

**City of Lubbock, Texas**  
**Regular City Council Meeting**  
**October 8, 2024**

Mark W. McBrayer, Mayor  
Christy Martinez-Garcia, Mayor Pro Tem, District 1  
Gordon Harris, Councilman, District 2  
David Glasheen, Councilman, District 3  
Brayden Rose, Councilman, District 4  
Dr. Jennifer Wilson, Councilwoman, District 5  
Tim Collins, Councilman, District 6



W. Jarrett Atkinson, City Manager  
Matt Wade, City Attorney  
Courtney Paz, City Secretary

<http://www.mylubbock.us>

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

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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.

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*Executive Session Disclosure Statement: The City Council reserves the right to adjourn into executive session at any time during the course of the meeting to discuss any item listed on this agenda as authorized by Chapter 551 of the Texas Government Code, including but not necessarily limited to §551.071 (Consultation with Attorney), §551.072 (Deliberations regarding Real Property), §551.073 (Deliberations regarding Gifts and Donations), §551.074 (Personnel Matters), §551.076 (Deliberations regarding Security Devices), §551.086 (Public Power Utilities: Competitive Matters), §551.087 (Deliberations regarding Economic Development Negotiations).*

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

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

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

1. Hear and discuss presentations regarding the following and provide guidance to staff as appropriate.
1. 1. Frenship Independent School District Update

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

2. **Executive Session**



2. 1. Hold an executive session in accordance with Texas Government Code, Section 551.071, with legal counsel for advice about pending or contemplated litigation or settlement agreement and on matters in which the duty of the attorney under the Texas Disciplinary Rules of Professional Conduct conflicts with Chapter 551.
2. 1. 1. Lake 7
2. 1. 2. Vital Statistics
2. 1. 3. Equal Employment Opportunity Commission Charge 453-2024-01616
2. 2. Hold an executive session in accordance with the Texas Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property.
2. 2. 1. Lake 7
2. 3. 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, Health/Educational Facilities Development Corporation Board, Lubbock Emergency Communications District Board of Managers, Planning & Zoning Commission, and Zoning Board of Adjustment.

### **Adjourn from Executive Session**

**1:30 p.m. - City Council reconvenes in Open Session in City Council Chambers.**

### **3. Ceremonial Items**

3. 1. Invocation
3. 2. Pledges of Allegiance

### **Call to Order**



4. **Citizen Comments - According to Lubbock City Council Rules, any citizen wishing to appear in-person before a regular meeting of the City Council, regarding any matter posted on the City Council Agenda below, shall complete the sign-up form provided at the meeting, no later than 1:30 p.m. on October 8, 2024. Citizen Comments provide an opportunity for citizens to make comments and express a position on agenda items.**
5. **Minutes**
5. 1. August 30, 2024 Special City Council Meeting - Electric Utility Board  
September 10, 2024 Regular City Council Meeting
6. **Consent Agenda - Items considered to be routine are enacted by one motion without separate discussion. If the City Council desires to discuss an item, the item is removed from the Consent Agenda and considered separately.**
6. 1. **Resolution - Risk Management:** Consider a resolution authorizing the Mayor to execute, for and on behalf of the City of Lubbock, a Compromise Settlement Agreement and Release of All Claims, in a lawsuit involving a motor vehicle collision, by and between the City of Lubbock and Fransisa Reyes (Cause No. DC-2023-CV-0500 – *Fransisa Reyes v. City of Lubbock*).
6. 2. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing portions of a private utility easement located in Section 6, Block E-2, Lubbock County, Texas, in the Ranchland Terrace Subdivision, at the northeast corner of 40th Street and Chicago Avenue.
6. 3. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to accept, for and on behalf of the City of Lubbock, one (1) street, public use, and right-of-way deed and one (1) drainage easement, and all related documents, in connection with certain real property located in Section 3, Block JS, Lubbock County, Texas, at the southwest corner of Erskine Street and Milwaukee Avenue, to be utilized for the Erskine Street Project.
6. 4. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Contract 17634, with Freese and Nichols, Inc., for professional engineering services associated with the design of Pump Station 11B at the North Water Treatment Plant.
6. 5. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Contract 18335, with Kimley-Horn and Associates, Inc., for an Impact Fee Report Update, including land use assumptions and capital project plans.



6. 6. **Resolution - Planning:** Consider a resolution authorizing the Mayor to execute Purchasing Order Contract 10027872, with SHI Government Solutions, Inc. for short-term rental permitting, compliance, and Hotel Occupancy Tax collection software utilizing Buy Board Contract 661-22.
6. 7. **Resolution - Public Works Traffic Management:** Consider a resolution authorizing the Mayor to execute Amendment No. 1 to Contract 17858, with AtkinsRealis, for additional engineering services related to the City's Americans with Disabilities Act Transition Plan Sidewalk Gap Analysis Project.
6. 8. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Contract 12871, a Community Development Block Grant Funding Agreement, and all related documents, by and between the City of Lubbock and the U. S. Department of Housing and Urban Development, for the funding of public service activities, non-public service activities, housing, direct delivery of services, and administration.
6. 9. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Contract 12872, an Emergency Solutions Grant Funding Agreement, and all related documents, by and between the City of Lubbock and the U. S. Department of Housing and Urban Development, for the funding of Emergency Shelter, Rapid Re-Housing, Homeless Management Information Systems, and administration.
6. 10. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Contract 12873, a HOME Investment Partnership and Funding Agreement, and all related documents, by and between the City of Lubbock and the U.S. Department of Housing and Urban Development, for the funding of Community Housing Development Organization operations and projects, affordable housing, and administration.
6. 11. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to grant the waiver of Payment in Lieu of Taxes for Fiscal Year 2023, requested by the Lubbock Housing Authority.
6. 12. **Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute Amendment No. 19 to Contract 15200, with RS&H, Inc., for professional architectural and engineering services for Runway Lights Replacement at Lubbock Preston Smith International Airport.
6. 13. **Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute a Fifth Amendment to Contract 15038, with Webber LLC, to extend the contract term and rental rate for the land lease agreement at Lubbock Preston Smith International Airport.
6. 14. **Resolution - Information Technology:** Consider a resolution authorizing the Mayor to execute Purchase Order 33100052, with Paradigm Traffic Systems, for the purchase of Ruggedcom L3 Switches for the Traffic Signal Network.



6. 15.     **Resolution - Fleet Services:** Consider a resolution authorizing the City Manager or his designee, to purchase all approved vehicles and equipment, including their lighting and associated accessories, for Fiscal Year 2024-25, to replace essential assets in various City departments.
6. 16.     **Resolution - Police:** Consider a resolution authorizing the Mayor to execute an agreement, by and between the City of Lubbock, the United States Department of Justice, and the United States Drug Enforcement Administration, for participation in the Fiscal Year 2025-High Intensity Drug Trafficking Area Task Force Agreement and any associated documents, including an Asset Sharing Agreement, to disrupt illicit drug traffic in the Lubbock area.
6. 17.     **Resolution - Police:** Consider a resolution authorizing the Mayor to execute an agreement, by and between the City of Lubbock, the United States Department of Justice, and the United States Drug Enforcement Administration, for participation in the FY 2025 Program-Funded State and Local Task Force Agreement - Task Force Group (Lubbock) and any associated documents, including an Asset Sharing Agreement, to disrupt illicit drug traffic in the Lubbock area.
6. 18.     **Resolution - Police:** Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding with the Children’s Advocacy Center of the South Plains, for coordination of joint investigations involving child abuse.
6. 19.     **Resolution - Police:** Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding for Law Enforcement Services, by and between the City of Lubbock and the Lubbock Independent School District, to outline communication and coordination efforts between the department and the agency, according to Texas Education Code, Section 37.081 (g).
6. 20.     **Ordinance 2nd Reading - Planning (District 4):** Consider Ordinance No. 2024-O0131, for Zone Case 2161-M, a request of HFA for Lubbock Commercial Buildings, for a zone change from Neighborhood Commercial District (NC) to Auto-Urban Commercial District (AC), at 2731 82nd Street, located south of 82nd Street and east of Elgin Avenue, on approximately 1.25 acres of unplatted land out of Block E-2, Section 13.
6. 21.     **Ordinance 2nd Reading - Planning (District 4):** Consider Ordinance No. 2024-O0132, for Zone Case 3267-A, a request of Spindlebock Properties, LLC for a zone change from Neighborhood Commercial District (NC) to Heavy Commercial District (HC), at 3202, 3204, 3206, 3208, 3210, and 3212 118th Street and 3215, and 3217 116th Street, located between 116th Street and 118th Street and east of Indiana Avenue, Triple C Business Park Addition, Tracts A through H.

7.         **Regular Agenda**



7. 1. **Ordinance Single Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Refunding Bonds, not to exceed \$50,000,000, in one or more series, of current outstanding bond issuances with the refunding candidates being General Obligation Refunding Bonds, Series 2014, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2015, General Obligation Refunding, Series 2015 and General Obligation Refunding Bonds, Taxable Series 2015; levying a tax in payment thereof; providing for the award of the sale thereof in accordance with specified parameters; approving an official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.
7. 2. **Ordinance Single Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, Water and Wastewater System Revenue Refunding Bonds not to exceed \$65,000,000, in one or more series, of current outstanding bond issuances with the refunding candidates being the General Obligation Refunding Bonds, Series 2014, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2015, and General Obligation Refunding Bonds, Series 2015; providing for the award of the sale thereof in accordance with specified parameters; approving an official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.
7. 3. **Resolution - Finance:** Consider a resolution authorizing the defeasance and redemption of Lubbock Preston Smith International Airport's outstanding General Obligation Refunding Bonds, Series 2019A; approving and authorizing the execution of an escrow agreement; and resolving other matters incident and related thereto.
7. 4. **Resolution - Finance:** Consider a resolution authorizing the redemption of Lubbock Preston Smith International Airport's portion of the 2015 General Obligation Refunding Bonds.
7. 5. **Resolution - Finance:** Consider a resolution expressing intent to finance expenditures to be incurred in the General Fund, Internal Service Fund, Airport fund and Water/Wastewater Fund for various capital projects and equipment approved by the City Council in the Fiscal Year 2024-25 Operating Budget and Capital Program, and to reimburse the City from the proceeds of obligations that will be issued after the expenditure of funds to pay costs of such projects and equipment.
7. 6. **Resolution - Finance:** Consider a resolution authorizing publication of Notice of Intent to issue City of Lubbock, Texas, Water and Wastewater System Revenue Bonds, not to exceed \$66,000,000 for the following projects: Lake 7 Design and Land Acquisition, West Lubbock Water System Expansion, Pump Station 11B, East 50th Street Water Line Extension, Southwest Lubbock Sanitary Sewer Expansion and SEWRP Plant #4 Primary Clarifier Rehabilitation.
7. 7. **Resolution - Lubbock Power & Light:** Consider a resolution authorizing the redemption of the outstanding Series 2015 Electrical Light and Power Systems Revenue Bonds.



7. 8. **Board Appointments - City Secretary:** Consider appointments to the Airport Board, Animal Services Advisory Board, Capital Improvements Advisory Committee, Health/Educational Facilities Development Corporation Board, Keep Lubbock Beautiful Advisory Committee, Lubbock Economic Development Alliance, Inc. Board of Directors, Lubbock Emergency Communications District Board of Managers, Market Lubbock, Inc. Board of Directors, Model Codes & Construction Advisory Board, Planning & Zoning Commission, Veterans Advisory Committee, and the Zoning Board of Adjustment.
7. 9. **Board Appointments - City Secretary:** Consider appointments to the Electric Utility Board.
7. 10. **Ordinance 1st Reading - Planning:** Consider and take action on the City of Lubbock Planning and Zoning Commission's final report of October 3, 2024, 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. Section 39.03.015.e – Ground cover Requirements
  2. Table 39.03.016-2 – Bufferyard Classifications and Division 3.4 Trees, Landscaping, and Buffering
  3. Table 39.03.015-1 Landscape Points System
  4. Section 39.10.002 Definitions
  5. Table 39.03.015-1 Landscape Points System
  6. Section 39.03.019.a.6.B - Installation & Maintenance
  7. Section 39.10.002 - Definitions
  8. Appendix A Plant List and Chapter 39 – Unified Development Code
  9. Section 39.03.019.a.2 – Installation and Maintenance
  10. Section 39.03.016.e.1 – Bufferyard Standards
  11. Section 39.03.014.b General Provisions and Table 39.03.014-1 Required Landscaping Types Summary
  12. Table 39.03.015-1 Landscape Points System
  13. Table 39.03.015-1 Landscape Points System
  14. Section 39.03.016.e.3.B – Parking Bufferyard Standards
  15. Section 39.03.019.e.6 - Installation and Maintenance
  16. Table 39.03.014-1 – Required Landscaping Types Summary
  17. Table 39.03.015-1 – Landscape Points System
  18. Table 39.03.015-1 – Landscape Points System - Other
  19. Section 39.03.016.e.4 – Street Bufferyard
  20. Table 39.03.016-3 – Street Bufferyard Requirements
  21. Section 39.03.016.e.3.A – Parking Bufferyard Standards
  22. Section 39.03.016.e.3.B.i – Parking Bufferyard Standards - Composition
  23. Section 39.03.019.d.6 - Installation and Maintenance
  24. Section 39.03.015 – Development Landscaping
  25. Section 39.03.015 – Development Landscaping
  26. Figure 39.03.015-2 – Illustrative Parking Lot Planting Requirements
  27. Section 39.03.016.d.1 - Composition of Bufferyards
  28. Table 39.03.016-1 – District Bufferyard Standards



- 7. 11. **Ordinance 1st Reading - Public Works Water Utilities:** Consider an ordinance amending Section 22.03.083 of the City of Lubbock Code of Ordinances, regarding deposit requirements and related exceptions for utility service.
- 7. 12. **Ordinance 2nd Reading - Wastewater Utility:** Consider Ordinance No. 2024-00133, 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.
- 7. 13. **Public Hearing - Business Development:** Hold a public hearing for the City Council to consider the creation of a Tax Increment Reinvestment Zone for the North Park development area, whose boundaries include approximately 332.8 acres of land in a portion of the City of Lubbock, Lubbock County, Texas, generally bounded by Erskine Street to the north, North Winston Avenue to the east, West Loop 289 to the south, and Frankford Avenue to the west.



10/08/2024:

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### 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, Health/Educational Facilities Development Corporation Board, Lubbock Emergency Communications District Board of Managers, Planning & Zoning Commission, and Zoning Board of Adjustment.

**Item Summary**

Discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Electric Utility Board, Health/Educational Facilities Development Corporation Board, Lubbock Emergency Communications District Board of Managers, Planning & Zoning Commission, and Zoning Board of Adjustment.

**Fiscal Impact**

None

**Staff/Board Recommending**

Courtney Paz, City Secretary

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### Attachments

*No file(s) attached.*



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### Information

#### Agenda Item

August 30, 2024 Special City Council Meeting - Electric Utility Board  
September 10, 2024 Regular City Council Meeting

#### Item Summary

August 30, 2024 Special City Council Meeting - Electric Utility Board  
September 10, 2024 Regular City Council Meeting

#### Fiscal Impact

None

#### Staff/Board Recommending

Courtney Paz, City Secretary

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### Attachments

8.30.2024 S EUB

9.10.2024



**CITY OF LUBBOCK**  
**SPECIAL CITY COUNCIL MEETING**  
**August 30, 2024**  
**3:00 P.M.**

The City Council of the City of Lubbock, Texas met in special session on the 30th of August, 2024, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas at 3:00 p.m.

**3:06 P.M. CITY COUNCIL CONVENED**

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

Present: Mayor Mark W. McBrayer; Mayor Pro Tem Christy Martinez-Garcia; Council Member Tim Collins; Council Member Brayden Rose; City Secretary Courtney Paz; City Attorney Matt Wade; Deputy City Manager Bill Howerton

Absent: Council Member David Glasheen; Council Member Gordon Harris; Council Member Dr. Jennifer Wilson

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

*Note: City Council addressed agenda items in the following order:*  
• *Public Comment; and 3.1.*  
• *No quorum, of City Council, was present for all other items.*

**1. PUBLIC COMMENT**

Public comment is an opportunity for the public to make comments and express a position on agenda items.

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

**No one appeared to speak.**



**3:30 p.m. – Approximately** - Following completion of the Executive Session, the Electric Utility Board and City Council will reconvene in open session to discuss the items listed below. It is anticipated that the open session will begin at **3:30 p.m.** However, this is an approximation and the Board and City Council may begin the open session earlier or later depending on when the Executive Session is complete.

## **2. EXECUTIVE SESSION**

- 2. 1.** Hold an executive session in accordance with V.T.C.A. Government Code § 551.074 to deliberate the appointment, employment, evaluation, and duties of a public officer or employee (Director of Electric Utilities/Chief Administrative Officer, and General Counsel).

**\*This item was deleted.**

## **3. REGULAR SESSION**

- 3. 1.** Discuss and the Board will take action on the Fiscal Year 2024-25 Delivery Service Tariff (including delivery rates, discretionary rates, and fees), and recommend approval of same to the City Council of the City of Lubbock pursuant to §2.03.415(a) of the Code of Ordinances, City of Lubbock, Texas.

Harvey Hall, chief financial officer for LP&L, gave a presentation and answered questions from the Board. Joel Ivy, director of electric utilities, gave comments and answered questions from the Board.

Motion by Board Member Eddie Schulz, seconded by Board Member Solomon Fields, to approve the Fiscal Year 2024-25 Delivery Service Tariff (including delivery rates, discretionary rates, and fees), and recommend approval of same to the City Council of the City of Lubbock pursuant to §2.03.415(a) of the Code of Ordinances, City of Lubbock, Texas.

**Vote:** 8-0 Motion carried

- 3. 2.** Discuss and the Board will take action on the Lubbock Power & Light FY 2024-25 Operating Budget and Capital Program and make appropriate recommendations to the City Council of the City of Lubbock regarding Franchise Fee Equivalent (FFE) and Payment in Lieu of Taxes (PILOT) transfers collected through wholesale transmission rates (TCOS).

**\*This item was deleted.**

## **3:40 P.M. CITY COUNCIL ADJOURNED**

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

The August 30, 2024 Special City Council Meeting minutes were approved by the City Council on the 8th day of October, 2024.



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MARK W. McBRAYER, MAYOR

ATTEST:

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Courtney Paz, City Secretary

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



**CITY OF LUBBOCK**  
**REGULAR CITY COUNCIL MEETING**  
**September 10, 2024**  
**12:30 P. M.**

**The City Council of the City of Lubbock, Texas met in regular session on the 10th of September, 2024, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas at 12:30 p.m.**

**12:32 P.M. CITY COUNCIL CONVENED**

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

Present: Mayor Mark W. McBrayer; Mayor Pro Tem Christy Martinez-Garcia; Council Member Tim Collins; Council Member David Glasheen; Council Member Gordon Harris; Council Member Brayden Rose; Council Member Dr. Jennifer Wilson; City Manager W. Jarrett Atkinson; City Secretary Courtney Paz; City Attorney Matt Wade

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

*•Executive Session; 2.1-2.2; Citizen Comments 3; 4.1; 5.1-5.19; 5.22-5.36; 5.20-5.21; and 6.1-6.7.*

**1. Executive Session**

**The meeting recessed at 12:33 p.m. and reconvened in Executive Session under the provisions of Section 551, Texas Government Code. City Council reconvened in open session at 2:01 p.m., and the meeting was called to order at 2:05 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.** North Park Tax Increment Financing District
- 1. 2.** Hold an executive session in accordance with the Texas Government Code, Section 551.074, to discuss personnel matters, the appointment, employment, evaluation or reassignment of the following:
  - 1. 2. 1.** City Attorney
  - 1. 2. 2.** City Manager
  - 1. 2. 3.** City Secretary



1. 3. 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, Health/Educational Facilities Development Corporation Board, Lubbock Emergency Communications District Board of Managers, Planning & Zoning Commission, and Zoning Board of Adjustment.

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

City Council reconvened at 2:01 p.m.

**2. Ceremonial Items**

**2. 1. Invocation**

Spencer McCombs, President of the Lubbock Texas Stake of the Church of Jesus Christ of Latter-day Saints, led the invocation.

**2. 2. Pledges of Allegiance**

Pledges of Allegiance, to the United States and Texas Flags, were led by Mayor Pro Tem Christy Martinez-Garcia.

**Call to Order**

The meeting was called to order at 2:05 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 10, 2024. Citizen Comments provide an opportunity for citizens to make comments and express a position on agenda items.**

Sign ups:

- Deanne Clark; Drew Landry, member of the Private Sewer Lateral Line Ad-Hoc Committee; Keri Thomas; Dr. John Thomas; and Mikel Ward appeared before City Council to speak on item 6.3 (an ordinance approving and adopting a budget for Fiscal Year 2024-25).
- Frosty Poston appeared before City Council to speak on item 6.4 (a resolution ratifying the adoption of the FY 2024-25 Budget).
- Jim Baxa; Deanne Clark; Keri Thomas; Dr. John Thomas; Mikel Ward; Boyd Goodloe; and Frosty Poston appeared before City Council to speak on item 6.5 (an ordinance setting the tax rate).

**4. Minutes**



4. 1. August 5, 2024 Special City Council Meeting - Budget Work Session 1  
August 6, 2024 Special City Council Meeting - Budget Work Session 2  
August 7, 2024 Special City Council Meeting - Budget Work Session 3  
August 13, 2024 Regular City Council Meeting

Motion by Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member Tim Collins, to approve the August 5, 2024 Special City Council Meeting - Budget Work Session 1 minutes; the August 6, 2024 Special City Council Meeting - Budget Work Session 2 minutes; the August 7, 2024 Special City Council Meeting - Budget Work Session 3 minutes; and the August 13, 2024 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 Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member David Glasheen, to approve items 5.1-5.19 and 5.22-5.36.

**Vote:** 7 - 0 Motion carried

5. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2024-O0111, Amendment 44, amending the FY 2023-24 Budget for municipal purposes respecting the Community Development Fund; providing for filing; and providing for a savings clause.
5. 1. 1. **Resolution - Community Development:** Resolution No. 2024-R0402 authorizing the Mayor to execute Community Development Funding Contract 18278, and all related documents, with the Texas Department of Housing and Community Affairs, for the Comprehensive Energy Assistance Program to assist low income households in meeting their immediate energy needs.
5. 2. **Resolution - Right-of-Way:** Resolution No. 2024-R0403 authorizing the Mayor to execute a Commercial Real Estate Sales Contract, by and between the City of Lubbock and Lone Star Suds - 19th Ltd., for the sale of real property located within Lots 1 and 2, Block 1, Elwood Place Addition to the City of Lubbock, Lubbock County.
5. 3. **Resolution - Right-of-Way:** Resolution No. 2024-R0404 authorizing the Mayor to accept, for and on behalf of the City of Lubbock, one (1) Street, Public Use, and Right-of-Way Deed, and all related documents, in connection with certain real property located in Lot 6, Block 13, Phyllis Wheatley Addition to the City of Lubbock, Lubbock County, Texas.
5. 4. **Resolution - Engineering:** Resolution No. 2024-R0405 authorizing the Mayor to execute Amendment No. 1 to Professional Services Agreement Contract 17778, with Freese and Nichols, Inc., for design and bid phase professional services for the Water System Electrical Improvements Project at the North Water Treatment Plant's Terminal Storage Reservoir.



- 5. 5.     **Resolution - Engineering:** Resolution No. 2024-R0406 authorizing the Mayor to execute Professional Services Agreement Contract 18273, with Kimley-Horn and Associates, Inc., for construction phase services for Upland Avenue, Segment 1, 66th Street to 82nd Street.
- 5. 6.     **Resolution - Water System Operations:** Resolution No. 2024-R0407 authorizing the Mayor to execute Contract 18255, with the United States Geological Survey, Oklahoma-Texas Water Science Center, for monitoring and analyzing storm water discharging into both Lake Alan Henry and the future Lake 7.
- 5. 7.     **Resolution - Public Works Traffic Management:** Resolution No. 2024-R0408 authorizing the Mayor to execute Purchase Order 10027686, with Mobotrex, Inc., for the purchase of traffic signal components for various intersections under construction by the Texas Department of Transportation along 19th Street (SH114), and the intersection at Interstate 27 and Regis Street (FM2641).
- 5. 8.     **Resolution - Community Development:** Resolution No. 2024-R0409 authorizing the Mayor to execute Amendment No. 1 to the HOME Investment Partnership Program Funding Agreement 16771, and all related documents, with the City of Lubbock Housing Initiative, to provide rehabilitation of affordable rental housing.
- 5. 9.     **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-O0112, approving the seventeenth supplemental ordinance updating the Vintage Township Public Improvement District Service and Assessment Plan and Assessment Roll.
- 5. 10.    **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-O0118, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the Bell Farms Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens against the property in the district and against the owners thereof; and providing for the collection of the assessment.
- 5. 11.    **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-O0119, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the Northwest Passage Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying the 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens against the property in the district and the owners thereof; and providing for the collection of the assessments.
- 5. 12.    **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-O0120, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the Upland Crossing Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens against the property in the district and against the owners thereof; and providing for the



collection of the assessment.

5. 13. **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-00121, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the Upland Crossing 2 Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens against the property in the district and against the owners thereof; and providing for the collection of the assessment.
5. 14. **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-00122, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the Upland Crossing 3 Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens against the property in the district and against the owners thereof; and providing for the collection of the assessment.
5. 15. **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-00123, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the North Overton Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens against the property in the district and against the owners thereof; and providing for the collection of the assessment.
5. 16. **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-00124, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the Quincy Park Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens against the property in the district and against the owners thereof; and providing for the collection of the assessment.
5. 17. **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-00125, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the Valencia Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens against the property in the district and against the owners thereof; and providing for the collection of the assessment.
5. 18. **Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-00126, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the North Point Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens



against the property in the district and against the owners thereof; and providing for the collection of the assessment.

- 5. 19. Ordinance 2nd Reading - Business Development:** Ordinance No. 2024-O0127, reviewing classifications for the methods of assessing special benefits for the services and improvements of property in the Willow Bend Villas Public Improvement District; approving, adopting, and filing with the City Secretary the assessment roll; levying 2024 assessments for the cost of certain services and improvements to be provided in the district during FY 2024-25; fixing charges and liens against the property in the district and against the owners thereof; and providing for the collection of the assessment.

- 5. 20. Resolution - Business Development:** Resolution No. 2024-R0420 authorizing a Downtown Grant Program (Facade) expenditure of Market Lubbock, Inc., to be provided to the YWCA of Lubbock, located at 1500 14th Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

Jarrett Atkinson, city manager; Brianna Brown, director of business development; Matt Wade, city attorney; and Glenda Mathis, chief executive officer of YWCA of Lubbock, gave comments and answered questions from City Council.

Motion by Mayor Pro Tem Christy Martinez-Garcia, to close discussion and call the question on this item. Without objection, or a second to the motion, discussion ended and the vote was taken.

Motion by Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member Tim Collins, to approve Resolution No. 2024-R0420.

**Vote:** 5 - 2 Motion carried

NAY: Mayor Mark W. McBrayer  
Council Member David Glasheen

- 5. 21. Resolution - Business Development:** Resolution No. 2024-R0421 authorizing a Downtown Grant Program (Permittable) expenditure of Market Lubbock, Inc., to be provided to YWCA of Lubbock, located at 1500 14th Street, pursuant to Article IV, Section 5, of the Amended and Restated Bylaws of the Market Lubbock Development Corporation.

Jarrett Atkinson, city manager; Brianna Brown, director of business development; and Glenda Mathis, chief executive officer of YWCA of Lubbock, gave comments and answered questions from City Council.

Motion by Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member Brayden Rose, to approve Resolution No. 2024-R0421.

**Vote:** 4 - 3 Motion carried

NAY: Mayor Mark W. McBrayer  
Council Member David Glasheen



Council Member Dr. Jennifer Wilson

- 5. 22. **Resolution - Municipal Court:** Resolution No. 2024-R0410 authorizing the Mayor to execute Amendment No. 1 to the Interlocal Agreement with Lubbock County, for Juvenile Case Manager Services.
- 5. 23. **Resolution - Police:** Resolution No. 2024-R0411 authorizing the Mayor to execute the renewal of the Interlocal Agreement between the City of Lubbock and Lubbock County, Texas, as constituent agencies of the Lubbock Metropolitan Special Crimes Unit, to identify, investigate, and deter violent criminal activity in Lubbock County.
- 5. 24. **Resolution - Police:** Resolution No. 2024-R0412 authorizing the City Manager to establish a program to transfer ownership of service duty weapons to retired Lubbock Police Department officers.
- 5. 25. **Ordinance 2nd Reading - Planning (District 4):** Ordinance No. 2024-O0113, for Zone Case 1067-G, a request of Helmos Interests LTD, for a zone change from Neighborhood Commercial District (NC) to Neighborhood Commercial District (NC) Specific Use for a smoke shop, at 6909, 6911, 6913, 6917, 6923, 6925, 6931, and 6951 Indiana Avenue, located east of Indiana Avenue and north of 70th Street, Liberty Village Addition, Lots 1-55 of Tract A.
- 5. 26. **Ordinance 2nd Reading - Planning (District 5):** Ordinance No. 2024-O0114, for Zone Case 3303-D, a request of Steen Realty Group of Keller Williams for SE4NS Properties, LLC, for a zone change from Industrial Park District (IP) to Auto-Urban Commercial District (AC), at 11919 and 11923 Frankford Avenue, located east of Frankford Avenue and south of 119th Street, Stonewood Industrial Park Addition, Tracts B-1 and B-2.
- 5. 27. **Ordinance 2nd Reading - Planning (District 5):** Ordinance No. 2024-O0115, for Zone Case 3506, a request of Brian and Chad Carter, for a zone change from Low Density Single-Family District (SF-2) to Heavy Commercial District (HC), at 5834 and 5836 146th Street, west of Frankford Avenue and north of 146th Street, on approximately 4.978 acres of unplatted land out of Block AK, Section 9.
- 5. 28. **Ordinance 2nd Reading - Planning (District 5):** Ordinance No. 2024-O0116, for Zone Case 3507, a request of Mountain Top Engineering for CTJ Diamond Investments, LLC, for a zone change from Low Density Single-Family District (SF-2) to Auto-Urban Commercial District (AC), at 7108 82nd Street, located north of 82nd Street and east of Upland Avenue, on 1.01 acres of unplatted land out of Block AK, Section 30.
- 5. 29. **Ordinance 2nd Reading - Planning (District 6):** Ordinance No. 2024-O0117, for Zone Case 3505, a request of Seventeen Services, LLC for Scarlet River, LLC, for a zone change from Low Density Single-Family District (SF-2) to Heavy Commercial District (HC), at 2909 and 2911 North Frankford Avenue, located west of North Frankford Avenue and north of Ursuline Street, on 5.023 acres of unplatted land out of Block JS, Section 12.



- 5. 30. **Resolution - City Manager:** Resolution No. 2024-R0413 approving American Rescue Plan Act Agreement No. 18314, by and between the City of Lubbock and Armstrong Mechanical Co., Inc., for workforce training grants.
- 5. 31. **Resolution - City Manager:** Resolution No. 2024-R0414 approving American Rescue Plan Act Agreement No. 18315, by and between the City of Lubbock and Dale Bolles Plumbing, Inc., for workforce training grants.
- 5. 32. **Resolution - City Manager:** Resolution No. 2024-R0415 approving American Rescue Plan Act Agreement No. 18316, by and between the City of Lubbock and Precision Pros Plumbing, for workforce training grants.
- 5. 33. **Resolution - City Manager:** Resolution No. 2024-R0416 approving American Rescue Plan Act Agreement No. 18317, by and between the City of Lubbock and Larcon Electric, L.C., for workforce training grants.
- 5. 34. **Resolution - City Manager:** Resolution No. 2024-R0417 approving American Rescue Plan Act Agreement No. 18318, by and between the City of Lubbock and Bruce Thornton Air Conditioning, for workforce training grants.
- 5. 35. **Resolution - City Council:** Resolution No. 2024-R0418 approving a contract amendment to American Rescue Plan Act Agreement No. 16663, by and between the City of Lubbock and the East Lubbock Resident Owned Business Initiative, for job training services.
- 5. 36. **Resolution - City Secretary:** Resolution No. 2024-R0419 confirming the appointment by City Manager W. Jarrett Atkinson, of Jimmy Lee Tillinghast as a member of the Civil Service Commission of the City of Lubbock.

6. **Regular Agenda**

- 6. 1. **Resolution - City Manager:** Resolution No. 2024-R0422 to ratify and confirm the appointment of Richard M. Stewart as Fire Chief for the City of Lubbock.

Jarrett Atkinson, city manager; and Richard M. Stewart gave comments and answered questions from City Council.

Motion by Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member Dr. Jennifer Wilson, to approve Resolution No. 2024-R0422.

**Vote:** 7 - 0 Motion carried

- 6. 2. **Ordinance 1st Reading - Planning:**

Ordinance No. 2024-O0130, the City of Lubbock Planning and Zoning Commission's final report of September 5, 2024, 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. Table 39.03.023-2 (related to Base Public and Nonresidential Districts Sign Standards)
2. Section 39.02.004.a.7, Section 39.02.004.b.7, Section 39.02.004.c.7, Section 39.02.004.d.7, Section 39.02.004.e.7 (related to Signs in Residential Districts for Non-Residential Uses)
3. Section 39.03.023.b.8 (related to Monument Signs)

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

Motion by Council Member Tim Collins, seconded by Council Member David Glasheen, to approve Ordinance No. 2024-O0130.

