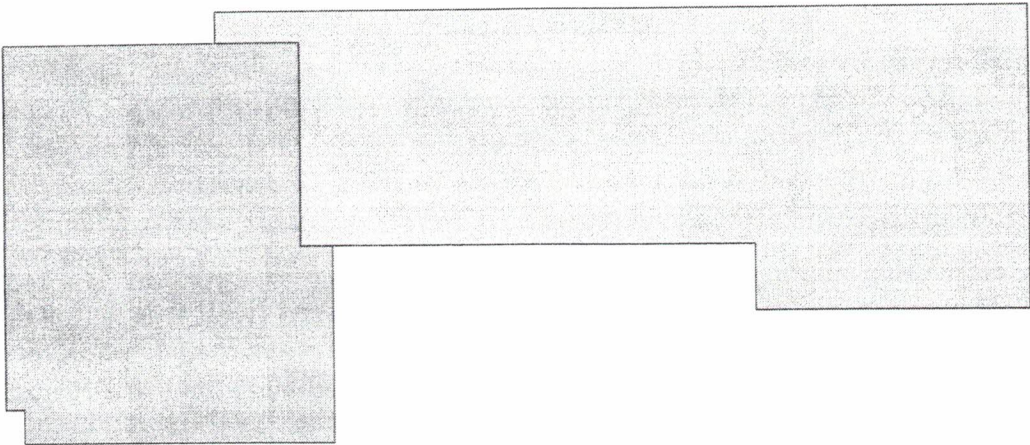
PROJECT SUMMARY

Per information obtained from the customer the existing roof consists of a tectum deck, BUR mopped to the tectum, insulation board and a BUR with gravel. Due to the building having two separate roof systems the VacuSeal system is a perfect fit for this application. Since we are removing the gravel before installation the new roof system will not add much weight if any at all the building structure. Also included in the proposal is the installation of (5) RTU support systems mounted to the concrete deck beams. This also includes sealing the curbs after the RTU contractor finishes the installation. We have provided an allowance in this proposal for the replacement of (3) separate areas of roofing and tectum deck not exceeding 2 panels per area.

This roof system is UL approved and compliant with Florida building code for high velocity hurricane zones.

Diagram

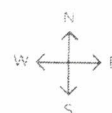
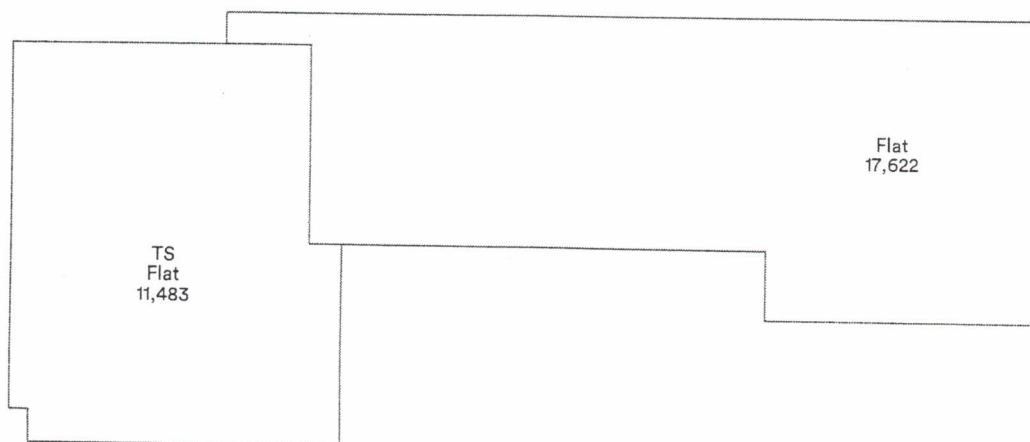
1807 Parkway Drive, Lubbock, Texas, United States



Area Measurement Report

1807 Parkway Drive, Lubbock, Texas, United States

Total Roof Area: 29105 sqft



LIQUI-PRO

Waterproofing • Roofing • Construction

Proposal

DATE: August 25, 2023

ATTN: Mr. David Spada

PROJECT: Strip Center VacuSeal TPO Roof System

ADDRESS: 1807 Parkway Dr
Lubbock, Texas

SCOPE OF WORK

1. Setup all safety and perimeter warning as needed.
2. Acquire **roofing permit** from the city of Lubbock.
3. **Vacuum** all loose gravel and debris off of roof.
4. Install **½" gypsum board** loose laid.
5. Install **VacuSeal Air Distribution Strips** per manufacturer's specifications.
6. Install new **24-gauge TPO-coated edge metal** around all perimeters.
7. Install **60 mil TPO membrane** and all related roof flashings.
8. **Heat-weld** all laps per manufacturer's specifications.
9. Attach TPO roof system perimeters per manufacturer's specifications.
10. Install **VacuSeal Vents** at designated locations provided by manufacturer.
11. **Cut out and replace** (3) deteriorated sections of roof. Total of (6) tectum boards included in proposal.
12. **Install (5) new support structures** to receive new RTUs.
13. **Seal roof system to new RTU curbs** after installation.
14. Remove all debris generated from project.
15. Provide a (2) Year workmanship warranty from Liqui-Pro Industries, Inc.
16. Provide a (15) Year warranty from the manufacturer.

For the Sum Of: **\$248,389.00** plus sales tax if applicable

Exclusions:

- Windstorm fees.
- Mechanical, electrical and plumbing disconnects or re-connects if necessary.
- Roof or deck replacement other than described in scope of work.

PROJECT PICTURES



Figure 1



Figure 2

\$268,881 with Tax

Owner recognizes that if moisture has entered the dwelling prior to the contractor beginning work, contractor is not liable for property damage or bodily injury claims allegedly resulting from insect damage or fungus and mold infestation. I have seen and understand the terms and conditions of the standard warranty issued by Liqui-Pro Industries, Inc.
All materials are guaranteed to be as specified. All work to be completed in a workman like manner according to standard construction practices. All workmanship to be covered for a period of (1) year unless otherwise stated in this proposal. Any alteration or deviation from specifications outlined above involving extra cost will be executed only upon written approval, and will become an extra charge over and above the estimate. Agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by workman's compensation insurance.

ACCEPTANCE OF PROPOSAL - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be 40% at mobilization and balance due upon completion unless outlined above.

LP REPRESENTATIVE: **John Austin Jr.**

ACCEPTED BY SIGNATURE:

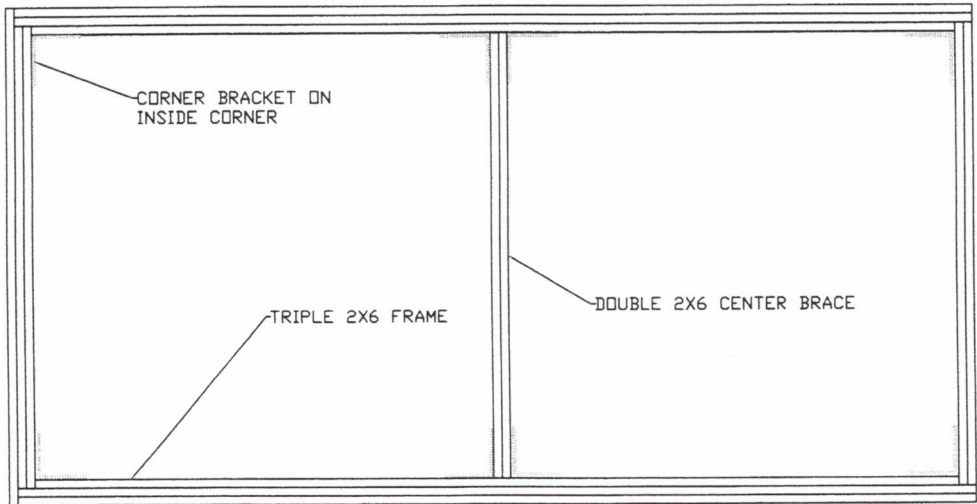
PRINTED NAME:

SIGNATURE:

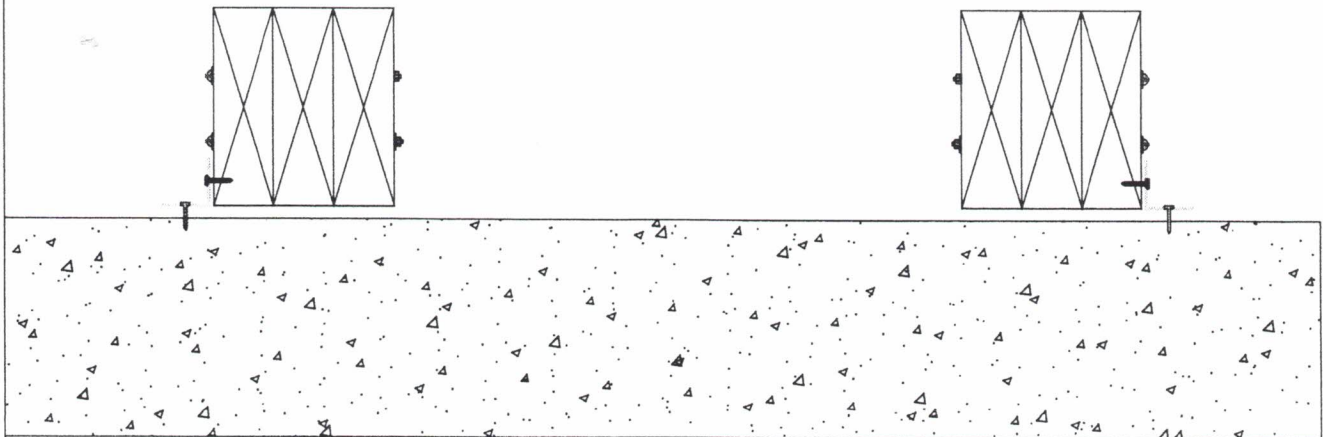
DATE:

David J. Spada
David Spada
David J. Spada
8-28-2023

TOP VIEW



END VIEW



RTU CURB SUPPORT

SCALE NTS

DETAIL

SHEET 1



LUBBOCK MASONRY, INC.

7720 - 19th Street • Telephone: 806.795.2954 • Lubbock, Texas 79407
Fax: 806.793.0135

OCTOBER 26, 2022

HUB CERT#1752355275400

BIG D PROPERTIES

ATTN: DAVID

RE: CINDER BLOCK FENCE @ 1805 PARKWAY

REVISED BID PROPOSAL

LABOR AND MATERIAL

\$135,000.00

INCLUDES:

FOOTING

BLOCK

CONCRETE AND REBAR IN BLOCK WALL

TRASH HAULING

EXISTING FENCE REMOVED

GREY SPLITFACE

ADD \$27,600.00

RED SPLITFACE

ADD \$36,800.00

WE MAINTAIN WORKERS COMPENSATION AND GENERAL LIABILITY INSURANCE
AND A CERTIFICATE IS AVAILABLE UPON REQUEST.

WE APPRECIATE THE OPPORTUNITY OF SUBMITTING THIS PROPOSAL AND
SHOULD YOU HAVE ANY QUESTIONS CONCERNING THE ABOVE, DO NOT
HESITATE TO CALL.

SINCERELY,

KEVIN SISSON

TOTAL - \$199,400

Proposal

Page 1 of 1



Comfort Masters
Plumbing*Heating*Air Conditioning
1101 East 58th
Lubbock, Texas 79404
(806)749-1000 ph. (806)749-1002 fax

No. **001264**

Date 7/31/2023

PROPOSAL SUBMITTED TO David (West Side Plaza)		PHONE 940-595-1969	OTHER PHONE
ADDRESS 5001 Marsha Sharp Freeway		E-MAIL ADDRESS david@bigdprop.com	FAX NUMBER
CITY, STATE AND ZIP CODE Lubbock, Texas 79407		JOB NAME 1807 Parkway Drive DT	
ARCHITECT None	DATE OF PLANS	JOB LOCATION 1807 Parkway Drive - Lubbock Texas	

We hereby submit specifications and estimates for:

*******REVISED*******

90,000.00

Proposal is Good for 30 Days From Quoted Date Due to Volatility of Material Cost. Additionally, Submittals must be returned within 30 days of submission. If not, additional price increases may occur.

Mechanical Only, No plans or specs. Sales Tax Included

All work to be done in a normal work week: Mon. - Fri. 8-5.

Add for Payment and Performance Bond \$2,700.00

Deduct for Using 14 seer FC Carrier Units: \$11,000.00

(11,000.00)

Included: Installation of Five(5) Carrier Brand Rooftop Units. Four Units to be 6-Ton, (Gas Heat) Units, and One Unit to be a 5-Ton(Gas Heat) Unit. This price includes Curbs, Units, Duct Drops, Labor, Crane Services, Permits, Taxes and all other Applicable Fees.

Excluding the following items: Any and All Plumbing, Commissioning of Mechanical Equipment, Temporary Heating, Cooling, Low Temp Refrigeration, Ventilating and Sanitary Facilities, Saw Cutting and Concrete Removal, Trash Container and Hauling, Lead Flashing(to be done by roofers), Roofing, Roof Cutting, Painting, Patching, Concrete, Bond, and Fire Protection. Metal or Wood Blocking to Raise the Height of Curbs, Electrical Wiring (Power & Control).

We Propose hereby to furnish material and labor complete in accordance with the above specifications, for the sum of:

SEVENTY-NINE THOUSAND DOLLARS

dollars (\$ **79,000.00**)

Payment to be made as follows:

Progress Payments

Terms and Conditions:

Regulated by Texas State Board of Plumbing Examiners
P.O. Box 4200 Austin, Tx 78765-4200 1-800-845-6584
Texas Department of Licensing and Regulation
P.O. Box 12157 Austin, Tx 78711 1-800-803-9202 / 512-463-6599
Master Plumber Glenn Davis

Authorized
Signature

J.C. Burt

Note: This proposal may be
withdrawn by us if not accepted within 30 days.

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: 8/7/2023

Signature:

Signature:



Proposal

Comfort Masters PLG & HVAC

1318 E. 50th Street
Lubbock, Texas 79404
(806) 749-1000
RPM- Glenn Davis M-18772, TACL-003497C

Proposal Submitted To Dixie Partners 2LP	Date May 23, 2023
Address	Phone 940-595-1969
	E-mail Address David@bigdprop.com

Job Name and Location Parkway Center At 1805 Parkway Drive
Lubbock, Texas

We hereby submit specifications and estimates, subject to all terms and conditions as set forth on both sides, as follows:

This is an estimate to install new sewer services for the six (6) suites at 1805 Parkway Drive in Lubbock, Texas. The cost to replace the sewer services from the building to one (1) foot past the property line for each space will be \$27,200.00. The city is responsible for the lateral lines in the alley to the city sewer main.

Thank you, Brian Thompson - Plumbing Manager.

Texas State Board of Plumbing Examiners

P.O. Box 4200 - Austin, Texas 78765-4200 - 1(800)845-6584

Regulated by The Texas Department of Licensing and Regulation

P.O. Box 12157 - Austin, Texas 78711 - 1(800)803-9202 - (512)463-6599

We propose hereby to furnish material and labor - complete in accordance with the above specifications for the sum of: **\$27,200.00**

Note: This proposal may be withdrawn by us if not accepted within: **30** days.

Authorized
Signature:

Accepted: The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature:

Date: **May 23, 2023**



SK Architecture Group, LLC
Lori Martin • (806) 300-8151
PO Box 64565, Lubbock, Texas, 79464 • License Number: 25582

Bill To
David Spada
david@bigdprop.com
No address provided

Proposal ES-10004

Date Created: Oct 31, 2022

Proposal for 1805 Parkway - As-builts

Items



1. As-Built Drawings

Total: \$12,200.00

As-Built Drawings to include interior and exterior existing conditions of 25,530 SF retail building (dimensioned plans and elevations with locations of walls, windows, doors, ceilings, visible structural elements, plumbing locations, roof conditions with mechanical unit locations, and utility meter locations).

Status: **PENDING** Quantity: 1 Unit: Flat Fee Cost: \$12,200.00



2. As-Built Electrical Survey and Analysis

Total: \$1,800.00

Survey, as-builts, and recommendations for existing electrical system

Status: **PENDING** Quantity: 1 Unit: Hours Cost: \$1,800.00

Subtotal \$14,000.00

Tax \$0.00

Total \$14,000.00

Amount Paid \$0.00

Balance **\$14,000.00**

Payments

\$2,100.00

Deposit

Due: Nov 7, 2022

Definitions

Design Consultants Fee: the amount(s) set forth in the Agreement as being payable by the Client to the Design Consultant for the Agreed Services. **Agreed Services:** the services to be provided by the Design Consultant to the Client as disclosed in Part 1 of this Agreement.

Agreement: the agreement between the Client and the Design Consultant consisting of Parts 1, 2 and 3 of this document and all attachments listed. **Brief:** the statements, plans, drawings blueprints, charts and other materials and documents assembled by the Client in a Project requirement document, brief or a request for proposal document or any other similar document to summarize the Client's expressed requirements, to address the Client's preferences and priorities, and to summarize the impact of context, environment, and prevailing legislation, at the time of signing the Agreement. **Client:** the Person named as the Client in this Agreement. **Project:** the project identified in this Agreement. **Working Day:** any calendar day other than a Saturday, Sunday or a public holiday within the jurisdiction where the Project is located. **Works:** any permanent or temporary structure, building, fixture or access constructed or required to be constructed on the Site based on the Design Consultant's documents as part of the Project.

A. Obligations

A.1 The Design Consultant shall perform the Agreed Services set out in this Agreement exercising a reasonable level of skill, care and diligence ordinarily provided by Design Consultants working in the same or similar locality under the same or similar circumstances.

A.2 The Design Consultant undertakes to advise the Client of any matter that may affect the performance of the Agreed Services including circumstances or instructions that may require a variation of the service and a change to the Design Consultant's Fee.

A.3 The Client agrees to directly appoint all other consultants required by the Project that are not part of this Agreement, including the sub-consultants presented to the Client by the Design Consultant in Part 1 of this Agreement. The Client will ensure that all other consultants/sub-consultants/ contractors/subcontracts maintain professional liability insurance as appropriate for the services provided.

A.4 The Client agrees to provide the Design Consultant with a Brief and shall advise the Design Consultant of the relative priorities of the Brief, construction cost and Project schedule by way of meetings and written directions or communications as necessary to ensure complete understanding of such Project priorities by the Design Consultant.

A.5 The Client will ensure that there is no change made at any time to the Design Consultant's Agreed Services, the Brief, construction cost or the Project Schedule without the prior written consent of the Design Consultant.

A.6 The Client shall hold each sub-consultant/contractor/sub-contractor however appointed, and not the Design Consultant, responsible for the proper performance of their work.

B. Fees

B.1 The Client must pay the Design Consultant in accordance with Part 1 of this Agreement all fees due plus applicable sales, property, use and other taxes and other mandatory government charges and duties related to the performance of the Agreed Services (other than the Design Consultants income taxes) and the Design Consultants expenses. Payment of the Design Consultant's account must be made within seven (7) Working Days of the date of the invoice. All fees that remain unpaid thereafter will incur interest charges at a rate of 10% per annum or the highest rate of interest permitted under the applicable law, whichever is lower.

B.2 Where this Agreement has been entered into by an Agent (or a person purporting to be an Agent) on behalf of the Client, the Agent and the Client shall be jointly and severally liable for the payment of all fees due to the Design Consultant under this Agreement.

B.3 The Client cannot deduct, withhold or reduce any sum payable to the Design Consultant under this Agreement by reason of claims or alleged claims against the Design Consultant.

B.4 The Client must promptly notify the Design Consultant in writing of any dispute regarding fees, and give the Design Consultant sufficient details to be able to respond. The dispute resolution procedure in section F shall apply to any such disputes on fees.

B.5 Where, for any reason, the Design Consultant provides only part of the Agreed Services as set out in Part 1 of the Agreement, the Design Consultant shall be entitled to payment in full for all services completed together with a fair and equitable proportion of the outstanding fee, to reflect the portion of partial services completed.

C. Insurance

C.1 The Design Consultant shall take out and use reasonable endeavors to maintain professional indemnity insurance in the sum of not less than \$250,000, subject to the various terms, exclusions and limitations of the policy such as; an exclusion for toxic material, leaky buildings, weathertightness claims.

C.2 The Design Consultant will use all reasonable efforts to maintain insurance for a period of 3 years from completion of the Design Consultant's work under this Agreement.

C.3 The Client must provide to the Design Consultant evidence of the separate consultants', sub-consultants, contractors and sub-contractors professional indemnity insurance.

D. Liability

D.1 If the Design Consultant is liable to the Client (whether in contract, tort or otherwise), the Design Consultant will only be liable for any reasonable foreseeable and fully mitigated damage, loss or expense incurred by the Client, caused directly by a material breach of the Design Consultant's legal obligations pursuant to this Agreement. The Design Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential, punitive or special loss of profit, howsoever arising whether in contract, tort or otherwise, nor for ordinary negligence.

D.2 The extent of the Design Consultant's liability (whether in contract tort or otherwise) is reduced proportionately to the extent that the Client and/or any other person, including any third party, has contributed to the claim, liability, damage, loss or expense and irrespective of whether such contribution arises in contract, tort or otherwise.

D.3 Neither the Design Consultant nor the Client shall be liable to the other for any loss or damage unless a claim (whether in contract, tort or otherwise) has been filed in court, in arbitration proceedings or in any tribunal which has jurisdiction to determine a claim, within three years of the date of the act or omission giving rise to the claim or within the limitation period set by the applicable limitation of action statute to which the claim relates, whichever is the earlier, provided always that nothing in this clause shall be construed to exclude any compulsory limitation of action provisions which cannot by law be excluded or restricted in any contracts made between the parties.

D.4 In the circumstances where the Agreed Services (as described in this Agreement) are reduced, limited or varied by later agreement or the Agreement is ended prior to the completion of the Agreed Services, the Design Consultant's liability will attach only to those services actually performed and then only to the extent that the reduction of that part of the Agreed Services has not compromised or not denied the Design Consultant the opportunity to correct the performed services or to otherwise mitigate the Client's loss.

D.5 The Design Consultant is not liable for any damage, loss or expense incurred by the Client as a consequence of any change that the Client or any other person makes to the Design Consultant's documents, or from any variation to the Works from the Design Consultant's documents, made without prior written approval by the Design Consultant, or any changes to the approvals, consents or authorizations received in connection with the construction or occupancy of the Works or the Project not made known to the Design Consultant in writing.

D.6 The Design Consultant shall not be liable to any person other than the Client, and disclaims responsibility, in tort or otherwise, for any liability, damage, loss or expenses suffered or incurred by such person. In the event that the Project to which the Design Consultant's services relate is leased, transferred, sold, or otherwise disposed of in part or whole to other persons, then the Client warrants that such persons shall be advised in writing that the Design Consultant accepts no legal responsibility to them. In the event of breach of this clause, the Client shall fully indemnify the Design Consultant against any claim by such persons, whether such claim is in tort or otherwise.

D.7 The maximum aggregate amount payable by the Design Consultant under this Agreement, whether in contract, tort or otherwise, in relation to claims, liabilities, damages, losses or expenses is limited to **\$250,000** or five times the Design Consultant's total fee for the Agreed Services, whichever is the lesser.

D.8 The Client shall indemnify, defend and hold the Design Consultant harmless against the adverse effects of all claims including claims by third parties which arise out of or have a connection with the Agreement and are made after the expiry of the period of liability referred to in clause D.3. For avoidance of doubt, the indemnity includes claims in negligence made against the Design Consultant.

D.9 The Client acknowledges that the Design Consultant operates through employees, directors, officers, agents and sub-consultants and agrees that no reliance has or will be placed on them personally by the Client in connection with this Agreement on the performances of the Agreed Services.

D.10 The limitations of liability as described above will apply to the maximum extent permitted by law and will confer to any extent relevant a benefit on the employees, directors, officers, agents or sub-consultants of the Design Consultant.

D.11 Except as expressly stated in this agreement, the Design Consultant makes no warranties, express or implied, statutory or otherwise to the Client whatsoever, including but not limited to implied warranties of merchantability or fitness for a particular purpose.

E. Copyright and License

E.1 The Design Consultant retains copyright in all designs, drawings, blueprints, models, plans, specifications, design details, photographs, and any other materials produced or provided by the Design Consultant or its sub-consultants in connection with the Project ("**the Materials**").

E.2 The Design Consultant grants, subject to payment of all outstanding fees due to the Design Consultants under this Agreement, to the Client a non-exclusive, limited license to use and reproduce the Materials for all purposes relating to the Project.

E.3 The Design Consultant shall have no liability for any use of the Materials other than that for which the same were originally prepared and provided and then only to the extent provided in the Agreement.

E.4 If the Design Consultant rightfully terminates the Agreement for causes as specified in section H, the license granted under section E will be revoked.

E.5 If the Client wishes to use any parts of the Materials for any further stage or extension of the Project, any major alterations to the completed works or for any other project, and the Design Consultant is not appointed to provide related services, the Client must obtain the Design Consultant's prior written consent which may include conditions relating to each re-use including but not limited to the payment of a reasonable license fee.

E.6 At the completion of the Agreed Services or in the event of the early ending of this Agreement, the Client will be entitled to retain one copy of the Materials in printed or passive electronic form such as PDF. The Design Consultant will not be required to provide any of the Materials in CAD or any other active electronic form.

F. Dispute Resolution

F.1 Any disputes between the Client and the Design Consultant in relation to this Agreement must first be attempted to be settled in good faith. Failing resolution the Client or the Design Consultant may by notice require that the matter in dispute be referred to mediation.

F.2 If mediation has not occurred or settlement is not achieved within 30 Working Days of the written notice requiring mediation the Client and the Design Consultant may agree to refer the dispute to arbitration in accordance with clause F.3. In the event of a dispute the Design Consultant may by notice in writing to the Client suspend its obligations under this Agreement. In that event the Design Consultant will not be liable to the Client or any other person for losses arising from such suspension of work.

F.3 Any dispute or claim that cannot be resolved by mediation arising out of or related to this Agreement as provided in clause F.2, its performance, breach, or interpretation (including issues about its validity or enforceability), will thereafter be exclusively (except as provided below) resolved by binding arbitration before the American Arbitration Association ("**AAA**") before a single mutually-agreeable neutral arbitrator. The arbitrator will not award attorney's fees, or punitive, indirect, incidental, special, consequential, treble or other multiple or exemplary damages, and the Parties hereby agree to waive and not seek such damages. All costs of arbitration shall be borne by the losing party. The losing party shall be the party designated as such by the arbitrator. In the event both Parties prevail on certain issues and lose on others the arbitration costs shall be apportioned between the Parties in any manner the arbitrator orders. Either Party may seek judicial relief to compel the other Party to comply with the provisions of this clause F.3, or seek injunctive or other equitable relief as long as (unless prohibited by applicable law) the remainder of the dispute or claim is submitted to arbitration. The arbitration will be held in [STATE] [COUNTY]. Both Parties hereby give their irrevocable consent to the processes of the AAA in [STATE] as well as the jurisdiction of the courts of [STATE] for enforcement purposes. Awards will be final, binding and non-appealable (except on the minimal grounds required under the U.S. Federal Arbitration Act or other applicable law). All awards may be filed with one or more courts, state, federal or foreign, having jurisdiction over the Party against whom such award is rendered or its property, as a basis of judgment and of the issuance of execution for its collection.

G. Notice of Defects and Timelines

G.1 If, during the term of this Agreement or after completion of it, the Client becomes aware of any problem with the design, fault or defect in the Project, or non-compliance with the Project's contract documents, the Client must promptly, but not later than 30 Working Days after becoming aware of it, notify the Design Consultant about it in writing. If the Client does not do this the Client will be treated as having waived any claim the Client may have against the Design Consultant (in contract, tort or otherwise) in relation to the problem, fault or non-compliance.

G.2 Unless otherwise expressly agreed by the Design Consultant in writing, all timelines, schedules, milestones or dates provided by the Design Consultant or specified in the Brief or any of the Design Consultant's documents which relate to the performance of the Agreed Services by the Design Consultant are estimates only and the Design Consultant shall not be in any way liable for any loss or damage arising from, or incurred in respect of, a delay in the performance of any part of the Agreed Services if performance is prevented by any reason, including because of the negligence or fault of the Design Consultant, its employees, directors, officers, agents and sub-consultants.

H. Termination and Suspension

H.1 The Client or the Design Consultant may end this Agreement by writing to the other at their last known address. This Agreement will end 20 Working Days after the date the written notice is sent.

H.2 Without limiting any other rights the Design Consultant may have in this Agreement or in law or equity, the Design Consultant may suspend the performance of any part of the Agreed Services by way of a notice in writing to the Client if the Client fails to make full payment of all amounts due and payable by the Client under this Agreement within the due date(s) for the duration until such payment is made.

I. General

- I.1 The law applicable to this Agreement shall be the law of the state or province of the Design Consultant's address stated in the Agreement without regard to its conflicts of law principles
- I.2 The Design Consultant shall be entitled to rely upon the accuracy and completeness of the information furnished by the Client.
- I.3 Neither party shall assign or transfer this Agreement without the prior written consent of the other party.
- I.4 The Agreement contains the entire agreement between the Parties and supersedes all previous verbal and written agreements.
- I.5 Unless otherwise provided in the Agreement, no modification or waiver of any of the provisions, or any future representation, promise or addition shall be binding upon the Parties unless made in writing and signed by both the Parties.

Signature

SK Architecture Group, LLC

Company Signature

Client Signature



SK Architecture Group, LLC
Lori Martin • (806) 300-8151
PO Box 64565, Lubbock, Texas, 79464 • License Number: 25582

Bill To
David Spada
david@bigdprop.com
No address provided

Proposal ES-10052

Date Sent: May 22, 2023

Proposal for 1807 Parkway Exterior Improvements

Items

1. Architectural Plan Set

Total: \$9,600.00

Includes permit and construction set of drawings for exterior improvements of 1807 Parkway retail building.

Quantity: 1

Unit: Flat Fee

Cost: \$9,600.00

Room:

2. Structural Engineering

Total: \$4,000.00

Structural engineering for a new facade and front canopy features expected to be framed out of steel studs with new openings in existing walls as required.

Quantity: 1

Unit: Consultant Fee

Cost: \$4,000.00

Room:

3. Mechanical, Electrical, and Plumbing Engineering

Total: \$2,800.00

Electrical engineering for any new lighting and electrical required

Quantity: 1

Unit: Consultant Fee

Cost: \$2,800.00

Room:

Subtotal \$16,400.00

Tax \$0.00

Total \$16,400.00

Amount Paid \$0.00

Balance **\$16,400.00**

Payments

\$1,640.00

Deposit

Due: May 22, 2023

Definitions

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A.5 The Client will ensure that there is no change made at any time to the Design Consultant's Agreed Services, the Brief, construction cost or the Project Schedule without the prior written consent of the Design Consultant.

A.6 The Client shall hold each sub-consultant/contractor/sub-contractor however appointed, and not the Design Consultant, responsible for the proper performance of their work.

B. Fees

B.1 The Client must pay the Design Consultant in accordance with Part 1 of this Agreement all fees due plus applicable sales, property, use and other taxes and other mandatory government charges and duties related to the performance of the Agreed Services (other than the Design Consultants income taxes) and the Design Consultants expenses. Payment of the Design Consultant's account must be made within seven (7) Working Days of the date of the invoice. All fees that remain unpaid thereafter will incur interest charges at a rate of 10% per annum or the highest rate of interest permitted under the applicable law, whichever is lower.

B.2 Where this Agreement has been entered into by an Agent (or a person purporting to be an Agent) on behalf of the Client, the Agent and the Client shall be jointly and severally liable for the payment of all fees due to the Design Consultant under this Agreement.

B.3 The Client cannot deduct, withhold or reduce any sum payable to the Design Consultant under this Agreement by reason of claims or alleged claims against the Design Consultant.

B.4 The Client must promptly notify the Design Consultant in writing of any dispute regarding fees, and give the Design Consultant sufficient details to be able to respond. The dispute resolution procedure in section F shall apply to any such disputes on fees.

B.5 Where, for any reason, the Design Consultant provides only part of the Agreed Services as set out in Part 1 of the Agreement, the Design Consultant shall be entitled to payment in full for all services completed together with a fair and equitable proportion of the outstanding fee, to reflect the portion of partial services completed.

C. Insurance

C.1 The Design Consultant shall take out and use reasonable endeavors to maintain professional indemnity insurance in the sum of not less than \$250,000, subject to the various terms, exclusions and limitations of the policy such as; an exclusion for toxic material, leaky buildings, weathertightness claims.

C.2 The Design Consultant will use all reasonable efforts to maintain insurance for a period of 3 years from completion of the Design Consultant's work under this Agreement.

C.3 The Client must provide to the Design Consultant evidence of the separate consultants', sub-consultants, contractors and sub-contractors professional indemnity insurance.

D. Liability

D.1 If the Design Consultant is liable to the Client (whether in contract, tort or otherwise), the Design Consultant will only be liable for any reasonable foreseeable and fully mitigated damage, loss or expense incurred by the Client, caused directly by a material breach of the Design Consultant's legal obligations pursuant to this Agreement. The Design Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential, punitive or special loss of profit, howsoever arising whether in contract, tort or otherwise, nor for ordinary negligence.

D.2 The extent of the Design Consultant's liability (whether in contract tort or otherwise) is reduced proportionately to the extent that the Client and/or any other person, including any third party, has contributed to the claim, liability, damage, loss or expense and irrespective of whether such contribution arises in contract, tort or otherwise.

D.3 Neither the Design Consultant nor the Client shall be liable to the other for any loss or damage unless a claim (whether in contract, tort or otherwise) has been filed in court, in arbitration proceedings or in any tribunal which has jurisdiction to determine a claim, within three years of the date of the act or omission giving rise to the claim or within the limitation period set by the applicable limitation of action statute to which the claim relates, whichever is the earlier, provided always that nothing in this clause shall be construed to exclude any compulsory limitation of action provisions which cannot by law be excluded or restricted in any contracts made between the parties.

D.4 In the circumstances where the Agreed Services (as described in this Agreement) are reduced, limited or varied by later agreement or the Agreement is ended prior to the completion of the Agreed Services, the Design Consultant's liability will attach only to those services actually performed and then only to the extent that the reduction of that part of the Agreed Services has not compromised or not denied the Design Consultant the opportunity to correct the performed services or to otherwise mitigate the Client's loss.

D.5 The Design Consultant is not liable for any damage, loss or expense incurred by the Client as a consequence of any change that the Client or any other person makes to the Design Consultant's documents, or from any variation to the Works from the Design Consultant's documents, made without prior written approval by the Design Consultant, or any changes to the approvals, consents or authorizations received in connection with the construction or occupancy of the Works or the Project not made known to the Design Consultant in writing.

D.6 The Design Consultant shall not be liable to any person other than the Client, and disclaims responsibility, in tort or otherwise, for any liability, damage, loss or expenses suffered or incurred by such person. In the event that the Project to which the Design Consultant's services relate is leased, transferred, sold, or otherwise disposed of in part or whole to other persons, then the Client warrants that such persons shall be advised in writing that the Design Consultant accepts no legal responsibility to them. In the event of breach of this clause, the Client shall fully indemnify the Design Consultant against any claim by such persons, whether such claim is in tort or otherwise.

D.7 The maximum aggregate amount payable by the Design Consultant under this Agreement, whether in contract, tort or otherwise, in relation to claims, liabilities, damages, losses or expenses is limited to **\$250,000** or five times the Design Consultant's total fee for the Agreed Services, whichever is the lesser.

D.8 The Client shall indemnify, defend and hold the Design Consultant harmless against the adverse effects of all claims including claims by third parties which arise out of or have a connection with the Agreement and are made after the expiry of the period of liability referred to in clause D.3. For avoidance of doubt, the indemnity includes claims in negligence made against the Design Consultant.

D.9 The Client acknowledges that the Design Consultant operates through employees, directors, officers, agents and sub-consultants and agrees that no reliance has or will be placed on them personally by the Client in connection with this Agreement on the performances of the Agreed Services.

D.10 The limitations of liability as described above will apply to the maximum extent permitted by law and will confer to any extent relevant a benefit on the employees, directors, officers, agents or sub-consultants of the Design Consultant.

D.11 Except as expressly stated in this agreement, the Design Consultant makes no warranties, express or implied, statutory or otherwise to the Client whatsoever, including but not limited to implied warranties of merchantability or fitness for a particular purpose.

E. Copyright and License

E.1 The Design Consultant retains copyright in all designs, drawings, blueprints, models, plans, specifications, design details, photographs, and any other materials produced or provided by the Design Consultant or its sub-consultants in connection with the Project ("**the Materials**").

E.2 The Design Consultant grants, subject to payment of all outstanding fees due to the Design Consultants under this Agreement, to the Client a non-exclusive, limited license to use and reproduce the Materials for all purposes relating to the Project.

E.3 The Design Consultant shall have no liability for any use of the Materials other than that for which the same were originally prepared and provided and then only to the extent provided in the Agreement.

E.4 If the Design Consultant rightfully terminates the Agreement for causes as specified in section H, the license granted under section E will be revoked.

E.5 If the Client wishes to use any parts of the Materials for any further stage or extension of the Project, any major alterations to the completed works or for any other project, and the Design Consultant is not appointed to provide related services, the Client must obtain the Design Consultant's prior written consent which may include conditions relating to each re-use including but not limited to the payment of a reasonable license fee.

E.6 At the completion of the Agreed Services or in the event of the early ending of this Agreement, the Client will be entitled to retain one copy of the Materials in printed or passive electronic form such as PDF. The Design Consultant will not be required to provide any of the Materials in CAD or any other active electronic form.

F. Dispute Resolution

F.1 Any disputes between the Client and the Design Consultant in relation to this Agreement must first be attempted to be settled in good faith. Failing resolution the Client or the Design Consultant may by notice require that the matter in dispute be referred to mediation.

F.2 If mediation has not occurred or settlement is not achieved within 30 Working Days of the written notice requiring mediation the Client and the Design Consultant may agree to refer the dispute to arbitration in accordance with clause F.3. In the event of a dispute the Design Consultant may by notice in writing to the Client suspend its obligations under this Agreement. In that event the Design Consultant will not be liable to the Client or any other person for losses arising from such suspension of work.

F.3 Any dispute or claim that cannot be resolved by mediation arising out of or related to this Agreement as provided in clause F.2, its performance, breach, or interpretation (including issues about its validity or enforceability), will thereafter be exclusively (except as provided below) resolved by binding arbitration before the American Arbitration Association ("**AAA**") before a single mutually-agreeable neutral arbitrator. The arbitrator will not award attorney's fees, or punitive, indirect, incidental, special, consequential, treble or other multiple or exemplary damages, and the Parties hereby agree to waive and not seek such damages. All costs of arbitration shall be borne by the losing party. The losing party shall be the party designated as such by the arbitrator. In the event both Parties prevail on certain issues and lose on others the arbitration costs shall be apportioned between the Parties in any manner the arbitrator orders. Either Party may seek judicial relief to compel the other Party to comply with the provisions of this clause F.3, or seek injunctive or other equitable relief as long as (unless prohibited by applicable law) the remainder of the dispute or claim is submitted to arbitration. The arbitration will be held in [STATE] [COUNTY]. Both Parties hereby give their irrevocable consent to the processes of the AAA in [STATE] as well as the jurisdiction of the courts of [STATE] for enforcement purposes. Awards will be final, binding and non-appealable (except on the minimal grounds required under the U.S. Federal Arbitration Act or other applicable law). All awards may be filed with one or more courts, state, federal or foreign, having jurisdiction over the Party against whom such award is rendered or its property, as a basis of judgment and of the issuance of execution for its collection.

G. Notice of Defects and Timelines

G.1 If, during the term of this Agreement or after completion of it, the Client becomes aware of any problem with the design, fault or defect in the Project, or non-compliance with the Project's contract documents, the Client must promptly, but not later than 30 Working Days after becoming aware of it, notify the Design Consultant about it in writing. If the Client does not do this the Client will be treated as having waived any claim the Client may have against the Design Consultant (in contract, tort or otherwise) in relation to the problem, fault or non-compliance.

G.2 Unless otherwise expressly agreed by the Design Consultant in writing, all timelines, schedules, milestones or dates provided by the Design Consultant or specified in the Brief or any of the Design Consultant's documents which relate to the performance of the Agreed Services by the Design Consultant are estimates only and the Design Consultant shall not be in any way liable for any loss or damage arising from, or incurred in respect of, a delay in the performance of any part of the Agreed Services if performance is prevented by any reason, including because of the negligence or fault of the Design Consultant, its employees, directors, officers, agents and sub-consultants.

H. Termination and Suspension

H.1 The Client or the Design Consultant may end this Agreement by writing to the other at their last known address. This Agreement will end 20 Working Days after the date the written notice is sent.

H.2 Without limiting any other rights the Design Consultant may have in this Agreement or in law or equity, the Design Consultant may suspend the performance of any part of the Agreed Services by way of a notice in writing to the Client if the Client fails to make full payment of all amounts due and payable by the Client under this Agreement within the due date(s) for the duration until such payment is made.

I. General

- I.1 The law applicable to this Agreement shall be the law of the state or province of the Design Consultant's address stated in the Agreement without regard to its conflicts of law principles
- I.2 The Design Consultant shall be entitled to rely upon the accuracy and completeness of the information furnished by the Client.
- I.3 Neither party shall assign or transfer this Agreement without the prior written consent of the other party.
- I.4 The Agreement contains the entire agreement between the Parties and supersedes all previous verbal and written agreements.
- I.5 Unless otherwise provided in the Agreement, no modification or waiver of any of the provisions, or any future representation, promise or addition shall be binding upon the Parties unless made in writing and signed by both the Parties.

Signature

SK Architecture Group, LLC

Company Signature

Client Signature



SK Architecture Group, LLC
Lori Martin • (806) 300-8151
PO Box 64565, Lubbock, Texas, 79464 • License Number: 25582

Bill To
David Spada
david@bigdprop.com
No address provided

Proposal ES-10052

Date Sent: May 22, 2023

Proposal for 1807 Parkway Exterior Improvements

Items

1. Architectural Plan Set I and II

Total: \$15,800.00



- Permit and construction set of drawings for exterior improvements to shell building
- Permit and construction set of drawings related to Exhibit C - Landlord's Work - Construction Criteria for Dollar Tree Shell - Items I thru VII. Package to be issued and permitted separately from overall shell building exterior improvements if required by owner.

Quantity: 1	Unit: Flat Fee	Cost: \$15,800.00		
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2. Structural Engineering

Total: \$4,500.00



Structural engineering for a new facade and front canopy features expected to be framed out of steel studs with new openings in existing walls as required.

Quantity: 1	Unit: Consultant Fee	Cost: \$4,500.00		
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3. Mechanical, Electrical, and Plumbing Engineering

Total: \$11,800.00



- Electrical engineering for any new lighting and electrical required for overall shell improvements.
- MEP permit and construction documents for the work described under "Landlord's Box" in Exhibit C

Quantity: 1	Unit: Consultant Fee	Cost: \$11,800.00		
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4. Civil Engineering

Total: \$12,000.00



Includes topographic survey and site civil design (site plan review, site dimension control plan, site demolition plan, site grading and paving plan and details, striping and signage plan, and construction specifications for site improvements).

Quantity: 1	Unit: Consultant Fee	Cost: \$12,000.00		
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Subtotal	\$44,100.00
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Tax	\$0.00
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Total	\$44,100.00
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Amount Paid	\$0.00
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Balance	\$44,100.00
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\$4,410.00

Deposit

Due: Jun 27, 2023

Definitions

Design Consultants Fee: the amount(s) set forth in the Agreement as being payable by the Client to the Design Consultant for the Agreed Services. **Agreed Services:** the services to be provided by the Design Consultant to the Client as disclosed in Part 1 of this Agreement.

Agreement: the agreement between the Client and the Design Consultant consisting of Parts 1, 2 and 3 of this document and all attachments listed. **Brief:** the statements, plans, drawings blueprints, charts and other materials and documents assembled by the Client in a Project requirement document, brief or a request for proposal document or any other similar document to summarize the Client's expressed requirements, to address the Client's preferences and priorities, and to summarize the impact of context, environment, and prevailing legislation, at the time of signing the Agreement. **Client:** the Person named as the Client in this Agreement. **Project:** the project identified in this Agreement. **Working Day:** any calendar day other than a Saturday, Sunday or a public holiday within the jurisdiction where the Project is located. **Works:** any permanent or temporary structure, building, fixture or access constructed or required to be constructed on the Site based on the Design Consultant's documents as part of the Project.

A. Obligations

A.1 The Design Consultant shall perform the Agreed Services set out in this Agreement exercising a reasonable level of skill, care and diligence ordinarily provided by Design Consultants working in the same or similar locality under the same or similar circumstances.

A.2 The Design Consultant undertakes to advise the Client of any matter that may affect the performance of the Agreed Services including circumstances or instructions that may require a variation of the service and a change to the Design Consultant's Fee.

A.3 The Client agrees to directly appoint all other consultants required by the Project that are not part of this Agreement, including the sub-consultants presented to the Client by the Design Consultant in Part 1 of this Agreement. The Client will ensure that all other consultants/sub-consultants/ contractors/subcontracts maintain professional liability insurance as appropriate for the services provided.

A.4 The Client agrees to provide the Design Consultant with a Brief and shall advise the Design Consultant of the relative priorities of the Brief, construction cost and Project schedule by way of meetings and written directions or communications as necessary to ensure complete understanding of such Project priorities by the Design Consultant.

A.5 The Client will ensure that there is no change made at any time to the Design Consultant's Agreed Services, the Brief, construction cost or the Project Schedule without the prior written consent of the Design Consultant.

A.6 The Client shall hold each sub-consultant/contractor/sub-contractor however appointed, and not the Design Consultant, responsible for the proper performance of their work.

B. Fees

B.1 The Client must pay the Design Consultant in accordance with Part 1 of this Agreement all fees due plus applicable sales, property, use and other taxes and other mandatory government charges and duties related to the performance of the Agreed Services (other than the Design Consultants income taxes) and the Design Consultants expenses. Payment of the Design Consultant's account must be made within seven (7) Working Days of the date of the invoice. All fees that remain unpaid thereafter will incur interest charges at a rate of 10% per annum or the highest rate of interest permitted under the applicable law, whichever is lower.

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C.1 The Design Consultant shall take out and use reasonable endeavors to maintain professional indemnity insurance in the sum of not less than \$250,000, subject to the various terms, exclusions and limitations of the policy such as; an exclusion for toxic material, leaky buildings, weathertightness claims.

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C.3 The Client must provide to the Design Consultant evidence of the separate consultants', sub-consultants, contractors and sub-contractors professional indemnity insurance.

D. Liability

D.1 If the Design Consultant is liable to the Client (whether in contract, tort or otherwise), the Design Consultant will only be liable for any reasonable foreseeable and fully mitigated damage, loss or expense incurred by the Client, caused directly by a material breach of the Design Consultant's legal obligations pursuant to this Agreement. The Design Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential, punitive or special loss of profit, howsoever arising whether in contract, tort or otherwise, nor for ordinary negligence.

D.2 The extent of the Design Consultant's liability (whether in contract tort or otherwise) is reduced proportionately to the extent that the Client and/or any other person, including any third party, has contributed to the claim, liability, damage, loss or expense and irrespective of whether such contribution arises in contract, tort or otherwise.

D.3 Neither the Design Consultant nor the Client shall be liable to the other for any loss or damage unless a claim (whether in contract, tort or otherwise) has been filed in court, in arbitration proceedings or in any tribunal which has jurisdiction to determine a claim, within three years of the date of the act or omission giving rise to the claim or within the limitation period set by the applicable limitation of action statute to which the claim relates, whichever is the earlier, provided always that nothing in this clause shall be construed to exclude any compulsory limitation of action provisions which cannot by law be excluded or restricted in any contracts made between the parties.

D.4 In the circumstances where the Agreed Services (as described in this Agreement) are reduced, limited or varied by later agreement or the Agreement is ended prior to the completion of the Agreed Services, the Design Consultant's liability will attach only to those services actually performed and then only to the extent that the reduction of that part of the Agreed Services has not compromised or not denied the Design Consultant the opportunity to correct the performed services or to otherwise mitigate the Client's loss.

D.5 The Design Consultant is not liable for any damage, loss or expense incurred by the Client as a consequence of any change that the Client or any other person makes to the Design Consultant's documents, or from any variation to the Works from the Design Consultant's documents, made without prior written approval by the Design Consultant, or any changes to the approvals, consents or authorizations received in connection with the construction or occupancy of the Works or the Project not made known to the Design Consultant in writing.

D.6 The Design Consultant shall not be liable to any person other than the Client, and disclaims responsibility, in tort or otherwise, for any liability, damage, loss or expenses suffered or incurred by such person. In the event that the Project to which the Design Consultant's services relate is leased, transferred, sold, or otherwise disposed of in part or whole to other persons, then the Client warrants that such persons shall be advised in writing that the Design Consultant accepts no legal responsibility to them. In the event of breach of this clause, the Client shall fully indemnify the Design Consultant against any claim by such persons, whether such claim is in tort or otherwise.

D.7 The maximum aggregate amount payable by the Design Consultant under this Agreement, whether in contract, tort or otherwise, in relation to claims, liabilities, damages, losses or expenses is limited to **\$250,000** or five times the Design Consultant's total fee for the Agreed Services, whichever is the lesser.

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D.9 The Client acknowledges that the Design Consultant operates through employees, directors, officers, agents and sub-consultants and agrees that no reliance has or will be placed on them personally by the Client in connection with this Agreement on the performances of the Agreed Services.

D.10 The limitations of liability as described above will apply to the maximum extent permitted by law and will confer to any extent relevant a benefit on the employees, directors, officers, agents or sub-consultants of the Design Consultant.

D.11 Except as expressly stated in this agreement, the Design Consultant makes no warranties, express or implied, statutory or otherwise to the Client whatsoever, including but not limited to implied warranties of merchantability or fitness for a particular purpose.

E. Copyright and License

E.1 The Design Consultant retains copyright in all designs, drawings, blueprints, models, plans, specifications, design details, photographs, and any other materials produced or provided by the Design Consultant or its sub-consultants in connection with the Project ("**the Materials**").

E.2 The Design Consultant grants, subject to payment of all outstanding fees due to the Design Consultants under this Agreement, to the Client a non-exclusive, limited license to use and reproduce the Materials for all purposes relating to the Project.

E.3 The Design Consultant shall have no liability for any use of the Materials other than that for which the same were originally prepared and provided and then only to the extent provided in the Agreement.

E.4 If the Design Consultant rightfully terminates the Agreement for causes as specified in section H, the license granted under section E will be revoked.

E.5 If the Client wishes to use any parts of the Materials for any further stage or extension of the Project, any major alterations to the completed works or for any other project, and the Design Consultant is not appointed to provide related services, the Client must obtain the Design Consultant's prior written consent which may include conditions relating to each re-use including but not limited to the payment of a reasonable license fee.

E.6 At the completion of the Agreed Services or in the event of the early ending of this Agreement, the Client will be entitled to retain one copy of the Materials in printed or passive electronic form such as PDF. The Design Consultant will not be required to provide any of the Materials in CAD or any other active electronic form.

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F.1 Any disputes between the Client and the Design Consultant in relation to this Agreement must first be attempted to be settled in good faith. Failing resolution the Client or the Design Consultant may by notice require that the matter in dispute be referred to mediation.

F.2 If mediation has not occurred or settlement is not achieved within 30 Working Days of the written notice requiring mediation the Client and the Design Consultant may agree to refer the dispute to arbitration in accordance with clause F.3. In the event of a dispute the Design Consultant may by notice in writing to the Client suspend its obligations under this Agreement. In that event the Design Consultant will not be liable to the Client or any other person for losses arising from such suspension of work.

F.3 Any dispute or claim that cannot be resolved by mediation arising out of or related to this Agreement as provided in clause F.2, its performance, breach, or interpretation (including issues about its validity or enforceability), will thereafter be exclusively (except as provided below) resolved by binding arbitration before the American Arbitration Association ("**AAA**") before a single mutually-agreeable neutral arbitrator. The arbitrator will not award attorney's fees, or punitive, indirect, incidental, special, consequential, treble or other multiple or exemplary damages, and the Parties hereby agree to waive and not seek such damages. All costs of arbitration shall be borne by the losing party. The losing party shall be the party designated as such by the arbitrator. In the event both Parties prevail on certain issues and lose on others the arbitration costs shall be apportioned between the Parties in any manner the arbitrator orders. Either Party may seek judicial relief to compel the other Party to comply with the provisions of this clause V.7, or seek injunctive or other equitable relief as long as (unless prohibited by applicable law) the remainder of the dispute or claim is submitted to arbitration. The arbitration will be held in [STATE] [COUNTY]. Both Parties hereby give their irrevocable consent to the processes of the AAA in [STATE] as well as the jurisdiction of the courts of [STATE] for enforcement purposes. Awards will be final, binding and non-appealable (except on the minimal grounds required under the U.S. Federal Arbitration Act or other applicable law). All awards may be filed with one or more courts, state, federal or foreign, having jurisdiction over the Party against whom such award is rendered or its property, as a basis of judgment and of the issuance of execution for its collection.

G. Notice of Defects and Timelines

G.1 If, during the term of this Agreement or after completion of it, the Client becomes aware of any problem with the design, fault or defect in the Project, or non-compliance with the Project's contract documents, the Client must promptly, but not later than 30 Working Days after becoming aware of it, notify the Design Consultant about it in writing. If the Client does not do this the Client will be treated as having waived any claim the Client may have against the Design Consultant (in contract, tort or otherwise) in relation to the problem, fault or non-compliance.

G.2 Unless otherwise expressly agreed by the Design Consultant in writing, all timelines, schedules, milestones or dates provided by the Design Consultant or specified in the Brief or any of the Design Consultant's documents which relate to the performance of the Agreed Services by the Design Consultant are estimates only and the Design Consultant shall not be in any way liable for any loss or damage arising from, or incurred in respect of, a delay in the performance of any part of the Agreed Services if performance is prevented by any reason, including because of the negligence or fault of the Design Consultant, its employees, directors, officers, agents and sub-consultants.

H. Termination and Suspension

H.1 The Client or the Design Consultant may end this Agreement by writing to the other at their last known address. This Agreement will end 20 Working Days after the date the written notice is sent.

H.2 Without limiting any other rights the Design Consultant may have in this Agreement or in law or equity, the Design Consultant may suspend the performance of any part of the Agreed Services by way of a notice in writing to the Client if the Client fails to make full payment of all amounts due and payable by the Client under this Agreement within the due date(s) for the duration until such payment is made.

I. General

- I.1 The law applicable to this Agreement shall be the law of the state or province of the Design Consultant's address stated in the Agreement without regard to its conflicts of law principles
- I.2 The Design Consultant shall be entitled to rely upon the accuracy and completeness of the information furnished by the Client.
- I.3 Neither party shall assign or transfer this Agreement without the prior written consent of the other party.
- I.4 The Agreement contains the entire agreement between the Parties and supersedes all previous verbal and written agreements.
- I.5 Unless otherwise provided in the Agreement, no modification or waiver of any of the provisions, or any future representation, promise or addition shall be binding upon the Parties unless made in writing and signed by both the Parties.

Signature

SK Architecture Group, LLC

Company Signature

Client Signature

King Consultants, Inc.

1205 East 46th Street
Lubbock, TX 79404

Invoice

Phone #	806-763-6157
Fax #	806-763-6160

Date	Invoice #
11/16/2022	A-00-106004

Bill To
Dixie Partners II, LP David Spada PO Box 270874 Flower Mound, Texas 75027

Sales Rep	Terms	Project
J Hassoldt	Due on receipt	22-10-419

Description	Qty	Rate	Amount
Limited asbestos inspection and reports for the Parkway Center, 1807-1809, 1811, 1811A, 1813, 1815, 1817, 1819, & 1821 Parkway Drive in Lubbock, Texas - 11/02/22 & 11/04/22	1	2,750.00	2,750.00
Bulk asbestos samples (per each) in 1807-1809 Parkway Drive	45	20.00	900.00
Bulk asbestos samples (per each) in 1811 Parkway Drive	24	20.00	480.00
Bulk asbestos samples (per each) in 1811A Parkway Drive	18	20.00	360.00
Bulk asbestos samples (per each) in 1813 Parkway Drive	18	20.00	360.00
Bulk asbestos samples (per each) in 1815 Parkway Drive	15	20.00	300.00
Bulk asbestos samples (per each) in 1817 Parkway Drive	18	20.00	360.00
Bulk asbestos samples (per each) in 1819 Parkway Drive	21	20.00	420.00
Bulk asbestos samples (per each) in 1821 Parkway Drive	18	20.00	360.00
Specification development for asbestos abatement at the Parkway Center	1	2,500.00	2,500.00

Thank you for your business.

Total \$8,790.00

Balance Due \$8,790.00



Proposal		Date	05/02/2023
Client	Dixie Partners II, L.P.		
Contact	David Spada	Title:	
Address	P.O. Box 270874	City/State	Flower Mound, Texas 75027
Phone #		Email	David@Bigdprop.com
Site Name	Parkway Center		
Site Address	1811A-1821 Parkway Drive	City/State	Lubbock, Texas 79403

Scope of Work

I. PROJECT DESIGN/SPECIFICATIONS

- Utilize licensed/accredited individuals to design asbestos abatement specifications.
- Prepare drawings of project areas for inclusion in specifications.
- Conduct site reviews/inspection as necessary to design project and prepare specifications.
- Prepare bid documents for the project.

II. PROJECT ADMINISTRATION/COMPLIANCE MONITORING

- Act as Owner's full time project representative throughout the abatement project and coordinate project with all staff.
- Conduct pre-construction conference with selected Contractor prior to beginning work.
- Utilize licensed/accredited individuals to conduct full-time monitoring of the activities of the Contractor throughout the project.
- Coordinate activities of Contractor, General Contractor, Construction Management Team, Air monitoring technicians, etc., required for the project.
- Help ensure compliance with all state and Federal laws regulating asbestos abatement projects.
- Document project activities for Owner's records.
- Review, verify, and approve Applications for payment from the Contractor prior to payment by Owner.
- Evaluate all bids received from Abatement Contractors.
- Review Abatement Contractor's pre and post job submittals.
- Review required ten (10) day notification.

III. AIR MONITORING ACTIVITIES

- Utilize NIOSH-582 trained and licensed/accredited individuals to collect air samples.
- Complete detailed daily air sampling analytical sheet showing location, volume, and other pertinent data for each air sample.
- Collection and archiving of PCM baseline samples for project documentation and contractor's reference prior to beginning project.
- Collection and analysis by a licensed/accredited laboratory of PCM area samples included with full-time project administration.

ENVIRONMENTAL SPECIALISTS

BEDFORD
805 FOREST RIDGE, SUITE 107
76022
817.354.9890

ABILENE
2032 EAST HIGHWAY 80
79601
325.669.8487

SAN ANGELO
324 WEST 26TH STREET, STE. B
76901
325.944.0931

- Collection of PCM final clearance samples as required by all regulatory agencies.
- Review and/or interpretation of analysis results.
- Collection and preparation of appropriate documentation for Owner's records.

Break Down of Estimated Cost

- Specifications for asbestos abatement by King Consultants
- Project managing/air monitoring by King Consultants
- Asbestos Abatement performed by Arlo Environmental (See bid attached)

Previously Billed
\$ 29,000.00
\$128,073.00

*All utilities required for abatement will be provided by the owner.

Total Estimated Cost

\$157,073.00

Please note: There will be an additional fee for the notification submitted to the TDSHS for the quantity of asbestos containing building material to be removed from the building.

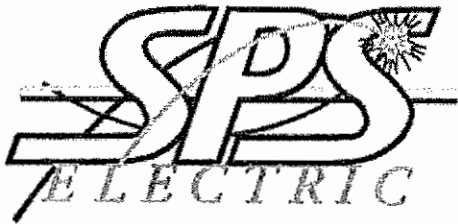
The above services include \$1,000,000 per claim/\$1,000,000 aggregate Professional Liability Insurance (with pollution liability coverage) on a "claims made" basis, as well as \$1,000,000 General Liability Insurance for each project.

We trust this estimate answers all the questions you might have regarding our activities on this project. If you should have any questions or require additional information, please contact me at 806-763-6157.

Authorization Signature



Jace Hassoldt
Environmental Consultant
King Consultants, Incorporated



South Plains Service, LLC
DBA SPS Electric
PO Box 9
Lubbock, TX 79408

806-744-7055 Phone
806-744-7051 Fax
jay@spselectric.net
TECL#18542

CONTRACT

This is an agreement made on 8/23/2023 between SPS Electric and Dixie Partners II, LP. Dixie Partners II, LP is located at PO Box 270874, Flower Mound, Texas 75027. Their representative for this work is David Spada. SPS Electric will provide labor and materials to complete Electrical work as follows on the facility at 1805 Parkway Drive in Lubbock, Texas.

Phase 1.) Dollar Tree Service and RTU's

1.) Install a new 600 amp service as per the drawings received from Kyle Wilson, Architectural Project Manager from Dollar Tree. This includes:

- a.) 1ea 600 amp fused disconnect
- b.) 1ea 600 amp main lug, 3 phase, 54 circuit panel
- c.) 1ea 225 amp, 3 phase 54 circuit panel fed with a 125 amp breaker.
- d.) All necessary metering to be installed according to LP&L

2.) Install conduit, wire, boxes, disconnect, fuses, and breakers for 5ea A/C RTU's

- a.) Each RTU will be fed with a 60 amp 3 phase circuit with a disconnect on the roof.
- b.) Each RTU will have a GFCI convenience outlet installed below the disconnect as per NEC requirements.

Total Item Phase 1: 58,712.00 Plus Tax

Phase 1 & 2 - \$223,020

Phase 2.) Parking Lot Lighting

1.) Install all conduit and wire for up to 22ea light poles and re-feed power to the existing monument sign.

- a.) Dig trenches at 24" deep
- b.) Lay 1 1/4" PVC conduit in the trench
- c.) Stub the PVC up in each pole base and at the building lighting control panel
- d.) Install two separate circuits for the lighting. 1ea for the West side and 1ea for the East side. Both circuits are to be single phase 208 volt circuits on 30 amp 2 pole breakers fed from the dedicated House panel and lighting controls.

e.) Compact all trenches by tamping, or by flow fill depending on our needs

2.) Excavate holes, install rebar, and pour concrete Pole bases 6 feet deep and standing 30" above grade, 24" round, complete with anchor bolts for the poles.

3.) Install lighting fixtures onto the light poles and run wire through the poles to the fixtures. (Poles and Lights by others.)

4.) Stand the light poles onto the light bases, level, secure, and terminate all wiring. (requires a crane)

5.) Connect the existing monument sign to one of the lighting circuits

6.) All trenching, backfill, tamping, and concrete is included in this section of the bid. Asphalt patch and repair is NOT included.

Phase 2.) House Panel, Lighting controls, and Equipment room.

- 1.) Install a House panel, lighting controls and all associated conduit and wire.
- a.) Supply and Install a dedicated 200 amp meter
- b.) Supply and Install a 200 amp fused disconnect
- c.) Supply and install a 200 amp panel in a location chosen by the building owner.
- d.) Supply and install all necessary breakers for building and parking lights.
- e.) Supply and install a lighting contactor box complete with contactors as needed for building and parking lot lighting.
- f.) Supply and Install a Photo eye and timeclock to control the lighting contactor
- g.) Supply and Install 1ea convenience receptacle on a dedicated circuit for Security equipment.
- h.) Supply and install 1ea light switch
- i.) Supply and install 2ea LED shop lights with protective lenses

Phase 2.) Building Lights

- 1.) Install conduit, boxes, wire, cable and straps for all building lights
- a.) Install up to 15ea Wall pack lights on the West, North, and East side of the building. (Lights supplied by others)
- b.) Install up to 40 ea 8" round flat panel lights in the south soffit to illuminate the walkway at the front doors of all units. These lights will require cutting them into the soffits. (Lights provided by others)
- c.) Terminate all wires at the House lighting control panel
- d.)

Total Item Phase 2 only: \$164,308.00 Plus tax

NOT Included:

Asphalt patch and repair Not included.

Lighting fixtures and Poles Not included.

Unknown charges from the utility company Not included.

Taxes Not included in the quoted price.

Unknown charges for registered blueprints ,if required by the city, are Not included.

General lighting circuits, pipe, wire, boxes, and switches for the individual units are Not included.

Rewire and rehab for the existing monument sign Not included.

Due to the fact that Efficient Power Tech and their representatives are not on site, we will act in their stead. Decisions and changes in lighting type or quantities will be directed to Efficient Power tech. Decisions and changes in electrical wiring or scope will be directed to SPS Electric.

This project is of a size that would generally be engineered by a licensed commercial engineering firm. Due to this fact, and that we do not have exact needs, loads, startup data, inrush calculations, arc flash studies, or overcurrent determinations we will have to calculate and determine each suite based on its size and any information given to us ahead of time.

This is in no way a guarantee that the system we design will be of sufficient size at a later date, but it will be code compliant. City of Lubbock permits are included.

WE PROPOSE HEREBY TO FURNISH MATERIAL AND LABOR-COMPLETE IN ACCORDANCE WITH ABOVE SPECIFICATIONS, FOR THE SUM OF: \$223,020.00 + tax (8.25%)

Acceptance of contract- The above prices, specifications and conditions are satisfactory and hereby accepted. SPS Electric will submit invoices for work done in the current month by the 5th day of the next month. Payment will be due by the 30th of the same month. If payment is not made we reserve the right to stop all work until payment is made. All materials will be guaranteed for a period of one year after the date of substantial completion. By signing below, you are authorizing SPS Electric to do the work as specified above and make payments as described above until the total amount is paid.

NAME: AUTHORIZED SIGNATURE



DATE OF ACCEPTANCE

8-24-2023

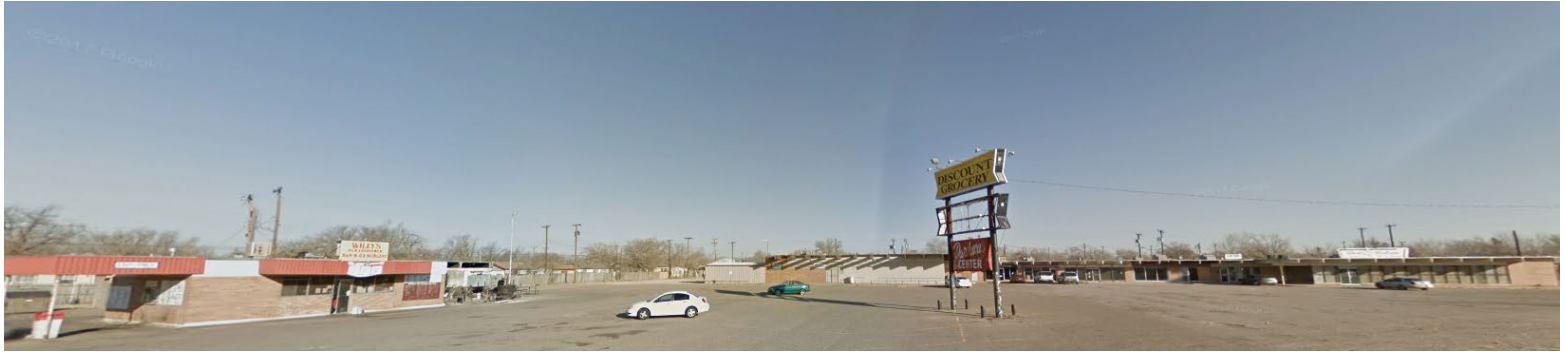
JAY FLEWHARTY -SPS ELECTRIC

DATE



8/24/2023

1805 Parkway Drive









PARKWAY DRIVE RETAIL CENTER EXISTING CONDITIONS



ARCHITECTURE GROUP
COMMERCIAL / RESIDENTIAL DEVELOPMENT

ARCHITECT:
SARA BRADSHAW, AIA
SK ARCHITECTURE GROUP
6302 70TH ST.
LUBBOCK, TEXAS 79424
806.300.8151

PRELIMINARY NOT FOR
REGULATORY
APPROVAL
PERMITTING, OR
CONSTRUCTION
806.300.8151

OWNER CONTACT:
DAVID SPADA
BIG D PROPERTY
940.595.1969

SHEET INDEX	
01	PLAN SITE
02	SECTION ELEVATION
03	SECTION ELEVATION
04	SECTION ELEVATION



PROJECT KEYNOTES	
1	EXISTING RETAIL BUILDING
2	EXISTING RETAIL BUILDING
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A301

PRELIMINARY NOT FOR
REGULATORY
APPROVAL
PERMITTING, OR
CONSTRUCTION
806.300.8151

PARKWAY DRIVE RETAIL CENTER
EXISTING CONDITIONS
1807 PARKWAY DRIVE
LUBBOCK, TEXAS

ARCHITECTURE GROUP
COMMERCIAL / RESIDENTIAL DEVELOPMENT

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ARCHITECTURE GROUP
COMMERCIAL / RESIDENTIAL DEVELOPMENT

A301
EXTERIOR ELEVATIONS



CS1

Information

Agenda Item

Ordinance 2nd Reading - Right-of-Way: Consider Ordinance No. 2023-O0134, abandoning and closing portions of street and alley right-of-way in Section AK, Block 38, Lubbock County, Texas, in the West Milwaukee Ridge Subdivision, east of Upland Avenue between 37th Street and the Lubbock & Western Railway tracks.

Item Summary

On October 10, 2023, the City Council approved the first reading of the ordinance.

The City of Lubbock Engineering Department proposes abandoning and closing portions of the alley right-of-way located in the West Milwaukee Ridge Subdivision, east of Upland Avenue between 37th Street and the Lubbock & Western Railway LLC (Railway) tracks in Section AK, Block 38, Lubbock County, Texas. It is in the public interest to close the alley in order to comply with the Railway's minimum distance between the tracks and entrances onto Upland Avenue.

The total area of the right-of-way being closed is 6,989.90 square feet. However, a utility easement will remain open for public purposes as the right-of-way is closed. This request for closure is from the City; therefore, there will not be a charge for the closure.

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 Keenum, P.E., Division Manager of Engineering/City Engineer

Attachments

Ordinance - West Milwaukee Ridge

GIS Map West Milwaukee Ridge

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING PORTIONS OF STREET AND ALLEY RIGHT-OF-WAY IN SECTION AK, BLOCK 38, 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 as an alleyway; and it would be in the public interest to close, vacate and abandon the same for right-of-way purposes as an alleyway; however it is required for public use as a utility easement; 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 as an alleyway, such right-of-way being more particularly described in the attached Exhibit "A". However, the right-of-way shall remain open for public purposes of as a utility easement.

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.

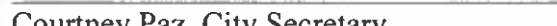
AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2023.

Passed by the City Council on second reading this ____ day of _____, 2023.

TRAY PAYNE, MAYOR

ATTEST:


Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

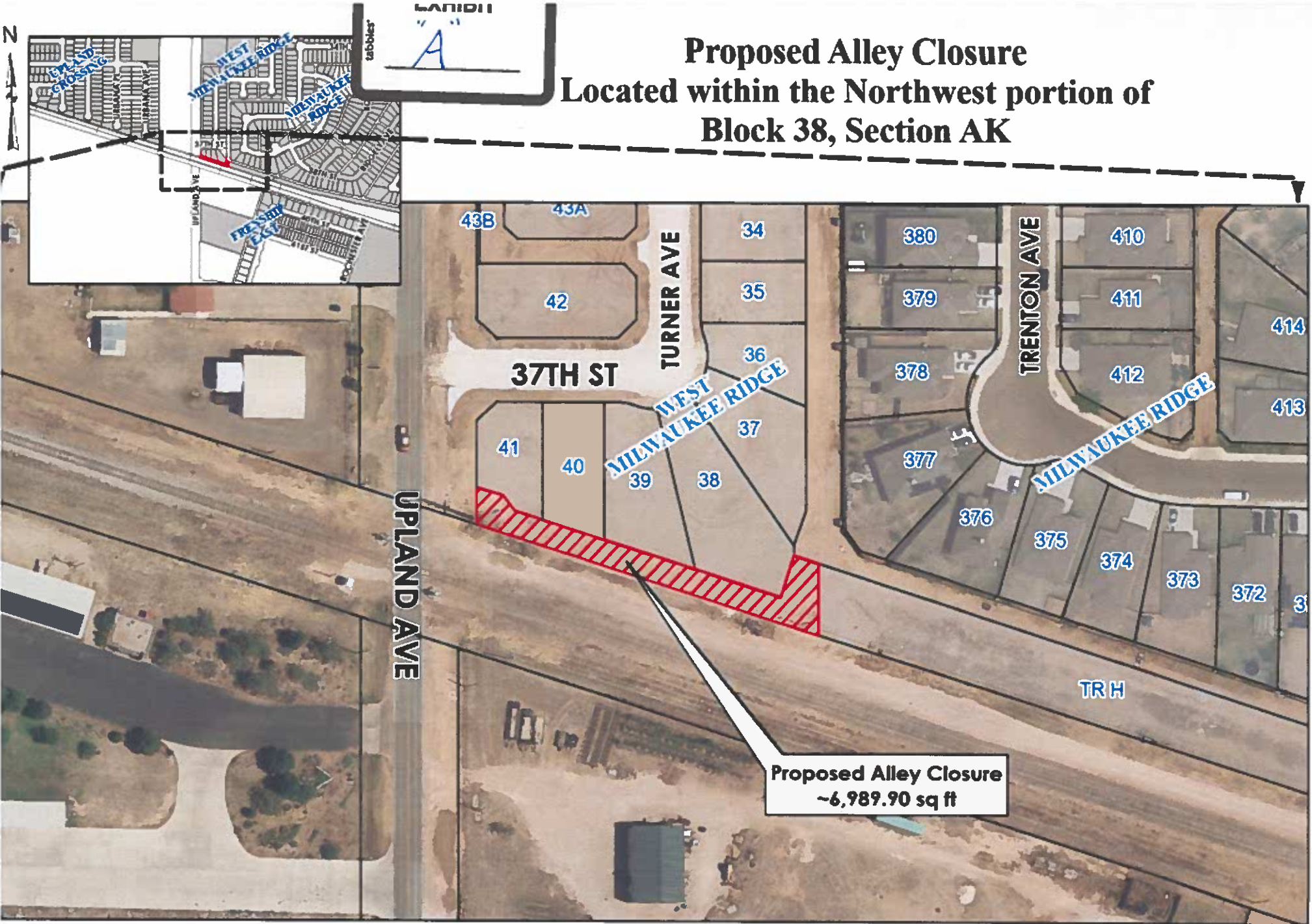

Michael Keenum, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:


Amy L. Sims, Deputy City Attorney

Ord.Street Alley Right-of-Way, Section AK, Block 38

Proposed Alley Closure Located within the Northwest portion of Block 38, Section AK



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 2nd Reading - Right-of-Way: Consider Ordinance No. 2023-O0135, abandoning and closing all remaining easements and right-of-way located in Block 130, Original Town of Lubbock, Lubbock County, Texas, south of Broadway and north of 13th Street, and west of Avenue L and east of Avenue M.

Item Summary

On October 10, 2023, the City Council approved the first reading of the ordinance.

The City of Lubbock is in receipt of a request to abandon and close all remaining alleys and utility easements located within Block 130, Original Town of Lubbock Subdivision.

Portions of the alley were closed previously, leaving remnant pieces and reservations from previous closures. A closure fee will not be assessed because a re-plat will be performed, and this closure will accommodate plans for the Downtown Civic Park.

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

Attachments

Ordinance - Block 130, Original Town

Exhibit A - All Easements & ROW Closure

Map - Block 130, Original Town of Lubbock

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING ALL REMAINING EASEMENTS AND RIGHT-OF-WAY LOCATED IN BLOCK 130, ORIGINAL TOWN OF LUBBOCK, 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 and right-of-way hereinafter described in the body of this Ordinance are no longer needed for easement and right-of-way purposes and for public use; and it would be in the public interest to close, vacate and abandon the same for easement and 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 easements and right-of-way as hereinafter described shall BE and the same are hereby closed, vacated and abandoned for easement and right-of-way purposes and for public use, such easements and 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 _____, 2023.

Passed by the City Council on second reading this _____ day of _____, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



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

APPROVED AS TO FORM:



Amy L. Sims, Deputy City Attorney

Ord.All Easements and Right-of-Way, Block 130, Original Town- Correction
9.27.23

11-09-1954
ORDINANCE NO. 1624
11-24-1954

AN ORDINANCE CLOSING, VACATING AND ABANDONING THE WEST HALF OF THE EAST-WEST ALLEY IN BLOCK 130 OF THE ORIGINAL TOWN OF LUBBOCK, LUBBOCK COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS IN THE BODY OF THIS ORDINANCE.

WHEREAS, the City Commission finds that the West half of the East-West alley in Block 130 of the Original Town of Lubbock, Lubbock County, Texas is no longer needed for alley or any public purpose; and,

WHEREAS, the City Commission of the City of Lubbock finds it will be to the public interest to CLOSE, VACATE and ABANDON same for alley purposes and to public travel; NOW, THEREFORE,

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

SECTION 1. That the portion of the East-West alley in Block 130, Original Town of Lubbock, Lubbock County, Texas; hereinafter described by metes and bounds, BE and the same is hereby in all things ABANDONED and CLOSED for alley purposes and public travel, such alley being further described as follows, to-wit:

BEGINNING at the Northwest corner of Lot 6, Block 130, Original Town of Lubbock;

THENCE North 15 feet to a point;

THENCE East 125.0 feet to a point;

THENCE South 15 feet to the Northeast corner of said Lot 6, Block 130, Original Town of Lubbock;

THENCE West a distance of 125.0 feet to the POINT OF BEGINNING.

AND IT IS SO ORDERED.

On motion of Commissioner Baker, seconded by Commissioner Thomas, this Ordinance was passed on first reading this 9th day of November, 1954, by the following vote:

Commissioners voting "YEA": Baker, Forrest, Thomas and Mayor Tripp

Commissioners voting "NAY": None

On motion of Commissioner Forrest, seconded by Commissioner Carpenter, this Ordinance was passed on second reading this 24th day of November, 1954, by the following vote:

Copy
11-29-54
to City
Atty;
Bldg. Insp.
Tax Office
(L. Ross)
City Engr.

Baker
et al

Commissioners voting "YEA": Carpenter, Forrest, Thomas and
Mayor Tripp

Commissioners voting "NAY": None


MURRELL E. TRIPP, Mayor

Samuel
New
Spillert

ATTEST:


Lavenia Lowe, City Secretary-Treasurer


FOS/kw

11-8-54

TO HAVE AND TO HOLD unto the said James Bossey, his heirs and assigns forever.

Witness my hand at Lubbock, Texas, this 17th day of February, A. D. 1925.

F. J. Day.

THE STATE OF TEXAS

COUNTY OF LUBBOCK

Before me, J. L. Adams, Notary Public in and for Lubbock County, Texas, on this day personally appeared F. J. Day known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 17th day of February, A. D. 1925.

(Seal) J. L. Adams, Notary Public, Lubbock County, Texas.

Filed for record on the 28 day of March, A. D. 1925 at 9 O'clock A. M., and
Recorded on the 15 day of April, A. D. 1925 at 2 O'clock A. M.
Herbert Stubbs, County Clerk, Lubbock County, Texas.

ORDINANCE NO. 290.

ORDINANCE CLOSING NORTH 115 FT. OF THE ALLEY RUNNING NORTH AND SOUTH THROUGH BLOCK 130 IN THE ORIGINAL TOWN OF LUBBOCK, TEXAS AND DECLARING SAID ALLEY A DANGER TO THE PUBLIC SAFETY.

Be It Ordained by the City Commission of the City of Lubbock, Texas:

Section 1. That the north 115 feet of the alley running north and south through block 130 in the original town of Lubbock, Lubbock County, Texas, be, and the same is, hereby declared a menace and danger to the public safety, and is hereby forever closed; said alley ordered closed being described by metes and bounds as follows:

Beginning at the North east corner of Lot 5 in said block 130 in the town of Lubbock, Texas; thence south to the southeast corner of said Lot 5; thence east 80 ft. to the southwest corner of Lot 20 in said block 130; thence north to the Northwest corner of said Lot 20; thence west 80 feet to the beginning; and being all that part of the alley running North and South through said block 130 which lies between Lots 5 and 20 in said block;

Section 2. There is reserved to the City, and excepted from this Ordinance, the title, use and possession of that part of the alley that shall be under the basement floor of any building or buildings erected or to be erected upon, over or across said alley or any part thereof; it being herein stipulated that the owner of any such building or buildings shall at its own expense construct and maintain beneath said basement floor an excavation in accordance with the city's specifications, so as to permit the free removal, installation and operation of the City's underground utility lines, laid or to be laid in said alley.

Section 3. This ordinance shall take effect and be in force from and after its passage.

Passed first reading this the 3rd day of March 1925.

Passed second reading this the 26th day of March, 1925.

Approved this the 26 day of March, 1925.

F. R. Friend, Mayor City of Lubbock, Texas.

ATTEST:

J. R. Germany,

City Secretary, City of Lubbock, Texas.

STATE OF TEXAS)

CITY OF LUBBOCK)

I, J. R. Germany, City Secretary of the City of Lubbock, do hereby certify that the above and foregoing in true and correct copy of Ordinance no. 290 as recorded in Minutes of City Commission of City of Lubbock in Vol. 3 Page 304.

Witness my hand this the 22th day of March, 1925.

(Seal)

J. R. Jernamy
City Secretary, City of Lubbock, Tex.

Filed for record on the 28 day of March, A. D. 1925 at 4 O'clock P. M., and
Recorded on the 15 day of April, A. D. 1925 at 2 O'clock P. M.
Herbert Stubbs, County Clerk, Lubbock County, Texas.

THE STATE OF TEXAS)

COUNTY OF LUBBOCK)

#100320

I, W. S. Johnson, Justice of the Peace, Precinct No. 1, Lubbock County, Texas, do hereby certify that I am the custodian of the records of this office and have examined Judgment Docket Vol. No. 3, at page 166, and I find Judgment was rendered in Cause No. 394, styled W. T. Jennings, plaintiff, vs. B. F. Daugherty, defendant, on June 3rd, 1911, before L. M. Knight, Justice of the Peace Precinct No. 1, Lubbock County, Texas, for the sum of ninety three Dollars and Forty Three (\$93.43) cents, principal, cost and interest.

My records show no motion to revive said judgment has been filed in my office since said judgment was rendered.

Given under my hand this the 26th day of March, A. D. 1925.

W. S. Johnson, Justice of the Peace, Precinct No. 1, Lubbock County, Texas.

Filed for record on the 28 day of March, A. D. 1925 at 11 O'clock A. M., and
Recorded on the 16 day of April, A. D. 1925 at 2 O'clock P. M.
Herbert Stubbs, County Clerk, Lubbock County, Texas.

THE STATE OF TEXAS)

COUNTY OF LUBBOCK)

#100733

KNOW ALL MEN BY THESE PRESENTS:

That I, Miss Lillian Peck, of Travis County, Texas, the owner of a part of survey 7, block 2, in Lubbock County, Texas, known as the "Sunshine Addition" to the city of Lubbock, in Lubbock County, Texas, do hereby dedicate to the public a strip of land twenty-five feet wide across the north end of said addition to be used as a public road.

Witness my hand this 4th day of March, A. D. 1925.

Lillian Peck

THE STATE OF TEXAS

COUNTY OF TRAVIS

Before me, M. L. Winton, a Notary Public in and for Travis County, Texas, on this day personally appeared Miss Lillian Peck known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 21 day of March, A. D. 1925.

(Seal) M. L. Winton, Notary Public, Travis County, Texas.

Filed for record on the 28 day of March, A. D. 1925 at 1:30 O'clock P. M., and
Recorded on the 16 day of April, A. D. 1925 at 2 O'clock P. M.
Herbert Stubbs, County Clerk, Lubbock County, Texas.

#100734

KNOW ALL MEN BY THESE PRESENTS: That Illinois Merchants Trust Company, (a banking Corporation organized and existing under the laws of the State of Illinois, with office in the City of Chicago, County of Cook, and said State), being a consolidation of Illinois Trust and Savings Bank with the Merchants' Loan and Trust Company in consideration of the sum of Five Dollars (\$5.00), lawful money of the United States of America (the receipt whereof is

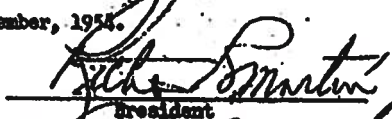
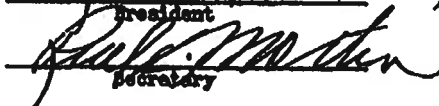
EXTRACT FROM MINUTES OF MEETING OF THE BOARD
OF DIRECTORS OF MAR-MID INCORPORATED, A
CORPORATION

"BE IT RESOLVED by the Board of Directors of Mar-Mid, Incorporated, a corporation, that the action of Betha R. Martin, President of this corporation, in executing, in the name and on behalf of this company, the following described easements, to-wit:

- (1) An easement dated October 20, 1954, in favor of the City of Lubbock for a sewer line.
- (2) An easement dated October 20, 1954, in favor of Pioneer Natural Gas Company for a gas pipe line.
- (3) An easement dated October 20, 1954, in favor of the City of Lubbock for electrical transmission lines.

Each of said easements covering the westerly half of the East and West alleyway in Block No. One Hundred Thirty (130) of the Original Town of Lubbock, in Lubbock County, Texas, be and it is hereby approved, ratified, confirmed and adopted as the act and deed of this corporation."

We, Betha R. Martin, President, and Enel C. Martin, Secretary, of Mar-Mid Incorporated, a corporation, do hereby certify that the above and foregoing is a true and correct copy of a resolution duly passed by the Board of Directors of said Mar-Mid Incorporated and a meeting thereof held in accordance with the by-laws of said corporation, quorum being present, to certify which we hereunto sign our names and affix the seal of the said corporation, this 5th day of November, 1954.


President

Secretary

THE STATE OF TEXAS)
COUNTY OF LUBBOCK)

BEFORE ME, the undersigned authority, on this day personally appeared BETHA R. MARTIN, President of the Board of Directors of Mar-Mid Incorporated, a corporation, 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 therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this 5th day of November, 1954.


NOTARY PUBLIC, LUBBOCK COUNTY, TEXAS.

APPROVED
JOHN L. SCOTT
DIST. CLY. ENCL.

19872

11-5-54

RECEIVED
RECORDED
INDEXED
COMPTON

C. C. RESOLUTION

MAR-MID, Inc.,

to

CITY OF LUBBOCK AND
PIONEER NATURAL GAS CO.

FILED FOR RECORD

1954 NOV 24 AM 9:57

CLERK
J. H. HARRIS
County Clerk, Lubbock County, Texas

15
Return to City
for maynard
City Hall

THE STATE OF TEXAS
COUNTY OF LUBBOCK

EASEMENT

WHEREAS, it is contemplated that the City of Lubbock will, by appropriate action of its governing body, close and abandon the Westerly Half of a certain alleyway running east and west through Block No. 130 of the ^{Original Town} of Lubbock in Lubbock County, Texas; and

WHEREAS, the City of Lubbock now has located in said portion of said alley a sewer line; and

WHEREAS, the undersigned Lubbock General Hospital, a corporation, is the owner in fee simple of the land now occupied by said alleyway, subject to the rights of the public therein, and the undersigned Mar-Mid Incorporated, a corporation, is the holder of a lease contract covering said land, and the undersigned parties desire to create a perpetual easement and right-of-way in favor of said City of Lubbock, its successors and assigns, as hereinafter set out:

NOW, THEREFORE, in consideration of the premises and a valuable consideration to each of the undersigned in hand paid, receipt of which is hereby acknowledged, the undersigned Lubbock General Hospital, a corporation, being the owner of the above mentioned real estate, and Mar-Mid Incorporated, a corporation, being the tenant in possession thereof, do hereby grant and convey to the said City of Lubbock, its successors and assigns, the free and uninterrupted use, liberty, privilege and easement of perpetually maintaining, operating, repairing, removing, and replacing said sewer line in its present location, including the right, if desired, to replace said line with a larger sewer line at its discretion.

TO HAVE AND TO HOLD the same perpetually to the said City of Lubbock, its successors and assigns, together with the right and privilege at any and all times to enter said premises or

S₁₀

any part thereof for the purpose of operating, maintaining,
repairing and replacing said sewer line.

EXECUTED this 20 day of October, 1954.

ATTEST:

St. Nelson
Secretary

LUBBOCK GENERAL HOSPITAL

By J. T. Krueger
President

ATTEST:

Paul Martin
Secretary

LAR - HIL INCORPORATED

By Paul Martin
President

THE STATE OF TEXAS }
COUNTY OF LUBBOCK }

BEFORE ME, the undersigned, a Notary Public, in and for
said County and State, on this day personally appeared
J. T. Krueger known to me to be the person and officer
whose name is subscribed to the foregoing instrument as
President of Lubbock General Hospital, and acknowledged
to me that he executed the same for the purposes and consideration
therein expressed, and as the act and deed of said Lubbock General
Hospital.

GIVEN under my hand and seal of office on this the 20
day of October, A. D. 1954.

William A. Krueger
Notary Public in and for
Lubbock County, Texas

THE STATE OF TEXAS }
COUNTY OF LUBBOCK }

BEFORE ME, the undersigned, a Notary Public, in and for
said County and State, on this day personally appeared Retha R.
Martin, known to me to be the person and officer whose name is

Sko

WT 553 638

subscribed to the foregoing instrument as President of said
Incorporated, and acknowledged to me that he executed the same for
the purposes and consideration therein expressed, and as
and deed of said Par-Min Incorporated.

GIVEN under my hand and seal of office on this _____
day of October, A. D. 1937.

Notary Public in and for the State of Maryland
My Comm. Expires _____

10-20-37

13875

EASTMENT

UNION CENTRAL HOSPITAL Bldg
BAL MD, INC.

to

CITY OF MURKIN

FILED FOR RECORD

OCT 27 1937 3:57

150
Return to City
Government
City Hall

Sk


"BE IT RESOLVED by the Board of Directors of Lubbock General Hospital, a corporation, that the action of J. T. Krueger, President of this corporation, in executing, in the name and on behalf of this company, the following described easements, to-wit:

- (1) An easement dated October 20, 1954, in favor of the City of Lubbock for a sewer line.
- (2) An easement dated October 20, 1954, in favor of Pioneer Natural Gas Company for a gas pipe line.
- (3) An easement dated October 20, 1954, in favor of the City of Lubbock for electrical transmission lines.

Each of said easements covering the Westerly Half of the East and West alleyway in Block No. One Hundred Thirty (130) of the Original Town of Lubbock, in Lubbock County, Texas, be and it is hereby approved, ratified, confirmed and adopted as the act and deed of this corporation."

We, J. T. Krueger, President, and J. H. Felton, Secretary, of Lubbock General Hospital, a corporation, do hereby certify that the above and foregoing is a true and correct copy of a resolution duly passed by the Board of Directors of said Lubbock General Hospital and a meeting thereof held in accordance with the by-laws of said corporation, a quorum being present, to certify which we hereunto sign our names and affix the seal of said corporation, this 5 day of November, A. D. 1954.




President


Secretary

APPROVED
J. T. KRUEGER
J. H. FELTON
CITY ENGINEER

THE STATE OF TEXAS I
COUNTY OF LUBBOCK I

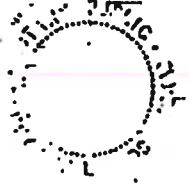
BEFORE ME, the undersigned authority, a Notary Public, in and for said County and State, on this day personally appeared J. T. KRUEGER, President of the Board of Directors of Lubbock General Hospital, a corporation, known to me to

be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 5 day of November, A. D. 1954.

553 PAGE 680

W2



JULIAN CHAPMAN

Julian Chapman
NOTARY PUBLIC IN AND FOR LUBBOCK
COUNTY, TEXAS.

11-5-54

18874

RECEIVED
LUBBOCK COUNTY
CLERK'S OFFICE
NOV 24 1954

C. C. RESOLUTION
LUBBOCK GENERAL HOSPITAL
TO
CITY OF LUBBOCK and
PIONEER NATURAL GAS COMPANY

FILED FOR RECORD

1954 NOV 24 AM 9:57

RECORDED
INDEXED
NOV 24 1954
LUBBOCK COUNTY, TEXAS

*Return to my
Lawyer
City Hall*

Security File No. 15821

15821

ORDINANCE NO. 290

ORDINANCE CLOSING NORTH 115 FT. OF THE ALLEY RUNNING NORTH AND SOUTH THROUGH BLOCK 130
IN THE ORIGINAL TOWN OF LUBBOCK, TEXAS AND DECLARING SAME A MENACE AND DANGER TO THE
PUBLIC SAFETY.

[Lined area for additional text or notes]

I, Treva Phillips, City Secretary-Treasurer, City of Lubbock, Texas hereby
certify that the above and foregoing is a true and correct copy of
Ordinance No. 290

Passed by the City Council March 26, 1925.
and of record in Minute Book No. 3, Page No. 354, City Council Minutes, City of
Lubbock, Texas
THIS 25th DAY OF June, 19 76

SEAL

Treva Phillips
Treva Phillips, City Secretary-Treasurer
City of Lubbock, Texas

ORIGINAL DIM

vol 14 78 PAGE 345

Sk

ORDINANCE NO. 220

ORDINANCE CLOSING NORTH 115 FT. OF THE ALLEY RUNNING NORTH AND SOUTH THROUGH BLOCK 130 IN THE ORIGINAL TOWN OF LUBBOCK TEXAS AND DECLARING SAME A MENACE AND DANGER TO THE PUBLIC SAFETY.

BE IT ORDAINED by the City Commission of the City of Lubbock, Texas:

Section 1. That the North 115 feet of the alley running North and South through Block 130 in the original town of Lubbock, Lubbock County, Texas, be, and the same is, hereby declared a menace and danger to the public safety, and is hereby forever closed; said alley ordered closed being described by metes and bounds as follows:

Beginning at the north east corner of Lot 5 in said Block 130 in the town of Lubbock, Texas; thence south to the southeast corner of said Lot 5, thence east 20 ft. to the southwest corner of Lot 20 in said Block 130 thence North to the Northwest corner of said Lot 20 thence West 20 feet to the beginning and being all that part of the alley running North and South through said Block 130 which lies between Lots 5 and 20 in said Block

SECTION 2. There is reserved to the City, and excepted from this Ordinance, the title, use and possession of that part of the alley that shall be under the basement floor of any building or buildings erected or to be erected upon, over or across said alley or any part thereof it being herein stipulated that the owner of any such building or buildings shall at its own expense construct and maintain beneath, said basement floor an excavation in accordance with the city's specifications, so as to permit the free removal, installation and operation of the City's underground utility lines, laid or to be laid in said alley.

SECTION 3. This ordinance shall take effect and be in force from and after its passage.

Passed first reading this the 3rd day of March 1925.

Passed final reading this the 26th day of March 1925.

Approved this the 26th day of March 1925.

E. R. Friend,
Mayor, City of Lubbock, Texas.

ATTEST:
J. R. Germany,
City Secretary, City of Lubbock, Texas.

ORIGINAL DIM

FILED FOR RECORD

JUN 30 3 31 PM '76

STATE OF TEXAS
COUNTY OF LUBBOCK

I hereby certify that this instrument was FILED on the date and at the time stamped herein by me and was duly RECORDED in the Volume and Page of the RECORDING of Lubbock County, Texas as stamped herein by me.

JUN 30 1976



Jim H. ...

COUNTY CLERK
LUBBOCK COUNTY TEXAS

Skg



THE STATE OF TEXAS I
COUNTY OF LUBBOCK I

EASEMENT

WHEREAS, it is contemplated that the City of Lubbock will, by appropriate action of its governing body, close and abandon the Westerly Half of a certain alleyway running east and west through Block No. 130 of the ^{Original Town} City of Lubbock in Lubbock County Texas; and

WHEREAS, the City of Lubbock now has located in said portion of said alley, six electrical transmission lines; and

WHEREAS, the undersigned Lubbock General Hospital, a corporation, is the owner in fee simple of the land now occupied by said alleyway, subject to the rights of the public therein, and the undersigned Mar-Mid Incorporated,, a corporation, is the holder of a lease contract covering said land, and the undersigned parties desire to create a perpetual easement and right-of-way in favor of said City of Lubbock, its successors and assigns, as hereinafter set out:

NOW, THEREFORE, in consideration of the premises and a valuable consideration to each of the undersigned in hand paid, receipt of which is hereby acknowledged, the undersigned Lubbock General Hospital, a corporation, being the owner of the above mentioned real estate, and Mar-Mid Incorporated,, a corporation, being the tenant in possession thereof, do hereby grant and convey to the said City of Lubbock, its successors and assigns, the free and uninterrupted use, liberty, privilege and easement of perpetually maintaining, operating, repairing, removing and replacing said transmission lines in their present location, including the right, if desired, to install additional underground lines at its discretion.

TO HAVE AND TO HOLD the same perpetually to the said City of Lubbock, its successors and assigns, together with the right and

privilege at any and all times to enter said premises or any part thereof for the purpose of operating, maintaining, repairing and replacing said transmission lines.

EXECUTED THIS 20th day of October, 1954.

ATTEST:

[Signature]
Secretary

LUBBOCK GENERAL HOSPITAL

By [Signature]
President

ATTEST:

[Signature]
Secretary

MAR-MID INCORPORATED

By [Signature]
President

THE STATE OF TEXAS Y
COUNTY OF LUBBOCK Y

APPROVED
JOHN L. SCOTT
ASST. CITY ENGR.

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared _____

[Signature] known to me to be the person and officer whose name is subscribed to the foregoing instrument as _____

[Signature] of Lubbock General Hospital, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act and deed of said Lubbock General Hospital.

GIVEN under my hand and seal of office on this, the 20th day of October, A.D. 1954.

[Signature]
Notary Public in and for Lubbock
County, Texas

THE STATE OF TEXAS Y
COUNTY OF LUBBOCK Y

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Retha R. Martin, known to me to be the person and officer whose name is subscribed to the foregoing instrument as President of Mar-Mid Incorporated,,

VOL 553 PAGE 684

and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and as the act and deed of said Mar-Mid Incorporated.

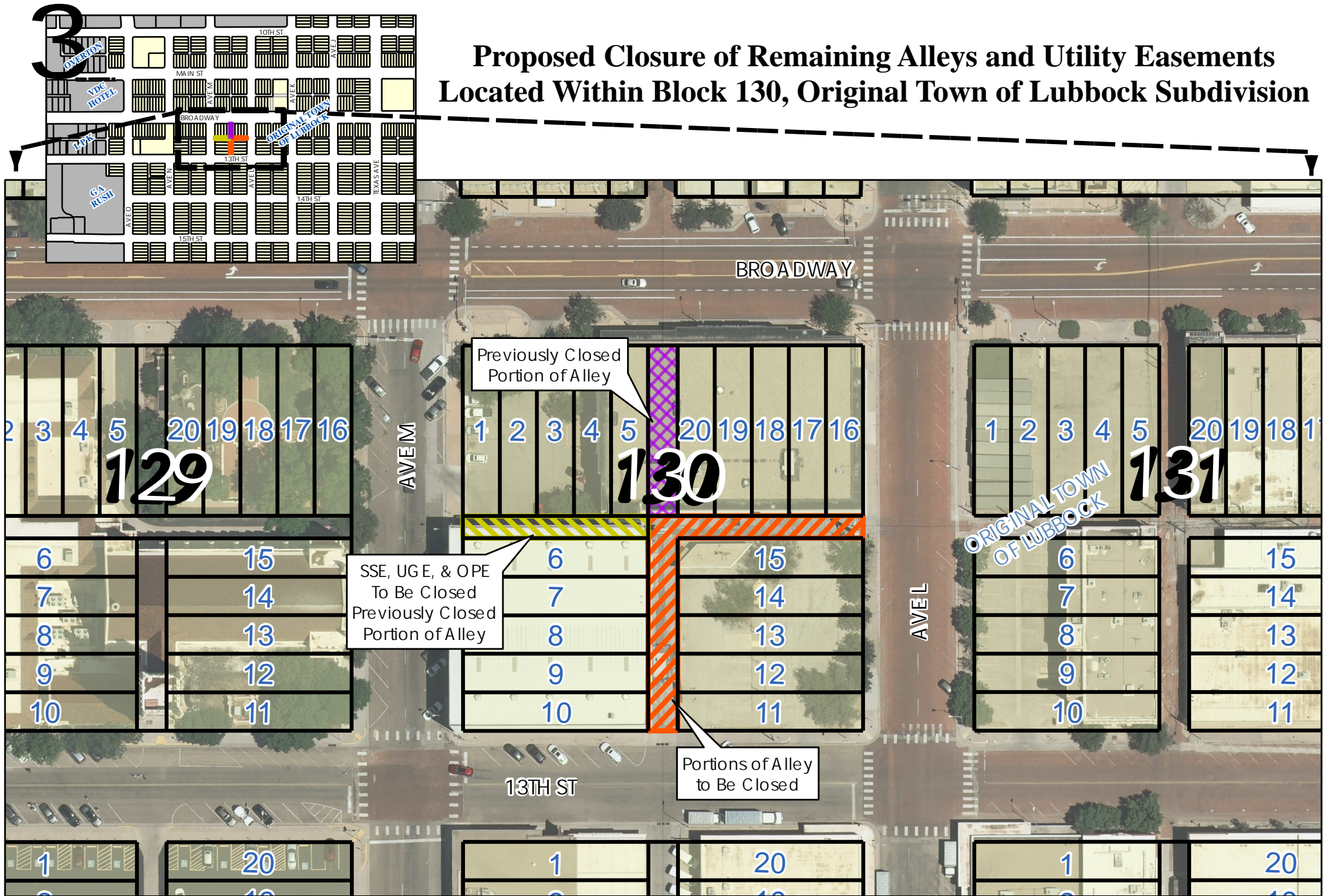
GIVEN under my hand and seal of office on this, the 20th day of October, A. D. 1954.

R. L. Turley

R. L. TURLEY

Notary Public in and for Lubbock
County, Texas

Proposed Closure of Remaining Alleys and Utility Easements Located Within Block 130, Original Town of Lubbock Subdivision



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.



Digital Orthophotography - May 2021

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 17625, with Freese and Nichols, Inc., for engineering design services as it relates to Upland Avenue from 50th Street to 66th Street.

Item Summary

On November 8, 2022, Lubbock voters approved issuance of a \$200 million Street Improvements Bond Package, for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Upland Avenue from 50th Street to 66th Street is currently a 2-lane paved road and is designated in the 2018 Master Thoroughfare Plan to become a 5-lane modified principal arterial roadway. Continued growth in northwest Lubbock has increased traffic demands along the north Upland Avenue street corridor from 50th Street to 66th Street. Professional Services Agreement 17625 will provide the full design of an all-weather roadway at the ultimate roadway configuration of 5 lanes.

Staff conducted contract negotiations with Freese and Nichols, Inc., after establishing them as qualified under RFQ 21-15876-JM for providing engineering services. Fair and reasonable hourly rates were agreed upon for a total contract amount of \$1,208,443 with a 12-month contract duration. Staff recommends Freese and Nichols, Inc., of Lubbock, Texas, be awarded the professional service contract that will provide the plans, specifications, estimates and bid phase services for Upland Avenue from 50th Street to 66th Street.

Fiscal Impact

This contract is not to exceed \$1,208,443, and is funded in Capital Improvements Project 92824, Upland Avenue: 50th Street to 66th Street – 22B.

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Resolution

Professional Services Agreement

Location Exhibit

Budget Detail

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Professional Services Agreement Contract No. 17625 for engineering design services for Upland Avenue from 50th Street to 66th Street, by and between the City of Lubbock and Freese and Nichols, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

 *for*

Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 17625 is entered into this ____ day of _____, 2023, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Freese and Nichols, Inc., (the "Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide engineering design services for Upland Avenue from 50th Street to 66th Street, (the "Activities"); and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by the City and the Engineer to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to the Activities, and Engineer desires to provide the Services related to same.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, the City and the Engineer hereby agree as follows:

ARTICLE I. TERM

The term of this Agreement commences on the Effective Date and continues without interruption for a term of 12 months. If the Engineer determines that additional time is required to complete the Services, the City Engineer, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Exhibit "A", attached hereto (the "Services").

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed \$1,208,443, as set forth in Exhibit "B".

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this Agreement, this provision shall control.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

A. Existence. The Engineer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. The Engineer has the corporate power to enter into and perform this Agreement and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Agreement and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part

of the Engineer. This Agreement constitutes legal, valid, and binding obligations of the Engineer and is enforceable in accordance with the terms thereof.

D. Engineer. The Engineer maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and is familiar with all laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Activities contemplated hereby.

E. Performance. The Engineer will and shall conduct all activities contemplated by this Agreement in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional services, as contemplated hereby.

F. Use of Copyrighted Material. The Engineer warrants that any materials provided by the Engineer for use by City pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other law, statute, rule, order, regulation, ordinance or contractual obligation relating to the use or reproduction of materials. The Engineer shall be solely responsible for ensuring that any materials provided by the Engineer pursuant to this Agreement satisfy this requirement and the Engineer agrees to indemnify and hold City harmless from all liability or loss caused to City or to which City is exposed on account of the Engineer's failure to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Engineer shall accomplish the following: Professional Services related to the Services, as provided in Exhibit "A", attached hereto and made a part hereof.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Engineer and the City agree that the Engineer shall perform the duties under this Agreement as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. The Engineer has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, the Engineer and the Engineer's employees and/or sub-consultants, will not be considered, for any purpose, employees or agents of the City within the meaning or the application of any federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

The Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or sub-consultant of the Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Single Limit: \$1,000,000

General Aggregate Limit: \$2,000,000

Professional Liability:

Combined Single Limit: \$2,000,000

Automobile Liability:

Combined Single Limit for any auto: \$1,000,000 Per Occurrence

Employer's Liability:

Per Occurrence Single Limit: \$1,000,000

Worker's Compensation

Per Occurrence Single Limit: \$500,000

The Engineer shall further cause any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Engineer herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The City shall be listed as a primary and noncontributory additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. The Engineer shall provide a Certificate of Insurance to the City as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy shall be included in the Certificate. The Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Engineer shall maintain said coverage throughout the term of this Agreement and

shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City. If at any time during the life of the Agreement or any extension hereof, the Engineer fails to maintain the required insurance in full force and effect, the Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained at the Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this Agreement and the discovery period (possibly through tail coverage) shall be no less than 10 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

The Engineer may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Engineer, as set forth on Exhibit "A", attached hereto, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Engineer is at all times responsible to the City to perform the Services as provided in this Agreement and the Engineer is in no event relieved of any obligation under this Agreement upon retainage of any approved Sub-consultant. Any agent and/or Sub-consultant retained and/or employed by the Engineer shall be required by the Engineer to carry, for the protection and benefit of the City and the Engineer and naming said third parties as additional insureds, insurance as described above required to be carried by the Engineer in this Agreement.

The Engineer represents that such services are either under applicable value thresholds or are otherwise exempt from notice and/or bid requirements under Texas Law.

ARTICLE X. CONFIDENTIALITY

The Engineer shall retain all information received from or concerning the City and the City's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the City, unless otherwise required by law.

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING,

ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

Freese and Nichols, Inc.
Kevin Morris, P.E.
1500 Broadway Street, Suite 206
Lubbock, TX 79401
Telephone: 806-686-2700
Email: kevin.morris@freese.com

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

Sarah Davis
City of Lubbock
P.O. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 806-775-3157
Email: sdavis@mylubbock.us

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, referring specifically to this Agreement, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

Provision of Data. The City shall furnish the Engineer non-confidential studies, reports and other available data in the possession of the City pertinent to the Engineer's Services, so long as the City is entitled to rely on such studies, reports and other data for the performance of the Engineer's Services under this Agreement (the "Provided Data"). The Engineer shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

ARTICLE XV. MISCELLANEOUS

A. Captions. The captions for the articles and sections in this Agreement are inserted in this Agreement strictly for the parties' convenience in identifying the provisions to this Agreement and shall not be given any effect in construing this Agreement.

B. Audit. The Engineer shall provide access to its corporate books and records to the City. The City may audit, at its expense and during normal business hours, the Engineer's books and records with respect to this Agreement between the Engineer and the City.

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer.

D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

E. Successor and Assigns. This Agreement binds and inures to the benefit of the City and the Engineer, and in the case of the City, its respective successors, legal representatives, and assigns, and in the case of the Engineer, its permitted successors and assigns.

F. Construction and Venue.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE

AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

G. Severability. If any provision of this Agreement is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstance, the remainder of this Agreement and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

H. Amendment. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Agreement, and duly authorized and executed by the Engineer and the City.

I. Entire Agreement. This Agreement, including Exhibits "A" through "B" attached hereto, contains the entire agreement between the City and the Engineer, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

J. No Joint Enterprise. Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between the Engineer and the City.

K. Documents Owned by City. Any and all documents, drawings and specifications prepared by Engineer as part of the Services hereunder, shall become the property of the City when the Engineer has been compensated as set forth in Article II, above. The Engineer shall make copies of any and all work products for its files.

L. Notice of Waiver. A waiver by either the City or the Engineer of a breach of this Agreement must be in writing and duly authorized to be effective. In the event either party shall execute and deliver such waiver, such waiver shall not affect the waiving party's rights with respect to any other or subsequent breach.

M. Third Party Activities. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than the City and the Engineer.

N. Non-Appropriation. All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the services provided under the Agreement, the City will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first (the "Non-Appropriation Date"). If at any time funds are

not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Engineer on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the Non-Appropriation Date.

O. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code, prohibits the City from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization

P. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, a) This section applies only to a contract that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. (b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

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

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

S. Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

To the extent Subchapter J, Chapter 552, Government Code applies to this agreement, Contractor agrees to: (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the governmental body for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and (3) on completion of the contract, either: (A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



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

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

Firm

Freese and Nichols, Inc.


By:  _____
John F. Dewer, P.E.
Vice President/Principal

EXHIBIT A

Scope for Engineering Design Related Services for

Upland Avenue (from 50th Street to 66th Street)

The scope set forth herein defines the work to be performed by the ENGINEER in completing the project. Both the CITY and ENGINEER have attempted to clearly define the work to be performed and address the needs of the Project.

OBJECTIVE

Engineering Design: The objective of the Upland Avenue (50th St to 66th St) Improvements project is to improve vehicular and pedestrian mobility and safety from 50th Street to 66th Street (1.0 miles) The existing conditions within the project area are generally a two-lane undivided roadway with bar ditch drainage conveyance within variable right of way. Project limits are generally 50th Street to 66th Street; however, the intersection of 50th Street and Upland Avenue has been previously designed by the ENGINEER while the intersection of 66th Street and Upland Avenue has been designed by others. The project will include the design and construction of a five-lane undivided thoroughfare with curb and gutter, drainage, street lights, and sidewalks within a 110-foot right-of-way. The project will include up to three (3) drainage easements to accommodate cross-drainage.

The project will require active coordination with four projects adjacent to this project:

Upland Avenue 34th Street to 50th Street

Upland Avenue 66th Street to 82nd Street

66th Street Alcove Avenue to Upland Avenue

50th Street/CR 6900 from FM 179 to Upland Avenue

WORK TO BE PERFORMED

Engineering Design:

- Task 1. Design Management and Quality Control/Quality Assurance**
- Task 2. Conceptual Design (Schematic)**
- Task 3. Preliminary Design (60%)**
- Task 4. Final Design (90% and 100%)**
- Task 5. Bid Phase Services**
- Task 6. ROW/Easement Services**
- Task 7. Survey and Subsurface Utility Engineering Services**
- Task 8. Geotechnical Investigation / Pavement Design**
- Task 9. Permitting**

ENGINEERING DESIGN:

TASK 1. DESIGN MANAGEMENT

ENGINEER will manage the work outlined in this scope to efficiently and effectively use ENGINEER's and CITY's time and resources. ENGINEER will manage change, communicate effectively, coordinate internally and externally as needed, and proactively address issues with the CITY's Project Manager and others as necessary to make progress on the work.

ENGINEER will develop a Quality Control/ Quality Assurance Plan (QC/QA Plan) outlining the ENGINEER's method of ensuring the highest levels of design and accuracy are incorporated into the calculations, plans, specifications, and estimates.

ENGINEER is responsible for and shall coordinate all subconsultant activity to include quality and consistency of plans.

At any time during the project the CITY may request from the ENGINEER documentation relative to QC/QA for project submittals.

1.1. Managing the Team:

- Lead, manage and direct design team activities
- Perform Quality Control / Quality Assurance (QC/QA) reviews in conjunction with performance of the work.
- Communicate internally among team members
- Task and allocate team resources

1.2. Communications and Reporting:

- Attend a pre-design project kickoff meeting with CITY staff to confirm and clarify scope, understand CITY objectives, and develop economical and functional designs that meet CITY requirements
- Conduct and document monthly project update meetings with CITY Project Manager
- Conduct and document biweekly internal design team meetings
- Conduct up to three (3) site visits
- Conduct one (1) review meeting with the CITY after each of the 30%, 60%, and 90% design submittals
- Conduct QC/QA reviews and document those activities.
- Prepare invoices, and submit monthly in the format requested by the CITY. Prepare and submit monthly One Page Reports.
- Prepare and submit baseline Project Schedule initially, and monthly Project Schedule updates with a schedule narrative as updates occur.
- Coordinate with adjacent projects including:
 - Upland Avenue 34th Street to 50th Street

- Upland Avenue 66th Street to 82nd Street
- 66th Street Alcove Avenue to Upland Avenue
- 50th Street/CR 6900 from FM 179 to Upland Avenue

1.3. QC/QA of Subconsultants

- The ENGINEER's subconsultants shall perform Quality Control/ Quality Assurance on all procedures, field surveys, data, and products prior to delivery to the CITY. ENGINEER's subconsultants shall certify in writing via a letter that the information provided has undergone a Quality Control/ Quality Assurance process.

1.4. QC/QA of Design Documentation

- ENGINEER shall perform a QC/QA review of all documents being submitted for review at all stages of the design. QA should be performed by an individual within the firm who is not on the design team.
- A Comment Resolution Log will be used to document conflicting comments between reviewers and to highlight comments made by the CITY that the ENGINEER is not incorporating into the design documents along with the associated explanation.
- The documentation of a QC/QA review includes electronic copies of the color-coded, original marked-up document (or "check print") developed during the QC checking process and/or review forms which sequentially list documents and associated comments.

ASSUMPTIONS

- One (1) pre-design project kickoff meeting with CITY
- Twelve (12) monthly project update meetings during design phase with the CITY
- Three (3) plan review meetings with the CITY
- Twenty (20) bi-weekly design team meetings
- Project design phase is anticipated to take twelve (12) months.
- Twelve (12) monthly updates of One Page Reports, Project Schedule, Action Items/Decisions Made Log.
- All submittals to the CITY will be quality checked prior to submission.

DELIVERABLES

- A. Meeting summaries with action items
- B. Baseline design schedule and monthly updates with schedule narrative describing any current or anticipated schedule changes
- C. Monthly One Page Reports
- D. Monthly invoices

E. QC/QA documentation

TASK 2. CONCEPTUAL DESIGN (SCHEMATIC)

The Conceptual Design shall be submitted to CITY per the approved Project Schedule.

The purpose of the Conceptual Design is for the ENGINEER to identify, develop, communicate through the defined deliverables, and recommend the design concept that successfully addresses the design problem, and to obtain the CITY's endorsement of this concept.

ENGINEER will develop the Conceptual Design of the improvements as follows:

2.1. Data Collection

- Review Available CAD and GIS files from CITY
- Gather Aerial, GIS, LiDAR Data
- Review available CITY records development including plats and drainage studies
- Review available Franchise Utility Data
- Setup CAD files based on Available Data
- Conduct up to two (2) site visits

2.2. Conceptual Design Schematic

ENGINEER will provide design services to the CITY with the following design components. All information listed will be provided on the design schematic:

GENERAL DESIGN

- TYPICAL SECTIONS – Including existing and proposed typical sections showing pavement (roadway, sidewalk, curb), ROW, lane widths (with direction arrows).
- ALIGNMENT DATA
- RIGHT-OF-WAY AND EASEMENT MAP – Including parcels numbers

ROADWAY DESIGN

- ROADWAY PLAN AND PROFILE – Including plan and profile views (Upland Avenue) showing existing and proposed horizontal and vertical roadway alignments, existing and proposed right-of-way/easements, sidewalks, driveways, and existing utilities.

CROSS SECTION DESIGN

- CROSS SECTIONS – Including Upland Avenue centerline station at a 50' interval, existing top of ground line, proposed roadway section, and easement and right-of-way limits.

2.3. Conceptual Drainage Design Analysis

ENGINEER will provide design services to the CITY with the following design analysis. All information listed will be provided in the drainage design analysis:

- Hydrologic and hydraulic data sources for existing conditions.
- Project drainage area map
- Conveyance paths, slopes, time of concentration, and runoff coefficients as required to calculate design-year flows.
- Subdivided drainage areas into sub-areas and calculations of the discharge at each discharge location.
- ICPR H&H models of existing and proposed conditions
- Evaluation of adequacy of the ROW needed to accommodate the proposed roadway and drainage system.
- Identification and preliminary sizing of necessary offsite drainage easements.
- Identification and preliminary sizing of cross culvert.
- Identification and preliminary sizing of playa lake cut/fill needs.

2.4. Opinion of Probable Construction Cost

- ENGINEER will develop an opinion of probable construction cost (OPCC) based on design plans. Sources of data used in the preparation of the OPCC include construction data aggregation services, similar past project performed by ENGINEER, and professional experience and engineering judgement.

2.5. Utility Conflict Coordination

- ENGINEER will develop the design of CITY facilities to avoid or minimize conflicts with existing utilities, and where known and possible consider potential future utilities in designs. Where conflicts cannot be avoided, coordination of Utility Conflicts will begin at the Conceptual Design phase.
- In the case of a public utility conflict, the ENGINEER will design CITY facilities to avoid or minimize conflicts with existing utilities, and where known and possible consider potential future utilities in designs.
- In the case of a private Utility Conflict, the ENGINEER will provide a PDF set of plans with the utility conflicts highlighted and a Utility Conflicts Table of those conflicts to be included in a Utility Clearance Letter for coordination. The ENGINEER may need to coordinate directly with the private utility provider if that provider needs to undertake design to adjust their utility's location.
- The ENGINEER shall deliver a PDF file of the approved preliminary schematic to the City for forwarding to all utility companies which have facilities within the limits of the project. The PDF file should be created directly from the CAD files.

ASSUMPTIONS

- Digital copy of Schematic (PDF).
- Digital copy of Drainage Analysis Report.
- Digital copy of opinion of probable construction cost.

DELIVERABLES

- A. Conceptual Schematic
- B. Conceptual Drainage Analysis Report
- C. Opinion of Probable Construction Cost
- D. Utility Conflict Coordination Package

TASK 3. PRELIMINARY DESIGN (60%)

ENGINEER shall not proceed with Preliminary Design activities without written approval by the CITY of the Conceptual Design Package. Preliminary Design shall be submitted to CITY per the approved Project Schedule.

ENGINEER will develop the Preliminary Design of the improvements as follows:

3.1. Preliminary Design Plans:

- ENGINEER will progress, update, or revise the design components listed in the Conceptual Design submittal and the additional design plans:

GENERAL DESIGN

- COVER SHEET – Including project limits and location map
- INDEX OF SHEETS
- GENERAL NOTES – Including applicable City standard general notes
- DESIGN LEGEND
- QUANTITY SUMMARY – Including tables of quantities per sheet
- SURVEY CONTROL AND PROJECT LAYOUT – Including control points with X, Y, Z coordinates, identified coordinate system, vertical datum, and bearing base.
- RIGHT-OF-WAY AND EASEMENT MAP – Including parcels numbers
- EXISTING UTILITY MAP – Including collected Level A-D SUE data (Task 8).
- CONSTRUCTION PHASING NARRATIVE AND TYPICAL SECTION – Including description of the suggested construction phasing and typical sections. The construction phasing narrative includes expectation and restrictions of the construction during the multi-phase project.
- CONSTRUCTION DETOUR PLAN – Including layout of allowable/approved detour plan to be utilized but the project
- TRAFFIC CONTROL DETAILS – Including applicable CITY and TxDOT traffic control details. Assumes that the Contractor will prepare and implement a traffic control plan in accordance with the Texas Manual on Uniform Traffic Control Devices.

ROADWAY DESIGN

- REMOVAL PLAN – Including removal of above and below ground features necessary for the construction of the project improvements.
- ROADWAY PLAN AND PROFILE – Including plan and profile sheets (Upland Avenue) showing existing and proposed horizontal and vertical roadway alignments, right-of-way/easements, sidewalks, driveways, lane dimensions, drainage structures, and City and franchise-owned utilities.
- ROADWAY KEY MAP
- SIDESTREET PLAN AND PROFILE – Including plan and profile sheets showing existing and proposed horizontal and vertical roadway alignments, right-of-way/easements, sidewalks, driveways, lane dimensions, drainage structures, and City and franchise-owned utilities.
- INTERSECTION LAYOUTS – Including spot grades and dimensions for grades at radii, fillets, and valley gutters at cross-street intersections.
- DRIVEWAY DETAILS - Including key elevations, dimensions, proposed driveway section, and easement and right-of-way limits.
- ROADWAY DETAILS – Including necessary non-standard details.
- STANDARD ROADWAY DETAILS

DRAINAGE DESIGN

- OVERALL DRAINAGE AREA MAP – Delineate the watershed based on contour data and field verification and document existing street, right-of-way and drainage easement capacities for the subject site. A drainage area map will be drawn at maximum 1" = 200' scale from available 1-foot contour data with the contours labeled. Data source and year will be provided by the ENGINEER.
- STORMWATER ROUTING PLAN– Including proposed flow lines, HGL contours, lengths and slopes of outfalls.
- CHANNEL PLAN AND PROFILE - Including plan and profile sheets showing existing and proposed horizontal and vertical drainage alignments, existing and proposed flow lines, HGL, lengths, slopes, and cross-section of proposed channel improvements.
- CULVERT DESIGN – Including culvert layout sheets showing location and size of all culverts, including existing and proposed flow lines, flows, lengths and slopes of pipe, top of ground profile over pipe and connections to existing or proposed culverts.
- CUT/FILL PLAN – Including plan sheets showing limits of cut, fill, peak water surface elevation, volume calculations, and reclamation totals.
- DRAINAGE DETAILS - Including necessary non-standard details.

UTILITY DESIGN

- MINOR UTILITY ADJUSTMENT PLAN – Including plan sheets for the minor adjustment (for example, adjustment of valve or manhole to proposed finished grade) of existing water and sanitary sewer utilities within the project area.
- CITY OF LUBBOCK - SANITARY SEWER DETAILS
- CITY OF LUBBOCK - WATER DETAILS

ILLUMINATION DESIGN

- ILLUMINATION PLAN – Including plan sheets showing proposed illumination pole, conduit, and electrical service. The development of a photometric diagram will be considered an additional service. The electrical design for the project will include the electrical distribution system for the lighting system described. There will be a minimum of two (2) electrical utility service locations and a maximum of three (3) electrical service locations.
- ILLUMINATION DETAILS

TRAFFIC SIGNAL DESIGN

- SIGNAL PLAN AND SUMMARIES – CITY Traffic Engineering department will develop the signal designs required for the project in coordination with the ENGINEER. Sheets, quantities and specifications will be developed by the CITY and incorporated into deliverable packages by ENGINEER.

SIGNING AND PAVEMENT MARKING DESIGN

- SIGNING AND PAVEMENT MARKING PLAN – Including pavement markings, traffic buttons, and traffic signage (CITY and TMUTCD compliant) for the roadway improvements.
- CITY OF LUBBOCK SIGNING AND PAVEMENT MARKING DETAILS

LANDSCAPE DESIGN

- LANDSCAPE PLAN – Including proposed locations of topsoil, sod, and hydromulch in relation to the proposed improvements.

EROSION CONTROL

- EROSION CONTROL PLAN – Including proposed locations of sediment and erosion control BMPs in relation to the proposed improvements.

3.2. Preliminary Design Project Manual (Contract and Specifications)

ENGINEER will submit all deliverables needed to prepare the Project Manual (Contract and Specifications) using the CITY's front end and technical specifications. The ENGINEER shall supplement the technical specifications, as needed.

3.3. Opinion of Probable Construction Cost

ENGINEER will develop an opinion of probable construction cost (OPCC) based on design plans. Sources of data used in the preparation of the OPCC include

construction data aggregation services, similar past project performed by ENGINEER, and professional experience and engineering judgement.

3.4. Constructability Review Meeting

Prior to the Preliminary Design Review Meeting with the CITY, the ENGINEER shall schedule and attend a project site visit with the CITY Project Manager. The ENGINEER shall summarize the CITY's comments from the field visit and submit this information to the CITY in writing.

3.5. Utility Conflict Coordination

- ENGINEER will provide a digital set of plans in PDF format with the utility conflicts highlighted and a Utility Conflicts Table of those conflicts. The PDF file should be created directly from the CAD files.

ASSUMPTIONS

- Two (2) copies of half size (11"x17") plans.
- One (1) set of the Specifications.
- Two (2) copies of opinion of probable construction cost.
- Electronic copy (PDF) of the plans, specifications, and OPCC.

DELIVERABLES

- A. Preliminary Design Plans
- B. Preliminary Specifications
- C. Opinion of Probable Construction Cost
- D. Utility Conflict Coordination Package

TASK 4. FINAL DESIGN (90% AND 100%).

ENGINEER shall not proceed with Final Design activities without written approval by the CITY of the Preliminary Design Package. Final Design shall be submitted to CITY per the approved Project Schedule.

ENGINEER will develop the Final Design of the improvements as follows:

4.1. Final Design (90%) Plans:

- ENGINEER will progress, update, or revise the design plans listed in the Conceptual Design submittal and the additional design plans:

4.2. Final Design (90%) Specifications

- ENGINEER will prepare the Specifications using the CITY's front end and technical specifications. The ENGINEER shall supplement the technical specifications, as needed.

4.3. Opinion of Probable Construction Cost

- ENGINEER will develop an opinion of probable construction cost (OPCC) based on design plans. Sources of data used in the preparation of the OPCC include construction data aggregation services, similar past project performed by ENGINEER, and professional experience and engineering judgement.

4.4. Utility Conflict Coordination Package

- ENGINEER will provide a digital set of plans in PDF format with the utility conflicts highlighted and a Utility Conflicts Table of those conflicts. The PDF file should be created directly from the CAD files.

4.5. Final Design (100%) Plans:

- ENGINEER will progress, update, or revise the design plans listed in the Conceptual Design submittal and the additional design plans:

4.6. Final Design (100%) Specifications

- ENGINEER will prepare the Specificationsg using the CITY's front end and technical specifications. The ENGINEER shall supplement the technical specifications, as needed.

4.7. Opinion of Probable Construction Cost

- ENGINEER will develop an opinion of probable construction cost (OPCC) based on design plans. Sources of data used in the preparation of the OPCC include construction data aggregation services, similar past project performed by ENGINEER, and professional experience and engineering judgement.

ASSUMPTIONS

- Two (2) copies of half size (11"x17") plans for 90% and 100% Design.
- One (1) set of the Specifications for 90% and 100% Design.
- Two (2) copies of opinion of probable construction cost for 90% and 100% Design.
- Electronic copy (PDF) of the plans, project manual, and OPCC for 90% and 100% Design.

DELIVERABLES

- A. Final Design Plans (90% and 100%)
- B. Final Design Specifications (90% and 100%)
- C. Opinion of Probable Construction Cost (90% and 100%)
- D. Utility Conflict Coordination Package (90% and 100%)

TASK 5. BID PHASE SERVICES.

ENGINEER will support the bid phase of the project as follows.

5.1. Bid Support

- The ENGINEER will provide technical interpretation of the contract bid documents and will prepare proposed responses to all bidder's questions and requests in the form of addenda. Attend the pre-bid conference in support of the CITY.
- When substitution prior to award of contracts is allowed in the contract documents, the ENGINEER will advise the CITY as to the acceptability of alternate materials and equipment proposed by bidders.
- Attend the bid opening in support of the CITY.
- Tabulate and review all bids received for the construction project, assist the CITY in evaluating bids/proposals, and recommend award of the contract. A copy of the Bid Tabulation will be provided to the CITY.
- Assist the CITY in determining the qualifications and acceptability of prospective contractors, subcontractors, and suppliers.
- The ENGINEER will provide the CITY with a recommendation of award letter after the review of the provided bids.
- Incorporate all addenda into the contract documents and issue conformed sets. After the bid opening, ENGINEER will provide up to five (5) full size (22"x34") sets and up to seven (7) half size (11"x17") sets of the Conformed Plans and up to two (2) bound copies of the conformed Project Manual set incorporating all approved addenda.

ASSUMPTIONS

- The project will be bid only once and awarded to one contractor.
- Construction documents will only be made available on the City's document management system for plan holders and/or given to plan viewing rooms.
- Construction documents will not be printed by the CITY and made available for purchase by plan holders and/or given to plan viewing rooms.
- The project will be bid via the design, bid, and build process.

DELIVERABLES

- A. Up to three (3) Addenda
- B. Bid Tabulations
- C. Recommendation of Award Letter
- D. Conformed Plans and Project Manual

TASK 6. ROW/EASEMENT SERVICES.

ENGINEER will support and perform activities related to ROW and land as outlined below, per scoping direction and guidance from the CITY's Project Manager.

6.1. Right-of-Way/Easement Preparation and Submittal.

- The ENGINEER shall determine rights-of-way and easement needs for construction of the project. Required temporary and permanent easements will be identified based on available information and recommendations will be made for approval by the CITY.
- The ENGINEER shall prepare documents to be used to obtain right-of-way and permanent and/or temporary easements required to construct the improvements.
- The ENGINEER shall prepare a ROW and Easement parcel reference map showing and designating all land interest for project. The map shall be revised as necessary throughout the land acquisition process.
- ENGINEER shall perform appraisal services including a Market Study Report and individual appraisals for up to six (6) parcels.
- ENGINEER shall provide abstracting services for up to twelve (12) parcels with unknown ownership or potential prescriptive ROW parcels.
- Engineer shall provide title and negotiation services for twenty three (23) parcels including delivery of Initial Offer, negotiation with landowner, submitting signed conveyance documents/counteroffers to CITY, curing title issues and obtaining partial release of liens, delivery of Final Offer, recording original conveyance documents in the real property records and submitting final file to CITY.

ASSUMPTIONS

- Appraisals will be submitted to CITY for review to request approval to make offers.
- Condemnation services are considered an additional service.

DELIVERABLES

- A. Up to twenty-three (23) proposed right-of-way documents
- B. Up to three (3) proposed easement documents
- C. ROW and Easement parcel reference map
- D. Market Study Report
- E. Conveyance documents

TASK 7. SURVEY AND SUBSURFACE UTILITY ENGINEERING SERVICES.

ENGINEER will provide survey support as follows.

7.1. Design Survey and Right-of-Way/Easement Research

- ENGINEER will perform field surveys to collect horizontal and vertical elevations and other information needed by ENGINEER in design and preparation of plans for the project. Information gathered during the survey shall include topographic data, elevations of all sanitary and storm sewers, rim/invert elevations, location of buried utilities, water valves, water meters, curb and gutter, asphalt, concrete, structures, sidewalks, medians, fences, driveways, tops and toes of slope, utility

poles, mailboxes, signs, telephone risers, trees (measure caliper, identify overall canopy, and have qualified arborist identify species of trees which are 6" in diameter or larger), and other visible features relevant to the final plan sheets. Existing drainage at intersections will be verified by field surveys. Spot elevations will be shown on intersection layouts with cross slope to fit intersecting grade lines.

- The minimum survey information to be provided on the plans shall include the following:
 - A Project Control Sheet, showing **ALL** Control Points, used or set while gathering data. Generally on a scale of not less than 1:400:
 - The following information about each Control Point;
 - a. Identified (Existing. CITY Monument #8901, PK Nail, 5/8" Iron Rod)
 - b. X, Y and Z Coordinates, in an identified coordinate system, and a referred bearing base.
 - c. Descriptive Location (Ex. Set in the centerline of the inlet in the South curb line of North Side Drive at the East end of radius at the Southeast corner of North Side Drive and North Main Street).
 - Coordinates on all P.C.'s, P.T.'s, P.I.'s, Manholes, Valves, etc., in the same coordinate system, as the Control.
 - No less than two horizontal bench marks, per line or location.
 - Bearings given on all proposed centerlines, or baselines.
 - Station equations relating utilities to paving, when appropriate.
- Right-of-Way research includes review of property/right-of-way records based on current internet-based Lubbock Central Appraisal District (LCAD) information available at the start of the project and available on-ground property information (i.e. iron rods, fences, stakes, etc.). It does not include effort for chain of title research, parent track research, additional research for easements not included in the LCAD records, right-of-way takings, easement vacations and abandonments, right-of-way vacations, and street closures.

7.2. Temporary Right of Entry Preparation and Submittal

- Prior to the access of private property for the collection of existing conditions survey data, the ENGINEER shall prepare, mail, and monitor up to thirteen (13) temporary right of entry letters.

7.3. Subsurface Utility Engineering

- ENGINEER will perform the Level A-D Subsurface Utility Engineering (SUE) work required for this project in general accordance with the recommended practices and procedures described in ASCE Publication CI/ASCE 38-02 (Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data). As described in the mentioned ASCE publication, four levels have

been established to describe the quality of utility location and attribute information used on plans. The four quality levels are as follows:

Quality Level D (QL"D") – Information derived from existing utility records;
Quality Level C (QL"C") - QL"D" information supplemented with information obtained by surveying visible above-ground utility features such as valves, hydrants, meters, manhole covers.

Quality Level B (QL"B") – Two-dimensional (x,y) information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as "designating" this quality level provides the horizontal position of subsurface utilities within approximately one foot.

Quality Level A (QL"A") – Three dimensional (x,y,z) utility information obtained utilizing non-destructive vacuum excavation equipment to expose utilities at critical points which are then tied down by surveying. Also known as "locating", this quality level provides precise horizontal and vertical positioning of utilities within approximately 0.05 feet.