**Vote:** 7 - 0 Motion carried

- 6. 3. Ordinance 2nd Reading - Finance:** Ordinance No. 2024-O0128, approving and adopting a budget for Fiscal Year 2024-25; approving summary of estimated and forecasted revenues, appropriations, and use of excess reserves for all funds of the city; providing for necessary transfers of funds between accounts and departments, if required; authorizing reduction of spending by City Manager if necessary; re-appropriation of balances which support authorized obligations or encumbrances; providing for filing of Adopted Budget; establishing civil service classifications and positions; appropriating funds for the Fiscal Year 2024-25 Operating Budget and Capital Program of the City of Lubbock; providing for continuation of appropriations for projects in capital program; approving all permit, license, fees, and charges for service recommended to be adjusted; approving the pay plan and positions; approving personnel; amending subsections (a), (b), (c), and (d) of section 4.02.041 of the Code of Ordinances by revising animal service fees as contained therein; amending subsection (a) of section 22.04.041 of the Code of Ordinances by revising the wastewater base charge as contained therein; amending subsection (a) of section 22.04.133 of the Code of Ordinances by revising the sewage disposal permit fee as contained therein; amending subsections (h), (i), (j), and (k) of section 22.04.174 of the Code of Ordinances by revising the septic load fees as contained therein; amending subsections (b) and (c) of section 22.06.051 of the Code of Ordinances of the City of Lubbock by revising the solid waste landfill service fees as contained therein; amending subsection (a) of section 22.06.185 of the Code of Ordinances of the City of Lubbock by revising the solid waste collections service fees as contained therein; providing for the reconciliation of the transfer of funds from the General Fund to Enterprise Funds; accepting the budgets for Lubbock Economic Development Alliance, Market Lubbock, Inc., Civic Lubbock, Inc., and Vintage Township Public Facilities Corporation; finding that proper notice of meeting provided by law and ratifying such; providing for publication; and providing for a savings clause.

Jarrett Atkinson, city manager, gave a presentation and answered questions from City Council.  
Matt Wade, city attorney, gave comments and answered questions from City Council.

Motion by Council Member Tim Collins, seconded by Council Member Dr. Jennifer Wilson, to approve Ordinance No. 2024-O0128.

**Vote:** 5 - 2 Motion carried

NAY: Mayor Mark W. McBrayer  
Council Member David Glasheen



Motion by Council Member David Glasheen, seconded by Mayor Mark W. McBrayer, to amend the proposed budget to incorporate the changes in Mayor Mark W. McBrayer's budget proposal.

**Vote:** 2 - 5 Failed

NAY: Mayor Pro Tem Christy Martinez-Garcia  
Council Member Tim Collins  
Council Member Gordon Harris  
Council Member Brayden Rose  
Council Member Dr. Jennifer Wilson

- 6. 4. Resolution - Finance:** Resolution No. 2024-R0423 ratifying the adoption of the FY 2024-25 Budget that will require raising more revenue from property taxes than in the previous year.

Matt Wade, city attorney, gave comments and answered questions from City Council.

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Brayden Rose, to approve Resolution No. 2024-R0423.

**Vote:** 5 - 2 Motion carried

NAY: Mayor Mark W. McBrayer  
Council Member David Glasheen

- 6. 5. Ordinance 2nd Reading - Finance:** Ordinance No. 2024-O0129, setting the tax rate and levying a tax upon all property subject to taxation within the City of Lubbock for 2024; apportioning said levy among the various funds and items for which revenue must be raised; fixing the times in which said taxes shall be paid and assessing penalty and interest for nonpayment of such taxes within the time provided.

Jarrett Atkinson, city manager; and Matt Wade, city attorney, gave comments and answered questions from City Council.

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Brayden Rose, to approve Ordinance No. 2024-O0129, to approve a property tax rate to be increased by the adoption of a tax rate of 0.470120, which is effectively a 0.72% increase in the tax rate.

**Vote:** 4- 3 Failed

NAY: Mayor Mark W. McBrayer  
Mayor Pro Tem Christy Martinez-Garcia  
Council Member David Glasheen

\*State law requires a supermajority of 60%, which is 5 votes, to approve a tax rate that is greater than the no-new-revenue tax rate.



Without objection, City Council considered items 6.6-6.7 prior to reconsideration of motions below.

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Tim Collins, to re-open discussion and consideration of item 6.5.

**Vote:** 7 - 0 Motion carried

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Tim Collins, to approve Ordinance No. 2024-O0129, a property tax rate to be increased by the adoption of a tax rate of 0.470120, which is effectively a 0.72% increase in the tax rate.

**Vote:** 5 - 2 Motion carried

NAY: Mayor Mark W. McBrayer  
Council Member David Glasheen

- 6. 6. Resolution - Finance:** Resolution No. 2024-R0424 amending the allocation of the Hotel Occupancy Tax Revenues for FY 2024-25 and distributing receipts, net of collection expenses, as authorized in Subsection 18.03.001(b)(2) of the Code of Ordinances of the City of Lubbock.

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

Motion by Council Member Tim Collins, seconded by Council Member Brayden Rose, to approve Resolution No. 2024-R0424.

**Vote:** 6 - 1 Motion carried

NAY: Council Member David Glasheen

- 6. 7. Resolution - Lubbock Power and Light:** Resolution No. 2024-R0425 adopting the Delivery System Electric Rate/Tariff Schedule (Tariff) of Lubbock Power & Light (LP&L), the City of Lubbock's municipally owned electric utility, applicable to all rate classes, effective November 1, 2024.

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

Motion by Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member Brayden Rose, to approve Resolution No. 2024-R0425.

**Vote:** 7 - 0 Motion carried



**5:05 P.M. CITY COUNCIL ADJOURNED**

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

The September 10, 2024 Regular City Council Meeting minutes were approved by the City Council on the 8th day of October, 2024.

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MARK W. McBRAYER, MAYOR

ATTEST:

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Courtney Paz, City Secretary



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## Information

### Agenda Item

**Resolution - Risk Management:** Consider a resolution authorizing the Mayor to execute, for and on behalf of the City of Lubbock, a Compromise Settlement Agreement and Release of All Claims, in a lawsuit involving a motor vehicle collision, by and between the City of Lubbock and Fransisa Reyes (Cause No. DC-2023-CV-0500 – *Fransisa Reyes v. City of Lubbock*).

### Item Summary

The settlement agreement arises out of a motor vehicle incident that occurred on June 14, 2021, between a City of Lubbock Animal Services vehicle and a vehicle driven by Fransisa Reyes. Ms. Reyes sustained significant injuries as a result of the collision.

### Fiscal Impact

The settlement is in the amount of \$90,000. Funds are budgeted in the Adopted FY 2024-25 Risk Management Fund.

### Staff/Board Recommending

Cheryl Brock, Interim Chief Financial Officer

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## Attachments

Resolution - Compromise and Settlement Agreement  
Reyes Settlement



**RESOLUTION**

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

**THAT** the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Compromise Settlement Agreement and Release of All Claims with Fransisa Reyes, and related documents. Said Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

**Passed by the City Council on \_\_\_\_\_.**

\_\_\_\_\_  
**MARK W. MCBRAYER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
W. Jarrett Atkinson, City Manager

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Ryan Brooke, Senior Assistant City Attorney



STATE OF TEXAS           §  
                                     §       **KNOW ALL MEN BY THESE PRESENTS**  
COUNTY OF LUBBOCK   §

**COMPROMISE SETTLEMENT AGREEMENT  
AND RELEASE OF ALL CLAIMS**

This Compromise Settlement Agreement and Release of All Claims ("Settlement Agreement") is entered into by and between the **CITY OF LUBBOCK, TEXAS** ("the City"), and **FRANSISA REYES**, ("the Claimant").

**RECITALS**

WHEREAS, on or about June 14, 2021, Claimant was driving her vehicle Southbound at or near 84<sup>th</sup> Street and Avenue P in Lubbock, Texas; and

WHEREAS, an employee of the City of Lubbock was operating a vehicle on 84<sup>th</sup> Street, Eastbound; and

WHEREAS, the City vehicle and Claimant's vehicle were involved in a collision; and

WHEREAS, Claimant alleges the City driver was negligent; and

WHEREAS, Claimant asserts she suffered personal injuries as a result of this accident; and

WHEREAS, Claimant filed suit against the City of Lubbock in Cause No. DC-2023-CV-0500 in the 237<sup>th</sup> District Court of Lubbock County, Texas; and

WHEREAS, the City denies any liability to Claimant for any claim or cause of action, but is willing to settle all claims to avoid the inconvenience, distractions, uncertainties and expenses attendant to litigation and trial, in exchange for the consideration and releases set forth below.





1. IN CONSIDERATION of the payment by the City of the sum of NINETY THOUSAND and No/100 Dollars (\$90,000.00), Claimant does hereto enter into this Settlement Agreement and does hereby release, acquit, and forever discharge the City of Lubbock, Texas, its respective predecessors, successors, assigns, owners, City Council, partners, members, managers, employees, directors, legal representatives, insurers, independent contractors, agents and attorneys (the "Releasees"), of and from any and all liability, claims, demands, damages, attorney's fees, costs, liens, where statutorily provided or otherwise, expenses, services, actions, causes of action, or suit in equity, of whatsoever kind or nature, whether heretofore or hereafter accruing, which Claimant now has or may hereafter have, whether known or unknown, arising from the motor vehicle accident on June 14, 2021, involving the City of Lubbock. All sums set forth above constitute damages on account of personal physical injuries arising from an occurrence, within the meaning of Section 104(a)(2) of the Internal Revenue Code of 1986, as amended, and that no portion thereof constitutes payment for lost wages, exemplary damages, or punitive damages.
2. Claimant hereby agrees that she is responsible for any outstanding liens, claims, or rights of subrogation that may now or hereafter exist arising out of or relating to this occurrence including, but not limited to, Medicare Liens.
3. Payment shall be made by check payable to Fransisa Reyes and Glasheen, Valles & Inderman, L.P., after this Settlement Agreement is signed by all parties.
4. This Settlement Agreement may be pled as a full and complete defense to any action, suit, or other proceeding, which may be instituted, prosecuted or attempted





for, upon, or in respect of any of the claims released hereby. The Claimant agrees that any such proceeding would cause irreparable injury to the party against whom it is brought and that any court of competent jurisdiction may enter an injunction restraining prosecution thereof.

5. This Settlement Agreement includes any transaction, occurrence, matter or thing whatsoever, whether known or unknown, arising or occurring due to this incident including, but not limited to, all claims, demands, causes of actions of any nature, whether in contract or in tort, or arising out of, under or by virtue of any statute or regulation, that are recognized by law or that may be created or recognized in the future by any manner, including, without limitation, by statute, regulation, or judicial decision, for past, present and future damage or loss, or remedies of any kind that are now recognized by law or that may be created or recognized in the future by any manner, and including but not limited to the following: all actual damages, all exemplary and punitive damages, all penalties of any kind or statutory damages. Claimant hereby declares that she fully understands the terms of this Settlement Agreement and voluntarily accepts the above stated sum for the purpose of making full and final settlement of any and all the injuries, damages, expenses, and inconveniences above mentioned.
6. The Claimant agrees that the damages suffered by the City, and persons, firms, corporations, or other entities protected by this Settlement Agreement by reason of any breach of any provision of this Settlement Agreement shall include not only the amount of any judgment that may be rendered against said City, persons, firms, corporations, or other entities, or any of them, by reason of a breach of this





Settlement Agreement, but shall also include all damages suffered by them, including the cost of attorneys' fees and other costs and expenses of instituting, preparing, prosecuting, defending any action or suit resulting from a breach of this Settlement Agreement, whether taxable or otherwise, and costs to them of attorneys' fees and all other costs and expenses of instituting, preparing, or prosecuting any counterclaim, suit, motion, or action to recover damages resulting from the breach of this Settlement Agreement, whether taxable or otherwise.

7. Claimant hereby represents and warrants that she, and she alone, owns the claimed rights, interests, demands, actions, or causes of action, obligations, or any other matter covered by this Settlement Agreement (the "Claimed Rights"), and that she has not transferred, conveyed, pledged, assigned or made any other disposition of the Claimed Rights. Claimant agrees to indemnify and hold harmless the Releasees from and against any and all claims, demands, or causes of action and the reasonable and necessary costs, including attorneys' fees, incurred in the defense of any such claim that any person who claims an ownership, including any liens whether statutory or otherwise, in the claimed rights, interests, demands, actions, or causes of action, obligations, or any other matter covered by this Settlement Agreement.
8. The terms of this Settlement Agreement shall inure to the benefit of, and be binding upon, the Claimant, Releasees, and their legal representatives, successors or assigns.
9. All signatories to this Settlement Agreement hereby warrant that they have the authority to execute this Settlement Agreement and bind the respective parties.



10. This Settlement Agreement states the entire agreement of the parties with respect to the matters discussed herein, and supersedes all prior or contemporaneous oral or written understandings, agreements, statements or promises.
11. This Settlement Agreement may not be amended or modified in any respect except by a written instrument duly executed by all of the parties to this Settlement Agreement.
12. If this Settlement Agreement does not become effective for any reason, it shall be deemed negotiations for settlement purposes only and will not be admissible in evidence or usable for any purposes whatsoever.
13. This Settlement Agreement has been and shall be construed to have been drafted by all parties to it so that the rule of construing ambiguities against the drafter shall have no force or effect.
14. If any portion or term of this Settlement Agreement is held unenforceable by a court of competent jurisdiction, the remainder of this Settlement Agreement shall not be affected and shall remain fully in force and enforceable.
15. Each party has consulted with whatever consultants, attorneys or other advisors each deems appropriate concerning the effect of this Settlement Agreement and Claimant assumes the risk arising from not seeking further or additional consultation with such advisors.
16. Each party assumes the risk of any mistake of fact or law with regard to any aspect of this Settlement Agreement, the dispute described herein, or any asserted rights released by this Settlement Agreement.





17. Claimant, by entering into this Settlement Agreement, acknowledge that this settlement is a compromise of a disputed claim as to the liability of the Releasees for the Claimant's injuries and damages, if any, and the payment made herein is not to be construed as an admission of liability on the part of the Releasees. It is understood that the existence of any liability or wrongdoing has been, and continues to be, expressly denied by the Releasees.
18. All parties to this Settlement Agreement acknowledge and agree that they have obtained legal representation and advice, as they have deemed appropriate in entering into this Settlement Agreement.
19. All parties further state that this Settlement Agreement, including the foregoing release, has been carefully read and each party understands the contents thereof and have signed the same as their own respective free act and have not been influenced in making this settlement by any representative of a party or parties released.
20. It is further understood that the provisions of this Settlement Agreement are contractual and not mere recitals and that the laws of the State of Texas shall govern this Settlement Agreement.

**FOR THE CLAIMANT**

  
FRANSISA REYES





STATE OF TEXAS           §

COUNTY OF LUBBOCK   §

Before me, the undersigned authority, on this 28<sup>th</sup> day of September, 2024,  
personally appeared FRANSISA REYES, 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.



  
Notary Public

**FOR THE CITY OF LUBBOCK:**

By: \_\_\_\_\_  
MARK W. MCBRAYER, Mayor

Signed this \_\_\_\_\_ day of October, 2024





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## Information

### Agenda Item

**Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing portions of a private utility easement located in Section 6, Block E-2, Lubbock County, Texas, in the Ranchland Terrace Subdivision, at the northeast corner of 40th Street and Chicago Avenue.

### Item Summary

The City of Lubbock is in receipt of a request to abandon and close a private utility easement located in the Ranchland Terrace Subdivision, at the northeast corner of 40th Street and Chicago Avenue.

The total area of the easements being closed is 2,062 square feet. There is no charge to close easements. The proponent desires to close the easement, to eliminate this encumbrance from future title searches. The easement, which is not currently in use, is no longer needed.

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

### Fiscal Impact

None

### Staff/Board Recommending

Erik Rejino, Assistant City Manager

Bailey Ratcliffe, P.E., Interim Division Director of Engineering/City Engineer

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## Attachments

Ordinance - Ranchland Terrace, TrB

Easement Doc., V938, P451

Location Exhibit



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE ABANDONING AND CLOSING PORTIONS OF A PRIVATE UTILITY EASEMENT LOCATED IN SECTION 6, BLOCK E-2, 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 are no longer needed for easement purposes and for public use; and it would be in the public interest to close, vacate and abandon the same for easement purposes and for public use; NOW THEREFORE:

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

SECTION 1. THAT the private utility easement as hereinafter described shall BE and the same is hereby closed, vacated and abandoned for easement purposes and for public use, such easement being more particularly described in the attached Exhibits "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 \_\_\_\_\_, 2024.

Passed by the City Council on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
MARK W. MCBRAYER, MAYOR



ATTEST:

  
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

  
Bailey Ratcliffe, Interim Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

  
Amy Sims, Deputy City Attorney

Ord. Easement Closure Section 6 Block E-2



THE STATE OF TEXAS    Y  
COUNTY OF LUBBOCK    Y

PRIVATE UTILITY BASEMENT DEDICATION  
\*\*\*\*\*

We, JAMES H. REED, SUMNER C. REED, acting herein by and through my duly appointed Attorney-in-Fact, James H. Reed, and WILLIE MAI REED, for and in consideration of the sum of ONE AND NO/100 (\$1.00) DOLLAR to us cash in hand paid by the City of Lubbock, Lubbock County, Texas, the receipt of which is hereby acknowledged, do hereby give and grant a Private Utility Easement for the purpose of sewer, water, electricity, telephone, gas and other public utility uses, to the said City of Lubbock, a municipal corporation of Lubbock County, Texas, upon and across TRACT SEVEN (7), LOWREY SUBDIVISION of SECTION SIX (6), BLOCK E-2, Lubbock County, Texas, said easement described by metes and bounds as follows, to-wit:

BEGINNING at a point in the East line of Chicago Avenue, said point being 95.05 feet South of the Southwest Corner of Tract "C", Ranchland Terrace, an Addition to the City of Lubbock, Lubbock County, Texas;  
THENCE N 29°32'20"E a distance of 186.33 feet to a point in the Southeast boundary line of Tract "C", Ranchland Terrace, said point being 113.72 feet from the Southwest corner of Tract "C";  
THENCE N 53°52'22"E along the Southeast boundary line of Tract "C" a distance of 24.27 feet;  
THENCE S 29°32'20"W a distance of 226.08 feet to a point in the East line of Chicago Avenue;  
THENCE North a distance of 20.28 feet to the place of beginning. The above described tract contains 0.047 acres, more or less,

for the purpose of serving TRACT C, RANCHLAND TERRACE ADDITION, an Addition to the City of Lubbock, Lubbock County, Texas.

TO HAVE AND TO HOLD the same perpetually to the City of Lubbock, and its successors.    y

Vol 938 PAGE 451



938 PAGE 452

Willie Mae  
Willie Mae Reed

COUNTY OF LUBBOCK      I

APR 1968

Virginia H. Dozier VIRGINIA H. DOZIER  
Notary Public in and for Lubbock County,  
Texas.

COUNTY OF LUBBOCK                   X

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 2nd day of <sup>May</sup>~~April~~, 1963.

Notary Public in and for Lubbock  
County, Texas. VIRGINIA H.

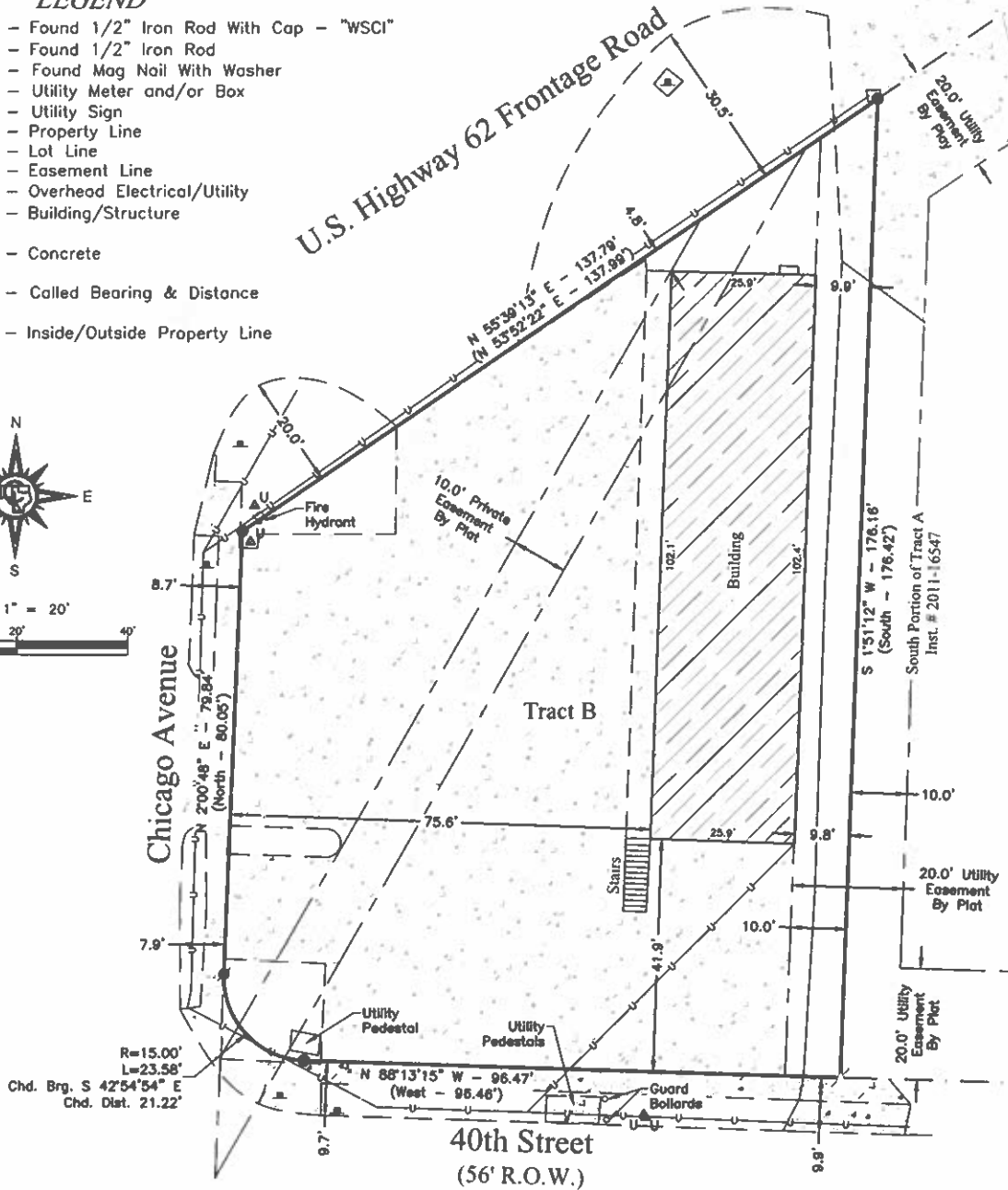
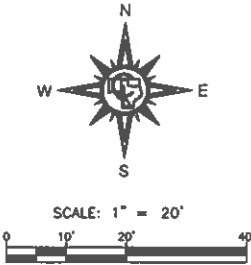
VIRGINIA H. DOZIER

10018 4/25/63 PRIVATE UTILITY EASEMENT DEDICATION JAMES H. REED, SUMNER C. REED and WILLIE MAI REED TO THE CITY OF LUBBOCK	FILED FOR RECORD MAY 3 4 23 1963 <i>Maui Lee Livingston</i> County Clerk, Lubbock County, Texas	1.50 ✓ TIMBERLAKE AND WASSELL ATTORNEYS AT LAW 1001 16TH STREET LUBBOCK, TEXAS
---	--	---



# LEGEND

- Found 1/2" Iron Rod With Cap - "WSC1"
- Found 1/2" Iron Rod
- Found Mag Nail With Washer
- Utility Meter and/or Box
- Utility Sign
- Property Line
- Lot Line
- Easement Line
- Overhead Electrical/Utility
- Building/Structure
- Concrete
- Called Bearing & Distance
- IPL/OPL - Inside/Outside Property Line



## LUBBOCK COUNTY, TEXAS

Tract B, Ranchland Terrace, an Addition to the City of Lubbock, Lubbock County, Texas, according to the Map, Plat and/or Dedication Deed thereof, recorded in Volume 1463, Page 487, of the Deed Records of Lubbock County, Texas

### Certificate

I do hereby certify to Greenfield Partners LLC and True Title that this plat is true and correct to the best of my knowledge, information and belief and in my professional opinion; that it was prepared from a survey made on the ground under my supervision on this the 14th day of August, 2024, that no visible above ground encroachments exist other than shown. Property is located in Zone X as according to the Flood Insurance Rate Map Panel 48303C0295G with an effective date 2/3/2017.

*Gene Burgess*  
Gene Burgess, RPLS 5408



### Schedule B

#### Notes:

- g. The following matter(s) affecting the subject property as shown on plat/map recorded in Volume 1463, Page 487, Deed Records, Lubbock County, Texas.  
Ten (10) foot private easement running diagonally cross Tract B Ten (10) foot utility easement along the East property line, Tract B Affects Property. Shown.
- h. Easement as shown in instrument from Weldon Wins to Southwestern Bell Telephone Company, dated September 13, 1991 and filed in Volume 3715, Page 17, Deed Records of Lubbock County, Texas. May affect property. Unplottable.

#### Notes

- Bearings Based on GPS Observations, Texas State Plane Coordinate System, North Central Zone, NAD 83 Datum

## PLAT OF SURVEY

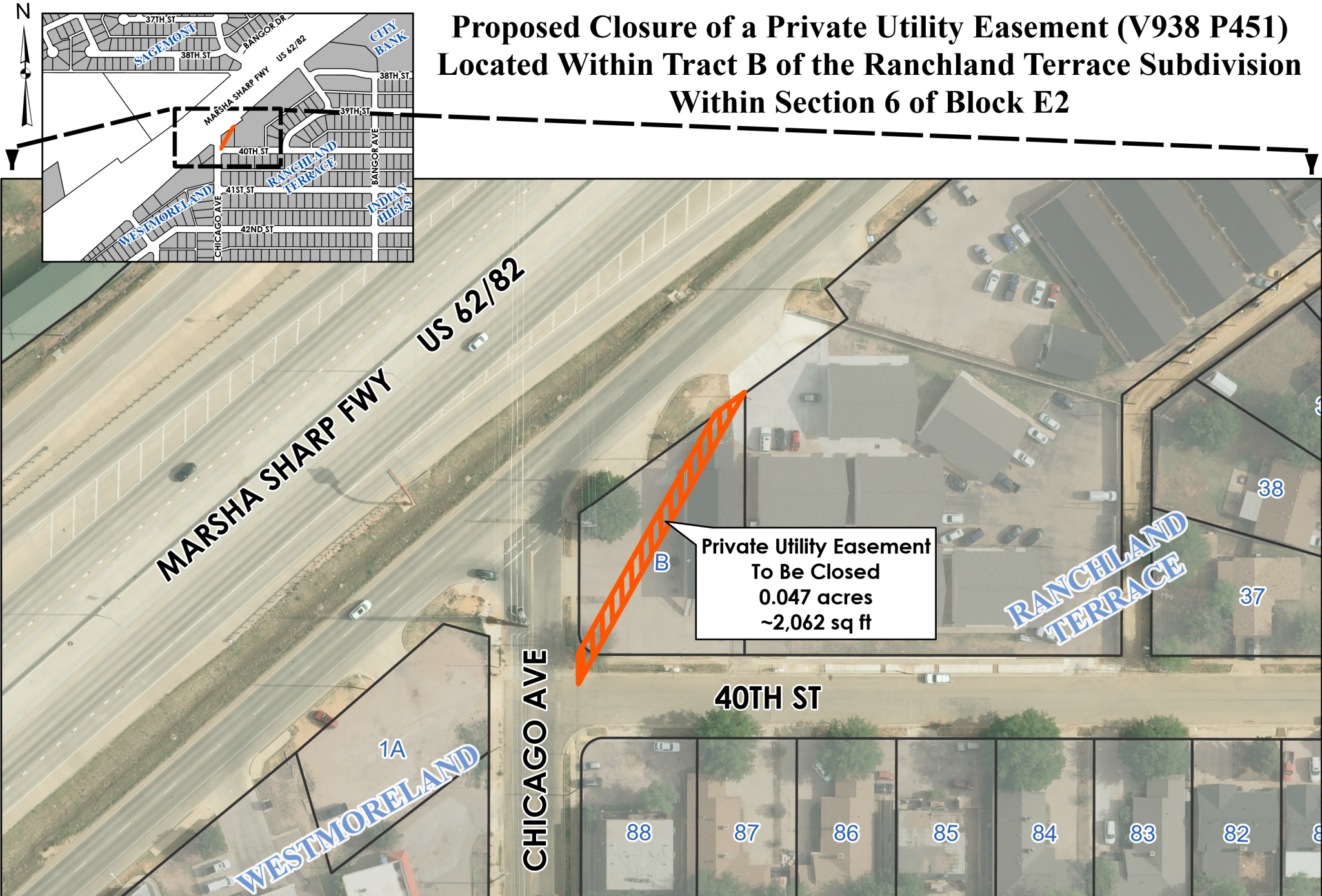
True Title  
GF: LBK-24-912  
5438 40th Street  
Lubbock, Lubbock County, Texas



CENTERLINE ENGINEERING & CONSULTING, LLC  
8312 Upland Avenue, Lubbock, Texas 79424  
(806) 470-8888  
TSP# Reg. No. 7-18713, TPLS Reg. No. 10194378  
OKLAHOMA CR NO. 8648



**Proposed Closure of a Private Utility Easement (V938 P451)  
Located Within Tract B of the Ranchland Terrace Subdivision  
Within Section 6 of Block E2**



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.



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## Information

### Agenda Item

**Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to accept, for and on behalf of the City of Lubbock, one (1) street, public use, and right-of-way deed and one (1) drainage easement, and all related documents, in connection with certain real property located in Section 3, Block JS, Lubbock County, Texas, at the southwest corner of Erskine Street and Milwaukee Avenue, to be utilized for the Erskine Street Project.

### Item Summary

Danny O. Hunter and Roberta Leigh Hunter are dedicating one right-of-way deed and one drainage easement to the City of Lubbock, to be utilized for roadway improvements on the Erskine Street Capital Improvements Project, at the southwest corner of Erskine Street and Milwaukee Avenue.

The proponents will dedicate 15,994 square feet of land for street right-of-way purposes and a 122,101 square foot drainage easement, for the total consideration of \$400,000, as valued in appraisal reports, subject to final approval by the City Council and approval of title.

### Fiscal Impact

The total cost of the land acquisition is \$400,000 plus closing costs, and is funded in Capital Improvements Project 92713, Erskine Street.

### Staff/Board Recommending

Erik Rejino, Assistant City Manager

Bailey Ratcliffe, P.E., Interim Division Director of Engineering/City Engineer

---

## Attachments

Resolution - Parcel 5 ROW Deed and Drainage Easement

Parcels 5A and 5B ROW Deed

Parcel 5 Drainage Easement

Parcels 5A and 5B ROW GIS Map

Parcel 5 Drainage Easement GIS Map

Budget Detail

CIP Project Detail



**RESOLUTION**

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

**THAT** the Mayor of the City of Lubbock is hereby authorized and directed to accept for and on behalf of the City of Lubbock one (1) street, public use, and right-of-way deed and one (1) drainage easement in connection with certain real property located in Section 3, Block JS, Lubbock County, Texas, to be utilized for the Erskine Street Project and all related documents. Said Deed and Easement are attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

**Passed by the City Council on \_\_\_\_\_.**

**\_\_\_\_\_  
MARK W. MCBRAYER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Bailey Ratcliffe, Interim Division Director of Engineering/City Engineer

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Amy L. Sims, Deputy City Attorney



**RIGHT OF WAY DEED**

THE STATE OF TEXAS                   §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK                   §

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

**GRANTOR** agrees to grant the property described in Exhibit "A" and releases the City of Lubbock from the obligation of obtaining an appraisal to determine Just Compensation for the Real Property.

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

***Remainder of Page Intentionally Left Blank – Signatures Follow***



WITNESS MY HAND this 20<sup>th</sup> day of August, 2024.

*Danny O. Hunter*

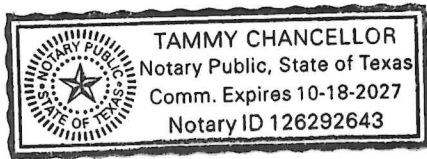
DANNY O. HUNTER, A MARRIED MAN

THE STATE OF TEXAS  
COUNTY OF LUBBOCK

§  
§

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared **DANNY O. HUNTER**, 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 20<sup>th</sup> day of August, 2024.



*Tammy Chancellor*  
NOTARY PUBLIC, STATE OF TEXAS  
My Commission Expires: 10-18-2027



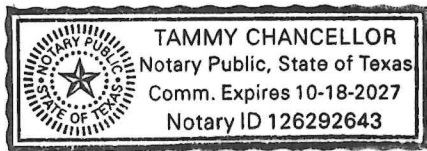
WITNESS MY HAND this 20<sup>th</sup> day of August, 2024.

Roberta Leigh Hunter  
**ROBERTA LEIGH HUNTER, A MARRIED  
WOMAN**

**THE STATE OF TEXAS           §  
COUNTY OF LUBBOCK       §**

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared **ROBERTA LEIGH HUNTER**, 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 20<sup>th</sup> day of August, 2024.



Tammy Chancellor  
**NOTARY PUBLIC, STATE OF TEXAS**  
My Commission Expires: 10-18-2027



[illegible]

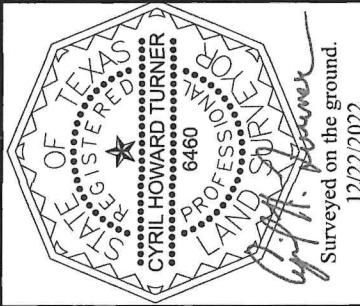
**Note:**

1/2" iron rod with cap "HUGO REED & ASSOC" set at all  
parcel corners unless otherwise noted.

ERSKINE STREET RECONSTRUCTION  
FRANKFORD AVENUE TO WEST CITY LIMITS

Parcel 5A  
PERIMETER SURVEY OF A  
0.0753 ACRE PARCEL LOCATED IN  
**SECTION 3, BLOCK JS**  
LUBBOCK COUNTY, TEXAS

Cyril H. Turner, Registered Professional Land Surveyor No. 6460  
State of Texas



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

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

1601 AVENUE N  
LUBBOCK, TEXAS 79401  
PHONE: 806 / 763-5642  
FAX: 806 / 763-3911

Bearings are relative to the Texas Coordinate System of 1983,  
North Central Zone, NAD 83 (2011), Epoch 2010.0  
Distances and coordinates are surface, U.S. Survey feet.  
Combined Scale Factor: 1.00023

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## LEGEND:

- \_\_\_\_\_ SURVEYED PROPERTY  
 \_\_\_\_\_ ADJACENT PROPERTY  
 \_\_\_\_\_ RIGHT-OF-WAY  
 \_\_\_\_\_ EASEMENT  
 ● - FD. 1/2" ROD w/CAP (STEVENS)  
 △ - FD. RAILROAD SPIKE  
 ◎ - FD. MAG NAIL W/SHINER (HIRA)  
 ⊙ - FD. 1/2" IRON ROD w/ CAP (HIRA)

P.O.B. - POINT OF BEGINNING  
CCFN- COUNTY CLERK FILE NUMBER  
ESMT. - EASEMENT  
SDD - STREET DEDICATION DEED



## DESCRIPTION FOR PARCEL 5A

METES AND BOUNDS DESCRIPTION of a 0.0753 acre (3280 sq. ft.) parcel located in Section 3, Block JS, Lubbock County, Texas, being a portion of the Northeast One-Quarter (NE/4) of said Section 3, Block JS, as described in Volume 6638, Page 9, Official Real Property Records of Lubbock County, Texas (ORPRLCT), said 0.0753 acres being further described as follows:

BEGINNING at a 1/2" iron rod with cap "HUGO REED & ASSOC" set (N=7,286,460.4', E=916,231.2') in the West Right-of-Way line of Milwaukee Avenue (variable width easement) as described in Volume 1257, Page 552, DRLCT, for the Southeast corner of this parcel which bears N. 88°10'22" W. a distance of 86.96 feet and S. 01°50'19" W. a distance of 63.04 feet from the Northeast corner of said Section 3, Block JS;

THENCE N. 88°12'44" W. a distance of 196.12 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set for the Southwest corner of this parcel;

THENCE N. 81°56'15" W. a distance of 121.31 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set in the South Right-of-Way line of Erskine Street (50 foot roadway easement) as described in Volume 1194, Page 196, Deed Records of Lubbock County, Texas (DRLCT), for the Northwest corner of this parcel;

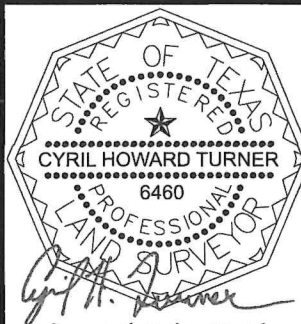
THENCE S. 88°10'22" E. with said South Right-of-Way line, parallel to and 50.00 feet South of the North line of Section 3, Block JS, a distance of 303.68 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" found at the intersection of the South Right-of-Way line of said Erskine Street and the West Right-of-Way line of said Milwaukee Avenue, for the Northeast corner of this parcel;

THENCE S. 43°10'01" E. with said West Right-of-Way line, a distance of 18.44 feet to the Point of Beginning.

ERSKINE STREET RECONSTRUCTION  
FRANKFORD AVENUE TO WEST CITY LIMITS

Parcel 5A  
PERIMETER SURVEY OF A  
0.0753 ACRE PARCEL LOCATED IN  
SECTION 3, BLOCK JS  
LUBBOCK COUNTY, TEXAS

Cyril H. Turner, Registered Professional Land Surveyor No. 6460  
State of Texas



Surveyed on the ground.  
12/22/2022

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

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

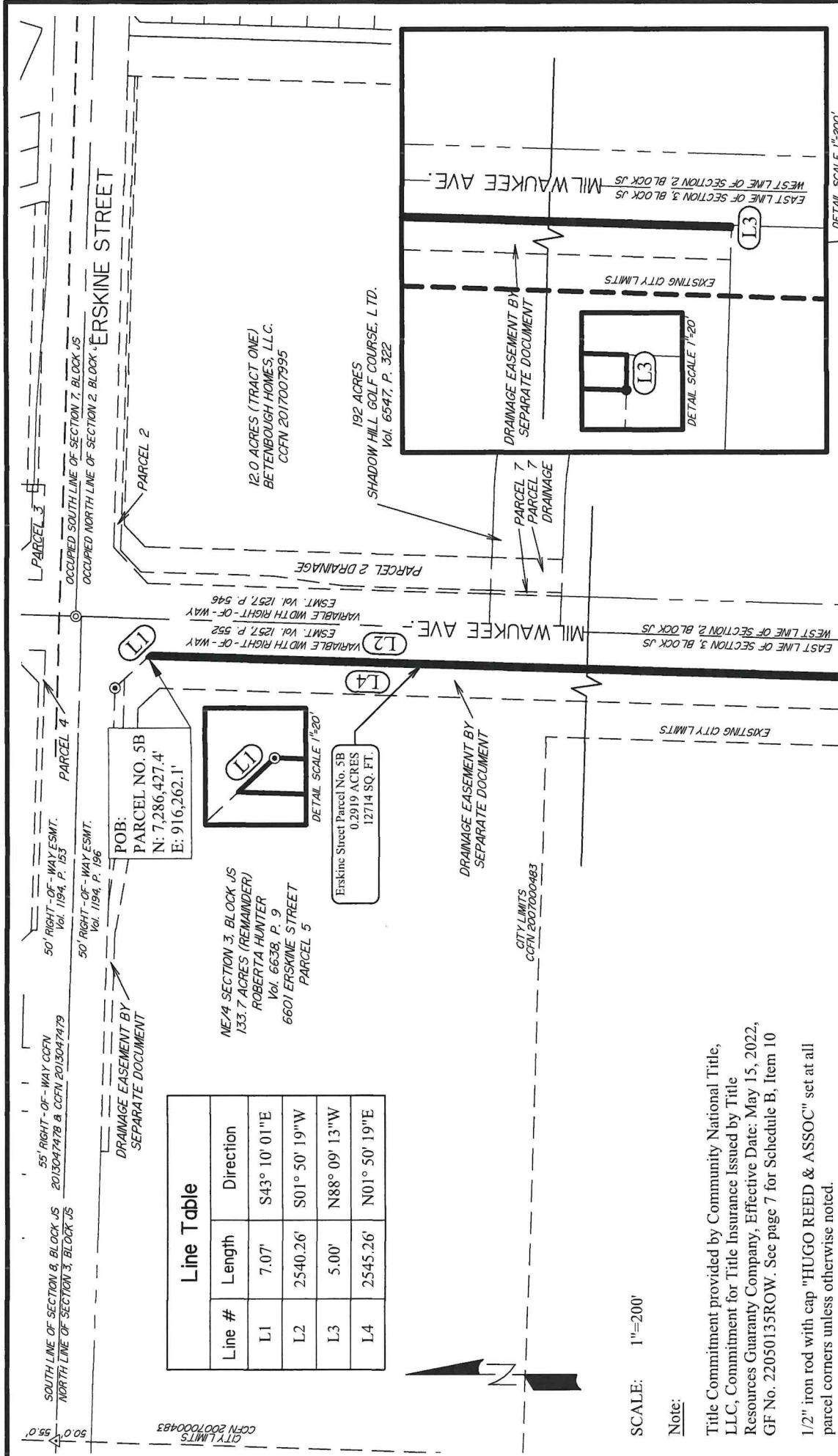
1601 AVENUE N  
LUBBOCK, TEXAS 79401  
PHONE: 806 / 763-5642  
FAX: 806 / 763-3891

Bearings are relative to the Texas Coordinate System of 1983,  
North Central Zone, NAD 83 (2011), Epoch 2010.0  
Distances and coordinates are surface, U.S. Survey feet.  
Combined Scale Factor: 1.00023

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Page 2





Line Table		
Line #	Length	Direction
L1	7.07'	S43° 10' 01"E
L2	2540.26'	S01° 50' 19"W
L3	5.00'	N88° 09' 13"W
L4	2545.26'	N01° 50' 19"E

SCALE: 1"=200'

Note:

Title Commitment provided by Community National Title, LLC, Commitment for Title Insurance Issued by Title Resources Guaranty Company, Effective Date: May 15, 2022, GF No. 22050135ROW. See page 7 for Schedule B, Item 10

1/2" iron rod with cap "HUGO REED & ASSOC" set at all parcel corners unless otherwise noted.

ERSKINE STREET RECONSTRUCTION  
FRANKFORD AVENUE TO WEST CITY LIMITS

Parcel 5B  
PERIMETER SURVEY OF A  
0.2919 ACRE PARCEL LOCATED IN  
SECTION 3, BLOCK JS  
LUBBOCK COUNTY, TEXAS

Cyril H. Turner, Registered Professional Land Surveyor No. 6460  
State of Texas



Surveyed on the ground.  
12/22/2022

# HUGO REED AND ASSOCIATES, INC.

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

1601 AVENUE N  
LUBBOCK, TEXAS 79401  
PHONE: 806 / 763-5642  
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Combined Scale Factor: 1.00023

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## LEGEND:

- SURVEYED PROPERTY
- ADJACENT PROPERTY
- RIGHT-OF-WAY
- EASEMENT
- - FD. 1" IRON PIPE
- ▲ - FD. RAILROAD SPIKE
- ◎ - FD. MAG NAIL W/SHINER (HRA)
- - FD. 1/2" IRON ROD w/ CAP (HRA)

P.O.B. - POINT OF BEGINNING  
CCFN - COUNTY CLERK FILE NUMBER  
ESMT - EASEMENT  
SDD - STREET DEDICATION DEED



## DESCRIPTION FOR PARCEL 5B

METES AND BOUNDS DESCRIPTION of a 0.2919 acre (12714 sq. ft.) parcel located in Section 3, Block JS, Lubbock County, Texas, being a portion of the Northeast One-Quarter (NE/4) of said Section 3, Block JS, as described in Volume 6638, Page 9, Official Real Property Records of Lubbock County, Texas (ORPRLCT), said 0.2919 acres being further described as follows:

BEGINNING at a 1/2" iron rod with cap "HUGO REED & ASSOC" set (N=7,286,427.4', E=916,262.1') in the West Right-of-Way line of Milwaukee Avenue (variable width easement) as described in Volume 1257, Page 552, Deed Records of Lubbock County, Texas (DRLCT), for the Northwest corner of this parcel which bears N. 88°10'22" W. a distance of 55.00 feet and S. 01°50'19" W. a distance of 95.00 feet from the Northeast corner of said Section 3, Block JS;

THENCE S. 43°10'01" E. with said West Right-of-Way line, a distance of 7.07 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" found for the Northeast corner of this parcel;

THENCE S. 01°50'19" W. with said West Right-of-Way line, parallel to and 50.00 feet West of the East line of said Section 3, Block JS, a distance of 2540.26 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set in the South line of said NE/4 of Section 3, Block JS, for the Southeast corner of this parcel;

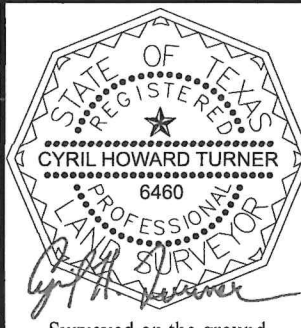
THENCE N. 88°09'13" W. with the South line of said NE/4, a distance of 5.00 feet to a 1" iron pipe found for the Southwest corner of this parcel;

THENCE N. 01°50'19" E. parallel to and 55.00 feet West of the East line of said Section 3, Block JS, a distance of 2545.26 feet to the Point of Beginning.

ERSKINE STREET RECONSTRUCTION  
FRANKFORD AVENUE TO WEST CITY LIMITS

Parcel 5B  
PERIMETER SURVEY OF A  
0.2919 ACRE PARCEL LOCATED IN  
**SECTION 3, BLOCK JS**  
LUBBOCK COUNTY, TEXAS

Cyril H. Turner, Registered Professional Land Surveyor No. 6460  
State of Texas



Surveyed on the ground.  
12/22/2022

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

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

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

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Combined Scale Factor: 1.00023

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Page 4



## SCHEDULE B

- a. Rights of parties in possession. - May affect, not a survey related matter.
- b. Rights of tenants, as tenants only, under unrecorded leases or rental agreements. - May affect, not a survey related matter.
- c. Rights of public, the State of Texas and the municipality in and to that portion of subject property, if any, lying within the boundaries of any roadway, public or private. - May affect, not a survey related matter.
- d. Any visible and apparent easements on or across the property herein described, which are not shown of record. - May affect - none observed at time of survey.
- e. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed. - May affect, not a survey related matter.
- f. Right of Way as shown in instrument from Newton L. Stokes to Lubbock County, Texas, dated September 14, 1967, and filed in Volume 1194, Page 196, Deed Records of Lubbock County, Texas. - Easement is adjacent to surveyed parcel.
- g. Right of Way as shown in instrument from Newton L. Stokes and Beatrice G. Stokes to Lubbock County, Texas, dated February 12, 1971, and filed in Volume 1257, Page 552, Deed Records of Lubbock County, Texas. - Easement is adjacent to surveyed parcel.
- h. Mineral reservation as shown in instrument from Maurine G. Gray, et al, Trustees of the Stokes Family Trust, and Myrtle McDonald, as Trustee of the Bankruptcy Estate of David Randall Riggins to Danny O. Hunter and Roberta L. Hunter, dated April 27, 1992 and recorded in Volume 3859, Page 87, Deed Records of Lubbock County, Texas. Said mineral interest has not been researched since the date of said instrument. - Affects, not a survey related matter, can not be plotted.
- i. Oil, Gas, and Mineral Lease dated April 11, 1978 between Marvel Beatrice Stokes and Newton Stokes, as Lessor and Robert B. Ross, as Lessee, recorded in Volume 43, Page 1, Oil and Gas Records of Lubbock County, Texas, together with all rights incident thereto. Title to said mineral interest has not been researched since the date of said lease. - Affects, not a survey related matter, can not be plotted.
- j. Terms and provisions of Ordinance No. 2006-00068 by and between City of Lubbock and Public dated May 25, 2006, filed January 4, 2007, recorded in Clerk's File No. 2007000483, Official Public Records, Lubbock County, Texas. - Affects - See page 1.

ERSKINE STREET RECONSTRUCTION  
FRANKFORD AVENUE TO WEST CITY LIMITS

Parcel 5A & 5B  
A 0.0753 ACRE & A 0.2919 ACRE  
PARCEL LOCATED IN  
SECTION 3, BLOCK JS  
LUBBOCK COUNTY, TEXAS

Cyril H. Turner, Registered Professional Land Surveyor No. 6460  
State of Texas



Surveyed on the ground.  
12/22/2022

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

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

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

Bearings are relative to the Texas Coordinate System of 1983,  
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Distances and coordinates are surface, U.S. Survey feet.  
Combined Scale Factor: 1.00023

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Page 5



## DRAINAGE EASEMENT

THE STATE OF TEXAS                   §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK                   §

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

SO LONG AS the public continues to use said Easement for the purposes herein stated or until the CITY OF LUBBOCK abandons the Easement by an official document executed by the Mayor, City Manager, and/or other authorized individual and recorded in the Official Real Property Records of Lubbock County, Texas, said Easement includes, but is not limited to, the free and uninterrupted use, liberty and privilege of passage in, along, over, across, under, upon and against the hereinafter described land for the purpose of constructing, reconstructing, maintaining, repairing, cleaning and clearing said premises for the free and unobstructed drainage of surface waters; together with the right of ingress, egress and regress for such purposes in, on, along, through and across all the property above described.

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

The CITY OF LUBBOCK covenants and agrees to maintain the Easement in a functioning condition, at the CITY OF LUBBOCK's sole cost. GRANTOR WILL HAVE NO DUTY OR OBLIGATION WHATSOEVER TO MAINTAIN THE EASEMENT OR THE IMPROVEMENTS THEREIN, OR SHARE IN THE COST THEREOF. Notwithstanding anything contained herein to the contrary, if the CITY OF LUBBOCK decides, in its sole discretion, to abandon the Easement, all requirements of maintenance shall terminate upon such abandonment.



The CITY OF LUBBOCK will, to the extent permitted by law and further subject to the terms contained herein, hold GRANTOR harmless from damage or injury to GRANTOR directly resulting from the negligent activities of the CITY OF LUBBOCK and its contractors, subcontractors, engineers and/or representatives (collectively, the "Grantee Parties") in coming upon or performing work on the Easement, or from the Grantee Parties' construction, repair, or maintenance of the Easement; provided, however, that nothing contained herein shall be construed as a waiver by the CITY OF LUBBOCK of immunity of any kind or type, including without limitation, waiver of immunity from liability and immunity from suit, and the CITY OF LUBBOCK shall retain all such immunities, except as may be otherwise waived pursuant to applicable laws of the United States or State of Texas.

GRANTOR has executed and delivered this Agreement, and the CITY OF LUBBOCK has received and accepted this Easement, AS IS, WHERE IS, AND WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WRITTEN OR ORAL, IT BEING THE INTENTION OF GRANTOR AND THE CITY OF LUBBOCK TO EXPRESSLY REVOKE, RELEASE, NEGATE AND EXCLUDE ALL REPRESENTATIONS AND WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES AS TO (I) THE CONDITION OF THE EASEMENT OR ANY ASPECT THEREOF, INCLUDING, WITHOUT LIMITATION, ANY AND ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES RELATED TO FITNESS FOR A PARTICULAR USE OR PURPOSE; (II) THE SOIL CONDITIONS, DRAINAGE, TOPOGRAPHICAL FEATURES, OR OTHER CONDITIONS OF THE EASEMENT OR WHICH AFFECT THE PROPERTY; (III) ANY FEATURES OR CONDITIONS AT OR WHICH AFFECT THE EASEMENT WITH RESPECT TO ANY PARTICULAR PURPOSE, USE, DEVELOPMENT POTENTIAL, OR OTHERWISE; (IV) THE AREA, SIZE, SHAPE, CONFIGURATION, LOCATION, CAPACITY, QUANTITY, QUALITY, VALUE, CONDITION, OR AMOUNT OF THE EASEMENT; (V) ALL EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES CREATED BY ANY AFFIRMATION OF FACT OR PROMISE OR BY ANY DESCRIPTION OF THE EASEMENT; (VI) ANY ENVIRONMENTAL, GEOLOGICAL, OR OTHER CONDITION OR HAZARD OR THE ABSENCE THEREOF HERETOFORE, NOW, OR HEREAFTER AFFECTING IN ANY MANNER THE EASEMENT; AND (VII) ALL OTHER EXPRESS OR IMPLIED WARRANTIES AND REPRESENTATIONS BY GRANTOR WHATSOEVER. THE CITY OF LUBBOCK HEREBY EXPRESSLY ASSUMES ALL RISKS AND PERILS ASSOCIATED WITH USE OF THE EASEMENT.

Nothing herein shall preclude GRANTOR from applying for permit(s) for access driveways across the Easement through the proper permitting process with the CITY OF LUBBOCK (including but not by way of limitation, residential and/or commercial permitting processes), however, GRANTOR expressly acknowledges and understands the CITY OF LUBBOCK may withhold approval of any such permit(s), in the CITY OF LUBBOCK's sole discretion.



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

*Remainder of Page Intentionally Left Blank – Signatures Follow*



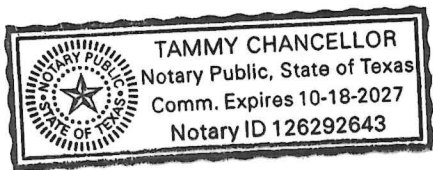
WITNESS MY HAND this 20<sup>th</sup> day of August, 2024.

  
DANNY O. HUNTER, A MARRIED MAN

THE STATE OF TEXAS       §  
COUNTY OF LUBBOCK     §

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared **DANNY O. HUNTER**, 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 20<sup>th</sup> day of August, 2024.



  
NOTARY PUBLIC, STATE OF TEXAS  
My Commission Expires: 10-18-2027



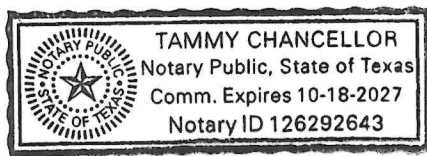
WITNESS MY HAND this 20<sup>th</sup> day of August, 2024.

Roberta Leigh Hunter  
**ROBERTA LEIGH HUNTER, A MARRIED  
WOMAN**

**THE STATE OF TEXAS       §  
COUNTY OF LUBBOCK       §**

BEFORE ME, the undersigned authority, a Notary Public in and for said County, Texas, on this day personally appeared **ROBERTA LEIGH HUNTER**, 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 20<sup>th</sup> day of August, 2024.



Tammy Chancellor  
**NOTARY PUBLIC, STATE OF TEXAS**  
My Commission Expires: 10-18-2027







## DESCRIPTION FOR PARCEL 5 DRAINAGE EASEMENT

METES AND BOUNDS DESCRIPTION of a 2.803 acre (122101 sq. ft.) parcel located in Section 3, Block JS, Lubbock County, Texas, being a portion of the Northeast One-Quarter (NE/4) of said Section 3, Block JS, as described in Volume 6638, Page 9, Official Real Property Records of Lubbock County, Texas (ORPRLCT), said 2.803 acres being further described as follows:

BEGINNING at a 1/2" iron rod with cap "HUGO REED & ASSOC" set (N=7,286,410.8', E=916,218.1') for an angle corner of this parcel which bears N. 88°10'22" W. a distance of 98.50 feet and S. 01°50'19" W. a distance of 113.04 feet from the Northeast corner of said Section 3, Block JS;

THENCE N. 43°11'12" W. a distance of 42.41 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set for an angle corner of this parcel;

THENCE N. 88°12'44" W. a distance of 161.81 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set for an angle corner of this parcel;

THENCE N. 80°14'41" W. a distance of 160.78 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set for an angle corner of this parcel;

THENCE N. 88°10'22" W. parallel to and 61.00 feet South of the North line of said Section 3, Block JS, a distance of 309.03 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set for the most Westerly Southwest corner of this parcel;

THENCE N. 01°49'38" E. a distance of 11.00 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set in the South Right-of-Way line of Erskine Street (50 foot roadway easement) as described in Volume 1194, Page 196, Deed Records of Lubbock County, Texas (DRLCT), for the Northwest corner of this parcel;

THENCE S. 88°10'22" E. with said South Right-of-Way line, parallel to and 50.00 feet South of the North line of said Section 3, Block JS, a distance of 354.91 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set for an angle corner of this parcel;

THENCE S. 81°56'15" E. a distance of 121.31 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set for an angle corner of this parcel;

THENCE S. 88°12'44" E. a distance of 196.12 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set in the West Right-of-Way line of Milwaukee Avenue (variable width easement) as described in Volume 1257, Page 552, DRLCT, for the most Northerly Northeast corner of this parcel;

THENCE S. 43°10'01" E. with said West Right-of-Way line, a distance of 45.19 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set for the most Easterly Northeast corner of this parcel;

THENCE S. 01°50'19" W. parallel to and 55.00 feet West of the East line of said Section 3, Block JS, a distance of 2545.26 feet to a 1" iron pipe found in the South line of said NE/4 of Section 3, Block JS, for the Southeast corner of this parcel;

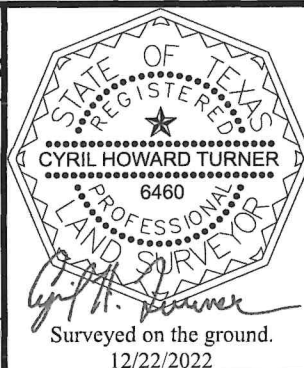
THENCE N. 88°09'13" W. with the South line of said NE/4, a distance of 43.50 feet to a 1/2" iron rod with cap "HUGO REED & ASSOC" set for the most Southerly Southwest corner of this parcel;

THENCE N. 01°50'19" E. parallel to and 98.50 feet West of the East line of said Section 3, Block JS, a distance of 2545.26 feet to the Point of Beginning.

ERSKINE STREET RECONSTRUCTION  
FRANKFORD AVENUE TO WEST CITY LIMITS

Parcel 5 Drainage Easement  
PERIMETER SURVEY OF A  
2.803 ACRE PARCEL LOCATED IN  
SECTION 3, BLOCK JS  
LUBBOCK COUNTY, TEXAS

Cyril H. Turner, Registered Professional Land Surveyor No. 6460  
State of Texas



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

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

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

Bearings are relative to the Texas Coordinate System of 1983,  
North Central Zone, NAD 83 (2011), Epoch 2010.0  
Distances and coordinates are surface, U.S. Survey feet.  
Combined Scale Factor: 1.00023

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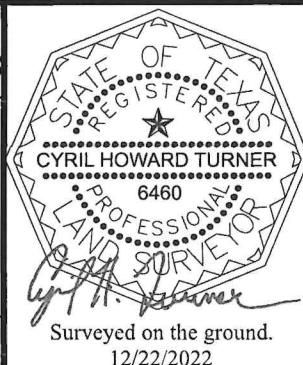
## SCHEDULE B

- a. Rights of parties in possession. - May affect, not a survey related matter.
- b. Rights of tenants, as tenants only, under unrecorded leases or rental agreements. - May affect, not a survey related matter.
- c. Rights of public, the State of Texas and the municipality in and to that portion of subject property, if any, lying within the boundaries of any roadway, public or private. - May affect, not a survey related matter.
- d. Any visible and apparent easements on or across the property herein described, which are not shown of record. - May affect - none observed at time of survey.
- e. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed in Schedule B or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed. - May affect, not a survey related matter.
- f. Right of Way as shown in instrument from Newton L. Stokes to Lubbock County, Texas, dated September 14, 1967, and filed in Volume 1194, Page 196, Deed Records of Lubbock County, Texas. - Easement is adjacent to surveyed parcel.
- g. Right of Way as shown in instrument from Newton L. Stokes and Beatrice G. Stokes to Lubbock County, Texas, dated February 12, 1971, and filed in Volume 1257, Page 552, Deed Records of Lubbock County, Texas. - Easement is adjacent to surveyed parcel.
- h. Mineral reservation as shown in instrument from Maurine G. Gray, et al, Trustees of the Stokes Family Trust, and Myrtle McDonald, as Trustee of the Bankruptcy Estate of David Randall Riggins to Danny O. Hunter and Roberta L. Hunter, dated April 27, 1992 and recorded in Volume 3859, Page 87, Deed Records of Lubbock County, Texas. Said mineral interest has not been researched since the date of said instrument. - Affects, not a survey related matter, can not be plotted.
- i. Oil, Gas, and Mineral Lease dated April 11, 1978 between Marvel Beatrice Stokes and Newton Stokes, as Lessor and Robert B. Ross, as Lessee, recorded in Volume 43, Page 1, Oil and Gas Records of Lubbock County, Texas, together with all rights incident thereto. Title to said mineral interest has not been researched since the date of said lease. - Affects, not a survey related matter, can not be plotted.
- j. Terms and provisions of Ordinance No. 2006-00068 by and between City of Lubbock and Public dated May 25, 2006, filed January 4, 2007, recorded in Clerk's File No. 2007000483, Official Public Records, Lubbock County, Texas. - Affects - See page 1.

ERSKINE STREET RECONSTRUCTION  
FRANKFORD AVENUE TO WEST CITY LIMITS

Parcel 5 Drainage Easement  
PERIMETER SURVEY OF A  
2.803 ACRE PARCEL LOCATED IN  
**SECTION 3, BLOCK JS**  
LUBBOCK COUNTY, TEXAS

Cyril H. Turner, Registered Professional Land Surveyor No. 6460  
State of Texas



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

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

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

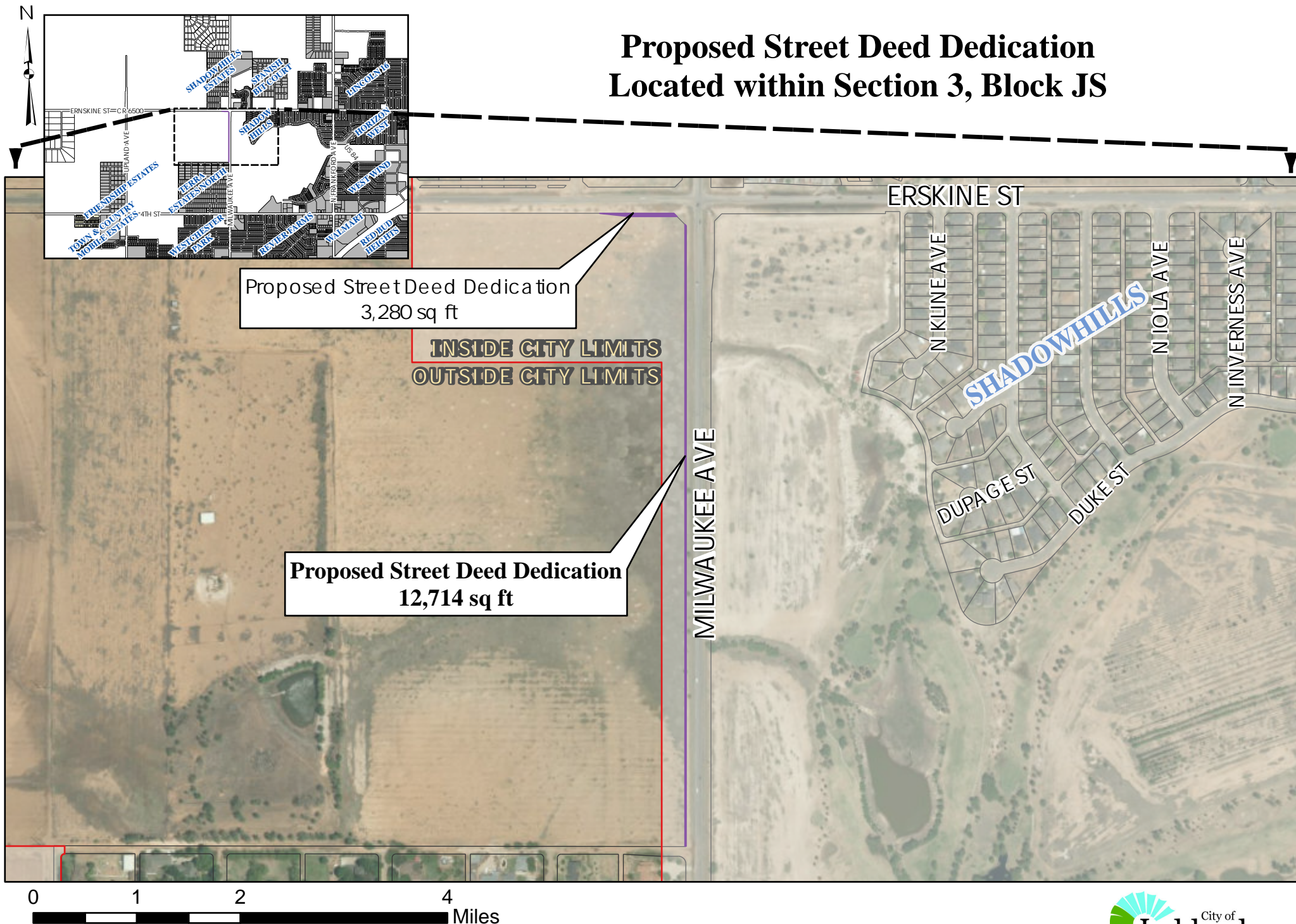
Bearings are relative to the Texas Coordinate System of 1983,  
North Central Zone, NAD 83 (2011), Epoch 2010.0  
Distances and coordinates are surface, U.S. Survey feet.  
Combined Scale Factor: 1.00023

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Page 3



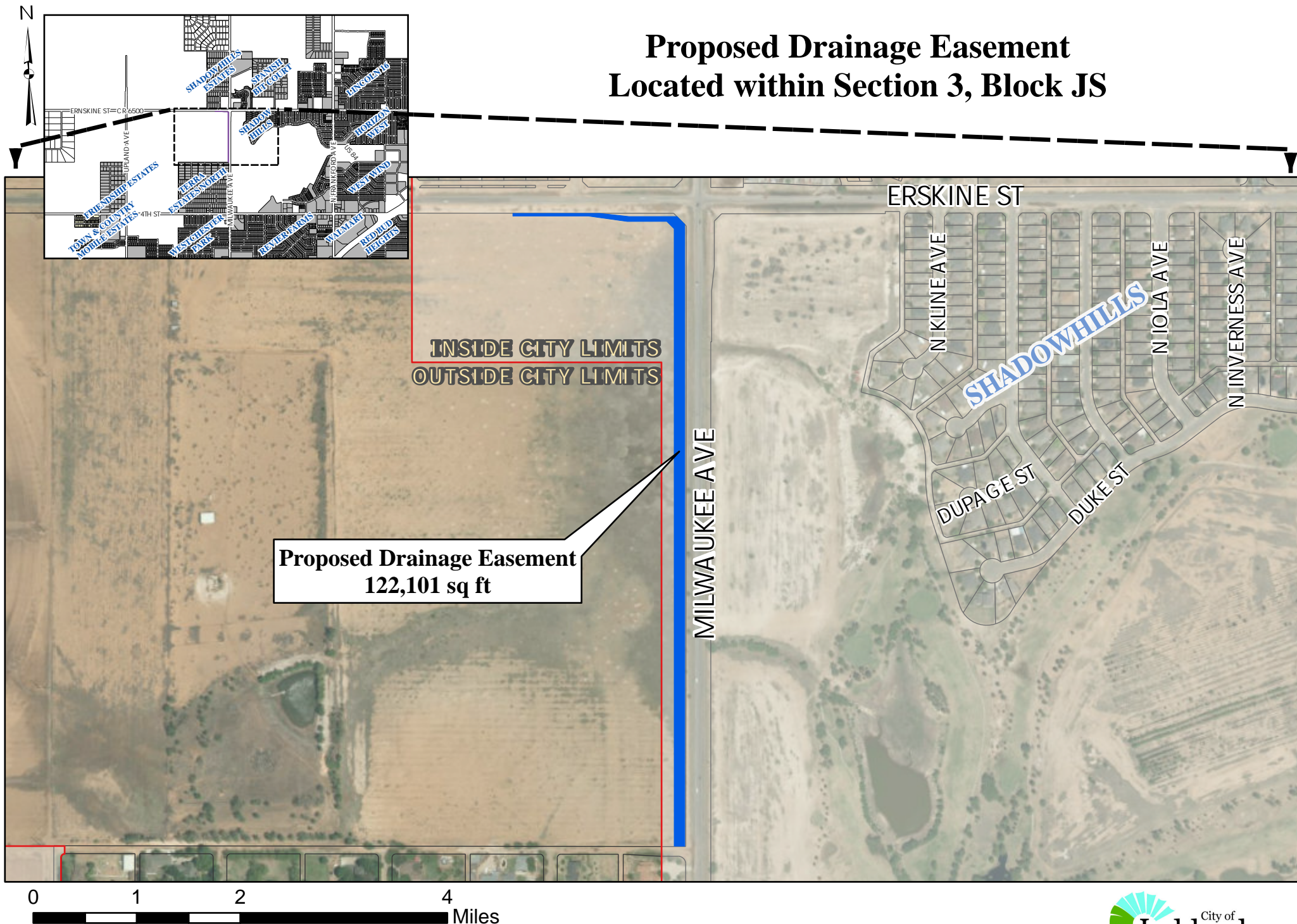
# Proposed Street Deed Dedication Located within Section 3, Block JS



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.