- Utilities to be designated include gas, telecommunications, electric, drainage, water and sanitary sewer.
- ENGINEER will designate the known subsurface utilities within the project limits utilizing geophysical equipment (electromagnetic induction, magnetic) to designate metallic/conductive utilities (e.g. steel pipe, electrical cable, telephone cable).
- ENGINEER will provide appropriate traffic control measures (barricades and signs).
- ENGINEER will utilize non-destructive vacuum excavation equipment to excavate test holes at the required locations. Due to the risk of damage, ENGINEER will not attempt to probe or excavate test holes on any AC water lines unless approval is obtained from the CITY in advance. ENGINEER will record the utility type, size, material, depth to top, and general direction. Each test hole will be assigned a unique ID number and will be marked with a nail/disk. The test-hole ID number and other pertinent utility information will be painted at each test-hole location.
- ENGINEER shall provide up to six (6) test holes (estimated to be between 8 and 12 feet in depth and within existing pavement) Subsurface Utility Engineering (SUE) to Quality Level A, as described below:
 - Expose and locate utilities at specific locations.
 - Tie horizontal and vertical location of utility to survey control.
 - Provide utility size and configuration.
 - Provide paving thickness and type, where applicable.
 - Provide general soil type and site conditions and such other pertinent information as is reasonably ascertainable from each test hole site.
 - Backfill cored holes within existing concrete pavement with temporary concrete pavement to a minimum of 9" in depth.

DELIVERABLES

- A. Drawing of the project layout with Level A-D SUE (including legend and table of Level A SUE data).

TASK 8. GEOTECHNICAL INVESTIGATION / PAVEMENT DESIGN.

ENGINEER will provide geotechnical investigation services to the CITY as follows:

8.1 Field Exploration

- Select and mark up to eleven (11) boring locations and notify Texas 811, appropriate CITY Department(s) to request location and marking of existing underground utilities prior to the field exploration.

8.2 Laboratory Testing

- Perform testing on samples obtained from the borings to determine soil classification and pertinent engineering properties of the subsurface materials. ENGINEER will select samples for laboratory testing, assign tests, and review the test results. Testing will be performed by a geotechnical testing subcontractor.
- Laboratory tests will be assigned based on the specific subsurface materials encountered during exploration. Test type and quantity may vary, but are expected to include:
 - Classification tests (liquid and plastic limits and percent passing the No. 200 sieve or gradation)
 - Moisture content
 - Dry unit weight
 - Unconfined compressive strength
 - pH lime series
 - Soluble sulfate content

8.3 Engineering Analysis and Reporting

- Prepare a technical memorandum of the geotechnical investigation to include:
 - Boring locations, boring logs, laboratory test results, and a key to the symbols used.
 - Discussion of subsurface conditions and soil properties indicated by the field and laboratory work, and the implications for design.
 - Recommendations for pavement subgrade treatment
 - Pavement thickness calculations for both rigid and flexible pavement
 - Earthwork related recommendations for use during development of the plans and specifications

ASSUMPTIONS

- For core drilling, traffic control will be required, including closing a lane of traffic and providing flagmen.
- It is assumed that a truck-mounted drilling rig can access the drill locations. If drilling with a track-mounted rig is necessary, it will be considered an additional service to this contract.
- ENGINEER will coordinate with CITY to obtain the necessary permits for core drilling within the roadway.
- Soil boring locations are planned to be within the existing pavement and in locations where traffic control plans for roadway or lane closures will be necessary.
- Locations of the six (6) core borings will be adjusted for location based upon the existing utilities and ingress/egress onto Upland Avenue from the adjoining side streets.

DELIVERABLES

- A. One (1) hard copy and one (1) electronic copy of geotechnical technical memorandum (including exhibits, soil boring results, summary of observations and pavement (surface and subgrade) recommendations).

TASK 9. PERMITTING.

ENGINEER will provide permitting support for the CITY to obtain any and all agreements and/or permits normally required for a project of this size and type, as follows:

9.1 Texas Department of Licensing and Regulation (TDLR)

- ENGINEER will provide permitting support for the CITY and will prepare plan layouts for Americans with Disabilities Act (ADA) and TDLR compliant sidewalks, curb ramps, pedestrian push buttons, and crosswalks.
- ENGINEER will retain the services of a TDLR Registered Accessibility Specialist (RAS) Inspector approved by the CITY.
- ENGINEER will be responsible for completing and submitting the inspection forms, paperwork, and RAS plan review during the design phase as required by the TDLR.
- During the construction phase, the CITY will coordinate one (1) RAS inspection with the ENGINEER and RAS Inspector no later than thirty (30) calendar days after construction substantial completion.
- ENGINEER will be compensated for the RAS Inspector costs by the CITY as a reimbursable expense.

9.2 Environmental Permit Evaluation

ENGINEER will evaluate the project area for regulatory permitting requirements primarily related to Section 404 of the Clean Water Act (Section 404) and other known permits. This

information will be utilized to evaluate the project improvements to minimize regulatory requirements for the project.

Desktop Evaluation

- Prior to the site visit, ENGINEER's environmental scientists will assemble and review data such as aerial photographs, topographic maps, National Wetlands Inventory (NWI) maps, and soils data.

Pedestrian Survey

- ENGINEER's environmental scientist will conduct a pedestrian survey within the project limits (including approximately 200 feet upstream and downstream of the existing culvert crossings) to document existing environmental conditions and assess potential environmental impacts. The presence and locations of waterbodies, including wetlands, potential federally-listed threatened and endangered species habitat, and vegetation cover types will be identified within the project area.

THC Coordination

- ENGINEER's environmental scientist will prepare and submit a consultation letter to the Texas Historical Commission (THC) to determine the potential for the project to impact protected cultural resources and provide results to the CITY. If follow up studies are requested by the THC, those studies can be provided as an additional service with written authorization from the CITY.

Conceptual Environmental Permitting Memorandum

- Information gathered during the pedestrian survey (and coordination with the project team and CITY) will be used to prepare a technical memorandum identifying potential environmental permitting requirements for the proposed improvements identified in the conceptual design phase.

ASSUMPTIONS

- Section 404 of the Clean Water Act (Section 404) regulates the discharge of materials within waters of the U.S. (such as streams, ponds, and wetlands), and the U.S. Army Corps of Engineers must issue a Section 404 permit prior to a regulated action. This scope assumes the intent of the future proposed project is to construct roadway improvements in accordance with the terms and conditions of Nationwide Permit (NWP) 14, Linear Transportation Projects.

DELIVERABLES

- A. Conceptual Environmental Permitting Memorandum

EXHIBIT A, PART 2, ADDITIONAL SERVICES

Upland Avenue (from 50th Street to 66th Street)

Additional Services not included in the existing Scope of Services – CITY and ENGINEER agree that the following services are beyond the Scope of Services described in the tasks above. However, ENGINEER can provide these services, if needed, upon the CITY's written request. Any additional amounts paid to the ENGINEER as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These additional services include the following:

- Water and wastewater utility design.
- Traffic signal design.
- Condemnation services.
- Construction phase services of any kind, including pre-construction meetings, review of submittals, field visits, progress meetings, etc.
- Services related to development of the CITY's project financing and/or budget.
- Services related to disputes over pre-qualification, bid protests, bid rejection and re-bidding of the contract for construction.
- Construction management and inspection services
- Performance of materials testing or specialty testing services.
- Services necessary due to the default of the Contractor.
- Services related to warranty claims, enforcement and inspection after final completion.
- Services to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY.
- Performance of miscellaneous and supplemental services related to the project as requested by the CITY.
- Effort exceeding those outlined in the "Assumptions" section of each task description.
- Survey documents exceeding the number shown in the contract.
- Property appraisals exceeding the number shown in the contract.
- Level A SUE test holes exceeding the number shown in the contract.

EXHIBIT B

Budget for Engineering Design Related Services for **Upland Avenue (from 50th Street to 66th Street)**

CITY and ENGINEER have established a not-to-exceed budget of \$1,208,443 to complete all engineering design services as directed under this AGREEMENT. This amount will not be exceeded without a contract amendment. CITY will pay the ENGINEER hourly, for services identified in Exhibit A, based on ENGINEERS Fee Schedule presented as EXHIBIT C. Subconsultant services will be billed at cost to ENGINEER with a 10 percent handling fee. The Budget is presented for the services of ENGINEER under this AGREEMENT are provided in this Exhibit B. CITY and ENGINEER agree to allow redistribution of funds between Tasks as appropriate to allow flexibility in providing the needed services within the not-to-exceed budget.

ENGINEER agrees to complete these services as delineated above. Should there be a Change in Scope of Work or Time of Performance, then this can result in an amendment to this contract which shall be negotiated at that time.

The budget assumes that all work will be completed in accordance with the proposed project schedule of 12 months. The schedule may be extended by six months if the CITY and ENGINEER mutually agree.

EXHIBIT C

Hourly Rate Schedule Compensation for Engineering Design Related Services for

Upland Avenue (from 50th Street to 66th Street)

LUBBOCK RATE SCHEDULE

<u>Position</u>	<u>Rate</u>
Principal / Group Manager	342
Technical Professional - 6	335
Technical Professional - 5	270
Technical Professional - 4	232
Technical Professional - 3	194
Technical Professional - 2	170
Technical Professional - 1	140
CAD Technician/Designer - 3	188
CAD Technician/Designer - 2	141
CAD Technician/Designer - 1	112
Senior CAD Technician/Designer	232
Construction Manager - 4	200
Construction Manager - 3	151
Construction Manager - 2	143
Construction Manager - 1	112
Corporate Project Support - 3	157
Corporate Project Support - 2	141
Corporate Project Support - 1	108
Intern/ Coop	73

Rates for In-House Services

Technology Charge

\$8.50 per hour

Travel

Standard IRS Rates

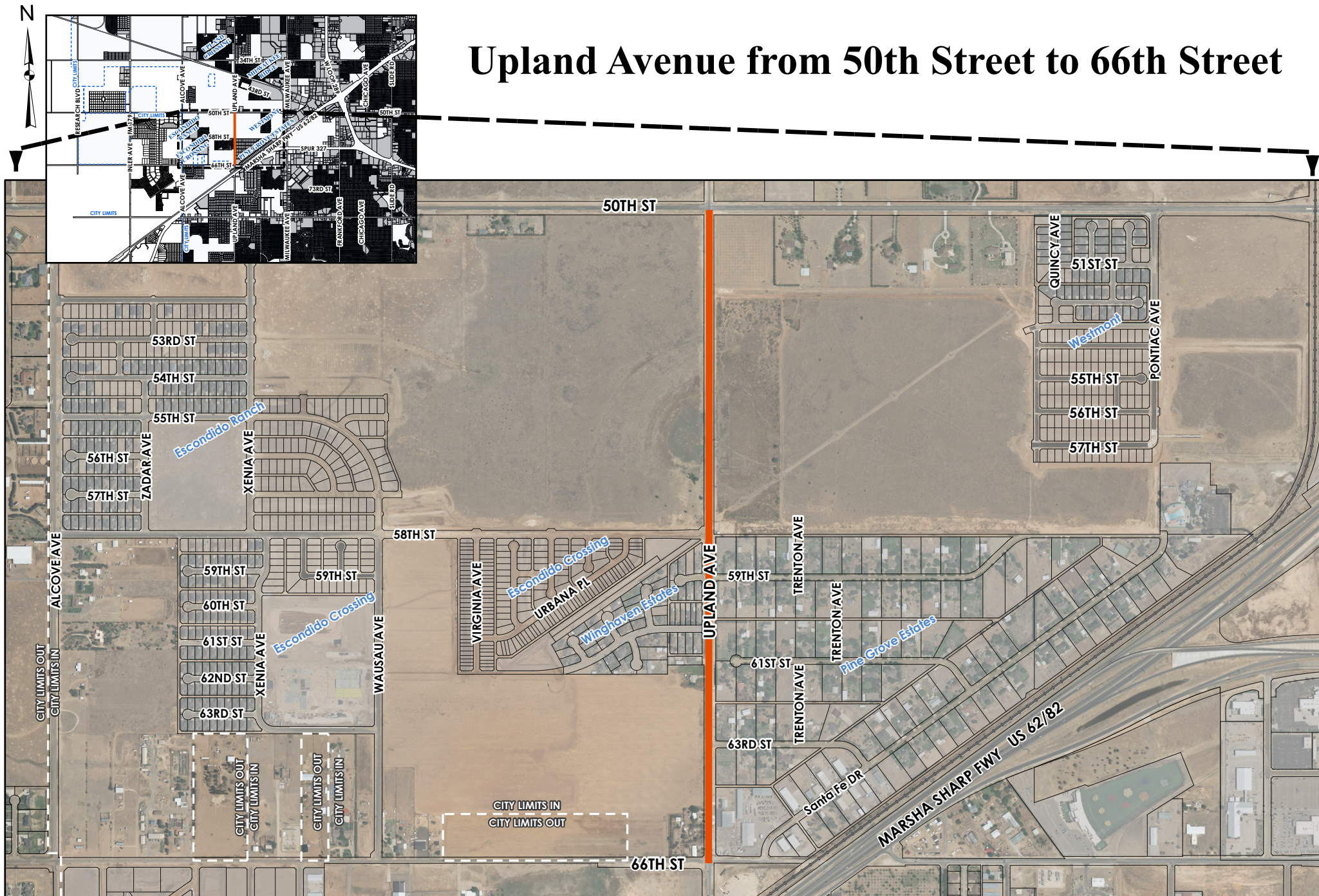
Bulk Printing and Reproduction

	<u>B&W</u>	<u>Color</u>
Small Format (per copy)	\$0.10	\$0.25
Large Format (per sq. ft.)		
Bond	\$0.25	\$0.75
Glossy / Mylar	\$0.75	\$1.25
Vinyl / Adhesive	\$1.50	\$2.00
Mounting (per sq. ft.)	\$2.00	
Binding (per binding)	\$0.25	

OTHER DIRECT EXPENSES:

Other direct expenses are reimbursed at actual cost times a multiplier of 1.10. They include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office and other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

Upland Avenue from 50th Street to 66th Street



0 500 1,000 2,000 3,000 4,000 5,000 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.



Digital Orthophotography - May 2022

**City of Lubbock
Capital Project
Project Cost Detail
October 24, 2023**

Capital Project Number:	92824
Capital Project Name:	Upland Avenue: 50th St to 66th St - 22B

<i>Encumbered/Expended</i>	Budget
	\$-

Agenda Item October 24, 2023

Contract 17625 with Freese and Nichols for Design Services	1,208,443
<i>Encumbered/Expended To Date</i>	1,208,443

Estimated Cost for Remaining Appropriation

Upland Avenue: 50th St to 66th St - 22B Construction	1,991,557
<i>Remaining Appropriation</i>	1,991,557

Total Appropriation	\$3,200,000
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CIP 92824 Upland Ave from 50th Street to 66th Street - 22B

"New Roadway Infrastructure"

Project Manager: Josh Kristinek - Engineering

Project Scope

Upland Avenue from 50th Street to 66th Street is currently a two-lane paved road and is designated in the 2018 Thoroughfare Master Plan to become a five-lane Principal Arterial (Modified). Continued growth in west Lubbock has increased traffic demands along the Upland Avenue corridor from 50th Street to 66th Street. This thoroughfare will include the ultimate design of a five-lane undivided thoroughfare with curb and gutter, drainage, streetlights, sidewalk improvements, utility adjustment and right of way acquisition services.

Project Justification

On November 8, 2022, Lubbock voters approved issuance of a \$200 million street improvements bond package for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Project Highlights

Council Priorities Addressed:
Public Safety
Community Improvement
Growth and Development

Project Dates

Design Start Date: 10/2023
Design Completion: 09/2025
Bid for Constuction:09/2025
Award Construction: 11/2025
Project Completion: 05/2027

Project History

Project Location

Project Appropriations

P Works 92824

	2022 - 23 Budget CIP	2023 - 24 Budget	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget
Design	\$0	\$3,200,000	\$0	\$0	\$0	\$0	\$0
Construction	\$0	\$0	\$0	\$13,800,000	\$0	\$0	\$0
TOTAL	\$0	\$3,200,000	\$0	\$13,800,000	\$0	\$0	\$0

Project Funding

P Works 92824

	Funding to Date	2023 - 24 Budget	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget
General Obligation Bonds	\$0	\$3,200,000	\$0	\$13,800,000	\$0	\$0	\$0
TOTAL	\$0	\$3,200,000	\$0	\$13,800,000	\$0	\$0	\$0

Operating Budget Impacts

Not Provided

Description	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	Total
No Impact Anticipated	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Professional Services Contract 17669, with dredgeSMART, for professional design services of the Terminal Storage Reservoir Improvements Project.

Item Summary

The City of Lubbock's Terminal Storage Reservoir (TSR) at the North Water Treatment Plant (NWTP) was designed to have a 30-day water supply. Based on visual inspection, it has been estimated that the TSR supply has been reduced to around a 15-day water supply due to sedimentation and debris buildup over the years from its original commissioning.

This contract will allow for testing of the sedimentation and the design of the TSR Dredging plan. Due to the constraints of the TSR, dredgeSMART will determine what dredging operation best suits the City of Lubbock's needs; and will consist of an updated survey, sedimentation testing for disposal requirements, and a construction plan set that will be utilized for bidding.

Staff recommends approval of this contract based upon fair and reasonable fees agreed for a total amount not to exceed \$188,900 with a contract time of 90 calendar days.

Fiscal Impact

This Professional Services Agreement is for \$188,900 and is funded in Capital Improvements Project 92804, North Terminal Storage Reservoir Improvements.

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Resolution

Professional Services Agrmt

Location Exhibit

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, Professional Services Agreement Contract No. 17669 for a terminal storage reservoir at the north water treatment plant, by and between the City of Lubbock and dredgeSMART, 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:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 17669 is entered into this ____ day of _____, 2023, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and PondMedics, Inc. d/b/a dredgeSMART (the "Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for Terminal Storage Reservoir at the North Water Treatment Plant, (the "Activities"); and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by the City and the Engineer to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to the Activities, and Engineer desires to provide the Services related to same.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, the City and the Engineer hereby agree as follows:

ARTICLE I. TERM

The term of this Agreement commences on the Effective Date and continues without interruption for a term of 90 days. If the Engineer determines that additional time is required to complete the Services, the City Engineer, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Exhibit “B”, attached hereto (the “Services”).

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed \$188,900.00, as set forth in Exhibit “B”.

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this Agreement, this provision shall control.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

A. Existence. The Engineer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. The Engineer has the corporate power to enter into and perform this Agreement and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Agreement and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part

of the Engineer. This Agreement constitutes legal, valid, and binding obligations of the Engineer and is enforceable in accordance with the terms thereof.

D. Engineer. The Engineer maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and is familiar with all laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Activities contemplated hereby.

E. Performance. The Engineer will and shall conduct all activities contemplated by this Agreement in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional services, as contemplated hereby.

F. Use of Copyrighted Material. The Engineer warrants that any materials provided by the Engineer for use by City pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other law, statute, rule, order, regulation, ordinance or contractual obligation relating to the use or reproduction of materials. The Engineer shall be solely responsible for ensuring that any materials provided by the Engineer pursuant to this Agreement satisfy this requirement and the Engineer agrees to indemnify and hold City harmless from all liability or loss caused to City or to which City is exposed on account of the Engineer's failure to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Engineer shall accomplish the following: Professional Services related to the Services, as provided in Exhibit "B", attached hereto and made a part hereof.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Engineer and the City agree that the Engineer shall perform the duties under this Agreement as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. The Engineer has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, the Engineer and the Engineer's employees and/or sub-consultants, will not be considered, for any purpose, employees or agents of the City within the meaning or the application of any federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

The Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or sub-consultant of the Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Single Limit: \$1,000,000

General Aggregate Limit: \$2,000,000

Professional Liability:

Combined Single Limit: \$2,000,000

Automobile Liability:

Combined Single Limit for any auto: \$1,000,000 Per Occurrence

Employer's Liability:

Per Occurrence Single Limit: \$1,000,000

Worker's Compensation

Per Occurrence Single Limit: \$500,000

The Engineer shall further cause any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Engineer herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The City shall be listed as a primary and noncontributory additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. The Engineer shall provide a Certificate of Insurance to the City as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy shall be included in the Certificate. The Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Engineer shall maintain said coverage throughout the term of this Agreement and

shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City. If at any time during the life of the Agreement or any extension hereof, the Engineer fails to maintain the required insurance in full force and effect, the Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained at the Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this Agreement and the discovery period (possibly through tail coverage) shall be no less than 10 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

The Engineer may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Engineer, as set forth on Exhibit "A", attached hereto, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Engineer is at all times responsible to the City to perform the Services as provided in this Agreement and the Engineer is in no event relieved of any obligation under this Agreement upon retainage of any approved Sub-consultant. Any agent and/or Sub-consultant retained and/or employed by the Engineer shall be required by the Engineer to carry, for the protection and benefit of the City and the Engineer and naming said third parties as additional insureds, insurance as described above required to be carried by the Engineer in this Agreement.

The Engineer represents that such services are either under applicable value thresholds or are otherwise exempt from notice and/or bid requirements under Texas Law.

ARTICLE X. CONFIDENTIALITY

The Engineer shall retain all information received from or concerning the City and the City's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the City, unless otherwise required by law.

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING,

ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

dredgeSMART
Trent Lewis, FPC
PO Box 97
Gunter, Texas 75058
Telephone: 972-334-0104
Email: trent@pondmedics.com

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

Tommy Harms, P.E.
City of Lubbock
P.O. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 806-775-2344
Email: tharms@mylubbock.us

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, referring specifically to this Agreement, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

Provision of Data. The City shall furnish the Engineer non-confidential studies, reports and other available data in the possession of the City pertinent to the Engineer's Services, so long as the City is entitled to rely on such studies, reports and other data for the performance of the Engineer's Services under this Agreement (the "Provided Data"). The Engineer shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

ARTICLE XV. MISCELLANEOUS

A. Captions. The captions for the articles and sections in this Agreement are inserted in this Agreement strictly for the parties' convenience in identifying the provisions to this Agreement and shall not be given any effect in construing this Agreement.

B. Audit. The Engineer shall provide access to its corporate books and records to the City. The City may audit, at its expense and during normal business hours, the Engineer's books and records with respect to this Agreement between the Engineer and the City.

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer.

D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

E. Successor and Assigns. This Agreement binds and inures to the benefit of the City and the Engineer, and in the case of the City, its respective successors, legal representatives, and assigns, and in the case of the Engineer, its permitted successors and assigns.

F. Construction and Venue.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF

ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

G. Severability. If any provision of this Agreement is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstance, the remainder of this Agreement and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

H. Amendment. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Agreement, and duly authorized and executed by the Engineer and the City.

I. Entire Agreement. This Agreement, including Exhibits “A” through “B” attached hereto, contains the entire agreement between the City and the Engineer, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

J. No Joint Enterprise. Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between the Engineer and the City.

K. Documents Owned by City. Any and all documents, drawings and specifications prepared by Engineer as part of the Services hereunder, shall become the property of the City when the Engineer has been compensated as set forth in Article II, above. The Engineer shall make copies of any and all work products for its files.

L. Notice of Waiver. A waiver by either the City or the Engineer of a breach of this Agreement must be in writing and duly authorized to be effective. In the event either party shall execute and deliver such waiver, such waiver shall not affect the waiving party’s rights with respect to any other or subsequent breach.

M. Third Party Activities. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than the City and the Engineer.

N. Non-Appropriation. All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the services provided under the Agreement, the City will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first (the “Non-Appropriation Date”). If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Engineer on

thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the Non-Appropriation Date.

O. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code, prohibits the City from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization

P. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, a) This section applies only to a contract that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. (b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

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

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

S. Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the engineer or vendor agrees that the contract can be terminated if the engineer 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, Engineer agrees to: (1) preserve all contracting information related to the contract as provided by the records retention

requirements applicable to the governmental body for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and (3) on completion of the contract, either: (A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



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

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

Firm: dredgeSMART 

By: _____

Trent Lewis, FPC

Email: trant@pondmedics.com



City of Lubbock – North TSR – dS Engineering Program

SCOPE OF SERVICES

DREDGING ENGINEERING

dredgeSMART (dS) will provide the following services for a proposed project within the delineated Limits of Work as indicated in Exhibit A.

Prior to beginning work and if available, dS will be provided a current comprehensive boundary, topographic survey, and all electronic files previously prepared to be utilized for the work described in this agreement. dS will be entitled to rely on this data as being true and accurate in all respects and assume no liability for errors or conflicts that may arise as a result of inaccurate or incomplete information on provided files.

INCLUDED SCOPE OF SERVICES

- A. For details of scope, sequence, and cost, please refer to Exhibit B: Task, Scope and Max-Budget, Not-To-Exceed Fee Summary.**

REIMBURSABLE EXPENSES:

The following items shall be considered as reimbursable expenses to this contract:

- Printing/reproduction services
- Travel/mileage
- Equipment usage fees
- Courier/overnight fees
- All City or agency required fees including submittal and review fees

EXCLUSIONS: (Can be provided at agreed upon additional cost if requested by client.)

- a. Topographical/Land/Aerial Survey Services
- b. Civil Design Services (outside of dredging scope)
- c. Traffic studies
- d. Storm Water Pollution Prevention Plan (SWPPP)
- e. Subsurface Utility Engineering (SUE)
- f. Geotechnical Services
- g. Environmental Service

EXHIBIT A: Limits of Work

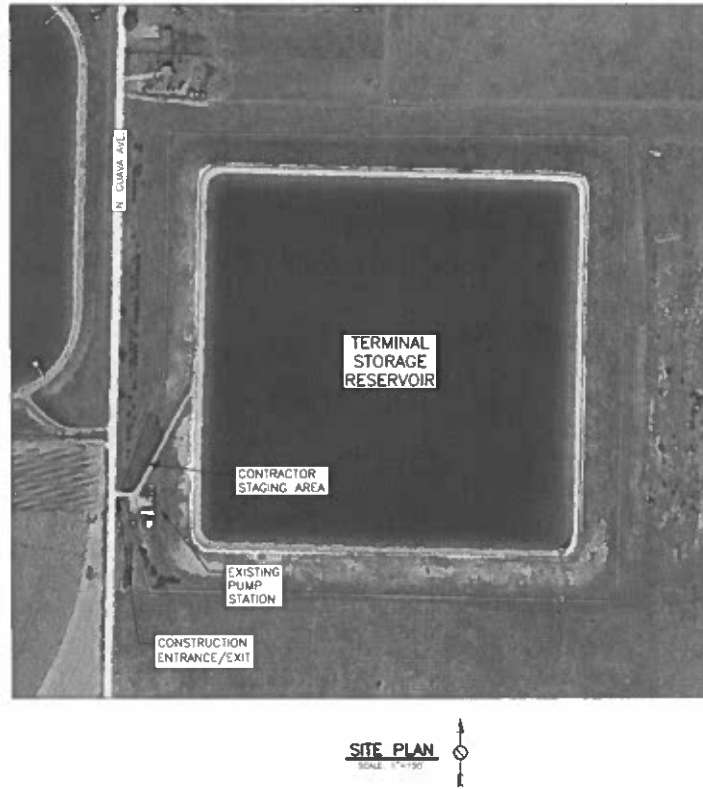
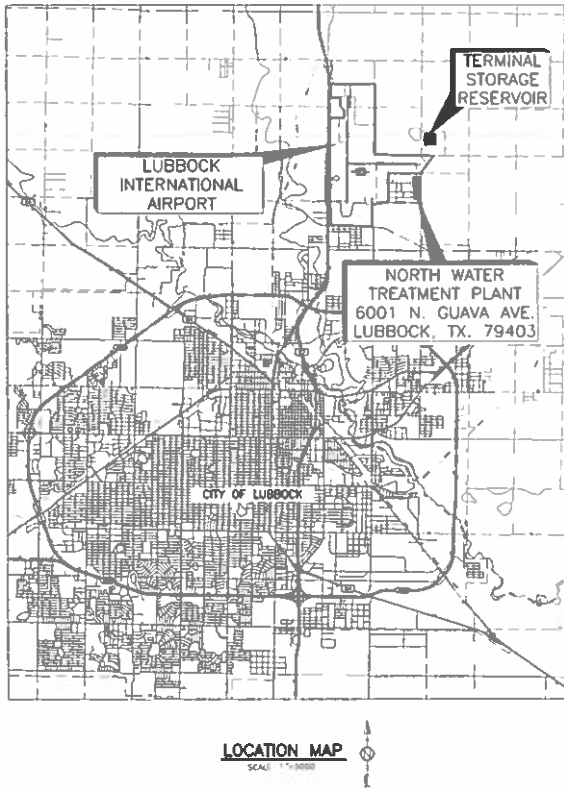


EXHIBIT B: TASK, SCOPE AND MAX-BUDGET, NOT-TO-EXCEED FEE SUMMARY

SURVEYS PHASE.TASK	HYDROGRAPHIC SURVEY – Bathymetric and Sub-bottom Profiling – North TSR (approximately 30 surface acres)	LUMP SUM FEE
ST1.1	North TSR – Mobilization	
ST1.2	North TSR – Hydrographic Data Collection	
ST1.3	North TSR – Data Processing	
TOTAL	HYDROGRAPHIC SURVEY	\$53,100
Lump Sum Payment Percentages	30% mobilization, 30% post-data collection, 40% prior to team meeting	
TT1.1	Sediment sample collections, water column sample collections, lab testing and interpretation report (looking for constituents that may require special sediment disposal/treatment after removal) – includes beneficial reuse testing	\$54,600
DT1.1	Licensed, on-staff Civil P.E. engineering review prior to client meeting	No charge
DT1.2	Client meeting for design direction based on survey findings	\$1,200
ECT1.1	Dredging Engineering (includes construction plan set used for bidding and project completion)	\$80,000
TOTAL	PHASE 1 TOTAL	\$188,900

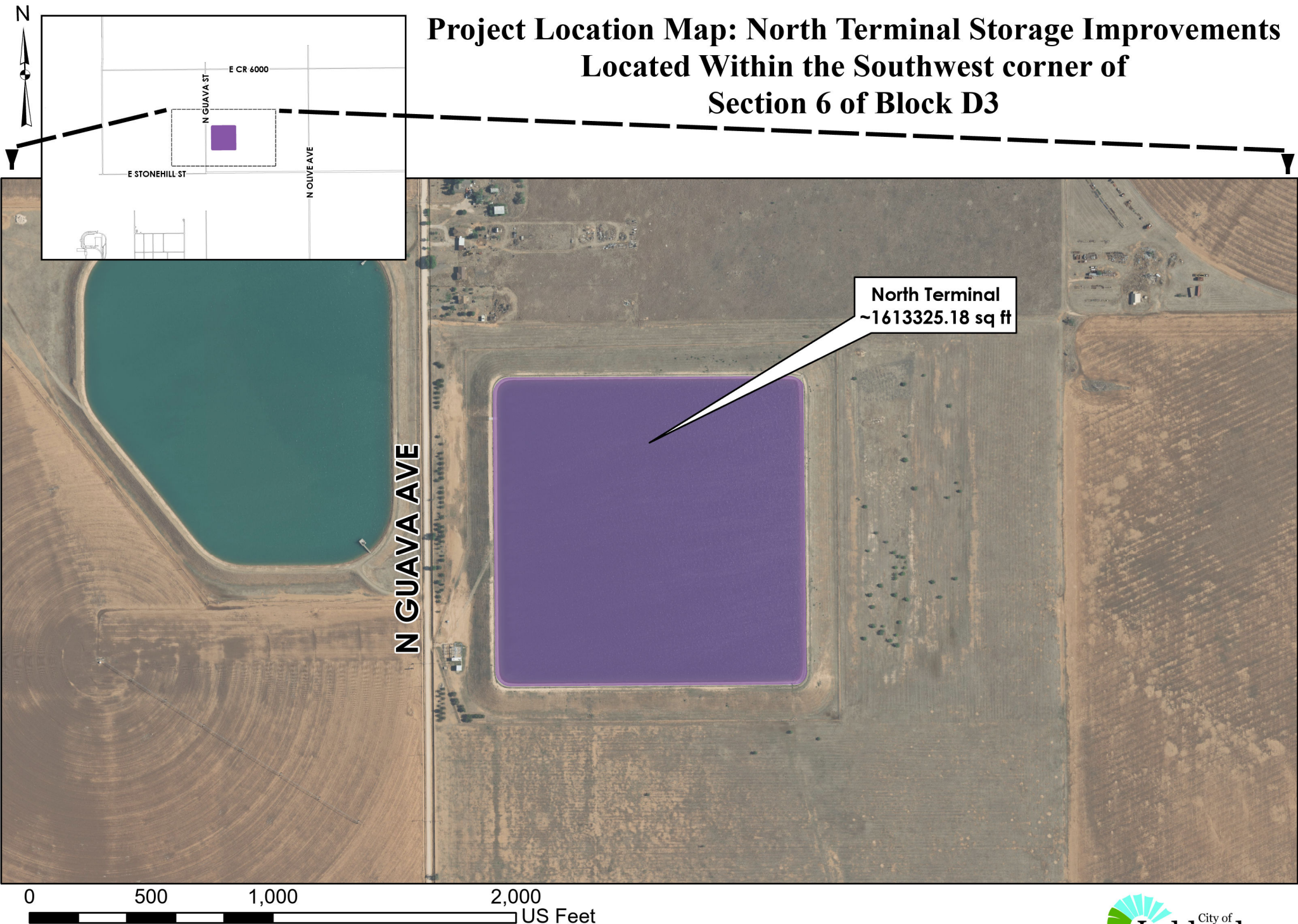
Permitting drafting and/or coordination is not included in this pricing, but should local, State or Federal permits be required, additional fees will be incurred by Client.

** Client's budget will dictate how many hours are available to perform the tasks. Our team will work as efficiently as possible to accomplish these tasks. If more time, beyond the budget, is needed to accomplish a task, approval from the client will be necessary before proceeding.*

Please note: The completion of Phase 1 and the resultant survey/sediment data does not constitute everything needed for use in bidding and performing a dredging project. Phase 2 of the dredgeSMART program is required for conducting a successful dredging project based on objective performance metrics.

RATE/FEE SCHEDULE BREAKDOWN

FEE CODE	FEE DESCRIPTION	FEE
ENG	Dredging Engineers – planning, engineering, review	\$300/hr
HYD	Hydrographic Surveyors – data collection, data processing, modeling	\$285/hr
HYD-EQP	Hydrographic Survey Data Collection Equipment	\$5,500/day
PM	Project Managers	\$250/hr
LOG	Logistics Managers	\$150/hr
LEGAL	Legal Services	\$500/hr
VEH-PER	Travel by vehicle (personnel only, no equipment) – does not include personnel time	\$0.85/mi
VEH-EQP	Travel by vehicle (equipment transport) – does not include personnel time	\$3.00/mi
REPS	Reproducible Items – copies, plan sets, printouts	Cost +10%
TRAVEL	Airfare, lodging, meals, rental car/rideshare	Cost +10%



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

City of Lubbock, TX
Capital Project
Project Cost Detail
October 24, 2023

Capital Project Number:	<u>92804</u>
Capital Project Name:	<u>North Terminal Storage Reservoir</u>

<i>Encumbered/Expended</i>	<u>Budget</u>
City of Lubbock Staff Time	\$7,544
Advertising	270
Contract 17439 with dredgeSMART	43,800

<i>Agenda Item October 24, 2023</i>	
Contract 17669 with dredgeSMART	<u>188,900</u>
<i>Encumbered/Expended To Date</i>	<u>240,514</u>

<i>Estimated Costs for Remaining Appropriation</i>	
Dredging of the North Terminal Storage Reservoir	<u>5,759,486</u>
<i>Remaining Appropriation</i>	<u>5,759,486</u>

Total Appropriation	<u><u>\$6,000,000</u></u>
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CIP 92804 North Terminal Storage Reservoir Improvements

Upgrade/Major Maintenance

Project Manager: Josh Kristinek - Engineering

Project Scope

The project will dredge the North Water Treatment Plant terminal storage reservoir. The terminal storage reservoir has a design storage capacity of 30 day water supply. However, due to silting of the reservoir it is estimated to only have a 50% design capacity. This project will restore the full capacity of the terminal storage reservoir by removing the silt and debris.

Project Justification

This project will restore capacity in the North Terminal Storage Reservoir to provide additional water capacity during emergency operations.

Project Dates

Bid Date for Construction: 06/2023
Award Date for Construction: 08/2023
Construction Completion: 05/2024

Project Highlights

Council Priorities Addressed:
Growth & Development
Community Improvement

Project History

\$6,000,000 was appropriated in the FY 2022-23 Budget, Ord. No. 2022-00136, October 1, 2022. Project design completed, scheduled to bid early summer 2023.

Project Location

Project Appropriations

W 92804

	2022 - 23 Budget CIP	2023 - 24 Budget	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget
Construction	\$6,000,000	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$6,000,000	\$0	\$0	\$0	\$0	\$0	\$0

Project Funding

W 92804

	Funding to Date	2023 - 24 Budget	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget
Water/Wastewater Fund Revenue Bonds	\$6,000,000	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$6,000,000	\$0	\$0	\$0	\$0	\$0	\$0

Operating Budget Impacts

92804

Description	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	Total
No Impact Anticipated	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 17258, with Halff Associates, Inc., for professional services for watershed boundary and drainage studies.

Item Summary

The City of Lubbock utilizes our Master Drainage Plan (MDP) and drainage studies to help address development and drainage problems within the City. With the ongoing development, annexations, and future development and existing drainage problems, updated drainage studies are warranted.

Updating the drainage studies will allow the City of Lubbock Engineering Department to identify areas of concern that could be addressed with Drainage Capital Improvement Projects. These updated studies will identify issues that are occurring now or that might present problems in the future. Projects will be determined, prioritized, and studied for feasibility by potential drainage and flooding problems. Proactive solutions will be developed to provide an effective and efficient storm water management system.

Statements of Qualifications were requested from firms interested in providing consulting services to identify areas with drainage problems.

In response to RFQ 23-17258-KM, four firms submitted their qualifications which were evaluated and ranked based on the qualifications presented, and they were as follows:

Consultant	Points
Halff Associates, Inc., Richardson, Texas	92.25
Freese and Nichols, Inc., Lubbock, Texas	90.25
Parkhill, Lubbock, Texas	87.25
AARC Consultants, LLC, Houston, Texas	66.25

Staff recommends award of this contract, based upon fair and reasonable hourly rates agreed, to Halff Associates, Inc., of Richardson, Texas, for a total amount not to exceed \$505,000, with a contract time of 18 months.

Fiscal Impact

This Professional Services Agreement for \$505,000, is funded in Capital Improvements Project 8676, Watershed Boundary and Drainage Studies.

Staff/Board Recommending

Erik Rejino Assistant City Manager

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

Attachments

Resolution

Professional Service Agreement

Location Exhibit

Budget Detail

CIP Detail

Project Summary - RFQ 23-17258-KM

12

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Professional Services Agreement Contract No. 17258 for professional services for watershed boundary and drainage studies, by and between the City of Lubbock and Halff Associates, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 17258 is entered into this ____ day of _____, 2023, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Halff Associates, Inc. (the "Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for Watershed Boundary and Drainage Studies, (the "Activities"); and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by the City and the Engineer to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to the Activities, and Engineer desires to provide the Services related to same.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, the City and the Engineer hereby agree as follows:

ARTICLE I. TERM

The term of this Agreement commences on the Effective Date and continues without interruption for a term of 18 months. If the Engineer determines that additional time is required to complete the Services, the City Engineer, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Exhibit "A", attached hereto (the "Services").

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed \$505,000 as set forth in Exhibit "B".

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this Agreement, this provision shall control.

ARTICLE V. ACKNOWLEDGEMENTS

A. Existence. The Engineer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. The Engineer has the corporate power to enter into and perform this Agreement and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Agreement and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part

of the Engineer. This Agreement constitutes legal, valid, and binding obligations of the Engineer and is enforceable in accordance with the terms thereof.

D. Engineer. The Engineer maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and is familiar with applicable laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Activities contemplated hereby.

E. Performance. The Engineer will and shall conduct all activities contemplated by this Agreement in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional services, as contemplated hereby.

F. Use of Copyrighted Material. The Engineer acknowledges that any materials provided by the Engineer for use by City pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other applicable law, statute, rule, regulation, ordinance or contractual obligation relating to the use or reproduction of materials. The Engineer shall be solely responsible for requiring that any materials provided by the Engineer pursuant to this Agreement satisfy this requirement and the Engineer agrees to indemnify and hold City harmless from liability or loss caused to City or to which City is exposed on account of the Engineer's negligence to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Engineer shall accomplish the following: Professional Services related to the Services, as provided in Exhibit "A", attached hereto and made a part hereof.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Engineer and the City agree that the Engineer shall perform the duties under this Agreement as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. The Engineer has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, the Engineer and the Engineer's employees and/or sub-consultants, will not be considered, for any purpose, employees or agents of the City within the meaning or the application of applicable federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

The Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or sub-consultant of the Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Single Limit: \$1,000,000

General Aggregate Limit: \$2,000,000

Professional Liability:

Per Claim/Annual Aggregate: \$2,000,000

Automobile Liability:

Combined Single Limit for any auto: \$1,000,000 Per Occurrence

Employer's Liability:

Per Occurrence Single Limit: \$1,000,000

Worker's Compensation

Per Occurrence Single Limit: \$500,000

The Engineer shall further require any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Engineer herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The City shall be listed as a primary and noncontributory additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. The Engineer shall provide a Certificate of Insurance to the City as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy shall be included in the Certificate. The Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas

Labor Code. Further, the Engineer shall maintain said coverage throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City. If at any time during the life of the Agreement or any extension hereof, the Engineer fails to maintain the required insurance in full force and effect, the Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained at the Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this Agreement and the discovery period (possibly through tail coverage) shall be no less than 10 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

The Engineer may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Engineer, as set forth on Exhibit "A", attached hereto, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Engineer is at all times responsible to the City to perform the Services as provided in this Agreement and the Engineer is in no event relieved of any obligation under this Agreement upon retainage of any approved Sub-consultant. Any agent and/or Sub-consultant retained and/or employed by the Engineer shall be required by the Engineer to carry, for the protection and benefit of the City and the Engineer and naming said third parties as additional insureds, insurance as described above required to be carried by the Engineer in this Agreement.

The Engineer represents that such services are either under applicable value thresholds or are otherwise exempt from notice and/or bid requirements under Texas Law.

ARTICLE X. CONFIDENTIALITY

The Engineer shall retain all information received from or concerning the City and the City's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the City, unless otherwise required by law.

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE,

OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

Halff Associates, Inc.
Erika Nordstrom, P.E., CFM
13620 Briarwick Dr., Bld. C, Suite 100
Austin, Texas 78729
Telephone: 512-777-4613
Email: ENordstrom@halff.com

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

Tommy Harms, P.E.
City of Lubbock
P.O. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 806-775-2344
Email: tharms@mylubbock.us

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, referring specifically to this Agreement, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

Provision of Data. The City shall furnish the Engineer non-confidential studies, reports and other available data in the possession of the City pertinent to the Engineer's Services, so long as the City is entitled to rely on such studies, reports and other data for the performance of the Engineer's Services under this Agreement (the "Provided Data"). The Engineer shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

ARTICLE XV. MISCELLANEOUS

A. Captions. The captions for the articles and sections in this Agreement are inserted in this Agreement strictly for the parties' convenience in identifying the provisions to this Agreement and shall not be given any effect in construing this Agreement.

B. Audit. The Engineer shall provide access to its corporate books and records to the City. The City may audit, at its expense and during normal business hours, the Engineer's books and records with respect to this Agreement between the Engineer and the City.

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer.

D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

E. Successor and Assigns. This Agreement binds and inures to the benefit of the City and the Engineer, and in the case of the City, its respective successors, legal representatives, and assigns, and in the case of the Engineer, its permitted successors and assigns.

F. Construction and Venue.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT

JURISDICTION OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

G. Severability. If any provision of this Agreement is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstance, the remainder of this Agreement and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

H. Amendment. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Agreement, and duly authorized and executed by the Engineer and the City.

I. Entire Agreement. This Agreement, including Exhibits "A" through "B" attached hereto, contains the entire agreement between the City and the Engineer, and there are no other written or oral promises, conditions, acknowledgements, or representations relating to or affecting the matters contemplated herein.

J. No Joint Enterprise. Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between the Engineer and the City.

K. Documents Owned by City. All final documents, drawings and specifications prepared by Engineer as part of the Services hereunder, shall become the property of the City when the Engineer has been compensated as set forth in Article II, above. The Engineer shall make copies of any and all work products for its files.

L. Notice of Waiver. A waiver by either the City or the Engineer of a breach of this Agreement must be in writing and duly authorized to be effective. In the event either party shall execute and deliver such waiver, such waiver shall not affect the waiving party's rights with respect to any other or subsequent breach.

M. Third Party Activities. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than the City and the Engineer.

N. Non-Appropriation. All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the services provided under the Agreement, the City will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first (the "Non-Appropriation Date"). If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Engineer on

thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the Non-Appropriation Date.

O. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code, prohibits the City from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization

P. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, a) This section applies only to a contract that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. (b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

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

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

S. Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the engineer or vendor agrees that the contract can be terminated if the engineer 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, Engineer agrees to: (1) preserve all contracting information related to the contract as provided by the records retention

requirements applicable to the governmental body for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and (3) on completion of the contract, either: (A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



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

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

Firm: Halff Associates, Inc.

By: 

David Smith, P.E.

Operations Manager

Email: DSmith@halff.com



City of Lubbock

Tommy Harms, PE

1314 Avenue K
Lubbock, TX 79401

Exhibit A
WATERSHED BOUNDARY AND DRAINAGE STUDIES
TASK ORDER #1
HALFF ASSOCIATES, INC.
October 5, 2023

Objective:

In support of the City of Lubbock's previously completed Stormwater Master Plan and current Watershed Boundary and Drainage Studies, the City has identified short- and long-term goals for their Stormwater Program to inform the City Improvement Project (CIP) planning. Halff has been retained by the City to support their Stormwater modeling, planning and visioning in an ad-hoc services contract. This Task Order will consist of the following tasks:

Project Management

Halff will prepare and monitor schedule of work activities which includes, performing internal project control procedures on a monthly basis including schedule and budget control, quality control review, and monthly progress reports.

A project kick off meeting will be held with all team members at the beginning of the project followed by monthly coordination calls throughout the duration of the project to discuss status, deadlines, deliverables and coordination items. A total of 13 meetings is included for Project Management. These meetings will include both virtual and in-person meetings with up to 5 in person meetings (Kick-off, Quarterly Meetings).

Halff will meet biweekly with internal production staff to maintain scope and schedule for timely completion of the studies and coordination with the City. Additionally, Halff will coordinate internal independent quality control and assurance reviews of all deliverables prior to submitting to the City. These reviews will be documented in QAQC checklists with comment resolution.

MDP Rollout and Training

Support for GIS Services

To support the hosting and distribution of the Master Drainage Plan studies and spatial data, Halff will provide support services to the City's GIS Services. This will include internal capabilities for hosting the data from initial setup to an initiation of a web map interface. Ongoing updates will be supported as new studies are completed and made available.



Additionally, Halff will coordinate with and provide support services to the City's GIS Services to evaluate options for making the data externally facing and available. This will include coordination of data access needs (Viewable versus Downloadable) and capabilities of current license level.

Internal City Staff Training

To support the distribution, understanding and application of the previously completed Master Drainage Plan studies and spatial data, Halff will provide training via lunch and learns for internal City department staff to include Development Services, Parks and Recreation, Planning, Transportation Planning, Public Works and GIS Services. Training materials will be developed and catered to the needs of the respective departments. Halff will provide up to three (3) one-hour in person lunch and learn sessions.

Support of External Rollout

To support the City's distribution of the previously completed Master Drainage Plan studies, Halff will conduct a stakeholder survey of local consultants on their needs, use and application of the data. This feedback will facilitate further discussion and direction for the City to develop a short term and long-term data rollout plan.

Capital Improvement Planning

Consolidate, Review and Assess Existing Projects

Halff will consolidate and review projects lists known to Halff and provided by the City of all stormwater-related projects. This shall include but not be limited to the following project lists: Stormwater Management Program, CCTV, Plumber Park Retrofits, CIP, and Regional Flood Planning.

The City shall provide any additional City projects underway by other departments that may be reviewed holistically with the stormwater – specific projects for review of potential integrated solutions.

2D Flood Assessment

Halff shall develop a 2D rapid assessment model for the City and ETJ to identify flooding hotspots and ponding locations within the playa system. The 2D rapid assessment will be developed in HEC-RAS, Version 6.4.1 for 24-hour duration, 2-, 10-, 25-, and 100-year ACEs. The following assumption will be made:

- 1) Existing conditions land use assumptions from inspection of aerial photography and impervious area delineations provided by the City.
- 2) Infiltration parameters will be defined using curve number loss methodology.
- 3) Best available LiDAR topographic information provided by the City will be used to create a ground surface mesh. Initial conditions for playas will be based on the elevations represented by the LiDAR.
- 4) Additional breaklines will be included in the model to establish greater definition of overland flow patterns, as appropriate. Storm drain conveyance system will not be included in the rapid assessment model.
- 5) Manning's n values for hydraulic roughness will be based on existing GIS land use datasets.
- 6) Rainfall will be defined using NOAA Atlas 14, in alignment with the City's Drainage Criteria Manual.
- 7) Delineate areas of flooding hotspots and ponding locations during each storm event.



- 8) Validate results to available flood risk mapping, including the previously completed rapid assessment, Fathom cursory floodplains, and base level engineering.

Hot Spot Analysis

Halff will review results of the 2D rapid assessment to identify areas of significant ponding and flow conveyance. These areas will be reviewed against 911 Database of flood complaints provided by the City and other known flood issues as provided by City Staff. These areas will be overlaid with the consolidated projects to correlate identified flood risk areas with already identified project areas. The resulting analysis will provide an updated lists of drainage issues throughout the City that will be prioritized for CIP planning. A maximum of 30 hot spot areas will be reviewed.

Project Prioritization Criteria and City Collaboration

Halff will meet with the City to establish criteria for CIP project prioritization. This will include but not be limited to:

1. Public Safety
2. Public Opinion
3. Correlation to Other City Projects
4. Cost and Available Funding

Halff will provide up to two (2) workshop sessions with key City staff to review and prioritize projects. A final CIP project list will be developed with priority and conceptual level project costs. Halff will identify these projects into categories for Maintenance, and Small, Medium and Large Construction projects.

Halff will work with key City staff to identify alignment with ongoing and future City projects and review potential funding opportunities. This may include stormwater utility fees, public-private-partnership, and state funding as well as other funding sources identified and discussed with City staff.

Report Documentation

Halff will prepare a Stormwater CIP Summary Report that includes identified problem area descriptions, preliminary evaluation methodology and results, CIP ranking procedures and results, problem areas selected for detailed study, proposed CIP alternatives, exhibits and opinions of probable construction cost based on current regional unit costs. Halff will, in coordination with City staff, identify priority of future feasibility studies and MDP playas studies informed by the results of the rapid assessment, hot spot analysis, prioritization and funding review.

Master Drainage Plan Playa Studies

System E Update

Halff will perform a hydrologic and hydraulic modeling on Subbasin E122A which is considered as the study area for the System E Update. The study will be performed using ICPR software, which is capable of 1D and 2D modeling analysis. The playa basins will be modeled based on assumed future fully developed conditions determined by the City planned land use and typical development patterns. The objectives of modeling will be to redefine the overland flow from anticipated overflows from Clapp Park traveling east of Interstate 27. Modeling will incorporate overland and subsurface conveyance to identify the overflow inundation traveling southeast to Yellow House Canyon.



The City will provide Halff with any approved Drainage Analysis Reports and hydrologic and/or hydraulic analysis computer models within the study area. The City will provide Halff with record drawings and other existing information relating to storm drain locations and depths within the study area.

Hydrology and Hydraulics Analysis

The fully developed conditions analysis will analyze the hydrologic and hydraulic conditions for Subbasin E122A to evaluate the overflow path and discharge from Subbasin E122A. Halff will leverage the Clapp Park Study provided by the City to establish an upstream inflow hydrograph. The upstream model and additional supporting data will be reviewed and evaluated by Halff. Coordination with the City will occur prior to any updates to the Clapp Park Study. Any updates made to the Clapp Park model, if deemed necessary, will be an additional service. Halff will evaluate overland flow and subsurface storm water conveyance. Storm drain system within the study area will be modeled with the most up-to-date data. Overland flow will be modeled using the best available LiDAR topographic information provided by the City most recent with representative cross sections of the overflow inundation. Based on the Study results, Halff will update the overflow discharge from E122A to the downstream playa (L005) and evaluate the impact to the downstream system. Halff will leverage previous models developed as part of the City MDP studies to evaluate the change to the downstream playa system in System E.

Floodplain Mapping

Mapping shall follow standard mapping procedures utilized in the City's MDP study updates. Overflow inundation results will be mapped on best available LiDAR data showing the 100-year and 500-year FFP floodplain extents. Halff will evaluate the impact to the downstream playa (L005) and downstream conveyance system mapping and revise mapping to account for the revised inflows.

LOMR

Halff will prepare the LOMR application documentation and coordinate with City staff for approval and signature prior to submittal. Halff will coordinate and participate in two (2) iterations with FEMA during the review process. The City will be responsible for the required FEMA review fee upon submittal to FEMA.

System F – L196

Development interest is occurring east of Interstate 27 and south of 82nd Street, potentially impacting playa lakes No. 81, 196, and 195A. Playa lake No. 81 has previously been studied through the completed Master Drainage Plan, however, playa lakes No. 196 and 195A have not been studied. These two lakes are independent of each other and may be studied separately. This scope of work is specifically for the analysis of playa lake No. 196.

To establish flood extents and thoroughfare capacity analysis for playa lake No. 196, Halff will conduct hydrologic and hydraulic modeling using ICPR software. The playa basins will be modeled based on future fully developed conditions based on City planned land use and typical development patterns. The objectives of modeling will be to identify expected stormwater runoff volumes, impacts of runoff to the major thoroughfare crossings and thoroughfare capacity analysis. Halff will compile the datasets used to develop the MDP models into a standardized GIS database for integration into the existing GIS database and use by City staff. Additionally, the results of the hydraulic modeling will be used to develop inundation areas and expected flow paths of the stormwater runoff. Halff will prepare a summary MDP report for each playa basin documenting the assumptions, model parameters, and results. No LOMR is included as part of this scope of work.



4th and Wood – Near Leprino Site

Playa lakes No. 72, 73, 74, and 321 have been previously studied by Hugo Reed and Associates in support of the development of the Leprino Site. This existing study completed future fully developed analysis based on future land use assumptions but did not complete thoroughfare capacity analysis. Halff will leverage the existing study and update hydrology for playa lakes No. 72, 73, 74, and 321 for future fully developed impervious cover based on site plans and analyze the thoroughfare capacity for 4th Street and Wood Avenue. Halff will prepare a summary MDP report for each playa basin documenting the assumptions, model parameters, and results and the MDP spatial data for incorporation into the final MDP geodatabase. No LOMR is included as part of this scope of work.

Feasibility Studies of Existing Flood Risk Areas

Dunbar Lake

Dunbar Lake is currently experiencing undercutting of the sidewalk on the east side of Canyon Lakes Drive. To assess the condition and feasible solution, Halff will acquire and review any available modeling data, as-built plans, and survey from the City which may be used to establish current flow conditions. Additionally, Halff will leverage the results of the Rapid Assessment completed as part of this scope of work, to validate existing model results. Field measurements and photos will be obtained to assess the undercutting extents. Halff will determine the amount and extent of overflow and develop one (1) conceptual level alternative to repair the undercutting.

If seepage is identified during field visits, City staff shall be notified before proceeding further with the study. No survey or geotechnical analysis is included as part of this scope of work and will be Additional Services.

Deliverables will include a technical memo and exhibit documenting the proposed improvements. No design plans are included as part of this scope of work.



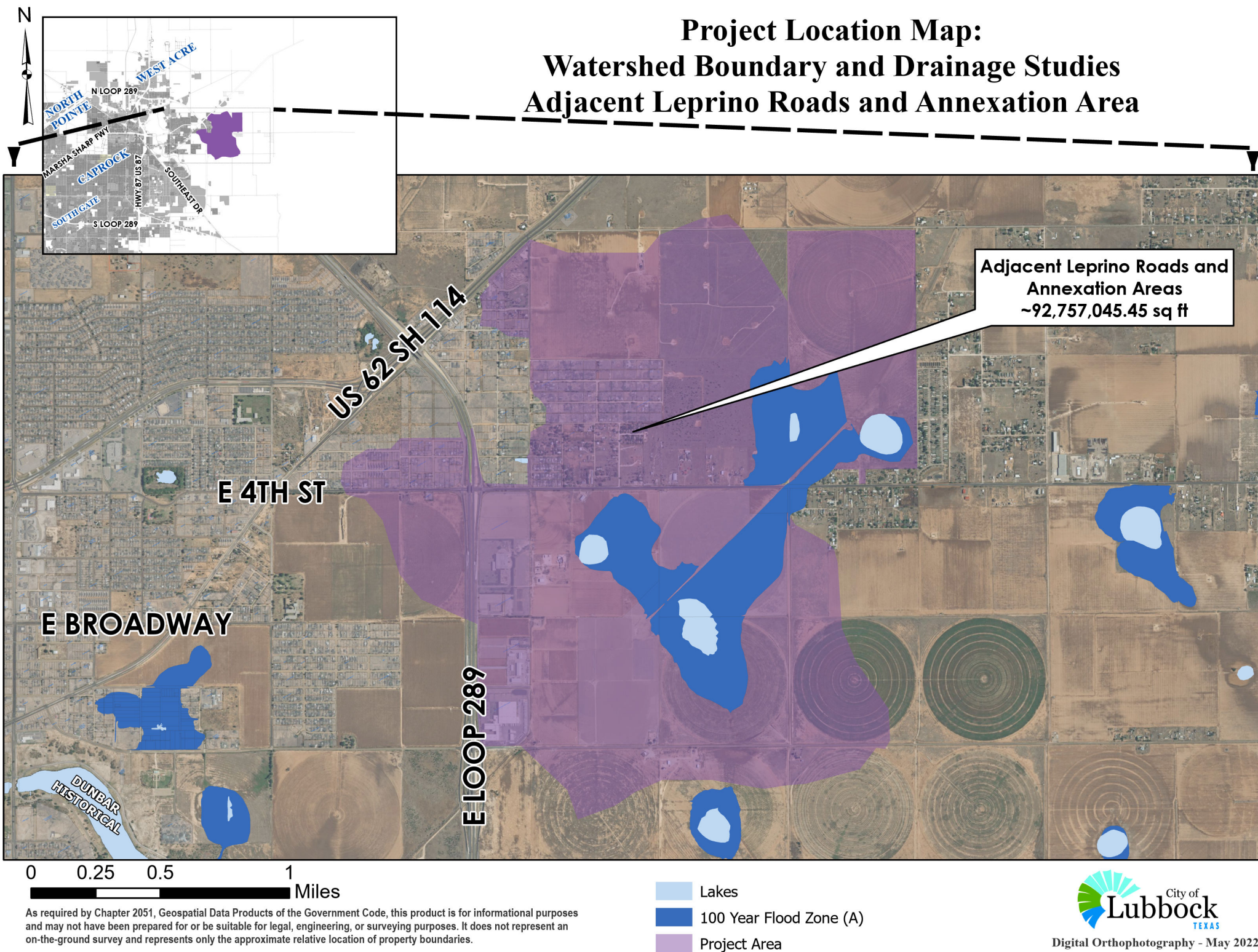
Exhibit B

Compensation

Halff will complete the aforementioned scope of services for the fee provided below and in accordance with the Professional Services Contract.

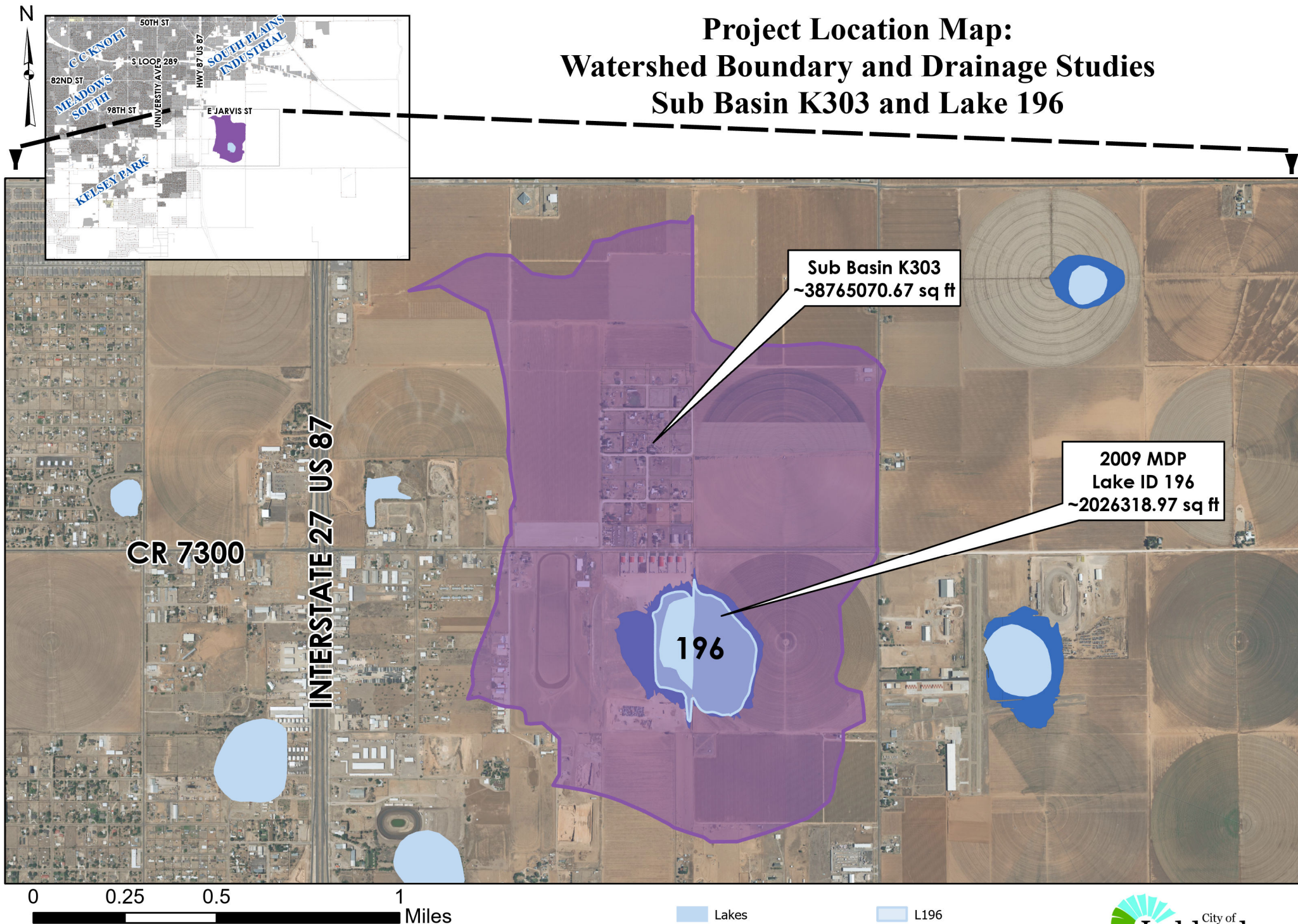
Task		Fee
1	Project Management	\$ 47,000
2	MDP Rollout and Training	\$ 40,000
3	Capital Improvement Planning	\$ 225,000
4	Master Drainage Plan Playa Studies	\$ 150,000
	System E Update	\$ 75,000
	System F - Playa Lake No. 196	\$ 25,000
	4th and Wood - Leprino Site	\$ 50,000
5	Feasibility Studies	\$ 43,000
	Dunbar Lake	\$ 43,000
Total:		\$ 505,000

Project Location Map: Watershed Boundary and Drainage Studies Adjacent Leprino Roads and Annexation Area



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.

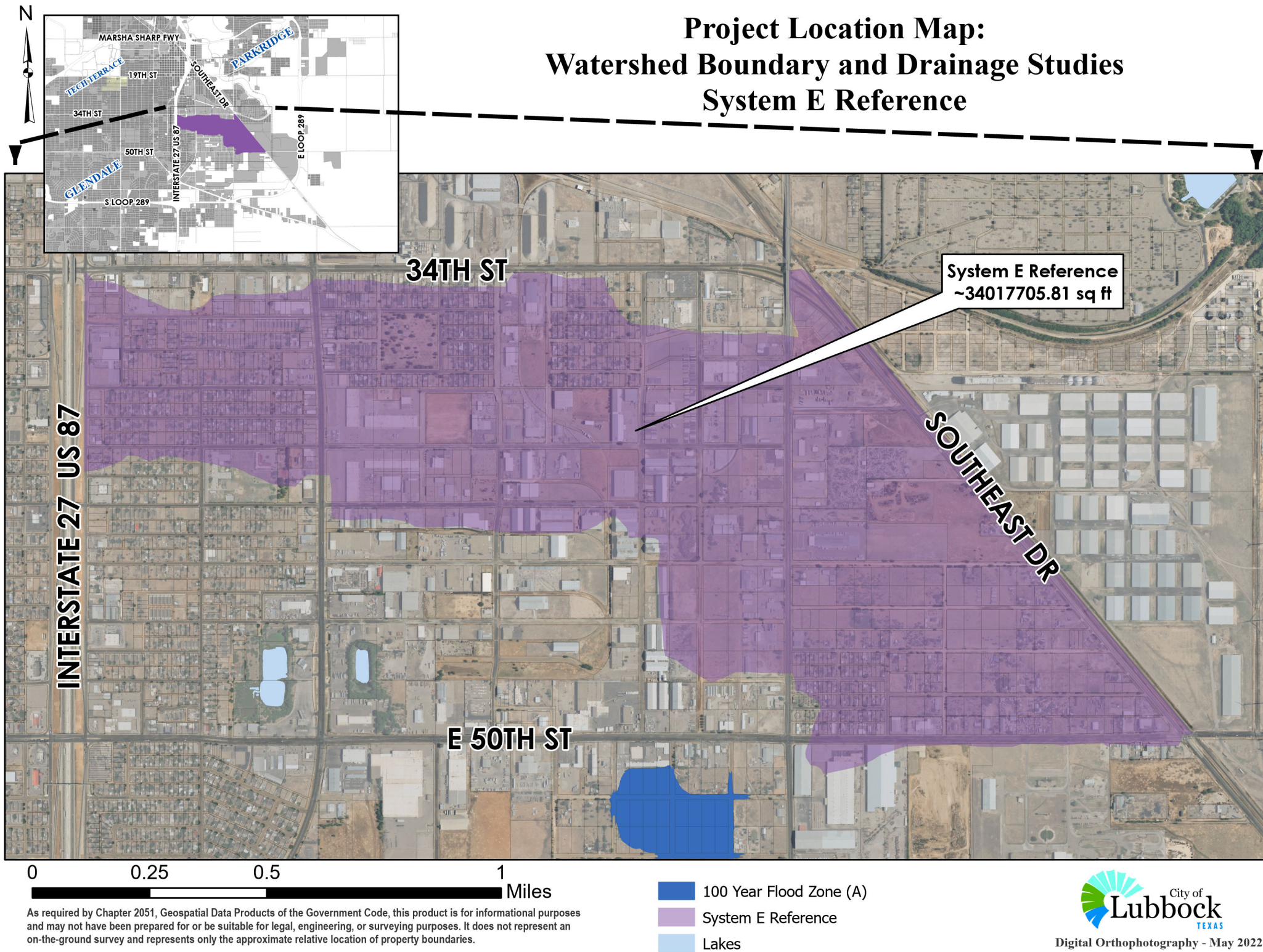
Project Location Map: Watershed Boundary and Drainage Studies Sub Basin K303 and Lake 196



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.