# Proposed Drainage Easement Located within Section 3, Block JS



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 8, 2024**

Capital Project Number:	92713
Capital Project Name:	Erskine Street

	<u>Budget</u>
<i>Encumbered/Expended</i>	
Staff time	\$ 94,392
Electrical Pole Relocation	23,444
Contract 16180 with HDR Engineering, Inc.	1,544,635
Amendment 1 with HDR Engineering for CPS	-
Contract 16917 for Erskine Street Reconstruction	8,708,558
Change Order 1 to Contract 16917 with Lone Star	177,487
ROW Land Purchases	93,492
 <i>Agenda Item October 8th, 2024</i>	
<i>Erskine Street Parcel 5 Land Purchase</i>	400,000
 <i>Encumbered/Expended To Date</i>	11,042,007
 <i>Estimated cost for Remainiaing Appropriation</i>	
Erskine Street Improvements	257,993
<i>Remainiaing Appropriation</i>	257,992.67
<b>Total Appropriation</b>	<u><u>\$ 11,300,000</u></u>





# CIP 92713 Erskine Street

## New Roadways

**Project Manager: Bailey Ratcliffe - Engineering**

## Project Scope

This roadway is designated in the 2018 Thoroughfare Master Plan to become a modified principal arterial. Erskine Street will be built as a concrete 5 lane multi modal roadway with the Milwaukee Avenue and Erskine Street Intersection to be built to interim 3 lane conditions. Improvements will also be made to the pedestrian elements as well as the street lights and drainage.

## Project Justification

The City of Lubbock continues to strive to meet the transportation needs of its citizens. We must continue to anticipate the infrastructure needs for a growing populous in order to provide a safe and efficient transportation system. Erskine needs to be widened to accommodate an increase in traffic due to continued growth in Northwest Lubbock.

## Project Highlights

**Council Priorities Addressed: Growth and Development, Public Safety, Community Improvement**

## Project Dates

Bid Date for Construction: 12/2022  
Award Date for Construction : 03/2023  
Begin Construction: 05/2023  
Construction Complete: 11/2024

## Project History

- FY 2020-21 \$11,300,000 was appropriated by Ord. 2020-00077

## Project Location

Erskine St

## Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Construction	\$11,300,000	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$11,300,000	\$0	\$0	\$0	\$0	\$0	\$0

## Project Funding

	Funding to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
General Fund CO Bonds	\$11,300,000	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$11,300,000	\$0	\$0	\$0	\$0	\$0	\$0

## Operating Budget Impacts

Description	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	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 Contract 17634, with Freese and Nichols, Inc., for professional engineering services associated with the design of Pump Station 11B at the North Water Treatment Plant.

### Item Summary

The existing Pump Station 11 at the North Water Treatment Plant was approved for construction in 1965. Consequently, this pump station is nearly 60 years old, and is showing clear signs of reaching the end of its design life.

Pump Station 11 is the City's primary way of distributing treated drinking water to Lubbock, and is of critical importance to be redesigned and rebuilt to continue serving the City for years to come.

The City issued a Request for Qualifications (RFQ) to provide engineering services for the design of Pump Station 11B at the North Water Treatment Plant.

In response to RFQ 24-17634-TF, four engineering firms submitted proposals, which were evaluated and ranked based on the following criteria:

- 30 Points for Project Team Organization and Qualifications;
- 30 Points for Experience on Similar Projects;
- 35 Points for Project Approach; and
- 5 Points for Overall Responsiveness to the RFQ.

The maximum point value is 100 points per evaluator, and their scores are as follows:

Engineering Firm	Points
Freese and Nichols, Inc., Lubbock, Texas	94.75
Bath Group, LLC, El Paso, Texas	87.75
Alan Plummer and Associates, Fort Worth, Texas	86.50
Stiver Engineering, Houston, Texas	70.00

Staff recommends award of this contract to the highest ranked proposer, Freese and Nichols, Inc., of Lubbock, Texas. The contract is based upon fair and reasonable hourly rates agreed on, for a total amount not to exceed \$1,682,955.

### Fiscal Impact

Contract No. 17634 for \$1,682,955, is funded in Capital Improvement Project 92835 Pump Station 11B.



**Staff/Board Recommending**

Erik Rejino, Assistant City Manager

Bailey Ratcliffe, P.E., Interim Director of Engineering/City Engineer

---

**Attachments**

Resolution

Contract

Location Exhibit

CIP Budget Detail

CIP Project 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. 17634 for Pump Station 11B rebuild, 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 \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, 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

ccdcs/RES.PSA-No. 17634 – FNI pump station 11B rebuild  
9.16.24



# PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 17634 is entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Freese and Nichols, Inc., (the "Engineer"), a Texas corporation.

## WITNESSETH

**WHEREAS**, The City desires to contract with the Engineer to provide professional services for Pump Station 11B Rebuild, (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 548 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 \$1,682,955, 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:

Nicholas Lester, P.E.  
Freese and Nichols, Inc.  
801 Cherry St. Suite 2800  
Fort Worth Texas, 76102  
Telephone: 817-735-7300  
Email: [ncl@freese.com](mailto:ncl@freese.com)

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

James Dean, P.E.  
City of Lubbock  
P.O. Box 2000  
1314 Avenue K  
Lubbock, Texas 79457  
Telephone: 806-775-3254  
Email: [jdean@mylubbock.us](mailto:jdean@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**

\_\_\_\_\_  
MARK W. MCBRAYER, MAYOR

ATTEST:

\_\_\_\_\_  
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

  
Bailey Ratcliffe, P.E., Interim Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

  
Kelli Leisure, Senior Assistant City Attorney

Firm

Freese and Nichols, Inc.

By:   
Nicholas Lester, P.E., Vice President

Email: [ncl@freese.com](mailto:ncl@freese.com)



**EXHIBIT A**  
**SCOPE OF SERVICES FOR:**  
**PUMP STATION 11B PUMP STATION**  
**PRELIMINARY DESIGN & FINAL DESIGN**

**GENERAL:**

A. Pump Station 11B Pump Station (The “Project”) includes the following facilities:

1. Pump Station 11B Pump Station (PS11B) with a capacity of approximately 15 MGD expandable to 30 MGD in the future, sharing the site of the City’s existing North Water Treatment Plant facility and an existing 8-million-gallon ground storage tank. The PS11B pump station will feature vertical turbine pumps in cans operated with variable frequency drives, venturi flow meters on the discharge side of each pump, and a bridge crane.
2. PS11B Suction piping tie-in to existing site yard piping. The proposed discharge piping will include two discharges with one tie-in to the existing site yard piping and the other discharge being a stub-out to the NWTP property line for a future proposed Pipeline to be routed to the proposed west pressure zone.
3. Evaluation of two site layout options, with one option being placing the proposed pump station building in an existing sludge/decantation bed, and the other option being placing the proposed pump station at the existing 6 MG Clearwell site.
4. PS11B Site grading, fence repair/replacement, and concrete paving.
5. Pump Station 11B pump station special services.
6. Demolition of existing 6 MG Clearwell and Wash Water Storage tank.
7. Evaluation of existing generator capacity and design of replacement generator if needed.

B. The Project will be split into the following bid packages:

1. Bid Package A – PS11B Pump Station Early procurement package. To include pre-purchase of VFDs, Switchgear, Generators (if needed), and Vertical Turbine Pumps.
2. Bid Package B - PS11B Pump Station.

Bid phase services will be provided for Bid Package A. It is assumed that the bid packages will be formatted for Competitive Sealed Proposal procurement.



C. The following facilities are not part of the Project.

1. Electrical substations or power transmission lines to the sites, which will be designed and constructed by the electric utility company. The Project will tie onto the secondary side of the substations and/or power service facilities.
2. Chemical room/facilities/equipment.
3. Restroom in PS11B pump station building.
4. Offsite facility upgrades
5. Ground storage tank.
6. Pipeline design from the NWTP site to the West Pressure Zone.

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

A. **GENERAL SCOPE OF SERVICES TASKS:** ENGINEER will provide the following as part of the preliminary and final design phase of The Project:

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



B. PUMP STATION PRELIMINARY DESIGN PHASE: ENGINEER will provide the following as part of the preliminary design phase:

1. Conduct a study of the system to verify system pumping capacity, phasing of the system, preliminary pump selection, and general operating requirements of the pump station.
2. Evaluation of existing generator capacity and design of replacement generator if needed.
3. Prepare load studies to support preliminary design of utility power systems by others. Meet with the electric utility company and OWNER to coordinate electric utility system design.
4. Conduct a workshop with OWNER'S staff to discuss layout, major equipment selection, construction materials, operation and maintenance criteria, OWNER'S preferences, and alternatives to be studied. ENGINEER will bring lead designers from the major disciplines to the workshop.
5. Evaluate alternatives and recommend designs for the project facilities, including conceptual pump station floor plan layouts, major equipment selections, piping and valves, flowmeters, surge control systems, building materials, bridge crane, HVAC systems, site road and grading plans, preliminary electrical layout and one-line diagrams, P&ID's, and equipment tagging schedules, generator sizing analysis, and pump station siting. Generator sizing analysis will include two (2) options to tie the proposed Pump Station 11B pump station to a generator.
6. Reconnaissance-level opinions of probable construction cost for the recommended facilities.
7. Prepare and submit a draft preliminary design report for review by the OWNER. The preliminary design report will include design criteria, codes and standards, evaluation of alternatives, layouts, equipment selections, and cost estimates as described above. The report will also include the project phasing, schedule, permitting requirements, and zoning requirements (if any).
8. Attend a meeting to present the draft preliminary design report. Attend another meeting to receive comments from the OWNER. Make modifications to the report to address the OWNER's comments and submit the final draft of the preliminary design report.

C. PUMP STATION FINAL DESIGN PHASE: FNI shall provide professional services in this phase as follows:

1. Obtain and review OWNER-furnished front-end documents, general conditions, and special conditions for the construction contracts. Meet with OWNER to review comments, and revise OWNER's standard documents accordingly.
2. Prepare plans, specifications, contract documents, designs, and layouts of improvements to be



constructed for Pump Station 11B.

3. Advise OWNER of need for and recommend scope of additional subsurface investigations, special analysis, and the retention of special consultants. The cost of any additional special services shall be paid by OWNER and are not included in the services performed by ENGINEER unless they are included pursuant to Exhibit A –Special Services.
4. Prepare Pump Station 11B applications for permits including building code permitting (if any). ENGINEER will provide supporting documents to the construction contractor(s) for their application of NPDES/TPDES Permitting. Any permitting effort required because of new regulations that become effective after the signing of this AGREEMENT will be considered additional services.
5. Submit plans, specifications, and contract documents for Pump Station 11B to the TCEQ and TDLR.
6. Furnish necessary information to utility companies whose facilities may be affected, or services may be required for the Project (Pump Station 11B pump station). Provide site civil design of the pump station site to support the electric utilities site requirements, including site grading, roads, and fencing. The pump station power connection to the electric utility will be on the secondary side of the utility transformer.
7. Level 2 Review (Pump Station): Furnish OWNER preliminary (60%) plans and specifications marked “Preliminary” for approval by OWNER. ENGINEER will meet with the OWNER to present the preliminary plans and specifications. After OWNER’S review, ENGINEER will meet with OWNER to receive comments. Level 2 review documents will include dimensional layout drawings, plans, sections and elevations of the facilities for all the trades, typical details, and most special details. The drawings will be in sufficient development to show the overall layouts and design intent but will lack many notes and minor details. The specifications will include the front-end documents and draft specifications for major equipment items.
8. Level 3 Review (Pump Station): Furnish OWNER preliminary (90%) plans, specifications, and bid proposals marked “Preliminary” for approval by OWNER. ENGINEER will meet with the OWNER to present the preliminary plans and specifications. After OWNER’S review, ENGINEER will meet with OWNER to receive comments. Upon final approval by OWNER, ENGINEER will complete the plans and specifications and provide OWNER “Final” plans and specifications. Level 3 Review documents will include all drawing sheets and specifications with some minor corrections and notes remaining.



9. Prepare bidder's proposal forms (project quantities) of the improvements to be constructed for the Pump Station 11B pump station.

D. BID AND AWARD PHASE (Early Procurement. Upon completion of the design services and approval of "Final" drawings and specifications by Owner, FNI will proceed with the performance of services in this phase as follows:

1. Bid Phase services will be performed for the following bid packages:
  - a) Bid Package A – PS11B Early Procurement.
2. Assist OWNER in securing bids, issuing notice to bidders and notifying selected plan rooms. The notice to bidders will be furnished to OWNER for publication in the local news media. The cost for publications shall be paid by OWNER.
3. Distribute plans to bidders using the web-based CivCast utilized by Freese and Nichols for bidding projects. Cost for any bidder's requests for hard copies of bid documents will be paid for by bidder. Keep a record of prospective bidders and plan rooms and other parties to whom the bidding documents have been distributed. Advertise for bids on FNI's website, and keep the website updated with addenda information, plan holder lists, and bidding information.
4. Attend one (1) pre-bid conference for each construction contract.
5. Issue Addenda as appropriate to clarify, correct, or change the bidding documents.
6. Assist OWNER in the opening, tabulation, and analysis of the bids received and furnish recommendations on the award of contract as appropriate.
7. Assist OWNER in the preparation of documents for execution of the construction contract. FNI will conform the contract documents, make four (4) original copies for execution. FNI will also make ten (10) conformed copies of the plans and specifications for use by the Contractor and OWNER and Engineer. The ten (10) copies will include five (5) full size copies, five (5) half size copies, and electronic PDF copy.
8. The Bid and Award phase will be considered complete upon execution of the construction contracts and distribution of the conformed copies of the plans and specifications.



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

A. **GEOTECHNICAL ENGINEERING:** FNI will provide geotechnical engineering services as follows:

The proposed geotechnical scope of work will consist of field exploration, laboratory testing, engineering analysis and reporting, and design as presented below.

#### Task 1 –Field Exploration

1. Select appropriate locations for up to nine (9) exploratory borings for the pump station building, pads and vaults. The Engineer will coordinate with the City and Texas 811 regarding underground utilities within the vicinity of the planned boring locations prior to commencement of the field exploration activities.
2. The Engineer will subcontract with a drilling contractor (Terra Testing, LLC) to drill five (5) borings to a depth of 40 feet for the pump station; and three (3) borings to a depth of 25 feet for the proposed transformer and generator pads and isolation valve manholes. An estimated 1 day of traffic control will be needed for drilling the boring at the pipeline tie-in.
  - a. Subsurface samples will be collected intermittently using 3-inch diameter Shelby tubes for cohesive soils and a 2-inch diameter split-spoon sampler in conjunction with the Standard Penetration Test (SPT) for intermediate and non-cohesive soils. Rock and rock-like materials will be tested in-situ using the TxDOT Texas Cone Penetration (TCP) Test.
  - b. Groundwater observations within the borings will be recorded at the time of drilling and at the completion of drilling and sampling.
  - c. The borings will be backfilled with auger cuttings upon completion of drilling and sampling.
3. Provide an Engineer or Geologist experienced in logging borings to direct the drilling, log the borings, and handle and transport the samples. Visual classification of the subsurface stratigraphy shall be provided according to the Unified Soil Classification System (USCS).

#### Task 2 – Laboratory Testing

1. Testing shall be performed on samples obtained from the borings to determine soil classification and pertinent engineering properties of the subsurface materials.
2. The Engineer will subcontract with a testing laboratory (Terra Testing, LLC) to perform the required testing. The Engineer will select samples for laboratory testing, assign tests, and review the test results.



3. Laboratory tests will be appropriately assigned for the specific subsurface materials encountered during exploration, but are expected to include:
  - a. Classification tests (liquid and plastic limits and percent passing the no. 200 sieve or gradation)
  - b. Gradation Tests
  - c. Moisture content
  - d. Unit dry weight
  - e. Unconfined compressive strength
  - f. One-dimensional swell (with swell pressures)

### Task 3 – Engineering Analysis and Reporting

1. A geotechnical investigation technical memorandum summarizing the investigation, findings, analysis, and design recommendations will be developed. The analysis and report will include the following:
  - a. Appendix with the boring locations, boring logs, laboratory test results, and a key to the symbols used.
  - b. Discussion of subsurface conditions and soil properties indicated by the field and laboratory work, and the implications for design.
  - c. Foundation recommendations including net allowable bearing capacity for the pump station, transformer pad and vaults.
  - d. Lateral earth pressures for various backfill materials, including materials specifications and compaction requirements.
  - e. General discussion of expected construction related issues.
  - f. Earthwork and site preparation related recommendations for use during development of the plans and specifications.

### B. HYDRAULIC MODELING: FNI will provide hydraulic modeling services as follows:

1. Kickoff Meeting: Attend kickoff meeting with City. FNI and the City will review assumptions for existing average day and maximum day demands. Discuss projected demands to use for 20-year system curves and overall assumptions (additional improvements constructed, etc.).
2. Utilize the Hydraulic Model to determine Future Pump Station Sizing and Maximum Flow Rates: FNI will utilize the demands, water system improvements and supply assumptions from the Water



- Master Plan to develop maximum projected flow rates to assist in pump sizing and selection.
3. Develop System Curves for Existing and 20-year Average Day & Maximum Day Demand  
Conditions: FNI will utilize the existing system and 20-year scenarios for average day and maximum day demand conditions to prepare system curves for Pump Station 11B.
  4. Prepare Technical Memorandum on System Curve Development: FNI will prepare a brief technical memorandum summarizing the assumptions used in calculating the maximum flow rate and system curves.
  5. Utilize the Hydraulic Model to generate HGL exhibits for the proposed Pump Station 11B pipeline.
  6. Perform a Life Cycle Cost Assessment for the Pump Station 11B pipeline evaluating up to three pipeline diameters. Prepare a Technical Memorandum on Pipeline Diameter Life Cycle Cost Assessment.
- C. SURVEYING: FNI will retain and monitor and direct, through a subcontract, the efforts of a survey firm to provide the following services:
1. Topographic Survey of the entire PS11B/NWTP site. Utility surveying to accompany SUE.
  2. Establish 6 control points for use during construction.
  3. Establish and mark boundary lines of property. Provide Survey and Flood Certificate as needed for building permit from the City.
- D. SUBSURFACE UTILITY ENGINEERING: FNI will retain and monitor and direct, through a subcontract the efforts of a Subsurface Utility Engineering Firm to provide the following services:
1. Subsurface Utility Engineering: Designate utilities (x, y) for the Pump Station 11B/NWTP Site for the area shown in the attached map exhibit. Designation shall be level B.
  2. Level A SUE for up to 5 utilities (x, y, z) to be determined by the Engineer. Excavations shall be by vacuum excavator.
- E. ENVIRONMENTAL EVALUATION: ENGINEER will provide the following professional services, with the development of the Project, as follows:
1. Conduct Pedestrian Survey – ENGINEER’S environmental scientist will conduct a site visit at the Pump Station 11B to document existing environmental conditions and assess potential environmental impacts. Prior to the site visit, environmental scientist will assemble and review data such as aerial photographs, topographic maps, National Wetlands Inventory (NWI) maps, and soils



data. 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 proposed project areas.

2. Prepare Environmental Permitting Memorandum – Information gathered during the pedestrian survey and coordination with the Project Engineers will be used to prepare one technical memorandum for the Pump Station 11B site. The memo will document what, if any, environmental permits/authorizations are required. The memorandum will include the hydrologic characterization of waterbodies and an opinion on their potential jurisdictional status related to Section 404 of the Clean Water Act.

F. CATHODIC PROTECTION SERVICES: ENGINEER will provide the following professional services, with the development of the Project, as follows:

1. Field Evaluation for the Pump Station 11B yard piping.
  - a. Review site plans, geotechnical reports, proposed pipeline alignment and materials, foreign pipeline crossing, parallel systems and existing cathodic protection systems, Electrical High Voltage (EHV) transmission lines, railroad crossings, sources of stray DC current, topography, soil types and conditions.
  - b. Conduct in-situ soil resistivity & pH testing (every 1,000 feet). Conduct stray current (DC) investigation in proposed alignment. The purpose of performing this investigation is to identify potential sources of stray current and nearby metallic pipelines that may be affected by the proposed cathodic protection system.
    - i. If geotechnical report indicates soil resistivities along proposed alignment are less than 1,000 ohm-cm, soil samples (maximum 10 samples) from those locations will be sent to HDR Laboratories to be tested for AS-received and saturated electrical resistivity per ASTM G-187 and pH as per ASTM G-51, and Chemical analysis for major anions and cations as per ASTM 4327, ASTM 6919, and AWWA 41108
    - ii. Analyze collected data and prepare a technical memorandum. The memorandum will provide conclusions and recommendations for cathodic protection based on the field soil conditions, collected data and laboratory data with respect to the proposed pipeline materials.
2. Cathodic Protection Design for the Pump Station 11B Yard Piping



- a. Provide 60%, 90% and 100% cathodic protection design (steel/PCCP) details and specifications to be included in Bid Package B.

G. SURGE ANALYSIS: Perform a surge analysis of the Pump Station 11B discharge pipelines from the proposed Pump Station 11B pump station to the proposed West Pressure Zone and to the existing PS4 GST.

1. ENGINEER will prepare a surge model of the Pump Station 11B Pump Station and Pipeline. The model will be based upon existing and proposed pipelines and proposed pumping equipment. The model will evaluate the following scenarios:
  - (a) Normal Pump Station Stop - 30 MGD (ultimate flow);
  - (b) Normal Pump Station Start - 30 MGD (ultimate flow);
  - (c) Pump Trip - two pumps running with one pump trip; and
  - (d) Power Fail - two pumps running with power failure;
2. Based on surge model, ENGINEER will prepare recommendation to reduce surge pressures, if needed. This may include operational changes, control valves, air valves, valve timing, or other approaches;
3. ENGINEER will evaluate existing pump operation to verify existing pumps are operating within reasonable efficiencies and flow conditions. ENGINEER will prepare a preliminary selection for proposed engine driven pumps, and verify pumps operate within allowable flows and pressures. The OWNER will provide desired flow rates for proposed pumps; and
4. ENGINEER will prepare a cost comparison of emergency generators and engine drive pumps based upon flow requirements provided by OWNER.

H. Pump Station Hydraulic Physical Model

Contract with a research hydraulic laboratory to develop a physical model of the pump station in accordance with the Hydraulic Institute (HI) Standards. Proposed improvements from the PDR shall be modeled to evaluate the pumps' hydraulic conditions and develop design modifications that may be necessary to correct adverse flow phenomena. The professional services in this Task are outlined below:

- a) Physical Model Design: Develop the physical model based on the 60 percent design submittal. Verify pump station elevations and dimensions for areas that are accessible with survey from the preliminary design and incorporate into the model. Assess the suitability of the geometric scale of 1:4.125 to meet HI Standards design criteria once final design details are available and adjustment, if required.



- b) Physical Model Construction: Simulate the geometric features in the vicinity of the pumps capable of influencing station hydraulics in the model.
- c) Physical Model Testing: The test program shall consist of three phases – Baseline Testing, Design Development Testing, and Documentation Testing. Coordinate operating conditions with the ENGINEER prior to commencement of model testing;
  - i. Baseline Testing: The scope shall include a baseline test to define the general flow characteristics within the facility for an initially proposed design and identify any adverse hydraulic phenomena approaching the pump. Document the source and strength of vortices and make measurements to characterize swirl. Up to four test scenarios have been assumed for baseline testing. The model testing shall start with the shorter can geometry;
  - ii. Design Development Testing: The scope shall include three design modification iterations to the physical model using two to three test conditions. Conduct testing with the fully modeled Pump No. 1 location. Once a final design is selected, the fully modified can and pump shall be moved to locations of Pump Nos. 3 and 5 for final documentation testing. Analysis of additional variations, if required, may be authorized as a SPECIAL SERVICE
  - iii. Documentation Testing: The scope shall include the final selected modified design approved by the ENGINEER for 12 test scenarios.
- d) Witness Testing: Conduct a formal one-day witness test at the completion of the model study. Witness test shall be held at the testing laboratory to demonstrate the models with and without the proposed modifications. Formal witness testing may also be conducted virtually via a live video feed. Accompany OWNER to witness the physical hydraulic model testing to assist in understanding of the hydraulic conditions, limitations, and recommended intake modifications;
- e) Prepare a draft and final report to include a summary of model scaling theory, a description of the model(s), color photographs and graphics presenting key aspects of the modeling program, test procedures, test results and drawings detailing any recommended design modifications. Lightly edited video clips collected during the study, which offer a good future reference on the model, shall also be provided; and
- f) Present the results of the physical modeling. The meeting deliverables shall include:
  - i. PowerPoint summary of modeling results, conclusions and recommendations;



- ii. Video footage of testing in digital format; and
- iii. Meeting minute summary.

**TIME OF PERFORMANCE:** FNI is authorized to commence work on The Project upon execution of this AGREEMENT and agrees to complete the services in accordance with the following schedule:

- Notice to Proceed from Owner – Set by Owner after Council approval
- Submit Draft Preliminary Design Report – 120 days
- Submit Final Preliminary Design Report – 30 days after receipt of PDR comments
- Submit 60% Level Plans – 120 days
- Submit Early Procurement Package – 14 days after 60% review meeting with City
- Submit 95% Level Plans and Specifications – 90 days
- Submit 100% Plans and Specifications – 60 days
- Close out Design and Bid & Award Phase Services - 548 days (18 months) from the Notice to Proceed

The above schedule is based upon OWNER review of the preliminary design report and other submittals within two weeks of submittal.

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



## **EXHIBIT A, PART 2, ADDITIONAL SERVICES**

### **PUMP STATION 11B**

#### **PRELIMINARY DESIGN & FINAL DESIGN**

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

- A. Factory witness testing for pumps.
- B. Construction plans and specifications for the Pump Station 11B to West Pressure Zone Pipeline other than services detailed in Basic Services.
- C. Right-of-Way acquisition services for the Pump Station 11B to West Pressure Zone pipeline.
- D. Survey and SUE along the Pump Station 11B to West Pressure Zone Pipeline.
- E. Field layouts or the furnishing of construction line and grade surveys.
- F. Providing services to investigate existing conditions or facilities, or to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by Owner.
- G. Making revisions to drawings, specifications or other documents when such revisions are 1) not consistent with approvals or instructions previously given by Owner or 2) due to other causes not solely within the control of FNI.
- H. Providing consultation concerning the replacement of any Work damaged by fire or other cause during the construction and providing services as may be required in connection with the replacement of such Work.
- I. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by Owner.
- J. Providing shop, mill, field or laboratory inspection of materials and equipment. Observe factory tests of equipment at any site remote to the Project or observing tests required as a result of equipment failing the initial test.
- K. Preparing Operation and Maintenance Manuals or conducting operator training.
- L. Preparing data and reports for assistance to Owner in preparation for hearings before regulatory



- agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- M. Assisting Owner in preparing for, or appearing at litigation, mediation, arbitration, dispute review boards, or other legal and/or administrative proceedings in the defense or prosecution of claims disputes with Contractor(s).
  - N. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.
  - O. Assisting Owner in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this AGREEMENT. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this AGREEMENT. This provision shall not apply to any expense related to a legal action to which FNI is a party.
  - P. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues.
  - Q. Performing investigations, studies, and analysis of work proposed by construction contractors to correct defective work.
  - R. Design, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
  - S. Services required to resolve bid protests or to rebid the projects for any reason other than fault of any type or degree of FNI.
  - T. Visits to the site in excess of the number of trips included in the General Services, Basic Services, or Special Services for periodic site visits, coordination meetings, or contract completion activities.
  - U. Providing basic or additional services on an accelerated time schedule. The scope of this service include cost for overtime wages of employees and consultants, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the Owner.
  - V. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form, except as noted in the scope of services.
  - W. Providing value engineering studies or reviews of cost savings proposed by others.
  - X. Pre-purchase or preselection or any alternate contract structure or number of contracts other than stipulated in Exhibit A – Basic Services.
  - Y. Provide any services after the satisfactory conclusion and completion of the General Services, Basic



Services, and Special Services of the Project.

- Z. Preparation of a Pre-Construction Notification or an Individual Section 404 permit application for submittal to the U.S. Army Corps of Engineers (USACE).
- AA. Preparation of a Jurisdictional Determination (JD) Report or a request for a USACE JD.
- BB. Presence/absence surveys for federally listed threatened/endangered species.
- CC. Conducting cultural resources studies or surveys.
- DD. Phase I Environmental Site Assessment.
- EE. Preparation of a Storm Water Pollution Prevention Plan (SWPPP).
- FF. Other environmental permitting assistance or services not specifically described under BASIC SERVICES of this scope.
- GG. General and/or Resident Representation during construction.
- HH. Power system's study.
- II. Environmental assessment & THC coordination for the Pump Station 11B to West Pressure Zone pipeline.
- JJ. Bid phase services for Bid Package B.
- KK. Funding assistance.



**EXHIBIT A, PART 3, RESPONSIBILITIES OF THE OWNER**

**PUMP STATION 11B**

**PRELIMINARY DESIGN & FINAL DESIGN**

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

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

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

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

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

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



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



**EXHIBIT B, PART 1 – BUDGET**  
**PUMP STATION 11B**  
**PRELIMINARY DESIGN & FINAL DESIGN**

CITY and ENGINEER have established a not-to-exceed budget of \$1,682,955 to complete all services under this AGREEMENT. This amount will not be exceeded without a contract amendment. CITY will pay the ENGINEER hourly, for services identified in Exhibit A, based on ENGINEER'S 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 AGREEMENT which shall be negotiated at that time.

The budget assumes that all work will be completed within 548 calendar days from the Notice to Proceed.