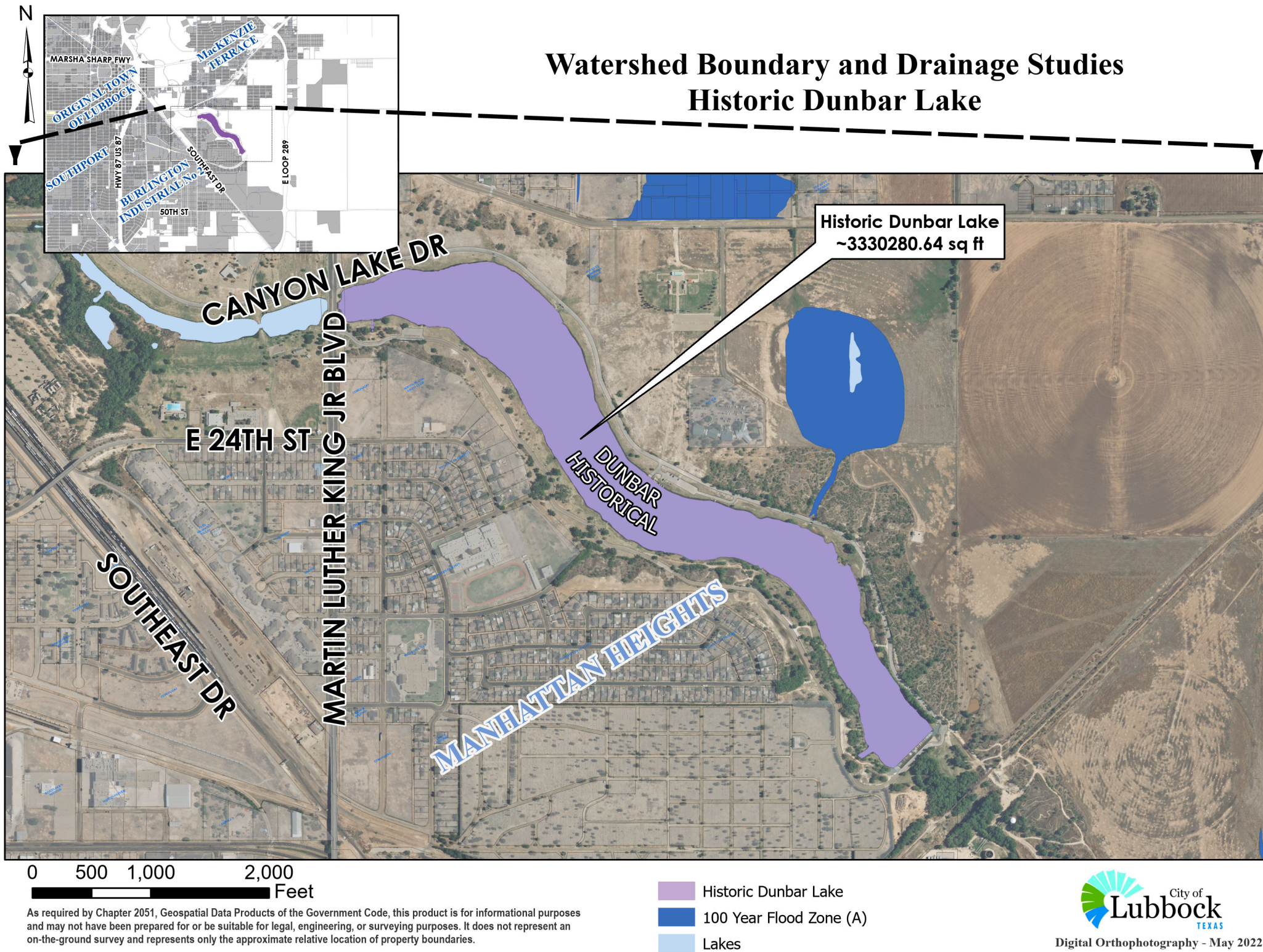
- Lakes
- 100 Year Flood Zone (A)
- K303
- L196

Project Location Map: Watershed Boundary and Drainage Studies System E Reference



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.

Watershed Boundary and Drainage Studies Historic Dunbar Lake



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

City of Lubbock, TX
Capital Project
Project Cost Detail
October 24, 2023

Capital Project Number:	8676
Capital Project Name:	<u>Watershed Boundary and Drainage Studies</u>

<i>Encumbered/Expended</i>	Budget
City of Lubbock Staff Time	\$ 3,796

Agenda Items, October 24, 2023

Contract 17258 with Halff Associates, Inc. for Professional Services	505,000
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<i>Encumbered/Expended To Date</i>	<u>508,796</u>
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Estimated Costs for Remaining Appropriation

Professional Services for CIP 8676	16,204
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<i>Remaining Appropriation</i>	<u>16,204</u>
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Total Appropriation	<u><u>\$ 525,000</u></u>
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CIP 8676 Watershed Boundary and Drainage Studies

Master Plans/Studies

Project Manager: Josh Kristinek - Engineering

Project Scope

Review the current Master Drainage Plan and other studies, GIS data, development updates, and other City information. Identify changes to system watersheds, verify and update hydrologic input and storage information with updated land use and topographic data. Incorporate updated information into existing hydrologic and hydraulic models in order to use with ongoing development activities. Analyze current models for impacts of revisions to system input on peak playa water surface elevations, base flood elevations, flow depth and top width for all prescribed rainfall events.

Perform a high-level review of frequent flooding / drainage issues - Conduct field visits in conjunction with limited desktop assessments to allow for a rapid assessment of drainage problems throughout the entire City. Update flood mapping using revised model information, integrating results into GIS system components. Compare model results and revised mapping to existing data, identify and confirm any changes to flow rates, depths, water surface elevations, and floodplain limits.

Perform a detailed study of the highest priority areas identified in high-level review, assess problem severity and establish improvement priorities. Compile this information into a format that may be used by the City of Lubbock in daily operations, to track existing and developing flooding issues and to manage capital improvement project (CIP) program.

Identify and rank proposed drainage capital improvement projects within each of the City's different drainage systems based on an approved ranking criteria. Prepare Drainage CIP total budget estimates for proposed improvements which may include studies, engineering design, and construction cost. Prepare a GIS Database that organizes the ranked Drainage CIPs so that they can be stored, recalled, and addressed over a specific time period.

Project Justification

The goal is to manage ongoing development and drainage mitigation as well as plan for future development within the City, in the City's extraterritorial jurisdiction (ETJ) and areas of annexation by providing potential solutions and costs to aid City staff in programming of future Drainage Capital Improvement Projects. This project is intended to provide the City with a tool to determine and prioritize potential drainage and flooding problems and develop proactive solutions for effective and efficient storm water management.

Project Highlights

Council Priorities Addressed:
Growth and Development

Project Dates

Project History

\$250,000 was appropriated in the FY 2022-23 Budget, Ord. No. 2022-00136, October 1, 2022.

Project Location

Project Appropriations

Storm 8676

	2022 - 23 Budget CIP	2023 - 24 Budget	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget
Design	\$250,000	\$275,000	\$300,000	\$325,000	\$350,000	\$375,000	\$400,000
TOTAL	\$250,000	\$275,000	\$300,000	\$325,000	\$350,000	\$375,000	\$400,000

Project Funding

SW 8676

	Funding to Date	2023 - 24 Budget	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget
Storm Water Fund Cash	\$250,000	\$275,000	\$300,000	\$325,000	\$350,000	\$375,000	\$400,000
TOTAL	\$250,000	\$275,000	\$300,000	\$325,000	\$350,000	\$375,000	\$400,000

Operating Budget Impacts

8676

Description	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	Total
No Impact Anticipated	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$0



Purchasing and Contract Management

Project Summary

RFQ 23-17258-KM

Professional Services for Watershed Boundary and Drainage Studies

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 April, 21, 2023 to May 23, 2023.

41 vendors downloaded the documents using Bonfire.com.

50 vendors were notified separately.

4 vendors submitted statements of qualification.

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 17620, with Parkhill, for engineer of record services and project assistance, as it relates to the 34th Street Back-of-Curb Project.

Item Summary

On November 8, 2022, Lubbock voters approved issuance of a \$200 million Street Improvements Bond Package, for the purpose of providing permanent public improvements. The funding will acquire, construct, and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

The pavement section was rebuilt in the summer of 2022 by Public Works. This professional services contract with Parkhill, for engineer of record services and project assistance for the 34th Street Back-of-Curb improvements, is needed to complete the roadway sections.

Staff conducted contract negotiations with Parkhill, after establishing them as qualified under RFQ 21-15876-JM for providing engineering services. Fair and reasonable hourly rates were agreed upon for a total not to exceed contract amount of \$100,000, with a 430-day contract duration. Staff recommends award of this contract to Parkhill, of Lubbock, Texas, for engineer of record services for 34th Street Back of Curb Improvements from Slide Road to Quaker Avenue, and from Avenue Q to Interstate 27.

Fiscal Impact

This contract is not to exceed \$100,000, and is funded in Capital Improvements Project 92814, from Slide Road to Quaker Avenue, and from Avenue Q to Interstate-27.

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Resolution

Professional Services Contract

Location Exhibit

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, Professional Services Agreement Contract No. 17620 for engineer of record services and project assistance, by and between the City of Lubbock and Parkhill, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.PSA-No. 170620 -- Parkhill engineer of record
10.05.23

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 17620 is entered into this ____ day of _____, 2023, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Parkhill Inc., (the "Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide Engineer of Record services and Project Assistance, (the "Activities"); and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by the City and the Engineer to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to the Activities, and Engineer desires to provide the Services related to same.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, the City and the Engineer hereby agree as follows:

ARTICLE I. TERM

The term of this Agreement commences on the Effective Date and continues without interruption for a term of 430 days. If the Engineer determines that additional time is required to complete the Services, the City Engineer, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Exhibit "A", attached hereto (the "Services").

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed \$100,000.00, as set forth in Exhibit "A".

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this Agreement, this provision shall control.

ARTICLE V. ACKNOWLEDGMENTS

A. Existence. The Engineer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. The Engineer has the corporate power to enter into and perform this Agreement and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Agreement and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part

of the Engineer. This Agreement constitutes legal, valid, and binding obligations of the Engineer and is enforceable in accordance with the terms thereof.

D. Engineer. The Engineer maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and is familiar with all applicable laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Activities contemplated hereby.

E. Performance. The Engineer will and shall conduct all activities contemplated by this Agreement in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional services, as contemplated hereby.

F. Use of Copyrighted Material. The Engineer acknowledges that any materials provided by the Engineer for use by City pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other law, statute, rule, order, regulation, ordinance or contractual obligation relating to the use or reproduction of materials. The Engineer shall be solely responsible for ensuring that any materials provided by the Engineer pursuant to this Agreement satisfy this requirement and the Engineer agrees to indemnify and hold City harmless from all liability or loss caused to City or to which City is exposed on account of the Engineer's failure to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Engineer shall accomplish the following: Professional Services related to the Services, as provided in Exhibit "A", attached hereto and made a part hereof.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Engineer and the City agree that the Engineer shall perform the duties under this Agreement as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. The Engineer has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, the Engineer and the Engineer's employees and/or sub-consultants, will not be considered, for any purpose, employees or agents of the City within the meaning or the application of any federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

The Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or sub-consultant of the Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Single Limit: \$1,000,000

General Aggregate Limit: \$2,000,000

Professional Liability:

Per Claim/Annual Aggregate: \$2,000,000

Automobile Liability:

Combined Single Limit for any auto: \$1,000,000 Per Occurrence

Employer's Liability:

Per Occurrence Single Limit: \$1,000,000

Worker's Compensation

Per Occurrence Single Limit: \$500,000

The Engineer shall further cause any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Engineer herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The City shall be listed as a primary and noncontributory additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. The Engineer shall provide a Certificate of Insurance to the City as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy shall be included in the Certificate. The Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Engineer shall maintain said coverage throughout the term of this Agreement and

shall comply with all provisions of Title 5 of the Texas Labor Code to endeavor to see that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City. If at any time during the life of the Agreement or any extension hereof, the Engineer fails to maintain the required insurance in full force and effect, the Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained at the Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this Agreement and the discovery period (possibly through tail coverage) shall be no less than 10 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

The Engineer may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Engineer, as set forth on Exhibit "A", if applicable and attached hereto, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Engineer is at all times responsible to the City to perform the Services as provided in this Agreement and the Engineer is in no event relieved of any obligation under this Agreement upon retainage of any approved Sub-consultant. Any agent and/or Sub-consultant retained and/or employed by the Engineer shall be required by the Engineer to carry, for the protection and benefit of the City and the Engineer and naming said third parties as additional insureds, insurance as described above required to be carried by the Engineer in this Agreement.

The Engineer acknowledges that such services are either under applicable value thresholds or are otherwise exempt from notice and/or bid requirements under Texas Law.

ARTICLE X. CONFIDENTIALITY

The Engineer shall retain all information received from or concerning the City and the City's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the City, unless otherwise required by law.

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING,

REASONABLE EXPENSES OF LITIGATION, COURT COSTS, AND REASONABLE ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

Parkhill, Inc.
Kyle Jackson, P.E.
4222 85th Street
Lubbock, TX 79423
Telephone: (806)473-3624
Email: Kjackson@parkhill.com

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

Kevin Prado, P.E.
City of Lubbock
P.O. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: (806)775-2329
Email: Kprado@mylubbock.us

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, referring specifically to this Agreement, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

Provision of Data. The City shall furnish the Engineer non-confidential studies, reports and other available data in the possession of the City pertinent to the Engineer's Services, so long as the City is entitled to rely on such studies, reports and other data for the performance of the Engineer's Services under this Agreement (the "Provided Data"). The Engineer shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

ARTICLE XV. MISCELLANEOUS

A. Captions. The captions for the articles and sections in this Agreement are inserted in this Agreement strictly for the parties' convenience in identifying the provisions to this Agreement and shall not be given any effect in construing this Agreement.

B. Audit. The Engineer shall provide access to its corporate books and records to the City. The City may audit, at its expense and during normal business hours, the Engineer's books and records with respect to this Agreement between the Engineer and the City.

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer.

D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

E. Successor and Assigns. This Agreement binds and inures to the benefit of the City and the Engineer, and in the case of the City, its respective successors, legal representatives, and assigns, and in the case of the Engineer, its permitted successors and assigns.

F. Construction and Venue.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF

ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

G. Severability. If any provision of this Agreement is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstance, the remainder of this Agreement and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

H. Amendment. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Agreement, and duly authorized and executed by the Engineer and the City.

I. Entire Agreement. This Agreement, including Exhibits “A” attached hereto, contains the entire agreement between the City and the Engineer, and there are no other written or oral promises, conditions, or acknowledgments relating to or affecting the matters contemplated herein.

J. No Joint Enterprise. Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between the Engineer and the City.

K. Documents Owned by City. Any and all documents, drawings and specifications prepared by Engineer as part of the Services hereunder, shall become the property of the City when the Engineer has been compensated as set forth in Article II, above. The Engineer shall make copies of any and all work products for its files.

L. Notice of Waiver. A waiver by either the City or the Engineer of a breach of this Agreement must be in writing and duly authorized to be effective. In the event either party shall execute and deliver such waiver, such waiver shall not affect the waiving party’s rights with respect to any other or subsequent breach.

M. Third Party Activities. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than the City and the Engineer.

N. Non-Appropriation. All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the services provided under the Agreement, the City will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first (the “Non-Appropriation Date”). If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Engineer on

thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the Non-Appropriation Date.

O. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code, prohibits the City from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization

P. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, a) This section applies only to a contract that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. (b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

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

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

S. Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Engineer 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, Engineer agrees to: (1) preserve all contracting information related to the contract as provided by the records retention

requirements applicable to the governmental body for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and (3) on completion of the contract, either: (A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



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

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

Firm

Parkhill

By: 

Kyle Jackson, P.E.
Principal

Email: Kjackson@parkhill.com

Josh Kristinek, PE
Assistant City Engineer
City of Lubbock
1314 Avenue K
Lubbock, Texas 79401

RE: Proposal for Additional Professional Engineering Services
Lubbock 34th Street Back of Curb Project
Lubbock, Texas

Dear Mr. Kristinek:

Parkhill is pleased to have the opportunity to provide this Proposal for Additional Professional Engineering Services to the City of Midland for the referenced Project.

SCOPE OF SERVICES

Parkhill will be available to provide construction-phase services for the referenced project on an as-needed basis. Scope of Services may include, but is not limited to:

- Change Order Processing
- RFI Responses
- Meeting Coordination and Attendance
- Exhibit Preparation for Landowner Meetings
- Pay Application Coordination and Review
- Site Visits and Consultation
- Other Construction Phase Services as Needed

DELIVERABLES

Deliverables will be developed on an as-needed basis as determined throughout the course of the 34th Street Construction Project.

SCHEDULE

The duration of this Work shall extend for the duration of the 34th Street Construction Project and additional sufficient time as agreed to by both parties to complete closeout procedures.

COMPENSATION

Our fee for the Scope of Services described above will be based on an hourly rate as needed and directed by the City, and not to exceed the amount of approximately \$100,000.00 without prior approval. The current hourly rates are enclosed.

Reimbursable expenses will be billed at invoice cost plus a 15% markup for handling costs and include, but are not limited to, travel, postage/shipping, and reproductions/copies.

Parkhill

Hourly Rate Schedule

January 1, 2023 through December 31, 2023

Client: City of Lubbock

Project: Lubbock 34th Street Back of Curb Project

Agreement Date: _____

Location: Lubbock, TX

CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE
SUPPORT STAFF I	\$61.00	PROFESSIONAL LEVEL III		PROFESSIONAL LEVEL VI	
SUPPORT STAFF II	\$72.00	Architect	\$152.00	Architect	\$251.00
SUPPORT STAFF III	\$99.00	Civil Engineer	\$187.00	Civil Engineer	\$283.00
SUPPORT STAFF IV	\$105.00	Electrical Engineer	\$182.00	Electrical Engineer	\$295.00
SUPPORT STAFF V	\$117.00	Interior Designer	\$136.00	Interior Designer	\$217.00
SUPPORT STAFF VI	\$126.00	Landscape Architect	\$147.00	Landscape Architect	\$234.00
PROFESSIONAL LEVEL I		Mechanical Engineer	\$174.00	Mechanical Engineer	\$282.00
Architect	\$124.00	Structural Engineer	\$180.00	Structural Engineer	\$271.00
Civil Engineer	\$135.00	Survey Tech	\$140.00	Professional Land Surveyor	\$219.00
Electrical Engineer	\$138.00	Other Professional	\$134.00	Other Professional	\$213.00
Interior Designer	\$118.00	PROFESSIONAL LEVEL IV		PROFESSIONAL LEVEL VII	
Landscape Architect	\$118.00	Architect	\$186.00	Architect	\$323.00
Mechanical Engineer	\$129.00	Civil Engineer	\$218.00	Civil Engineer	\$338.00
Structural Engineer	\$129.00	Electrical Engineer	\$214.00	Electrical Engineer	\$338.00
Survey Tech	\$110.00	Interior Designer	\$149.00	Interior Designer	\$243.00
Other Professional	\$116.00	Landscape Architect	\$159.00	Landscape Architect	\$323.00
PROFESSIONAL LEVEL II		Mechanical Engineer	\$204.00	Mechanical Engineer	\$323.00
Architect	\$134.00	Structural Engineer	\$208.00	Structural Engineer	\$338.00
Civil Engineer	\$151.00	Survey Tech	\$170.00	Professional Land Surveyor	\$263.00
Electrical Engineer	\$156.00	Other Professional	\$158.00	Other Professional	\$323.00
Interior Designer	\$124.00	PROFESSIONAL LEVEL V			
Landscape Architect	\$124.00	Architect	\$226.00		
Mechanical Engineer	\$149.00	Civil Engineer	\$263.00		
Structural Engineer	\$147.00	Electrical Engineer	\$261.00		
Survey Tech	\$120.00	Interior Designer	\$179.00		
Other Professional	\$122.00	Landscape Architect	\$194.00		
		Mechanical Engineer	\$249.00		
		Structural Engineer	\$251.00		
		Professional Land Surveyor	\$198.00		
		Other Professional	\$176.00		

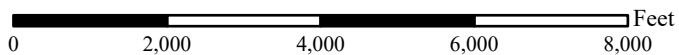
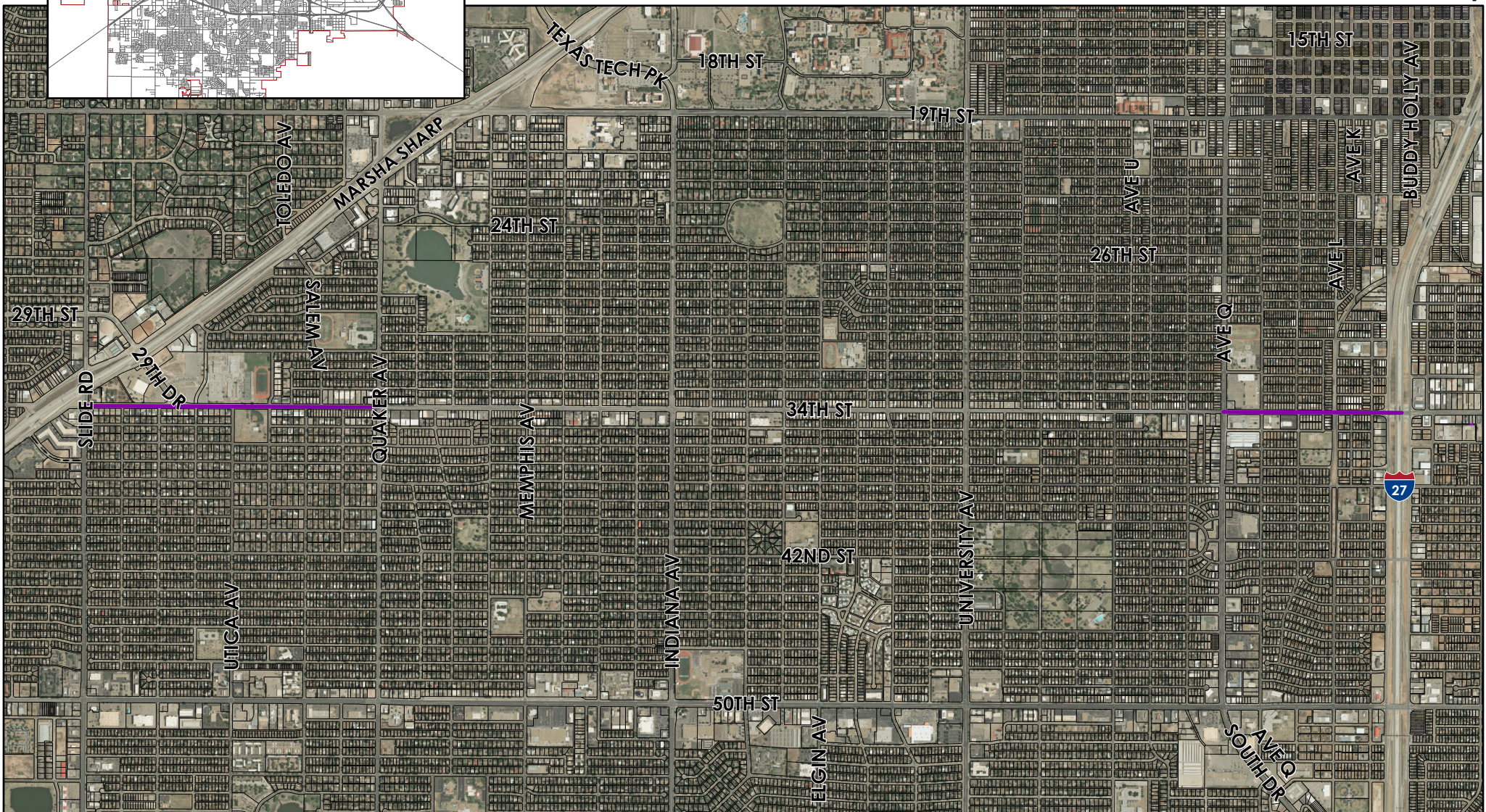
Expenses: Reimbursement for expenses as listed, but not limited to, incurred in connection with services, will be at cost plus 15 percent for items such as:

1. Maps, photographs, postage, phone, reproductions, printing, equipment rental, and special supplies related to the services.
2. Consultants, soils engineers, surveyors, contractors, and other outside services.
3. Rented vehicles, local public transportation and taxis, road toll fees, travel, and subsistence.
4. Special or job-specific fees, insurance, permits, and licenses applicable to work services.
5. Mileage at IRS-approved rate.

Rate for professional staff for legal proceedings or as expert witnesses will be a rate one-and-a-half times these Hourly Rates. Excise and gross receipt taxes, if any, will be added as an expense.

Foregoing Schedule of Charges is incorporated into the Agreement for Services provided, effective January 1, 2023 through December 31, 2023. After December 31, 2023, invoices will reflect the Schedule of Charges currently in effect.

**34th Street Roadway Bond Project:
Slide Road to Quaker Avenue & Ave Q to Interstate-27**



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

**City of Lubbock
Capital Project
Project Cost Detail
October 24, 2023**

Capital Project Number:	92814
Capital Project Name:	34th Street Back-of-Curb Bond Project

	Budget
<i>Encumbered/Expended</i>	
Staff time	\$2,096
Design Contract 17040 with Parkhill	165,568
Construction Contract with Lonestar	7,052,873
 <i>Agenda Item October 24, 2023</i>	
34th Street EOR - Parkhill Contract 17040	100,000
<i>Encumbered/Expended To Date</i>	7,320,537
 <i>Estimated cost for Remaining Appropriation</i>	
Miscellaneous Expense	179,463
<i>Remaining Appropriation</i>	179,463
 Total Appropriation	\$7,500,000



CIP 92814 34th Street Back of Curb Improvements from Ave Q to I-27 and from Slide Road to Quaker Avenue - 22B

"New Roadway Infrastructure"

Project Manager: Josh Kristinek - Engineering

Project Scope

34th Street Back of Curb Improvements from Avenue Q to I-27 and Slide Road to Quaker Avenue will revitalize the back of curb improvements after the pavement section was rebuilt the summer of 2022 by Public Works. These needed improvements include curb and gutter, drainage, streetlights, sidewalk improvements, and utility adjustment along the corridor.

Project Justification

On November 8, 2022, Lubbock voters approved issuance of a \$200 million street improvements bond package for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Project Dates

Design Start Date: 12/2022
Design Completion: 04/2023
Bid for Constuction:05/2023
Award Construction: 07/2023
Project Completion: 07/2024

Project Highlights

Council Priorities Addressed:
Public Safety
Community Improvement
Growth and Development

Project History

Project Location

Project Appropriations

P Works 92814

	2022 - 23 Budget CIP	2023 - 24 Budget	2023 - 24 Budget CIP	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget
Construction	\$7,500,000	\$0	\$7,500,000	\$0	\$0	\$0	\$0
TOTAL	\$7,500,000	\$0	\$7,500,000	\$0	\$0	\$0	\$0

	2028 - 29 Budget
Construction	\$0
TOTAL	\$0

Project Funding

P Works 92814

	Funding to Date	2023 - 24 Budget	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget
General Obligation Bonds	\$7,500,000	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$7,500,000	\$0	\$0	\$0	\$0	\$0	\$0

Operating Budget Impacts

92814

Description	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	Total
No Impact Anticipated	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 17636, with Halff Associates, Inc., for engineering services for the reconstruction of Upland Avenue from 19th Street to 34th Street.

Item Summary

On November 8, 2022, Lubbock voters approved issuance of a \$200 million Street Improvements Bond Package for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Upland Avenue from 19th Street to 34th Street is currently a 2-lane paved road and is designated in the 2018 Master Thoroughfare Plan to become a 5-lane modified principal arterial roadway. Continued growth in northwest Lubbock has increased traffic demands along the north Upland Avenue street corridor from 19th Street to 34th Street. Professional Services Agreement 17636 will provide full design of a 3-lane all-weather roadway with consideration of ultimate build-out of 5 lanes.

Staff conducted contract negotiations with Halff Associates, Inc. after establishing them as qualified under RFQ 21-15876-JM for providing engineering services. Fair and reasonable hourly rates were agreed upon for a total contract amount of \$1,280,700, with an 18-month contract duration. Staff recommends award of the contract to Halff Associates, Inc. of Fort Worth, Texas, to provide the plans, specifications, estimates, and bid phase services, for Upland Avenue from 19th Street to 34th Street.

Fiscal Impact

This contract is not to exceed \$1,280,700, and is funded in Capital Improvements Project 92816, Upland Avenue: 19th Street to 34th Street-22B.

Staff/Board Recommending

Erik Rejino, Assistant City Manager

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

Attachments

Resolution

Professional Service Contract

Location Exhibit

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, Professional Services Agreement Contract No. 17636 for engineering services for the reconstruction of Upland Avenue from 19th Street to 34th Street, by and between the City of Lubbock and Halff Associates, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 17636 is entered into this ____ day of _____, 2023, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Halff Associates, Inc. (the "Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for Upland Avenue from 19th Street to 34th Street, (the "Activities"); and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by the City and the Engineer to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to the Activities, and Engineer desires to provide the Services related to same.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, the City and the Engineer hereby agree as follows:

ARTICLE I. TERM

The term of this Agreement commences on the Effective Date and continues without interruption for a term of 18 months. If the Engineer determines that additional time is required to complete the Services, the City Engineer, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Exhibit “A”, attached hereto (the “Services”).

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed \$1,280,700, as set forth in Exhibit “B”.

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this Agreement, this provision shall control.

ARTICLE V. ACKNOWLEDGEMENTS

A. Existence. The Engineer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. The Engineer has the corporate power to enter into and perform this Agreement and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Agreement and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part

of the Engineer. This Agreement constitutes legal, valid, and binding obligations of the Engineer and is enforceable in accordance with the terms thereof.

D. Engineer. The Engineer maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and is familiar with applicable laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Activities contemplated hereby.

E. Performance. The Engineer will and shall conduct all activities contemplated by this Agreement in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional services, as contemplated hereby.

F. Use of Copyrighted Material. The Engineer acknowledges that any materials provided by the Engineer for use by City pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other applicable law, statute, rule, regulation, ordinance or contractual obligation relating to the use or reproduction of materials. The Engineer shall be solely responsible for requiring that any materials provided by the Engineer pursuant to this Agreement satisfy this requirement and the Engineer agrees to indemnify and hold City harmless from liability or loss caused to City or to which City is exposed on account of the Engineer's negligence to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Engineer shall accomplish the following: Professional Services related to the Services, as provided in Exhibit "A", attached hereto and made a part hereof.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Engineer and the City agree that the Engineer shall perform the duties under this Agreement as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. The Engineer has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, the Engineer and the Engineer's employees and/or sub-consultants, will not be considered, for any purpose, employees or agents of the City within the meaning or the application of applicable federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

The Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or sub-consultant of the Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Single Limit: \$1,000,000

General Aggregate Limit: \$2,000,000

Professional Liability:

Per Claim/Annual Aggregate: \$2,000,000

Automobile Liability:

Combined Single Limit for any auto: \$1,000,000 Per Occurrence

Employer's Liability:

Per Occurrence Single Limit: \$1,000,000

Worker's Compensation

Per Occurrence Single Limit: \$500,000

The Engineer shall further require any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Engineer herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The City shall be listed as a primary and noncontributory additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. The Engineer shall provide a Certificate of Insurance to the City as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy shall be included in the Certificate. The Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas

Labor Code. Further, the Engineer shall maintain said coverage throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City. If at any time during the life of the Agreement or any extension hereof, the Engineer fails to maintain the required insurance in full force and effect, the Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained at the Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this Agreement and the discovery period (possibly through tail coverage) shall be no less than 10 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

The Engineer may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Engineer, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Engineer is at all times responsible to the City to perform the Services as provided in this Agreement and the Engineer is in no event relieved of any obligation under this Agreement upon retainage of any approved Sub-consultant. Any agent and/or Sub-consultant retained and/or employed by the Engineer shall be required by the Engineer to carry, for the protection and benefit of the City and the Engineer and naming said third parties as additional insureds, insurance as described above required to be carried by the Engineer in this Agreement.

The Engineer represents that such services are either under applicable value thresholds or are otherwise exempt from notice and/or bid requirements under Texas Law.

ARTICLE X. CONFIDENTIALITY

The Engineer shall retain all information received from or concerning the City and the City's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the City, unless otherwise required by law.

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING,

ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

Halff Associates, Inc.
Jacob Hays, P.E.
2601 Meacham Blvd., Suite 600
Fort Worth, Texas 76133
Telephone: 817-764-7436
Email: jhays@halff.com

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

Tommy Harms, P.E.
City of Lubbock
P.O. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 806-775-2344
Email: tharms@mylubbock.us

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, referring specifically to this Agreement, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

Provision of Data. The City shall furnish the Engineer non-confidential studies, reports and other available data in the possession of the City pertinent to the Engineer's Services, so long as the City is entitled to rely on such studies, reports and other data for the performance of the Engineer's Services under this Agreement (the "Provided Data"). The Engineer shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

ARTICLE XV. MISCELLANEOUS

A. Captions. The captions for the articles and sections in this Agreement are inserted in this Agreement strictly for the parties' convenience in identifying the provisions to this Agreement and shall not be given any effect in construing this Agreement.

B. Audit. The Engineer shall provide access to its corporate books and records to the City. The City may audit, at its expense and during normal business hours, the Engineer's books and records with respect to this Agreement between the Engineer and the City.

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer.

D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

E. Successor and Assigns. This Agreement binds and inures to the benefit of the City and the Engineer, and in the case of the City, its respective successors, legal representatives, and assigns, and in the case of the Engineer, its permitted successors and assigns.

F. Construction and Venue.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF

ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

G. Severability. If any provision of this Agreement is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstance, the remainder of this Agreement and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

H. Amendment. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Agreement, and duly authorized and executed by the Engineer and the City.

I. Entire Agreement. This Agreement, including Exhibits "A" through "B" attached hereto, contains the entire agreement between the City and the Engineer, and there are no other written or oral promises, conditions, acknowledgements, or representations relating to or affecting the matters contemplated herein.

J. No Joint Enterprise. Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between the Engineer and the City.

K. Documents Owned by City. All final documents, drawings and specifications prepared by Engineer as part of the Services hereunder, shall become the property of the City when the Engineer has been compensated as set forth in Article II, above. The Engineer shall make copies of any and all work products for its files.

L. Notice of Waiver. A waiver by either the City or the Engineer of a breach of this Agreement must be in writing and duly authorized to be effective. In the event either party shall execute and deliver such waiver, such waiver shall not affect the waiving party's rights with respect to any other or subsequent breach.

M. Third Party Activities. Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than the City and the Engineer.

N. Non-Appropriation. All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the services provided under the Agreement, the City will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first (the "Non-Appropriation Date"). If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Engineer on

thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the Non-Appropriation Date.

O. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code, prohibits the City from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization

P. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, a) This section applies only to a contract that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. (b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

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

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

S. Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the engineer or vendor agrees that the contract can be terminated if the engineer 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, Engineer agrees to: (1) preserve all contracting information related to the contract as provided by the records retention

requirements applicable to the governmental body for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and (3) on completion of the contract, either: (A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



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

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

Firm: Halff Associates, Inc.

By: 
Jacob Hays, P.E., Public Works Team Leader
Email: jhays@halff.com

EXHIBIT A
SCOPE OF WORK
FOR
UPLAND AVENUE
FROM 19TH STREET TO 34TH STREET

GENERAL DESCRIPTION

This scope of work includes the project management, coordination, subsurface utility engineering (SUE), survey, geotechnical engineering, engineering, acquisition, and bidding services for the one mile reconstruction of Upland Avenue between the southern edge of 19th Street and the northern edge of 34th Street. The project will widen the two-lane paved road to a three-lane partial section with associated drainage, lighting, signal, communication, and pedestrian facilities as necessary. The ultimate five-lane buildout of the roadway will be done with a future project. A detailed scope of work is provided below:

SCOPE OF ENGINEERING SERVICES

PHASE 1 – PROJECT MANAGEMENT AND COORDINATION

- I. Kickoff Meeting
 - A. Within ten (10) days of notice to proceed, the ENGINEER will setup a kickoff meeting with the CITY to confirm design criteria and goals. The ENGINEER will prepare a meeting agenda as well as minutes of the meeting. A design criteria chart will be provided with the minutes. The ENGINEER will prepare a Design Summary Report (DSR) as part of this meeting.
 - B. The ENGINEER will prepare a baseline project schedule indicating tasks, critical dates, milestones, deliverables and review requirements prior to the kickoff meeting.
- II. Design Coordination Meetings
 - A. The ENGINEER shall attend a plan's in hand review meeting to discuss comments and the resolution to said comments after each milestone submittal. For this scope the ENGINEER assumes a meeting will be held after the 30%, 60%, 90% milestones for a total of three (3) in-person meetings.
- III. Project Reporting and Billing
 - A. The ENGINEER will submit invoices as the work progresses but not more frequently than monthly. Each invoice will be accompanied by a brief update of work completed for the period covered, list of tasks anticipated for the upcoming month, right-of-way acquisition status, critical issues, and an updated version of the project schedule.
 - B. The ENGINEER will conduct monthly conference calls with the CITY to update status and coordinate efforts.
 - C. The anticipated schedule for this project from NTP to bidding completion is 18 months.
- IV. Utility Coordination
 - A. The ENGINEER shall provide utility coordination services. These services include meeting and contact with all utilities on the project, initial and ongoing coordination with the City's bond program management consultant, initial project notifications,

preparation of existing utility layouts, preparation of contact lists, reviewing conflicts between the utilities and the proposed project, creating a utility tracking report, review of all of the proposed utility adjustments, and recommendations for the proposed locations of the utility adjustments.

- B. Utility Conflict Layout, Utility Conflict Matrix, Utility Contact List
 - 1. The ENGINEER shall prepare and deliver four (4) iterations of the Utility Conflict Layout, Utility Conflict Matrix (UCM), and Utility Contact List identifying potential known conflicts based on 30%, 60%, 90% and final design to support Utility Coordination Efforts.
 - 2. The layout and UCM shall include all existing utilities which are to remain in place, those to be abandoned or removed, and those to be adjusted. This layout will be utilized to monitor the necessity of relocation and evaluate alternatives and will serve as the utility base file for the design. The ENGINEER will utilize the layout and UCM of existing utilities and determine the following:
 - a) Facilities in conflict with the proposed project that are to be relocated and facilities to be abandoned in place or removed (conflict analysis).
 - b) Facilities to remain in service and in place.
- C. Conflict Resolution
 - 1. The ENGINEER shall assist the design team in determining test hole locations to provide conflict resolution. The ENGINEER shall coordinate conflicts/relocations due to the project improvements with each utility owner and shall review applicable right-of-way permits or utility permits needed for utility adjustments and/or relocations within the project improvement area.
- D. Public & Individual Meetings
 - 1. The ENGINEER will schedule group meetings and individual one-on-one meetings with utility companies as required facilitating utility conflict identification and resolution (up to 24 group meetings and 18 individual meetings).
- E. Right of Way Staking for Utility Coordination
 - 1. Locate and stake existing and proposed ROW limits as requested by the City or by franchise utilities for the purpose of facilitating utility relocation. Up to 10 callouts to locate and stake ROW limits are included in this item.
- V. Coordination with Outside Agencies
 - A. The ENGINEER will coordinate with outside agencies as necessary for the successful completion of the Project. Agencies include but are not limited to TxDOT, and the engineers and/or developers for on-going or eminent adjacent developments. For this scope the ENGINEER assumes a total of five (5) onsite meetings and five (5) virtual meetings.
- VI. Project Management and Quality Assurance and Quality Control
 - A. The ENGINEER will prepare, implement, and document a formal QA/QC plan in accordance with the Public Works section of the ENGINEER's Quality Assurance/Quality Control Program manual.
 - B. The ENGINEER shall conduct regular coordination meetings with project sub-consultants and include all sub-consultant work in the ENGINEER's QA/QC project program.
- VII. For the purposes of this work it is assumed that monthly coordination meetings shall be conducted and billed under the Upland from 4th to 19th project currently under design by Half.

PHASE 2 – FIELD DATA COLLECTION

- I. Right of Entry
 - A. Prior to obtaining any field data the ENGINEER shall prepare and obtain up to twenty (20) right of entries for the project based upon the anticipated property impacts and collection needs.
- II. Subsurface Utility Engineering
 - A. The ENGINEER/CONTRACTOR will perform the SUE work required for this project in general accordance with the recommended practices and procedures described in ASCE Publication CI/ASCE 38-02 (Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data). As described in the mentioned ASCE publication, four levels have been established to describe the quality of utility location and attribute information used on plans. The four quality levels are as follows:
 - 1. Quality Level-A: Also known as “locating”, this quality level provides precise three-dimensional (x, y, z) information at critical locations by exposing specific utilities. Non-destructive vacuum excavation equipment is used to expose the utilities at specific points which are then tied down by survey.
 - 2. Quality Level-B: Two-dimensional (x, y) information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as “designating” this quality level provides the horizontal position of subsurface utilities within approximately one foot.
 - 3. Quality Level-C: QL “D” information supplemented with information obtained by surveying visible above-ground utility features (i.e. valves, hydrants, meters, manhole covers, etc.).
 - 4. Quality Level-D: Information derived from existing records.
 - B. Quality Level-A Utility Test Holes (Vacuum Excavation)
 - 1. Up to five (5) test holes will be performed on various utilities at locations specified by Client. Halfff will cut up to a 12” square test hole, excavate down to utility, record the depth to top of utility, backfill & compact the hole, and restore the surface to its original condition. An iron rod with cap or “x-cut” will be set to mark the approximate centerline location of the utility. A jackhammer will be utilized for work to be performed in asphalt and concrete areas. This Scope of Services includes all test holes being performed under one (1) mobilization and that assets which are being potholed are less than 10-feet in depth

2. If test holes are requested on non-conductive/untonable utilities depicted as Quality Level-D where the horizontal location is assumed, Halff will coordinate with Client and respective utility owner, on-site personnel if private property and available records to pinpoint the location to perform the test hole. Due to the concrete/ground conditions, one (1) attempt shall be made under this fee, which may or may not expose the subject utility. Should the utility not be exposed, Halff will coordinate with the Client for direction on digging additional test holes if required and shall be compensated for each test hole dug.
 3. If significant rock is encountered in the area of the test hole that prohibits the utility from being exposed via standard level A methods then supplemental locations may need to be provided at an additional cost.
- C. Quality Level-B Utility Designating
1. The ENGINEER will designate the approximate horizontal position and approximate electronic depths of conductive/toneable utilities within the project limits using geophysical prospecting equipment and mark using paint and/or pin flags. We anticipate the designation of approximately 30,000 linear feet of utilities including buried communication, electric, natural gas, petroleum pipeline, water, and wastewater/sanitary sewer. Designation of irrigation lines, HDPE lines, gathering lines, asbestos concrete and/or pvc lines, as well as pvc lines without tracer wire or access are not part of this Scope of Services. Because of limited utility record information and the possibility of non-conductive/un-toneable utilities, the CONTRACTOR cannot guarantee all utilities will be found and marked within the project limits.
- D. Quality Level-C Surveying
1. Quality Level-B Utility Designation paint markings, pin flags, and above ground utility appurtenances as well the iron rod with cap or "x-cut" for Quality Level-A Test Holes will be surveyed and tied utilizing project survey control provided by the Client.
- E. Quality Level-D Records Research
1. Available Records will be provided to Halff by the Client. The ENGINEER will perform additional utility record research as needed to successfully complete the project.
 2. Because there are situations where the utility does not have a metallic composition, a metallic tracer line attached, or access to insert a tracer line, the approximate location of the utility may be determined using utility records and direct correspondence with the utility owner/representative. In these areas, the information will be considered Quality Level-D, depicted according to utility record information only.
- F. SUE Field Manager / Professional Engineer
1. A SUE Field Manager will be on-site for a portion of this project for field crew supervision, field quality control, and coordination with on-site personnel. A Professional Engineer will be responsible for QA/QC, management of the contract, coordination with the project team and signing the final deliverables if required.
- G. SUE Deliverables / CADD
1. Deliverables for the Quality Level-B 2D Utility Designation will be 11-in. x 17-in. SUE plan sheets depicting the findings of the investigation. Deliverables for the Quality Level-A Test Hole excavations will be an 11-in. x 17-in. Test Hole

Summary Sheet depicting information about all Test Hole's performed indicating depth, size, location, and other notable characteristics of the utility. Electronic files will be provided in MicroStation and/or AutoCAD format along with PDFs and photos.

H. Permitting

1. The ENGINEER will coordinate City permitting related to the SUE investigation.

I. Work Zone Traffic Control:

1. The ENGINEER will provide standard temporary work zone traffic control consisting of cones and free-standing signage for this project. This Scope of Services does not include lane closure(s), flag person(s), changeable message board(s), arrow board(s) and/or engineered traffic control plans.
2. If an engineered traffic control plan is required for permit approval or if unique traffic control conditions exist, the ENGINEER will notify the Client and submit a supplemental agreement for authorization prior to proceeding with additional work.

III. Survey

A. Design Survey

1. SURVEYOR will develop an existing boundary survey and existing topographic data within the limits of this project to prepare the preliminary roadway design.
 - a) Data Collection and Property Research
 - (1) SURVEYOR will collect available data to determine the boundary locations and owner information for all adjacent properties within the project limits.
 - b) Design Survey
 - (1) The limits of the survey along Upland Avenue will be from the southern 19th Street return to the northern 34th Street return. The survey will include the existing and proposed right-of-way width of 110' and where subdivisions and structures are encountered adjacent to Upland Avenue, data will be collected a maximum of 20-feet beyond the ROW.
 - (2) The following areas shall also be surveyed:
 - (a) Thoroughfare Intersections – 200-feet east and west of the Upland Avenue intersection
 - (b) Minor Cross Streets - 100-feet east and west of the proposed Upland Avenue ROW line.
 - (c) Finished floor elevations of existing structures adjacent to the right-of-way as needed
 - (3) Place control monuments with aluminum caps in concrete. Establish horizontal state plane coordinates (NAD 83) using GPS. Establish vertical control coordinates on NAVD 88. Monuments will be set to accommodate the limits of construction where possible.
 - (4) Perform a field survey to identify and locate existing topographic elements within the roadway corridor including, but not limited to the following:
 - (a) Evidence of property boundary locations adjacent to the corridor.

- (b) Existing pavement, curbs, sidewalks, barrier free ramps, etc.
 - (c) Roadway and lane striping along Upland
 - (d) Driveways (including material)
 - (e) Parking lots within 20-ft of proposed ROW
 - (f) Alleys (including material)
 - (g) Existing culvert sizes and invert elevations, including cross sections approaching culvert crossings and headwalls/wingwalls
 - (h) Existing driveways and swales
 - (i) Visible utilities including: manholes, vaults, water valves, water meters, telephone poles, power poles, utility markers, water well features, other public utilities, and franchise utilities
 - (j) Traffic signal poles, cabinets, and other signal equipment
 - (k) Signs (excluding temporary signs)
 - (l) Trees, larger than 6" caliper
 - (m) Buildings and permanent structures
 - (n) Retaining walls
 - (o) Fence/Wall limits and material types (excluding temporary fences)
 - (p) Other applicable physical features that could impact design
 - (5) Prepare a final topographic drawing in digital format (including contours and break lines) showing the features located in the field as well as right-of-way strip map information, an ASCII coordinate file of the points located in the field, and a hard copy of the coordinates and feature descriptions.
- B. Existing Right of Way Survey and Basemapping
- 1. The existing right of way base map will be incorporated into the schematic document, and will include the following information:
 - a) Parcels and easements with current recording information
 - b) Current property owner
 - c) Existing platted easements and easements available in the public record including easements provided by utility companies
- IV. Geotechnical Exploration, Testing, and Reporting
- A. Field Exploration
- 1. Drill six (6) borings with a truck-mounted drill rig and support vehicle. The borings will be advanced to a depth of five (10) feet below existing ground surface. Three (3) of the six borings will be cut and cored from the existing roadway to determine the existing pavement structure.
 - 2. The relative density/consistency of the soil will be determined in general accordance with the use of the Standard Penetration Test (SPT) (ASTM D 1586) and/or Shelby tube (ASTM D 1587).
 - 3. Undisturbed cohesive soil samples will be obtained using 3-inch diameter thin-walled tube samplers pushed into the soil. Non-cohesive soil samples will be obtained using split-barrel samplers used in conjunction with the standard

penetration test (SPT). The primary rock will be evaluated using Texas Department of Transportation (TxDOT) cone penetration tests, if encountered during drilling. Groundwater readings will be obtained as the boring is advanced and following completion of drilling, as possible.

4. Field personnel or client's representative will mark the boring locations using hand-held GPS or normal taping procedures. Both methods provide an accuracy of 20 to 50 feet. Locations will be shown on the plan of borings, when a site plan becomes available. At the completion of drilling operations, borings will be backfilled with soil cuttings at the surface.

B. Laboratory Testing

1. The engineering properties of the soil and/or rock will be evaluated in the laboratory using tests performed on selected representative samples. The samples will be visually examined and classified. Considering the nature of the project, we recommend the following tests be performed for our study:
 - a) Moisture content
 - b) Liquid and plastic limit (Plasticity Index-PI)
 - c) Percent passing a No. 200 sieve
 - d) Soil classification according to USCS
 - e) California Bearing Ratio (CBR)

C. Geotechnical Engineering Analysis and Report

1. The field and laboratory data will be analyzed to develop geotechnical recommendations. An engineering report will be prepared to include the following;
 - a) Plan of borings, boring logs, and groundwater conditions at the boring locations
 - b) Laboratory test results
 - c) General soil and discussion of the site geology
 - d) Evaluation of the swell characteristics of the soils
 - e) Design recommendations for
 - (1) Earthwork
 - (2) Pavement construction recommendations based on assumed or available traffic data provided by the client.
 - f) One electronic copy of the report will be provided unless otherwise requested.

PHASE 3 – DESIGN

I. Schematic Design (30%)

A. Schematic Drainage Analysis

1. Drainage Analysis
 - a) Data acquisition
 - (1) Previous studies and hydraulic models including FEMA data, master drainage plans, and development drainage analysis as provided by the City of Lubbock
 - (2) Aerial imagery and LiDAR elevation data.
 - (3) Existing drainage facilities record drawings.
2. Existing conditions analysis

- a) Develop existing conditions hydrology
 - b) Develop existing hydraulic cross-sections and existing drainage improvement data for modeling
 - c) Model existing conditions in ICPR4
 - d) Identify existing points of drainage discharge from the roadway corridor to adjacent properties, roadways or easements.
- 3. Full-width improvements drainage analysis and design
 - a) Develop future fully developed conditions hydrology
 - b) Develop ICPR 4 model of initial proposed profile for full width pavement section
 - (1) Analyze proposed profile for existing conditions hydrology
 - (2) Analyze proposed profile for future conditions hydrology for full-width pavement section
 - c) Evaluate need drainage improvements (parallel channels, storm drains, etc.)
 - d) Evaluate need for off-corridor drainage easements and improvements.
 - e) Preliminary sizing of drainage improvements and easements as required to achieve desired roadway drainage conditions.
- B. Draft Schematic Design
 - 1. The ENGINEER shall prepare roll plot schematics depicting plan and profile layout for the roadway, design survey, utilities, conceptual drainage facilities and patterns, and typical section.
 - 2. Two roll plot schematics shall be prepared one of which shall depict the 5-lane ultimate section and one which shall depict the anticipated 3-lane portion to be constructed. The ultimate 5-lane schematic shall serve as the basis for the 3-lane schematic. If the ENGINEER anticipates significant changes from the draft schematic alignment, both horizontal and vertical, then the ultimate schematic only may be provided as part of the draft submittal.
 - 3. These schematics shall be suitable for initial developer coordination in regards to drainage patterns, finished floor elevations, and roadway/driveway connection elevations.
 - 4. The ENGINEER may submit working drawings depicting the proposed horizontal alignment or other elements of concern to the CITY for review and comment to reduce the number of revisions that otherwise could be required.
- C. Draft Schematic Report
 - 1. The ENGINEER shall prepare a letter report summarizing the design criteria utilized and assumptions made during the preparation of the schematic design.
- D. Draft Schematic OPCC
 - 1. The ENGINEER shall prepare a preliminary Engineers Opinion of Probable Construction Cost (OPCC) with a level of detail commensurate to the status of the design.
- E. Draft Schematic Design Submittal
 - 1. The ENGINEER shall provide the CITY with up to three (3) hard copies and one digital copy of the draft schematic deliverables outlined above.
- F. Final Schematic Design and Submittal

1. Upon receipt of comments from the CITY and other stakeholders on the draft schematic the ENGINEER shall address all comments and provide the CITY with up to three (3) hard copies and one digital copies for final approval.

II. Preliminary Design (60%)

A. Preliminary Drainage Analysis and Design

1. Identify necessary drainage improvements for full-width pavement section
2. Coordinate alignment of three-lane section with to accommodate required permanent drainage improvements
3. Model interim three-lane section in ICPR4
 - a) Analyze proposed profile for existing conditions hydrology
 - b) Analyze proposed profile for future conditions hydrology for full-width pavement section
4. Coordinate roadway profile adjustments with to accommodate drainage requirements
5. Identify any interim drainage improvements required for three-lane section
6. Design of grading outside three-lane section to accommodate drainage and grading of off-corridor drainage easements

B. Preliminary Plans

1. The ENGINEER will develop 60% design plans based on CITY approved interim alignment and typical section from 30% schematic
2. Plans shall be prepared with the full size set being 22-inch by 34-inch and of an appropriate scale to allow for the reduction and reproduction of a half size 11-inch by 17-inch set.
3. Design shall be in general accordance with City standards and specifications, TXDOT standards and specifications, where applicable, and good consulting practices for projects off this nature.
4. The preliminary drawings shall include the following:
 - a) Cover Sheet and Sheet Index
 - b) General Notes and Legend
 - c) SUE Plans (50 scale)
 - d) Right of Way Map (50 scale)
 - e) Project Layout and Survey Control (100 scale, dual pane)
 - f) Existing and Proposed Typical Sections (10H; 5V scale)
 - g) Demolition and Adjustment Plans (20 scale, dual pane)
 - h) Roadway Plan and Profile (20H; 2V scale)
 - i) Driveway and Alley Plan and Profiles (20H; 2V scale)
 - j) Grading Plans (20 scale)
 - k) Project Drainage Area Maps
 - l) Hydrologic and Hydraulic Data Sheet
 - m) Ditch Plan and Profiles depicting preliminary depth of flow indications for the 100-year design storm within ROW and any corresponding finished floor elevations
 - n) Culvert Plan and Profiles
 - o) Traffic Signal Conduit and Appurtenance Plans for 19th, 26th, and 34th Streets (10 scale)
 - p) Photometric Map
 - q) Illumination Plan (20 scale, dual pane)
 - r) Illumination Voltage Drop Calculations

- s) Fiber Optic Conduit Plans (20 scale, dual pane)
- t) Traffic Sequencing Plans (20 scale). Plans shall depict high level traffic control sequencing. Detailed traffic control plans shall be provided as part of the final design.
- u) Pavement Markings and Signage Plans (20 scale, dual pane)
- v) Cross sections on 50-foot intervals (10H; 5V scale with up to 6 sections per sheet)

C. Preliminary Opinion of Probable Construction Cost

- 1. The ENGINEER shall submit a preliminary opinion of probable construction cost.
- 2. Bid items within TXDOT right of way shall follow TXDOT's standard specifications and item descriptions. Unit costs for these items shall be developed by and large utilizing TxDOT's available 3-month and 12-month rolling averages for recently let projects.
- 3. Bid items within City right of way shall utilize City standard bid item descriptions and standard specifications. Unit costs for these items shall be developed utilizing previously let projects by Half of similar scope and size as well as TxDOT's available 3-month and 12-month rolling averages for recently let projects.

D. Preliminary Construction Plan Submittal

- 1. The ENGINEER shall provide copies of preliminary construction plan drawings for CITY review and for submission to utility companies and other agencies for the purposes of coordinating work with existing and proposed utilities. The preliminary submittal to the CITY will be made at the 60% stage. The ENGINEER will submit plans to TxDOT and other entities for review. The ENGINEER will provide up to ten (10) hard copies and an electronic copy at the 60% submittal.

III. Final Design (90%)

A. Final Drainage Analysis and Design

- 1. Update ICPR4 model to represent final roadway alignment and profile.
 - a) Permanent full-width roadway section
 - b) Interim three-lane roadway section
- 2. Confirm location and size of drainage outfalls based on final roadway profile.
- 3. Finalize sizing of permanent drainage improvements
- 4. Finalize sizing of interim drainage improvements required for three-lane section.
- 5. Final grading outside three-lane section to accommodate drainage and grading of off-corridor drainage easements.
- 6. Identify additional ROW and/or easement requirements to accommodate drainage design.

B. The ENGINEER shall prepare Final Construction Plan Drawings.

C. This 90% submittal will:

- 1. Incorporate CITY review comments from the 60% milestone submittal.
- 2. Develop the following final design sheets:
 - a) Quantity summary sheets
 - b) Erosion Control Plans (20 scale, dual pane)
 - c) Traffic Control Plans (20 scale). Complete traffic sequencing plan presented in the 60% submittal. Completed traffic control plans will include evaluating the impact of the traffic control plan on surrounding drainage and provisions for interim drainage plan, if needed.
- 3. Incorporate and develop any necessary design details including:
 - a) Consultant Provided Project Specific Details

- b) City and Agency Standard Details
 - c) Agency Standard Details
 - D. Final Opinion of Probable Construction Cost (90%)
 - 1. The ENGINEER shall submit a final opinion of probable construction cost with the respective updates to bid items, quantities and/or unit prices resulting from changes made between the 60% and 90% milestones.
 - 2. Provisions 2 and 3 of the Preliminary Opinion of Probable Construction Cost shall also apply.
 - E. Final Project Manual and Specifications
 - 1. The ENGINEER shall prepare a Final Project Manual including Specifications and other construction contract documents.
 - 2. This 90% submittal will:
 - a) Use the City of Lubbock Engineering Minimum Design Standards and Specification, latest edition and revision at the time of preparation, as base specifications and prepare a description of each bid item for inclusion in the Project Manual. The description will include any modifications to the City specifications for the project.
 - F. Final Construction Plan Submittal
 - 1. The ENGINEER shall provide copies of final construction plan drawings for CITY review and for submission to utility companies and other agencies for the purposes of coordinating work with existing and proposed utilities. The final submittal to the CITY will be made at the 90% stage. The ENGINEER will submit plans to TxDOT, FISD, and other entities for review. The ENGINEER will provide up to ten (10) hard copies and an electronic copy at the 90% submittal.
 - G. Texas Department of Licensing and Regulation (TDLR)
 - 1. Upon completion of all pedestrian related comments the ENGINEER shall prepare and submit applications and fee to the TDLR for code review of the pedestrian elements. After construction the ENGINEER shall notify the TDLR of the completion date and request the field inspection. The ENGINEER shall address any questions or issues raised by the TDLR as a result of review and inspection. Review and inspection fees are included in this proposal and based off an assumed \$200,000 to \$500,000 pedestrian element cost.
- IV. Signed and Sealed Construction Drawings, OPCC, and Project Manual
 - A. The ENGINEER shall revise the drawings, OPCC, and Project Manual based upon comments received from the 90% milestone submittal and deliver a signed and sealed package ready for CITY procurement.
 - B. The ENGINEER shall submit three (3) hard copies and one (1) electronic copy to the CITY for their records.

PHASE 4 – RIGHT OF WAY ACQUISITION

- I. Right of Way Acquisition Services
 - A. The SURVEYOR shall perform the following ROW services in support of the City of Lubbock to acquire the needed property to construct the proposed roadway improvements.
 - 1. Schedule and coordinate property appraisals
 - 2. Obtain Title Reports for each parcel to determine proper owner for negotiations

3. Conduct appraisals on up to 20 parcels to determine fair market value of properties to establish fair market value for the purchase of a roadway easement
 4. Negotiate with property owners on behalf of County of Lubbock (up to 5 contacts per landowner) for purchase of roadway easement on up to 20 parcels
 5. Obtain final approval from County of Lubbock prior to making offers and prior to making final agreement in negotiations
 6. Deliver properly executed documents to the County of Lubbock.
- B. Prepare right of way instruments (20 parcels anticipated)
1. Individual parcel exhibits shall be on 8 ½"x11" paper, shall be sealed, dated, and signed by a Registered Professional Land Surveyor and shall contain the following:
 - a) Parcel number
 - b) Area required
 - c) Legal description
 - d) Current owner
 - e) Easements locatable in the public record.
 - f) All physical features
 - g) Metes and bounds description of parcel to be acquired. Each type of easement shall be described separately.

PHASE 5 – BIDDING

- I. Notice to Bidders
 - A. For the purposes of this work it is assumed that the project shall be advertised along with the Upland from 4th to 19th project currently under design by Halff and therefore no effort has been accounted for this item under this proposal.
- II. Distribution of Bid Documents
 - A. For the purposes of this work it is assumed that the project shall be advertised along with the Upland from 4th to 19th project currently under design by Halff and therefore no effort has been accounted for this item under this proposal.
- III. Plan Holders List
 - A. For the purposes of this work it is assumed that the project shall be advertised along with the Upland from 4th to 19th project currently under design by Halff and therefore no effort has been accounted for this item under this proposal.
- IV. Pre-Bid Meeting
 - A. For the purposes of this work it is assumed that the project shall be advertised along with the Upland from 4th to 19th project currently under design by Halff and therefore no effort has been accounted for this item under this proposal.
- V. Bidding Assistance and Addenda
 - A. The ENGINEER shall respond to prospective bidder's questions and prepare and issue addenda to the bid documents if necessary.
 - B. For the purposes of this work it is assumed that the project shall be advertised along with the Upland from 4th to 19th project currently under design by Halff and therefore only effort associated with the addition of this project has been accounted for.
- VI. Bid Opening and Recommendation of Award

- A. The ENGINEER will assist CITY in the opening, tabulation, and analysis of the bids received. The ENGINEER will also review the qualification information provided by the apparent low bidder and present findings to CITY. The ENGINEER will recommend award of contract or other actions as appropriate to be considered by CITY. Pre-qualifications of all prospective bidders and issuing a list of eligible bidders prior to the bid opening are not part of the services provided by ENGINEER.
 - B. For the purposes of this work it is assumed that the project shall be advertised along with the Upland from 4th to 19th project currently under design by Halff and therefore only effort associated with the addition of this project has been accounted for.
- VII. Assemble Construction Contract Documents
 - A. The ENGINEER will assist CITY in the preparation of Construction Contract Documents for the construction Contract. After execution of the documents, five (5) 22-inch by 34-inch hard copies and one (1) electronic copy will be assembled and distributed by the ENGINEER.
 - B. For the purposes of this work it is assumed that the project shall be advertised along with the Upland from 4th to 19th project currently under design by Halff and therefore only effort associated with the addition of this project has been accounted for.

EXCLUSIONS

- I. Other additional services, not included in this contract, will be negotiated with the City as needed. Compensation will be based upon a mutually agreed lump sum fee or an hourly rate as described below. Items that are considered additional services include but are not limited to:
 - A. Any services not specifically mentioned herein
 - B. Attendance or preparation for Public Meeting(s)
 - C. Attendance or preparation for City Council Meetings
 - D. Attendance or preparation for Planning and Zoning Meetings
 - E. Landscape architecture and irrigation design
 - F. Resurvey to reflect project scope changes requested by the City of Lubbock, required to address changed conditions or change in direction previously approved by the County, mandated by changing governmental laws, or necessitated by the County acceptance of substitutions proposed by the contractor
 - G. Right of Way services for more than 20 parcels and any services not specifically outlined in this scope
 - H. Condemnation services
 - I. Collection of traffic counts
 - J. Traffic control for SUE operations beyond standard localized measures consisting of cones and free-standing signage. Non-standard localized measures are considered activities that require items including but not limited to barricades, flaggers, message board)
 - K. Traffic signal warrant studies
 - L. Traffic impact analyses
 - M. Traffic signal design
 - N. Design for additional power connections or circuiting to other devices / equipment (other than roadway luminaires)
 - O. Design for Site Lighting other than along the specified roadway
 - P. Design for Wifi System
 - Q. Design for Surveillance System
 - R. Fiber optic or communication design other than conduit runs and pull box.
 - S. Revisions to plans requested by the City after plans are approved
 - T. Permit fees, filing fees, pro-rated fees, impact fees and taxes
 - U. Property acquisition closing services
 - V. Design of sanitary sewer, water, gas, telephone, or other utility improvements, relocations, or adjustments except as noted herein
 - W. Graphic products except as noted herein

- X. Design of utilities or other improvements outside of the project boundary or roadway rights of way (not in scope)
- Y. SWPPP preparation
- Z. Environmental assessments
- AA. Construction staking
- BB. Construction phase services including administration and/or engineering and inspection
- CC. Material testing
- DD. Bidding of the project independently from the Upland from 4th to 19th project

SCHEDULE

- I. The scope of services outlined for the above project is based on the schedule provided below. For the purposes of this schedule all days are considered to be working days based upon an assumed 5-day work week.