**EXHIBIT B, PART 2 HOURLY RATE SCHEDULE COMPENSATION  
PUMP STATION 11B  
PRELIMINARY DESIGN & FINAL DESIGN**

FREESE AND NICHOLS, INC.  
ATTACHMENT CO

**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&amp;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.

**Rates to be adjusted no more than 5% annually**

LUB22



## Exhibit B

City of Lubbock PS 11B 9/26/2024 Detailed Cost Breakdown	Project Fee Summary	
	Basic Services	\$ 1,682,955
	Special Services	\$ -
	Total Project	\$ 1,682,955

Tasks						Labor																									
Task	Start Date (Lookup from BST10 Tasks tab)	End Date (Lookup from BST10 Tasks tab)	Effort Curve (Lookup from BST10 Tasks tab)	Activity	Basic or Special	Task Description	Sam Meisner	Nick Lester	Michael McBee	Jillian Nava	Natalya Restrepo	Aaron Litteken	Alberto Lara Jr.	Jeff Hensley	Rebecca Sandoval	Kristin Vaught	Electrical Engineer II	Peter Bartels	Amy Raines	Engineer II	Julia Whitcraft	Parris Jones	Homer Saenz	BIM/CAD Technician II	Scott Vaughan	Adam Young	Al Sexton	Engineer II	Andrew Franko	Stephen Johnson	Marissa Bradley
							Senior Advisor	Client Rep	PM	APM	WTU - EIT	CAD/Revit	CAD/Revit	Elec QA/QC	Sr Elec PE	Elec PE	Elec EIT	Str QA/QC	Str PE	Str EIT	Str Revit	Arc QA/QC	Arc	Arc Revit	Pbg QC	HVAC QC	MP Sr	MP Jr	HYDR QA/QC	HYDR	HYDR EIT
						Project Management																									
						Client Meetings (18)		12	138	72	72				6	18													18	18	
						Meetings with other Entities (2)			8	8	8																				
						Budgeting and Scheduling			18																						
						Updates to COL Staff / Council			9	9	18																				
						Billing and Monthly BST Reports (18 Months)			18	18																					
						Contract/Subcontract Management			4	8																					
						Permits			2	4	8								4	8			4	8			8	8			
						PS Preliminary Design																									
						Develop primary operating scenarios	2		2	4																					
						System and Site Hydraulics	2		1	4																					
						Develop System Curves	2		1	4	4																			8	24
						Research and Develop Pump Curves			1	4	4																				
						Flow Control valve evaluation			2	4																					
						Life Cycle Comparisions			1	4																					
						Prepare Exhibits				12	12		24																		
						Pump Selection Studies																									
						a) Develop memo and curves for vendors			2	12	12																			4	12
						b) Correspond with Vendors			1	8																					
						c) Review vendor selections			2	8	8																				
						Pump Control Valve Selection			1	4																					
						Miscellaneous Equipment Selections (Valves, etc. )			1	4																					
						Site Work																									
						a) Site Layout Plans			4	12	8		12																		
						b) Yard Piping Layout			2	8	8		12																		
						c) Roads, Electrical and Drainage			2	8			8																		
						d) Pump Station Siting Options (2)			8	16	8		12																		
						e) Site Details			2	8	16		8																		
						f) Coordinate with Geotech			2	8																					
						Pump Station Layout																									
						a) Size Piping and Valves			2	12	16	12																			
						b) Floor Plan Layout			4	16	16	24																			
						c) Section Layouts			4	16	16	24																			
						d) Preliminary Surge Control Layout			2	8	8	8																			
						Prepare P&ID's			2	12	12	8	16		8	8															
						Prepare Control Narratives			8	12	12	8			16																
						Cost Estimates			4	8	24	10		2	6																
						Construction Sequencing			4	12	16	8			2																
						Prepare Preliminary Design Report			4	16	48	16	36		24	4															
						Generator Analysis								4	10	20															
						Develop 2 Options for connecting to Existing Genset & Provisions for Future Genset									24	16															
						Elec Room and Site Layout (includes for Genset options above)									40	20															
						Coord with Lead group on Pump Sizes and Layout									4																
						Coord with Mfrs (Starters, Gear dimensions)									16																
						Coord with Electric Utility Company									8																
						Structural Preliminary Design													40	24	60										
						Architectural Preliminary Design																8	10	40							
						Mechanical/HVAC Preliminary Design																									
					Quality Control	QA/QC Review	8							8					8				4			4	4	12	24	8	
						PS Final Design																									
						Internal Meetings/Coordination		3	6	8					8								2	6			4	12			
						General Sheets	1	4	4	8	8		30																		
						Site Plans	1	4	4	8	8		15																		
						Grading and Drainage	1	4	4	8	8		30																		
						Site Vaults	1	2	4	4	8		15																		
						Site Piping	1	4	8	24	24		60																		
						Floor Plans	1	4	8	12	12		30																		
						Section View	1	2	4	4	4		15																		
						Hydraulic System Plan and Details	1	2	4	4	4		15																		
						Site Details	1	4	16	20	32		90																		
						Pump Station Details	1	4	16	24	32	45																			
						Fire Protection Standards and Coordination	1	2	8	12																					
						Coordinate Pump Control Logic	1	8	16	16	8				4																
						Coordinate Instrumentation and Operation	1	8	20	20	12				4																
						Specification Preparation	2	4	24	40	80				44	80									2		4	16			
						Review of other LUB projects for consistency across sites for SCADA, I&C, Security/Access									10	20															
						Place Major Gear in Revit Model for Elec Rm										20															
						Coord with Electric Utility Company									8	8															
						Coord with Structural/HVAC									6	6															
						Coord with Mfrs (Starters, Gear dimensions)									4	4															
						Coordination on Genset									4	4															
						Calculations - Cable/Conduit									3	3															
						Lighting Calcs. Design and Controls									5	30															
						ELEC Drawings - Legend I/II and Set-up									1	8															
						Overall Site Plan									8	12															
						Demo Plan/Demo One-Line Diagram									5	5															
						Power Plan									11	16															
						HVAC Plan									5	8															
						I&C Plan									8	15															
						Lighting/Receptacle Plan									2	12															
						Grounding Plan & CT Plan									4																



City of Lubbock PS 11B 9/26/2024 Detailed Cost Breakdown	Project Fee Summary	
	Basic Services	\$ 1,682,955
	Special Services	\$ -
	Total Project	\$ 1,682,955

Tasks						Labor																									
Task	Start Date (Lookup from BST10 Tasks tab)	End Date (Lookup from BST10 Tasks tab)	Effort Curve (Lookup from BST10 Tasks tab)	Activity	Basic or Special	Task Description	Sam Meisner	Nick Lester	Michael McBee	Jillian Nava	Natalya Restrepo	Aaron Litteken	Alberto Lara Jr.	Jeff Hensley	Rebecca Sandoval	Kristin Vaught	Electrical Engineer II	Peter Bartels	Amy Raines	Engineer II	Julia Whitcraft	Parris Jones	Homer Saenz	BIM/CAD Technician II	Scott Vaughan	Adam Young	Al Sexton	Engineer II	Andrew Franko	Stephen Johnson	Marissa Bradley
							Senior Advisor	Client Rep	PM	APM	WTU - EIT	CAD/Revit	CAD/Revit	Elec QA/QC	Sr Elec PE	Elec PE	Elec EIT	Str QA/QC	Str PE	Str EIT	Str Revit	Arc QA/QC	Arc	Arc Revit	Pbg QC	HVAC QC	MP Sr	MP Jr	HYDR QA/QC	HYDR	HYDR EIT
						Overall Process Diagram									2	3															
						Loop Diagram I									5	10															
						Loop Diagram II thru IV									6	6															
						At each Deliverable - Print Specs/Dwgs									12	12															
						Electrical Power System Prelim Studies									16	50															
						Structural Final Design													272	272	240										
						Architectural Final Design																24	60	350							
						Mechanical/HVAC Final Design																					60	172			
					Quality Control	QA/QC Review	24	24						6					16				12			12	12				
					Quality Control	Constructability Reviews																									
						Cost Estimates	1	6	4	8	16			4	9					2	8		2	8	2		2	8			
						<b>Demo of Clearwell and Wash Water Tank</b>																									
						Demo of Clearwell and Wash Water Tank Plans			8	12	16		40						8	16											
						Demo of Wash Water Tank Plans			4	6	8		20						8	16											
						Demo Specifications			8	12	16								8	16											
					Quality Control	QA/QC Review	4											8													
					Quality Control	Constructability Reviews																									
						Cost Estimates			2	4	8									8											
						<b>Bid and Award - PS Early Procurement</b>																									
						Bidding Assistance, Evaluation, & Meetings			10	10				5	25	25	5														
						<b>Special Services</b>																									
						Survey and SUE																									
						Geotechnical																									
						Physical Hydraulic Modeling																									
						Environmental																									
						Surge																									
						Hydraulic Modeling																							18	34	112
						Cathodic Protection																									
Total Hours / Quantity							58	101	448	627	658	163	488	29	444	527	5	32	342	368	300	48	78	412	20	16	90	240	44	64	148
Total Effort																															











City of Lubbock PS 11B 9/26/2024 Detailed Cost Breakdown	Project Fee Summary	
	Basic Services	1,682,955
	Special Services	-
	Total Project	1,682,955

Tasks						Expenses						
Task	Start Date (Lookup from BST10 Tasks tab)	End Date (Lookup from BST10 Tasks tab)	Effort Curve (Lookup from BST10 Tasks tab)	Activity	Basic or Special	Task Description	Tech Charge	Miles	Meals	Hotel	Flight	Total Expense Effort
						Project Management						\$ -
						Client Meetings (18)	378	1,800	1,080	3,600	10800	\$ 21,447
						Meetings with other Entities (2)	24					\$ 204
						Budgeting and Scheduling	18					\$ 153
						Updates to COL Staff / Council	36					\$ 306
						Billing and Monthly BST Reports (18 Months)	36					\$ 306
						Contract/Subcontract Management	12					\$ 102
						Permits	54					\$ 459
												\$ -
						PS Preliminary Design						\$ -
						Develop primary operating scenarios	8					\$ 68
						System and Site Hydraulics	7					\$ 60
						Develop System Curves	43					\$ 366
						Research and Develop Pump Curves	9					\$ 77
						Flow Control valve evaluation	6					\$ 51
						Life Cycle Comparisions	5					\$ 43
						Prepare Exhibits	48					\$ 408
						Pump Selection Studies						\$ -
						a) Develop memo and curves for vendors	42					\$ 357
						b) Correspond with Vendors	9					\$ 77
						c) Review vendor selections	18					\$ 153
						Pump Control Valve Selection	5					\$ 43
						Miscellaneous Equipment Selections (Valves, etc. )	5					\$ 43
						Site Work						\$ -
						a) Site Layout Plans	44					\$ 374
						b) Yard Piping Layout	30					\$ 255
						c) Roads, Electrical and Drainage	18					\$ 153
						d) Pump Station Siting Options (2)	44					\$ 374
						e) Site Details	34					\$ 289
						f) Coordinate with Geotech	10					\$ 85
						Pump Station Layout						\$ -
						a) Size Piping and Valves	42					\$ 357
						b) Floor Plan Layout	60					\$ 510
						c) Section Layouts	60					\$ 510
						d) Preliminary Surge Control Layout	26					\$ 221
						Prepare P&ID's	66					\$ 561
						Prepare Control Narratives	56					\$ 476
						Cost Estimates	54					\$ 459
						Construction Sequencing	54					\$ 459
						Prepare Preliminary Design Report	148					\$ 1,258
						Generator Analysis	34					\$ 289
						Develop 2 Options for connecting to Existing Genset & Provisions for Future Genset	40					\$ 340
						Elec Room and Site Layout (includes for Genset options above)	60					\$ 510
						Coord with Lead group on Pump Sizes and Layout	4					\$ 34
						Coord with Mfrs (Starters, Gear dimensions)	16					\$ 136
						Coord with Electric Utility Company	8					\$ 68
						Structural Preliminary Design	124					\$ 1,054
						Architectural Preliminary Design	58					\$ 493
						Mechanical/HVAC Preliminary Design	36					\$ 306
				Quality Control		QA/QC Review	50					\$ 425
						PS Final Design						\$ -
						Internal Meetings/Coordination	49					\$ 417
						General Sheets	55					\$ 468
						Site Plans	40					\$ 340
						Grading and Drainage	55					\$ 468
						Site Vaults	34					\$ 289
						Site Piping	121					\$ 1,029
						Floor Plans	67					\$ 570
						Section View	30					\$ 255
						Hydraulic System Plan and Details	30					\$ 255
						Site Details	163					\$ 1,386
						Pump Station Details	122					\$ 1,037
						Fire Protection Standards and Coordination	23					\$ 196
						Coordinate Pump Control Logic	53					\$ 451
						Coordinate Instrumentation and Operation	65					\$ 553
						Specification Preparation	296					\$ 2,516
						Review of other LUB projects for consistency across sites for SCADA, I&C, Security/Access	30					\$ 255
						Place Major Gear in Revit Model for Elec Rm	20					\$ 170
						Coord with Electric Utility Company	16					\$ 136
						Coord with Structural/HVAC	12					\$ 102
						Coord with Mfrs (Starters, Gear dimensions)	8					\$ 68
						Coordination on Genset	8					\$ 68
						Calculations - Cable/Conduit	6					\$ 51
						Lighting Calcs. Design and Controls	35					\$ 298
						ELEC Drawings - Legend I/II and Set-up	9					\$ 77
						Overall Site Plan	20					\$ 170
						Demo Plan/Demo One-Line Diagram	10					\$ 85
						Power Plan	27					\$ 230
						HVAC Plan	13					\$ 111
						I&C Plan	23					\$ 196
						Lighting/Receptacle Plan	14					\$ 119
						Grounding Plan & CT Plan	9					\$ 77
						One-Line Diagram	8					\$ 68
						Pump Control Schematic	12					\$ 102
						Control Schematics I thru II	12					\$ 102
						Interconnections & Network Diagram	11					\$ 94
						Panelboard & Lighting Schedules	7					\$ 60
						Details I thru IV	8					\$ 68
						Valve Vault Site	28					\$ 238
						Valve Vault Plan and One-line Diagram	52					\$ 442
						P&I Drawings - Legend I/II and Set-up	2					\$ 17



City of Lubbock PS 11B 9/26/2024 Detailed Cost Breakdown	Project Fee Summary	
	Basic Services	1,682,955
	Special Services	-
	Total Project	1,682,955

Tasks							Expenses					
Task	Start Date (Lookup from BST10 Tasks tab)	End Date (Lookup from BST10 Tasks tab)	Effort Curve (Lookup from BST10 Tasks tab)	Activity	Basic or Special	Task Description	Tech Charge	Miles	Meals	Hotel	Flight	Total Expense Effort
						Overall Process Diagram	5					\$ 43
						Loop Diagram I	15					\$ 128
						Loop Diagram II thru IV	12					\$ 102
						At each Deliverable - Print Specs/Dwgs	24					\$ 204
						Electrical Power System Prelim Studies	66					\$ 561
						Structural Final Design	784					\$ 6,664
						Architectural Final Design	434					\$ 3,689
						Mechanical/HVAC Final Design	232					\$ 1,972
				Quality Control		QA/QC Review	114					\$ 969
				Quality Control		Constructability Reviews	24					\$ 204
						Cost Estimates	80					\$ 680
						<b>Demo of Clearwell and Wash Water Tank</b>						\$ -
						Demo of Clearwell and Wash Water Tank Plans	100					\$ 850
						Demo of Wash Water Tank Plans	70					\$ 595
						Demo Specifications	60					\$ 510
				Quality Control		QA/QC Review	12					\$ 102
				Quality Control		Constructability Reviews	4					\$ 34
						Cost Estimates	22					\$ 187
												\$ -
						<b>Bid and Award - PS Early Procurement</b>						\$ -
						Bidding Assistance, Evaluation, & Meetings	100					\$ 850
												\$ -
						<b>Special Services</b>						\$ -
						Survey and SUE						\$ -
						Geotechnical	148					\$ 1,258
						Physical Hydraulic Modeling						\$ -
						Environmental	28				1200	\$ 1,558
						Surge	240					\$ 2,040
												\$ -
						Hydraulic Modeling	164					\$ 1,394
						Cathodic Protection	48				600	\$ 1,068
												\$ -
Total Hours / Quantity							6,328	1,800	1,080	3,600	12,600	
Total Effort							\$ 53,788	\$ 1,206	\$ 1,188	\$ 3,960	\$ 13,860	\$ 74,002



City of Lubbock PS 11B 9/26/2024 Detailed Cost Breakdown	Project Fee Summary	
	Basic Services	1,682,955
	Special Services	-
	Total Project	1,682,955

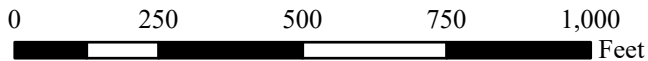
Tasks						Subconsultants						Total	
Task	Start Date (Lookup from BST10 Tasks tab)	End Date (Lookup from BST10 Tasks tab)	Effort Curve (Lookup from BST10 Tasks tab)	Activity	Basic or Special	Task Description	Survey/SUE	Alden Labs	Geotechnical Drilling	Geotechnical Lab		Total Sub Effort	Total Effort
						Project Management						\$ -	\$ -
						Client Meetings (18)						\$ -	\$ 106,563
						Meetings with other Entities (2)						\$ -	\$ 4,972
						Budgeting and Scheduling						\$ -	\$ 4,329
						Updates to COL Staff / Council						\$ -	\$ 7,200
						Billing and Monthly BST Reports (18 Months)						\$ -	\$ 7,974
						Contract/Subcontract Management						\$ -	\$ 2,582
						Permits						\$ -	\$ 10,235
												\$ -	\$ -
						PS Preliminary Design						\$ -	\$ -
						Develop primary operating scenarios						\$ -	\$ 1,978
						System and Site Hydraulics						\$ -	\$ 1,738
						Develop System Curves						\$ -	\$ 8,660
						Research and Develop Pump Curves						\$ -	\$ 1,765
						Flow Control valve evaluation						\$ -	\$ 1,291
						Life Cycle Comparisions						\$ -	\$ 1,051
						Prepare Exhibits						\$ -	\$ 7,464
						Pump Selection Studies						\$ -	\$ -
						a) Develop memo and curves for vendors						\$ -	\$ 8,157
						b) Correspond with Vendors						\$ -	\$ 1,861
						c) Review vendor selections						\$ -	\$ 3,529
						Pump Control Valve Selection						\$ -	\$ 1,051
						Miscellaneous Equipment Selections (Valves, etc. )						\$ -	\$ 1,051
						Site Work						\$ -	\$ -
						a) Site Layout Plans						\$ -	\$ 9,014
						b) Yard Piping Layout						\$ -	\$ 4,975
						c) Roads, Electrical and Drainage						\$ -	\$ 3,065
						d) Pump Station Siting Options (2)						\$ -	\$ 8,038
						e) Site Details						\$ -	\$ 5,921
						f) Coordinate with Geotech						\$ -	\$ 2,101
						Pump Station Layout						\$ -	\$ -
						a) Size Piping and Valves						\$ -	\$ 8,125
						b) Floor Plan Layout						\$ -	\$ 11,774
						c) Section Layouts						\$ -	\$ 11,774
						d) Preliminary Surge Control Layout						\$ -	\$ 5,101
						Prepare P&ID's						\$ -	\$ 12,705
						Prepare Control Narratives						\$ -	\$ 12,524
						Cost Estimates						\$ -	\$ 11,189
						Construction Sequencing						\$ -	\$ 11,419
						Prepare Preliminary Design Report						\$ -	\$ 27,898
						Generator Analysis						\$ -	\$ 8,969
						Develop 2 Options for connecting to Existing Genset & Provisions for Future Genset						\$ -	\$ 10,532
						Elec Room and Site Layout (includes for Genset options above)						\$ -	\$ 15,950
						Coord with Lead group on Pump Sizes and Layout						\$ -	\$ 1,114
						Coord with Mfrs (Starters, Gear dimensions)						\$ -	\$ 4,456
						Coord with Electric Utility Company						\$ -	\$ 2,228
						Structural Preliminary Design						\$ -	\$ 27,214
						Architectural Preliminary Design						\$ -	\$ 10,029
						Mechanical/HVAC Preliminary Design						\$ -	\$ 6,714
				Quality Control		QA/QC Review						\$ -	\$ 16,293
						PS Final Design						\$ -	\$ -
						Internal Meetings/Coordination						\$ -	\$ 10,478
						General Sheets						\$ -	\$ 9,343
						Site Plans						\$ -	\$ 7,535
						Grading and Drainage						\$ -	\$ 9,343
						Site Vaults						\$ -	\$ 6,038
						Site Piping						\$ -	\$ 20,016
						Floor Plans						\$ -	\$ 11,829
						Section View						\$ -	\$ 5,324
						Hydraulic System Plan and Details						\$ -	\$ 5,324
						Site Details						\$ -	\$ 26,173
						Pump Station Details						\$ -	\$ 24,980
						Fire Protection Standards and Coordination						\$ -	\$ 5,385
						Coordinate Pump Control Logic						\$ -	\$ 12,722
						Coordinate Instrumentation and Operation						\$ -	\$ 15,208
						Specification Preparation						\$ -	\$ 65,930
						Review of other LUB projects for consistency across sites for SCADA, I&C, Security/Access						\$ -	\$ 7,595
						Place Major Gear in Revit Model for Elec Rm						\$ -	\$ 4,810
						Coord with Electric Utility Company						\$ -	\$ 4,152
						Coord with Structural/HVAC						\$ -	\$ 3,114
						Coord with Mfrs (Starters, Gear dimensions)						\$ -	\$ 2,076
						Coordination on Genset						\$ -	\$ 2,076
						Calculations - Cable/Conduit						\$ -	\$ 1,557
						Lighting Calcs, Design and Controls						\$ -	\$ 8,608
						ELEC Drawings - Legend I/II and Set-up						\$ -	\$ 2,203
						Overall Site Plan						\$ -	\$ 5,114
						Demo Plan/Demo One-Line Diagram						\$ -	\$ 2,595
						Power Plan						\$ -	\$ 6,912
						HVAC Plan						\$ -	\$ 3,317
						I&C Plan						\$ -	\$ 5,836
						Lighting/Receptacle Plan						\$ -	\$ 3,443
						Grounding Plan & CT Plan						\$ -	\$ 2,317
						One-Line Diagram						\$ -	\$ 2,038
						Pump Control Schematic						\$ -	\$ 3,114
						Control Schematics I thru II						\$ -	\$ 3,038
						Interconnections & Network Diagram						\$ -	\$ 2,836
						Panelboard & Lighting Schedules						\$ -	\$ 1,798
						Details I thru IV						\$ -	\$ 2,000
						Valve Vault Site						\$ -	\$ 7,190
						Valve Vault Plan and One-line Diagram						\$ -	\$ 13,494
						P&I Drawings - Legend I/II and Set-up						\$ -	\$ 481







City of Lubbock PS 11B 9/26/2024 Detailed Cost Breakdown	Project Fee Summary	
	Basic Services	1,682,955
	Special Services	-
	Total Project	1,682,955

Tasks							Subconsultants					Total	
Task	Start Date (Lookup from BST10 Tasks tab)	End Date (Lookup from BST10 Tasks tab)	Effort Curve (Lookup from BST10 Tasks tab)	Activity	Basic or Special	Task Description	Survey/SUE	Alden Labs	Geotechnical Drilling	Geotechnical Lab		Total Sub Effort	Total Effort
						Overall Process Diagram						\$ -	\$ 1,279
						Loop Diagram I						\$ -	\$ 3,798
						Loop Diagram II thru IV						\$ -	\$ 3,114
						At each Deliverable - Print Specs/Dwgs						\$ -	\$ 6,228
						Electrical Power System Prelim Studies						\$ -	\$ 16,481
						Structural Final Design						\$ -	\$ 171,464
						Architectural Final Design						\$ -	\$ 65,017
						Mechanical/HVAC Final Design						\$ -	\$ 42,852
				Quality Control		QA/QC Review						\$ -	\$ 38,463
				Quality Control		Constructability Reviews						\$ -	\$ 6,112
						Cost Estimates						\$ -	\$ 17,543
						Demo of Clearwell and Wash Water Tank						\$ -	\$ -
						Demo of Clearwell and Wash Water Tank Plans						\$ -	\$ 17,114
						Demo of Wash Water Tank Plans						\$ -	\$ 13,847
						Demo Specifications						\$ -	\$ 12,294
				Quality Control		QA/QC Review						\$ -	\$ 4,122
				Quality Control		Constructability Reviews						\$ -	\$ 1,374
						Cost Estimates						\$ -	\$ 4,147
												\$ -	\$ -
						Bid and Award - PS Early Procurement						\$ -	\$ -
						Bidding Assistance, Evaluation, & Meetings						\$ -	\$ 23,005
												\$ -	\$ -
						Special Services						\$ -	\$ -
						Survey and SUE	60,000					\$ 66,000	\$ 66,000
						Geotechnical			20,000	10,000		\$ 33,000	\$ 65,285
						Physical Hydraulic Modeling		190,000				\$ 209,000	\$ 209,000
						Environmental						\$ -	\$ 7,864
						Surge						\$ -	\$ 69,440
												\$ -	\$ -
						Hydraulic Modeling						\$ -	\$ 33,182
						Cathodic Protection						\$ -	\$ 14,028
												\$ -	\$ -
Total Hours / Quantity							\$ 60,000	\$ 190,000	\$ 20,000	\$ 10,000	\$ -		
Total Effort							\$ 66,000	\$ 209,000	\$ 22,000	\$ 11,000	\$ -	\$ 308,000	\$ 1,682,955





 Existing Water Mains      Parcels  
 Proposed Water Mains      Lubbock City Limits





City of Lubbock, TX  
Capital Project  
Project Cost Detail  
October 8, 2024

Capital Project Number:	92835
Capital Project Name:	Pump Station 11B Design
<i>Encumbered/Expended</i>	<b>Budget</b>
City of Lubbock Staff Time	\$ 2,424
<i>Agenda Items, October 8th, 2024</i>	
Contract 17634 with FNI for Pump Station 11 Design	1,682,955
<i>Encumbered/Expended To Date</i>	1,685,379
<i>Estimated Costs for Remaining Appropriation</i>	
Pump Station Improvements	4,564,621
<i>Remaining Appropriation</i>	4,564,621
<b>Total Appropriation</b>	<b>\$ 6,250,000</b>





# CIP 92835 Pump Station 11B

## Replacement Facility

Project Manager: Bailey Ratcliffe - Engineering

## Project Scope

This project will demolish Pump Station No.11 and build a new Pump Station 11B to handle future anticipated flows for the City of Lubbock.

## Project Justification

Existing Pump Station 11 serves as the primary pump station for the North Water Treatment Plant. This pump station is the pump station hub for all distribution of Roberts County Wellfield and Lake Meredith Water to the City of Lubbock. This pump station was built with the North Water Treatment Plant and has surpassed its useful service life. In addition, with the continued expansion of the Lubbock Business Park and the Industrial Rail Port areas by LEDA, sizing of the future pump station will need to be taken into consideration when this is under rehabilitation.

## Project Highlights

### Council Priorities Addressed:

Community Improvement  
Growth and Development

## Project History

- FY 2023-24 \$1,250,000 was appropriated by Ord. 2023-00108
- FY 2024-25 \$5,000,000 was appropriated by Ord. 2024-00129

## Project Dates

Bid Date for Design: 01/2024  
Award date for Design: 05/2024  
Design Completion: 05/2025  
Bid Date for Construction: 06/2025  
Award date for Construction: 09/2025  
Begin Construction : 10/2025  
Construction Completion: 10/2027

## Project Location

North Water Treatment Plant

## Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
<b>Bid</b>	\$1,250,000	\$0	\$0	\$0	\$0	\$0	\$0
<b>Construction</b>	\$0	\$5,000,000	\$15,000,000	\$0	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$1,250,000</b>	<b>\$5,000,000</b>	<b>\$15,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## Project Funding

	Funding to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
<b>Water/Wastewater Fund Cash</b>	\$1,250,000	\$0	\$0	\$0	\$0	\$0	\$0
<b>Water/Wastewater Fund Revenue Bonds</b>	\$0	\$5,000,000	\$15,000,000	\$0	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$1,250,000</b>	<b>\$5,000,000</b>	<b>\$15,000,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>



# Operating Budget Impacts

Description	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	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 Contract 18335, with Kimley-Horn and Associates, Inc., for an Impact Fee Report Update, including land use assumptions and capital project plans.

### Item Summary

On June 23, 2020, the City Council, through Resolution No. 2020-R0211, adopted the land use assumptions and capital improvements plans (capacity plans) associated with the possible future adoption of impact fees. In accordance with Texas Local Government Code Chapter 395, the Impact Fee study must be restudied every five (5) years.

On October 27, 2020, the City Council approved Ordinance No. 2020-O0136, amending Title II Buildings; Development; Property Maintenance, of the City of Lubbock Code of Ordinances, by adding Chapter 41, Impact Fees.

On September 24, 2024, the City Council received the semi-annual report from the Capital Improvements Advisory Committee (CIAC) through Resolution No. 2024-R0432, which included a recommendation to the City Council to perform an Impact Fee Report Update, including land use assumptions and capital project plans.

### Fiscal Impact

Contract 18335 for \$289,100, is funded in Capital Improvement Project 8685 Impact Fee Report Update and 8702 Master Thoroughfare Plan Update.

### Staff/Board Recommending

Erik Rejino, Assistant City Manager

Bailey Ratcliffe, P.E., Interim Division Director of Engineering/City Engineer

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## Attachments

Resolution

Contract 18335

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. 18335 for an impact fee land use assumptions and capital improvements plan restudy, by and between the City of Lubbock and Kimley-Horn and 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 \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, 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. 18335 is entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Kimley-Horn and Associates, Inc., (the "Engineer"), a Texas corporation.

## WITNESSETH

**WHEREAS**, The City desires to contract with the Engineer to provide professional services for an Impact Fee Land Use Assumptions and Capital Improvements Plan Restudy, (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 \$289,100, 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 CAUSED BY OR RESULTS FROM, 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. SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE SECTION 271.904.

## **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:

Kimley-Horn and Associates, Inc.  
Brandon Forsyth, P.E.  
801 Cherry Street Suite 1300, Unit 11  
Fort Worth, Texas 76102  
Telephone: 817-339-2289  
Email: [brandon.forsyth@kimley-horn.com](mailto:brandon.forsyth@kimley-horn.com)

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

Bailey Ratcliffe, P.E.  
City of Lubbock  
P.O. Box 2000  
1314 Avenue K  
Lubbock, Texas 79457  
Telephone: 806-775-2329  
Email: [bratcliffe@mylubbock.us](mailto:bratcliffe@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, 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 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, 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**

\_\_\_\_\_  
MARK MCBRAYER, MAYOR

ATTEST:

\_\_\_\_\_  
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

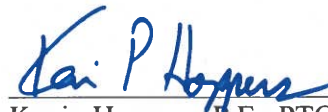
  
Bailey Ratcliffe, P.E., Interim Division Director  
of Engineering/City Engineer

APPROVED AS TO FORM:

  
Kelli Leisure, Senior Assistant City Attorney

Firm

Kimley-Horn and Associates, Inc.

By:   
Kevin Hoppers, P.E., PTOE

Email: kevin.hoppers@kimley-horn.com



**EXHIBIT A**  
**SERVICES TO BE PROVIDED BY THE ENGINEER**  
**FOR AN IMPACT FEE UPDATE FOR ENGINEERING**  
**CITY OF LUBBOCK**

**PROJECT DESCRIPTION**

The ENGINEER understands the goal of this project is to update the Roadway, Water and Wastewater Impact Fee program for the City based on annexations. This scope of services will provide the City with the technical analysis required by Chapter 395 of the Texas Local Government Code to determine the maximum assessable Roadway, Water and Wastewater impact fee that may be assessed. To update the land use assumptions analysis, the ENGINEER will utilize the demographics predominantly developed from previous planning efforts from Planning Lubbock 2040, Infrastructure Master Plans, and planned development information since the original Impact Fee program. To update the Roadway, Water, and Wastewater Impact Fee Capital Improvements Plan (CIP), the ENGINEER will evaluate the previous CIPs and update accordingly for the annexations. The ENGINEER will assist the City in updating the Impact Fee Ordinance and assist with public hearings.

This project is anticipated to include the following components:

1. Project Initiation, Education and Management
2. Land Use Assumptions
3. Roadway Impact Fee
4. Water Impact Fee
5. Wastewater Impact Fee
6. Adoption Process

**1. Project Initiation and Management**

- 1.1 Project Kick-Off Meeting. The ENGINEER will meet with the City for a formal kick-off meeting for the Impact Fee Update. During this meeting, the scope and City contacts will be determined for each task.
- 1.2 Project Status Reports and Invoicing. The ENGINEER will prepare and submit monthly status reports regarding project schedule and critical tasks. The ENGINEER will prepare monthly invoices.
- 1.3 Service Areas. The ENGINEER will meet with the City to establish updates to the impact fee service area boundaries based on annexations.

**2. Land Use Assumptions**

- 2.1. Data Collection. Data for the LUA will be developed based on information provided in the Comprehensive Plan, parcel data, building permit information, and historical growth and supplemented with data provided by the City for new development activity. Data to be



provided by the City include residential (added single and multi-family dwelling units) and square footage (or acreage) of developed non-residential uses within the city and water/wastewater planning areas. Data will be provided by City of Lubbock planning areas to facilitate both the roadway and water/wastewater service area analyses. The provision of electronic data (GIS Shapefile) is envisioned. The ENGINEER will coordinate with the city on specific data needs.

- 2.2. Existing Land Use. The ENGINEER will utilize data collected from Task 2.1 to document existing growth rates, trends and socio-demographics as well as provide the development of base projections. The ENGINEER will provide supporting documentation for land use, population and employment data by planning areas and service areas for the base year.
- 2.3. 10-Year Land Use. Chapter 395 states that impact fees may only be used to pay for items included in the Impact Fee Capital Improvements Plan and attributable to new service units projected over a period not to exceed ten (10) years. Based on guidance from the City regarding projected development patterns and growth rates and Plan Lubbock 2040, the ENGINEER will develop the Ten-Year Land Use Assumptions for the 2025 – 2035 planning window. The ENGINEER will complete the demographic table for each service area.
- 2.4. Documentation. The ENGINEER will prepare a Chapter entitle Land Use Assumptions for Impact Fees for final Impact Fee Report. This will be incorporated into the final report.
- 2.5. Meetings. The ENGINEER will discuss the land use assumptions one (1) progress meeting with the City
- 2.6. Deliverables. The Land Use Assumptions will be standalone report that will ultimately be incorporated into the final Impact Fee Study report. Key elements of the LUA report include:
  - Coordination and correlation of LUA with service areas for roads, water and wastewater
  - Documentation of existing growth rates, trends and socio-demographics
  - Development of base and 10-year projections
  - Land use, population and employment assumptions for the projection periods
  - Supporting documentation population and employment data by planning areas and service areas for the base year and 10-year growth

### **3. Roadway Impact Fee Study**

- 3.1. Data Collection. The ENGINEER will coordinate with the City to obtain the following data:
  - 3.1.1 City contacts – City shall provide the organization structure and contact information for the applicable City staff involved with the completion of the roadway capacity analysis and Roadway Impact Fee Capital Improvement Plans (CIP).



- 3.1.2 Thoroughfare Plan – The ENGINEER will utilize the thoroughfare plan as is currently adopted. Any analysis related to updating the City’s currently adopted Thoroughfare Plan will be considered additional services.
- 3.1.3 Traffic Counts – The City shall provide any available data (current and historical) for all roadway segments on the current Thoroughfare Plan. The ENGINEER will obtain recently completed traffic counts for state highway facilities from TxDOT. If additional counts are necessary the ENGINEER will request the count data from City staff or available data from the MPO.
- 3.1.4 Historical Project Costing Information – The City shall provide the ENGINEER with available data on the actual City costs for previously completed arterial roadway improvement projects to assist in the development of planning level project costs for future projects and to include any project costs for previously completed projects with excess capacity available to serve future growth.

3.2. Ten-Year Growth Projections and Capacity Analysis.

- 3.2.1 The ENGINEER will identify the service units for new development and the average trip length. Using the 11<sup>th</sup> Edition of the Institute of Transportation Engineer’s (ITE) Trip Generation Manual, the ENGINEER will incorporate trip generation and pass-by trip rates.
- 3.2.2 The ENGINEER will perform an analysis of existing conditions. This will include a determination of roadway capacities, volumes, vehicle-miles of supply, vehicle-miles of demand, existing excess capacity, and existing deficiencies.
- 3.2.3 The ENGINEER will project traffic conditions for the ten-year planning period, the target year for the impact fee growth projections. This will include growth and new demand for each service area established in Task 2. The ENGINEER will determine the capacity available for new growth.

- 3.3. Roadway Impact Fee Capital Improvements Plan. The ENGINEER will assist the City updating the Roadway Impact Fee Capital Improvements Plan which will include cost projections for anticipated projects to be included in the study. The Roadway Impact Fee Capital Improvements Plan will include existing oversized facilities and proposed facilities designed to serve future development. The Roadway Impact Fee Capital Improvements Plan shall include a general description of the project and a project cost projection. Planning level cost projections for future projects will be prepared based on discussion with local roadway construction contractors, City staff, and previous experience with roadway construction costs. The City shall provide actual City cost information for previously completed projects with excess capacity and any cost contribution to County, State, Federal, or developer constructed projects. Due to the variety of unknowns associated with roadway project costs projections (ROW acquisition, utility relocations, etc.), the planning level project cost projections utilized in the roadway impact fee analysis should not be used for any future capital improvement planning within the City. The ENGINEER will identify the portion of projected improvements required to serve existing demand and the portion of project improvements required to serve new development within the 10-year planning period.



- 3.4. Maximum Assessable Roadway Impact Fee Calculation. Using the newly developed ten-year growth projections, roadway impact fee capital improvements plan, and capacity available for new growth, the ENGINEER will determine the cost of roadway improvements by service area, the maximum costs per service unit, and the resulting pre-credit maximum assessable roadway impact fees by service area. A financial analysis for the credit calculation will not be performed. 50% of the pre-credit maximum assessable roadway impact fee calculated will be utilized to determine the maximum assessable roadway impact fee.
- 3.5. Documentation. The ENGINEER will provide both a draft and final Roadway Impact Fee Report. The report will include:
- Land Use Assumptions;
  - Roadway service areas;
  - Roadway CIP;
  - Narrative of the impact fee methodology;
  - Impact fee calculations;
  - Land Use Vehicle-Mile Equivalency Table; and
  - Supporting Exhibits.
- 3.6. Meetings. The ENGINEER will attend one (1) meeting with the City to go over the draft report.
- 3.7. Deliverables.
- 3.7.1 Electronic (.pdf) copy of the Draft Roadway Impact Fee Report;
  - 3.7.2 Five (5) 8.5" x 11" hard copies of the Draft Roadway Impact Fee Report; and
  - 3.7.3 Upon final approval of the Roadway Impact Fee Analysis and updated ordinance by the City Council, the ENGINEER will provide five (5) 8" x 11" originals and one (1) electronic (.pdf) copy of the Final Roadway Impact Fee Report

#### **4. Water Impact Fee Study**

- 4.1. Data Collection for City and Wholesale Customers. The ENGINEER will coordinate with the City on obtaining data required for the impact fee study update, including cost data for recently constructed projects, information on water meters, recent water usage, etc. The ENGINEER will prepare and present a data request memorandum for City staff. Information for wholesale customers served by Lubbock will also be required. The ENGINEER will prepare a survey to be sent to each wholesale customer regarding future usage and needs from Lubbock.
- 4.2. Master Plan Review. The ENGINEER will review the currently adopted Water Distribution System Master Plan to verify if modifications are needed prior to formulating the Water Impact Fee Capital Improvement Plan. Modification will be provided with the recommendations from City staff. City staff will perform the necessary tasks to have the revised Water Distribution System Master Plan adopted by City Council (if necessary). As



part of this task the ENGINEER will verify the existing inventory of the City's water system network.

- 4.3. Ten-Year Growth Projections and Capacity Analysis. The ENGINEER will develop projected water demands over the 10-year planning period which will be based on socio-demographic data developed in the LUAs report. The determination of 10-year water demands and will be based on LUAs and recent historical water usage for average, maximum day and peak operating conditions for both retail and potential wholesale customers. The ENGINEER will utilize data from the recent Master Plan in addition to the newly requested data. The ENGINEER will determine the model results needed for the impact fee analysis to evaluate 10-year conditions using the demands developed. Water system modeling will consist of average day, maximum day, and peak hour demand conditions. The ENGINEER will utilize equivalent capacity of water meters to establish the service unit equivalents (SUEs) required in Chapter 395 of the Local Government Code for both existing and 10-year growth conditions.
- 4.4. Water Impact Fee Capital Improvements Plan. The ENGINEER will review recently completed (over the last 5 years) water improvements and determine which projects are eligible for future cost recovery from growth. The ENGINEER will utilize the results of the water system modeling and capacity analysis to determine impact fee eligible proposed projects. The ENGINEER will update the cost of proposed water system improvements to be included in the impact fee calculation. Maps will be prepared showing the existing and proposed water capital improvements plan projects to be included in the impact fee calculation.
- 4.5. Maximum Assessable Water Impact Fee Calculation. The ENGINEER will utilize the water model to analyze existing completed and proposed projects for remaining capacity for impact fee cost recovery for 10-year projected growth. The ENGINEER will utilize the capacity analysis and capital project costs to calculate percentage of project cost eligible for impact fee cost recovery. The ENGINEER will develop maximum allowable water impact fees in accordance with Chapter 395 of the Texas Local Government Code using existing and proposed capital improvement costs to support 10-year growth based on projected increase in service units.
- 4.6. Documentation. The ENGINEER will provide both a draft and final Water Impact Fee Report. The report will include:
- Land Use Assumptions;
  - Water service area;
  - Water Impact Fee Eligible CIP;
  - Narrative of the impact fee methodology;
  - Impact fee calculations;
  - Service Unit Equivalency Table; and
  - Supporting Exhibits.



4.7. Meetings. The ENGINEER will attend three (3) meetings with the City. These meetings will include:

- Impact Fee Eligible CIP
- Maximum Assessable Calculations
- Review Draft Report.

4.8. Deliverables.

4.8.1 Electronic (.pdf) copy of the Draft Water Impact Fee Report;

4.8.2 Five (5) 8.5" x 11" hard copies of the Draft Water Impact Fee Report; and

4.8.3 Upon final approval of the Water Impact Fee Analysis and new ordinance by the City Council, the ENGINEER will provide five (5) 8" x 11" originals and one (1) electronic (.pdf) copy of the Final Water Impact Fee Report

## **5. Wastewater Impact Fee Study**

5.1. Data Collection for City and Wholesale Customers. The ENGINEER will coordinate with the City on obtaining data required for the impact fee study, including cost data for recently constructed projects, recent wastewater loads, etc. The ENGINEER will prepare and present a data request memorandum for City staff. Information for wholesale customers served by Lubbock will also be required. The ENGINEER will prepare a survey to be sent to each wholesale customer regarding future usage and needs from Lubbock.

5.2. Master Plan Review. The ENGINEER will review the currently adopted Wastewater System Master Plan to verify if modifications are needed prior to formulating the Wastewater Impact Fee Capital Improvement Plan. Modification will be provided with the recommendations from City staff. City staff will perform the necessary tasks to have the revised Wastewater System Master Plan adopted by City Council (if necessary). As part of this task the ENGINEER will verify the existing inventory of the City's wastewater system network.

5.3. Ten-Year Growth Projections and Capacity Analysis. The ENGINEER will develop projected wastewater flows over the 10-year planning period which will be based on socio-demographic data developed in the LUAs report. The determination of 10-year wastewater flows and will be based on LUAs and recent historical wastewater usage for average, and peak day operating conditions for both retail and potential wholesale customers. The ENGINEER will utilize data from the recent Master Plan in addition to the newly requested data. The ENGINEER will determine the model results needed for the impact fee analysis to evaluate 10-year conditions using the flow developed. Wastewater system modeling will consist of average and peak day demand conditions. The ENGINEER will utilize equivalent capacity of water meters to establish the service unit equivalents (SUEs) required in Chapter 395 of the Local Government Code for both existing and 10-year growth conditions.

5.4. Wastewater Impact Fee Capital Improvements Plan. The ENGINEER will review recently completed (over the last 5 years) wastewater system improvements and determine which



projects are eligible for future cost recovery from growth. The ENGINEER will utilize the results of the wastewater system modeling and capacity analysis to determine impact fee eligible proposed projects. The ENGINEER will update the cost of proposed wastewater system improvements to be included in the impact fee calculation. Maps will be prepared showing the existing and proposed wastewater capital improvements plan projects to be included in the impact fee calculation.

- 5.5. Maximum Assessable Wastewater Impact Fee Calculation. The ENGINEER will utilize the wastewater model to analyze existing completed and proposed projects for remaining capacity for impact fee cost recovery for 10-year projected growth. The ENGINEER will utilize the capacity analysis and capital project costs to calculate percentage of project cost eligible for impact fee cost recovery. The ENGINEER will develop maximum allowable wastewater impact fees in accordance with Chapter 395 of the Texas Local Government Code using existing and proposed capital improvement costs to support 10-year growth based on projected increase in service units.
- 5.6. Documentation. The ENGINEER will provide both a draft and final Wastewater Impact Fee Report. The report will include:
- Land Use Assumptions;
  - Wastewater service area;
  - Wastewater Impact Fee Eligible CIP;
  - Narrative of the impact fee methodology;
  - Impact fee calculations;
  - Service Unit Equivalency Table; and
  - Supporting Exhibits.
- 5.7. Meetings. The ENGINEER will attend three (3) meetings with the City. These meetings will be held in conjunction with the Water Impact Fee meetings from Item 4.7. These meetings will include:
- Impact Fee Eligible CIP
  - Maximum Assessable Calculations
  - Review Draft Report.
- 5.8. Deliverables.
- 5.8.1 Electronic (.pdf) copy of the Draft Wastewater Impact Fee Report;
  - 5.8.2 Five (5) 8.5" x 11" hard copies of the Draft Wastewater Impact Fee Report; and
  - 5.8.3 Upon final approval of the Wastewater Impact Fee Analysis and new ordinance by the City Council, the ENGINEER will provide five (5) 8" x 11" originals and one (1) electronic (.pdf) copy of the Final Wastewater Impact Fee Report

## **6. Adoption Process**

- 6.1. Comparison Data. THE ENGINEER will collect information on actual Impact Fees collected for up to six (6) benchmark cities for up to three (3) different land uses (likely residential,



commercial, and industrial land uses). This information will be provided to the City in electronic (.xls) tabular format for use in the development of comparison tables.

- 6.2. Ordinance Support. The ENGINEER will review the updated Impact Fee Ordinance as prepared by the City Attorney. It is anticipated the City Attorney will require exhibits from the Roadway Impact Fee Report to be included in the ordinance.

The ENGINEER will review the impact of the updated Impact Fee program reimbursements on the City's existing pro rata cost allocation system for water and wastewater line extensions. The ENGINEER will determine how the pro rata system will work with the Impact Fee program and if pro rata costs will continue to be charged to developers once the Impact Fee program is implemented.

The ENGINEER will review the policies for roadway improvements in the City's ETJ.

- 6.3. Revenue Projections. The Engineer will utilize the Land Use Assumptions calculated in Task 2 to calculate various revenue projections based on potential collection rate scenarios.

- 6.4. Meetings. It is anticipated that the ENGINEER will prepare for and attend each of the following meetings (total of ten):

- Up to six (6) meetings with CIAC
  - This will include both work sessions and meetings required by Chapter 395
- Up to four (4) meeting with Council
  - This will include both work sessions and meetings required by Chapter 395

**- End of Scope of Services -**



**EXHIBIT B**  
**AN IMPACT FEE UPDATE FOR ENGINEERING**  
**FEE PROPOSAL**  
**CITY OF LUBBOCK**

Kimley-Horn will perform the scope of services for the total fixed fee below. Fees will be invoiced monthly based upon the overall percentage of services performed.

<b>Task</b>	<b>Task Name</b>	<b>KHA</b>	<b>FNI</b>	<b>Subtotal</b>
1	Project Initiation, Education and Management	\$29,000	\$19,400	\$48,400
2	Land Use Assumptions	\$26,500	\$3,500	\$30,000
3	Roadway Impact Fee Study	\$63,000	--	\$63,000
4	Water Impact Fee Study	--	\$45,000	\$45,000
5	Wastewater Impact Fee Study	--	\$45,000	\$45,000
6	Adoption Process	\$30,000	\$27,700	\$57,700
Subtotals		\$148,500	\$140,600	\$289,100



**EXHIBIT C**  
**AN IMPACT FEE UPDATE FOR ENGINEERING**  
**SCHEDULE PROPOSAL**  
**CITY OF LUBBOCK**

Tasks 1 thru 5 will be completed within six (6) months following receipt of a signed copy of this agreement, exclusive of CITY review time after receipt of a signed copy of this agreement. Task 6 will proceed in accordance with the requirements of Chapter 395 of the Texas Local Government Code and as requested by the CITY. Additional services, if desired by the CITY, will be performed in a timely manner upon authorization by the CITY.



City of Lubbock  
Capital Project  
Project Cost Detail  
October 8, 2024

Capital Project Number: 8685  
Capital Project Name: Impact Fee Report Update

Capital Project Number: 8702  
Capital Project Name: Master Thoroughfare Plan Update

<i>Encumbered/Expended</i>	<b>Budget</b>		
	8685	8702	Total
<i>Agenda Item October 8, 2024</i>			
<b>Kimley-Horn and Associates, Inc. - Contract 18335</b>	<b>200,000</b>	<b>89,100</b>	<b>289,100</b>
<b><i>Encumbered/Expended To Date</i></b>	200,000	89,100	289,100
<i>Estimated Cost for Remaining Appropriation</i>			
Design	-	210,900	210,900
<b><i>Remaining Appropriation</i></b>	-	210,900	210,900
<b>Total Appropriation</b>	<b>\$ 200,000</b>	<b>300,000</b>	<b>\$ 500,000</b>





# CIP 8685 Impact Fee Report Update

Master Plans/Studies

Project Manager: Bailey Ratcliffe - Engineering

## Project Scope

Local Government Code, Chapter 395, mandates that the land use assumptions and capital improvements plans associated with impact fees must be reviewed and updated at least every five years. This project involves hiring an engineering consultant to review the current land use assumptions and capital improvements plans in the impact fee report. They will need to analyze, evaluate, and make recommendations for any necessary changes that need to be implemented. As part of this review, they will need to confirm that the land use assumptions correlate with the new Unified Development Code and Zoning Map. They will also assist with public hearings, publications, and other processes to get any recommended changes implemented.

## Project Justification

Texas Local Government Code requires periodic updates of the land use assumptions and capital improvements plans. Lubbock City Council approved and adopted Land Use Assumptions and Capital Improvements Plans (Capacity Plans) on June 23, 2020. In accordance with Local Government Code 395.052, the initial five-year period for review begins on the day the capital improvement plan is adopted.

## Project Highlights

### Council Priorities Addressed:

Community Improvement  
Growth and Development  
Redevelopment

## Project History

Roadway arterial infrastructure has largely been funded by ad valorem taxes since 2006. The City has been unable to support the demand of new roadway arterial infrastructure based on recent and projected development trends and has implemented impact fees as an alternate funding source to partner with development. Impact fees became effective on June 1, 2021 for roadways and on June 1, 2022 for water and sewer. Water and sewer main line infrastructure has largely been funded by water and sewer utility fees, and has functioned sufficiently well to present day. Water and sewer impact fees are not currently being collected as per City Council policy. Collection of Roadway Impact fees began on June 1, 2021, and have been collected based on development within each of eight service areas. Any expended funds shall only be used within the respective service area where the fees were collected.

- FY 2023-24 \$200,000 was appropriated by Ord. 2023-00108



Project Dates

Land Use Assumptions and Capital Improvements Plans (Capacity Plans) were approved on June 23, 2020.

Impact Fees were adopted on October 27, 2020.

Capital Improvements Advisory Committee (CIAC) to make recommendation in Fall 2024 for new study.

Project Location

City-wide

Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Design	\$200,000	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$200,000	\$0	\$0	\$0	\$0	\$0	\$0

Project Funding

	Funding to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
General Fund Cash	\$200,000	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$200,000	\$0	\$0	\$0	\$0	\$0	\$0

Operating Budget Impacts

Description	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	Total
No Impact Anticipated	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$0





# CIP 8702 - Master Thoroughfare Plan Update

Roadway Study

Project Manager: Bailey Ratcliffe - Engineering

## Project Scope

Under this project, City staff will update and refine the 2018 Thoroughfare Master Plan. The project includes reviewing and evaluating the existing plan and perform modeling based on current and long range land use development to determine if there is a need to change planned thoroughfare and collector widths; reviewing the existing standard details for thoroughfares and collector level streets to determine if changes are needed to items such as Right-of Way widths, lane widths, left and right turn needs, traffic calming devices and needs for raised medians as well as pedestrian and bicycle elements. Additionally, this project will review the typical procedures for locating and designating collector level streets and identify locations of continuity conflicts, offsets in section lines and playa lakes, and indicate the location of the alignment needed to provide the corridor continuity. As a part of this plan a new Thoroughfare Plan map will be created for City Council adoption.

## Project Justification

The City of Lubbock continues to strive to meet the transportation needs of its citizens. We must continue to anticipate the infrastructure needs for a growing populous in order to provide a safe and efficient transportation system.

This thoroughfare update will ensure we are planning properly for future needs.

## Project Highlights

**Council Priorities Addressed:**

**Public Safety**

**Fiscal Discipline**

**Community Improvement**

**Growth and Development**

## Project History

Previous plan was adopted in 2018.

- FY 2024-25 \$300,000 was appropriated by Ord. 2024-00129

## Project Dates

Bid Date for Design: 12/2024

Award Date for Design: 02/2025

Master Plan Update Complete: 02/2027

## Project Location

City-wide

## Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Design	\$0	\$300,000	\$500,000	\$0	\$0	\$0	\$0
TOTAL	\$0	\$300,000	\$500,000	\$0	\$0	\$0	\$0

## Project Funding

	Funding to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
General Fund Cash	\$0	\$300,000	\$500,000	\$0	\$0	\$0	\$0
TOTAL	\$0	\$300,000	\$500,000	\$0	\$0	\$0	\$0



# Operating Budget Impacts

Description	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	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 - Planning:** Consider a resolution authorizing the Mayor to execute Purchasing Order Contract 10027872, with SHI Government Solutions, Inc. for short-term rental permitting, compliance, and Hotel Occupancy Tax collection software utilizing Buy Board Contract 661-22.

### Item Summary

On July 9, 2019, the City of Lubbock contracted with MUNIRevs, Inc. dba LODGINGRevs, for short-term rental regulation development, permitting, compliance, and hotel occupancy tax (“HOT”) collection within the incorporated boundaries of the City. At the time, Short Term Rentals (STR) had increased in popularity and prevalence, and the City of Lubbock had no formal policy, procedures, or regulations to monitor and enforce compliance for homes used as STRs. Additionally, STRs were required to collect and remit hotel occupancy taxes, but without a way of identifying and registering these properties as STRs, the City had no means to enforce payment compliance. The contract with MUNIRevs, Inc. allowed staff the ability to regulate and enforce STR compliance within the City of Lubbock.

In August of 2021, GovOS purchased MUNIRevs, Inc., and staff along with customers have encountered multiple issues since the change to GovOS. Accordingly, after assessing multiple service providers, staff is recommending that the City Council approve the contract with SHI Government Solutions, Inc. which owns Deckard Technologies, to replace GovOS. Deckard Technologies provides short-term rental permitting, compliance, and hotel occupancy tax (“HOT”) collection services.

### Fiscal Impact

The cost of the contract is \$69,125 and is funded in the Fiscal Year 2024-25 Planning Operating Budget.

### Staff/Board Recommending

Erik Rejino, Assistant City Manager  
Kristen Sager, Director of Planning

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## Attachments

Resolution - SHI Government Solutions  
Purchase Order - SHI Government Solutions



**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. 10027872 in accordance with BuyBoard Contract No. 661-22 for Rentalscape reporting software, by and between the City of Lubbock and SHI Government Solutions, Inc. of Austin, TX and related documents. Said Purchase Order is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, 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.BuyBoard PurchaseOrd 10027872 Rentalscape  
9.30.24






PURCHASE ORDER

Page - 1  
Date - 9/25/2024  
Order Number 10027872 000 OP  
Branch/Plant 1115

TO: SHI GOVERNMENT SOLUTIONS INC  
1301 SOUTH MOPAC EXPRESSWAY  
SUITE 375  
AUSTIN TX 78746

SHIP TO: CITY OF LUBBOCK  
PLANNING & ZONING  
1314 AVE K  
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 9/25/2024 Freight .  
Requested 10/25/2024 Taken By  
Delivery PER K SAGER PUR 18368/BuyBoard 661-22

If you have any questions contact Kristen Sager: KSager@mylubbock.us Phone 806-775-2109

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Software Rentalscape Identification	1.000	69,125.0000	EA	69,125.00	10/25/2024
				Total Order	
Terms	NET DUE ON RECEIPT			69,125.00	

This purchase order encumbers funds in the amount of \$69,125.00 awarded to SHI Government Solutions, Inc. of Austin, TX, on \_\_\_\_\_, 2024. The following is incorporated into and made part of this purchase order by reference: Quote dated September 13, 2024, from SHI Government Solutions, Inc. of Austin, TX, and BuyBoard Contract 661-22.

Resolution # \_\_\_\_\_

CITY OF LUBBOCK:

ATTEST:

\_\_\_\_\_  
Mark McBrayer, 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](mailto:orr@mylubbock.us). Please send this request to this email address for it to be processed





Pricing Proposal  
Quotation #: 25303986  
Created On: 9/13/2024  
Valid Until: 10/31/2024

TX-City of Lubbock

**Kristen Sager**  
P.O. BOX 2000  
ATTN: ACCOUNTS PAYABLE  
LUBBOCK, TX 79457  
United States  
Phone: 8067752366  
Fax:  
Email: ksager@mylubbock.us

IAM

**Gregory Gonedes**  
SHI Government Solutions  
3828 Pecana Trail  
Austin, TX 78749  
Send PO's to: Texas@shi.com  
8008706079  
5127320232  
Phone: 800-870-6079  
Fax: 512-732-0232  
Email: gregory\_gonedes@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 Rentalscape Identification & Reporting Deckard Technologies - Part#: Contract Name: BuyBoard - Technology Equipment, Products, Services and Software Contract #: 661-22 <b>Note:</b> Monitoring & Reporting	1	\$69,125.00	\$69,125.00
Total			\$69,125.00

Additional Comments

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.



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## Information

### Agenda Item

**Resolution - Public Works Traffic Management:** Consider a resolution authorizing the Mayor to execute Amendment No. 1 to Contract 17858, with AtkinsRealis, for additional engineering services related to the City's Americans with Disabilities Act Transition Plan Sidewalk Gap Analysis Project.

### Item Summary

In order to stay compliant with federal Americans with Disabilities Act (ADA) law, municipalities must develop an ADA transition plan. This plan describes how a city will become compliant with all aspects of ADA law and must include a sidewalk gap analysis. The sidewalk gap analysis portion of the transition plan outlines missing and deficient sidewalks and curb ramps throughout the city. It must be available to the public, and must include steps a city will take to remedy deficiencies identified.

In January 2024, the City entered into an agreement with AtkinsRealis to begin work on Phase 1 of the sidewalk gap analysis, which included areas identified by the United States Department of Transportation Justice40 Initiative, as those among the most disadvantaged in the City.

The Phase 1 study and the associated technical memo were recently completed by AtkinsRealis. Amendment No. 1 of the contract will allow AtkinsRealis to begin work on Phase 2 of the sidewalk gap analysis, which will address access issues related to bus stops and sidewalks at Citibus stops throughout the City.

After access issues have been identified in Phase 2, AtkinsRealis will develop a technical memo to document findings and outline a methodology for compliance.

### Fiscal Impact

Amendment No. 1 of Contract Number 17858 with AtkinsRealis, for \$204,855, is funded in Capital Improvement Project 92750, American Disability Act Ramp and Sidewalk Project.

### Staff/Board Recommending

Erik Rejino, Assistant City Manager  
L. Wood Franklin, P.E., Division Director of Public Works

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## Attachments

Resolution

AtkinsRealis Contract 17858 Amendment 1

AtkinsRealis Contract 17858 Amendment 1 Attachments A and B

AtkinsRealis Extension Contract 17858

AtkinsRealis Professional Services Agmt.



CIP Budget Detail

CIP Project Detail



**RESOLUTION**

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Amendment No. 1 to the Professional Services Agreement Contract No. 17858 for engineering services for ADA transition plan – gap analysis, by and between the City of Lubbock and AtkinsRealis, and related documents. Said Amendment is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, 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



**Amendment 1  
To Agreement Between  
The City of Lubbock, TX  
and  
AtkinsRealis**

THIS IS THE FIRST AMENDMENT TO THE AGREEMENT dated and entered into on the 18th day of January, 2024, Contract No. 17858, by and between the City of Lubbock ("City") and AtkinsRealis ("Engineer").

Engineer is providing professional services for ADA transition plan – gap analysis (the "Activities").

The Parties entered into a six (6) month extension for services on June 21, 2024.

Now the Parties desire to enlarge the scope of services to be performed by the Engineer while completing the Activities.

**WITNESSETH:**

The City and Engineer now agree to enlarge the scope of services in this Agreement to review and analyze Citibus stop access, details of which are as set forth in Exhibit "A" and incorporated herein. The cost of said services shall not exceed two hundred four thousand eight hundred fifty-five dollars and NO/100 (\$204,855.00) as set forth in Exhibit "B", attached hereto and incorporated herein. The contract term shall be extended for, and Engineer shall complete the services in Exhibit "A" by or before June 6, 2025.

All other portions of the original Agreement shall remain in place and are not altered by this amendment.

IN WITNESS HEREOF, the parties have executed this Agreement as of this \_\_\_\_ day of \_\_\_\_\_ 2024.

CITY OF LUBBOCK

AtkinsRealis

\_\_\_\_\_  
MARK W. MCBRAYER, Mayor

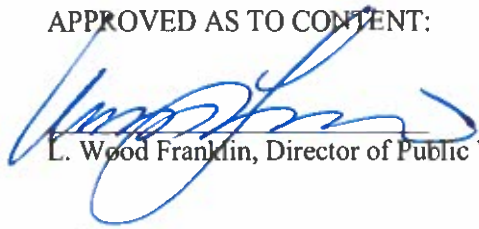
  
\_\_\_\_\_  
Chris Wright, P.E.

ATTEST:

\_\_\_\_\_  
Courtney Paz, City Secretary



APPROVED AS TO CONTENT:

A handwritten signature in blue ink, appearing to read "L. Wood Franklin", written over a horizontal line.

L. Wood Franklin, Director of Public Works

APPROVED AS TO FORM:

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

Kelli Leisure, Senior Assistant City Attorney





**ATTACHMENT "A"**

***City of Lubbock ADA Transition Plan – Gap Analysis (Phase 2)***  
**Scope of Services**

**SCOPE OF PROJECT**

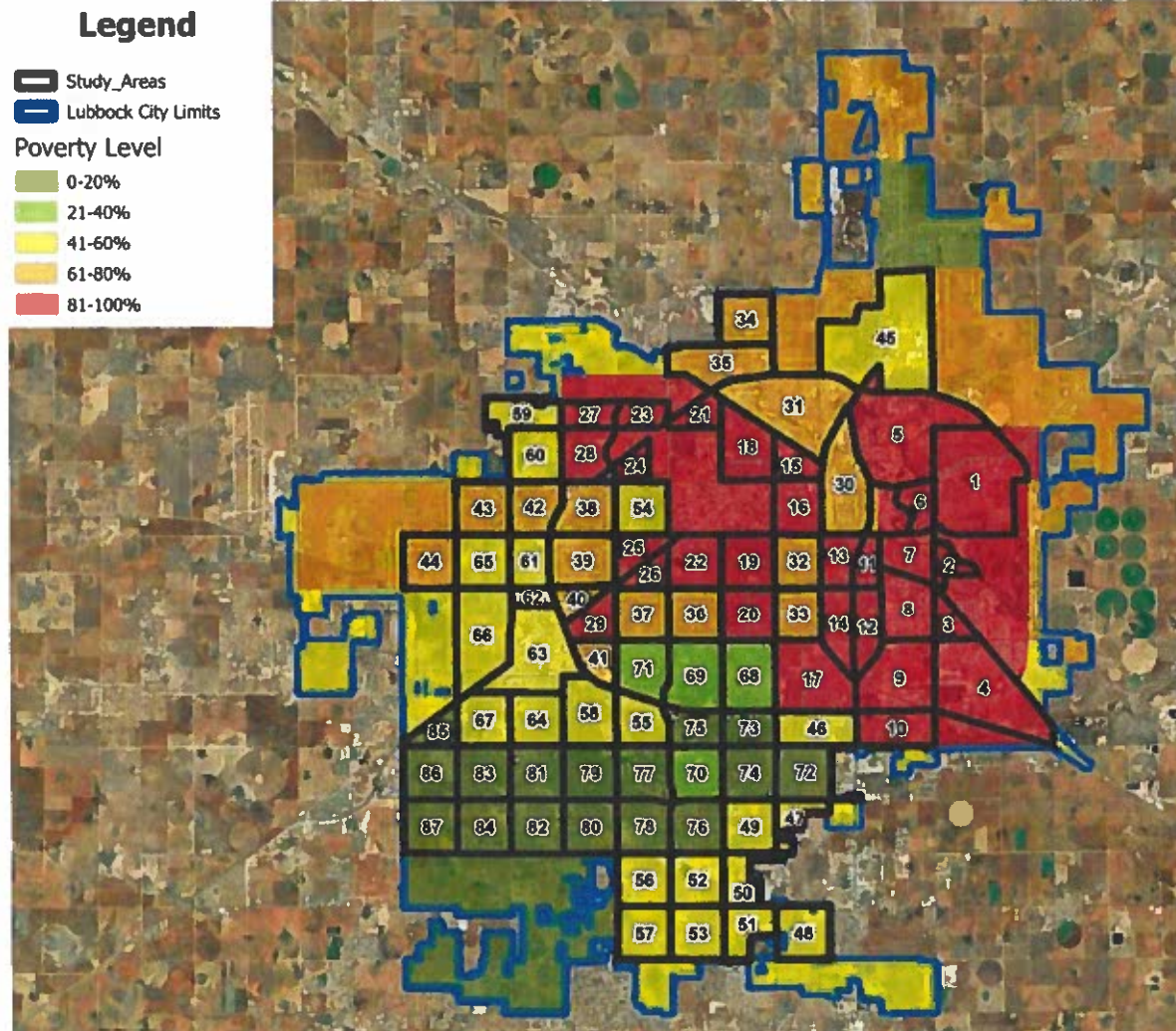
This project involves the desktop review and analysis of Citibus bus stop access in the City of Lubbock, Field verification and measurements of select locations, and a Technical Report outlining methodology and results from the Gap Analysis. Phase 2 will begin with a desktop evaluation for the 582 listed Citibus bus stops, proceeding in to field verification and Technical Report writing. The Transition Plan Gap Analysis is a short-term study that identifies, by location, the existing pedestrian physical barriers and other ADA compliance needs that limit accessibility to and from Citibus bus stops. Phase 2 of the study will address access issues related to bus stops and sidewalks at Citibus Bus stops in Lubbock.