A.	Kickoff Meeting	15-working days from Notice to Proceed
B.	Level B SUE	45-working days from Notice to Proceed
C.	Geotechnical	45-working days from Notice to Proceed
D.	Design Survey	45-working days from Notice to Proceed
E.	Draft Schematic Design	95-working days from Notice to Proceed
F.	Final Schematic Design	20-working days from receipt of draft schematic comments
G.	Preliminary Design	60-working days from receipt of notice to proceed with preliminary design
H.	Final Design	45-working days from receipt of preliminary design comments
I.	Signed and Sealed Design	30-working days from receipt of final design comments
J.	Bidding Services	Based upon corridor clearance and City's established letting schedule

EXHIBIT B
SCHEDULE OF FEES
FOR
UPLAND AVENUE
FROM 19TH STREET TO 34TH STREET

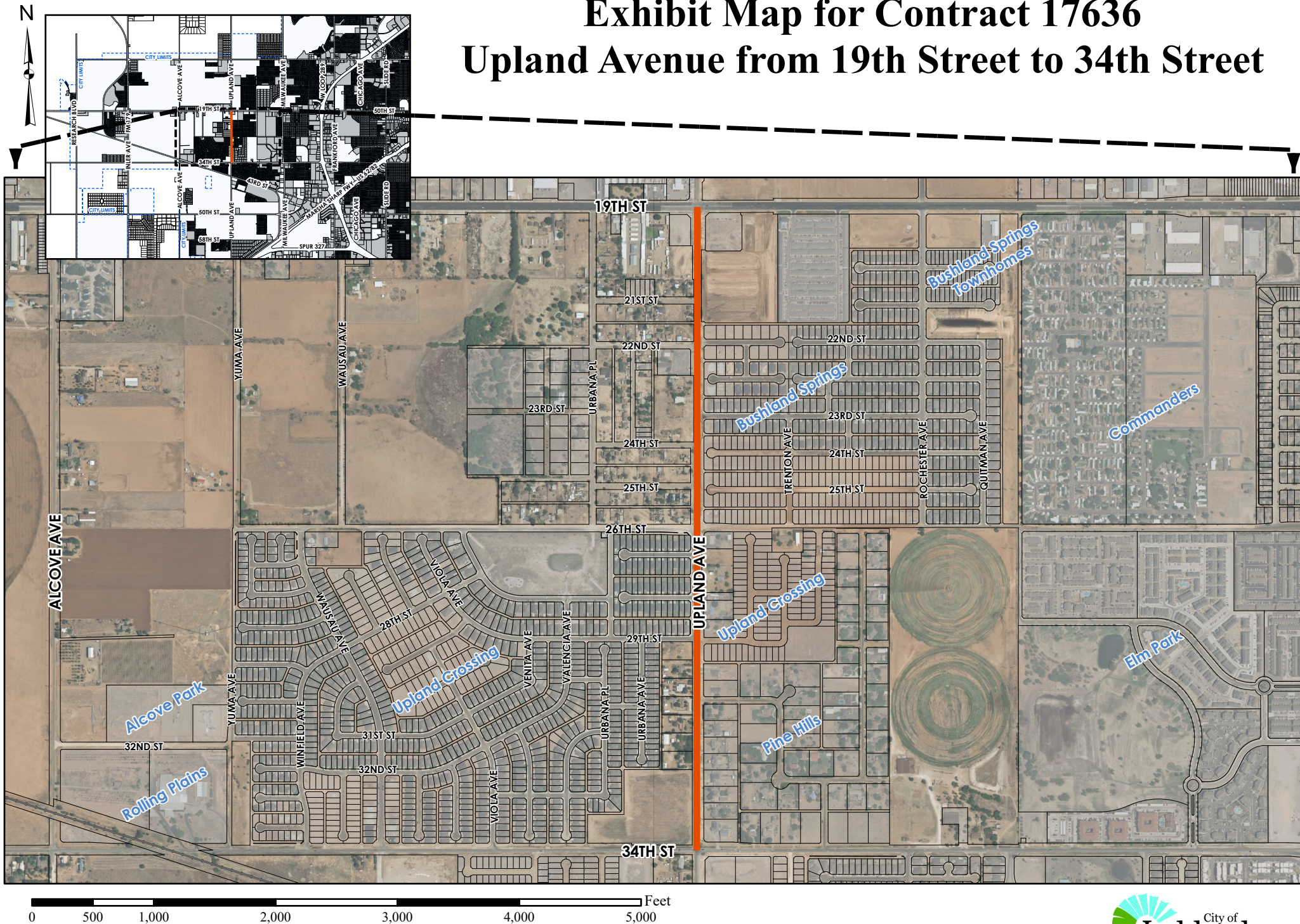
Exhibit B defines the basis of compensation to the ENGINEER for the services renders as described under Exhibit A.

<u>PHASE</u>	<u>FEE</u>
PHASE 1 – PROJECT MANAGEMENT AND COORDINATION	
KICKOFF AND COORDINATION MEETINGS	\$26,500
PROJECT MANAGEMENT, QAQC, AND REPORTING	\$22,000
UTILITY COORDINATION	\$78,100
AGENCY COORDINATION	\$14,100
PHASE 2 – FIELD DATA COLLECTION	
SUE	
LEVEL B	\$47,100
LEVEL A CONTINGENCY	\$15,500
RIGHT OF ENTRY AND SURVEY	\$68,800
GEOTECHNICAL	\$12,500
PHASE 3 – DESIGN	
SCHEMATIC DESIGN	\$160,200
PRELIMINARY DESIGN	\$196,600
FINAL DESIGN	\$98,800
SIGNED AND SEALED DESIGN	\$26,600
PHASE 4 – RIGHT OF WAY ACQUISITION	
RIGHT OF WAY ACQUISITION	\$431,700
RIGHT OF WAY INSTRUMENTS	\$76,600
PHASE 5 – BIDDING	\$5,600
PROJECT TOTAL	\$1,280,700

Services will be provided on a time and material basis not to exceed the project total shown above.
 Printing, delivery, and subconsultant charges will be invoiced at direct cost times 1.1.

Exhibit Map for Contract 17636

Upland Avenue from 19th Street to 34th Street



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

City of Lubbock, TX
Capital Project
Project Cost Detail
October 24, 2023

Capital Project Number:	92816
Capital Project Name:	Upland Avenue from 19th Street to 34th Street - 22B

<i>Encumbered/Expended</i>	Budget
	\$ -

Agenda Items, October 24, 2023

Contract 17636 -with Halff Associates, Inc. for Design Services	1,280,700
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<i>Encumbered/Expended To Date</i>	1,280,700
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Estimated Costs for Remaining Appropriation

Upland Avenue: 19th St to 34th St - 22B Construction	1,919,300
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<i>Remaining Appropriation</i>	1,919,300
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Total Appropriation	\$ 3,200,000
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CIP 92816 Upland Ave from 19th Street to 34th Street - 22B

"New Roadway Infrastructure"

Project Manager: Josh Kristinek - Engineering

Project Scope

Upland Avenue from 19th Street to 34th Street is currently a two-lane paved road and is designated in the 2018 Thoroughfare Master Plan to become a five-lane Principal Arterial (Modified). Continued growth in west Lubbock has increased traffic demands along the Upland Avenue corridor from 19th Street to 34th Street. This thoroughfare will include the ultimate design of a five-lane undivided thoroughfare with curb and gutter, drainage, streetlights, sidewalk improvements, utility adjustment and right of way acquisition services.

Project Justification

On November 8, 2022, Lubbock voters approved issuance of a \$200 million street improvements bond package for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Project Highlights

Council Priorities Addressed:
Public Safety
Community Improvement
Growth and Development

Project Dates

Design Start Date: 10/2024
Design Completion: 09/2025
Bid for Constuction:09/2025
Award Construction: 11/2025
Project Completion: 04/2027

Project History

Project Location

Project Appropriations

P Works 92816

	2022 - 23 Budget CIP	2023 - 24 Budget	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget
Design	\$0	\$3,200,000	\$0	\$0	\$0	\$0	\$0
Construction	\$0	\$0	\$9,000,000	\$0	\$0	\$0	\$0
TOTAL	\$0	\$3,200,000	\$9,000,000	\$0	\$0	\$0	\$0

Project Funding

P Works 92816

	Funding to Date	2023 - 24 Budget	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget
General Obligation Bonds	\$0	\$3,200,000	\$9,000,000	\$0	\$0	\$0	\$0
TOTAL	\$0	\$3,200,000	\$9,000,000	\$0	\$0	\$0	\$0

Operating Budget Impacts

Not Provided

Description	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	Total
No Impact Anticipated	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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Information

Agenda Item

Resolution - Public Works Water: Consider a resolution authorizing the Mayor to execute Contract 17410, with Rangeline Utility Services, Inc., for the installation of isolation valves and vaults associated with Pump Station No. 4.

Item Summary

The purpose of the Pump Station No. 4 Large Valve Project is to install new large isolation valves in order for the pump station to be shut down ahead of the multiple other future capital improvement projects on the pump station. This project will isolate Pump Station No. 4, clean up the piping network, and install new valves and vaults around the pump station.

In response to RFP 23-17410-KM, proposals were received and opened on August 24, 2023. They were as follows:

Contractor	Prices	Time (days)
Rangeline Utility Services, Inc., Haslet, Texas	\$1,843,888	79
Utility Contractors of America, Lubbock, Texas	\$3,187,425	79

The proposals were evaluated using the following criteria: 60 Points for Price, 30 Points for Meeting the Project Specifications, and 10 Points for Scheduled Total Time for Delivery. The maximum point value is 100 points. After the proposals were evaluated, the following ranking was obtained:

Contractor	Total out of 100
Rangeline Utility Services, Inc., Haslet, Texas	92
Utility Contractors of America, Lubbock, Texas	72

Staff recommends award of the unit price contract to the highest ranked proposal, Rangeline Utility Services, Inc. of Haslet, Texas.

After selecting Rangeline Utility Services, Inc. as the best proposal, the City staff worked to identify value-engineering solutions to reduce the project costs to better meet budgetary constraints. City staff was able to negotiate with the contractor to identify a series of value-engineering solutions that result in a \$284,039 reduction in the contract price, yielding a revised construction total of \$1,559,849.

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

Time for substantial completion is 79 consecutive calendar days starting from the date of November 1, 2023, and time for final completion is 114 consecutive calendar days with liquidated damages of \$2,500

for each consecutive calendar day past substantial completion, and \$1,000 in liquidated damages for each consecutive calendar day past final completion.

Fiscal Impact

Contract 17140 for \$1,559,849.00 is funded in Capital Improvement Project 92513 Pump Station No. 4 Large Valve Project.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
L. Wood Franklin P.E. Division Director of Public Works

Attachments

Resolution
Contract
Budget Detail
Project Summary

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Public Works Contract No. 17410 for Pump Station 4 Large Valve Replacement as per RFP 23-17410-KM, by and between the City of Lubbock and Rangeline Utility Services, LLC of Haslet, 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:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

**PROPOSAL SUBMITTAL FORM
UNIT PRICE PROPOSAL CONTRACT**

DATE: August 24, 2023

PROJECT NUMBER: **RFP 23-17410-KM Pump Station 4 Large Valve Replacement**

Proposal of Bangelina Utility Services, LLC (hereinafter called Offeror)

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

Ladies and Gentlemen:

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

PROPOSED CONSTRUCTION TIME:

1. Contractors proposed CONSTRUCTION TIME for completion:

TOTAL CONSECUTIVE CALENDAR DAYS: 79 (to Substantial Completion)

TOTAL CONSECUTIVE CALENDAR DAYS: 114 (to Final Completion)

(not to exceed 79 consecutive calendar days to Substantial Completion / 114 consecutive calendar days to Final Completion).

Offeror hereby agrees to commence the work on the above project on a date to be specified in a written "Notice to Proceed" of the Owner and to **substantially complete** the project within **79 Consecutive Calendar Days** with **final completion** within **114 Consecutive Calendar Days** as stipulated in the specification and other contract documents. Offeror hereby further agrees to pay to Owner as liquidated damages in the sum of **\$2,500** for each consecutive calendar day after **substantial completion** and liquidated damages in the sum of **\$1,000** for each consecutive calendar day after **final completion** set forth herein above for completion of this project, all as more fully set forth in the General Conditions of the Agreement.

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

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

City of Lubbock, TX
Public Works
RFP 23-17410-KM
Pump Station 4 Large Valve Replacement

Rangeline Utility Services, LLC of Haslet, TX

#	Items	QTY +/-	U/ M	Unit Price	Extended Cost
1	General				
#1-1	Mobilization - Contractor mobilization including insurance, payment bond, performance bond, move-in and move-out cost.	1	LS	\$15,000.00	\$15,000.00
#1-2	Landscape Restoration - restoring home owner's lawn to as found conditions once linestop and valve replacement work has been performed.	1	LS	\$5,000.00	\$5,000.00
#1-3	Exploratory Work and Site Preparation - uncovering pipelines to be linestopped, confirming and measuring the outside diameter by non-mechanical means, and preparing the various sites for linestop and valve installations.	8 6	EA	\$7,362.00	\$58,896.00 \$44,172.00
#1-4	Provide and maintain a Traffic Control Plan - Preparation, approval from COL Traffic Engineering to all sites, and all other work considered incidental to this item.	1	LS	\$12,000.00	\$12,000.00
2	Water Improvements				
#2-1	Furnish and Install valve vault, valve, and appurtenances for installation of pre-purchased 42" butterfly valve as herein specified, including all equipment, tools, and labor to perform work. Any ancillary items needed to install the above equipment are considered subsidiary to this item.	1	EA	\$92,248.00	\$92,248.00
#2-2	Furnish and Install valve vault, valve, and appurtenances for installation of pre-purchased 36" butterfly valve as herein specified, including all equipment, tools, and labor to perform work. Any ancillary items needed to install the above equipment are considered subsidiary to this item.	3 2	EA	\$70,069.00 \$78,069.00	\$210,207.00 \$156,138.00
#2-3	Install 36" pre-purchased butterfly valve in existing vault as herein specified, including all equipment, tools, and labor to perform work. The removal, replacement, and disposal of existing valves to be replaced shall be considered subsidiary to the new valve installation.	1	EA	\$47,924.00	\$47,924.00
#2-4	Furnish and Install necessary fittings, reducers, and pipe to transition from a 39" Steel Cylinder Reinforced Concrete pipe to a 36" Steel Cylinder Reinforced Concrete Pipe as herein specified. Any ancillary items need to install the above equipment are considered subsidiary to this item.	1	EA	\$61,426.00	\$61,426.00
#2-5	Furnish and Install valve vault, valve, and appurtenances for installation of pre-purchased 30" butterfly valve as herein specified, including all equipment, tools, and labor to perform work. Any ancillary items needed to install the above equipment are considered subsidiary to this item.	2	EA	\$54,470.00	\$108,940.00

City of Lubbock, TX
Public Works
RFP 23-17410-KM
Pump Station 4 Large Valve Replacement

Rangeline Utility Services, LLC of Haslet, TX

#	Items	QTY +/-	U/ M	Unit Price	Extended Cost
#2-6	Install 30" pre-purchased butterfly valve in existing vault as herein specified, including all equipment, tools, and labor to perform work. The removal, replacement, and disposal of existing valves to be replaced shall be considered subsidiary to the new valve installation.	1	EA	\$76,295.00	\$76,295.00
#2-7	Furnish and Install valve vault, valve, and appurtenances for installation of pre-purchased 24" butterfly valve as herein specified, including all equipment, tools, and labor to perform work. Any ancillary items needed to install the above equipment are considered subsidiary to this item.	1	EA	\$79,918.00	\$79,918.00
#2-8	Install 24" pre-purchased butterfly valve in existing vault as herein specified, including all equipment, tools, and labor to perform work. The removal, replacement, and disposal of existing valves to be replaced shall be considered subsidiary to the new valve installation.	5	EA	\$24,742.40	\$123,712.00
#2-9	Furnish and Install necessary fittings, reducers, and pipe to transition from a 27" Polyvinyl Chloride Pipe to a 24" Polyvinyl Chloride Pipe as herein specified. Any ancillary items need to install the above equipment are considered subsidiary to this item.	1	EA	\$36,928.00	\$36,928.00
#2-10	Furnish and Install 42" Linestop of Waterline as herein specified, including all equipment, tools, and labor to perform work. This item also includes uncovering pipelines to be linestopped, confirming and measuring the outside diameter by non-mechanical means, and preparing the various sites for linestop and valve installations.	2	EA	\$78,863.00	\$157,726.00
#2-11	Furnish and Install 36" Linestop of Waterline as herein specified, including all equipment, tools, and labor to perform work. This item also includes uncovering pipelines to be linestopped, confirming and measuring the outside diameter by non-mechanical means, and preparing the various sites for linestop and valve installations.	3 1	EA	\$66,942.00 \$91,082.00	\$200,826.00 \$91,082.00
#2-12	Furnish and Install 30" Linestop of Waterline as herein specified, including all equipment, tools, and labor to perform work. This item also includes uncovering pipelines to be linestopped, confirming and measuring the outside diameter by non-mechanical means, and preparing the various sites for linestop and valve installations.	2	EA	\$57,802.00	\$115,604.00

City of Lubbock, TX
Public Works
RFP 23-17410-KM
Pump Station 4 Large Valve Replacement

Rangeline Utility Services, LLC of Haslet, TX

#	Items	QTY +/-	U/ M	Unit Price	Extended Cost
#2-13	Furnish and Install 27" Linestop of Waterline as herein specified, including all equipment, tools, and labor to perform work. This item also includes uncovering pipelines to be linestopped, confirming and measuring the outside diameter by non-mechanical means, and preparing the various sites for linestop and valve installations.	1	EA	\$62,867.00	\$62,867.00
#2-14	Cut, plug, and abandon existing 42" water line, as herein specified, including all equipment, tools, and labor to perform work.	1	EA	\$54,104.00	\$54,104.00
#2-15	Cut, plug, and abandon existing 36" water line, as herein specified, including all equipment, tools, and labor to perform work.	1	EA	\$38,706.00	\$38,706.00
#2-16	Cut, plug, and abandon existing 20" water line, as herein specified, including all equipment, tools, and labor to perform work.	1	EA	\$33,321.00	\$33,321.00
#2-17	Furnish and install 10" insert a valve as herein specified, including all equipment, tools, and labor to perform work.	1	EA	\$55,358.00	\$55,358.00
#2-18	Furnish and install 8" insert a valve as herein specified, including all equipment, tools, and labor to perform work.	1	EA	\$45,144.00	\$45,144.00
#2-19	Flowable backfill as approved, complete and in place per Specifications.	500	CY	\$170.00	\$85,000.00
#2-20	Furnish and Install previously removed Vault Lid covers for Pump Station 4 site valve vaults as herein specified, including all equipment, tools, and labor to perform work. See detail sheet #D-102. Demolition of the existing valve vault lids shall be considered subsidiary to this item.	40	SY	\$225.00	\$9,000.00
#2-21	Remove Existing 36x39 Tee and Replace Pipe Section as needed as herein specified, including all equipment, tools, labors, fittings, and reduceers needed to perform work.	1	EA	\$26,194.00	\$26,194.00
#2-22	Remove Existing 36x36 Tee and Replace Pipe Section as needed as herein specified, including all equipment, tools, labors, fittings, and reduceers needed to perform work.	1	EA	\$26,194.00	\$26,194.00
3	Paving Repair				
#3-1	Saw cut and remove existing asphalt paving, including all material, equipment and labor to perform removal, disposal and all other work considered incidental to this item.	20	SY	\$50.00	\$1,000.00
#3-2	Repair asphalt paving, including all material, equipment and labor to perform sub grade compaction and testing. HMAC installation per COL Specifications and all other work considered incidental to this item.	20	SY	\$50.00	\$1,000.00

City of Lubbock, TX
Public Works
RFP 23-17410-KM
Pump Station 4 Large Valve Replacement

Rangeline Utility Services, LLC of Haslet, TX

#	Items	QTY +/-	U/ M	Unit Price	Extended Cost
#3-3	Sidewalk Removal and Repair including all material, equipment and labor to perform removal, disposal, repair and all other work considered incidental to this item.	15	SY	\$90.00	\$1,350.00
#3-4	Curb Removal and Repair including all material, equipment and labor to perform removal, disposal, repair and all other work considered incidental to this item.	20	LF	\$100.00	\$2,000.00

				Original Proposal	BAFO Proposal
Total (Items 1-1 through 1-4):				\$90,896.00	\$71,172.00
Total (Items 2-1 through 2-22):				\$1,747,642.00	\$1,483,237.00
Total (Items 3-1 through 3-4):				\$5,350.00	\$5,350.00
Total (Items 1-1 through 3-4):				\$1,843,888.00	\$1,559,849.00

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

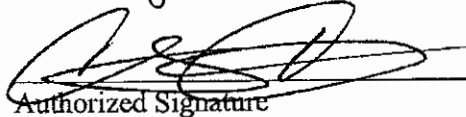
Enclosed with this proposal is a Cashier's Check or Certified Check Enclosed with this proposal is a Cashier's Check or Certified Check for

Dollars (\$) or a Proposal Bond in the sum of ~~Ninety Two thousand One hundred four~~ ^{and forty cents} Dollars (\$ 92,144.40), which it is agreed shall be collected and retained by the Owner as liquidated damages in the event the proposal is accepted by the Owner and the undersigned fails to execute the necessary contract documents, insurance certificates, and the required bond (if any) with the Owner within ten (10) business days after the date of receipt of written notification of acceptance of said proposal; otherwise, said check or bond shall be returned to the undersigned upon demand.

Offeror understands and agrees that the contract to be executed by Offeror shall be bound and include all contract documents made available to him for his inspection in accordance with the Notice to Offerors.

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

Date: August 24, 2023


Authorized Signature

Chris Campbell
(Printed or Typed Name)

(Seal if Offeror is a Corporation)

ATTEST:


Secretary

Offeror acknowledges receipt of the following addenda:

Addenda No. 1 Date 8/2/2023
Addenda No. 2 Date 8/14/2023
Addenda No. 3 Date 8/16/2023
Addenda No. 4 Date 8/18/2023 48/20
5 8/21/2023

Rangeline Utility Services, LLC
Company
1150 Blue Mound Rd W, Ste 821
Address
Haslet, Tarrant
City, County
Tx, 76052
State Zip Code
Telephone: 682 - 250-2153
Fax: 682 - 250-2154
Email: Chris.C@rangeline.com
FEDERAL TAX ID or SOCIAL SECURITY
No.
87-3879495

M/WBE Firm:

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

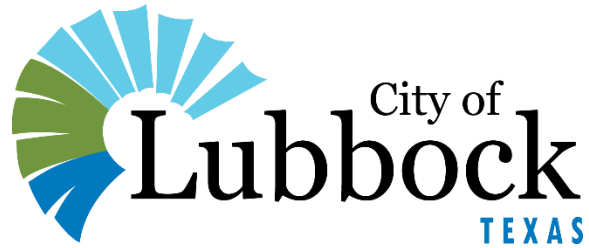
City of Lubbock, TX
Project Cost Detail
October 24, 2023

Capital Project Number:	92513
Capital Project Name:	<u>Pump Station 4 Large Valve Project</u>

<i>Encumbered/Expended</i>	Budget
City of Lubbock Staff Time	\$ 23,493
Pump System Improvements & Equipment	120,627
Advertisement	203
Cobb Fendley SUE Survey	23,733
Contract 15944 - Replacement Pumps, Motors, and Starters for Pump Station No. 4	1,504,000
Contract 16741 - Large Valve Prepurchase	233,203

<i>Agenda Items, October 24, 2023</i>	
Contract 17410 Large Valve Replacement	1,559,849
<i>Encumbered/Expended To Date</i>	<u>3,465,108</u>

<i>Estimated Costs for Remaining Appropriation</i>	
Pump Station Improvements and Pump Replacements	534,892
<i>Remaining Appropriation</i>	<u>534,892</u>
 Total Appropriation	 <u><u>\$ 4,000,000</u></u>



Purchasing and Contract Management

Project Summary

RFP 23-17410-KM

Pump Station 4 Large Valve Replacement

Notice was published in the Lubbock Avalanche Journal on July 30 & August 6, 2023.

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 July 28, 2023 to August 24, 2023

3 individuals attended the pre-proposal meeting.

54 vendors downloaded the documents using Bonfire.com.

23 vendors were notified separately.

2 vendors submitted proposals.

Information

Agenda Item

Ordinance 2nd Reading - Building Safety: Consider Ordinance No. 2023-O0136, amending Article 2.03, Division 13, of the City of Lubbock Code of Ordinances, regarding the duties and responsibilities of the Model Codes and Construction Advisory Board.

Item Summary

On October 10, 2023, the City Council approved the first reading of the ordinance.

This ordinance amending Sections 2.03.453 and 2.03.455 of the Code of Ordinances of the City of Lubbock, will revise the duties, qualifications, and responsibilities of the Model Codes and Construction Advisory Board to allow more flexibility with recruitment and retention of board members.

The Model Codes and Construction Advisory Board is tasked with the responsibility to review the technical provisions of the national model construction codes periodically proposed by City staff, for adoption or amendment, and to forward its recommendations to the City Council for final consideration and action.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager

Robert Wallace, Division Director of Development Services

Attachments

Ordinance - Model Codes and Construction Advisory Board

ORDINANCE NO. _____

AN ORDINANCE AMENDING ARTICLE 2.03, DIVISION 13 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK, TEXAS WITH REGARD TO AMENDING THE QUALIFICATIONS OF THE MODEL CODES AND CONSTRUCTION ADVISORY BOARD MEMBERS; AMENDING THE CONDUCT OF MEETINGS OF SAID BOARD; AMENDING THE SCOPE OF DUTIES OF SAID BOARD; PROVIDING FOR A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock, Texas deems it in the best interest of the citizens of the City of Lubbock to protect their health, safety, and welfare to make the following amendments to Article 2.03, Division 13 of the Code of Ordinances of the City with regard to amending the qualifications of the model codes and construction advisory board members; amending the conduct of meetings of said board; amending the scope of duties of said board; and

WHEREAS, the City Council hereby exercises its authority under Article 11, Section 5, of the Texas Constitution as a home rule city to enact regulations not inconsistent with the general laws of the State of Texas in the interest of the health, safety and welfare of the citizens of the City of Lubbock; **NOW THEREFORE:**

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

SECTION 1. THAT Section 2.03.453 of the Code of Ordinances of the City of Lubbock is hereby amended to read as follows:

§2.03.453 Members; qualifications; tenure.

- (a) The board shall be composed of thirteen (13) members, including twelve (12) standing members who shall be appointed by the city council, and one (1) “technical alternate” position to be selected by the board (depending on the subject matter of the proposed amendment or code) from a list of various technical experts recommended by city staff and approved by the board.
- (b) Members of the board shall include:
 - (1) An active builder of single-and/or two-family housing with builder membership in the West Texas Home Builders Association;
 - (2) A Texas-licensed architect in the City of Lubbock;
 - (3) A commercial general contractor active in the City of Lubbock;
 - (4) A current building facilities manager for a major institutional or educational facility within the jurisdiction of the City of Lubbock

(example: University Medical Center, Covenant Health Systems, school district, or facilities of similar use and magnitude);

- (5) An owner or management company representative of multifamily housing with membership in the Lubbock Apartment Association;
 - (6) A citizen of the City of Lubbock;
 - (7) Two (2) Texas-licensed engineers in the City of Lubbock, with preference given to a structural engineer;
 - (8) A Texas-licensed HVAC contractor in the City of Lubbock;
 - (10) A Texas-licensed electrician in the City of Lubbock;
 - (11) A Texas-licensed plumber in the City of Lubbock;
 - (12) A developer in the City of Lubbock; and
 - (13) A technical alternate, who shall be a working representative of the trade or profession directly affected by the particular area of the code provisions under consideration at the time, with preference given to individuals representing the requisite local trade or professional organization/association.
- (c) In order to ensure appropriate representation of the broadest possible cross-section of the community, every attempt will be made to limit dual representation of any organization, business entity, trade group, or profession among the board members, except as specifically set forth in the member qualifications. Areas of technical expertise for the technical alternate position include, but are not necessarily limited to, life safety, fire protection, plumbing, electrical, mechanical, structural, and general building (nonstructural). Where appropriate, depending upon the code provision(s) under consideration, the technical alternate shall be drawn from the one-and two-family construction sector or the commercial construction sector.
- (d) Initially, four members shall be appointed to two-year terms, four members shall be appointed to three-year terms, and four members shall be appointed to four-year terms. Future appointments shall be for a term of three (3) years or the remainder of an unexpired term. All members appointed shall be resident citizens of Lubbock or representatives of the City of Lubbock business community at the time of their appointment and during their term of office.
- (e) Subsequent to the appointment of the first standing members, the board shall elect from their membership a chairperson and vice-chairperson. The chief building official and the fire marshal, or their designees, shall serve in an advisory capacity as ex-officio members of the board.

SECTION 2. THAT Section 2.03.454(a) of the Code of Ordinances of the City of Lubbock is hereby amended to read as follows:

§2.03.454 Conduct of meetings; quorum.

- (a) Board meetings will be held as necessary when presented with a staff or board proposal to adopt or amend one or more model codes. A simple majority shall constitute a quorum. The board will make every effort to invite testimony from all affected parties and technical experts before voting to recommend adoptions or amendments to the codes.

SECTION 3. THAT Section 2.03.455 of the Code of Ordinances of the City of Lubbock is hereby amended to read as follows:

§2.03.455 Scope of duties; responsibilities.

- (a) The board is charged with the responsibility to review the technical provisions of the national model construction codes periodically proposed by city staff for adoption or amendment, and to forward its recommendations to the city council for final consideration and action.
- (b) In performing its duties, the board shall solicit and give due regard to the input of affected parties, including those not associated with the construction industry, subject-matter experts, and particularly city staff charged with the administration of the regulations under consideration. The board shall also solicit input and assistance through available trade organizations and professional associations representing the technical areas governed by the model code requirements under consideration.
- (c) Where not otherwise prohibited by law, the board may consider local amendments to the national model codes, whether proposed by city staff or other parties. In considering any such amendments, the board shall use the national model codes as a baseline, and shall exercise appropriate due diligence, as well as compliance with any federal or state mandate to adopt or maintain a certain code. In deliberating the appropriateness of local amendments, due regard shall be given to the potential effect on the public health and safety, the continued maintenance and long-term viability of the city's building stock, the impact on economic development and housing affordability, the maintenance of parity and equity with other jurisdictions, and the potential effects on insurance ratings.
- (d) Local amendments that may be construed as reducing safety levels below that established by the unamended model codes, as determined by appropriate city staff, shall be accompanied by the board's comments when forwarded to the city council for final consideration. The city official charged with the administration

of the amended provision may prepare a full report and recommendation to the city council.

SECTION 4. THAT violation of any provision of this Ordinance shall be deemed a misdemeanor punishable as provided by Section 1.01.004 of the Code of Ordinances of the City of Lubbock, Texas.

SECTION 5. 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 6. 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:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Robert Wallace, Director of Development Services

APPROVED AS TO FORM:



Amy Sims, Deputy City Attorney

Information

Agenda Item

Resolution - Public Health Services: Consider a resolution ratifying the actions of the Mayor in executing Human Services Commission (HHSC) Contract No. HHS000537900338, and all related documents, under the Medicaid Administrative Claiming Program, by and between the City of Lubbock and the State of Texas Health and Human Services Commission.

Item Summary

This is an existing grant. The purpose of this Grant Agreement is to assist HHSC in providing effective and timely access to care for Medicaid-eligible clients and their families, more appropriate utilization of Medicaid-covered services, and to promote activities that reduce the risk of poor health outcomes for the state's most vulnerable populations. This grant required an electronic signature.

The Grant Agreement was effective on October 1, 2023 and expires on September 30, 2028.

Fiscal Impact

None

Staff/Board Recommending

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

Attachments

Resolution

Unexecuted Contract to 12002

RESOLUTION

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

THAT the acts of the Mayor of the City of Lubbock in executing, on behalf of the City of Lubbock, Health and Human Services Commission Contract No. HHS000537900338, under the Medicaid Administrative Claiming Program, by and between the City of Lubbock and the State of Texas' Health and Human Services Commission, and related documents are hereby ratified in full. 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:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Rachael Foster, Assistant City Attorney

**SIGNATURE DOCUMENT FOR
TEXAS HEALTH AND HUMAN SERVICES COMMISSION GRANT AGREEMENT,
CONTRACT NO. HHS000537900338
UNDER THE
MEDICAID ADMINISTRATIVE CLAIMING PROGRAM**

The parties to this agreement (“Grant Agreement” or “Contract”) are the Texas Health and Human Services Commission (“HHSC” or “System Agency”), a pass-through entity, and City of Lubbock (“Grantee”), having its principal office at 1314 Avenue K, Lubbock, TX 79401 (each a “Party” and collectively the “Parties”).

I. PURPOSE

The purpose of this Grant Agreement is to assist HHSC in providing effective and timely access to care for Medicaid-eligible clients and their families, more appropriate utilization of Medicaid covered services, and to promote activities that reduce the risk of poor health outcomes for the state's most vulnerable populations.

II. LEGAL AUTHORITY

This Grant Agreement is entered into pursuant to 42 U.S.C § 1396b; 2 C.F.R. pt. 200, subpts. E and F; 45 C.F.R. pt. 75, subpts. E and F; 1 Texas Administrative Code pt. 15, ch. 355, subch. J, div. 5, § 355.8095; and authorized by and in compliance with Texas Government Code ch. 531.

III. DURATION

This Grant Agreement is effective on **October 1, 2023** and expires on **September 30, 2028**, unless extended or terminated pursuant to the terms and conditions of this Grant Agreement.

Notwithstanding the limitation in the preceding paragraph and with at least 30 calendar days’ advance written notice to Grantee, at the end of the initial term or any renewal period, System Agency, at its sole discretion, may extend this Grant Agreement as necessary to ensure continuity of service, for purposes of transition, or as otherwise determined by HHSC to serve the best interest of the State for up to twelve months, in one-month intervals, at the then-current contracted rate or rates (if applicable) as modified during the term of this Grant Agreement.

IV. STATEMENT OF SERVICES TO BE PROVIDED

The Statement of Services to be Provided to which Grantee is bound under the Medicaid Administrative Claiming Services (“MAC Program”) is included as **Attachment A** and incorporated into and made a part of this Grant Agreement.

V. PAYMENT FOR SERVICES PROVIDED

- A. All reimbursements under this Grant Agreement are limited to the adopted rate established pursuant to the approved HHSC Time Study and Medicaid Administrative Claiming Guide, and will be made in accordance with **Attachment B, Payment for Services Provided**. This Grant Agreement is funded through a match of Federal and State funds.

- B. Indirect Cost Rate:** The Grantee's acknowledged or approved Indirect Cost Rate ("ICR") and the ICR Letter are attached to this Contract and incorporated as **Attachment H**. Grantee must have an approved or acknowledged indirect cost rate in order to recover indirect costs under this Contract.
- C.** If HHSC approves or acknowledges an updated indirect cost rate, this Grant Agreement will be amended to incorporate the new rate (and the new indirect cost rate letter, if applicable) and the budget revised accordingly.

VI. REPORTING REQUIREMENTS

Grantee shall submit all reports in compliance with the requirements in **attachments A and B**. The Grantee shall submit the reports within the timeframes listed below, as may be modified or revised in the MAC Financial Participation Guide ("MAC Financial Guide"). The MAC Financial Guide is available online and can be accessed at: <https://pfd.hhs.texas.gov/sites/rad/files/documents/2022/mac-part-guide-mhdd.pdf>.

The MAC Financial Participation Guide may be modified or revised by HHSC at any time. HHSC will provide written notice of modifications or revisions to the Grantee's designated Representative in **Section VII** below. Any modifications or revisions will be deemed incorporated into this Agreement effective upon the date the notice is posted on the MAC Program website. The reports are as follows:

Report	Frequency	Due Date
Quarterly Participation Data	On or before the 5th day following the close of each Federal fiscal quarter	October 5 th January 5 th April 5 th July 5 th
Financial Expenditure Data – Quarterly	On or before the 5th day following the close of each Federal fiscal quarter	October 5 th January 5 th April 5 th July 5 th

VII. CONTRACT REPRESENTATIVES

The following will act as the representative authorized to administer activities including, but not limited to, non-legal notices, consents, approvals, requests, or other general communications provided for or permitted to be given under this Grant Agreement on behalf of their respective party.

System Agency

Amy Greene, CTCM
Health and Human Services Commission
701 West 51st Street; Mail Code W-359
Austin, Texas 78751
(512) 438-3430
CAPM_MedicaidAdministrativeClaims
Contracts@hhsc.state.tx.us

Grantee

Tray Payne
City of Lubbock
1314 Avenue K
Lubbock, TX 79401
(806) 775-2010
traypayne@mylubbock.us

VIII. NOTICE REQUIREMENTS

- A. All notices given by Grantee shall be in writing, include the Grant Agreement contract number, comply with all terms and conditions of this Grant Agreement, and be delivered to System Agency's Contract Representative identified above.
- B. Grantee shall send legal notices to System Agency at the address below and email a copy to System Agency's Contract Representative:

**Health and Human Services Commission
Attn: Office of Chief Counsel
4601 W. Guadalupe Street, Mail Code 1100
Austin, Texas 78751**

- C. Notices given by System Agency to Grantee may be emailed, mailed, or sent by common carrier. Email notices shall be deemed delivered when sent by the System Agency. Notices sent by mail shall be deemed delivered when deposited by System Agency in the United States mail, postage paid, certified, return receipt requested. Notices sent by common carrier shall be deemed delivered when deposited by System Agency with a common carrier, overnight, signature required.
- D. Notices given by Grantee to System Agency shall be deemed delivered when received by System Agency.
- E. Either Party may change its Contract Representative or legal notice contact by providing written notice to the other Party.

IX. FEDERAL AWARD INFORMATION*

GRANTEE'S UNIQUE ENTITY IDENTIFIER IS: LXDNEKWRVKJ6

Federal funding under this Grant Agreement is a subaward under the following federal award.

Federal Award Identification Number ("FAIN"): 2005TX5MAP

- A. Assistance Listings Title, Number, and Dollar Amount: **Medical Assistance Program, 93.778, \$8,251,624,655.00**
- B. Federal Award Date: **October 1, 2022**
- C. Federal Award Period: **October 1, 2022 – September 30, 2023**
- D. Name of Federal Awarding Agency: **U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services**
- E. Federal Award Project Description: **To provide financial assistance to States for payments of medical assistance on behalf of cash assistance recipients, children, pregnant women, and the aged who meet income and resource requirements, and other categorically-eligible groups.**
- F. Awarding Official Contact Information: **Director, Division of Payment Management, 1-877-614-5533**
- G. Total Amount of Federal Funds Awarded to HHSC: **\$8,251,624,655.00**

- H. Amount of Funds Awarded to Grantee: **This is cost reimbursement with no funding limit for eligible claims**
- I. Identification of Whether the Award is for Research and Development: **No**

**The Grantee acknowledges and agrees that this Grant Agreement may be executed with the prior year's Federal award information, and that HHSC will provide written notice to the Grantee of the updated Federal award and subaward information once made available by the Federal Awarding Agency. Updates will be deemed incorporated into this Grant Agreement as of the date of the notice.*

X. CONTRACT DOCUMENTS

In addition to this Signature Document, the following documents are incorporated by reference and made a part of this Grant Agreement for all purposes. Unless expressly stated otherwise in this Grant Agreement, in the event of conflict, ambiguity, or inconsistency between or among any documents, all HHSC documents take precedence over Grantee's documents, if any, and the HHS Data Use Agreement takes precedence over all other Grant Agreement documents.

ATTACHMENT A STATEMENT OF SERVICES TO BE PROVIDED
ATTACHMENT B PAYMENT FOR SERVICES PROVIDED
ATTACHMENT C HHS UNIFORM TERMS AND CONDITIONS – GRANT, VERSION 3.2
ATTACHMENT D HHS CONTRACT AFFIRMATIONS, VERSION 2.2
ATTACHMENT E HHS DATA USE AGREEMENT, GOVERNMENTAL ENTITY VERSION, VERSION 8.5, OCTOBER 23, 2019
ATTACHMENT F FEDERAL ASSURANCES FOR NON-CONSTRUCTION PROGRAMS
ATTACHMENT G FEDERAL CERTIFICATION REGARDING LOBBYING
ATTACHMENT H INDIRECT COST RATE LETTER

XI. MODIFICATIONS TO THE HHS UNIFORM TERMS AND CONDITIONS

The HHS Uniform Terms and Conditions – Grant, Version 3.2, incorporated as Attachment C of this Contract, are revised as follows:

- A. Section 2.1, PROMPT PAYMENT,** is deleted in its entirety and replaced with the following:

2.1 PAYMENT METHODS

Except as otherwise provided by the provisions of this Grant Agreement, the payment method will be one or more of the following:

- a. Cost reimbursement. This payment method is based on requests for reimbursement of expenses Grantee has incurred at the time of the request. Claims for reimbursements must be submitted quarterly;
- b. Unit rate/fee-for-service. This payment method is based on a fixed price or a specified rate(s) or fee(s) for delivery of a specified unit(s) of service and acceptable submission of all required documentation, forms and/or reports. This payment method will only be utilized with advance written approval by the System Agency; or
- c. Advance payment. This payment method is based on disbursement of funds in advance at the request of Grantee based on projected expenses for covered services. This payment method requires Grantee to adopt appropriate safeguards

to ensure payments do not exceed actual expenses and is subject to state and federal law. Payments will only be made with advance written approval by the System Agency.

B. Section 2.4, BILLING, is amended to read as follows:

Unless otherwise provided by the System Agency, Grantee shall submit quarterly requests for reimbursement of expenses Grantee has incurred. Additionally, Grantee shall submit a reimbursement request as a final close-out not later than 90 days following the end of the term of this Grant Agreement. Reimbursement or payment requests received in the System Agency's offices more than 90 days following the termination of this Grant Agreement may not be paid.

C. Section 10.1, Subpart A, GENERAL INDEMNITY, is amended to add at the beginning of the first sentence:

TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS,

D. Section 10.2, INTELLECTUAL PROPERTY, is amended to add at the beginning of the first sentence:

TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS,

E. Section 10.3, subparts A and C, ADDITIONAL INDEMNITY PROVISIONS, is amended to add at the beginning of the first sentence:

TO THE EXTENT PERMITTED BY THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS,

F. Section 11.5, INSURANCE AND BONDS, is amended to add a new paragraph at the end of the section as follows:

Notwithstanding the foregoing paragraphs, if Grantee is a governmental unit as defined by Texas Government Code ch. 2259, then nothing in this Grant Agreement should be construed to restrict the Grantee's right to self-insure in accordance with state law, or purchase insurance through the Texas Association of Counties, Texas Municipal League, or a private insurance carrier.

G. Section 11.19, NO WAIVER OF SOVEREIGN IMMUNITY, is amended to add a new paragraph at the end of the section as follows:

Notwithstanding the foregoing paragraph, if Grantee is a governmental unit as defined by Texas Government Code ch. 2259, then nothing in this Grant Agreement should be construed to abrogate any rights or affirmative defenses available to Grantee under doctrines of sovereign and official immunity. Neither Party waives any privileges, rights, defenses, or immunities available to it by entering into this Grant Agreement or by its conduct prior to or subsequent to entering into this Grant Agreement.

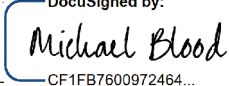
XII. SIGNATURE AUTHORITY

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. Any services or work performed by Grantee before this Grant Agreement is effective or after it ceases to be effective are performed at the sole risk of Grantee.

SIGNATURE PAGE FOLLOWS

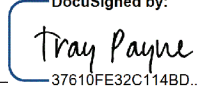
**SIGNATURE PAGE FOR SYSTEM AGENCY GRANT AGREEMENT,
CONTRACT NO. HHS000537900338**

**HEALTH AND HUMAN SERVICES
COMMISSIONER**

By:  _____
Michael Blood
Deputy Associate Commissioner
Medicaid and CHIP Services

Date of Execution: 09/22/2023

City of Lubbock

By:  _____
Tray Payne
Mayor

Date of Execution: 09/22/2023

Attachment A

Statement of Services to be Provided**1. Program Background**

The MAC Program, which has been operating in Texas since 1995, is the cost-based reimbursement methodology utilized to draw down federal matching funds for activities that facilitate Medicaid-eligible client access to medically necessary Medicaid-funded services. HHSC awards grants to eligible entities that include Early Childhood Intervention Programs, Independent School Districts, Charter Schools, Local Health Districts, Mental Health Mental Retardation/Intellectual or Developmental Disabilities Authorities, and Aging and Disability Resource Centers, to implement MAC Program services throughout Texas.

2. Grantee Responsibilities

To participate as a provider under this Grant Agreement, the Grantee must:

- 2.1 Ensure compliance with this Grant Agreement, including these Grantee requirements;
- 2.2 Ensure compliance with all applicable federal and state laws, rules, regulations, standards, guidelines, and policies in effect on the beginning date of this Grant Agreement unless amended, including, but not limited to, [2 C.F.R. pt. 200, subpts. E and F](#), and [45 C.F.R. pt. 75, subpts. E and F](#);
- 2.3 Ensure compliance with all state and federal statutes and regulations, HHSC rules, policies, procedures, and guidelines governing the MAC Program, included but not limited to, [1 Tex. Admin. Code ch. 355, subch. J, div. 5, § 355.8095](#). The foregoing rules in Texas Administrative Code Title 1 as they relate to the Program may be further modified, revised, and moved within their existing title or into Texas Administrative Code Title 26 during the term of this Grant Agreement. In the event of such modifications or moves, Grantee shall be required to comply with said rules;
- 2.4 Ensure compliance at all times with the current Time Study and Medicaid Administrative Claiming Guide (“MAC Guide”), as it may be modified or revised, that is available online and can currently be accessed at: <https://pfd.hhs.texas.gov/time-study>;
- 2.5 Stay informed and comply with any MAC Guide revisions by the effective date, which may be revised when deemed necessary by HHSC, and other HHSC published guides, appendices, policies, rules, guidelines, notices, or guidance letters, which may be found on the HHSC program webpage that is currently available online and can be accessed at: <https://pfd.hhs.texas.gov/medicaid-administrative-claiming>.
- 2.6 Comply with all requirements under the Texas Grant Management Standards (“TxGMS”), including any revisions to those standards. TxGMS is currently available online at: <https://comptroller.texas.gov/purchasing/grant-management/>. The Texas Comptroller of Public Accounts (“CPA”), from time to time and in its sole discretion, may revise the TxGMS and/or the online link provided in this subsection. Grantee is responsible for

contacting CPA at any time that Grantee is not able to access the online materials to request the updated link;

- 2.7 Spend the state general revenue, in an amount equal to the federal match claimed, for health-related services for clients in order to receive the federal match of actual and reasonable costs for Medicaid administration;
- 2.8 Attend all required state-sponsored trainings on an annual basis;
- 2.9 Submit participation data using the HHSC Standardized Time Study Medicaid Administrative Claiming Financial System (the “MAC Financial System”) in adherence with the timeframes as set forth in **Section VI** of the Signature Document to this Grant Agreement;
- 2.10 All financial expenditure data must be submitted to HHSC via the MAC Financial System in adherence with the timeframes as set forth in **Section VI** of the Signature Document to this Grant Agreement;
- 2.11 Provide supporting documentation, when requested by HHSC, for any expenditure information included in the quarterly claims data Grantee submits to HHSC in the manner and timeframes set by HHSC. Grantee must respond within 30 days of HHSC’s request; and
- 2.12 Maintain supporting documentation for and fully cooperate with any audit, and be responsible for any related costs or necessary recoupments identified through an audit.

3. HHSC Responsibilities

- 3.1 HHSC will include the Grantee’s expenditures for Medicaid administration in the claim it submits to the Centers for Medicare and Medicaid Services for Title XIX federal participation, if said claim is submitted in accordance with the timeframes set by HHSC;
- 3.2 HHSC will host random moment time study and MAC Financials training sessions yearly to educate Grantees and to authorize Grantee staff/representatives to enter and submit TS/MAC data via the MAC Financial System;
- 3.3 HHSC will provide guidance and technical support to Grantees as needed; and
- 3.4 HHSC will reimburse claims for Medicaid administration from the Grantee only if the Grantee has certified that sufficient funds are available to support the non-federal share of the cost of the claim. This Grant Agreement is subject to any additional restrictions, limitations, or conditions required by federal or state laws, rules, or regulations.

4. Performance Measures

HHSC will actively monitor Grantee’s performance under this Grant Agreement including, but not limited to, the requirements as set forth in this Attachment. All services and deliverables under this Grant Agreement shall be provided at an acceptable quality level and in a manner consistent with acceptable industry standard, custom, and practice.

Attachment B

Payment for Services Provided**1. Basis for Calculating Reimbursable Costs**

- 1.1 HHSC will pass through to the Grantee no less than 95% of the Title XIX federal share of actual and reasonable costs for Medicaid administration provided by its staff for Medicaid administrative activities under this Grant Agreement. HHSC reserves the right to retain 5% of the Title XIX federal share of actual and reasonable costs for said Medicaid administration for HHSC's own administrative costs. These costs shall be based upon a time accounting system, which is in accordance with the provisions of 2 C.F.R. pt. 200, subpts. E and F, and 45 C.F.R. pt. 75, subpts. E and F, and the expense and equipment costs necessary to collect data, disseminate information, and carry out the staff functions.
- 1.2 The rate of reimbursement for allowable administrative activities performed by personnel other than skilled professional medical personnel ("SPMP") shall be 50% of such costs. *See*, 42 C.F.R. §§432.2 and 432.50. The rate of reimbursement for activities qualifying under regulations applying to SPMP and their direct supporting clerical staff shall be 75% of such costs for activities identified as "enhanced" or 50% for activities identified as "non-enhanced." Categories of costs eligible for 75% reimbursement include the following items only: compensation and applicable fringe benefits, and travel and training of SPMP and their direct supporting clerical staff.
- 1.3 Changes in federal regulations affecting the matching percentage or costs eligible for enhanced or administrative match that become effective subsequent to the execution of this Grant Agreement shall be incorporated herein via formal Contract amendment.

2. Availability of Funds

This Grant Agreement is contingent upon the availability of sufficient and adequate funds as stated in **Section 3.1** of the HHSC Uniform Terms and Conditions, which is attached as **Attachment C** and incorporated herein.

(Remainder of Page Intentionally Left Blank)

Attachment C

HHS Uniform Terms and Conditions – Grant



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 Textravel” means the Texas Comptroller of Public Accounts’ state travel rules, policies, and guidelines.

“Statement of Work” means the description of activities Grantee must perform to complete the Project, as specified in the Grant Agreement and as may be amended.

“System Agency” means HHSC or DSHS, as applicable.

“Work Product” means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Grantee in connection with Grantee’s performance of its duties under the Grant Agreement or through use of any funding provided under this Grant Agreement.

“Texas Grant Management Standards” or “TxGMS” means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies. Under this Grant Agreement, TxGMS applies to Grantee except as otherwise provided by applicable law or directed by System Agency. Additionally, except as otherwise provided by applicable law, in the event of a conflict between TxGMS and applicable federal or state law, federal law prevails over state law and state law prevails over TxGMS.

1.2 INTERPRETIVE PROVISIONS

- A. The meanings of defined terms include the singular and plural forms.
- B. The words “hereof,” “herein,” “hereunder,” and similar words refer to this Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
- C. The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts

(including this Grant Agreement) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Grant Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

- D. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Grant Agreement are references to these documents as amended, modified, or supplemented during the term of the Grant Agreement.
- E. The captions and headings of this Grant Agreement are for convenience of reference only and do not affect the interpretation of this Grant Agreement.
- F. All attachments, including those incorporated by reference, and any Amendments are considered part of the terms of this Grant Agreement.
- G. This Grant Agreement may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative.
- H. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase “in its sole discretion.”
- I. Time is of the essence in this Grant Agreement.
- J. Prior to execution of the Grant Agreement, Grantee must notify System Agency’s designated contact in writing of any ambiguity, conflict, discrepancy, omission, or other error. If Grantee fails to notify the System Agency designated contact of any ambiguity, conflict, discrepancy, omission or other error in the Grant Agreement prior to Grantee’s execution of the Grant Agreement, Grantee:
 - i. Shall have waived any claim of error or ambiguity in the Grant Agreement; and
 - ii. Shall not contest the interpretation by the System Agency of such provision(s).

No grantee will be entitled to additional reimbursement, relief, or time by reason of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

ARTICLE II. PAYMENT PROVISIONS

2.1 PROMPT PAYMENT

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

2.2 TAXES

Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from the Grant Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. System Agency shall not be liable for any taxes resulting from the Grant Agreement.

2.3 ANCILLARY AND TRAVEL EXPENSES

- A. Except as otherwise provided in the Grant Agreement, no ancillary expenses incurred by the Grantee in connection with its provision of the services or deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to, costs associated with transportation, delivery, and insurance for each deliverable.
- B. Except as otherwise provided in the Grant Agreement, when the reimbursement of travel expenses is authorized by the Grant Agreement, all such expenses will be reimbursed in accordance with the rates set by the Texas Comptroller's *Textravel* guidelines, which can currently be accessed at: <https://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://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau> or,
- ii. Email to: single_audit_report@hhsc.state.tx.us.

B. Financial Statements.

Due no later than nine months after the Grantee's fiscal year-end, Grantees not required to submit an audit, shall submit one electronic copy of their financial statements via:

- i. HHS portal at <https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau>; or,
- ii. Email to: single_audit_report@hhsc.state.tx.us.

ARTICLE V. WARRANTY, AFFIRMATIONS, ASSURANCES AND CERTIFICATIONS

5.1 WARRANTY

Grantee warrants that all work under this Grant Agreement shall be completed in a manner consistent with standards under the terms of this Grant Agreement, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Grant Agreement; and all deliverables shall be fit for ordinary use, of good quality, and with no material defects. If System Agency, in its sole discretion, determines Grantee has failed to complete work timely or to perform satisfactorily under conditions required by this Grant Agreement, the System Agency may require Grantee, at its sole expense, to:

- i. Repair or replace all defective or damaged work;
- ii. Refund any payment Grantee received from System Agency for all defective or damaged work and, in conjunction therewith, require Grantee to accept the return of such work; and,

- iii. Take necessary action to ensure that Grantee's future performance and work conform to the Grant Agreement requirements.

5.2 GENERAL AFFIRMATIONS

Grantee certifies that, to the extent affirmations are incorporated into the Grant Agreement, the Grantee has reviewed the affirmations and that Grantee is in compliance with all requirements.

5.3 FEDERAL ASSURANCES

Grantee further certifies that, to the extent federal assurances are incorporated into the Grant Agreement, the Grantee has reviewed the federal assurances and that Grantee is in compliance with all requirements.

5.4 FEDERAL CERTIFICATIONS

Grantee further certifies that, to the extent federal certifications are incorporated into the Grant Agreement, the Grantee has reviewed the federal certifications and that Grantee is in compliance with all requirements. In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Grant Agreement.

5.5 STATE ASSURANCES

Except to the extent of any conflict under applicable law or requirements or guidelines of any federal awarding agency from which funding for this Grant Agreement originated, the Grantee must comply with the applicable state assurances included within the TxGMS which are incorporated here by reference.

ARTICLE VI. INTELLECTUAL PROPERTY

6.1 OWNERSHIP OF WORK PRODUCT

- A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
- B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
- C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.

- D. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.
- E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

6.2 GRANTEE'S PRE-EXISTING WORKS

- A. To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Grant Agreement ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works.
- B. Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.
- C. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

6.3 THIRD PARTY IP

- A. To the extent that any Third Party IP is included or incorporated in the Work Product by Grantee, Grantee hereby grants to System Agency, or shall obtain from the applicable third party for System Agency's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency's internal business or governmental purposes only, to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and to authorize others to do any or all of the foregoing.
- B. Grantee shall obtain System Agency's advance written approval prior to incorporating any Third Party IP into the Work Product, and Grantee shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.
- C. Grantee shall provide System Agency all supporting documentation demonstrating Grantee's compliance with this Section 6.3, including without limitation documentation indicating a third party's written approval for Grantee to use any Third Party IP that may be incorporated in the Work Product.

6.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

Grantee shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Grantee's compliance with Grantee's obligations under this Article VI, Intellectual Property.

6.5 DELIVERY UPON TERMINATION OR EXPIRATION

No later than the first calendar day after the termination or expiration of the Grant Agreement or upon System Agency's request, Grantee shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Grant Agreement. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Grant Agreement without the prior written consent of System Agency.

6.6 SURVIVAL

The provisions and obligations of this Article survive any termination or expiration of the Grant Agreement.

6.7 SYSTEM AGENCY DATA

- A. As between the Parties, all data and information acquired, accessed, or made available to Grantee by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Grantee in the course of providing data processing services in connection with Grantee's performance hereunder (the "System Agency Data"), is owned solely by System Agency.
- B. Grantee has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Grantee to fulfill its obligations under the Grant Agreement or as authorized in advance in writing by System Agency.
- C. For the avoidance of doubt, Grantee is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
- D. Grantee shall make System Agency Data available to System Agency, including to System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.
- E. Furthermore, the proprietary nature of Grantee's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Grantee's performance of its obligations hereunder.

ARTICLE VII. PROPERTY**7.1 USE OF STATE PROPERTY**

- A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
- B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.

- C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
- D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.
- E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
 - i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
 - ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

7.2 DAMAGE TO STATE PROPERTY

- A. In the event of loss, destruction, or damage to any System Agency or State of Texas owned, leased, or occupied property or equipment by Grantee or Grantee's employees, agents, Subcontractors, or suppliers, Grantee shall be liable to System Agency and the State of Texas for the full cost of repair, reconstruction, or replacement of the lost, destroyed, or damaged property.
- B. Grantee shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Grantee shall reimburse System Agency and the State of Texas for such property damage within ten (10) calendar days after Grantee's receipt of System Agency's notice of amount due.

7.3 PROPERTY RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT

In the event the Grant Agreement is terminated for any reason or expires, State Property remains the property of the System Agency and must be returned to the System Agency by the earlier of the end date of the Grant Agreement or upon System Agency's request.

7.4 EQUIPMENT AND PROPERTY

- A. The Grantee must ensure equipment with a per-unit cost of \$5,000 or greater purchased with grant funds under this award is used solely for the purpose of this Grant or is properly pro-rated for use under this Grant. Grantee must have control systems to prevent loss, damage, or theft of property funded under this Grant. Grantee shall maintain equipment management and inventory procedures for equipment, whether acquired in part or whole with grant funds, until disposition occurs.
- B. When equipment acquired by Grantee under this Grant Agreement is no longer needed for the original project or for other activities currently supported by System Agency, the Grantee must properly dispose of the equipment pursuant to 2 CFR and/or TxGMS, as applicable. Upon termination of this Grant Agreement, use and disposal of equipment by the Grantee shall conform with TxGMS requirements.
- C. Grantee shall initiate the purchase of all equipment approved in writing by the System Agency in accordance with the schedule approved by System Agency, as applicable.

Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase previously approved equipment after the first quarter in the Grant Agreement must be submitted to the assigned System Agency contract manager.

- D. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of \$500 or more, but less than \$5,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered supplies.
- E. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

ARTICLE VIII. RECORD RETENTION, AUDIT, AND CONFIDENTIALITY

8.1 RECORD MAINTENANCE AND RETENTION

- A. Grantee shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives sufficient information to determine compliance with the terms and conditions of this Grant Agreement and all state and federal rules, regulations, and statutes.
- B. Grantee shall maintain and retain legible copies of this Grant Agreement and all records relating to the performance of the Grant Agreement, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by the Grantee for a minimum of seven (7) years after the Grant Agreement expiration date or seven (7) years after all audits, claims, litigation or disputes involving the Grant Agreement are resolved, whichever is later.

8.2 AGENCY'S RIGHT TO AUDIT

- A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas.
- B. In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Grant Agreement. If the Grant Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized

representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority.

- C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee shall produce original documents related to this Grant Agreement.
- D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings.
- E. Grantee shall include this provision concerning the right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

8.3 RESPONSE/COMPLIANCE WITH AUDIT OR INSPECTION FINDINGS

- A. Grantee must act to ensure its and its Subcontractors' compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of the Grant Agreement and the services and Deliverables provided. Any such correction will be at Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.
- B. As part of the services, Grantee must provide to HHS upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Grant Agreement.

8.4 STATE AUDITOR'S RIGHT TO AUDIT

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

8.5 CONFIDENTIALITY

Grantee shall maintain as confidential and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This section will survive termination or expiration of this Grant Agreement. This requirement must be included in all subcontracts awarded by Grantee.

ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES

9.1 REMEDIES

- A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to the following:
 - i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
 - ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
 - iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
 - iv. suspending all or part of the Grant Agreement;
 - v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
 - vi. recouping payments made by the System Agency to the Grantee found to be in error;
 - vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
 - viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is obtained;
 - ix. withholding release of new grant agreements; and
 - x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.
- B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.
- C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

9.2 TERMINATION FOR CONVENIENCE

The System Agency may terminate the Grant Agreement, in whole or in part, at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in the System Agency's notice of termination.

9.3 TERMINATION FOR CAUSE

- A. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Grant Agreement, in whole or in part, upon either of the following conditions:

i. Material Breach

The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.

ii. Failure to Maintain Financial Viability

The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.

- B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

9.4 GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS

If the System Agency terminates the Grant Agreement for cause, the Grantee shall be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas to replace the Grantee. These costs include, but are not limited to, the costs of procuring a substitute grantee and the cost of any claim or litigation attributable to Grantee's failure to perform any work in accordance with the terms of the Grant Agreement.

9.5 INHERENTLY RELIGIOUS ACTIVITIES

Grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may engage in inherently religious activities; however, these activities must be separate in time or location from the grant-funded program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. These requirements apply to all grantees, not just faith-based organizations.

9.6 POLITICAL ACTIVITIES

Grant funds cannot be used for the following activities:

- A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.
- B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.

- C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.
- D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

ARTICLE X. INDEMNITY

10.1 GENERAL INDEMNITY

- A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.**
- B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS 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**

**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

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

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

**HEALTH AND HUMAN SERVICES
CONTRACT AFFIRMATIONS**

(Version 2.2, Effective May 2022)

For purposes of these Contract Affirmations, HHS includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). System Agency refers to HHSC, DSHS, or both, that will be a party to this Contract. These Contract Affirmations apply to all Contractors and Grantees (referred to as "Contractor") regardless of their business form (e.g., individual, partnership, corporation).

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

1. Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.
2. **Complete and Accurate Information**
Contractor represents and warrants that all statements and information provided to HHS are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.
3. **Public Information Act**
Contractor understands that HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.
4. **Contracting Information Requirements**
Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

5. Assignment

- A. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from System Agency. Any attempted assignment in violation of this provision is void and without effect.
- B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity.

6. Terms and Conditions

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from HHS' terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

7. HHS Right to Use

Contractor agrees that HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHS deems necessary to complete the procurement process or comply with state or federal laws.

8. Release from Liability

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

9. Dealings with Public Servants

Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.

10. Financial Participation Prohibited

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

11. Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract

and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

12. Child Support Obligation

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate. 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:

- 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

Authorized representative on behalf of Contractor must complete and sign the following:

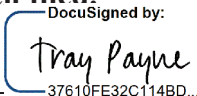
City of Lubbock

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.

	<p>09/22/2023</p>
<p>Signature of Authorized Representative</p>	<p>Date Signed</p>
<p>Tray Payne Printed Name of Authorized Representative First, Middle Name or Initial, and Last Name</p>	<p>Mayor Title of Authorized Representative</p>
<p>1314 Avenue K Physical Street Address</p>	<p>Lubbock, TX 79401 City, State, Zip Code</p>
<p>PO Box 2000 Mailing Address, if different</p>	<p>Lubbock, TX 79457 City, State, Zip Code</p>
<p>(806) 775-2010 Phone Number</p>	<p>Fax Number</p>
<p>traypayne@mylubbock.us Email Address</p>	<p>UEI is required now DUNS Number</p>
<p>756000590 Federal Employer Identification Number</p>	<p>17560005906 Texas Identification Number (TIN)</p>
<p>Texas Franchise Tax Number</p>	<p>Texas Secretary of State Filing Number</p>
<p>LXDNEKWRVKJ6 SAM.gov Unique Entity Identifier (UEI)</p>	

Attachment E

HHS Data Use Agreement with Security and Privacy Inquiry Form (Governmental Entity Version)

DATA USE AGREEMENT BETWEEN THE TEXAS HEALTH AND HUMAN SERVICES SYSTEM AND CONTRACTOR

This Data Use Agreement ("DUA") is effective as of the date of the Base Contract into which it is incorporated ("Effective Date"), by and between the Texas Health and Human Services System, which includes the Texas Health and Human Services Commission and the Department of State Health Services ("HHS") and Contractor (the "Base Contract").

ARTICLE 1. PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE

The purpose of this DUA is to facilitate access to, creation, receipt, maintenance, use, disclosure or transmission of Confidential Information with Contractor, and describe Contractor's rights and obligations with respect to the Confidential Information and the limited purposes for which the Contractor may create, receive, maintain, use, disclose or have access to Confidential Information. This DUA also describes HHS's remedies in the event of Contractor's noncompliance with its obligations under this DUA. This DUA applies to both HHS business associates, as "business associate" is defined in the Health Insurance Portability and Accountability Act (HIPAA), and contractors who are not business associates, who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of HHS, its programs or clients as described in the Base Contract. As a best practice, HHS requires its contractors to comply with the terms of this DUA to safeguard all types of Confidential Information.

As of the Effective Date of this DUA, if any provision of the Base Contract conflicts with this DUA, this DUA controls.

ARTICLE 2. DEFINITIONS

For the purposes of this DUA, capitalized, underlined terms have the following meanings:

"Authorized Purpose" means the specific purpose or purposes described in the Base Contract for Contractor to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by HHS in writing in advance.

"Authorized User" means a person:

- (1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;
- (2) For whom Contractor warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and
- (3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

"Breach" means an impermissible use or disclosure of electronic or non-electronic sensitive personal information by an unauthorized person or for an unauthorized purpose that compromises the security or

privacy of Confidential Information such that the use or disclosure poses a risk of reputational harm, theft of financial information, identity theft, or medical identity theft. Any acquisition, access, use, disclosure or loss of Confidential Information other than as permitted by this DUA shall be presumed to be a Breach unless Contractor demonstrates, based on a risk assessment, that there is a low probability that the Confidential Information has been compromised.

“Confidential Information” means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to Contractor or that Contractor may create, receive, maintain, use, disclose or have access to on behalf of HHS that consists of or includes any or all of the following:

- (1) Education records as defined in the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; 34 C.F.R. Part 99
- (2) Federal Tax Information as defined in Internal Revenue Code §6103 and Internal Revenue Service Publication 1075;
- (3) Personal Identifying Information (PII) as defined in Texas Business and Commerce Code, Chapter 521;
- (4) Protected Health Information (PHI) in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information as defined in 45 C.F.R. §160.103;
- (5) Sensitive Personal Information (SPI) as defined in Texas Business and Commerce Code, Chapter 521;
- (6) Social Security Administration Data, including, without limitation, Medicaid information means disclosures of information made by the Social Security Administration or the Centers for Medicare and Medicaid Services from a federal system of records for administration of federally funded benefit programs under the Social Security Act, 42 U.S.C., Chapter 7;
- (7) All privileged work product;
- (8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

“Destroy”, “Destruction”, for Confidential Information, means:

- (1) Paper, film, or other hard copy media have been shredded or destroyed such that the Confidential Information cannot be read or otherwise cannot be reconstructed. Redaction is specifically excluded as a means of data destruction.
- (2) Electronic media have been cleared, purged, or destroyed consistent with NIST Special Publication 800-88, “Guidelines for Media Sanitization,” such that the Confidential Information cannot be retrieved.

“Discover, Discovery” means the first day on which a Breach becomes known to Contractor, or, by exercising reasonable diligence would have been known to Contractor.

“Legally Authorized Representative” of an individual, including as provided in 45 CFR 435.923 (authorized representative); 45 CFR 164.502(g)(1) (personal representative); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code § 166.164 (medical power of attorney); and Texas Estates Code § 22.031 (representative).

“Required by Law” means a mandate contained in law that compels an entity to use or disclose Confidential Information that is enforceable in a court of law, including court orders, warrants, subpoenas or investigative demands.

“Subcontractor” means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

“Workforce” means employees, volunteers, trainees or other persons whose performance of work is under the direct control of a party, whether or not they are paid by that party.

ARTICLE 3. CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION

Section 3.01 Obligations of Contractor

Contractor agrees that:

(A) With respect to PHI, Contractor shall:

(1) Make PHI available in a designated record set if requested by HHS, if Contractor maintains PHI in a designated record set, as defined in HIPAA.

(2) Provide to HHS data aggregation services related to the healthcare operations Contractor performs for HHS pursuant to the Base Contract, if requested by HHS, if Contractor provides data aggregation services as defined in HIPAA.

(3) Provide access to PHI to an individual who is requesting his or her own PHI, or such individual's Legally Authorized Representative, in compliance with the requirements of HIPAA.

(4) Make PHI available to HHS for amendment, and incorporate any amendments to PHI that HHS directs, in compliance with HIPAA.

(5) Document and make available to HHS, an accounting of disclosures in compliance with the requirements of HIPAA.

(6) If Contractor receives a request for access, amendment or accounting of PHI by any individual, promptly forward the request to HHS or, if forwarding the request would violate HIPAA, promptly notify HHS of the request and of Contractor's response. HHS will respond to all such requests, unless Contractor is Required by Law to respond or HHS has given prior written consent for Contractor to respond to and account for all such requests.