***PROPOSED BASIC SCOPE OF SERVICES***

**A. DESKTOP INVENTORY OF CITIBUS BUS STOP ADA GAPS**

1. Desktop review using ArcGIS and other imagery programs to identify and document locations of ADA accessibility deficiencies for Citibus bus stops in Lubbock.
2. Create GIS object for the identified gaps that will depict deficiencies at the bus stop.
3. AtkinsRéalis has segmented a large portion of the City of Lubbock into prioritized segments that are approximately 1 square mile on average. Prioritization was assigned based on US Census Poverty Level data. Segments are numbered and color coded as shown in **Figure A**, below.





**Figure A:** Numbered and color coded of approximate 1 square mile segments that need to be evaluated. Highest priority is shown starting with Segment 1.

#### B. FIELD VERIFICATION

1. AtkinsRéalis will prioritize locations based on severity of existing access gap and visual evaluation performed during the desktop inventory to select locations for field verification to fine tune the gap list.
2. AtkinsRéalis will have 2 people in the field to take measurements and appropriate pictures for these locations. Initial estimation for time to complete is 2 weeks, but this estimate is subject to change per the results of the full desktop study.

#### C. TECHNICAL REPORT:

1. AtkinsRéalis will prepare a written technical report to document findings of the Citibus Gap analysis.



2. The technical report will contain ArcGIS notated maps and quantities for the completed segments to show gaps of ramps (EA) and sidewalk (LF).
3. The technical report will contain methodology information.
4. A draft report will be provided to the City of Lubbock for review and comments. AtkinsRéalis will make amendments upon receipt of review comments and submit the final copy of the technical report to the City.

**C. MEETINGS:**

1. AtkinsRéalis will conduct a kick-off meeting with Edward Sewell in person and the rest of our team attending virtually.
2. Other virtual coordination meetings will be provided throughout the course of the project to coordinate progress and needed adjustments to methodology.

**D. EXCLUSIONS:** (The following services are not part of Scope of Services for this Proposal)

1. Land and topographic surveys

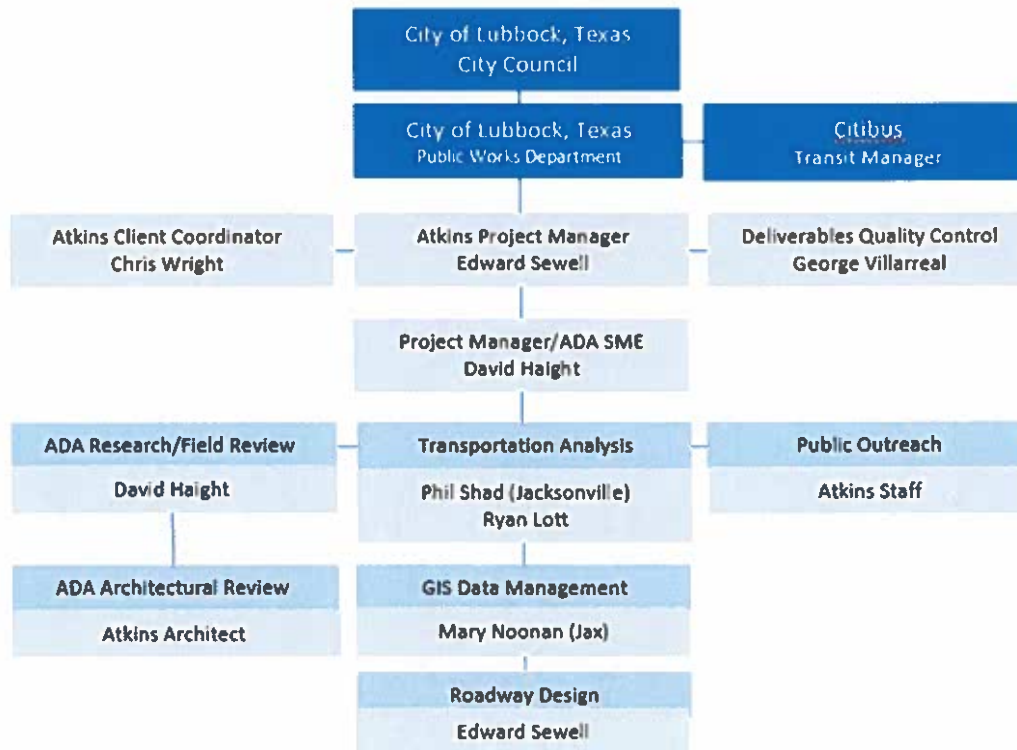
**PROJECT TEAM:**

AtkinsRéalis will provide local and remote staff experienced with this type of work committed to complete this project effort in a timely and cost-effective fashion. Our proposed staff has been selected from offices in Lubbock, Texas, Austin, Texas, and Jacksonville, Florida, based on previous experience with this type of ADA transition plan and related work.



City of Lubbock, Texas  
ADA Transition Plan for Public Facilities

Team Organization Chart



**SCHEDULE:**

AtkinsRéalis project team can commit availability to the City of Lubbock to begin work as soon as the Notice to Proceed is received. A proposed Preliminary project schedule has been developed for initial discussion with the City. Durations are estimates and the schedule can be adjusted to accommodate City start date preferences.

Task Name	Duration	Start	Finish
NTP	0 days	Tue 10/15/24	Wed 6/11/25
<b>Phase 2- Citibus Bus Stop Gap Analysis</b>	<b>157 days</b>	<b>Tue 10/15/24</b>	<b>Wed 6/11/25</b>
Desktop Inventory & Analysis of Citibus Bus Stop	6 months	Tue 10/15/24	Fri 3/28/25
- Add GIS Site Review Data Mapping	2 weeks	Mon 3/31/25	Fri 4/11/25
Field Verification & Processing	4 weeks	Mon 4/14/25	Fri 5/9/25
Prepare Technical Memorandum	4 weeks	Mon 5/12/25	Fri 6/6/25



## ATTACHMENT "B"

*City of Lubbock ADA Transition Plan – Gap Analysis (Phase 2)*

## COMPENSATION:

FEES & REIMBURSABLES	
Service	Amount
A. Desktop Inventory of Citibus Bus Stop Accessibility Gaps	\$134,144.00
B. Field Verification of Select Locations	\$36,147.00
C. Technical Report of Findings and Methodology	\$25,416.00
D. Other Direct Expenses (Travel for Field Verification)	\$9,148.00
<b>Total</b>	<b>\$204,855.00</b>

The fee amounts shown above for individual services are estimates. The total amount invoiced per item will be based on the actual number of hours required to complete each item. AtkinsRéalis will not exceed the **total estimated fee budget limit** without advance written authorization of the client.

## CLIENT:

CITY OF LUBBOCK

By: Date: 9/24/2024Name: David Bragg, P.E.Title: Director of Traffic Management

## ENGINEER:

AtkinsRéalis

By: Date: 7/23/24Name: Chris Wright, P.E.Title: Project Director



**MODIFICATION FOR TIME EXTENSION ON PROFESSIONAL SERVICES  
CONTRACT**

STATE OF TEXAS §

COUNTY OF LUBBOCK §

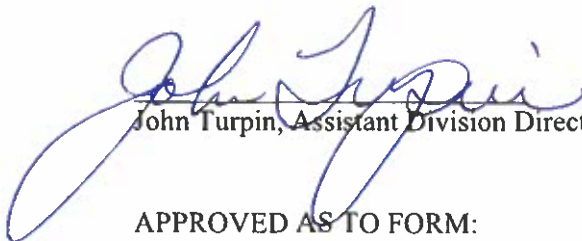
This modification to Professional Service Agreement ("Agreement") Contract No. 17858 is entered into 21<sup>st</sup> day of June, 2024 is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and AtkinsRealis (the "Engineer"), a Texas corporation.

In accordance with "Article I. Term" of this Agreement, the Assistant Division Director of Public Works, by this modification, grants an additional six (6) months of time to complete services of the Agreement so long as the amount of consideration does not increase. This modification does not grant any additional consideration. The City acting through its governing body must approve an amendment for an increase of compensation.

**EXECUTED** as of the Effective Date hereof.

**CITY OF LUBBOCK**

APPROVED AS TO CONTENT:



John Turpin, Assistant Division Director of Public Works

APPROVED AS TO FORM:



Kelli Leisure, Senior Assistant City Attorney

Firm: AtkinsRealis

By: 

Printed Name: Chris Wright P.E.

Email: [Chris.Wright@atkinsrealis.com](mailto:Chris.Wright@atkinsrealis.com)



# PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 17858 is entered into this 18th day of January, 2024, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and AtkinsRealis (the "Engineer"), a Texas corporation.

## WITNESSETH

**WHEREAS**, The City desires to contract with the Engineer to provide professional services for ADA Transition Plan – Gap Analysis, (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 180 days. If the Engineer determines that additional time is required to complete the Services, the Assistant Division Director of Public Works, 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 Attachment "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 \$49,205.21, as set forth in Attachment "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 Attachment "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 5 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

#### **ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS**

The Engineer may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Engineer, as set forth on Exhibit [insert correct value], attached hereto, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Engineer is at all times responsible to the City to perform the Services as provided in this Agreement and the Engineer is in no event relieved of any obligation under this Agreement upon retainage of any approved Sub-consultant. Any agent and/or Sub-consultant retained and/or employed by the Engineer shall be required by the Engineer to carry, for the protection and benefit of the City and the Engineer and naming said third parties as additional insureds, insurance as described above required to be carried by the Engineer in this Agreement.

The Engineer represents that such services are either under applicable value thresholds or are otherwise exempt from notice and/or bid requirements under Texas Law.

#### **ARTICLE X. CONFIDENTIALITY**

The Engineer shall retain all information received from or concerning the City and the City's business in strictest confidence and shall not reveal such information to third parties without prior written consent of the City, unless otherwise required by law.



## **ARTICLE XI. INDEMNITY**

THE ENGINEER SHALL INDEMNIFY AND HOLD HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, DESIGNATED AGENTS, AND EMPLOYEES FROM ALL LOSSES, DAMAGES, LIABILITIES, , ALL 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 RELATED TO THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO ERRORS 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. 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:

Atkinsrealis.

Chris Wright P.E.

11801 Domain Boulevard, Suite 500

Austin, Texas 78758

Telephone: 512-342-3265

Email: Chris.Wright@atkinsrealis.com



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

John Turpin P.E.  
City of Lubbock  
P.O. Box 2000  
1314 Avenue K  
Lubbock, Texas 79457  
Telephone: 8067752342  
Email: jturpin@mylubbock.us

D. Change of Address. Either party may change its address or numbers for purposes of notice by giving written notice to the other party as provided herein, referring specifically to this Agreement, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

#### **ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES**

Provision of Data. The City shall furnish the Engineer non-confidential studies, reports and other available data in the possession of the City pertinent to the Engineer's Services, so long as the City is entitled to rely on such studies, reports and other data for the performance of the Engineer's Services under this Agreement (the "Provided Data"). The Engineer shall be entitled to use and rely, so long as such reliance is reasonable, upon all such Provided Data.

#### **ARTICLE XV. MISCELLANEOUS**

A. Captions. The captions for the articles and sections in this Agreement are inserted in this Agreement strictly for the parties' convenience in identifying the provisions to this Agreement and shall not be given any effect in construing this Agreement.

B. Audit. The Engineer shall provide access to its corporate books and records to the City. The City may audit, at its expense and during normal business hours, the Engineer's books and records with respect to this Agreement between the Engineer and the City.

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer. D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

E. Successor and Assigns. This Agreement binds and inures to the benefit of the City and the Engineer, and in the case of the City, its respective successors, legal representatives, and assigns, and in the case of the Engineer, its permitted successors and assigns.



**F. Construction and Venue.**

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

**G. Severability.** If any provision of this Agreement is ever held to be invalid or ineffective by any court of competent jurisdiction with respect to any person or circumstance, the remainder of this Agreement and the application of such provision to persons and/or circumstances other than those with respect to which it is held invalid or ineffective shall not be affected thereby.

**H. Amendment.** No amendment, modification, or alteration of the terms of this Agreement shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to this Agreement, and duly authorized and executed by the Engineer and the City.

**I. Entire Agreement.** This Agreement, including Exhibits "A" through "B" attached hereto, contains the entire agreement between the City and the Engineer, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

**J. No Joint Enterprise.** Nothing contained herein shall be construed to imply a joint venture, joint enterprise, partnership or principal – agent relationship between the Engineer and the City.

**K. Documents Owned by City.** Any and all documents, drawings and specifications prepared by Engineer as part of the Services hereunder, shall become the property of the City when the Engineer has been compensated as set forth in Article II, above. The Engineer shall make copies of any and all work products for its files.

**L. Notice of Waiver.** A waiver by either the City or the Engineer of a breach of this Agreement must be in writing and duly authorized to be effective. In the event either party shall execute and deliver such waiver, such waiver shall not affect the waiving party's rights with respect to any other or subsequent breach.

**M. Third Party Activities.** Nothing in this Agreement shall be construed to provide any rights or benefits whatsoever to any party other than the City and the Engineer.



N. **Non-Appropriation.** All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the services provided under the Agreement, the City will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first (the "Non-Appropriation Date"). If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Engineer on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the Non-Appropriation Date.

O. **Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited.** Pursuant to Section 2252.152 of the Texas Government Code, prohibits the City from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization.

P. **No Boycott of Israel.** Pursuant to Section 2271.002 of the Texas Government Code, a) This section applies only to a contract that: (1) is between a governmental entity and a company with 10 or more full-time employees; and (2) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. (b) A governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

Q. **Texas Public Information Act.** The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter. To the extent Subchapter J, Chapter 552, Government Code applies to this agreement, Contractor agrees to: (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the governmental body for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and (3) on completion of the contract, either: (A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

R. **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.

S. 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.

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**

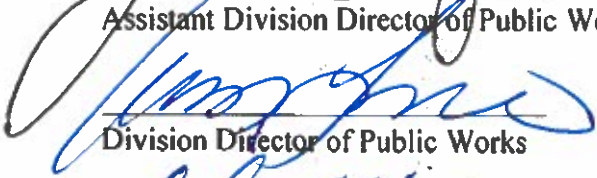


Marta Alvarez, Director of Purchasing and  
Contract Management

**APPROVED AS TO CONTENT:**



Assistant Division Director of Public Works



Division Director of Public Works



Assistant City Manager

**APPROVED AS TO FORM:**



Kelli Leisure, Assistant City Attorney

**Firm**

**AtkinsRealis**

By: 

Chris Wright P.E.

Email: [Chris.Wright@atkinsrealis.com](mailto:Chris.Wright@atkinsrealis.com)





## **ATTACHMENT "A"**

### ***City of Lubbock ADA Transition Plan – Gap Analysis (Phase 1)*** **Scope of Services**

#### **SCOPE OF PROJECT**

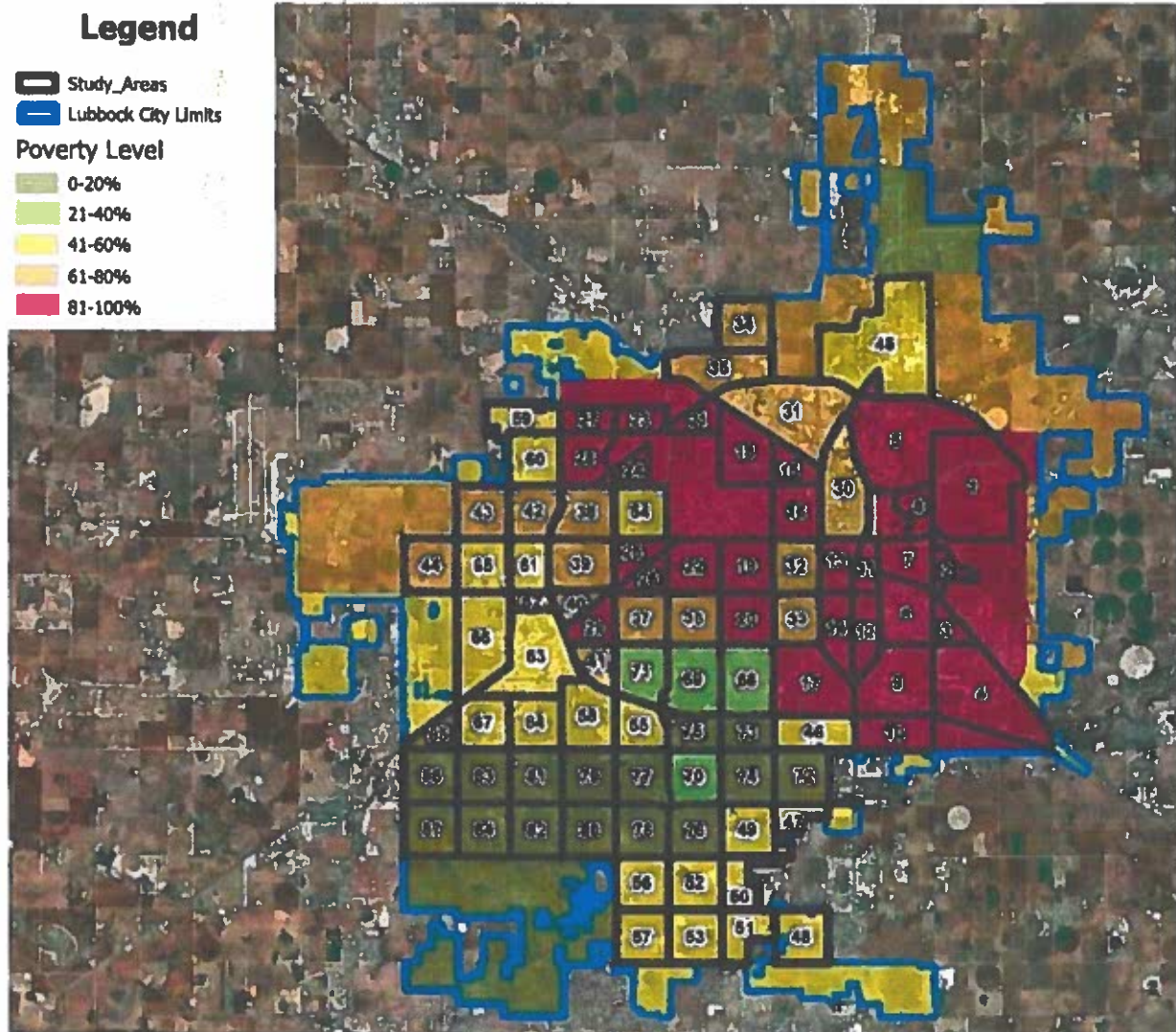
This project involves the desktop review and analysis of ADA ramps and sidewalks in the City of Lubbock. The Transition Plan Gap Analysis is a short-term study that identifies, by location, the existing pedestrian physical barriers and other ADA compliance needs that limit accessibility along City of Lubbock streets. Phase 1 of the study will address access issues related to streets, crosswalks, and sidewalks.

#### ***PROPOSED BASIC SCOPE OF SERVICES***

##### **A. DESKTOP INVENTORY OF ADA AND SIDEWALK GAPS**

1. Desktop review using ArcGIS and other imagery programs to identify and document locations of missing ADA ramps and sidewalks along City of Lubbock streets.
2. Create GIS object for the identified gaps that will depict missing sidewalks and ADA ramps.
3. AtkinsRéalis has segmented a large portion of the City of Lubbock into prioritized segments that are approximately 1 square mile on average. Prioritization was assigned based on US Census Poverty Level data. Segments are numbered and color coded as shown in **Figure A**, below.
4. AtkinsRéalis anticipates completing a minimum of 25 segments under this Work Authorization (WA).
5. If budget remains after completing the initial 25 segments associated with this WA, additional segments will be completed until the remaining budget has been spent or City of Lubbock advises a stop work. The number of additional segments that can be completed is not estimated at this time, as the complexity of segments varies throughout the city.





**Figure A:** Numbered and color coded of approximate 1 square mile segments that need to be evaluated. Highest priority is shown starting with Segment 1.

#### **B. TECHNICAL MEMORANDUM:**

1. AtkinsRéalis will prepare a written technical memorandum to document findings of completed segments.
2. The technical memorandum will contain ArcGIS notated maps and quantities for the completed segments to show gaps of ramps (EA) and sidewalk (LF).
3. The technical memorandum will be formatted in such a way that it can be easily converted into a final report including potential future phases of the project.
4. A draft memorandum will be provided to the City of Lubbock for review and comments. AtkinsRéalis will make amendments upon receipt of review comments and submit the final copy of the technical memo to the City.

#### **C. MEETINGS:**



1. AtkinsRéalis will conduct a kick-off meeting with Edward Sewell in person and the rest of our team attending virtually.
2. Other virtual coordination meetings will be provided throughout the course of the project to coordinate progress and needed adjustments to methodology.

**D. EXCLUSIONS:** (The following services are not part of Scope of Services for this Proposal)

1. Field Work
2. Land and topographic surveys

**PROJECT TEAM:**

AtkinsRéalis will provide local and remote staff experienced with this type of work committed to complete this project effort in a timely and cost-effective fashion. Our proposed staff has been selected from offices in Lubbock, Texas, Austin, Texas, and Jacksonville, Florida, based on previous experience with this type of ADA transition plan and related work.

**Team Organization Chart**





**SCHEDULE:**

AtkinsRéalis project team can commit availability to the City of Lubbock to begin work as soon as the Notice to Proceed is received. A proposed Preliminary project schedule has been developed for initial discussion with the City. Durations are estimates and the schedule can be adjusted to accommodate City start date preferences.

Task Name	Duration	Start	Finish
NTP	0 days	Mon 12/4/23	Mon 12/4/23
<b>Phase 1-Sidewalk ADA Ramp Gap Analysis</b>	<b>96 days</b>	<b>Mon 12/4/23</b>	<b>Fri 3/8/24</b>
Desktop Inventory of ADA & Sidewalk Gaps	2 months	Mon 12/4/23	Fri 2/19/23
- Add GIS Site Review Data Mapping	2 weeks	Mon 2/5/24	Fri 2/19/24
Prepare Technical Memorandum	3 weeks	Mon 2/19/24	Fri 3/8/24



## ATTACHMENT "B"

*City of Lubbock ADA Transition Plan - Gap Analysis (Phase 1)*

## COMPENSATION:

FEES & REIMBURSABLES	
Service	Amount
A. Desktop Inventory of ADA & Sidewalk Gaps (segments 1-25)	\$40,439.65
B. Technical Memorandum	\$8,765.56
<b>Total</b>	<b>\$49,205.21</b>

The fee amounts shown above for individual services are estimates. The total amount invoiced per item will be based on the actual number of hours required to complete each item. AtkinsRealis will not exceed the **total estimated fee budget limit** without advance written authorization of the client.

## CLIENT:

CITY OF LUBBOCK

By: Date: 1/16/2024Name: John Turpin, P.E.Title: Assistant Division Director of Public Works

## ENGINEER:

AtkinsRdalis

By: Date: 1/15/2024Name: Chris Wright, P.E.Title: Project Director



City of Lubbock  
Capital Project  
Project Cost Detail  
October 8, 2024

Capital Project Number:	92570
Capital Project Name:	American Disability Act Ramp and Sidewalk Project

<i>Encumbered/Expended</i>	<u>Budget</u>
Design	101,733
AtkinsRealis Sidewalke Gap Analysis Phase 1	49,159
Ramp and Sidewalk Construction	1,111,557
<i>Agenda Item October 8, 2024</i>	
<b>AtkinsRealis</b>	<b>204,855</b>
<i>Encumbered/Expended To Date</i>	<u>1,467,304</u>
<i>Estimated Cost for Remaining Appropriation</i>	
Construction	157,696
<b>Remaining Appropriation</b>	<u>157,696</u>
<b>Total Appropriation</b>	<u><u>1,625,000</u></u>





# CIP 92570 American Disability Act Ramp and Sidewalk Project

New Facility

Project Manager: Bailey Ratcliffe - Engineering

## Project Scope

This project will allow the City of Lubbock to update roadway facilities as needed which are not currently Americans with Disabilities Act (ADA) accessible. This funding will allow for approximately 20 to 25 ADA ramps annually and sidewalk modifications as needed to comply with the act. Annual service contract for ADA Ramp Installations - Construction: On going as funds allow.

## Project Justification

The American with Disabilities Act requires public entities to have an accessibility program.

## Project Highlights

**Council Priorities Addressed: Community Improvement, Public Safety**

## Project History

- FY 2018-19 \$250,000 was appropriated by Ord. 2018-00109
- FY 2019-20 \$125,000 was appropriated by Ord. 2019-00129
- FY 2020-21 \$150,000 was appropriated by Ord. 2020-00123
- FY 2021-22 \$250,000 was appropriated by Ord. 2021-00126
- FY 2022-23 \$300,000 was appropriated by Ord. 2022-00136
- FY 2023-24 \$250,000 was appropriated by Ord. 2023-00108

## Project Dates

Ongoing

## Project Location

City-wide

## Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
<b>Design</b>	\$115,000	\$0	\$0	\$0	\$0	\$0	\$0
<b>Construction</b>	\$1,210,000	\$300,000	\$350,000	\$350,000	\$350,000	\$375,000	\$375,000
<b>TOTAL</b>	<b>\$1,325,000</b>	<b>\$300,000</b>	<b>\$350,000</b>	<b>\$350,000</b>	<b>\$350,000</b>	<b>\$375,000</b>	<b>\$375,000</b>

## Project Funding

	Funding to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
<b>General Fund Cash</b>	\$1,075,000	\$0	\$350,000	\$350,000	\$350,000	\$375,000	\$375,000
<b>Gateway Fund Cash</b>	\$250,000	\$300,000	\$0	\$0	\$0	\$0	\$0
<b>TOTAL</b>	<b>\$1,325,000</b>	<b>\$300,000</b>	<b>\$350,000</b>	<b>\$350,000</b>	<b>\$350,000</b>	<b>\$375,000</b>	<b>\$375,000</b>



# Operating Budget Impacts

Description	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	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 - Community Development:** Consider a resolution authorizing the Mayor to execute Contract 12871, a Community Development Block Grant Funding Agreement, and all related documents, by and between the City of Lubbock and the U. S. Department of Housing and Urban Development, for the funding of public service activities, non-public service activities, housing, direct delivery of services, and administration.

### Item Summary

This is a contract for a Community Development Block Grant (CDBG) from the U.S. Department of Housing and Urban Development (HUD). The funds will be used for public service activities, non-public service activities, housing, direct delivery of services, and administration.

- 2024-2028 Consolidated Plan and 2024-2025 Annual Action Plan drafts
- Community Development & Services Board (CDSB)
- Public Hearing held March 13, 2024
- 30-day public comment period
- Public Meeting held April 10, 2024

These plan documents were submitted to HUD and serve as the City's application for, and proposed use of CDBG Grant. HUD has reviewed and approved the Consolidated Plan and Annual Action Plan.

On April 23, 2024, the City Council approved the resolution for the 2024-28 Consolidated Plan and 2024-25 Annual Action Plan.

### Fiscal Impact

There is no fiscal impact on the General Fund involved with this contract. The funds used originate from HUD. The maximum allocation of this grant is \$2,197,708.

### Staff/Board Recommending

Bill Howerton, Deputy City Manager

Karen Murfee, Director of Community Development

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## Attachments

CDBG Resolution

Agreement 12871 pdf



**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, Community Development Block Grant Funding Agreement 12871 for public service activities, non-public service activities, housing, direct delivery of services, and administration, and all related documents, between the City of Lubbock and the U.S. Department of Housing and Urban Development (HUD). Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

**Passed by the City Council on \_\_\_\_\_.**

\_\_\_\_\_  
**MARK W. MCBRAYER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Karen Murfee, Director of Community Development

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Amy L. Sims, Deputy City Attorney

RES. CBDG Contract 12871 HUD-CDBG



Funding Approval/Agreement

Title I of the Housing and Community  
Development Act (Public Law 930383)  
HI-00515R of 20515R

U.S. Department of Housing and Urban Development  
Office of Community Planning and Development  
Community Development Block Grant Program

OMB Approval No. 2506-0193  
exp 1/31/2025

1. Name of Grantee (as shown in item 5 of Standard Form 424) City of Lubbock	3a. Grantee's 9-digit Tax ID Number 756000590	3b. Grantee's 9-digit DUNS Number LXDNEKWRVKJ6 (UEI)
2. Grantee's Complete Address (as shown in item 5 of Standard Form 424) Po Box 2000 Lubbock, TX 79457-0001	4. Date use of funds may begin 10/01/2024	
	5a. Project/Grant No. 1 B-24-MC-48-0022	6a. Amount Approved \$2,197,708.00 (by this action)
	5b. Project/Grant No. 2	6b. Amount Approved

**Grant Agreement:** This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Grantee is made pursuant to the authority of Title I of the Housing and Community Development Act of 1974, as amended, (42 USC 5301 et seq.). The Grantee's submissions for Title I assistance, the HUD regulations at 24 CFR Part 570 (as now in effect and as may be amended from time to time), and this Funding Approval, including any additional and/or special conditions, constitute part of the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Grantee upon execution of the Agreement by the parties. The funding assistance specified in the Funding Approval may be used to pay costs incurred after the date specified in item 4 above provided the activities to which such costs are related are carried out in compliance with all applicable requirements. Pre-agreement costs may not be paid with funding assistance specified here unless they are authorized in HUD regulations or approved by waiver and listed in the additional and/or special conditions to the Funding Approval. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to Section 104(g) of Title I and published in 24 CFR Part 58. The Grantee further acknowledges its responsibility for adherence to the Agreement by sub-recipient entities to which it makes funding assistance hereunder available.

U.S. Department of Housing and Urban Development (By Name) Shirley J. Henley		Grantee Name (Contractual Organization) CITY OF LUBBOCK	
Title CPD Director		Title Mayor, City of Lubbock	
Signature  X	Date (mm/dd/yyyy)  9/6/2024	Signature  X	Date (mm/dd/yyyy)

7. Category of Title I Assistance for this Funding Action:  Entitlement, Sec 106(b)	8. Additional/Special Conditions (check one) <input type="checkbox"/> <input checked="" type="checkbox"/> Attached	9a. Date HUD Received Submission 8/6/2024	10. check one <input checked="" type="checkbox"/> a. Orig. Funding Approval <input type="checkbox"/> b. Amendment Amendment Number
		9b. Date Grantee Notified (mm/dd/yyyy)	
		9c. Date of Start of Program Year 10/01/2024	
		11. Amount of Community Development Block Grant	
a. Funds Reserved for this Grantee	FY 2024	FY 2023	
b. Funds now being Approved	\$2,197,663.00	\$ 45.00	
c. Reservation to be Cancelled (11a minus 11b)			

12a. Amount of Loan Guarantee Commitment now being Approved N/A	12b. Name and complete Address of Public Agency
<b>Loan Guarantee Acceptance Provisions for Designated Agencies:</b> The public agency hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development on the above date with respect to the above grant number(s) as Grantee designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.	12c. Name of Authorized Official for Designated Public Agency
	Title
	Signature
	X

HUD Accounting use Only

Batch	TAC	Program	Y	A	Reg	Area	Document No.	Project Number	Category	Amount	Effective Date (mm/dd/yyyy)	F
	153											
	176											
			Y					Project Number		Amount		
			Y					Project Number		Amount		
Date Entered PAS (mm/dd/yyyy)		Date Entered LOCCS (mm/dd/yyyy)		Batch Number		Transaction Code		Entered By		Verified By		



8. Additional Conditions.

- (a) The period of performance and single budget period for the funding assistance specified in the Funding Approval (“Funding Assistance”) shall each begin on the date specified in item 4 and shall each end on September 1, 2031. The Grantee shall not incur any obligations to be paid with such assistance after September 1, 2031.
- (b) The Grantee must complete Addendum #1 to Agreement “Grantee Indirect Cost Rate(s)” and return it to HUD with this Agreement. The addendum HUD receives from the Grantee will be incorporated into and made part of this Agreement, provided that the rate information is consistent with the applicable requirements under 2 CFR part 200. The Grantee must immediately notify HUD upon any change in the Grantee’s indirect cost rate, so that HUD can amend the Agreement to reflect the change if necessary.
- (c) In addition to the conditions contained on form HUD 7082, the grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS); the System for Award Management (SAM.gov.); the Federal Funding Accountability and Transparency Act as provided in 2 CFR part 25, Universal Identifier and General Contractor Registration; and 2 CFR part 170, Reporting Subaward and Executive Compensation Information.
- (d) The grantee shall ensure that no CDBG funds are used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport or highway projects as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water- related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107–118) shall be considered a public use for purposes of eminent domain.
- (e) The Grantee or unit of general local government that directly or indirectly receives CDBG funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Act.
- (f) E.O. 12372-Special Contract Condition - Notwithstanding any other provision of this agreement, no funds provided under this agreement may be obligated or expended for the planning or construction of water or sewer facilities until receipt



of written notification from HUD of the release of funds on completion of the review procedures required under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and HUD's implementing regulations at 24 CFR Part 52. The recipient shall also complete the review procedures required under E.O. 12372 and 24 CFR Part 52 and receive written notification from HUD of the release of funds before obligating or expending any funds provided under this agreement for any new or revised activity for the planning or construction of water or sewer facilities not previously reviewed under E.O. 12372 and implementing regulations.