(B) With respect to ALL Confidential Information, Contractor shall:

(1) Exercise reasonable care and no less than the same degree of care Contractor uses to protect its own confidential, proprietary and trade secret information to prevent Confidential Information from being used in a manner that is not expressly an Authorized Purpose or as Required by Law. Contractor will access, create, maintain, receive, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated threats or hazards to the security or integrity of such information or unauthorized uses.

(2) Establish, implement and maintain appropriate procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, in accordance with applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as Contractor has such Confidential Information in its actual or constructive possession.

(3) Implement, update as necessary, and document privacy, security and Breach notice policies and procedures and an incident response plan to address a Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the Base Contract. Contractor shall produce, within three business days of a request by HHS, copies of its policies and procedures and records relating to the use or disclosure of Confidential Information.

(4) Obtain HHS's prior written consent to disclose or allow access to any portion of the Confidential Information to any person, other than Authorized Users, Workforce or Subcontractors of Contractor who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Breach to Contractor's management and as permitted in Section 3.01(A)(3), above. Contractor shall produce evidence of completed training to HHS upon request. HHS, at its election, may assist Contractor in training and education on specific or unique HHS processes, systems and/or requirements. All of Contractor's Authorized Users, Workforce and Subcontractors with access to a state computer system or database will complete a cybersecurity training program certified under Texas Government Code Section 2054.519 by the Texas Department of Information Resources.

(5) Establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or applicable law. Contractor shall maintain evidence of sanctions and produce it to HHS upon request.

(6) Obtain prior written approval of HHS, to disclose or provide access to any Confidential Information on the basis that such act is Required by Law, so that HHS may have the opportunity to object to the disclosure or access and seek appropriate relief. If HHS objects to such disclosure or access, Contractor shall refrain from disclosing or providing access to the Confidential Information until HHS has exhausted all alternatives for relief.

(7) Certify that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose and that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. Contractor and its Subcontractors shall maintain at all times an updated, complete, accurate list of Authorized Users and supply it to HHS upon request.

(8) Provide, and shall cause its Subcontractors and agents to provide, to HHS periodic written confirmation of compliance with controls and the terms and conditions of this DUA.

(9) Return to HHS or Destroy, at HHS's election and at Contractor's expense, all Confidential Information received from HHS or created or maintained by Contractor or any of Contractor's agents or Subcontractors on HHS's behalf upon the termination or expiration of this DUA, if reasonably feasible and permitted by law. Contractor shall certify in writing to HHS that all such Confidential Information has been Destroyed or returned to HHS, and that Contractor and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, Contractor acknowledges and agrees that it may not Destroy any Confidential Information if federal or state law, or HHS record retention policy or a litigation hold notice prohibits such Destruction. If such return or Destruction is not reasonably feasible, or is

impermissible by law, Contractor shall immediately notify HHS of the reasons such return or Destruction is not feasible and agree to extend the protections of this DUA to the Confidential Information for as long as Contractor maintains such Confidential Information.

(10) Complete and return with the Base Contract to HHS, attached as Attachment 2 to this DUA, the HHS Security and Privacy Initial Inquiry (SPI) at <https://hhs.texas.gov/laws-regulations/forms/miscellaneous/hhs-information-security-privacy-initial-inquiry-spi>. The SPI identifies basic privacy and security controls with which Contractor must comply to protect Confidential Information. Contractor shall comply with periodic security controls compliance assessment and monitoring by HHS as required by state and federal law, based on the type of Confidential Information Contractor creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. Contractor's security controls shall be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. Contractor shall update its security controls assessment whenever there are significant changes in security controls for HHS Confidential Information and shall provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements.

(11) Comply with the HHS Acceptable Use Policy (AUP) and require each Subcontractor and Workforce member who has direct access to HHS Information Resources, as defined in the AUP, to execute an HHS Acceptable Use Agreement.

(12) Only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form. A secure transmission of electronic Confidential Information *in motion* includes secure File Transfer Protocol (SFTP) or encryption at an appropriate level as required by rule, regulation or law. Confidential Information *at rest* requires encryption unless there is adequate administrative, technical, and physical security as required by rule, regulation or law. All electronic data transfer and communications of Confidential Information shall be through secure systems. Contractor shall provide proof of system, media or device security and/or encryption to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit, or the Discovery of a Breach. HHS may also request production of proof of security at other times as necessary to satisfy state and federal monitoring requirements. Deidentification of Confidential Information in accordance with HIPAA de-identification standards is deemed secure.

(13) Designate and identify a person or persons, as Privacy Official and Information Security Official, each of whom is authorized to act on behalf of Contractor and is responsible for the development and implementation of the privacy and security requirements in this DUA. Contractor shall provide name and current address, phone number and e-mail address for such designated officials to HHS upon execution of this DUA and prior to any change. Upon written notice from HHS, Contractor shall promptly remove and replace such official(s) if such official(s) is not performing the required functions.

(14) Make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, Confidential Information in accordance with applicable laws, regulations or demands of a regulatory authority relating to Confidential Information. Contractor shall provide such information in a time and manner reasonably agreed upon or as designated by the applicable law or regulatory authority.

(15) Comply with the following laws and standards *if applicable to the type of Confidential Information and Contractor's Authorized Purpose*:

GOVERNMENTAL ENTITY VERSION
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- Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;
- The Privacy Act of 1974;
- OMB Memorandum 17-12;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- Internal Revenue Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies;
- National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;
- NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;
- NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;
- NIST Special Publication 800-88, Guidelines for Media Sanitization;
- NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI;
- Family Educational Rights and Privacy Act
- Texas Business and Commerce Code Chapter 521
- Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that Contractor supports on behalf of HHS.

(16) Be permitted to use or disclose Confidential Information for the proper management and administration of Contractor or to carry out Contractor's legal responsibilities, except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, if:

- (a) Disclosure is Required by Law;
- (b) Contractor obtains reasonable assurances from the person to whom the information is disclosed that the person shall:
 1. Maintain the confidentiality of the Confidential Information in accordance with this DUA;
 2. Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the person; and
 3. Notify Contractor in accordance with Section 4.01 of a Breach of Confidential Information that the person Discovers or should have Discovered with the exercise of reasonable diligence.

(C) **With respect to ALL Confidential Information, Contractor shall NOT:**

(1) Attempt to re-identify or further identify Confidential Information that has been deidentified or attempt to contact any persons whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS.

(2) Engage in prohibited marketing or sale of Confidential Information.

(3) Permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information, on behalf of HHS without requiring that Subcontractor first execute either the Form Subcontractor Agreement, Attachment 1, or Contractor's own Subcontractor agreement that ensures that the Subcontractor shall comply with the same safeguards and restrictions contained in this DUA for Confidential Information. Contractor is directly responsible for its Subcontractors' compliance with, and enforcement of, this DUA.

ARTICLE 4. BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS

Section 4.01. Cooperation and Financial Responsibility.

(A) Contractor shall, at Contractor's expense, cooperate fully with HHS in investigating, mitigating to the extent practicable, and issuing notifications as directed by HHS, for any Breach of Confidential Information.

(B) Contractor shall make Confidential Information in Contractor's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach.

(C) Contractor's obligation begins at the Discovery of a Breach and continues as long as related activity continues, until all effects of the Breach are mitigated to HHS's satisfaction (the "incident response period").

Section 4.02. Initial Breach Notice.

For federal information *obtained from a federal system of records*, including Federal Tax Information and Social Security Administration Data (which includes Medicaid and other governmental benefit program Confidential Information), Contractor shall notify HHS of the Breach within the first consecutive clock hour of Discovery. The Base Contract shall specify whether Confidential Information is obtained from a federal system of records. For all other types of Confidential Information Contractor shall notify HHS of the Breach not more than 24 hours after Discovery, *or in a timeframe otherwise approved by HHS in writing*. Contractor shall initially report to HHS's Privacy and Security Officers via email at: privacy@HHSC.state.tx.us and to the HHS division responsible for the Base Contract.

Contractor shall report all information reasonably available to Contractor about the Breach.

Contractor shall provide contact information to HHS for Contractor's single point of contact who will communicate with HHS both on and off business hours during the incident response period.

Section 4.03 Third Business Day Notice: No later than 5 p.m. on the third business day after Discovery, or a time within which Discovery reasonably should have been made by Contractor of a Breach of Confidential Information, Contractor shall provide written notification to HHS of all reasonably available information about the Breach, and Contractor's investigation, including, to the extent known to Contractor:

a. The date the Breach occurred;

- b. The date of Contractor's and, if applicable, Subcontractor's Discovery;
- c. A brief description of the Breach, including how it occurred and who is responsible (or hypotheses, if not yet determined);
- d. A brief description of Contractor's investigation and the status of the investigation;
- e. A description of the types and amount of Confidential Information involved;
- f. Identification of and number of all individuals reasonably believed to be affected, including first and last name of the individual and if applicable, the Legally authorized representative, last known address, age, telephone number, and email address if it is a preferred contact method;
- g. Contractor's initial risk assessment of the Breach demonstrating whether individual or other notices are required by applicable law or this DUA for HHS approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;
- h. Contractor's recommendation for HHS's approval as to the steps individuals and/or Contractor on behalf of individuals, should take to protect the individuals from potential harm, including Contractor's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an individual with special capacity or circumstances;
- i. The steps Contractor has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);
- j. The steps Contractor has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Breach;
- k. Identify, describe or estimate of the persons, Workforce, Subcontractor, or individuals and any law enforcement that may be involved in the Breach;
- l. A reasonable schedule for Contractor to provide regular updates regarding response to the Breach, but no less than every three (3) business days, or as otherwise directed by HHS in writing, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and
- m. Any reasonably available, pertinent information, documents or reports related to a Breach that HHS requests following Discovery.

Section 4.04. Investigation, Response and Mitigation.

- (A) Contractor shall immediately conduct a full and complete investigation, respond to the Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the satisfaction of HHS.
- (B) Contractor shall complete or participate in a risk assessment as directed by HHS following a Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.

(C) Contractor shall fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, persons and/or individuals about the Breach.

(D) Contractor shall fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by HHS in a Corrective Action Plan if directed by HHS under the Base Contract.

Section 4.05. Breach Notification to Individuals and Reporting to Authorities.

(A) HHS may direct Contractor to provide Breach notification to individuals, regulators or third-parties, as specified by HHS following a Breach.

(B) Contractor must comply with all applicable legal and regulatory requirements in the time, manner and content of any notification to individuals, regulators or third-parties, or any notice required by other state or federal authorities, including without limitation, notifications required by Texas Business and Commerce Code, Chapter 521.053(b) and HIPAA. Notice letters will be in Contractor's name and on Contractor's letterhead, unless otherwise directed by HHS, and will contain contact information, including the name and title of Contractor's representative, an email address and a toll-free telephone number, for the individual to obtain additional information.

(C) Contractor shall provide HHS with draft notifications for HHS approval prior to distribution and copies of distributed and approved communications.

(D) Contractor shall have the burden of demonstrating to the satisfaction of HHS that any required notification was timely made. If there are delays outside of Contractor's control, Contractor shall provide written documentation to HHS of the reasons for the delay.

(E) If HHS directs Contractor to provide notifications, HHS shall, in the time and manner reasonably requested by Contractor, cooperate and assist with Contractor's information requests in order to make such notifications.

ARTICLE 5. GENERAL PROVISIONS

Section 5.01 Ownership of Confidential Information

Contractor acknowledges and agrees that the Confidential Information is and shall remain the property of HHS. Contractor agrees it acquires no title or rights to the Confidential Information.

Section 5.02 HHS Commitment and Obligations

HHS will not request Contractor to create, maintain, transmit, use or disclose PHI in any manner that would not be permissible under applicable law if done by HHS.

Section 5.03 HHS Right to Inspection

At any time upon reasonable notice to Contractor, or if HHS determines that Contractor has violated this DUA, HHS, directly or through its agent, will have the right to inspect the facilities, systems, books and records of Contractor to monitor compliance with this DUA. For purposes of this subsection, HHS's agent(s) include, without limitation, the HHS Office of the Inspector General, the Office of the Attorney General of Texas, the State Auditor's Office, outside consultants, legal counsel or other designee.

Section 5.04 Term: Termination of DUA; Survival

This DUA will be effective on the date on which Contractor executes the Base Contract and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended, this DUA is extended to run concurrent with the Base Contract.

(A) If HHS determines that Contractor has violated a material term of this DUA; HHS may in its sole discretion:

- (1) Exercise any of its rights including but not limited to reports, access and inspection under this DUA and/or the Base Contract; or
- (2) Require Contractor to submit to a corrective action plan, including a plan for monitoring and plan for reporting as HHS may determine necessary to maintain compliance with this DUA; or
- (3) Provide Contractor with a reasonable period to cure the violation as determined by HHS; or
- (4) Terminate the DUA and Base Contract immediately and seek relief in a court of competent jurisdiction in Travis County, Texas.

Before exercising any of these options, HHS will provide written notice to Contractor describing the violation and the action it intends to take.

(B) If neither termination nor cure is feasible, HHS shall report the violation to the applicable regulatory authorities.

(C) The duties of Contractor or its Subcontractor under this DUA survive the expiration or termination of this DUA until all the Confidential Information is Destroyed or returned to HHS, as required by this DUA.

Section 5.05 Injunctive Relief

(A) Contractor acknowledges and agrees that HHS may suffer irreparable injury if Contractor or its Subcontractor fails to comply with any of the terms of this DUA with respect to the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

(B) Contractor further agrees that monetary damages may be inadequate to compensate HHS for Contractor's or its Subcontractor's failure to comply. Accordingly, Contractor agrees that HHS will, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive relief without posting a bond and without the necessity of demonstrating actual damages, to enforce the terms of this DUA.

Section 5.06 Indemnification

To the extent permitted by the Texas Constitution, laws and rules, and without waiving any immunities or defenses available to CONTRACTOR as a governmental entity, Contractor shall indemnify, defend and hold harmless HHS and its respective Executive Commissioner, employees, Subcontractors, agents (including other state agencies acting on behalf of HHS) or other members of HHS' Workforce (each of the foregoing hereinafter referred to as "Indemnified Party") against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this DUA or from any acts or omissions related to this DUA by Contractor or its employees, directors, officers,

Subcontractors, or agents or other members of Contractor's Workforce. The duty to indemnify, defend and hold harmless is independent of the duty to insure. Upon demand, Contractor shall reimburse HHS for any and all losses, liabilities, lost profits, fines, penalties, costs or expenses (including costs of required notices, investigation, and mitigation of a Breach, fines or penalties imposed on an Indemnified Party by a regulatory authority, and reasonable attorneys' fees) which may be imposed upon any Indemnified Party to the extent caused by and which results from the Contractor's failure to meet any of its obligations under this DUA. Contractor's obligation to defend, indemnify and hold harmless any Indemnified Party will survive the expiration or termination of this DUA.

Section 5.07 Insurance

(A) As a governmental entity, CONTRACTOR either maintains commercial insurance or self-insures with policy limits in an amount sufficient to cover CONTRACTOR's liability arising under this DUA. CONTRACTOR will either require that the policy name HHS as an additional insured or assign any payments from the insurer related to CONTRACTOR's liability arising under this DUA directly to HHS. HHSC reserves the right to consider alternative means for CONTRACTOR to satisfy CONTRACTOR's financial responsibility under this DUA. Nothing herein shall relieve CONTRACTOR of its financial obligations set forth in this DUA if CONTRACTOR fails to maintain insurance.

(B) Contractor shall provide HHS with written proof that required insurance coverage is in effect, at the request of HHS.

Section 5.08 Entirety of the Contract

This DUA is incorporated by reference into the Base Contract and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be enforced.

Section 5.09 Automatic Amendment and Interpretation

Upon the effective date of any amendment or issuance of additional regulations to any law applicable to Confidential Information, this DUA will automatically be amended so that the obligations imposed on HHS and/or Contractor remain in compliance with such requirements. Any ambiguity in this DUA will be resolved in favor of a meaning that permits HHS and Contractor to comply with laws applicable to Confidential Information.

Section 5.10 Notices; Requests for Approval

All notices and requests for approval related to this DUA must be directed to the HHS Chief Privacy Officer at privacy@hhsc.state.tx.us.

ATTACHMENT 1. SUBCONTRACTOR AGREEMENT FORM**HHS CONTRACT NUMBER**

The DUA between HHS and Contractor establishes the permitted and required uses and disclosures of Confidential Information by Contractor.

Contractor has subcontracted with _____ (Subcontractor) for performance of duties on behalf of CONTRACTOR which are subject to the DUA. Subcontractor acknowledges, understands and agrees to be bound by the same terms and conditions applicable to Contractor under the DUA, incorporated by reference in this Agreement, with respect to HHS Confidential Information. Contractor and Subcontractor agree that HHS is a third-party beneficiary to applicable provisions of the subcontract.

HHS has the right, but not the obligation, to review or approve the terms and conditions of the subcontract by virtue of this Subcontractor Agreement Form.

Contractor and Subcontractor assure HHS that any Breach as defined by the DUA that Subcontractor Discovers shall be reported to HHS by Contractor in the time, manner and content required by the DUA.

If Contractor knows or should have known in the exercise of reasonable diligence of a pattern of activity or practice by Subcontractor that constitutes a material breach or violation of the DUA or the Subcontractor's obligations, Contractor shall:

1. Take reasonable steps to cure the violation or end the violation, as applicable;
2. If the steps are unsuccessful, terminate the contract or arrangement with Subcontractor, if feasible;
3. Notify HHS immediately upon Discovery of the pattern of activity or practice of Subcontractor that constitutes a material breach or violation of the DUA and keep HHS reasonably and regularly informed about steps Contractor is taking to cure or end the violation or terminate Subcontractor's contract or arrangement.

This Subcontractor Agreement Form is executed by the parties in their capacities indicated below.

CONTRACTOR**SUBCONTRACTOR**

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

DATE _____, 201 .

DATE: _____

DUA Attachment 2--
Security and Privacy Initial Inquiry

SPI is attached to the contract packet

(Remainder of Page Intentionally Left Blank)

Attachment F

Federal Assurances for Non-Construction Programs

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:


1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

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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.

SIC  37610FE32C114BD...	DocuSigned by: ED CERTIFYING OFFICIAL	TITLE Mayor
APPLICANT ORGANIZATION City of Lubbock		DATE SUBMITTED 09/22/2023

Standard Form 424B (Rev. 7-97) Back

Attachment G

Federal Certification Regarding Lobbying**CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION	
City of Lubbock	
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
Prefix: <input type="text"/>	* First Name: <input type="text"/> Middle Name: <input type="text"/>
* Last Name: <input type="text"/>	Suffix: <input type="text"/>
* Title: <input type="text"/>	
* SIGNATURE: <input type="text"/>	
DocuSigned by: <input type="text"/>	
* DATE: <input type="text"/>	

Attachment H

Indirect Cost Rate Letter



TEXAS
Health and Human
Services

Texas Health and Human Services Commission

Cecile Erwin Young
Executive Commissioner

March 31, 2021

Ms. Katherine Wells
City of Lubbock
P.O. Box 2000
Lubbock, TX 79457-0001

Re: Declined Indirect Cost Recovery Letter
TIN 17560005906

Dear Ms. Escobedo:

The Texas Health and Human Services (HHS) Indirect Cost Rate Group reviewed your Indirect Cost Rate Questionnaire. Your organization chose to decline the recovery of indirect costs for the Department of State Health Services (DSHS) and Health and Human Services Commission (HHSC) contracts or grant awards. Please coordinate with your contract managers to ensure your contract budgets do not include indirect costs. If any indirect costs were charged to HHS, please consult with your contract managers to determine if a refund or budget adjustment is necessary. Any costs which were reimbursed for indirect costs should be remitted to HHS.

In addition, your organization can not use any unrecovered indirect costs as cost-sharing or match on any HHS grants unless prior approval is granted by the HHS Indirect Cost Rate Group and a negotiated indirect cost rate is established.

Texas HHS requires all organizations to establish an approved rate to recover indirect costs. To establish an approved method to recover indirect costs later, submit a request to the HHS Indirect Cost Rate Group via the Subrecipient Landing Page. The approved method for indirect cost recovery includes the following:

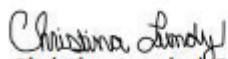
- Request to use the de minimis
- Submit a federally or state approved indirect cost rate
- Negotiate a rate with the HHS Indirect Cost Rate Group or your Cognizant Agency

If you have additional questions, please send an email to the subrecipientmailbox@hhsc.state.tx.us or submit a Technical assistance request via the Subrecipient Landing Page.

Thank You,

Ms. Katherine Wells
March 31, 2021
Page 2

Sincerely,



Christina Lundy | Federal Funds Manager
Health and Human Services Commission
1100 West 49th Street | Austin, Texas 78754
Office: (512) 776-2326 | Cell: (512) 938-9634
Christina.Lundy@hhs.texas.gov



TEXAS
Health and Human
Services

Texas HHS System - Data Use Agreement - Attachment 2
SECURITY AND PRIVACY INQUIRY (SPI)

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses (except A9a) prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers (except A9a and A11) prior to performing any work on behalf of any Texas HHS agency.

For any questions answered "No" (except A9a and A11), an *Action Plan for Compliance with a Timeline* must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

SECTION A: APPLICANT/BIDDER INFORMATION (To be completed by Applicant/Bidder)

1. Does the applicant/bidder access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.)? IF NO, STOP. THE SPI FORM IS NOT REQUIRED.	<input checked="" type="radio"/> Yes <input type="radio"/> No																								
2. Entity or Applicant/Bidder Legal Name	Legal Name: City of Lubbock Legal Entity Tax Identification Number (TIN) (Last Four Numbers Only): 590 Procurement/Contract#: HHS001331300015 Address: PO Box 2000 City: Lubbock State: TX ZIP: 79457 Telephone #: (806) 775-2941 Email Address: kwells@mylubbock.us																								
3. Number of Employees, at all locations, in Applicant/Bidder's Workforce "Workforce" means all employees, volunteers, trainees, and other Persons whose conduct is under the direct control of Applicant/Bidder, whether or not they are paid by Applicant/Bidder. If Applicant/Bidder is a sole proprietor, the workforce may be only one employee.	Total Employees: 47																								
4. Number of Subcontractors (if Applicant/Bidder will not use subcontractors, enter "0")	Total Subcontractors: 0																								
5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder (Privacy and Security Official may be the same person.)	<table border="0"> <tr> <td colspan="2">A. Security Official:</td> </tr> <tr> <td colspan="2">Legal Name: Christopher Wade Nelson</td> </tr> <tr> <td colspan="2">Address: PO Box 2000</td> </tr> <tr> <td>City: Lubbock</td> <td>State: TX ZIP: 79457</td> </tr> <tr> <td colspan="2">Telephone #: (806) 775-2390</td> </tr> <tr> <td colspan="2">Email Address: cwnelson@mylubbock.us</td> </tr> <tr> <td colspan="2">B. Privacy Official:</td> </tr> <tr> <td colspan="2">Legal Name: Christopher Wade Nelson</td> </tr> <tr> <td colspan="2">Address: PO Box 2000</td> </tr> <tr> <td>City: Lubbock</td> <td>State: TX ZIP: 79457</td> </tr> <tr> <td colspan="2">Telephone #: (806) 775-2390</td> </tr> <tr> <td>Email Address:</td> <td>cwnelson@mylubbock.us</td> </tr> </table>	A. Security Official:		Legal Name: Christopher Wade Nelson		Address: PO Box 2000		City: Lubbock	State: TX ZIP: 79457	Telephone #: (806) 775-2390		Email Address: cwnelson@mylubbock.us		B. Privacy Official:		Legal Name: Christopher Wade Nelson		Address: PO Box 2000		City: Lubbock	State: TX ZIP: 79457	Telephone #: (806) 775-2390		Email Address:	cwnelson@mylubbock.us
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Telephone #: (806) 775-2390																									
Email Address:	cwnelson@mylubbock.us																								

6. Type(s) of Texas HHS Confidential Information the Applicant/Bidder will create, receive, maintain, use, disclose or have access to: (Check all that apply)

- Health Insurance Portability and Accountability Act (HIPAA) data
- Criminal Justice Information Services (CJIS) data
- Internal Revenue Service Federal Tax Information (IRS FTI) data
- Centers for Medicare & Medicaid Services (CMS)
- Social Security Administration (SSA)
- Personally Identifiable Information (PII)

HIPAA

☐

CJIS

☐

IRS FTI

☐

CMS

☐

SSA

☐

PII

☒

Other (Please List)

7. Number of Storage Devices for Texas HHS Confidential Information (as defined in the Texas HHS System Data Use Agreement (DUA))

Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than a local server or a personal computer.

A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business.

Total #
(Sum a-d)

4925

a. Devices. Number of personal user computers, devices or drives, including mobile devices and mobile drives.

4,900

b. Servers. Number of Servers that are not in a data center or using Cloud Services.

2

c. Cloud Services. Number of Cloud Services in use.

20

d. Data Centers. Number of Data Centers in use.

3

8. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle Texas HHS Confidential Information during one year:Select Option
(a-d)

a. 499 individuals or less

b. 500 to 999 individuals

c. 1,000 to 99,999 individuals

d. 100,000 individuals or more

- ☒ a.
☐ b.
☐ c.
☐ d.

9. HIPAA Business Associate Agreement

a. Will Applicant/Bidder use, disclose, create, receive, transmit or maintain protected health information on behalf of a HIPAA-covered Texas HHS agency for a HIPAA-covered function?

- ☐ Yes
☒ No

b. Does Applicant/Bidder have a Privacy Notice prominently displayed on a Webpage or a Public Office of Applicant/Bidder's business open to or that serves the public? (This is a HIPAA requirement. Answer "N/A" if not applicable, such as for agencies not covered by HIPAA.)

- ☐ Yes
☐ No
☒ N/A

Action Plan for Compliance with a Timeline:

Compliance Date:

10. Subcontractors. If the Applicant/Bidder responded "0" to Question 4 (indicating no subcontractors), check "N/A" for both 'a.' and 'b.'

a. Does Applicant/Bidder require subcontractors to execute the DUA Attachment 1 Subcontractor Agreement Form?

- ☐ Yes
☐ No
☒ N/A

Action Plan for Compliance with a Timeline:

Compliance Date:

<p>b. Will Applicant/Bidder agree to require subcontractors who will access Confidential Information to comply with the terms of the DUA, not disclose any Confidential Information to them until they have agreed in writing to the same safeguards and to discontinue their access to the Confidential Information if they fail to comply?</p>	<p> <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A </p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>11. Does Applicant/Bidder have any Optional Insurance currently in place?</p> <p>Optional Insurance provides coverage for: (1) Network Security and Privacy; (2) Data Breach; (3) Cyber Liability (lost data, lost use or delay/suspension in business, denial of service with e-business, the Internet, networks and informational assets, such as privacy, intellectual property, virus transmission, extortion, sabotage or web activities); (4) Electronic Media Liability; (5) Crime/Theft; (6) Advertising Injury and Personal Injury Liability; and (7) Crisis Management and Notification Expense Coverage.</p>	<p> <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A </p>

SECTION B: PRIVACY RISK ANALYSIS AND ASSESSMENT (To be completed by Applicant/Bidder)

For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

1. Written Policies & Procedures. Does Applicant/Bidder have current written privacy and security policies and procedures that, at a minimum:	Yes or No
a. Does Applicant/Bidder have current written privacy and security policies and procedures that identify Authorized Users and Authorized Purposes (as defined in the DUA) relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
b. Does Applicant/Bidder have current written privacy and security policies and procedures that require Applicant/Bidder and its Workforce to comply with the applicable provisions of HIPAA and other laws referenced in the DUA, relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information on behalf of a Texas HHS agency?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
c. Does Applicant/Bidder have current written privacy and security policies and procedures that limit use or disclosure of Texas HHS Confidential Information to the minimum that is necessary to fulfill the Authorized Purposes?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
d. Does Applicant/Bidder have current written privacy and security policies and procedures that respond to an actual or suspected breach of Texas HHS Confidential Information, to include at a minimum (if any responses are "No" check "No" for all three): <ul style="list-style-type: none"> i. Immediate breach notification to the Texas HHS agency, regulatory authorities, and other required Individuals or Authorities, in accordance with Article 4 of the DUA; ii. Following a documented breach response plan, in accordance with the DUA and applicable law; & iii. Notifying Individuals and Reporting Authorities whose Texas HHS Confidential Information has been breached, as directed by the Texas HHS agency? 	<input checked="" type="radio"/> Yes <input type="radio"/> No

<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
e. Does Applicant/Bidder have current written privacy and security policies and procedures that conduct annual workforce training and monitoring for and correction of any training delinquencies?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
f. Does Applicant/Bidder have current written privacy and security policies and procedures that permit or deny individual rights of access, and amendment or correction, when appropriate?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
g. Does Applicant/Bidder have current written privacy and security policies and procedures that permit only Authorized Users with up-to-date privacy and security training, and with a reasonable and demonstrable need to use, disclose, create, receive, maintain, access or transmit the Texas HHS Confidential Information, to carry out an obligation under the DUA for an Authorized Purpose, unless otherwise approved in writing by a Texas HHS agency?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
h. Does Applicant/Bidder have current written privacy and security policies and procedures that establish, implement and maintain proof of appropriate sanctions against any Workforce or Subcontractors who fail to comply with an Authorized Purpose or who is not an Authorized User, and used or disclosed Texas HHS Confidential Information in violation of the DUA, the Base Contract or applicable law?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
i. Does Applicant/Bidder have current written privacy and security policies and procedures that require updates to policies, procedures and plans following major changes with use or disclosure of Texas HHS Confidential Information within 60 days of identification of a need for update?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

j. Does Applicant/Bidder have current written privacy and security policies and procedures that restrict permissions or attempts to re-identify or further identify de-identified Texas HHS Confidential Information, or attempt to contact any Individuals whose records are contained in the Texas HHS Confidential Information, except for an Authorized Purpose, without express written authorization from a Texas HHS agency or as expressly permitted by the Base Contract?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
k. If Applicant/Bidder intends to use, disclose, create, maintain, store or transmit Texas HHS Confidential Information outside of the United States, will Applicant/Bidder obtain the express prior written permission from the Texas HHS agency and comply with the Texas HHS agency conditions for safeguarding offshore Texas HHS Confidential Information?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
l. Does Applicant/Bidder have current written privacy and security policies and procedures that require cooperation with Texas HHS agencies' or federal regulatory inspections, audits or investigations related to compliance with the DUA or applicable law?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
m. Does Applicant/Bidder have current written privacy and security policies and procedures that require appropriate standards and methods to destroy or dispose of Texas HHS Confidential Information?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
n. Does Applicant/Bidder have current written privacy and security policies and procedures that prohibit disclosure of Applicant/Bidder's work product done on behalf of Texas HHS pursuant to the DUA, or to publish Texas HHS Confidential Information without express prior approval of the Texas HHS agency?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
2. Does Applicant/Bidder have a current Workforce training program? Training of Workforce must occur at least once every year, and within 30 days of date of hiring a new Workforce member who will handle Texas HHS Confidential Information. Training must include: (1) privacy and security policies, procedures, plans and applicable requirements for handling Texas HHS Confidential Information, (2) a requirement to complete training before access is given to Texas HHS Confidential Information, and (3) written proof of training and a procedure for monitoring timely completion of training.	<input checked="" type="radio"/> Yes <input type="radio"/> No

<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<p>3. Does Applicant/Bidder have Privacy Safeguards to protect Texas HHS Confidential Information in oral, paper and/or electronic form?</p> <p>"Privacy Safeguards" means protection of Texas HHS Confidential Information by establishing, implementing and maintaining required Administrative, Physical and Technical policies, procedures, processes and controls, required by the DUA, HIPAA (45 CFR 164.530), Social Security Administration, Medicaid and laws, rules or regulations, as applicable. Administrative safeguards include administrative protections, policies and procedures for matters such as training, provision of access, termination, and review of safeguards, incident management, disaster recovery plans, and contract provisions. Technical safeguards include technical protections, policies and procedures, such as passwords, logging, emergencies, how paper is faxed or mailed, and electronic protections such as encryption of data. Physical safeguards include physical protections, policies and procedures, such as locks, keys, physical access, physical storage and trash.</p>	<input checked="checked" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<p>4. Does Applicant/Bidder and all subcontractors (if applicable) maintain a current list of Authorized Users who have access to Texas HHS Confidential Information, whether oral, written or electronic?</p>	<input checked="checked" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
<p>5. Does Applicant/Bidder and all subcontractors (if applicable) monitor for and remove terminated employees or those no longer authorized to handle Texas HHS Confidential Information from the list of Authorized Users?</p>	<input checked="checked" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

SECTION C: SECURITY RISK ANALYSIS AND ASSESSMENT (to be completed by Applicant/Bidder)

<p>This section is about your electronic system. If your business DOES NOT store, access, or transmit Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.) select the box to the right, and "YES" will be entered for all questions in this section.</p>	<p>No Electronic Systems</p> <p><input type="checkbox"/></p>
<p>For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related items is 30 calendar days, PII-related items is 90 calendar days.</p>	
<p>1. Does the Applicant/Bidder ensure that services which access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information are maintained IN the United States (no offshoring) unless ALL of the following requirements are met?</p> <ul style="list-style-type: none"> a. The data is encrypted with FIPS 140-2 validated encryption b. The offshore provider does not have access to the encryption keys c. The Applicant/Bidder maintains the encryption key within the United States d. The Application/Bidder has obtained the express prior written permission of the Texas HHS agency <p><i>For more information regarding FIPS 140-2 encryption products, please refer to:</i> http://csrc.nist.gov/publications/fips</p>	<p><input checked="" type="radio"/> Yes</p> <p><input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>2. Does Applicant/Bidder utilize an IT security-knowledgeable person or company to maintain or oversee the configurations of Applicant/Bidder's computing systems and devices?</p>	<p><input checked="" type="radio"/> Yes</p> <p><input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>3. Does Applicant/Bidder monitor and manage access to Texas HHS Confidential Information (e.g., a formal process exists for granting access and validating the need for users to access Texas HHS Confidential Information, and access is limited to Authorized Users)?</p>	<p><input checked="" type="radio"/> Yes</p> <p><input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>4. Does Applicant/Bidder a) have a system for changing default passwords, b) require user password changes at least every 90 calendar days, and c) prohibit the creation of weak passwords (e.g., require a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numerals, where possible) for all computer systems that access or store Texas HHS Confidential Information.</p> <p>If yes, upon request must provide evidence such as a screen shot or a system report.</p>	<p><input checked="" type="radio"/> Yes</p> <p><input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>

<p>5. Does each member of Applicant/Bidder's Workforce who will use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information have a unique user name (account) and private password?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>6. Does Applicant/Bidder lock the password after a certain number of failed attempts and after 15 minutes of user inactivity in all computing devices that access or store Texas HHS Confidential Information?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>7. Does Applicant/Bidder secure, manage and encrypt remote access (including wireless access) to computer systems containing Texas HHS Confidential Information? (e.g., a formal process exists for granting access and validating the need for users to remotely access Texas HHS Confidential Information, and remote access is limited to Authorized Users).</p> <p><i>Encryption is required for all Texas HHS Confidential Information. Additionally, FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to:</i> http://csrc.nist.gov/publications/fips</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>8. Does Applicant/Bidder implement computer security configurations or settings for all computers and systems that access or store Texas HHS Confidential Information? (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit exploitation opportunities for hackers or intruders, etc.)</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>9. Does Applicant/Bidder secure physical access to computer, paper, or other systems containing Texas HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.)?</p>	<p><input checked="" type="radio"/> Yes <input type="radio"/> No</p>
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>

<p>10. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information that is <u>transmitted</u> over a public network (e.g., the Internet, WiFi, etc.)?</p> <p>If yes, upon request must provide evidence such as a screen shot or a system report.</p> <p><i>Encryption is required for all HHS Confidential Information. Additionally, FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to: http://csrc.nist.gov/publications/fips</i></p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>11. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information <u>stored</u> on end user devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.)?</p> <p>If yes, upon request must provide evidence such as a screen shot or a system report.</p> <p><i>Encryption is required for all Texas HHS Confidential Information. Additionally, FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.</i></p> <p><i>For more information regarding FIPS 140-2 encryption products, please refer to: http://csrc.nist.gov/publications/fips</i></p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>12. Does Applicant/Bidder require Workforce members to formally acknowledge rules outlining their responsibilities for protecting Texas HHS Confidential Information and associated systems containing HHS Confidential Information before their access is provided?</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>13. Is Applicant/Bidder willing to perform or submit to a criminal background check on Authorized Users?</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>
<p>14. Does Applicant/Bidder prohibit the access, creation, disclosure, reception, transmission, maintenance, and storage of Texas HHS Confidential Information with a subcontractor (e.g., cloud services, social media, etc.) unless Texas HHS has approved the subcontractor agreement which must include compliance and liability clauses with the same requirements as the Applicant/Bidder?</p>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<p><u>Action Plan for Compliance with a Timeline:</u></p>	<p><u>Compliance Date:</u></p>

15. Does Applicant/Bidder keep current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
16. Do Applicant/Bidder's computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information contain up-to-date anti-malware and antivirus protection?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
17. Does the Applicant/Bidder review system security logs on computing systems that access or store Texas HHS Confidential Information for abnormal activity or security concerns on a regular basis?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
18. Notwithstanding records retention requirements, does Applicant/Bidder's disposal processes for Texas HHS Confidential Information ensure that Texas HHS Confidential Information is destroyed so that it is unreadable or undecipherable?	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>
19. Does the Applicant/Bidder ensure that all public facing websites and mobile applications containing Texas HHS Confidential Information meet security testing standards set forth within the Texas Government Code (TGC), Section 2054.516; including requirements for implementing vulnerability and penetration testing and addressing identified vulnerabilities? <i>For more information regarding TGC, Section 2054.516 DATA SECURITY PLAN FOR ONLINE AND MOBILE APPLICATIONS, please refer to: https://legiscan.com/TX/text/HB8/2017</i>	<input checked="" type="radio"/> Yes <input type="radio"/> No
<u>Action Plan for Compliance with a Timeline:</u>	<u>Compliance Date:</u>

SECTION D: SIGNATURE AND SUBMISSION (to be completed by Applicant/Bidder)*Please sign the form digitally, if possible. If you can't, provide a handwritten signature.*

1. I certify that all of the information provided in this form is truthful and correct to the best of my knowledge. If I learn that any such information was not correct, I agree to notify Texas HHS of this immediately.

2. Signature**Gloria Diaz**Digitally signed by Gloria Diaz
Date: 2023.07.21 12:28:56 -05'00'**3. Title****Financial Analyst****4. Date:**

7/21/23

To **submit** the completed, signed form:

- Email the form as an attachment to the appropriate Texas HHS Contract Manager(s).

Section E: To Be Completed by Texas HHS Agency Staff:

Agency(s):

HHSC: ☐DFPS: ☐DSHS: ☐

Requesting Department(s):

Legal Entity Tax Identification Number (TIN) (Last four Only):

--	--	--	--	--	--	--	--	--	--

PO/Contract(s) #:

Contract Manager:

Contract Manager Email Address:

Contract Manager Telephone #:

Contract Manager:

Contract Manager Email Address:

Contract Manager Telephone #:

Contract Manager:

Contract Manager Email Address:

Contract Manager Telephone #:

Contract Manager:

Contract Manager Email Address:

Contract Manager Telephone #:

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Contract Manager Telephone #:

Contract Manager:

Contract Manager Email Address:

Contract Manager Telephone #:

Contract Manager:

Contract Manager Email Address:

Contract Manager Telephone #:

Texas Health and Human Services Commission Vendor Information Form (VIF)

Instructions: This form must be completed and submitted with **each** new contract, amendment, renewal, and/or extension.
(Please type or print information.)

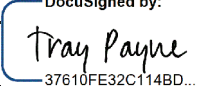
SECTION 1: Contractor's General Information

Legal Contractor's Name:	City of Lubbock		
Legal Doing Business As (DBA) Name:			
Physical Address:	1314 Avenue K, Lubbock, TX 79401		
Remit To (Payment) Address:	PO Box 2000, Lubbock Texas 79457		
Enter one of the following:	<input checked="" type="checkbox"/> Texas Identification Number (TIN): 75-60000590		
	<input type="checkbox"/> Federal Employer Identification Number (FEIN):		
	<input type="checkbox"/> Social Security Number (SSN):		
Select the Legal Status:	<input type="checkbox"/> For-profit Entity <input type="checkbox"/> Non-profit Entity		
Select the Business Structure:	<input type="checkbox"/> Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> Partnership*		
	<input type="checkbox"/> Limited (Liability) Company <input type="checkbox"/> Limited (Liability) Partnership <input type="checkbox"/> Sole Proprietorship		
	<input checked="" type="checkbox"/> Governmental Entity (must specify): municipality		
	<input type="checkbox"/> Other (must specify):		
	* If Partnership, must provide SSN or TIN for minimum of two partners		
	Partner Name:	TIN or SSN:	
	Partner Name:	TIN or SSN:	
If applicable, enter appropriate information:	State of Incorporation:	Texas Charter Number:	Name of Parent Entity:

SECTION 2: Contractor's Contact Information

Person Who Will Sign the Contract	Point of Contact for Contract
Name: Tray Payne	Name: Katherine Wells
Title: Mayor	Title: Director of Public Health
Mailing Address: 1314 Avenue K, Lubbock TX 79401	Mailing Address: 1314 Avenue K, Lubbock TX 79401
Telephone: (806) 775-2010	Telephone: 806-775-2941
Fax:	Fax:
E-mail: traypayne@mylubbock.us	E-mail: kwells@mylubbock.us

SECTION 3: Contractor's Authorized Signature (or HHSC Contract Manager)

Printed Name	DocuSigned by:	Date	Phone Number
Tray Payne	 <small>37610FE32C114BD...</small>	09/22/2023	

SECTION 4: PCS Contract Administration Office Use Only

Contractor to Receive Payment: <input type="checkbox"/> No <input type="checkbox"/> Yes
Contract Number:



Application for Texas Identification Number

Form 4109
February 2022-E

Section I. Texas Identification Number (TIN)

The number provided in this section will be used to report payments to the IRS, if applicable. A person or entity that has not received payment from Texas Health and Human Services Commission is a "new HHSC payee." An answer of "Yes" requires completion of Sections I through VI. An answer of "No" requires completion of Sections I, III, V and VI.

Indicate the type of number you are providing to be used for your TIN.

☒ **1 – Employer Identification No. (EIN) as assigned by IRS** (9 digits, no dash) 756000590

Is this a new HHSC payee? (see specific instructions) ☐ Yes ☐ No Location/TIN Mail Code:

☐ **2 – Social Security No. or Individual Taxpayer Identification No (ITIN)** (9 digits, no dashes)

☐ **3 – Current Texas Identification No.** (11 digits)

Are you currently reporting any Texas tax other than unemployment (e.g., sales tax, franchise tax)? ☐ Yes ☐ No

If "Yes," enter the Texas Taxpayer No. (11 digits, no dashes):

Section II. Ownership Codes (To be completed for new HHSC payees only)

Check **only one** code by the appropriate ownership type that applies to you or your business and enter any required additional information.

☐ **I – Individual Recipient** (not owning a business)

☐ **A – Professional Association**

☐ **E – State Employee**

Enter File No.

Employing Agency No.:

☐ **C – Professional Corporation**

Enter File No.

☐ **S – Sole Ownership of Business** (If checked, enter the following below:)

Owner's Name:

☐ **T – Texas Corporation:** ☐ Profit ☐ Non-Profit

Social Security No.:

Enter File No.

☐ **P – Partnership**

☐ **O – Out-of-state Corporation** ☐ Profit ☐ Non-Profit

(If checked, enter two partner's names and SSNs. If a partner is a corporation, use the corporation's name and EIN)

☐ **R – Foreign (out of U.S.) W8 BEN is required** ☐ Profit ☐ Non-Profit

Name:

☒ **G – Governmental Entity**

SSN/EIN:

☐ **U – State Agency/University**

Name:

☐ **F – Financial Institution**

SSN/EIN:

☐ **N – Other (If checked, explain.)** ☐ Profit ☐ Non-Profit

☐ **L – Limited Partnership**

Enter File No.

Section III. Payee Information

Name of Payee – Individual or Legal Entity to be Paid (maximum 50 characters, including spaces)

City of Lubbock

DBA-Doing Business As, if applicable – Mailing address where you want to receive payments (maximum 35 characters per line)

DBA name or 1st line of address: PO BOX 2000

Up to 4 lines including
DBA name. This is the
address where your
payments will be sent.

2nd line of address (if needed):

3rd line of address (if needed):

4th line of address (if needed):

City Lubbock	State TX	ZIP Code 76457	Zone
Business/Daytime Area Code and Phone No. 806-775-2941	Payment Type 	PDT 	SIC Code
Security Type (0, 1, 2) 	Vendor Type 		

Section IV. Payee Assignment Information

An assignment is a legal transfer of a right or property. For the purposes of this form, it is the transfer of the right to payment. A copy of the assignment agreement signed by both parties must be attached.

Assignee Name	Assignee SSN/EIN	Date
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Section V. Applicant Information

Name of Applicant or Authorized Contact <i>(please print)</i>	Area Code and Phone No.	Date
Tray Payne	806-775-2010	09/14/2023

Section VI. HHSC Representative Information *(Required)*

Name of HHSC Representative and Division/Facility <i>(please print)</i>	Area Code and Phone No.	Date
Amy Greene, MCS, CAPM	(512) 438-3430	

Who Must Submit This Application

This application must be submitted by every person (sole owner, individual recipient, corporation or other organization) who intends to bill or receive payment from the Texas Health and Human Services Commission for goods, services provided, refunds, public assistance, etc. Your Texas Identification Number (TIN) will be required on all vouchers submitted by any state agency. Your use of this TIN on all billings will reduce the time required to process your billings to the state of Texas.

General Instructions

- An HHSC representative may complete the form for the payee.
- Payees submit the form to their contract manager or HHSC representative responsible for their billings/invoices.
- The HHSC representative reviews the form for completeness prior to submitting to Accounting, Mail Code E-411.
- **Do not** use dashes when entering Social Security No., Employer Identification No. or Comptroller's assigned number.
- Disclosure of your Social Security No. is required if you are an individual or sole ownership. This disclosure requirement has been adopted under the Federal Privacy Act of 1974 (5 U.S.C.A. Section 552a(note)(West 1977), the Tax Reform Act of 1976 (42 U.S.C.A. Section 405(c)(2)(c) (West 1992), and Texas Government Code Section 403.055 (Vernon Supp. 1992). Your Social Security No. will be used to help the Comptroller of Public Accounts administer the state's tax laws and for other purposes. See Op Texas Attorney General No. H-1255(1978).
- **Be advised that incomplete or incorrect information may cause delays in processing this application.**

Specific Instructions

- Section I: The HHSC representative may enter the TIN location/Mail Code (last 3 digits of the TIN) to be set up, if known.
- Section II: This section is not required for current HHSC payees who are adding additional payment locations, unless there has been a change in ownership information.

Section 1, Texas Identification Number (TIN)

EIN: For all ownership codes other than the individual listed in Section 3, enter a 9-digit Employer Identification Number (EIN) issued by the Internal Revenue Service.

SSN: For the individual or sole owner without an EIN, enter your 9-digit Social Security number (SSN) issued by the Social Security Administration.

ITIN: For the individual or sole owner without an EIN, enter your 9-digit Individual Taxpayer Identification Number (ITIN) issued by the IRS.

Are you currently reporting any Texas tax to the Comptroller's office such as sales tax or franchise tax? If "Yes," enter Texas Taxpayer.

Section 2, Ownership Codes

- Check the box next to the appropriate ownership code and enter additional information as requested. Check **only one** box in this section. The Secretary of State's office may be contacted at 512-463-5555 for information regarding Texas file numbers.

Section 3, Payee Information

- Enter the complete name and mailing address where you want payments to be received. Names of individuals must be entered first name first. Each line cannot exceed 50 characters, including spaces. If the name is more than 50 characters, continue the name on the next line down and begin the address in the next line down. City, state and ZIP code are required. Payee phone number is optional.

Section 4, Payment Assignment Information

Use when one payee is assigning payment to another payee. When setting up an assignment payment, fill out this section completely and include a copy of the assignment agreement between the assignee and the assignor.

For assistance in completing this application, call HHSC Accounting at 737-867-7580.

With a few exceptions, you have the right to request and be informed about the information that the Health and Human Services Commission (HHSC) obtains about you. You are entitled to receive and review the information upon request. You also have the right to ask HHSC to correct information that is determined to be incorrect. (Government Code, Sections 552.021, 552.023, 559.004). To find out about your information and your right to request correction, contact your local contract manager, caseworker or HHSC representative.

Information

Agenda Item

Resolution - Public Health Services: Consider a resolution authorizing the Mayor to execute Contract 17450, and all related documents, with Stages of Recovery, Inc., for Substance Use Treatment Provider Services.

Item Summary

This Service Agreement allows qualified network providers to provide Substance Use Disorder Treatment Services. The contractor will serve individuals in Region 1 with qualifying substance use disorders. The goal of this network is to establish a diverse group of substance use disorder treatment options to meet the individual needs of those entering treatment. This network is funded through the Substance Use Prevention Service grants from the Texas Department of Health and Human Services. The providers must meet state minimum requirements and must accept the state unit rate as payment in full.

The City issued a Request for Proposals (RFP) for Substance Use Treatment providers to join the network of providing services for the City of Lubbock Public Health Department.

In response to RFP 23-17450-YB, the following proposals were received and evaluated, resulting in the following the scores.

Contractor	Score (out of 100)
Stages of Recovery, Inc., Lubbock, Texas	93.33
Dailey Recovery Service, Amarillo, Texas	Proposal Withdrawn

The Health Department Staff recommends Contract 17450 be awarded to the sole proposer who met all requirements, Stages of Recovery, Inc., of Lubbock, Texas.

The contract will be for a term of one year, with the option of 3, one-year extensions, said date of term beginning upon formal approval.

Fiscal Impact

This contract will have no fiscal impact to the City. The contract is funded through grants from the Texas Department of Health and Human Services as noted above in the Item Summary. The service types and unit rates are noted in Exhibit B of the contract.

Staff/Board Recommending

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

Attachments

- Resolution
- Contract
- 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. 17450 for Substance Use Treatment Provider Services as per RFP 23-17450-YB, by and between the City of Lubbock and Stages of Recovery, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:



Rachael Foster, Assistant City Attorney

**City of Lubbock
Substance Use Treatment Providers
Agreement**

This Service Agreement (this “Agreement”) is entered into as of the ___ day of _____, **2023** (“Effective Date”) by and between Stages of Recovery, Inc. (the Contractor), and the City of Lubbock (the “City”).

RECITALS

WHEREAS, the City has issued a Request for Proposals 23-17450-YB, Substance Use Treatment Providers 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 Substance Use Treatment Providers, 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 – Service Types and Unit Rates
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 (1) year extensions, said date of term beginning upon formal approval. The 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 document, this provision shall control.
- 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:

JAN COLE WATTS

Print Name

Courtney Paz, City Secretary

3513 50th St.

Address

APPROVED AS TO CONTENT:

Lubbock, TX 79413

City, State, Zip Code

Katherine Wells

Katherine Wells, Director of Public Health

APPROVED AS TO FORM

Rachael Foster

Rachael Foster, Assistant City Attorney

required to submit billing sheets weekly and make any necessary corrections in order to ensure payments are submitted in a timely manner. Examples of billing sheets will be provided. Monitoring tools will be used to perform (I) audit per service type provided by the subcontractors every quarter or as needed. An audit will be done at the facility and in the CMBHS database. Corrections or discrepancies must be corrected in a timely manner or by the due date provided by City of Lubbock Behavioral Program staff. The monitoring tool will be provided to the subcontractor. Subcontractors are required to demonstrate a five percent (5%) match of either in-kind donations or supplemental service committed specifically for the proposed project.

2. Service Requirements

Administrative Requirements

1. Adhere to the most current SUD UM Guidelines.
2. Provide age-appropriate medical and psychological therapeutic services designed to treat an individual's SUD and restore functions while promoting Recovery.
3. Adhere to Level of Care/Service Type licensure requirements.
4. Comply with all applicable TAC rules adopted by System Agency related to SUD treatment.
5. Document all specified required activities and services in the Clinical Management of Behavioral Health Services (CMBHS) system. Documents that require Client or staff signature shall be maintained according to TAC requirements and made available to System Agency for review upon request.
6. Client Retention in services, including protocols for addressing Clients absent from treatment and policies defining treatment non-compliance; and all policies and procedures shall be provided to System Agency upon request.
7. Ensure that Program Directors participate in their specific Program and service type conference calls as scheduled by System Agency. Program Directors shall participate unless otherwise agreed to by System Agency in writing. Subcontractor executive management may participate in the conference calls.
8. Actively attend and share representative knowledge about Subcontractor's system and services at the Outreach, Screening, Assessment, and Referrals (OSAR) quarterly regional collaborative meetings.
9. Ensure compliance with Client Eligibility requirements to include: Texas residence eligibility, Financial Eligibility and clinical eligibility as specified in SUD UM Guidelines.
10. Document a Life Event Note in CMBHS upon active Client's delivery of newborn.
11. Subcontractor will develop a local agreement with DFPS local offices to address referral process, coordination of services, and sharing of information as allowed per the consent and agreement form.
12. Adhere to Memorandum of Understanding requirements as stated in the SUD UM Guidelines.
13. Maintain a list of community resources and document referrals when appropriate to ensure that children of the client have access to services to address their needs and support healthy development including primary pediatric care, early childhood intervention services, and other therapeutic interventions that address the children's development needs and any issues of abuse and neglect.

**City of Lubbock
RFP 23-17450-YB
Substance Use Treatment Providers**

GENERAL REQUIREMENTS

1. INTENT

The Health Department is soliciting proposals from qualified providers to join the network. Eligible providers must meet the state minimum requirements to participate in this program. Preference will be given to providers who can exceed the requirements. Network providers must accept the state unit rate as payment in full. At this time additional funds are not available to supplement to state rate, however, individuals receiving service through the network will be assigned a case manager to monitor progress, address treatment barriers and assist with discharge planning to help improve short and long term success rates.

2. SCOPE OF WORK

The City of Lubbock Health Department currently has a network of substance use disorder treatment providers and would like to expand their network. Providers in the network will serve individuals with qualifying substance use disorders who have been screened and approved for services by health department staff. The goal of this network is to establish a diverse group of substance use disorder treatment options to meet the individual needs of those entering treatment. This network is funded through the Substance Use Prevention Service grants from the Texas Department of Health and Human Services.

General

1. All Subcontractors shall become familiar with the treatment contracts such as; Adult Treatment (TRA), Specialized Female Treatment (TRF), Co-Occurring Psychiatric and Substance Abuse Disorders (COSPD) and Youth Treatment (TRY) to help assist with grant guidelines, to help inform and provide substance use disorder treatment to the targeted population.

The below service types/levels of care are based on Texas Administrative Code (TAC) requirements, as referenced in the Substance Use Disorder (SUD) Utilization Management (UM) Guidelines, located at the following link: <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-servicesproviders/behavioral-health-provider-resources/utilization-management-guidelines-manual>, and American Society of Addiction Medicine (ASAM) criteria located at the following link: www.asam.com, which is a collection of objective guidelines that give clinicians a standardized approach to admission and treatment planning.

Subcontractors will provide a copy of their roster and make sure it is current. The roster will also contain the hours of operation and the services provided. Subcontractors must utilize the Clinical Management for Behavioral Health Services (CMBHS) system and attend training after contract execution and before subcontracted services begin. CMBHS will also be used to report Wait List and Daily Capacity Management. Subcontractors are

***Service Delivery**

Subcontractor shall:

Adhere to the Priority Populations for Treatment Programs as stated in the SUD UM Guidelines.

1. Maintain a Waiting List to track all eligible individuals who have been screened but cannot be admitted to SUD treatment immediately.
2. Subcontractor that has an individual identified as a federal and State priority population on the waiting list shall confirm this in the Daily Capacity Management Report.
3. Subcontractor shall arrange for appropriate services in another treatment facility or provide access to interim services as indicated within forty-eight (48) hours when efforts to refer to other appropriate services are exhausted.
4. Subcontractor shall offer directly or through referral interim services to waitlisted individuals.
5. Establish a wait list that includes priority populations and interim services while awaiting admission to treatment services.
6. Develop a mechanism for maintaining contact with individuals awaiting admission.
7. Maintain a waiting list that includes a unique individual identifier for each injecting drug abuser seeking treatment, including individuals receiving interim services while awaiting admission.
8. Send wait list numbers to Subcontractor by 9:30am Monday through Friday.
9. If unable to provide admissions to individuals within Priority Populations for Treatment Programs according to SUD UM Guidelines:
10. Implement written procedures that address maintaining weekly contact with individuals waiting for admissions as well as what referrals are made when a Client cannot be admitted for services immediately.
11. When Subcontractor cannot admit a Client, who is at risk for dangerous withdrawal, Subcontractor shall ensure that an emergency medical care provider is notified.
12. Coordinate with an alternate provider for immediate admission. Notify Substance UseDisorder (Substance_ Use_ Disorder@hhsc.state.tx.us) so that assistance can be provided that ensures immediate admission to other appropriate services and proper coordination when appropriate.
13. Provide pre-admission service coordination to reduce barriers to treatment, enhance motivation, stabilize life situations, and facilitate engagement in treatment.
14. Adhere to Informed Consent Document for Opioid Use Disorder applicable to individual as stated in the SUD UM Guidelines.
15. When an individual is placed on the Wait List, Subcontractor shall document interim services as referrals that provides applicable testing, counseling, and treatment for Human Immunodeficiency Virus (HN), Tuberculosis (TB) and sexually transmitted infections (STIs).

***Screening and Assessment**

Subcontractor shall:

1. Comply with all applicable rules in the TAC for SUD programs as stated in the SUD UMGuidelines Information, Rules, and Regulations regarding Screening and Assessment.

2. When documenting a CMBHS Substance Use Disorder screening, Subcontractor shall conduct the screening in a confidential, face-to-face interview unless there is documented justification for an interview by phone.
3. Document Financial Eligibility in CMBHS as required in the SUD UM Guidelines.
4. Conduct and document a CMBHS SUD Initial Assessment with the Client to determine the appropriate levels of care for SUD treatment. The CMBHS assessment will identify the impact of substances on the physical, mental health, and other identified issues including TB, Hepatitis Band C, STI, HIV. If Client indicates risk for these communicable diseases, Subcontractor shall refer the Client to the appropriate community resources for further testing and counseling. ii. If the Client is at risk for HIV, Subcontractor shall refer the Client to pre and posttest counseling on HIV.
5. If the Client is living with HIV, Subcontractor will refer the Client to the appropriate community resources to complete the necessary referrals and health related paperwork.
6. The assessment shall be signed by a Qualified Credential Counselor (QCC) and filed in the Client record within three (3) Service Days of admission or a program may accept an evaluation from an outside entity if it meets the criteria for admission and was completed during the thirty (30) calendar days preceding admission.

***Treatment Planning, Implementation and Review**

Subcontractor shall:

1. Comply with all applicable rules for SUD programs in the TAC regarding Treatment Planning, Implementation and Review, as referenced in Information, Rules, and Regulations of the SUD Program Guide.
2. Collaborate actively with clients and family, when appropriate, to develop and implement an individualized, written treatment plan that identifies services and support needed to address problems and needs identified in the assessment. The treatment plan shall document the expected length of stay and treatment intensity. Subcontractor shall use clinical judgment to assign a projected length of stay for each individual client.
3. Document referral and referral follow-up in CMBHS to the appropriate community resources based on the individual need of the client.
4. The treatment plan shall be signed by a QCC and filed in the client record within five service days of admission.

***Discharge**

Subcontractor shall:

1. Comply with all applicable rules in the TAC regarding Discharge, as referenced in Information, Rules, and Regulations of the SUD Program Guide.
2. Develop and implement an individualized discharge plan with the client to assist in sustaining recovery.
3. Document in CMBHS the client-specific information that supports the reason for discharge listed on the discharge report. A QCC shall sign the discharge summary. Appropriate referrals shall be made and documented in the client record. A client's treatment is considered successfully completed, if the following criteria are met:
 - i. Client has completed the clinically recommended number of treatment units (either initially projected or modified with clinical justification) as indicated in CMBHS.
 - ii. All problems on the treatment plan have been addressed.

4. Utilize the treatment plan component of CMBHS to create a final and completed treatment plan version.
5. Problems designated as "treat" or "case manage" status shall have all objectives resolved prior to discharge:
 - iii. Problems that have been "referred" shall have associated documented referrals in CMBHS;
 - iv. Problems with "deferred" status shall be re-assessed. Upon successful discharge, all deferred problems shall be resolved, either through referral, withdrawal, treatment, or case management with clinical justification reflected in CMBHS, through the Progress Note and Treatment Plan Review Components; and
 - v. "Withdrawn" problems shall have clinical justification reflected in CMBHS, through the Progress Note and Treatment Plan Review Components.

***Additional Service Requirements**

Subcontractor shall:

1. Comply with all applicable rules in the TAC for SUD programs, as stated in Information, Rules, and Regulations of the SUD Program Guide.
2. Deliver and provide access to services at times and locations that meet the needs of the target population. Provide or arrange for transportation to all required services not provided at Subcontractor's facility.
3. Accept referrals from the OSAR.
4. Provide evidenced-based education to clients at minimum on the following topics:
 - (i) Tuberculosis;
 - (ii) HIV; Hepatitis B and C;
 - (iii) Sexually Transmitted Infections/Diseases; and
 - (iv) Health risks of tobacco and nicotine product use.
5. Provide Case Management as needed with documentation in CMBHS, as Case Management is essential to the ultimate success of the client.
6. Ensure client access to the full continuum of treatment services and shall provide sufficient treatment intensity to achieve treatment plan goals.
7. Provide all services in a culturally, linguistically, non-threatening, respectful and developmentally appropriate manner for clients, families, and/or significant others.
8. Provide trauma-informed services that address the multiple and complex issues related to violence, trauma, and substance use disorders.
9. Provide overdose prevention and reversal education to all clients.
10. Specific overdose prevention activities shall be conducted with clients with opioid use disorders and those clients that use drugs intravenously. Subcontractor will directly provide or refer to community support services for overdose prevention and reversal education to all identified at risk clients prior to discharge. Subcontractor will document all overdose prevention and reversal education in CMBHS.
11. Ensure access to adequate and appropriate medical and psychosocial tobacco cessation treatment as follows:
 - vi. Assess all clients for tobacco use and all clients seeking to cut back or quit.
 - vii. If the client indicates wanting assistance with cutting back or quitting, the client will be referred to appropriate tobacco cessation treatment.

12. Utilize System Agency as the payer of last resort if the client has other/ outside funding available (i.e., wages, insurance, etc.)

***Staff Competencies and Requirements**

1. All personnel shall receive the training and supervision necessary to ensure compliance with System Agency rules, provision of appropriate and individualized treatment, and protection of client health, safety, and welfare.
2. Ensure that all direct care staff receive a copy of this statement of work and SUD Program Guide.
3. Ensure that all direct care staff review all policies and procedures related to the program or organization on an annual basis.
4. Ensure compliance with all applicable rules in the TAC for SUD Programs regarding Personnel Practices and Development, as stated in Personnel Requirements and Documentation of the SUD Program Guide.
5. Within 90 business days of hire and prior to service delivery, direct care staff shall have specific documented training in the following:
 - i. Motivational interviewing techniques or Motivational Enhancement Therapy;
 - ii. Trauma-informed care;
 - iii. Cultural competency;
 - iv. Harm reduction trainings;
 - v. HIPAA and 42 CFR Part 2 training; and
 - vi. State of Texas co-occurring psychiatric and substance use disorder (COPSD) training located at the following website: www.centralizedtraining.com
6. Ensure all direct care staff complete annual education on Health Insurance Portability and Accountability Act (HIP AA) and 42 CFR Part 2 training. DocuSign Envelope ID: 1D1EC09B-A3AF-4B6D-8A54-14CB34153271
7. Ensure all direct care staff complete a minimum of 10 hours of training each state fiscal year in any of the following areas:
 - i. Motivational interviewing techniques;
 - ii. Cultural competencies;
 - iii. Reproductive health education;
 - iv. Risk and harm reduction strategies;
 - v. Trauma informed care; or
 - vi. Suicide prevention and intervention.
8. Individuals responsible for planning, directing, or supervising treatment services shall be a QCC.
9. Subcontractor shall have a clinical program director known as a "Program Director" with at least two years of post-QCC licensure experience providing substance use disorder treatment.
10. Substance Use Disorder counseling shall be provided by a QCC or Chemical Dependency Counselor Intern. Substance use disorder education and life skills training shall be provided by counselors or individuals who have appropriate specialized education and expertise. All counselor interns shall work under the direct supervision of a QCC.
11. Licensed Chemical Dependency Counselors shall recognize the limitations of their licensee's ability and shall not provide services outside the licensee's scope of practice of licensure or use techniques that exceed the person's license authorization or professional competence.

12. Develop a policy and procedure on staff training, available for HHSC review, to ensure that information is gathered from clients in a respectful, non-threatening, and culturally competent manner.
13. For HN Residential Subcontractor, all counseling staff will have one year of experience working with persons living with HIV or the at-risk population.
 - i. Specific training for direct care staff is required annually in harm, risk reduction, and overdose training.
 - ii. The Registered Nurse (RN), Licensed Vocational Nurse (L VN), or Physician's Assistant must have at least two years' experience working with persons living with HIV. All shifts will be staffed with either a LVN or RN.
 - iii. Food service staff will include at least one full time employee who has certification in food service management and the ability to plan and accommodate diets recommended for individuals served by Subcontractor.

4. Levels of Care/Service Types

1. Adult Treatment (TRA)

- i. Adult Intensive Residential Services;
- ii. Adult Ambulatory Detoxification Services
- iii. Adult Residential Detoxification Services;
- iv. Adult Outpatient Services:
 - (a) Adult Outpatient Group Counseling;
 - (b) Adult Outpatient Group Education;
 - (c) Adult Outpatient Individual Counseling.

2. Youth Treatment (TRY)

i. Youth Outpatient Services

- (a) Youth Outpatient Group Counseling;
- (b) Youth Outpatient Group Education;
- (c) Youth Outpatient Individual Counseling;
- (d) Youth Adolescent Support;
- (e) Youth Family Counseling;
- (f) Youth Family Support;
- (g) Youth Psychiatrist Consultation.

3. Specialized Female Treatment (TRF)

- i. Adult Specialized Female Intensive Residential Services;
- ii. Adult Specialized Female Supportive Residential Services;
- iii. Adult Specialized Female Women with Children Intensive Residential Services;
- iv. Adult Specialized Female Outpatient Services
 - (a) Adult Specialized Female Outpatient Group Counseling;
 - (b) Adult Specialized Female Outpatient Group Education;
 - (c) Adult Specialized Female Outpatient Individual Counseling.

4. Co-Occurring Psychiatric and Substance Abuse Disorders (COPSD)

5. Target Population

Texas residents in Region (1) who meet Client Eligibility for System Agency-funded substance use disorder services as stated in the Substance Use Disorder (SUD) Program Guide, <https://hhs.texas.gov/doing-business-hhs/provider-portals/behavioral-health-servicesproviders/substance-use-disorder-service-providers>. Services or activities will be provided to individuals from the following counties:

Region (1): Armstrong, bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Crosby, Dallam, Deaf Smith, Dickens, Donley, Floyd, Garza, Gray, Hale, Hall, Hansford, Hartley, Hemphill, Hockley, Hutchinson, King, Lamb, Lipscomb, Lubbock, Lynn, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Terry, Wheeler, Yoakum

City of Lubbock
RFP 23-17450-YB
Substance Use Disorder Treatment Providers
Service Types and Unit Rates

Treatment for Adults (TRA)

Service Type	Unit Rate
Adult Intensive Residential	\$113.02
Adult Outpatient	
Outpatient – Group Counseling	\$18.84
Outpatient – Group Education	\$17.79
Outpatient – Individual Counseling	\$60.69
Adult – Supportive Residential	\$42.90
Adult – Residential Detoxification	\$234.41

Treatment for Females (TRF)

Service Type	Unit Rate
Specialize Female Residential Intensive	\$113.02
Specialized Female Outpatient	
Outpatient – Group Counseling	\$29.30
Outpatient – Group Education	\$17.79
Outpatient – Individual	\$80.57
Specialized Female Residential Supportive	\$82.67

Treatment for Youth (TRY)

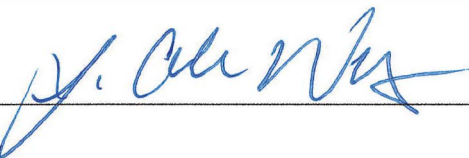
Service Type	Unit Rate
Youth Outpatient Services	\$62.79

Co-Occurring Psychiatric and Substance Use Disorder Services Contract (COPSD)

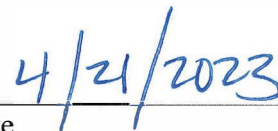
Service Type	Unit Rate
COPSD Services	\$66.98

Network providers accepts the state unit rate as payment in full.

Name



Date



32. INSURANCE REQUIREMENTS

- 32.1. 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.
- 32.2. 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.
- 32.3. 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):

Auto Liability Requirements: \$1M/occurrence is needed.

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 (\$1M) 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.

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

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.

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

The City of Lubbock reserves the right to accept or reject any and all.

The City of Lubbock Charter states that no officer or employee of the City can benefit from any contract, job, work or service for the municipality or be interested in the sale to the City of any supplies, equipment, material or articles purchased. Will any officer or employee of the City, or member of their immediate family, benefit from the award of this proposal to the above firm?

☐ YES ☒ NO

THE OFFEROR HEREBY ACKNOWLEDGES RECEIPT

INSURANCE REQUIREMENTS

I, the undersigned Vendor certify that the insurance requirements 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.

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.

VENDOR ACKNOWLEDGEMENT

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

- Insurance Requirements
- Suspension and Debarment Certification
- Texas Government Code Section 2252.152
- Texas Government Code Section 2271.002
- Texas Government Code 2274
- Federal and State Regulations
- Master Agreement

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


Authorized Signature

Ian "COLE" WATTS
Print/Type Name

STAGES LEGACY
Company Name

DEVELOPMENT DIRECTOR / SECRETARY
OF BOARD
Title

4/21/2023
Date

4413 71st St. Ste. G-101
Address

Lubbock, TX 79424
City, State Zip Code

Contact for questions, clarifications, etc.	
Name and Title:	Cole Watts, Secretary, Board of Directors Dev Director
Mailing Address:	4413 71 st St. Ste. G-101, Lubbock, TX 79424
City, State, Zip:	Lubbock, TX 79424
Telephone No:	806-438-8089
Fax No:	806-500-2935
E-Mail:	cole.watts@stagesofrecovery.net



Purchasing and Contract Management

Project Summary

RFP 23-17450-YB

Substance Use Treatment Providers

Notice was published in the Lubbock Avalanche Journal on July 19 & July 26, 2023.

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 July 19 to August 22, 2023.

23 vendors downloaded the documents using Bonfire.com.

8 vendors were notified separately.

2 vendors submitted proposal.

Information

Agenda Item

Resolution - Civic Centers: Consider a resolution accepting, on behalf of the City of Lubbock, a public art donation titled *The Naiads*, comprised of four sculptures by artist Glenna Maxey Goodacre, from Civic Lubbock, Inc., for the City of Lubbock Public Art Collection.

Item Summary

Civic Lubbock, Inc. (CLI), has historically purchased public art pieces, museum artifacts and other items of cultural significance on behalf of the City of Lubbock. CLI purchased *The Naiads* in July 1997 for \$95,000. The four sculptures were created by Lubbock artist Glenna Maxey Goodacre. *The Naiads* were purchased outright and were not a commissioned piece.

In the summer of 1998, they were installed in the Southwest corner of the Pedestrian Mall in the Lubbock Memorial Civic Center, bringing the total project cost to \$116,332. In May 2023, the sculptures were relocated to the north end of the T.J. Patterson Memorial Plaza. The CLI Board of Directors voted at their September 6, 2023 meeting, to officially donate the artwork to the City of Lubbock.

Glenna Maxey Goodacre was born in Lubbock on August 28, 1939, and she passed away April 13, 2020. Both her father and grandfather made significant contributions to the City of Lubbock as builders and developers. Her father, Homer Glen Maxey, served on the Lubbock City Council from 1956 to 1960. Glenna Goodacre was a sculptor, best known for having designed the Sacagawea dollar that entered circulation in the US in 2000 and the Vietnam Women's Memorial in Washington D.C. She was inducted into the West Texas Walk of Fame in 1997 and received numerous awards and recognitions throughout her lifetime. Some of the many include: the prestigious Texas Medal of Arts, induction into the Cowgirl Hall of Fame, the New Mexico Governor's Award for Excellence in the Arts, and the James Earl Fraser Sculpture Award.

Cultural Arts Staff and the Public Art Ad Hoc Committee researched Goodacre's work, looking at recent auctions and comparable values in other collections. The appraised value is estimated at \$125,000 per sculpture for a total of \$500,000.

Fiscal Impact

None

Staff/Board Recommending

Brooke Witcher, Assistant City Manager
Civic Lubbock, Inc., Board of Directors

Attachments

RESOLUTION

WHEREAS, Civic Lubbock, Inc. has historically purchased public art pieces and other items of cultural significance on behalf of the City of Lubbock; and

WHEREAS, in 1997, Civic Lubbock, Inc. purchased artwork titled, *The Naiads*, comprised of four (4) sculptures by Lubbock artist Glenna Maxey Goodacre; and

WHEREAS, in 1998, *The Naiads*, were installed in the Southwest corner of the Pedestrian Mall in the Lubbock Memorial Civic Center; and

WHEREAS, in May 2023, *The Naiads*, were relocated to the North end of the T.J. Patterson Memorial Plaza; and

WHEREAS, at the September 6, 2023, Civic Lubbock, Inc. Board meeting, the Board of Directors voted to donate, *The Naiads*, to the City of Lubbock's public art collection; and

WHEREAS, the City of Lubbock desires to accept the public art donation.

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

THAT the City Council of the City of Lubbock hereby accepts for and on behalf of the City of Lubbock, a donation of public art titled, *The Naiads*, comprised of four (4) sculptures by Lubbock artist Glenna Maxey Goodacre, from Civic Lubbock, Inc., for the City of Lubbock's public art collection and authorizes the City Manager to act on behalf of the City of Lubbock in the acceptance of such donation.

Passed by the City Council on _____.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



Rachael Foster, Assistant City Attorney

ccdocsII/RES.Donation of Public Art from CLJ, Inc.
10.12.23

MINUTES

The regular meeting of the Civic Lubbock, Inc. Board of Directors was held in the Terrace Suite of the Civic Center at 12 Noon on September 6, 2023.

Members Present: Betsy Bass, Christi Cage, Jim Douglass, Lindley Herring, Kathy Horkey-Wolff, Sammie Prather, Emily Wilkinson

Members Absent: James Eppler, Grace Gonzales, Roger Karr, Beverly McBeath

Others Present: Neil Ray, Elaria Roy-Williams, Terra Rampy, Amanda Cypert – Civic Center, Brooke Witcher – City of Lubbock, Vicki Key, Brenda Rampy – Civic Lubbock, Inc.

Call meeting to order

Vice President Jim Douglass called the meeting to order at 12:00p.m.

Introduce and welcome new board member: Betsy Bass

Jim Douglass introduced and welcomed Betsy Bass who was recently appointed by the City Council to serve on the Civic Lubbock Board.

Approval of minutes – July 26, 2023

Motion by Kathy Horkey-Wolff and seconded by Sammie Prather to approve minutes of July 26, 2023. Motion passed.

Declaration of any recusals on agenda items

None

Review financial statements for fiscal YTD July 31, 2023

Terra Rampy reviewed financials for fiscal YTD July 31, 2023.

Bingo Quarterly Report

Christi Cage shared the second quarter bingo report for 2023.

Discuss contribution to the City – Donation of the “Naiads” sculptures and take action as needed.

The “Naiads” sculptural figures by Glenna Maxey Goodacre are currently owned by Civic Lubbock and on permanent loan to the City of Lubbock. Historically it has been the intention that Civic Lubbock will at some point, formally donate artwork they have purchased and installed in/on City property to the City of Lubbock. If the board chooses to donate the artwork this fiscal year, the year-end contribution will reduce CLI’s net assets by \$116,332.19.

Motion by Betsy Bass and seconded by Kathy Horkey-Wolff that Civic Lubbock, Inc. donate the “Naiads” by Glenna Maxey Goodacre to the City of Lubbock, effective September 30, 2023. Motion passed.

Walk of Fame Committee Report/Recommendations

Staff shared updates regarding the upcoming 2023 Walk of Fame Inductions.

Entertainment Lubbock Committee Report/Recommendations

Staff provided an update on the 2024 Lubbock Music NOW project.

Nominating Committee Report

On behalf of the Nominating Committee, Kathy Horkey-Wolff presented the following slate of officers for 2023/2024 for the board's consideration: President - Jim Douglass, Vice President - Lindley Herring, Secretary-Treasurer – Roger Karr

Election of Officers for 2023/2024

Motion by Sammie Prather and seconded by Christi Cage to approve the 2023/2024 slate as presented: Jim Douglass - President, Lindley Herring - Vice President and Roger Karr – Secretary/Treasurer. Motion passed.

Jim Douglass requested that the board consider a resolution thanking Grace Gonzales for her time, talent and efforts serving as President of Civic Lubbock.

Motion by Kathy Horkey-Wolff and seconded by Sammie Prather that the board pass a resolution commending Grace Gonzales on the time, talent and effort she has placed into moving Civic Lubbock forward during her time as President. Motion passed.

Staff Reports/Board Direction to Staff

Staff reported on upcoming events as well as concessions and ticketing opportunities coming up.

Announcements

Staff reported that Civic Lubbock, Inc. submitted an application for the Texas Travel Industry Recovery Grant Program for its next round of grants. The application window is open from September 1-15, 2023. It was reported that even though CLI received funding from a previous round, CLI is eligible to apply for this round.

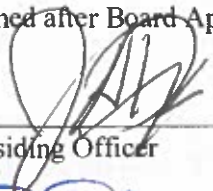
As in-coming President, Jim Douglass mentioned he would like to set up an informal meeting with board members and staff to review the current strategic plan and make changes and updates as needed. A survey will be sent out to see what date/time will work best for everyone.

Now that officer elections have taken place, board members will be asked to provide, in priority order, a list of those internal committees they would be interested in serving on for 2023/2024. The committee assignments should be finalized by the October board meeting.

The next board meeting is scheduled for Wednesday, October 4, 2023 at 12Noon in the Civic Center Terrace Suite.

There being no further business, the meeting was adjourned at 12:51p.m.

Signed after Board Approval to Content:



Presiding Officer



City Staff Liaison

Information

Agenda Item

Resolution - Information Technology: Consider a resolution authorizing the Mayor to execute Purchase Order 33001792, with Microsoft Corporation, for the annual renewal of the Enterprise Services Work Order Agreement, to provide technical assistance in maintaining Microsoft products and applications.

Item Summary

The renewal of the Microsoft Enterprise Support Services Agreement for Unified Enterprise Support is necessary to obtain the support required when a Microsoft product(s) or application(s) require fixes, upgrades or migrations.

The agreement includes:

- Enterprise Advisory Support;
- Azure Problem Resolution;
- On-Demand Assessment Setup and Configuration Service;
- Problem Resolution;
- Reactive Support;
- Service Delivery Management;
- Enterprise Webcasts;
- Designated Engineering Proactive Digital Workforce; and,
- 100 hours of Designated Engineering Time Digital Workforce Support.

These items are not included in the Volume License Enterprise Agreement.

The purchase is made available through the State of Texas Department of Information Resources (DIR) Contract DIR-CPO-4911.

Fiscal Impact

\$90,383.61 for the Enterprise Support Services Agreement is budgeted in the FY 2023-24 Information Technology Operating Budget.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager
James C. Brown, Director of Information Technology

Attachments

Microsoft Corporation Resolution _PO 33001792

Microsoft Corporation PO 33001792

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. 33001792, for a renewal of Enterprise Services and Support, as per DIR-CPO-4911, by and between the City of Lubbock and Microsoft Corporation, 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:

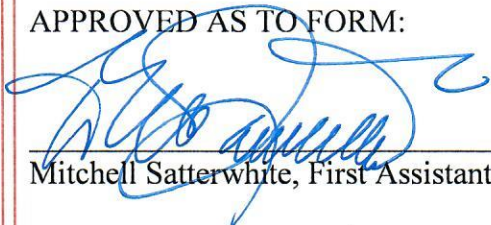
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



Mitchell Satterwhite, First Assistant City Attorney

ccdocs II/RES.Microsoft Corp-PurchaseOrd
October 6, 2023



PURCHASE ORDER

Page - 1
Date - 10/4/2023
Order Number 33001792 000 OP
Branch/Plant 3410

TO:

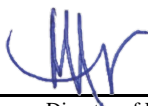
MICROSOFT CORPORATION
C/O BANK OF AMERICA LOCKBOX 844510
1950 NORTH STEMMONS FWY, SUITE 5010
DALLAS TX 75207

SHIP TO:

CITY OF LUBBOCK
INFORMATION TECHNOLOGY
1314 AVENUE K - BASEMENT
LUBBOCK TX 79401

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY:


Marta Alvarez, Director of Purchasing & Contract Management

Ordered 10/4/2023 Freight .
Requested 10/24/2023 Taken By D HEATH
Delivery Per J Zhine / Req #608340 Q #GVS12311 / DIR-CPO-4911

If you have any questions please contact Jay Zhine at JZhine@mail.ci.lubbock.tx.us or by phone at 806-775-2366

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
MS Entrpr Sup Srv Ref U9038431	1.000	59,656.9400	EA	59,656.94	10/24/2023
2023-24 Unified EnterpriseSupp					
Unified Proactive Svcs Enterpr	1.000	9,453.0000	EA	9,453.00	10/24/2023
Add-on COL 2023-24					
Enterprise Advisory Support	1.000		EA		10/24/2023
Hours as needed -Advisory Serv					
Enterpr Azure Problem Resolutn	1.000		EA		10/24/2023
Hours as needed -ProblResolutn					
Enterprise OnDemand Assessment	1.000		EA		10/24/2023
On-Demand Assessment					
Enterpr Setup & Config Service	1.000		EA		10/24/2023
As needed On-Demand Assessment					
Enterprise OnDemand Education	1.000		EA		10/24/2023
On demand Education					
Enterprise Online Support	1.000		EA		10/24/2023



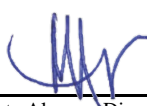
PURCHASE ORDER

Page - 2
Date - 10/4/2023
Order Number 33001792 000 OP
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Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Enterprise Problem Resolution	1.000		EA		10/24/2023
Hours as needed - Support					
Enterpr Reactive Support Mgmt	1.000		EA		10/24/2023
Service Delivery Management					
Enterpr Service Delivery Mgmt	1.000		EA		10/4/2023
Service Delivery Management					
Enterprise Webcasts As-Needed	1.000		EA		10/4/2023
Webcast					
Reactive Enabled Contacts	1.000		EA		10/4/2023
Problem Resolution Support					
Custom Proactive Remote 1/2	3.000		EA		10/4/2023
Custom Proactive - Maintain					
Proactive Credits	1.000		EA		10/4/2023
Proactive Credits - 4 ea					
Service Delivery Mgmt Extended	1.000		EA		10/4/2023
Service Delivery Management					



PURCHASE ORDER

Page - 3
Date - 10/4/2023
Order Number 33001792 000 OP
Branch/Plant 3410

TO:

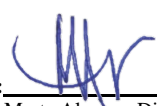
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Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Onsite visit	1.000		EA		10/4/2023
Onsite Support					
DesignatedEngr Proactive Tier2	1.000		EA		10/4/2023
Digital Workforce - Administr					
Designated Engr Time Digital	1.000		EA		10/4/2023
Workforce-Designated Supp Engr					
Service Delivery Mgmt Extended	1.000		EA		10/4/2023
Service Delivery Management					
Designated Engineering Digital	1.000	90,488.8100	EA	90,488.81	10/4/2023
Workforce - Tier 2					
Flex Allowance	1.000	(25,000.0000)	EA	(25,000.00)	10/4/2023
Enterprise Services Work Order					
Software Assurance Benefits	1.000	(44,215.1400)	EA	(44,215.14)	10/4/2023
Enterprise Services Work Order					

Total Order

Terms NET 30

90,383.61



PURCHASE ORDER

Page - 4
Date - 10/4/2023
Order Number 33001792 000 OP
Branch/Plant 3410

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INSURANCE REQUIRED:

Commercial General Liability:

\$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.

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:

\$1M occurrence is needed.

Workers Compensation and Employer Liability: N/A

Additional Policies:

Cyber Liability Requirements: \$1M of coverage is needed for Cyber Liability

Technology Errors and Omissions Requirements: \$1M of coverage is needed

*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 \$90,383.61 awarded to the Microsoft Corporation of Dallas, TX, on _____, 2023. The following is incorporated into and made part of this purchase order by reference: Quote dated October 03, 2023, from Microsoft Corporation of Dallas, TX, and DIR Contract DIR-CPO-4911.

Resolution # _____

CITY OF LUBBOCK:

Tray Payne, Mayor

ATTEST:

Courtney Paz, 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

Microsoft Enterprise Services Work Order

(For Microsoft Internal Purposes Only)

Work Order Number

GVS12311-436571-552544

TX DIR CPO-4911

This Work Order consists of the terms and conditions below, and the provisions of the Microsoft Master Services Agreement reference **U9038431**, effective as of **11/15/2021** (the "Agreement"), the provisions of the Unified Enterprise Support Services Description applicable to the Professional Services identified in this Work Order, and any attachments or exhibits referenced in this Work Order, all of which are incorporated herein by this reference. In this Work Order "Customer," "you," or "your" means the undersigned customer or its affiliate and "Microsoft," "we," "us," or "our" means the undersigned Microsoft affiliate.

By signing below the parties acknowledge and agree to be bound to the terms of this Work Order, the Agreement and all other provisions incorporated in them. This Work Order is effective as of the date that Microsoft signs this Work Order. Regardless of any terms and conditions contained in a purchase order, if any, the terms of this Work Order apply.

Customer	Microsoft Affiliate
Name of Customer (please print)	Name
City Of Lubbock	Microsoft Corporation
Signature	Signature
Name of person signing (please print)	Name of person signing (please print)
Title of person signing (please print)	Title of person signing (please print)
Signature date	Signature date (effective date)

Name of Customer or its Affiliate that executed the Agreement (if different from Customer above)

Customer invoice information

Name of Customer

City Of Lubbock

Contact Name (Receives invoices under this Work Order)

Jerrid R Sanders

Street Address

Accounts Payable P.O. Box 2000

Contact E-Mail Address

JSanders@mail.ci.lubbock.tx.us

City

LUBBOCK

State/Province

Texas

Phone

806-775-2396

Country

United States

Postal Code

79457-0001

Fax

1. Support Services and Fees.

1.1. Term.

Microsoft Enterprise Support Services will commence on **11/1/2023** (the "Support Commencement Date") and will expire on **10/31/2024** (the "Support Expiration Date").

2. Description of Services.

Please refer to the current Unified Enterprise Support Services Description ("USSD") which will be incorporated by reference and is published by Microsoft from time to time at <https://www.microsoft.com/unified-support-services-description>. Microsoft may update the support services you purchase under this agreement from time to time, provided that the level of support services you purchase will not materially decrease during the current Term.

Services by Support Location

Unified Enterprise Support 2023-24 USA - SLG - Enterprise West 11/1/2023 - 10/31/2024		
Quantity	Service	Service Type
Included	Enterprise Advisory Support Hours As-needed	Advisory Services
Included	Enterprise Azure Problem Resolution Hours As-needed	Problem Resolution Support
Included	Enterprise On-demand Assessment	On-Demand Assessment
Included	Enterprise On-Demand Assessment - Setup and Config Service As-needed	On-Demand Assessment Remote
Included	Enterprise On-Demand Education	On-Demand Education
Included	Enterprise Online Support Portal	Administrative
Included	Enterprise Problem Resolution Hours As-needed	Problem Resolution Support
Included	Enterprise Reactive Support Management	Service Delivery Management
Included	Enterprise Service Delivery Management	Service Delivery Management
Included	Enterprise Webcasts As-Needed	Webcast
Included	Reactive Enabled Contacts	Problem Resolution Support
3 ea	Custom Proactive Remote - 1/2	Custom Proactive - Maintain
4 ea	Proactive Credits	Proactive Credits
Included	Service Delivery Management Extended	Service Delivery Management
1 ea	Onsite Visit	Onsite Support

Designated Engineering Digital Workforce - Tier 2 USA - SLG - Enterprise West 11/1/2023 - 10/31/2024		
Quantity	Service	Service Type
4 ea	Designated Engineering Proactive Digital Workforce <ul style="list-style-type: none"> Designated Engineering Proactive Digital Workforce - Generic 	Administrative
100 hr	Designated Engineering Time Digital Workforce	Designated Support Engineering
Included	Service Delivery Management Extended	Service Delivery Management

2.1. Support Services Fees.

The items listed in the table above represent the services that Customer has pre-purchased for use during the term of this Work Order, and applicable fees are shown in the table below. Microsoft Support Services are a non-refundable, prepaid service. Microsoft must receive Customer purchase order or payment before Microsoft commences or continues, as applicable, provision of Microsoft Support Services. If Customer issues a purchase order, Microsoft will invoice Customer, and Customer agrees to pay Microsoft within 30 calendar days of the date of Microsoft invoice. Microsoft reserves the right to adjust Microsoft fees prior to entering into any changes to the Microsoft Support Services ordered herein.

Services Summary	Billing Date	Fee USD
Unified Enterprise Support 2023-24	11/1/2023	\$59,656.94
Designated Engineering Digital Workforce - Tier 2	11/1/2023	\$90,488.81
Unified Proactive Services Add on Unified Proactive Svcs Enterprise-2023-24	11/1/2023	\$9,453.00
Subtotal		\$159,598.75
Flex Allowance		(\$25,000.00)
SAB Concession for Customer Renewal		(\$44,215.14)
Total Fees (excluding taxes)		\$90,383.61

Billing Schedule	Billing Date	Fee USD
One Time Payment	11/1/2023	\$90,383.61
Total Fees (excluding taxes)		\$90,383.61

2.2. Support for Microsoft Products

Microsoft will provide support for Customer's licensed, commercially released, and generally available Microsoft products, and cloud services subscriptions purchased by Customer or Customer's Affiliate: i) as indicated in Appendix A; and ii) during the Term of this Work Order. Such products and subscriptions exclude those purchased by any party that is not Customer's Affiliate as of the Support Commencement Date.

2.3. Customer Named Contact(s).

Any changes to the named contacts should be submitted to Microsoft Contact.

Name of Customer Support Service Administrator Jerrid R Sanders		
Street Address City Of Lubbock 1314 Avenue K		Contact E-Mail Address JSanders@mail.ci.lubbock.tx.us
City Lubbock	State/Province Texas	Phone 806-775-2396
Country United States	Postal Code 79401-2606	Fax

3. Use, ownership, rights, and restrictions.

3.1. Products.

"Product" means all products identified in the Product Terms, such as all Software, Online Services and other web-based services, including pre-release or beta versions. Product availability may vary by region. "Product Terms" means the document that provides information about Microsoft Products available through volume licensing. The Product Terms document is published on the Volume Licensing Site (<http://www.microsoft.com/licensing/contracts> or successor site) and is updated from time to time.

All products and related solutions provided under this Work Order will be licensed according to the terms of the license agreement packaged with or otherwise applicable to such product. Customer is responsible for paying any licensing fees associated with Products.

3.2. Fixes.

"Fixes" means Product fixes, modifications, enhancements, or their derivatives, that Microsoft either releases generally (such as service packs), or that Microsoft provides to Customer when performing Professional Services (all support, planning, consulting and other professional services or advice, including any resulting deliverables provided to Customer under this Work Order, to address a specific issue. "Professional Services" means Product support services and Microsoft consulting services provided to Customer under this Work Order. "Professional Services" or "services" does not include Online Services, unless specifically noted.

Fixes are licensed according to the license terms applicable to the Product to which those Fixes relate. If the Fixes are not provided for a specific Product, any other use terms Microsoft provides with the Fixes will apply.

3.3. Pre-existing Work.

"Pre-existing Work" means any computer code or other written materials developed or otherwise obtained independent of this Work Order.

All rights in Pre-existing Work shall remain the sole property of the party providing the Pre-existing Work. Each party may use, reproduce and modify the other party's Pre-existing Work only as needed to perform obligations related to Professional Services.

3.4. Services Deliverables.

"Services Deliverables" means any computer code or materials, other than Products or Fixes that Microsoft leaves with Customer at the conclusion of Microsoft's performance of Professional Services. Upon payment in full for the Professional Services, Microsoft grants Customer a non-exclusive, non-transferable perpetual, fully paid-up license to reproduce, use and modify the Services Deliverable, solely in the form delivered to Customer and solely for Customer's internal business purposes, subject to the terms and conditions of this Work Order.

3.5. Affiliates' rights.

"Affiliate" means any legal entity that a party owns, that owns a party, or that is under common ownership with a party. "Ownership" means, for purposes of this definition, control of more than a 50% interest in an entity.

Customer may sublicense the rights contained in this subsection relating to Services Deliverables to its Affiliates, but Customer's Affiliates may not sublicense these rights and Customer's Affiliates' use must be consistent with the license terms contained in this Work Order.

3.6. Restrictions on use.

Customer must not (and must not attempt to) (1) reverse engineer, decompile or disassemble any Product, Fix, or Services Deliverable, (2) install or use non-Microsoft software or technology in any way that would subject Microsoft's intellectual property or technology to obligations beyond those included in this Work Order; or (3) work around any technical limitations in the Products or Services Deliverables or restrictions in Product documentation. Except as expressly permitted in this Work Order, Customer must not (1) separate and run parts of a Product on more than one device, upgrade or downgrade parts of a Product at different times, or transfer parts of a Product separately; or (2) distribute, sublicense, rent, lease, lend, or use any Product, Fix, or Services Deliverable to offer hosting services to a third party.

3.7. Reservation of rights.

All rights not expressly granted are reserved to Microsoft.

4. **Microsoft Professional Services Data Protection Addendum.**

The Microsoft Professional Services Data Protection Addendum in effect on the effective date of this Work Order and available on the Volume Licensing Site at <https://aka.ms/ProfessionalServicesDPA> is incorporated herein by this reference.

5. **Microsoft Contact**

Customer contact for questions and notices about this Work Order.

Microsoft Contact Name	
Leslie Foster	
Phone	Contact E-Mail Address v-lfoster@microsoft.com

Appendix A

As of the Support Commencement Date, below is a list of your declared licensing enrollments and agreements for which Microsoft will provide support services as defined within this Work Order.

Customer Name	Licensing Program	Licensing Enrollment/Agreement Number/Billing Account ID
CITY OF LUBBOCK	OPEN	04966226ZZS2309
CITY OF LUBBOCK	Enterprise 6	76840323
CITY OF LUBBOCK	Enterprise 6	86439211
CITY OF LUBBOCK WATER	OPEN	02006501ZZS2101

Information

Agenda Item

Resolution - Information Technology: Consider a resolution authorizing the Mayor to execute Purchase Order 32501090, with Dailey & Wells Communications, Inc., for the scheduled replacement of portable radios for Public Safety.

Item Summary

The purchase is for 35 Portable Radios, including accessories and features. These radios are replacements for the Public Safety radios that have reached end of service life.

The purchase is made available through the HGAC RA05-21 (Houston-Galveston Area Council) cooperative purchasing contract.

Fiscal Impact

\$121,821.65 for the portable radios purchase is budgeted in the FY 2023-24 Radio Shop Operating Budget - Equipment Maintenance - Communication Equipment.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager
James C. Brown, Chief Information Officer

Attachments

Resolution - PO 32501090, Dailey Wells
12019_PO_32501090_Dailey Wells (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 execute for and on behalf of the City of Lubbock, Purchase Order No. 32501090, for the purchase of Portable Radios and Encryption Keys, as per HGAC RA05-21, by and between the City of Lubbock and Dailey Wells Communications, Inc., 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:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



Mitchell Satterwhite, First Assistant City Attorney

ccdcs II/RES.Dailey Wells-PurchaseOrd
October 6, 2023



PURCHASE ORDER

Page - 1
Date - 10/5/2023
Order Number 32501090 000 OP
Branch/Plant 2242

TO: DAILEY WELLS COMMUNICATIONS INC
3440 E HOUSTON ST
SAN ANTONIO TX 78219

SHIP TO:

CITY OF LUBBOCK
RADIO REPAIR SHOP
ATTN: MALISA LONG
530 36TH STREET, SUITE 200
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 10/5/2023 Freight
Requested 11/10/2023 Taken By D HEATH
Delivery Per J Zhine / Req # 60843 Quote 2023-2962/HGAC RA05-21

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Patrol Vehicle Radios	1.000	121,821.65	EA	121,821.65	11/10/2023

Total Order

Terms NET 30 DAYS 121,821.65

This purchase order encumbers funds in the amount of \$121,821.65 awarded to Dailey Wells Communications, Inc. of San Antonio, TX, on _____, 2023. The following is incorporated into and made part of this purchase order by reference: Quote dated October 02, 2023, from Dailey Wells Communications, Inc. of San Antonio, TX, and Contract HGAC RA05-21.

Resolution # _____

CITY OF LUBBOCK:

ATTEST:

Tray Payne, Mayor

Courtney Paz, 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

Information

Agenda Item

Board Appointments - City Secretary: Consider appointments to the Airport Board, Animal Services Advisory Board, Citizens Traffic Commission, Health/Educational Facilities Development Corporation Board, Lubbock Emergency Communications District Board of Managers, Lubbock Economic Development Alliance, Inc. Board of Directors, Market Lubbock Economic Development Corporation Board of Directors, Model Codes & Construction Advisory Board, Museum & Art Standing Sub-Committee, Permit & License Appeal Board, Planning & Zoning Commission, and the Veterans Advisory Committee.

Item Summary

Consider appointments to the Airport Board, Animal Services Advisory Board, Citizens Traffic Commission, Health/Educational Facilities Development Corporation Board, Lubbock Emergency Communications District Board of Managers, Lubbock Economic Development Alliance, Inc. Board of Directors, Market Lubbock Economic Development Corporation Board of Directors, Model Codes & Construction Advisory Board, Museum & Art Standing Sub-Committee, Permit & License Appeal Board, Planning & Zoning Commission, and the Veterans Advisory Committee.

Fiscal Impact

None

Staff/Board Recommending

Courtney Paz, City Secretary

Attachments

No file(s) attached.

Information

Agenda Item

Board Appointments - City Secretary: Consider appointments to the Electric Utility Board.

Item Summary

Consider appointments to the Electric Utility Board.

Fiscal Impact

None

Staff/Board Recommending

Courtney Paz, City Secretary

Attachments

EUB Recommendations - 8.15.23

EUB Recommendations - 10.17.23

RESOLUTION

WHEREAS, the Electric Utility Board (the "EUB") was created by Chapter 1, Article XII, Section 1, of the City Charter of the City of Lubbock (the "City Charter");

WHEREAS, the City Charter prescribes that the EUB shall be composed of nine (9) members, each to serve terms of two (2) years;

WHEREAS, the terms of five (5) members of the EUB expire on November 1, 2023;

WHEREAS, pursuant to Section 2.03.415(e) of the Code of Ordinances, City of Lubbock, Texas, the EUB is charged with recommending to the City Council of the City Lubbock ("City Council") individuals for appointment to the EUB;

WHEREAS, the EUB desires to recommend to the City Council that the following named individuals be reappointed or appointed, as applicable, to the EUB.

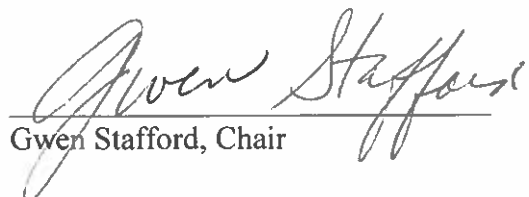
NOW, THEREFORE:

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

THAT the following individuals are each hereby recommended to the City Council to be reappointed to the Electric Utility Board for a two-year term, expiring on November 1, 2025:

1. Edwin Eugene Davis
2. Solomon Fields
3. Lewis E. Harvill, Jr.
4. Edwin Lee Schulz
5. Dan J. Wilson

Passed by the Electric Utility Board this 15th day of August, 2023.


Gwen Stafford, Chair

ATTEST:


Eddie Schulz, Board Secretary

APPROVED AS TO CONTENT:


Joel Ivy, LP&L Chief Administrative Officer

APPROVED AS TO FORM:


Carolyn E. Shellman, LP&L Interim General Counsel

RESOLUTION

WHEREAS, the Electric Utility Board (the "EUB") was created by Chapter 1, Article XII, Section 1, of the City Charter of the City of Lubbock (the "City Charter");

WHEREAS, the City Charter prescribes that the EUB shall be composed of nine (9) members, each to serve terms of two (2) years;

WHEREAS, Ms. Petra Gambles, a member of the EUB whose current term expires November 1, 2024, has submitted her resignation;

WHEREAS, pursuant to Section 2.03.415(e) of the Code of Ordinances, City of Lubbock, Texas, the EUB is charged with recommending to the City Council of the City Lubbock ("City Council") individuals for appointment to the EUB;

WHEREAS, the EUB desires to recommend to the City Council that the following named individual(s) be reappointed or appointed, as applicable, to the EUB;

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

THAT the following individual is hereby recommended to the City Council to be appointed to the Electric Utility Board for a two-year term, expiring on November 1, 2024:

Craig Rhyne

Passed by the Electric Utility Board this 17 th day of October, 2023.


Gwen Stafford, Chair

ATTEST:


Eddie Schulz, Board Secretary

APPROVED AS TO CONTENT:


Joel Ivy, Chief Administrative Officer

APPROVED AS TO FORM:


Carolyn Shellman, Interim General Counsel

Information

Agenda Item

Resolution - Business Development: Consider a resolution making findings that the Cypress Ranch Public Improvement District (PID) meets the requirements of Chapter 372 of the Texas Local Government Code; accepting the Cypress Ranch PID Petition, which covers a portion of an area in the City of Lubbock, Lubbock County, Texas, generally bounded by the Levelland Highway to the North, agricultural land to the East, railroad tracks to the South, and Inler Avenue to the West; and calling for a public hearing to receive public comment on the formation of a public improvement district in the area depicted and described.

Item Summary

The City of Lubbock received a petition from property owners requesting that the City of Lubbock establish a Public Improvement District (PID) for the proposed Cypress Ranch Development area. The area covers approximately 99.5854 acres. PID establishment can only be initiated by a petition of property owners meeting two tests outlined in the statute. The petition must be signed by:

- (a) Owners of taxable real property representing more than 50% of the appraised value of the taxable real property liable for assessment; and
- (b) Record owners of property liable for assessment under the PID petition who:
 - 1. Constitute more than 50% of all the record owners of property liable for assessment under the proposal; or
 - 2. Own taxable real property that constitutes more than 50% of the area of all taxable real property that is liable for assessment under the proposal.

The petition received by the City of Lubbock was signed by authorized agents of property owners of 100% of the total appraised value for the area and 100% of the total land area contained in the proposed PID. The petition has been examined, verified, and found to meet the requirements of Section 372.005(b) of the Texas Local Government Code, and to be sufficient for consideration by the City of Lubbock.

The Cypress Ranch PID is a defined assessment area providing specific types of services for a given area. The purpose of the Cypress Ranch PID will be:

- (i) acquisition, construction, or drainage facilities or improvements,
 - 1. the design, construction, and maintenance of parks and green spaces, together with any ancillary structures, features or amenities such as playgrounds, splash pads, pool(s), athletic facilities, pavilions, community facilities, irrigation, walkways, lighting, benches, trash receptacles and any similar items located therein along with all necessary grading, drainage, and similar infrastructure involved in the construction of such parks and greens; landscaping, hardscaping and irrigation; and
- (ii) payment of costs associated with developing and financing the public improvements listed in subdivision (i) including costs of establishing, administering, and operating the District.

The owner of the property submitting the petition paid the application fee of \$5,000, which should cover the cost of creating the PID, with any remaining money reimbursed to the developer. If the cost of creating the PID exceeds \$5,000, the developer will reimburse the City for the remaining costs.

One of the statutory requirements for establishing the PID is that the City Council hold a public hearing regarding the advisability of creating the District. The resolution calls for the public hearing to be held on November 14, 2023. If the City Council approves this resolution, a notice of public hearing will be published in the Lubbock Avalanche Journal, and notices will be mailed to the property owners before the 15th day before the public hearing, as required by the statute.

Fiscal Impact

None

Staff/Board Recommending

D. Blu Kostelich, Chief Financial Officer

Attachments

Resolution

Exhibit 1

Exhibit 2

RESOLUTION

WHEREAS, the City of Lubbock, Texas (the "City") has received a petition requesting the creation of a public improvement district (the "PID Petition") according to Chapter 372 of the Texas Local Government Code (the "Code"), and a copy of the PID Petition is attached as "Exhibit 1" to this Resolution; and

WHEREAS, the PID Petition contains signatures from:

(a) the owners of taxable real property representing more than fifty percent (50%) of the appraised value of the real property liable for assessment within the area described in the PID Petition as determined by the current roll of the Lubbock Central Appraisal District, with such area being known as Cypress Ranch and which is depicted and described in the attached "Exhibit 2"; and,

(b) the record owners of real property liable for assessment under the PID Petition who:

(1) constitute more than fifty percent (50%) of all record owners of property that is liable for assessment under the area depicted and described in the PID Petition; and

(2) own taxable real property that constitutes more than fifty percent (50%) of the area of all taxable real property that is liable for assessment under the area depicted and described in the PID Petition; and

WHEREAS, the PID Petition has been examined and verified by City staff and is now found by the City Council of the City (the "City Council") to meet the requirements of the Code and to be sufficient for consideration by the City Council; and

WHEREAS, the City Council desires to accept the PID Petition and desires to schedule a public hearing to consider the formation of a public improvement district for the area depicted and described in "Exhibit 2," with such public improvement district proposed to provide for the:

(a) (i) acquisition, construction, of drainage facilities or improvements, (ii) the design, construction, and maintenance of parks and green spaces, together with any ancillary structures, features, or amenities such as playgrounds, splash pads, pool(s), athletic facilities, pavilions, community facilities, irrigation, walkways, lighting, benches, trash receptacles and any similar items located there in along with all necessary grading, drainage, and similar infrastructure involved in the construction of such parks and greens; landscaping, hardscaping and irrigation; and

(b) payment of costs associated with developing and financing the public improvements listed in subdivision (a) including costs of establishing, administering, and operating the District: **NOW, THEREFORE:**

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

SECTION 1: THAT the Council finds that the PID Petition meets the requirements of the Code and, therefore, the Council hereby accepts the PID Petition as presented by the petitioner.

SECTION 2: THAT a public hearing is hereby scheduled at 2:00 PM, November 14, 2023, in the City Council Chambers, 1314 Avenue K, Lubbock, Texas, to receive public comment on the formation of a public improvement district for the area depicted and described in "Exhibit 2."

SECTION 3: THAT notice of said hearing shall be published in a newspaper of general circulation in the City before the fifteenth (15th) day prior to the hearing.

SECTION 4: THAT written notice shall be mailed to each property owner, as reflected on the tax rolls, of the property subject to assessment under the proposed public improvement district, before the fifteenth (15th) day prior to the date set for the hearing.

Passed by the City Council this _____ day of _____, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



D. Blu Kostelich, Chief Financial Officer

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney



October 2, 2023

Brianna Brown
Business Development Director
City of Lubbock
1314 Avenue K
Lubbock, TX 79401

RE: Cypress Ranch Public Improvement District

Dear Honorable Mayor and City Council,

Cypress Ranch PID is a residential development within the city limits of the City of Lubbock generally bounded to the North by the Levelland Highway, to the East by agriculture land, to the South by railroad tracks, and to the West by Inler Avenue. We are proposing to create a Public Improvement District, "PID", to maintain the public improvements for Cypress Ranch.

In order to comply with the "Public Improvements District Policies and Guidelines", we are providing information as required in Section III. "Guidelines", b. "Petition Requirements":

1. Bettenbough Homes has purchased/optioned almost 99.5854 acres. Bettenbough Homes plans to invest \$500,000.00 in improvements for this central park and basin system, and basin system to the East before it would be deeded over to the City of Lubbock and the PID. We will be here to help keep the PID healthy and thriving. We have vested interest in making this PID healthy and self-sufficient.
2. This requirement is addressed in Section 5 of the accompanying Petition.
3. This requirement is addressed in Section 1 of the accompanying Petition.
4. This requirement is addressed in Section 5 of the accompanying Petition.
5. If there is sufficient support to petition to dissolve the Public Improvement District certain requirements in addition to sufficient support must be met in order to dissolve the PID. Those requirements include arrangements to transfer ownership and maintenance of the City owned and PID maintained property. These arrangements are to be made by the City Manager or designee with funds available to the PID. Bettenbough Homes will have been responsible for some maintenance before the park and basin system would be deeded over. With having supported some maintenance, we feel we will have an accurate representation of cost to propose for the service plan. So far, all of our proposed service plans, are reviewed by city staff, and approved by City Council.



BETENBOUGH
HOMES®

6. This requirement has been met by the map and description of the area that is attached to this Petition.

7. Operation of the PID process shall be consistent with the bylaws for Public Improvement Districts for the City of Lubbock. If a board is not established, then the operation of any PID actions will be managed by the City Manager or designee.

8. This requirement is generally addressed in Section 2 of the petition. Addressing this specific PID there will be a drainage basin that will function as drainage storage for the community. The PID will allow the basin to be well maintained.

9. Each parcel of City-owned land will be identified as a "Tract" at time of platting.

10. General description of proposed improvements is addressed in Section 2 of the Petition.

11. The estimated total cost of the improvements is approximately \$500,000.00 and will be paid and constructed by the developer. Betenbough Homes does not desire any reimbursement. The estimated cost of the maintenance is approximately \$50,000.00 per year and is to be paid for by the PID as soon as the funds are available. This is the estimated cost for the entirety of the "park system".

12. Addressing this requirement we have provided a service and assessment plan that is attached as part of this application.

13. Method of assessment will be based on the net taxable value of the affected properties and will be assessed at \$.15 per \$100.00 valuation.


14. Documentation of liability insurance will be provided as requested by the City of Lubbock.

15. This requirement is addressed in Section 6 of the accompanying Petition.

16. This requirement is addressed in Section 5 of the accompanying Petition.

17. This requirement is met with the attached spreadsheet documenting the provided service and assessment plan.

Our goal is to provide all of the information requested to continue with the creation of this PID. Please let us know if you have any questions or require any additional information.

X 

Chris Berry

Land Development Manager

Betenbough Homes

PETITION FOR THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT TO FINANCE
IMPROVEMENTS IN THE CYPRESS RANCH PUBLIC IMPROVEMENT DISTRICT

THE STATE OF TEXAS §

§

CITY OF LUBBOCK §

TO: THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF LUBBOCK:

The undersigned petitioners (the "Petitioners"), acting pursuant to the provisions of Chapter 372, Texas Local Government Code, as amended (the "Act"), request that the City of Lubbock create a public improvement district (the "District") in the territory described in Exhibit A attached hereto (the "Land") within the City of Lubbock, Texas (the "City"), and in support of this petition the Petitioners would present the following:

Section 1. Standing of Petitioners. In compliance with the requirements of Texas Local Government Code, Section 372.005(b), as determined by the current roll of the Lubbock Central Appraisal District, the Petitioners constitute: (i) the owners of taxable real property representing more than 50% of the appraised value of real property liable for assessment under the proposal described herein, and (ii) the record owners of taxable real property that constitutes more than 50% of the area of all taxable real property that is liable for assessment under such proposal.

Section 2. General nature of the proposed public improvements. The general nature of the proposed public improvements in common areas and designated right-of-way areas directly adjacent to proposed deeded common areas is: (i) acquisition, construction, of drainage facilities or improvements, (ii) the design, construction and maintenance of parks and green spaces, together with any ancillary structures, features or amenities such as playgrounds, splash pads, pool(s), athletic facilities, pavilions, community facilities, irrigation, walkways, lighting, benches, trash receptacles and any similar items located there in along with all necessary grading, drainage, and similar infrastructure involved in the construction of such parks and greens; landscaping, hardscaping and irrigation; and (ii) payment of costs associated with developing and financing the public improvements listed in subdivision (i) including costs of establishing, administering and operating the District.

Section 3. Estimated cost of the proposed public improvements and annual maintenance: \$500,000 estimated for proposed public improvements as mentioned in section 2. Annual maintenance costs - \$50,000 for proposed improvements made by developer.

Section 4. Boundaries. The proposed boundaries of the District are described in Exhibit A.

Section 5. Method of assessment. An assessment methodology has been prepared that will address (i) how the costs of the public improvements paid for with the assessments are assessed against the property in the District, (ii) the assessments to be collected each year, and (iii) reduction of the assessments for costs savings (pursuant to the annual review of the service plan for the District). Additionally, a report will be prepared showing how the costs of the public

improvements are assessed to property on the basis of the special benefits. The result will be that equal shares of the costs will be imposed on property similarly benefited.

In assessing the maintenance of the public improvements, property will be classified based on the net taxable value of the property.

The assessment methodology will result in each parcel paying its fair share of the costs of maintaining the public improvements based on the benefits received by the property from the public improvements and property equally situated paying equal shares of the costs of the public improvements.

The annual budget is subject to review by City of Lubbock staff and final approval by the City Council. The annual assessments may be adjusted as a result of the City of Lubbock staff review and City Council approval.

Section 6. Apportionment of Cost between the City and the District. The City will not be obligated to provide any funds to finance the proposed public improvements or maintain the public improvements. All of the costs of the proposed public improvements will be paid by assessments of the property within the District and from other sources of funds, if any, available to the developer of the Land.

Section 7. Management of the District. The City will manage the District, or a partnership between the municipality or county and the private sector, to the extent allowed by law, the City may contract with either a non-profit, or a for-profit organization, including a Public Facilities Corporation created by the City pursuant to Chapter 303, Texas Local Government Code, to carry out all or a part of the responsibilities of managing the District, including the day-to-day management and administration of the District.

Section 8. Advisory board. An advisory board may be established to develop and recommend an improvement plan to the City Council of the City (the "City Council").

The signers of this petition request the establishment of the District and this petition will be filed with the City Secretary in support of the creation of the District by the City Council as herein provided.

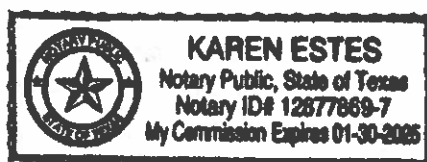
[Signature on following page]

PETITIONERS:

Betenbough Homes, LLC


Chris Berry, Land Planning Manager

THE STATE OF TEXAS §
 §
COUNTY OF LUBBOCK §



On this, the 5th day of October, 2023, before me, the undersigned Notary Public, and that he, in such capacity, being duly authorized so to do, executed the foregoing petition for the purposes therein contained by signing his name in such capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.


Notary Public Signature

EXHIBIT A

**DESCRIPTION FOR A
99.584 ACRE TRACT LOCATED IN
SECTION 41, BLOCK AK,
E.L. & R.R. RR. CO. SURVEY, ABSTRACT NO. 185,
LUBBOCK COUNTY, TEXAS**

A 99.584 acre tract located in Section 41, Block AK, E.L. & R.R. RR. Co. Survey, Abstract No. 185, Lubbock County, Texas, being that certain tract of land conveyed to Betenbough Homes, LLC described in a General Warranty Deed and recorded in County Clerk's File Number (CCFN) 2022057736 of the Official Public Records of Lubbock County, Texas (OPRLCT), said 99.584 acre tract being further described by metes and bounds as follows:

1) **BEGINNING** at a point in the south line of that certain tract of land conveyed to James A. Foy, Jr. and wife, Ann Smith Foy as described in a Warranty Deed with Vender's Lien recorded in Volume 4973, Page 192 of the Real Property Records of Lubbock County, Texas, and the north line of that certain 34.101 acre tract of land conveyed to Don and Jason Sturgeon described as Tract 5 in a Special Warranty Deed recorded in CCFN 2014001469 of the OPRLCT, for the most western northwest corner of said 99.584 acre tract, having coordinates of Northing: 7,272,570.01 and Easting 900,236.37 of the Texas Coordinate System of 1983 (2011), Texas North Central Zone, whence the calculated northwest corner of said Section 41, bears N. 88° 08' 54" W. a distance of 360.45 feet and N. 01° 51' 15" E. a distance of 2222.83 feet said section corner having coordinates of Northing: 7,274,802.80 and Easting: 899,948.09 of the Texas Coordinate System of 1983 (2011), Texas North Central Zone;

2) **THENCE** S. 88° 08' 54" E., along the south line of said Foy Tract, a distance of 907.91 feet to a 1/2" iron rod with cap marked "PSC RPLS 6453", found at the southeast corner of said Foy Tract and an ell corner of said 99.584 acre tract;

3) **THENCE** N. 01° 53' 03" E., along the east line of said Foy Tract, a distance of 913.96 feet to a 1/2" iron rod, found at the southwest corner of that certain tract of land conveyed to Texas Green, a Limited Partnership as described in a Warranty Deed with Vendor's Lien recorded in Volume 1866, Page 515 of the Deed Records of Lubbock County, Texas, and the the most northern northwest corner of said 99.584 acre tract;

4) **THENCE** S. 88° 04' 18" E., along the south line of said Texas Green Tract, a distance of 1266.11 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC.", found in the west line of that certain tract of land conveyed to Szu Han Ho as described in a Warranty Deed with Vendor's Lien recorded in CCFN 2007018821, for the southeast corner of said Texas Green Tract and the northeast corner of said 99.584 acre tract;

5) **THENCE** S. 01° 55' 39" W., along the west line of said Ho Tract, a distance of 2726.73 feet to a 1" iron pipe, found in the north line of that certain tract of land conveyed to Lubbock and Western Railway L.L.C., as described in a Texas Special Warranty Deed recorded in CCFN 2015029381 of the OPRLCT, being the south common corner of said Ho tract and said 99.584 acre tract, having coordinates of Northing: 7,270,686.80 and Easting 902,347.04 of the Texas Coordinate System of 1983 (2011), Texas North Central Zone;

6) **THENCE** N. 70° 17' 26" W. along the north line of said Lubbock and Western Railway Tract, a distance of 2280.94 feet to a 1/2" iron rod with cap marked "PSC RPLS 6453", found for the southeast corner of said Sturgeon Tract and the southwest corner of said 99.584 acre tract;

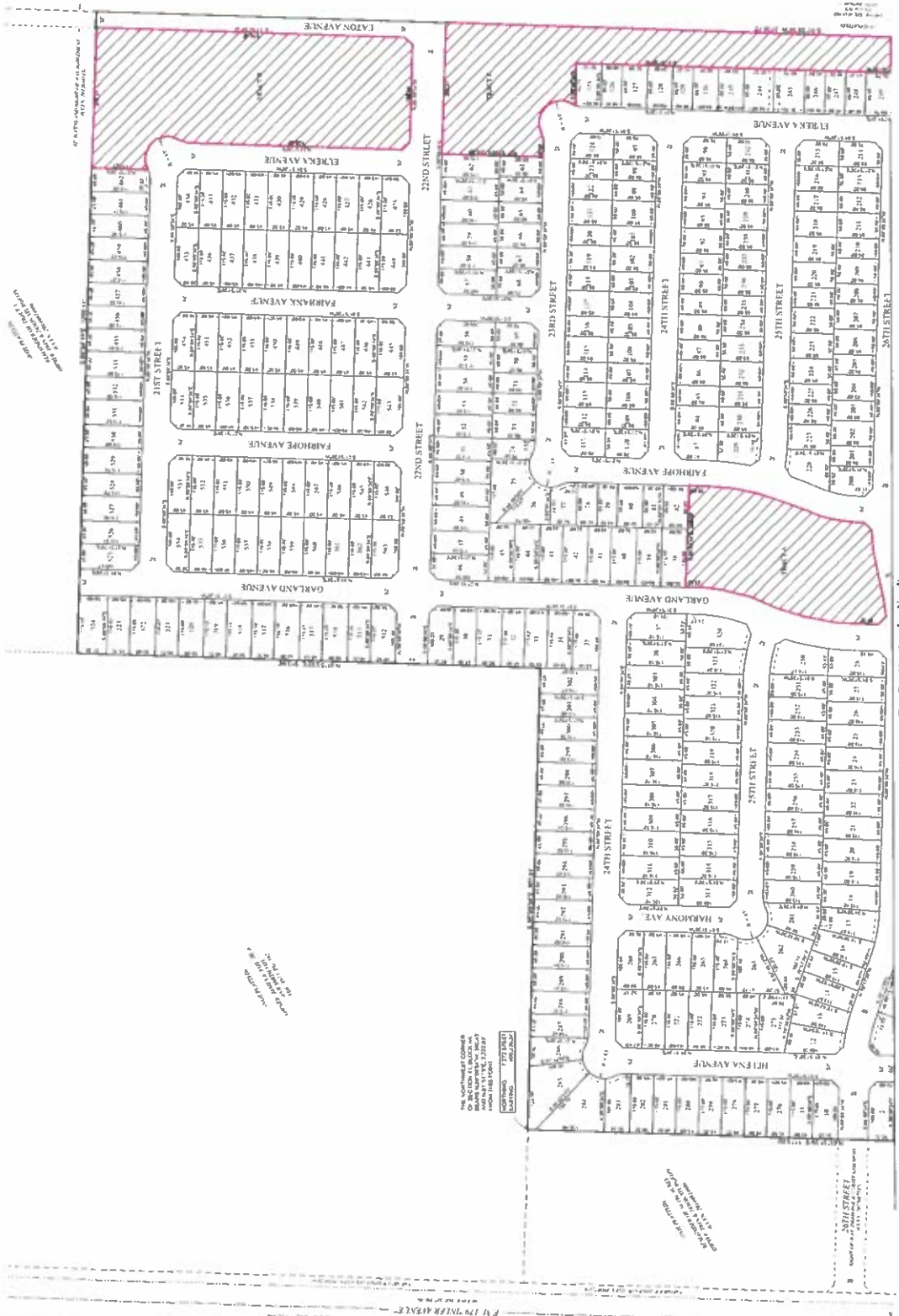
7) **THENCE** N. 01° 51' 26" E. a distance of 1115.00 feet to the **POINT OF BEGINNING**. Bearings and coordinates are relative to the Texas Coordinate System of 1983 (2011), Texas North Central Zone, as determined by a point of origin located at Northing: 7,277,349.71 and Easting: 902,664.753. The convergence angle to True North is (-)01°54'32.90" and a combined scale factor of 0.9997611. Distances are at surface, in U.S. Survey feet.

I, Landon Merritt, Registered Professional Land Surveyor, do hereby certify that this description was prepared from an actual survey of the property and that the information hereon represents the findings of this survey to the best of my knowledge and belief.

Surveyed February 21, 2023

Landon Merritt
Registered Professional Land Surveyor,
State of Texas, Registration No. 6466
220340 – Cypress Ranch Metes and Bounds

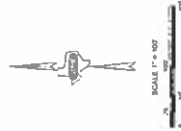
6 OF 13 PAGES

[illegible]

PRELIMINARY PLAT - FOR INSPECTION
PURPOSES ONLY AND IN NO WAY
OFFICIAL OR APPROVED FOR
RECORDING PURPOSES
9/7/23 @ 10:00 A.M.

AMC
AIR MAIL ENGINEERING
LAND SURVEYING
10000 Highway 10, Suite 100
Houston, TX 77055
Tel: 713/661-1111
Fax: 713/661-1112
E-mail: amc@amc.com

(PRELIMINARY PLAT)
CYPRESS RANCH,
 LOTS 1 THROUGH 563,
 AND TRACTS "A" THROUGH "C",
 AN ADDITION TO THE CITY OF LUBBOCK,
 LUBBOCK COUNTY, TEXAS
 (SHEET 2 OF 2)



M A T C H L I N E



PRELIMINARY PLAT - FOR INSPECTION
 PURPOSES ONLY AND IN NO WAY
 OFFICIAL OR APPROVED FOR
 RECORDING PURPOSES
 9/7/23 @ 10:00 A.M.



[illegible]

ASSESSMENT INFORMATION	
2024-2031 Assessment per \$100,000	\$150.00 \$ 150.00
2031-Future Assessment per \$100,000	\$100.00 \$ 100.00

CITY OF LUBBOCK §
COUNTY OF LUBBOCK §
STATE OF TEXAS §

CERTIFICATION OF SUFFICIENT PETITION

I hereby certify, in the performance of the functions of my office, that the attached petition, from property owners requesting the City of Lubbock establish a Public Improvement District (PID) for the proposed Cypress Ranch development, has been verified and is sufficient. And, that Public Improvement Districts can only be initiated by a petition of property owners who meet a value test and an area test, pursuant to Texas Local Government Code, Sec. 372.005 (b). And, the statutory two test requirement was met: (1) petition is signed by the owners of taxable real property representing more than 50% of the appraised value of the taxable real property liable for assessment by the current roll of the appraisal district (October 10, 2023), in the area known as Cypress Ranch, as shown on the attached map; the petitioners own 100% of the area within the proposed Cypress Ranch PID; (2) petition must be signed by the record owners of property that constitute more than 50% of the number of record owners or the record owners of more than 50% of the area within the PID; the petitioners own 100% of the total area within the proposed Cypress PID area.

I further certify that I am the City Secretary of the City of Lubbock, that said documents appear of record in my office, I have legal custody of said record, and that I am a lawful possessor and keeper and have legal custody of the records in said office.

In witness whereof I have hereunto set my hand and affixed the official seal of said office the 13th day of October, 2023.

(City Seal)



Courtney Paz
City Secretary
City of Lubbock
Lubbock County, State of Texas



Date: October 12, 2023

To: Courtney Paz, City Secretary

From: Brianna Brown, Business Development Director

CC: Blu Kostelich, Chief Financial Officer

Re: Cypress Ranch Public Improvement District Petition

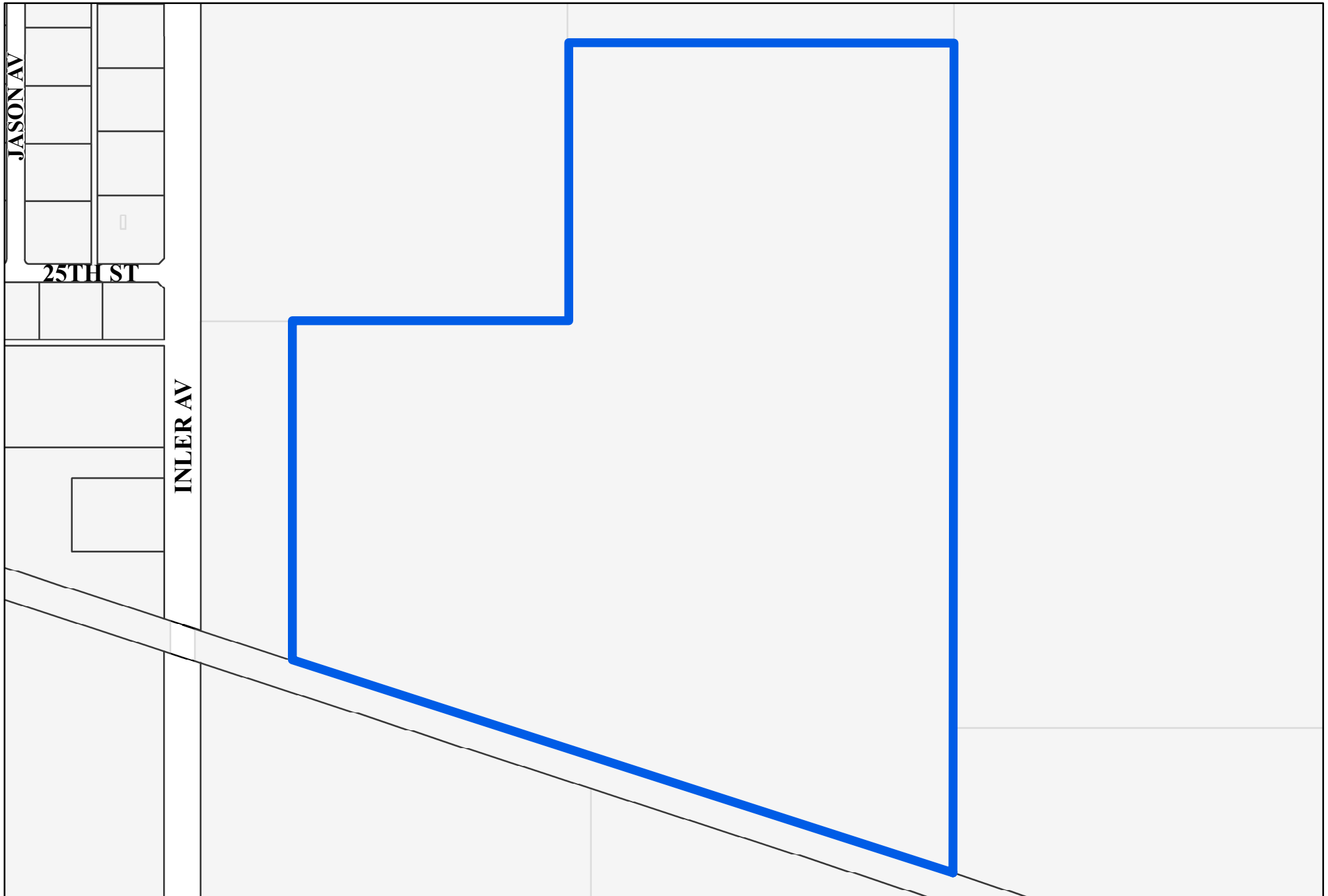
Recently, the City of Lubbock received petitions from Property Owners requesting the City of Lubbock establish a Public Improvement District (PID) for the proposed Cypress Ranch development shown on the attached map. PID establishment can only be initiated by a petition of property owners who meet two tests outlined in the state statute.

The first test is that the petition is sufficient if signed by the owners of taxable real property representing more than 50 percent of the appraised value of the taxable real property liable for assessment by the current roll of the appraisal district (February 8, 2023). Since the petitioners own 100 percent of the taxable real property value within the boundary, the petition passes the value test.

The second test is that the petition must be signed by the record owners of property that constitute more than 50 percent of the number of record owners or the record owners of more than 50 percent of the area within the PID. The petitioners own 100 percent of the total area within the proposed Cypress Ranch PID area so they pass the area test.

The notarized signature on the Cypress Ranch petitions were validated by a visual review and owners on the petitions were verified against the current tax roll received from Lubbock Central Appraisal District by the Business Development Department and reviewed by GIS and Data Services.

Cypress Ranch PID 2023




PID

Parcels



- Lot-Block Lines



0 200 400 600 800
 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.

Cypress Ranch PID Projected Assessment Role						
LCAD Roll: 10.10.2023						
Property ID	Owner Name	Owner Address	Legal Description	TotalPropMktValue	TotalLandMktValue	Land Size
R347512	BETENBOUGH HOMES LLC	6305 82ND ST LUBBOCK, TX 79424-3681	BLK AK SEC 41 AB 185 TR C2 & D1A AC: 99.5854	\$180,173.00	\$180,173.00	99.5854

Information

Agenda Item

Resolution - Planning: Consider a resolution approving and granting a variance from the applicable 300-foot minimum distance provision of the City of Lubbock Code of Ordinances No. 2009-O0060, at 5001 Avenue Q, Suite A, for an alcoholic beverage permit for Quince's Taco Shack.

Item Summary

Effective August 8, 2009, Ordinance No. 2009-O0060 amended Section 14.01.007 (Section 18-11). Alcoholic beverages-Sale near church, school or hospital, in Chapter 14, Offenses-Miscellaneous, of City of Lubbock Code of Ordinances, related to businesses who obtain a permit from the Texas Alcoholic Beverage Commission (TABC) for the sale of alcohol.

As part of the ordinance, the City Council adopted a standard which prohibits any business that is within 300 feet of any school or daycare, measured from property line to property line, from having a permit issued by TABC. The City Council may consider a variance to the 300-foot requirement in the Texas Alcoholic Beverage Code.

The request for a variance is from Quince's Taco Shack, located at 5001 Avenue Q, Suite A, which is within 300 feet of a public school, Hodges Elementary.

A request for a new permit for on-premise alcohol sales at this location is now pending, and requires a separation variance request. The City Council has wide discretion in considering whether to grant a variance. The following may be considered by the City Council (as noted by the State of Texas statute providing for the variance process):

- 1) The enforcement of the regulation in a particular instance is not in the best interest of the public;
- 2) The regulation constitutes waste or inefficient use of land or other resources;
- 3) The regulation creates an undue hardship on the applicant, does not serve its intended purpose or is not effective or necessary; and,
- 4) The variance may be granted for any other reason, after consideration of the health, safety and welfare of the public and the equity of the situation, if the governing body finds it to be in the best interest of the community.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning

Attachments

Resolution - Quinces

Zoning Certificate - Quinces

Applicant Letter - Quinces

Map - Quinces

Documentation - Quinces

RESOLUTION

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

THAT the City Council, as the governing board of the City of Lubbock, Texas, and pursuant to Section 109.33(e) of the Texas Alcoholic Beverage Code, after consideration of the health, safety, and welfare of the public and the equities of the situation, finds and determines herein that it is in the best interest of the community to approve and grant a variance, and hereby grants a variance, from the applicable provisions of City of Lubbock Ordinance No. 2009-O0060 at the following location: **Quince's Taco Shack, 5001 Avenue Q, Suite A, Lubbock, TX.** This variance shall remain in effect for so long as: 1) a **Mixed Beverage (MB) permit**, 2) a **Food and Beverage (FB) permit**, or 3) a subsequent like use, if any, are in effect at the above-referenced location.

Passed by the City Council on _____.

TREY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Kristen Sager, Director of Planning

APPROVED AS TO FORM:



Kelli Leisure, Assistant City Attorney



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
ZONING CERTIFICATE

Business Information

Local Contact: Paulina Madrid Local Contact Phone No: 806-686-7139
Name of Business: Quince's Taco Shack
Address: 5001 Ave O Ste A City: Lbk State: TX Zip: 7942
Telephone: 806-224-1802 Email: pmadrid15@yahoo.com

On Premise Consumption:

Type of Business:

- | | | |
|---|---|---|
| <input checked="" type="checkbox"/> Restaurant | <input type="checkbox"/> Nightclub/Bar/Lounge | <input type="checkbox"/> Dance Hall |
| <input type="checkbox"/> Sports Grill | <input type="checkbox"/> Hotel/Arena/Civic Center | <input type="checkbox"/> Sexually Oriented Business |
| <input type="checkbox"/> Other (describe) _____ | | |

Permit(s) Requested (Check all that apply):

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Mixed Beverage (MB) | <input type="checkbox"/> Mixed Beverage Late Hours (LB) | <input type="checkbox"/> Beverage Cartage (PE) |
| <input checked="" type="checkbox"/> Food & Beverage Cert. (FB) | <input type="checkbox"/> Wine and Beer Retailer's (BG) | <input type="checkbox"/> Private Club Beer & Wine (NB) |
| <input type="checkbox"/> Minibar Permit (MI) | <input type="checkbox"/> Beer Retailer's On-Premise (BE) | <input type="checkbox"/> Retail Dealer's On-Premise – late hours license (BL) |
| <input type="checkbox"/> Local Cartage Permit (E) – with BG only | <input type="checkbox"/> Catering (CB) | <input type="checkbox"/> Food & Beverage Cert. (FB) |
| <input type="checkbox"/> Brewpub License (BP) | <input type="checkbox"/> Private Carrier's Permit (O) – Brewpubs (BP) with a BG only | <input type="checkbox"/> Mixed Beverage Restaurant with Food and Beverage (RM) |
| <input type="checkbox"/> Other (describe) _____ | | |

Off Premise Consumption:

Type of Business:

- | | | |
|--|-------------------------------------|--|
| <input type="checkbox"/> Grocery/Convenience Store | <input type="checkbox"/> Drug Store | <input type="checkbox"/> Package Store |
| <input type="checkbox"/> Other (describe) _____ | | |

Permit(s) Requested (Check all that apply):

- | | | |
|---|---|--|
| <input type="checkbox"/> Beer Retailer's Off-Premise (BF) | <input type="checkbox"/> Package Store (P) | <input type="checkbox"/> Wine and Beer Retailer's Off Premise (BQ) |
| <input type="checkbox"/> Wine Only Package Store (Q) | <input type="checkbox"/> Local Distributor (LP) | <input type="checkbox"/> Third-Party Cartage Permit (ET) |
| <input type="checkbox"/> Local Cartage Permit (E) | <input type="checkbox"/> Other (describe) _____ | |

Property Owner Information

Name: Mary Walker
Address: 5001 Ave O Ste D City: Lubbock State: TX Zip: 7942

Business Owner Information

Name: Paulina Madrid
Address: 1704 77th City: Lubbock State: TX Zip: 79423

Applicant Information

Name: Paulina Madrid
Address: 1704 77th st City: Lubbock State: TX Zip: 7942
Interest in Business/Authority to Make Application: _____

If you have any questions pertaining to the City of Lubbock's Zoning Certificate, please contact:

City of Lubbock Planning Department
City of Lubbock City Secretary's Office

Phone: (806) 775 - 2108
Phone: (806) 775 - 2061

E-mail: cityplanning@mylubbock.us
E-mail: ocs@mylubbock.us



Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457
ZONING CERTIFICATE

Planning and Zoning Information

Gross Sq. Footage of 3300
Bldg. or Tenant Space: _____ Zoning: _____ Sales Tax No.: _____
Parking Ratio: _____ Spaces Req. _____ Spaces Provided: _____

Separation Information

Is a Church or Hospital located within 300 feet of your establishment (door to door)? ☐ Yes ☐ No
Is a School (Public or Private), day care, or child care facility located within
300 feet of your establishment (property line to property line)? ☐ Yes ☐ No

Additional Information

No. of Game Machines: _____ Dance Floor ☐ Yes ☐ No
Dance Floor Size: _____ Live Entertainment ☐ Yes ☐ No
Z.B.A. Variance: _____ Case No.: _____
_____ Case No.: _____
Comments: _____

Applicant Signature

I hereby certify that I have read and fully understand the zoning restrictions and ordinances applicable to this property and that all information contained herein is true and correct. I further understand that this certificate is issued subject to all applicable regulations of the City of Lubbock and the violation of any of these regulations may result in my being ordered to cease the violation or vacate the premises, as well as the revocation of this certificate. I understand that if licensed as a restaurant, this certificate only permits me to operate a restaurant with the incidental right to sell alcoholic beverages, and I certify that is my intent and purpose in acquiring this certificate.

Signature: [Signature] Date: 10/03/23

Planning Department Signature

Distance Map Created? ☐ Yes ☐ No
Distance Map Attached? ☐ Yes ☐ No
Alcohol Variance Required? ☐ Yes ☐ No

If so, Resolution No.: _____

I hereby certify that to the best of my knowledge, this request currently complies with all applicable zoning regulations of the City of Lubbock.

Signature: [Signature] Date: 10/03/23

If you have any questions pertaining to the City of Lubbock's Zoning Certificate, please contact:

City of Lubbock Planning Department
City of Lubbock City Secretary's Office

Phone: (806) 775 - 2108
Phone: (806) 775 - 2061







E-mail: cityplanning@mylubbock.us
E-mail: ocs@mylubbock.us

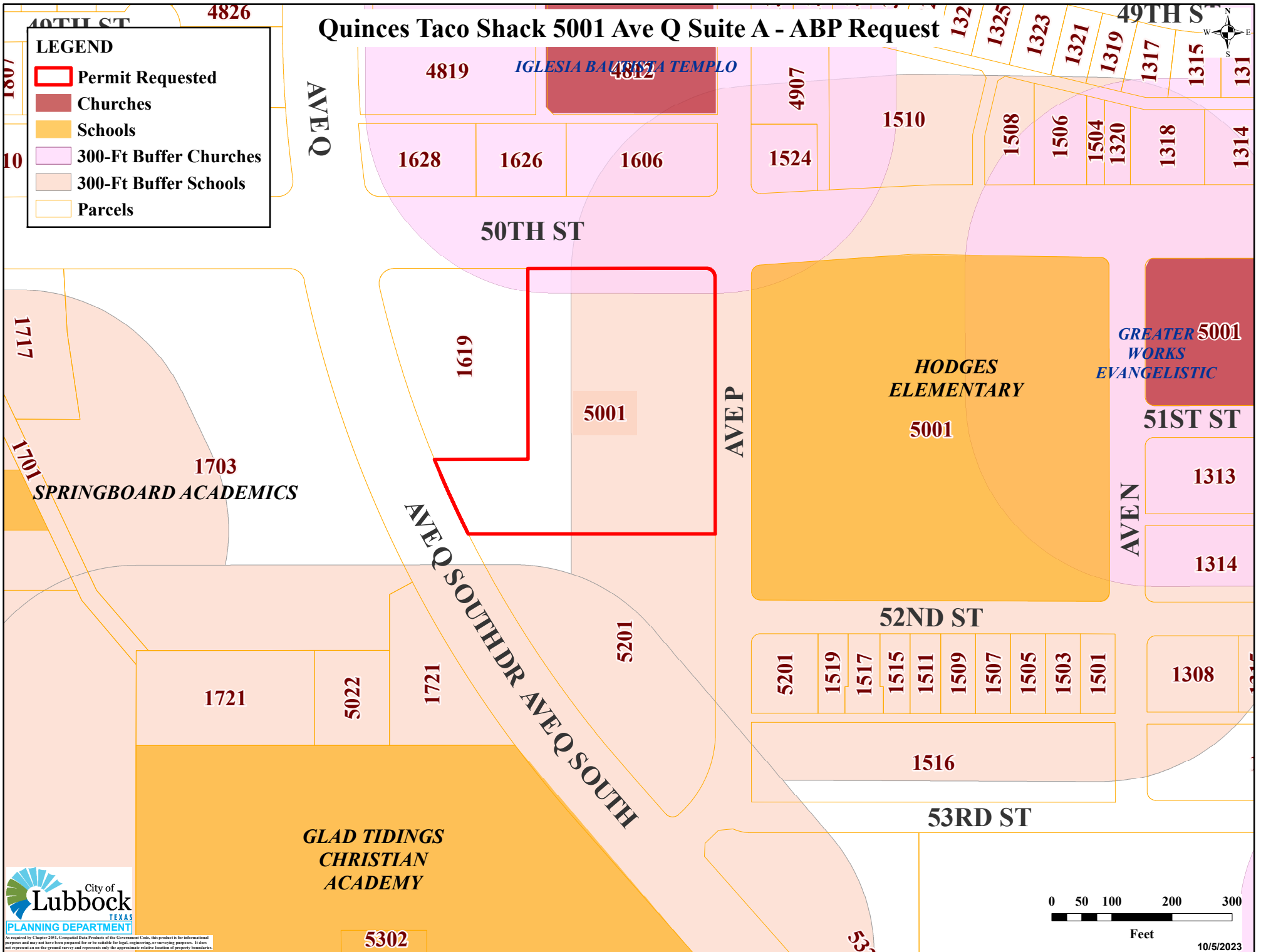
Paulina Madrid
Quince's Taco Shack
5001 Ave Q Ste A
Lubbock TX, 79412

TO whom it may concern I Paulina Madrid
the owner to Quince's Taco Shack. Located
~~@~~ at 5001 Ave Q Ste A in Lubbock TX. 79412.
Is requesting the variance to the 300 feet
of a school (Hodges Elementary) so you
for consideration to this variance, I am also
asking for all permits being requested from
the TABC. The certificate are City Secretary
and County clerk. Please consider my permit
Thank You
Pm

Quinces Taco Shack 5001 Ave Q Suite A - ABP Request

LEGEND

-  Permit Requested
-  Churches
-  Schools
-  300-Ft Buffer Churches
-  300-Ft Buffer Schools
-  Parcels





TEXAS ALCOHOLIC
BEVERAGE COMMISSION
Texas Helping Businesses & Protecting Communities

Document reference ID : 43023

Licensing Application Summary

You must review your application and confirm that the information displayed here is correct. Select **Review and Confirm** to continue and make the payment. If the information is not correct, select **Next** to return to the application, edit the data as needed and finalize the submission. If you need to store the application packet for your records, select **Download**.

Application ID: 43023
Applicant Name: Paulina Madrid
License Type applied for: Mixed Beverage Permit (MB)

Applicant Information

Legal First Name: Paulina
Legal Middle Name:
Legal Last Name: Madrid
Address: 1704 77th St, Lubbock, TX, 79423
Email Address: pmadrid15@yahoo.com
Phone Number: 806-686-7139
Business Structure: Sole proprietorship
FEIN/SSN Number:
Historically Underutilized Business: No
Veteran-owned business: No
Secretary of State Filing Number: N/A
Date Filed: N/A
Filing State: TX

Principal Parties

Principal Parent Entity	Principal Party	Role	%Ownership
Paulina Madrid	Paulina Madrid	Owner	100

Location Address

Address: 5001# A AVE Q, LUBBOCK, TX, United States 79412

Business/Trade Name: Topsy's Sports Grill & Bar

Property Ownership

Property Type	Property Ownership Type	Entity Name
Land and Building	Owner	MARY WALLER

Location Investment

Investment Category	Investment By	Amount Invested	Term
Principal	Paulina Madrid	\$3000.00	Self investment no repayment.

CERTIFICATE OF CITY SECRETARY FOR: (MB, BG & BE)

Section 11.37 & 61.37

Not later than the 30th day after the date a prospective applicant for a license or permit requests certification, the city secretary or clerk shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the license or permit is sought is prohibited by ordinance.

I hereby certify on this _____ day of _____, _____, that the location for which the license/permit is sought is inside the boundaries of this city or town, in a "wet" area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

MB Mixed Beverage Permit

MB/FB (RM) Mixed Beverage Restaurant Permit with Food and Beverage Certificate
(MB must also hold a Food and Beverage Certificate)

BG/FB Wine and Beer Retailer's Permit with Food and Beverage Certificate
(BG must also hold a Food and Beverage Certificate)

BG Wine and Beer Retailer's Permit - Election for given location was held for:
legal sale of beer/wine (17%) on-premise **AFTER** Sept. 1, 1999
legal sale of beer/wine (14%) on-premise **BEFORE** Sept. 1, 1999

BE Beer Retail Dealer's On-Premise License

OR

I hereby refuse on this _____ day of _____, 20_____ to certify this location.

SIGN HERE

City Secretary/Clerk

City

_____, TEXAS

SEAL



**TEXAS ALCOHOLIC
BEVERAGE COMMISSION**
Texas Helping Businesses & Protecting Communities

Document reference ID : 43836

Licensing Application Summary

You must review your application and confirm that the information displayed here is correct. Select **Review and Confirm** to continue and make the payment. If the information is not correct, select **Next** to return to the application, edit the data as needed and finalize the submission. If you need to store the application packet for your records, select **Download**.

Application ID:	43836
Applicant Name:	Paulina Madrid
License Type applied for:	Food and Beverage Certificate (FB)

Applicant Information

Legal First Name:	Paulina
Legal Middle Name:	
Legal Last Name:	Madrid
Address:	1704 77th St, Lubbock, TX, 79423
Email Address:	pmadrid15@yahoo.com
Phone Number:	806-686-7139
Business Structure:	Sole proprietorship
FEIN/SSN Number:	
Historically Underutilized Business:	No
Veteran-owned business:	No
Secretary of State Filing Number:	N/A
Date Filed:	N/A
Filing State:	TX

Principal Parties

Principal Parent Entity	Principal Party	Role	%Ownership
Paulina Madrid	Paulina Madrid	Owner	100



**TEXAS ALCOHOLIC
BEVERAGE COMMISSION**
Texas Helping Businesses & Protecting Communities

Payment Receipt

Thank you for submitting your payment to TABC. You will receive an email providing details related to your submission including TABC's anticipated processing time.

F/B

Application ID : 43836

Entity Name : PAULINA MADRID

Payment Date : 12/02/2021

Method of Payment : ACH

Trade Name	Transaction Name	Amount
	New Food and Beverage Certificate	\$1,100.00

Total Amount : \$1,100.00





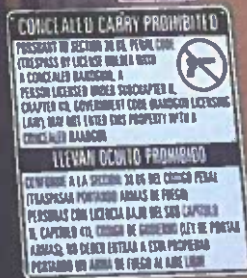
TACO SHACK

TAQUERIA MEXICAN GRILL

5001

AVE Q STA

OPEN

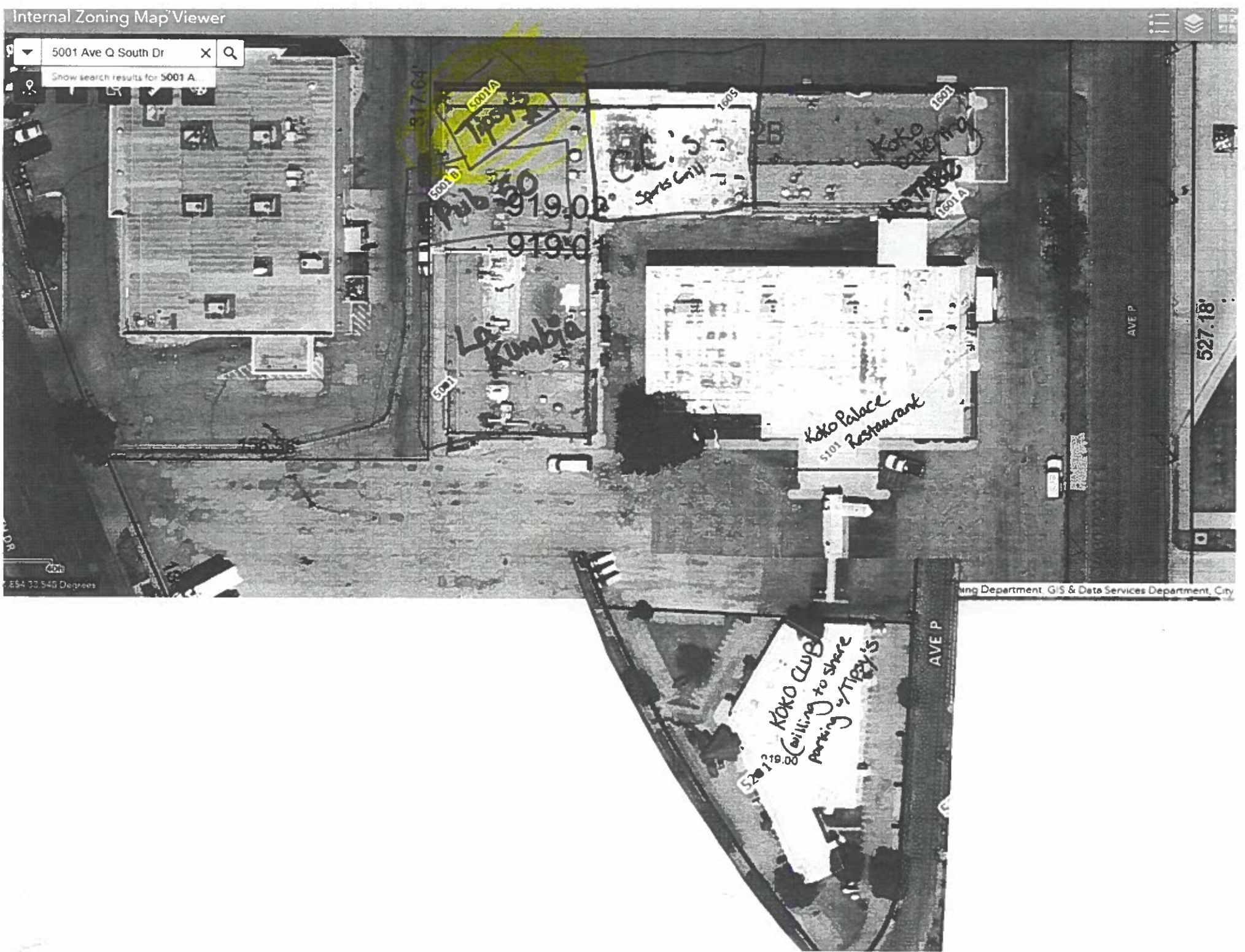


5001 Ave Q South Dr

X



Show search results for 5001 A.



854 33 545 Degrees

Planning Department, GIS & Data Services Department, City

leaves
Aue P

99 parking

cc's

150 parking spots

Dumpsters

Kumbia

Scuba

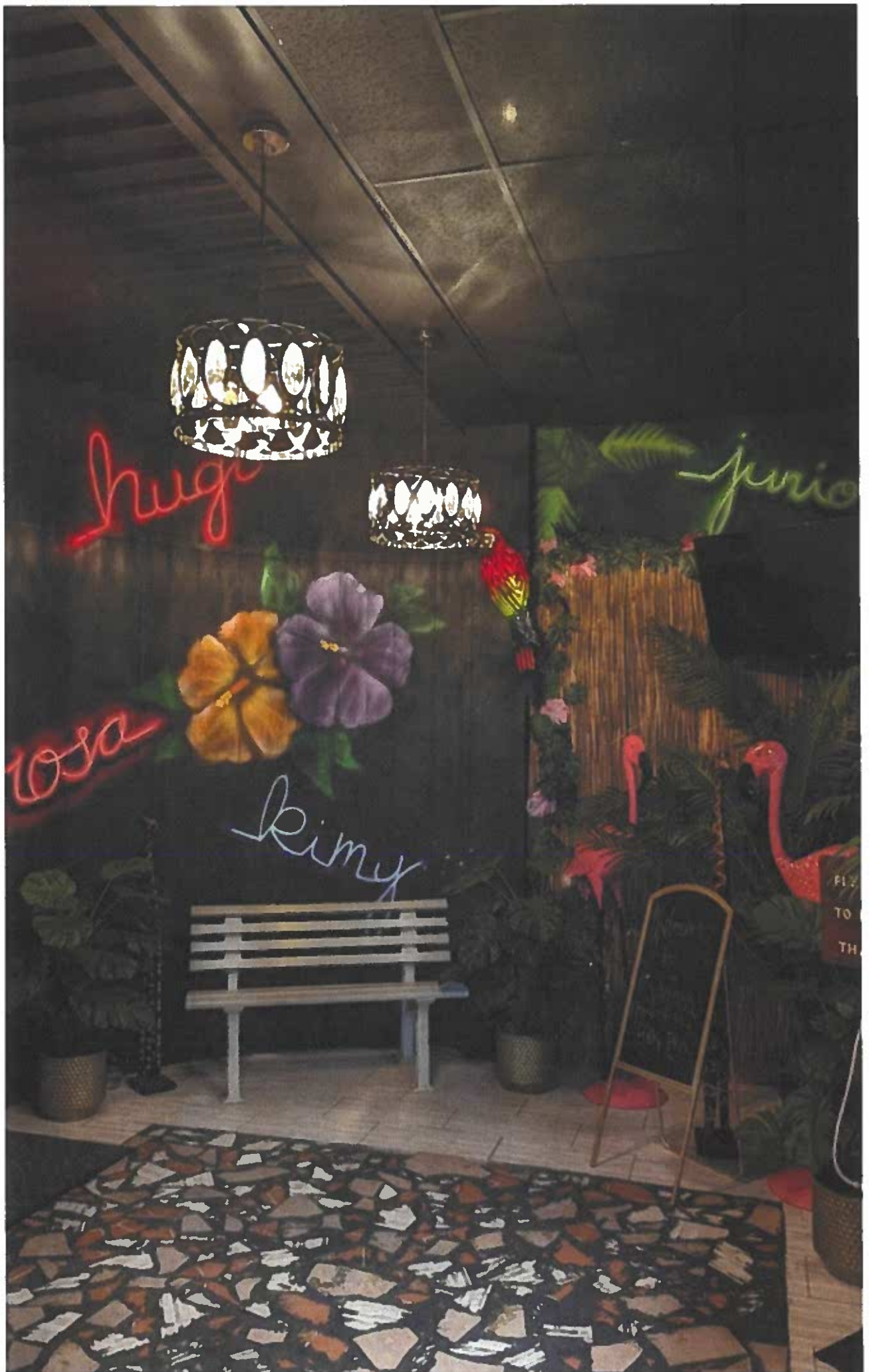
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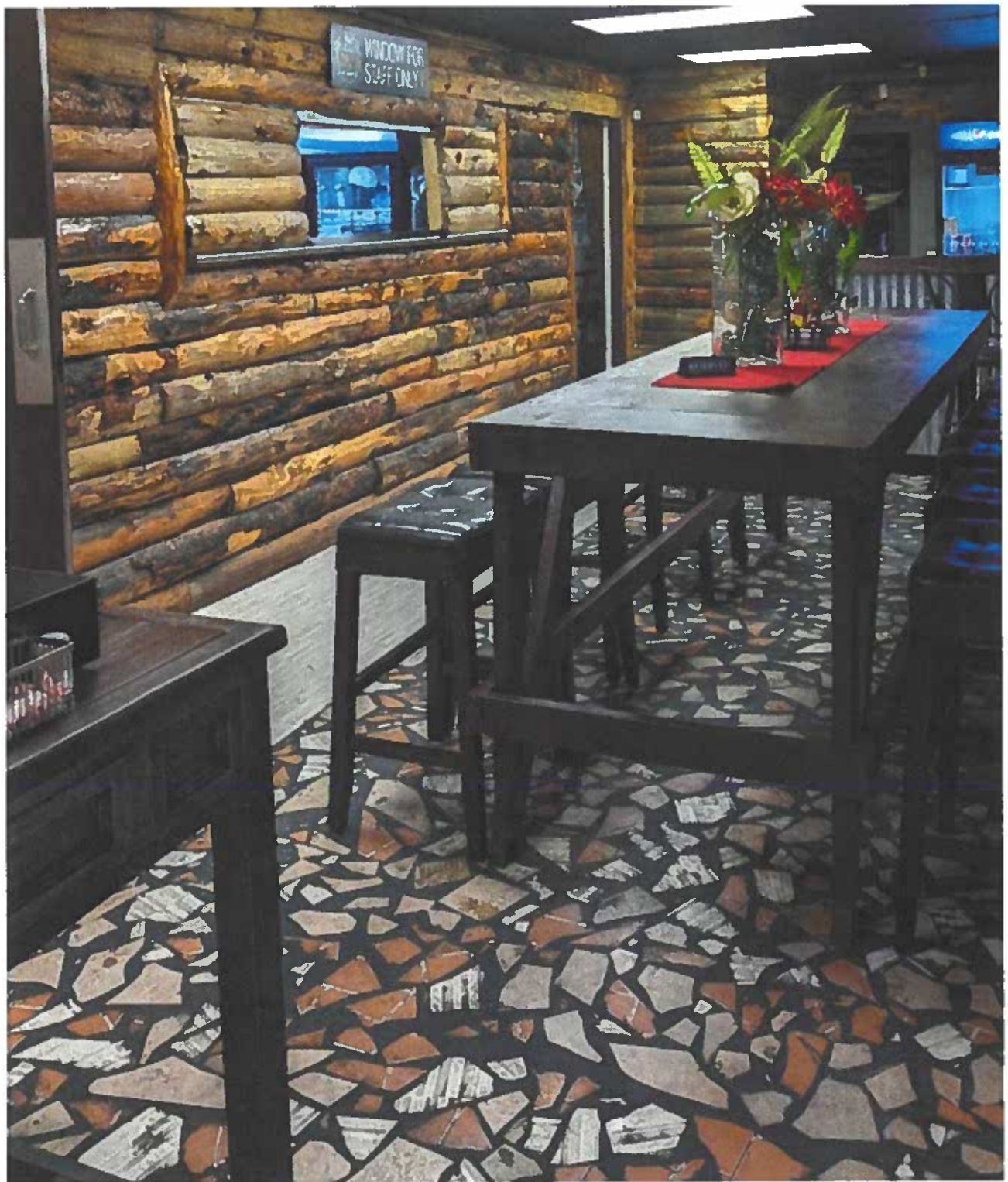
Wolgreen

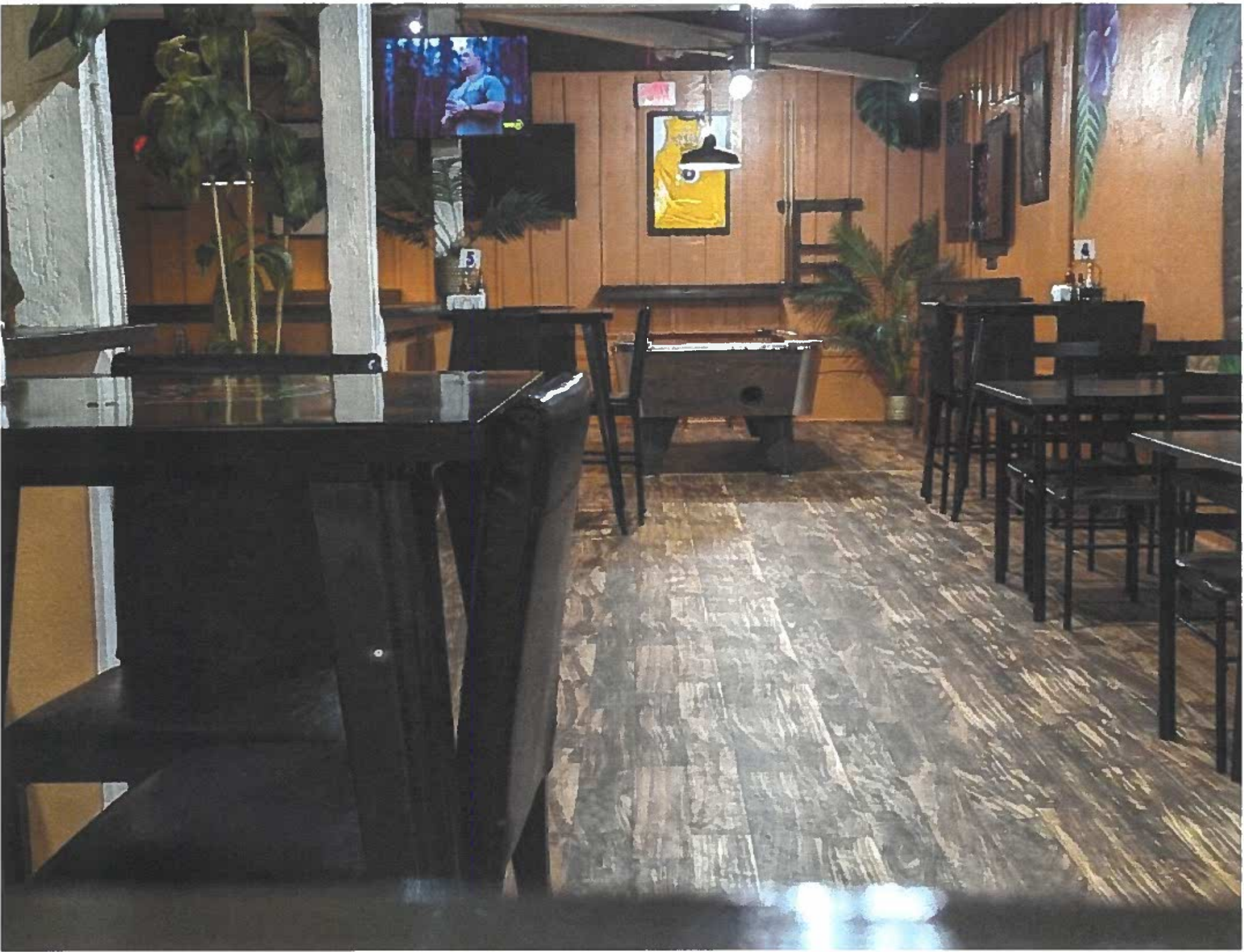
Area

Stephen
Hays

Paulina Hays







Done

circular logo.jpg



Tipsy's

TACO SHACK

TAQUERIA MEXICAN GRILL

OPEN

5001

AVE Q STA

NOTICE
THIS AREA IS UNDER
24 HOUR
VIDEO
SURVEILLANCE

TIPSY'S

AM -
7 DAYS A WEEK
NO SELLING

CONCEALED CARRY PROHIBITED
POSSESSING OR CONCEALING A FIREARM OR
CONCEALING A CONCEALED WEAPON WITHIN
A CONCEALED WEAPON, A
PERSON EXCEPT UNDER A CONCEALED CARRY
CHAPTER 46C, SUBCHAPTER 0001, ARTICLE 46C.01, CAPTIONED
LAW, MAY NOT ENTER THIS PROPERTY WITHIN A
CONCEALED WEAPON
LLEVAR OCLTO PROHIBIDO
CONFORME A LA SECCION 46C DEL CODIGO PENAL
PERSONAS PORTANDO ARMAS DE FUEGO
PERSONAS CON SUCCESIA BAJO OCLTO CANTON O
EL CAPITULO 46C, CODIGO DE ORDENAMIENTO DE LA POLICIA
MUNICIPAL, NO DEBE ENTRAR A ESTA PROPIEDAD
PERSONAS CON ARMAS NO PERMITIDAS AL NOSE QUEDAR

Paulina Madrid

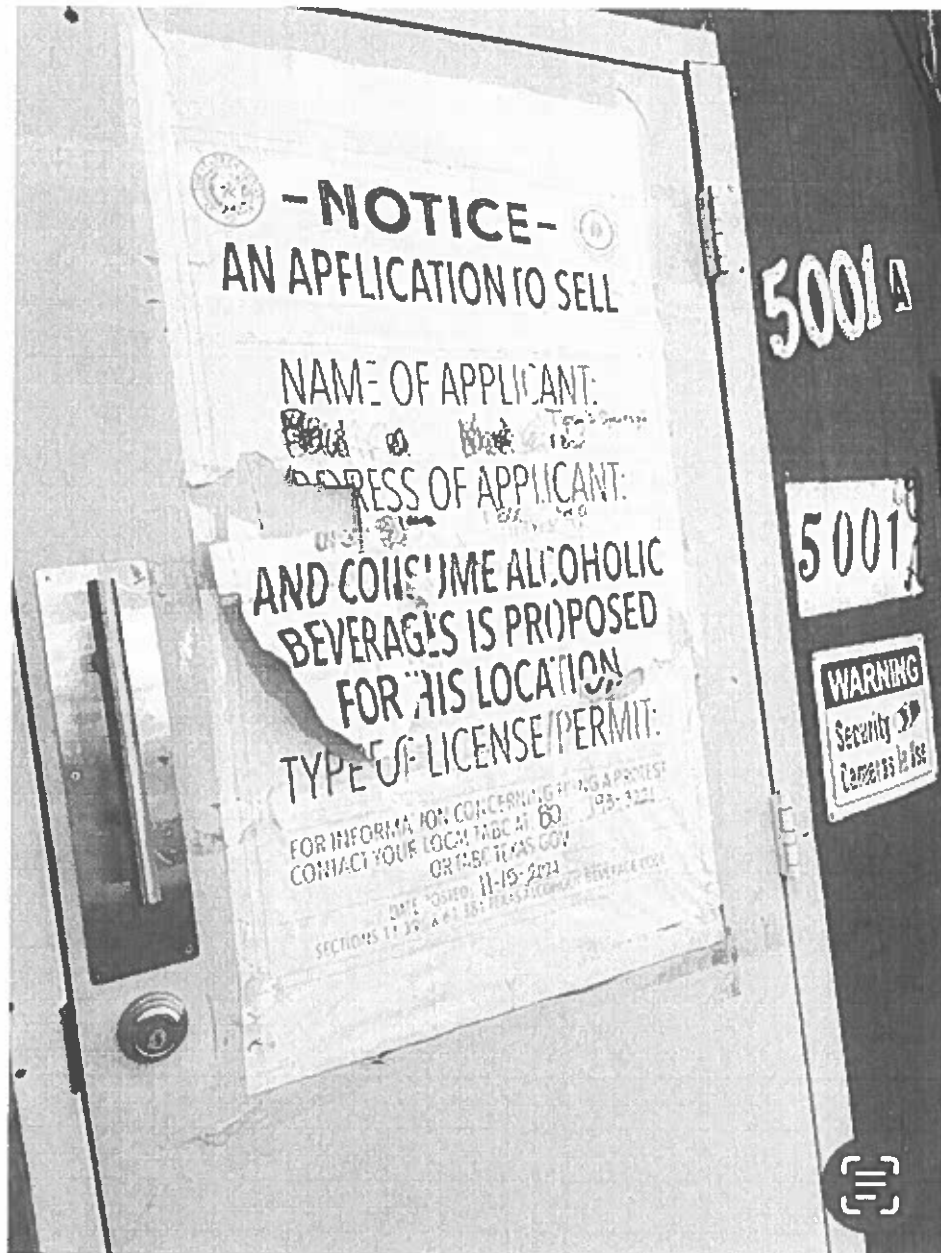
Tipsy's Sports Grill & Bar

12/06/2021

To whom it may concern Tipsy's Sports Grill & Bar. Is requesting the variance to the 300 feet of a school (Hodges Elementary) so you for consideration to this variance.

Posted on door

11-19-2021



AFFP

LEGAL NOTICE Application has b

LEGAL NOTICE

Paulina Madrid
1704 77th St
Lubbock, TX 79423

Application has been made with the Texas Alcoholic Beverage Commission for a Mixed Beverage, Late hours, Food beverage by Paulina Madrid dba Tipy's Sports Grill & Bar, to be located at 5001 Ave Q South Drive # A Lubbock, Texas 79412. Owner of said business is Paulina Madrid.

Affidavit of Publication

State of Wisconsin
County of Brown

I, said Legal Clerk, being duly sworn, says:

That I am the Legal Clerk of the Avalanche-Journal, a daily newspaper of general circulation, printed and published in Lubbock, Lubbock County, Texas; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

December 09, 2021, December 10, 2021

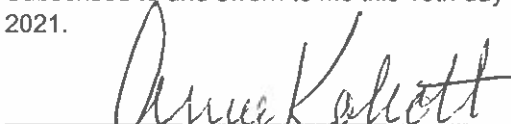
That said newspaper was regularly issued and circulated on those dates.

SIGNED:



Legal Clerk

Subscribed to and sworn to me this 10th day of December 2021.

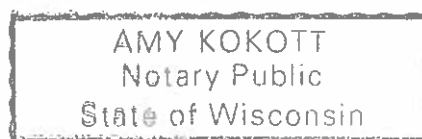


Notary Public, State of Wisconsin, County of Brown

My commission expires:



00013346 16111078



2023700502 2 PGS ABN




THE STATE OF TEXAS
COUNTY OF LUBBOCK

}

KNOW ALL MEN BY THESE PRESENTS:

THAT I, PAULINA MADRID of TIPSYS SPORTS GRILL & BAR have disposed of my interest in the business operated under the assumed name of TIPSYS SPORTS GRILL & BAR with address of 5001 AVE Q STE A , LUBBOCK TEXAS 79412 and I am no longer connected in any way with said business.



Signature

Paulina Madrid

Print Name

THE STATE OF TEXAS
COUNTY OF LUBBOCK

}

BEFORE ME, Betty Dills, in and for said

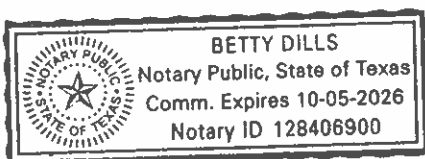
County and State, on this day personally appeared Paulina Madrid

_____ known to me to be the person whose name
subscribed to the foregoing instrument, and acknowledged to me that She executed the same
for the purposes therein expressed.

Given under my hand and seal of office, this 20 Day of April, 2023

Betty Dills

Notary Public



FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Kelly Pinion

Kelly Pinion, County Clerk
Lubbock County, TEXAS
04/20/2023 11:09 AM
FEE: \$24.00
2023700502

EXCISE
ADDRESS _____

2023700771

2 PGS

ASN

THE STATE OF TEXAS

COUNTY OF LUBBOCK

KNOW ALL MEN BY THESE PRESENTS:

THAT PAULINA MADRID, the undersigned, for the purpose of complying with Chapter 71, Title 5, Business and Commerce Code of the State of Texas, do hereby certify to the following facts:

1. QUINCE'S TACO SHACK is the assumed name under which the business or professional services is or is to be conducted or rendered. The address of said business will be 5001 AVE Q STE A, LUBBOCK, TX 79412.

2. BUSINESS IS TO BE CONDUCTED AS (Check which one):

- ☒ Sole Proprietorship
☐ General Partnership / Joint Venture
☐ General Partnership
☐ Real Estate Investment Trust
☐ Estates
☐ Other Type of business entity (Not included above or required to be filed with the Secretary of State)

3. Owners Names and Addresses (Please Print):

Name: PAULINA MADRID
 Address: 1704 77 TH ST

City: LUBBOCK
 State/Zip: TX, 79423

4. The period, not to exceed 10 years from the date filed in the County Clerk's Office, is 10 years.

IN TESTIMONY WHEREOF, _____ have hereunto set _____ hand__, this the 20th day of June, 2023.

Signature

PAULINA MADRID

Print Name

Sign before a Notary

(Acknowledgment)

THE STATE OF TEXAS }

COUNTY OF LUBBOCK }

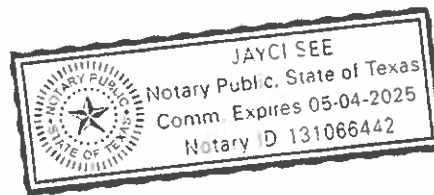
Before me, the undersigned authority, on this day personally appeared Paulina Madrid known to

me to be the person(s) whose name(s) is subscribed to the foregoing instrument, and acknowledged to me that s he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the 20 day of June, A.D. 2023.

Notary Public.

Lubbock County, Texas. My Commission expires 5-4-25.



FILED AND RECORDED

OFFICIAL PUBLIC RECORDS



Kelly Pinion

Kelly Pinion, County Clerk
Lubbock County, TEXAS
06/20/2023 12:56 PM
FEE: \$24.00
2023700771

Information

Agenda Item

Resolution - City Council: Consider a resolution creating a citizen committee to study amortization and strategic downzoning in the City of Lubbock.

Item Summary

The attached resolution creates a citizen committee with three general charges. The first is to study the concept of amortization as a tool for possible incorporation in the City of Lubbock Unified Development Code. The Committee charge does not include recommending or proposing the use of amortization for a particular business or entity. The second charge is to assess the extent and negative effect, if any, of abandoned industrial blight or underutilized properties on nearby residents as noted in the second paragraph. The third charge is related to strategic downzoning as a strategy or tool as noted in third paragraph.

The Committee will consist of seven members, one appointed by each of the six City Councilmembers and one appointed by the Mayor. Appointment of members will be an action item on the November 7 City Council agenda.

Fiscal Impact

None

Staff/Board Recommending

Councilmember Shelia Patterson Harris
Councilmember Latrelle Joy

Attachments

Resolution - Citizen Committee

RESOLUTION

WHEREAS, the City Council of the City of Lubbock desires to determine whether and to what extent certain areas of the City shoulder a disproportionate burden of industrial and heavy commercial activity that may affect the health, safety, welfare, or quality of life of residents living nearby; whether and to what extent industrial and heavy commercial activity acts as a hindrance to economic development opportunities in any areas; and further whether a planned, systematic relocation program such as amortization—studied broadly and conceptually, without targeting particular businesses or entities—would promote development of other alternative economic or community activity that would have fewer, if any, adverse effects on the health, safety, or welfare of nearby residents; and

WHEREAS the City Council of the City of Lubbock also desires to assess the extent and negative effect, if any, of abandoned industrial blight or underutilized properties on the health, safety, welfare, or quality of life of nearby residents, and further to determine whether and how such blight and properties might be remediated or otherwise repurposed into productive, more benign assets for the nearby communities; and

WHEREAS, the City Council of the City of Lubbock desires further public discussion and deliberation on both the utility and efficacy of possible responses for the City to consider, including the use of strategic downzoning; and

WHEREAS, the City Council of the City of Lubbock now desires to appoint an ad hoc committee of individuals representing various segments of the community to assist the City Council in making the aforementioned determinations by studying the relevant issues, and reporting the findings, conclusions, and recommendations, if any, of the committee back in the City Council; NOW, THEREFORE:

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

1. THAT the City Council of the City of Lubbock hereby creates an ad hoc committee (the “Committee”) that shall be comprised of seven (7) members, with each member of the City Council appointing one (1) member to the Committee, and the chairperson of the Committee being elected by the membership of the Committee.
2. THAT meetings of the Committee shall be held at times and locations established by the Chair of the Committee, unless otherwise determined by a majority vote of the Committee. A simple majority shall constitute a quorum, and a majority vote of the quorum shall be required for any action to be taken by the Committee. All meetings and procedures shall be consistent with the policies of the City of Lubbock concerning advisory Commissions and Boards. The City Manager of the City of Lubbock, or his designee, shall

attend all meetings of the Committee, shall consult with the City Attorney as necessary, and shall serve as a resource to the Committee as requested.

3. THAT all Committee members shall serve at the pleasure of, and may be removed by, the City Council of the City of Lubbock.
4. THAT the City Manager shall place on the agenda of the next regular meeting of the City Council, an item for the appointment of members to the Committee.
5. THAT the Committee shall convene within two (2) weeks thereafter to study, deliberate, and finally report back to the City Council, no later than the second regular meeting of the City Council in March of 2024, a written summary of any findings or conclusions reached, as well as any recommendations made by the Committee regarding the subject matter studied.


Passed by the City Council this _____ day of _____, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Shelia Patterson Harris, City Councilwoman District 2



Latrelle Joy, City Councilwoman District 6

Information

Agenda Item

Resolution - Lubbock Power & Light: Consider a resolution regarding the process which will be followed for assigning customers to the entities previously selected to serve as the Provider of Last Resort (POLR) in the Lubbock Power & Light (LP&L) certificated area upon LP&L's entry into retail competition.

Item Summary

In February of 2022, the Electric Utility Board of the City of Lubbock and the City Council of the City of Lubbock, at their respective meetings, adopted irrevocable resolutions to participate in customer choice for the customers of Lubbock Power & Light (LP&L). This set LP&L on the path to bring competition back to its customers.

After the commencement of retail electric competition, all customers will be served electricity by Retail Electric Providers (REPs) who are established in the ERCOT market and registered to serve in Lubbock. Should a REP no longer be able to provide electricity to its customers, it will be necessary to have a process in place to quickly transition customers to a new retail electric provider. The Retail Market Guide provided by ERCOT establishes this procedure.

ERCOT's established procedures for mass transition have been used in the market for years, as recently as the events following Winter Storm Uri. While the Retail Market Guide does govern the procedures for all Investor Owned Utilities and REPs operating in ERCOT, there is uncertainty whether the procedure applies to Municipally Owned Utilities.

If LP&L adopts the procedures in the Retail Market Guide for mass transition, it will ensure continuity of service for Lubbock customers, should a REP no longer be able to serve its customers.

Upon completion of entry to the Texas Retail Electric Market, Lubbock Power & Light operating as a Municipally-Owned Transmission/Distribution Service Provider (TDSP) voluntarily will follow normal TDSP processes detailed in Retail Market Guide 7.11.1 Transition Process of Competitive Retailer's Electric Service Identifiers to Provider of Last Resort or Designated Competitive Retailer Pursuant to P.U.C. Subst. R. 25.43, Provider of Last Resort (POLR), or CR Voluntarily Leaving the Market.

Fiscal Impact

Adopting ERCOT's process for mass transition has no fiscal impact to City Budgets.

Staff/Board Recommending

Joel Ivy, Director of Electric Utilities
Electric Utility Board

Attachments

Resolution - CC

Resolution - EUB

RESOLUTION

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

WHEREAS, on February 15, 2022, by EUB Resolution No. 2022-R0010, the Electric Utility Board of the City of Lubbock ("EUB") passed an irrevocable resolution to offer customer choice to the ratepayers of LP&L, as contemplated by Chapter 40 of the Texas Utilities Code, subject to certain conditions outlined in the resolution;

WHEREAS, on February 22, 2022, by Resolution No. 2022-R0108, the City Council of the City of Lubbock passed an irrevocable resolution to offer customer choice to the ratepayers of LP&L, as contemplated by Chapter 40 of the Texas Utilities Code, subject to certain conditions outlined in the resolution;

WHEREAS, collectively, the resolutions described above are referred to herein as the "Irrevocable Resolutions";

WHEREAS, condition (3) in the Irrevocable Resolutions requires that the Electric Utility Board and the City Council of the City of Lubbock establish procedures and criteria, if desired, for selecting the Provider of Last Resort ("POLR") for customers within LP&L's certificated service area as of the date of the initiation of customer choice and designate another entity to serve as the POLR pursuant to Texas Utilities Code § 40.053;

WHEREAS, by Resolution No. 2022-R0408 and Resolution No. EUB 2022-R0083, the City Council of the City of Lubbock, and the Electric Utility Board of the City of Lubbock, respectively, established the procedures and criteria for designating the Provider of Last Resort;

WHEREAS, by Resolution No. 2023-R0113 and Resolution No. EUB 2023-R0010, the City Council of the City of Lubbock, and the Electric Utility Board of the City of Lubbock, respectively, designated Reliant Energy Retail Services, LLC as Provider of Last Resort;

WHEREAS, on October 17, 2023, the Electric Utility Board adopted a Resolution voluntarily adopting the procedures in the ERCOT Retail Market Guide 7.11.1 *Transition Process of Competitive Retailer's Electric Service Identifiers to Provider of Last Resort or Designated Competitive Retailer Pursuant to P.U.C. Subst. R. 25.43, Provider of Last Resort (POLR) or CR Voluntarily Leaving the Market*, as the guide for utilizing the POLR to ensure continuity of service to customers in the event of a REP default.

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

THAT the City Council of the City of Lubbock hereby determines that condition (3) in Resolution No. 2022-R0108, passed by the Council on February 22, 2022, relating to the selection of a Provider of Last Resort ("POLR") for the ratepayers of the City of Lubbock for entry into customer choice for LP&L's certificated area, has been met.

Passed by the City Council of the City of Lubbock the _____ day of October, 2023.

Tray Payne, Mayor

ATTEST:

Courtney Paz, City Secretary

RESOLUTION

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

WHEREAS, in February of 2022, the Electric Utility Board of the City of Lubbock ("EUB") and the City Council of the City of Lubbock, at their respective meetings, adopted irrevocable resolutions to participate in customer choice for the customers of LP&L;

WHEREAS, after retail competition commences, all customers will purchase electricity from Retail Electric Providers ("REPs") who are established participants in the ERCOT market and registered to serve in Lubbock. If, at any time, a REP is no longer able to provide service to its customers, a process established by ERCOT's Retail Market Guide is currently used to quickly transition customers to a new REP;

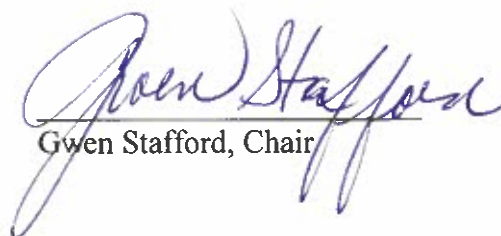
WHEREAS, if LP&L adopts the procedures in the Retail Market Guide for this transition of customers, it will ensure continuity of service for Lubbock customers in the event a REP is no longer able to provide electricity to them;

WHEREAS, if LP&L voluntarily adopts and follows the processes detailed in ERCOT Retail Market Guide 7.11.1 *Transition Process of Competitive Retailer's Electric Service Identifiers to Provider of Last Resort or Designated Competitive Retailer Pursuant to P.U.C. Subst. R. 25.43, Provider of Last Resort (POLR) or CR Voluntarily Leaving the Market*, a clearly understood and tested procedure will be in place to ensure continuity of service to customers in the event of a REP default.

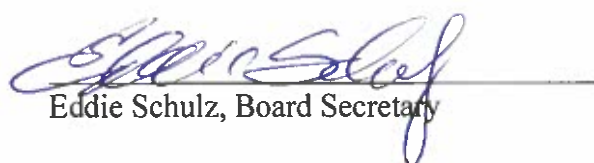
NOW, THEREFORE, BE IT RESOLVED BY THE ELECTRIC UTILITY BOARD OF THE CITY OF LUBBOCK:

THAT the Electric Utility Board hereby adopts the procedures for mass transition of customers as established in the ERCOT Retail Market Guide.

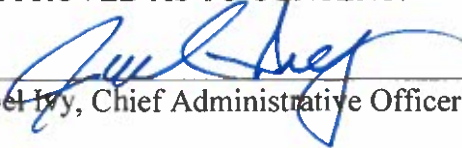
Passed by the Electric Utility Board this 17th day of October, 2023.


Gwen Stafford, Chair

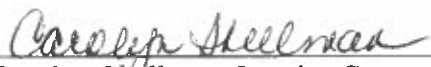
ATTEST:


Eddie Schulz, Board Secretary

APPROVED AS TO CONTENT:


Joel Ivy, Chief Administrative Officer,

APPROVED AS TO FORM:


Carolyn Shellman, Interim General Counsel

Information

Agenda Item

Resolution - Lubbock Power & Light: Consider a resolution regarding the process which will be followed for assigning customers to the entities previously selected to serve as the Default Retail Electric Providers (DREP) in Lubbock Power & Light's (LP&L) certificated area upon LP&L's entry into retail competition.

Item Summary

In February of 2022, the Electric Utility Board of the City of Lubbock and the City Council of the City of Lubbock, at their respective meetings, adopted irrevocable resolutions to participate in customer choice for the customers of Lubbock Power & Light (LP&L). This set LP&L on the path to bring competition back to its customers.

After the commencement of retail electric competition, LP&L will no longer supply electricity to its customers, therefore customers will be required to select a Retail Electric Provider (REP) to supply their electricity. For those customers who do not select a REP, a default REP will need to be assigned to them.

Earlier this year, LP&L completed the Request for Proposal (RFP) process to select Retail Electric Providers who are established and reputable in the ERCOT market to serve as the Default Electric Providers (DREPs). These DREPs will serve the customers who do not voluntarily select a Retail Electric Provider.

Fiscal Impact

The assignment of Default Electric Providers has no fiscal impact to City Budgets.

Staff/Board Recommending

Joel Ivy, Director of Electric Utilities
Electric Utility Board

Attachments

Resolution - CC

Resolution - EUB

RESOLUTION

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

WHEREAS, on February 15, 2022, by EUB Resolution No. 2022-R0010, the Electric Utility Board of the City of Lubbock ("EUB") passed an irrevocable resolution to offer customer choice to the ratepayers of LP&L, as contemplated by Chapter 40 of the Texas Utilities Code, subject to certain conditions outlined in the resolution;

WHEREAS, on February 22, 2022, by Resolution No. 2022-R0108, the City Council of the City of Lubbock passed an irrevocable resolution to offer customer choice to the ratepayers of LP&L, as contemplated by Chapter 40 of the Texas Utilities Code, subject to certain conditions outlined in the resolution;

WHEREAS, collectively, the resolutions described above are referred to herein as the "Irrevocable Resolutions";

WHEREAS, condition (14) in the Resolutions requires that the Electric Utility Board and the City Council of the City of Lubbock approve a transition to competition plan for customers in LP&L's certificated area that have not affirmatively selected their own Retail Electric Provider ("REP") prior to the date choice is initiated;

WHEREAS, by Resolution No. 2023-R0112 and Resolution No. EUB 2023-R0011, the City Council of the City of Lubbock, and the Electric Utility Board of the City of Lubbock, respectively, selected Default Retail Electric Providers ("DREP") TXU Energy Retail Company LLC, Octopus Energy, LLC, and Reliant Energy Retail Services, LLC to provide market-based, month-to-month products that customers could switch from without penalty for the customers who did not affirmatively select their own REP prior to the date choice is initiated;

WHEREAS, on October 17, 2023, the Electric Utility Board adopted a Resolution adopted processes designed for use in the transition to retail competition regarding the assignment of customers who had not affirmatively selected a retail electric provider as of the date of customer choice to DREPs.

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

THAT the City Council of the City of Lubbock hereby determines that condition (14) in Resolution No. 2022-R0108, passed by the Council on February 22, 2022, relating to the procedures regarding the transition plan for customers

within Lubbock Power and Light's certificated service area who had not affirmatively selected a retail electric provider as of the date of customer choice, has been met.

Passed by the City Council of the City of Lubbock the _____ day of October, 2023.

Tray Payne, Mayor

ATTEST:

Courtney Paz, City Secretary

RESOLUTION

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

WHEREAS, by Resolution adopted by the Electric Utility Board of the City of Lubbock ("EUB") on February 15, 2022, the EUB irrevocably chose to offer customer choice through retail competition, as provided for under Texas law, to electric utility customers of LP&L and directed the Director of Electric Utilities to take all necessary steps to implement customer choice and to report to the EUB on those actions;

WHEREAS, the EUB Resolution also provided that customer choice would commence when certain enumerated conditions were met, one of which was that the EUB and the City Council of the City of Lubbock establish the a transition to competition plan for customers in LP&L's certificated service area who have not affirmatively selected their own Retail Electric Provider ("REP") prior to the date choice is initiated;

WHEREAS, by Resolution adopted by the EUB on February 21, 2023, EUB selected Default Retail Electric Providers ("DREP") TXU Energy Retail Company LLC, Octopus Energy, LLC, and Reliant Energy Retail Services, LLC to provide market-based, month-to-month products that customers could switch from without penalty for the customers who did not affirmatively select their own REP prior to the date choice is initiated;

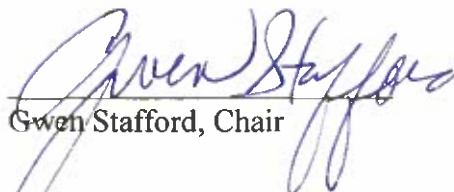
WHEREAS, the irrevocable resolution passed by the City of Lubbock requires that the EUB and City Council of the City of Lubbock determine procedures to transition customers in LP&L's certificated area who did not affirmatively select an REP prior to the date choice is initiated.

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

THAT the Electric Utility Board hereby recommends to the City Council of the City of Lubbock that for use in the transition to retail competition, Lubbock Power and Light adopt the processes outlined in the attached document.

THAT the Electric Utility Board hereby determines that condition (14) in the Customer Choice Resolution adopted by this Board on February 15, 2022, relating to the procedures regarding the transition plan for customers within Lubbock Power and Light's certificated service area who had not affirmatively selected a retail electric provider as of the date of customer choice, has been met.


Passed by the Electric Utility Board this 17th day of October, 2023.


Gwen Stafford, Chair

ATTEST:


Eddie Schulz, Board Secretary

APPROVED AS TO CONTENT:


Joel Ivy, Chief Administrative Officer,

APPROVED AS TO FORM:


Carolyn Shellman, Interim General Counsel

Default REP Assignment Process for City of Lubbock, by and through Lubbock Power & Light (LP&L)

Summary

Procedure for assigning current LP&L electric customers, who have not selected a Retail Electric Provider (REP), to Default Retail Electric Providers (DREPs).

Procedure

On or about two weeks prior to transitioning customers to REPs, LP&L will:

1. Run a query to search for all customers who have an active account with LP&L, but do not have an active enrollment with a REP. The list will contain each customer's current rate, the ESI ID, and the Customer ID.
 - a. The customer list will be sorted and grouped to show any duplicate Customer IDs, so all associated ESI IDs to that Customer ID are sent to the same Default Retailer.
 - b. The customer list will be sorted by current rate class.
2. LP&L will create three separate lists of customers, for each rate class.
 - a. Should any rate class have an uneven number of customers that cannot be divided equally amongst the three DREPs, the "overflow" will be randomly assigned to one DREP. If multiple rate class lists have an uneven number of customers that cannot be evenly divided, this process will be rotated for each rate in an attempt to keep the assignment random and fair.
3. Each DREP will be provided a CBCI file (Customer Billing Contact Information), with the ESI IDs, that they are being awarded to start the enrollment process for the customers.

RESOLUTION

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

WHEREAS, by Resolution adopted by the Electric Utility Board of the City of Lubbock ("EUB") on February 15, 2022, the EUB irrevocably chose to offer customer choice through retail competition, as provided for under Texas law, to electric utility customers of LP&L and directed the Director of Electric Utilities to take all necessary steps to implement customer choice and to report to the EUB on those actions;

WHEREAS, the EUB Resolution also provided that customer choice would commence when certain enumerated conditions were met, one of which was that the EUB and the City Council of the City of Lubbock establish the a transition to competition plan for customers in LP&L's certificated service area who have not affirmatively selected their own Retail Electric Provider ("REP") prior to the date choice is initiated;

WHEREAS, by Resolution adopted by the EUB on February 21, 2023, EUB selected Default Retail Electric Providers ("DREP") TXU Energy Retail Company LLC, Octopus Energy, LLC, and Reliant Energy Retail Services, LLC to provide market-based, month-to-month products that customers could switch from without penalty for the customers who did not affirmatively select their own REP prior to the date choice is initiated;

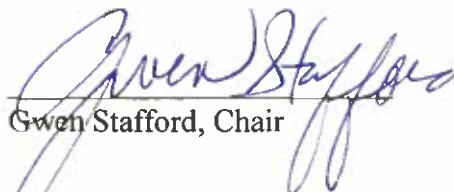
WHEREAS, the irrevocable resolution passed by the City of Lubbock requires that the EUB and City Council of the City of Lubbock determine procedures to transition customers in LP&L's certificated area who did not affirmatively select an REP prior to the date choice is initiated.

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

THAT the Electric Utility Board hereby recommends to the City Council of the City of Lubbock that for use in the transition to retail competition, Lubbock Power and Light adopt the processes outlined in the attached document.

THAT the Electric Utility Board hereby determines that condition (14) in the Customer Choice Resolution adopted by this Board on February 15, 2022, relating to the procedures regarding the transition plan for customers within Lubbock Power and Light's certificated service area who had not affirmatively selected a retail electric provider as of the date of customer choice, has been met.


Passed by the Electric Utility Board this 17th day of October, 2023.


Gwen Stafford, Chair

ATTEST:


Eddie Schulz, Board Secretary

APPROVED AS TO CONTENT:


Joel Ivy, Chief Administrative Officer,

APPROVED AS TO FORM:


Carolyn Shellman, Interim General Counsel

Default REP Assignment Process for City of Lubbock, by and through Lubbock Power & Light (LP&L)

Summary

Procedure for assigning current LP&L electric customers, who have not selected a Retail Electric Provider (REP), to Default Retail Electric Providers (DREPs).

Procedure

On or about two weeks prior to transitioning customers to REPs, LP&L will:

1. Run a query to search for all customers who have an active account with LP&L, but do not have an active enrollment with a REP. The list will contain each customer's current rate, the ESI ID, and the Customer ID.
 - a. The customer list will be sorted and grouped to show any duplicate Customer IDs, so all associated ESI IDs to that Customer ID are sent to the same Default Retailer.
 - b. The customer list will be sorted by current rate class.
2. LP&L will create three separate lists of customers, for each rate class.
 - a. Should any rate class have an uneven number of customers that cannot be divided equally amongst the three DREPs, the "overflow" will be randomly assigned to one DREP. If multiple rate class lists have an uneven number of customers that cannot be evenly divided, this process will be rotated for each rate in an attempt to keep the assignment random and fair.
3. Each DREP will be provided a CBCI file (Customer Billing Contact Information), with the ESI IDs, that they are being awarded to start the enrollment process for the customers.

Information

Agenda Item

Resolution - Lubbock Power & Light: Consider a resolution determining that condition #7 in the Customer Choice Resolution adopted by the City Council on February 22, 2022, related to the sufficiency of the number of retail electric providers, including a sufficient number of independent, unaffiliated retail electric providers within the Electric Reliability Council of Texas market, has been satisfied, such that competitive customer choice can be adequately provided to customers within the Lubbock Power & Light certificated service area.

Item Summary

In a Resolution passed on February 15, 2022, the Electric Utility Board (EUB) irrevocably chose to offer customer choice through retail competition to electric utility customers of Lubbock Power & Light (LP&L). The Resolution provided that customer choice would commence when certain enumerated conditions were met, one of which was that the EUB and the City Council must determine that there are, and will continue to be a sufficient number of retail electric providers, including a sufficient number of independent, unaffiliated retail electric providers, within the ERCOT market who are willing and able to provide service in Lubbock to adequately provide competitive customer choice for LP&L's certificated area. The City of Lubbock adopted the same resolution effective on February 22, 2022.

As of this summary date, 32 branded REPs have signed Access Agreements with LP&L and are ready to operate at market open. An additional 9 REPs have signed Access Agreements but will not be ready to operate here that soon. These numbers represent 27 different REPs and 11 different parent companies. The number of REPs intending to compete for customers in the Lubbock area compares favorably to the number currently operating in several other Texas cities comparable in terms of size and location to Lubbock.

Furthermore, the activity and interest expressed by REPs about the opening of the Lubbock market strongly suggest that customers will receive active marketing, helpful information, and competitive pricing from a variety of REPs focusing on different segments of the customer market.

Fiscal Impact

The fiscal impact of opening the Lubbock market to competition has been extensively analyzed, and all possible steps have been taken to control the costs, recognizing that it is significant.

Staff/Board Recommending

Joel Ivy, Director of Electric Utilities
Electric Utility Board

Attachments

Resolution - CC

RESOLUTION

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

WHEREAS, on February 15, 2022, by EUB Resolution No. 2022-R0010, the Electric Utility Board ("EUB") passed an irrevocable resolution to offer customer choice to the ratepayers of LP&L, as contemplated by Chapter 40 of the Texas Utilities Code, subject to certain conditions outlined in the Resolution;

WHEREAS, on February 22, 2022, by Resolution No. 2022-R0108, the City Council of the City of Lubbock also passed an irrevocable resolution to choose to offer customer choice to the ratepayers of LP&L, as contemplated by Chapter 40 of the Texas Utilities Code, subject to certain conditions outlined in the Resolution;

WHEREAS, the EUB Resolution and the Council Resolution provided that customer choice would commence when certain enumerated conditions were met, one of which, condition (7), was that the EUB and the City Council of the City of Lubbock must determine that there are and will continue to be a sufficient number of retail electric providers, including a sufficient number of independent, unaffiliated retail electric providers, within the ERCOT market who are willing and able to provide service in Lubbock to adequately provide competitive customer choice for LP&L's certificated area;

WHEREAS, as of October 17, 2023, LP&L had received signed Competitive Retail Access Agreements from 32 retail electric providers (plus 9 more who will not be ready to provide service at market opening) representing 27 different brands and 11 parent companies. These are numbers similar to those found in several cities comparable to Lubbock in terms of size and location;

WHEREAS, the activity and interest expressed by retail electric providers about the opening of the retail market for competition in Lubbock strongly suggest that customers will receive active marketing, helpful information, and competitive pricing from a variety of retail electric providers focusing on various segments of the customer market;

WHEREAS, the multiple options that will be available to customers in LP&L's certificated area indicate that there will be a sufficient number of independent, unaffiliated retail electric providers to provide robust options for competitive customer choice in the Lubbock area;

WHEREAS, on October 17, 2023, the EUB adopted a Resolution finding that condition (7) in the Customer Choice Resolutions adopted by the EUB on February 15, 2022, and adopted by the Council on February 22, 2022,

relating to the sufficiency of retail electric providers willing and able to provide service in Lubbock, has been met.

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

THAT the City Council of the City of Lubbock hereby determines that condition (7) in Resolution No. 2022-R0108, passed by the Council on February 22, 2022, relating to the sufficiency of retail electric providers to adequately provide competitive customer choice for LP&L's certificated area, has been met.

Passed by the City Council of the City of Lubbock the _____ day of October, 2023.

Tray Payne, Mayor

ATTEST:

Courtney Paz, City Secretary

RESOLUTION

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

WHEREAS, by Resolution adopted by the Electric Utility Board of the City of Lubbock ("EUB") on February 15, 2022, the EUB irrevocably chose to offer customer choice through retail competition, as provided for under Texas law, to electric utility customers of LP&L and directed the Director of Electric Utilities to take all necessary steps to implement customer choice and to report to the EUB on those actions;

WHEREAS, the EUB Resolution also provided that customer choice would commence when certain enumerated conditions were met, one of which was that the EUB and the City Council of the City of Lubbock determine that there are and will continue to be a sufficient number of retail electric providers, including a sufficient number of independent, unaffiliated retail electric providers, within the ERCOT market who are willing and able to provide service in Lubbock to adequately provide competitive customer choice for LP&L's certificated area;

WHEREAS, LP&L has currently received signed Competitive Retail Access Agreements from 32 retail electric providers (plus 9 more who will not be ready to provide service at market opening) representing 27 different brands and 11 parent companies. These are numbers similar to those found in several cities comparable to Lubbock in terms of size and location;

WHEREAS, the activity and interest expressed by retail electric providers about the opening of the retail market for competition in Lubbock strongly suggest that customers will receive active marketing, helpful information and competitive pricing from a variety of retail electric providers focusing on various segments of the customer market;

WHEREAS, the multiple options that will be available to customers in the LP&L certificated area indicate that there will be a sufficient number of independent, unaffiliated retail electric providers to provide robust options for competitive customer choice in the Lubbock area.

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

THAT the Electric Utility Board hereby determines that condition (7) in the Customer Choice Resolution adopted by this Board on February 15, 2022, relating to the sufficiency of the number of retail electric providers, including a sufficient number of independent, unaffiliated retail electric providers within the

ERCOT market that are willing and able to provide service in Lubbock to adequately provide competitive customer choice for LP&L's certificated area has been met.

Passed by the Electric Utility Board this 17th day of October, 2023.


Gwen Stafford, Chair

ATTEST:


Eddie Schulz, Board Secretary

APPROVED AS TO CONTENT:


Joel Ivy, Chief Administrative Officer,

APPROVED AS TO FORM:


Carolyn Shellman, Interim General Counsel