- (g) CDBG funds may not be provided to a for-profit entity pursuant to section 105(a)(17) of the Act unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 CFR 570 - "Guidelines and Objectives for Evaluating Project Costs and Financial Requirements." (Source - P.L. 113-235, Consolidated and Further Continuing Appropriations Act, 2015, Division K, Title II, Community Development Fund).
- (h) The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 USC 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.
- (h) Waste, Fraud, Abuse, and Whistleblower Protections. Any person who becomes aware of the existence or apparent existence of fraud, waste or abuse of any HUD award must report such incidents to both the HUD official responsible for the award and to HUD's Office of Inspector General (OIG). HUD OIG is available to receive allegations of fraud, waste, and abuse related to HUD programs via its hotline number (1-800-347-3735) and its online hotline form. You must comply with 41 U.S.C. § 4712, which includes informing your employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a government contractor, subcontractor, grantee, and subgrantee—as well as a personal services contractor—who make a protected disclosure about a Federal grant or contract cannot be discharged, demoted, or otherwise discriminated against as long as they reasonably believe the information they disclose is evidence of: 1. Gross mismanagement of a Federal contract or grant; 2. Waste of Federal funds; 3. Abuse of authority relating to a Federal contract or grant; 4. Substantial and specific danger to public health and safety; or 5. Violations of law, rule, or regulation related to a Federal contract or grant.
- (i) The Grantee will comply with the right to report crime and emergencies protections at 34 U.S.C. 12495 of the Violence Against Women Act.



**Addendum # 1 to Agreement B-24-MC-48-0022**  
**Grantee Indirect Cost Rate(s)**

As the duly authorized representative of the Grantee, I certify that the Grantee:

- ☐ Will not use an indirect cost rate to calculate and charge indirect costs under the grant.
- ☒ Will calculate and charge indirect costs under the grant by applying a *de minimis* rate as provided by 2 CFR 200.414(f), as may be amended from time to time.
- ☐ Will calculate and charge indirect costs under the grant using the indirect cost rate(s) listed below, and each rate listed is included in an indirect cost rate proposal developed in accordance with the applicable appendix to 2 CFR part 200 and, *if required*, was approved by the cognizant agency for indirect costs.

Agency/department/major function	Indirect cost rate	Type of Direct Cost Base
	%	
	%	
	%	

**Name of Authorized Official:**

Mark W. McBrayer

**Signature:**

X

**Date**

(mm/dd/yyyy):

**Title:**

Mayor, City of Lubbock

/ /

Instructions for the Grantee's Authorized Representative:

You must mark the one (and only one) checkbox above that best reflects how the Grantee's indirect costs will be calculated and charged under the grant. Do not include indirect cost rate information for subrecipients.

The table following the third box must be completed only if that box is checked. When listing a rate in the table, enter both the percentage amount (e.g., 10%) and the type of direct cost base to be used. For example, if the direct cost base used for calculating indirect costs is Modified Total Direct Costs, then enter "MTDC" in the "Type of Direct Cost Base" column.

If using the Simplified Allocation Method for indirect costs, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

If using the Multiple Allocation Base Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.

If the Grantee is a government and more than one agency or department will carry out activities under the grant, enter each agency or department that will carry out activities under the grant, the indirect cost rate(s) for that agency or department, and the type of direct cost base to which each rate will be applied.

To learn more about the indirect cost requirements, see 2 CFR part 200, subpart E and Appendix VII to Part 200 (for state and local governments).



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## Information

### Agenda Item

**Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Contract 12872, an Emergency Solutions Grant Funding Agreement, and all related documents, by and between the City of Lubbock and the U. S. Department of Housing and Urban Development, for the funding of Emergency Shelter, Rapid Re-Housing, Homeless Management Information Systems, and administration.

### Item Summary

This is a contract for an Emergency Solutions Grant (ESG) Funding Agreement from the U. S. Department of Housing and Urban Development (HUD). The funds will be used for Emergency Shelter, Rapid Re-Housing, Homeless Management Information System (HMIS) and administration.

- 2024-2028 Consolidated Plan and 2024-2025 Annual Action Plan drafts
- Community Development & Services Board (CDSB)
- Public Hearing held March 13, 2024
- 30-day public comment period
- Public Meeting held April 10, 2024

These plan documents were submitted to HUD and serve as the City's application for, and proposed use of ESG Funding. HUD has reviewed and approved the Consolidated Plan and Annual Action Plan.

On April 23, 2024, the City Council approved the resolution for the 2024-28 Consolidated Plan and 2024-25 Annual Action Plan.

### Fiscal Impact

There is no fiscal impact on the General Fund involved with this contract. The funds used originate from HUD. The maximum allocation of this grant is \$197,378.

### Staff/Board Recommending

Bill Howerton, Deputy City Manager

Karen Murfee, Director of Community Development

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## Attachments

ESG Resolution

Agreement - 12872 pdf



**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, Emergency Solutions Grant (ESG) Funding Agreement 12872, between the City of Lubbock and the U. S. Department of Housing and Urban Development (HUD) for the funding of Emergency Shelter, Rapid Re-Housing, Homeless Management Information System, and administration, and all related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
**MARK W. MCBRAYER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Karen Murfee, Community Development Director

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Amy L. Sims, Deputy City Attorney



**Funding Approval and HOME  
Investment Partnerships Agreement**

## Title II of the National Affordable Housing Act

Assistance Listings #14.239 – HOME Investment Partnerships Program

1. Grantee Name (must match the name associated with 3b.) and Address City of Lubbock Po Box 2000 Lubbock, TX 79457-0001		2. Grant Number (Federal Award Identification Number (FAIN)) M24-MC480205	
		3a. Tax Identification Number 756000590	3b. Unique Entity Identifier (formerly DUNS) LXDNEKWRVKJ6
		4. Appropriation Number 86 4/7 0205	5. Budget Period Start and End Date FY 2024 through FY 2032
6. Previous Obligation (Enter "0" for initial FY allocation)			\$0.00
a. Formula Funds		\$	
7. Budget Approved by the Federal Awarding Agency/Current Transaction (+ or -)			\$954,695.58
a. Formula Funds		\$954,695.58	
1. CHDO (For deobligations only)		\$	
2. Non- CHDO (For deobligations only)		\$	
8. Revised Obligation			\$
a. Formula Funds		\$	
9. Special Conditions (check applicable box) <input type="checkbox"/> Not applicable <input checked="" type="checkbox"/> Attached		10. Federal Award Date (HUD Official's Signature Date) (mm/dd/yyyy) <b>9/6/2024</b>	
11. Indirect Cost Rate* See Addendum		12. Period of Performance Start and End Date Date in Box #10 - 09/30/2033	

This Agreement between the Department of Housing and Urban Development (HUD) and the Grantee is made pursuant to the authority of the HOME Investment Partnerships Act (42 U.S.C. 12701 et seq.). The Grantee's approved Consolidated Plan submission/Application, the HUD regulations at 24 CFR Part 92 (as is now in effect and as may be amended from time to time) and this HOME Investment Partnership Agreement, form HUD-40093, including any special conditions, constitute part of this Agreement. Subject to the provisions of this Agreement, HUD will make the funds for the Fiscal Year specified, available to the Grantee upon execution of this Agreement by the parties. All funds for the specified Fiscal Year provided by HUD by formula reallocation are covered by this Agreement upon execution of an amendment by HUD, without the Grantee's execution of the amendment or other consent. HUD's payment of funds under this Agreement is subject to the Grantee's compliance with HUD's electronic funds transfer and information reporting procedures issued pursuant to 24 CFR 92.502. To the extent authorized by HUD regulations at 24 CFR Part 92, HUD may, by its execution of an amendment, deobligate funds previously awarded to the Grantee without the Grantee's execution of the amendment or other consent. The Grantee agrees that funds invested in affordable housing under 24 CFR Part 92 are repayable when the housing no longer qualifies as affordable housing. Repayment shall be made as specified in 24 CFR Part 92. The Grantee agrees to assume all of the responsibility for environmental review, decision making, and actions, as specified and required in regulation at 24 CFR 92.352 and 24 CFR Part 58.

The Grantee must comply with the applicable requirements at 2 CFR part 200 that are incorporated by the program regulations, as may be amended from time to time. Where any previous or future amendments to 2 CFR part 200 replace or renumber sections of part 200 that are cited specifically in the program regulations, activities carried out under the grant after the effective date of the part 200 amendments will be governed by the 2 CFR part 200 requirements as replaced or renumbered by the part 200 amendments.


The Grantee must use the Grant Funds only for costs (including indirect costs) that meet the applicable requirements in 2 CFR part 200 (including appendices). The Grantee must complete the Addendum to Agreement Grantee Indirect Cost Rate(s) (Addendum) and return it to HUD with this Agreement. The Addendum will be incorporated into and made part of this Agreement, if, and only if, the rate information provided by Grantee in the Addendum is consistent with the applicable requirements under 2 CFR part 200. The Grantee must immediately notify HUD upon any change in the Grantee's indirect cost rate, so that HUD can amend the Agreement to reflect the change if necessary.

The Grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Universal Numbering System and System for Award Management (SAM) requirements in Appendix I to 2 CFR part 200, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170.

The Period of Performance for the funding assistance shall begin on the date specified in item 12 and shall end on September 1<sup>st</sup> of the 6<sup>th</sup> fiscal year after the expiration of the period of availability for obligation. Funds remaining in the account will be cancelled and thereafter not available for obligation or expenditure for any purpose. Per 31 U.S.C. 1552. The Grantee shall not incur any obligations to be paid with such assistance after the end of the Period of Performance.

The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 U.S.C. 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001) [2023-05698.pdf \(govinfo.gov\)](https://www.federalregister.gov/documents/2023/05/06/2023-05698/pdf), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

Waste, Fraud, Abuse, and Whistleblower Protections: Any person who becomes aware of the existence or apparent existence of fraud, waste or abuse of any HUD award must reports such incidents to both the HUD official responsible for the award and to HUD's Office of Inspector General (OIG). HUD OIG is available to receive allegations of fraud, waste, and abuse related to HUD programs via its hotline number (1-800-347-3735) and its online hotline form. You must comply with 41 U.S.C. § 4712, which includes informing your employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a government contractor, subcontractor, grantee, and subgrantee- as well as personal services contractor- who make a protected disclosure about a Federal grant or contract cannot be discharged, demoted, or otherwise discriminated against as long as they reasonably believe the information they disclose is evidence of: 1. Gross mismanagement of a contract or grant; 2. Waste of Federal funds; 3. Abuse of authority relating to a Federal contract or grant; 4. Substantial and specific danger to public health and safety; or 5. Violations of law, rule, or regulation related to a Federal contract or grant.

13. For the U.S. Department of HUD (Name and Title of Authorized Official) Shirley J. Henley, CPD Director	14. Signature  DocuSigned by: Shirley Henley 50383646D0ED10C	15. Date <b>9/6/2024</b>
16. For the Grantee (Name and Title of Authorized Official) Mark W. McBrayer, Mayor, City of Lubbock	17. Signature	18. Date / /



☒ Initial Agreement

☐ Amendment #

20. Funding Information:      *HOME*

Source of Funds	Appropriation Code	PAS Code	Amount
2024	86 4/7 0205	HMF (N)	\$953,630.25
2023	86 3/6 0205	HMF (M)	\$1,065.33



**Supplement to Agreement M24-MC480205**

**Grantee Indirect Cost Rate(s)**

As the duly authorized representative of the Grantee, I certify that the Grantee:

- ☐ Will not use an indirect cost rate to calculate and charge indirect costs under the grant.
- ☒ Will calculate and charge indirect costs under the grant by applying a *de minimis* rate as provided by 2 CFR 200.414(f), as may be amended from time to time.
- ☐ Will calculate and charge indirect costs under the grant using the indirect cost rate(s) listed below, and each rate listed is included in an indirect cost rate proposal developed in accordance with the applicable appendix to 2 CFR part 200 and, *if required*, was approved by the cognizant agency for indirect costs.

Agency/department/major function	Indirect cost rate	Type of Direct Cost Base
	%	
	%	
	%	

**Instructions for the Grantee's Authorized Representative:**

You must mark the one (and only one) checkbox above that best reflects how the Grantee's indirect costs will be calculated and charged under the grant. Do not include indirect cost rate information for subrecipients.

**Name of Authorized Official:**

Mark W. McBrayer

**Signature:**

X

**Date (mm/dd/yyyy):**

/ /

**Title:**

Mayor, City of Lubbock

The table following the third box must be completed only if that box is checked. When listing a rate in the table, enter both the percentage amount (e.g., 10%) and the type of direct cost base to be used. For example, if the direct cost base used for calculating indirect costs is Modified Total Direct Costs, then enter "MTDC" in the "Type of Direct Cost Base" column.

If using the Simplified Allocation Method for indirect costs, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

If using the Multiple Allocation Base Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.

If the Grantee is a government and more than one agency or department will carry out activities under the grant, enter each agency or department that will carry out activities under the grant, the indirect cost rate(s) for that agency or department, and the type of direct cost base to which each rate will be applied.

To learn more about the indirect cost requirements, see 2 CFR part 200, subpart E; Appendix IV to Part 200 (for nonprofit organizations); and Appendix VII to Part 200 (for state and local governments).



**General Instructions:** This Agreement is used for one of three purposes: 1) the initial Agreement between HUD and the Participating Jurisdiction (PJ) that obligates HOME formula funds; 2) the initial Agreement between HUD and the PJ/entity that obligates Community Housing Development Organization (CHDO) competitive reallocation funds; 3) the amendment to the Agreement that deobligates an amount of a PJ/entity's HOME funds previously obligated because of a reduction of funds by HUD.

For all initial Agreements - The Agreement (HUD-40093) must have an original or electronic signature by the appropriate HUD official, who is usually the Community Planning and Development (CPD) Director in the Field Office. After the HUD official signs the Agreement, it must be sent to the jurisdiction (or entity) for signature. The jurisdiction (or entity) must sign or electronically sign the Agreement and should retain a copy for its records. The jurisdiction (or entity) must return the signed Agreement to the HUD Field Office. The HUD Field Office must forward the executed Agreement to the CFO National Accounting Center for recording and retain a copy for the Field Office files.

For amendments to the Agreement that deobligate funds because of a reduction by HUD - after notification from the Headquarters' Office of Affordable Housing (OAHP) to proceed, the Agreement (HUD-40093) must be signed or electronically signed by the appropriate HUD official, who is usually the CPD Director in the Field Office. **It is not** necessary to have the jurisdiction sign the form. (Also, please See #8 below) The Field Office should send one copy to the jurisdiction (or entity) for its records. Forward the HUD signed amendment to the CFO National Accounting Center to initiate the deobligation. Email a copy to Headquarters, OAHP, Financial and Information Services Division so that Headquarters can track the deobligation. Retain a copy for the Field Office files.

1. **Participant Name and Address.** The participating jurisdiction's (or entity's) name and address as shown in Box 4 of Standard Form 424.
2. **Grant Number.** The applicable grant number assigned by the HUD for the PJ/entity that corresponds to the fiscal year source of funds for this transaction.
- 3a. **Tax Identification Number. Enter the Tax (Employer).** Identification Number (TIN) shown in Box 8b of Standard Form 424. For jurisdictions (or entities) that are already participating in the HOME Program, this must be the TIN associated

with the jurisdiction (or entity) for the HOME Program.

- 3b. **Unique Entity Identifier.** The identifier required for SAM registration to uniquely identify business entities shown in Box 8c of Standard Form 424 (formerly known as DUNS). For jurisdictions (or entities) that are already participating in the HOME Program, this must be the Unique Entity Identifier associated with the jurisdiction (or entity) for the HOME Program.
4. **Appropriation Number.** The Appropriation Number from the HUD-185 sub-assigning funds for the Fiscal Year source of funds for this transaction.
5. **Budget Start and End Date.** Indicate the fiscal years of funds for this transaction.
6. **Previous Obligation.** Enter the total amount of funds that have been previously obligated for this participant for this FY source of funds.
  - a. **Formula Funds.** Enter the total amount of formula funds previously obligated to the participant. If this is the funding approval form for the participant's initial allocation for the fiscal year, the amount will be "0". If this is a funding approval form for reallocating or deobligating funds, enter the amount from Box 7 of the previously submitted form HUD-40093 for the FY identified in Box 5.
  - b. **Community Housing Development Organization (CHDO) Competitive Reallocation.** Enter the amount of funds previously obligated to the PJ/entity by competition for CHDOs. If this is a funding approval form for reallocating or deobligating funds previously allocated by competition for CHDOs, enter the amount from Box 7 of the previously submitted form HUD-40093 for the FY identified in Box 5.
7. **Current Transaction.** Enter the total amount of funds for this action. Indicate a deobligation either by placing parentheses around the amount deobligated or a minus sign before the amount deobligated.
  - a. **Formula Funds.** Of the amount indicated in Box 7, indicate the amount that is for formula funds. If this is a formula fund deobligation, show the distribution of that amount of funds in Box 7a.1 CHDO funds and/or Box 7a.2 non-CHDO funds.
    1. **CHDO.** Of the amount indicated in Box 7a, indicate the amount that is CHDO funds. If none, enter "0." Note: If this is a CHDO competitive reallocation, enter the amount in 7b.



## Instructions for Completing the Funding Approval and HOME Investment Partnerships Agreement

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- 2. Non-CHDO.** Of the amount indicated in Box 7a, indicate the amount that is Non-CHDO funds. If none, enter "0".
- b. CHDO Competitive Reallocation or Deobligation.** Of the amount indicated in Box 7, indicate the amount that is reallocated or deobligated from the CHDO competition funds.
- 8. Revised Obligation.** Enter the total amount of funds available to the jurisdiction (or entity) after this transaction (Box 6 plus/minus Box 7). Most grants have several source years of funds, therefore, the funding information in #20 must be filled out with the applicable source year of funds and amounts to be deobligated.
- a. Formula Funds.** Enter the total amount of formula funds available to the participating jurisdiction after this transaction (Box 6a plus/minus Box 7a).
- b. CHDO Competitive Reallocation.** Enter the total amount of funds available to the PJ/entity as a competitive reallocation for CHDOs after this transaction (Box 6b plus/minus Box 7b).
- 9. Special Conditions.** If applicable, check the box and attach any special conditions that are part of the Agreement.
- 10. Federal Award Date.** This is the date of obligation which is the **initial date of the HUD Authorized Official's signature** (Box 15) This date of the initial obligation does not change regardless of the Agreement being amended for a deobligation because of a reduction by HUD.
- 11. Indirect Cost Rate.** If funding assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E-Cost Principles, complete the Addendum to Agreement Grantee (Indirect Cost Rate(s), including the name of the department/agency, its indirect cost rate (including if the de minimis rate is charged per 2 § CFR 200.414(f)), and the direct cost base to which the rate will be applied (for example, Modified Total Direct Costs (MTCD)). If the rate information provided by Recipient in the Addendum is consistent with the applicable requirements in 2 CFR Part 200, the Addendum will be incorporated into and made part of the Agreement. The Recipient also shall provide HUD with a revised schedule if changes occur, and shall become incorporated herein upon HUD's amendment to the Agreement. If there are more than four agencies/departments carrying out activities with the Funding Assistance, attach a list with the additional agencies/departments that will carry out activities with the Funding Assistance. Do not include indirect cost rates for subrecipients.
- 12. Period of Performance.** Performance begins on the **initial date of the HUD Authorized Official's signature** (Box 15 and Box 10) and ends on September 30th<sup>1</sup> of the 6<sup>th</sup> fiscal year after the expiration of the period of availability for obligation.
- 13. For the U.S. Department of HUD (Name and Title of Authorized Official).** Enter the name and title of the HUD official who is authorized to sign the Agreement on behalf of HUD. This is usually the Field Office CPD Director.
- 14. Signature.** The authorized HUD official signs the Agreement here.
- 15. Date.** Enter the date the authorized HUD official signed the form. In the case of initial agreements. This is also the same date as the **Federal Award Date**, date of obligation (Box 10).
- 16. For the Participating Jurisdiction/Entity (Name and Title of Authorized Office).** Enter the name and title of the official authorized to sign on behalf of the participating jurisdiction/entity. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.
- 17. Signature of PJ/Entity Official.** The PJ/entity official signs the Agreement here. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.
- 18. Date.** Enter the date the PJ/Entity official signs the Agreement. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.
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Instructions for Completing the Funding Approval and HOME Investment Partnerships Agreement

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**19. Type of Agreement.** Check either Initial Agreement or Amendment #. If an amendment, indicate the amendment number.

**20. Funding Information.** For each source year of funding, the following information is provided: Source year of Funds, Appropriation Code, PAS Code (with fiscal year indicator code), and amount.



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## Information

### Agenda Item

**Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Contract 12873, a HOME Investment Partnership and Funding Agreement, and all related documents, by and between the City of Lubbock and the U.S. Department of Housing and Urban Development, for the funding of Community Housing Development Organization operations and projects, affordable housing, and administration.

### Item Summary

This is a contract for a HOME Grant from the U.S. Department of Housing and Urban Development (HUD). The funds will be used for Community Housing Development Organization (CHDO) operations and projects, affordable housing, and administration.

- 2024-2028 Consolidated Plan and 2024-2025 Annual Action Plan drafts
- Community Development & Services Board (CDSB)
- Public Hearing held March 13, 2024
- 30-day public comment period
- Public Meeting held April 10, 2024

These plan documents were submitted to HUD and serve as the City's application for, and proposed use of a HOME Grant. HUD has reviewed and approved the Consolidated Plan and Annual Action Plan.

On April 23, 2024, the City Council approved the resolution for the 2024-28 Consolidated Plan and 2024-25 Annual Action Plan.

### Fiscal Impact

There is no fiscal impact on the General Fund involved with this contract. The funds used originate from HUD. The maximum allocation of this grant is \$954,695.58.

### Staff/Board Recommending

Bill Howerton, Deputy City Manager  
Karen Murfee, Director of Community Development

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## Attachments

HOME Resolution  
Agreement - 12873 pdf



**RESOLUTION**

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

**THAT** the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, HOME Investment Partnership and Funding Agreement 12873 for the funding of Community Housing Development Organization operations and projects, affordable housing, and administration, between the City of Lubbock and the City of Lubbock Housing Initiatives. 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 \_\_\_\_\_.**

\_\_\_\_\_  
**MARK W. MCBRAYER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Karen Murfee, Director of Community Development

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Amy L. Sims, Deputy City Attorney

RES. HOME Funding Contract 12873 CLHI



**Funding Approval and HOME  
Investment Partnerships Agreement**

## Title II of the National Affordable Housing Act

Assistance Listings #14.239 – HOME Investment Partnerships Program

1. Grantee Name (must match the name associated with 3b.) and Address City of Lubbock Po Box 2000 Lubbock, TX 79457-0001		2. Grant Number (Federal Award Identification Number (FAIN)) M24-MC480205	
		3a. Tax Identification Number 756000590	3b. Unique Entity Identifier (formerly DUNS) LXDNEKWRVKJ6
		4. Appropriation Number 86 4/7 0205	5. Budget Period Start and End Date FY 2024 through FY 2032
6. Previous Obligation (Enter "0" for initial FY allocation)			\$0.00
a. Formula Funds		\$	
7. Budget Approved by the Federal Awarding Agency/Current Transaction (+ or -)			\$954,695.58
a. Formula Funds		\$954,695.58	
1. CHDO (For deobligations only)		\$	
2. Non- CHDO (For deobligations only)		\$	
8. Revised Obligation			\$
a. Formula Funds		\$	
9. Special Conditions (check applicable box) <input type="checkbox"/> Not applicable <input checked="" type="checkbox"/> Attached		10. Federal Award Date (HUD Official's Signature Date) (mm/dd/yyyy) <b>9/6/2024</b>	
11. Indirect Cost Rate* See Addendum		12. Period of Performance Start and End Date Date in Box #10 - 09/30/2033	

This Agreement between the Department of Housing and Urban Development (HUD) and the Grantee is made pursuant to the authority of the HOME Investment Partnerships Act (42 U.S.C. 12701 et seq.). The Grantee's approved Consolidated Plan submission/Application, the HUD regulations at 24 CFR Part 92 (as is now in effect and as may be amended from time to time) and this HOME Investment Partnership Agreement, form HUD-40093, including any special conditions, constitute part of this Agreement. Subject to the provisions of this Agreement, HUD will make the funds for the Fiscal Year specified, available to the Grantee upon execution of this Agreement by the parties. All funds for the specified Fiscal Year provided by HUD by formula reallocation are covered by this Agreement upon execution of an amendment by HUD, without the Grantee's execution of the amendment or other consent. HUD's payment of funds under this Agreement is subject to the Grantee's compliance with HUD's electronic funds transfer and information reporting procedures issued pursuant to 24 CFR 92.502. To the extent authorized by HUD regulations at 24 CFR Part 92, HUD may, by its execution of an amendment, deobligate funds previously awarded to the Grantee without the Grantee's execution of the amendment or other consent. The Grantee agrees that funds invested in affordable housing under 24 CFR Part 92 are repayable when the housing no longer qualifies as affordable housing. Repayment shall be made as specified in 24 CFR Part 92. The Grantee agrees to assume all of the responsibility for environmental review, decision making, and actions, as specified and required in regulation at 24 CFR 92.352 and 24 CFR Part 58.

The Grantee must comply with the applicable requirements at 2 CFR part 200 that are incorporated by the program regulations, as may be amended from time to time. Where any previous or future amendments to 2 CFR part 200 replace or renumber sections of part 200 that are cited specifically in the program regulations, activities carried out under the grant after the effective date of the part 200 amendments will be governed by the 2 CFR part 200 requirements as replaced or renumbered by the part 200 amendments.


The Grantee must use the Grant Funds only for costs (including indirect costs) that meet the applicable requirements in 2 CFR part 200 (including appendices). The Grantee must complete the Addendum to Agreement Grantee Indirect Cost Rate(s) (Addendum) and return it to HUD with this Agreement. The Addendum will be incorporated into and made part of this Agreement, if, and only if, the rate information provided by Grantee in the Addendum is consistent with the applicable requirements under 2 CFR part 200. The Grantee must immediately notify HUD upon any change in the Grantee's indirect cost rate, so that HUD can amend the Agreement to reflect the change if necessary.

The Grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Universal Numbering System and System for Award Management (SAM) requirements in Appendix I to 2 CFR part 200, and the Federal Funding Accountability and Transparency Act (FFATA) in Appendix A to 2 CFR part 170.

The Period of Performance for the funding assistance shall begin on the date specified in item 12 and shall end on September 1<sup>st</sup> of the 6<sup>th</sup> fiscal year after the expiration of the period of availability for obligation. Funds remaining in the account will be cancelled and thereafter not available for obligation or expenditure for any purpose. Per 31 U.S.C. 1552. The Grantee shall not incur any obligations to be paid with such assistance after the end of the Period of Performance.

The Grantee must comply with the requirements of the Build America, Buy America (BABA) Act, 41 U.S.C. 8301 note, and all applicable rules and notices, as may be amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR 17001) [2023-05698.pdf \(govinfo.gov\)](https://www.federalregister.gov/documents/2023/05/06/2023-05698/pdf), any funds obligated by HUD on or after the applicable listed effective dates, are subject to BABA requirements, unless excepted by a waiver.

Waste, Fraud, Abuse, and Whistleblower Protections: Any person who becomes aware of the existence or apparent existence of fraud, waste or abuse of any HUD award must reports such incidents to both the HUD official responsible for the award and to HUD's Office of Inspector General (OIG). HUD OIG is available to receive allegations of fraud, waste, and abuse related to HUD programs via its hotline number (1-800-347-3735) and its online hotline form. You must comply with 41 U.S.C. § 4712, which includes informing your employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a government contractor, subcontractor, grantee, and subgrantee- as well as personal services contractor- who make a protected disclosure about a Federal grant or contract cannot be discharged, demoted, or otherwise discriminated against as long as they reasonably believe the information they disclose is evidence of: 1. Gross mismanagement of a contract or grant; 2. Waste of Federal funds; 3. Abuse of authority relating to a Federal contract or grant; 4. Substantial and specific danger to public health and safety; or 5. Violations of law, rule, or regulation related to a Federal contract or grant.

13. For the U.S. Department of HUD (Name and Title of Authorized Official) Shirley J. Henley, CPD Director	14. Signature  DocuSigned by: Shirley Henley 50383646D0ED10C	15. Date <b>9/6/2024</b>
16. For the Grantee (Name and Title of Authorized Official) Mark W. McBrayer, Mayor, City of Lubbock	17. Signature	18. Date / /



☒ Initial Agreement ☐ Amendment #

20. Funding Information: *HOME*

Source of Funds	Appropriation Code	PAS Code	Amount
2024	86 4/7 0205	HMF (N)	\$953,630.25
2023	86 3/6 0205	HMF (M)	\$1,065.33



**Supplement to Agreement M24-MC480205**

**Grantee Indirect Cost Rate(s)**

As the duly authorized representative of the Grantee, I certify that the Grantee:

- ☐ Will not use an indirect cost rate to calculate and charge indirect costs under the grant.
- ☒ Will calculate and charge indirect costs under the grant by applying a *de minimis* rate as provided by 2 CFR 200.414(f), as may be amended from time to time.
- ☐ Will calculate and charge indirect costs under the grant using the indirect cost rate(s) listed below, and each rate listed is included in an indirect cost rate proposal developed in accordance with the applicable appendix to 2 CFR part 200 and, *if required*, was approved by the cognizant agency for indirect costs.

Agency/department/major function	Indirect cost rate	Type of Direct Cost Base
	%	
	%	
	%	

**Instructions for the Grantee's Authorized Representative:**

You must mark the one (and only one) checkbox above that best reflects how the Grantee's indirect costs will be calculated and charged under the grant. Do not include indirect cost rate information for subrecipients.

**Name of Authorized Official:**

Mark W. McBrayer

**Signature:**

X

**Date (mm/dd/yyyy):**

/ /

**Title:**

Mayor, City of Lubbock

The table following the third box must be completed only if that box is checked. When listing a rate in the table, enter both the percentage amount (e.g., 10%) and the type of direct cost base to be used. For example, if the direct cost base used for calculating indirect costs is Modified Total Direct Costs, then enter "MTDC" in the "Type of Direct Cost Base" column.

If using the Simplified Allocation Method for indirect costs, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

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If the Grantee is a government and more than one agency or department will carry out activities under the grant, enter each agency or department that will carry out activities under the grant, the indirect cost rate(s) for that agency or department, and the type of direct cost base to which each rate will be applied.

To learn more about the indirect cost requirements, see 2 CFR part 200, subpart E; Appendix IV to Part 200 (for nonprofit organizations); and Appendix VII to Part 200 (for state and local governments).



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1. **Participant Name and Address.** The participating jurisdiction's (or entity's) name and address as shown in Box 4 of Standard Form 424.
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- 3a. **Tax Identification Number. Enter the Tax (Employer).** Identification Number (TIN) shown in Box 8b of Standard Form 424. For jurisdictions (or entities) that are already participating in the HOME Program, this must be the TIN associated

with the jurisdiction (or entity) for the HOME Program.

- 3b. **Unique Entity Identifier.** The identifier required for SAM registration to uniquely identify business entities shown in Box 8c of Standard Form 424 (formerly known as DUNS). For jurisdictions (or entities) that are already participating in the HOME Program, this must be the Unique Entity Identifier associated with the jurisdiction (or entity) for the HOME Program.
4. **Appropriation Number.** The Appropriation Number from the HUD-185 sub-assigning funds for the Fiscal Year source of funds for this transaction.
5. **Budget Start and End Date.** Indicate the fiscal years of funds for this transaction.
6. **Previous Obligation.** Enter the total amount of funds that have been previously obligated for this participant for this FY source of funds.
  - a. **Formula Funds.** Enter the total amount of formula funds previously obligated to the participant. If this is the funding approval form for the participant's initial allocation for the fiscal year, the amount will be "0". If this is a funding approval form for reallocating or deobligating funds, enter the amount from Box 7 of the previously submitted form HUD-40093 for the FY identified in Box 5.
  - b. **Community Housing Development Organization (CHDO) Competitive Reallocation.** Enter the amount of funds previously obligated to the PJ/entity by competition for CHDOs. If this is a funding approval form for reallocating or deobligating funds previously allocated by competition for CHDOs, enter the amount from Box 7 of the previously submitted form HUD-40093 for the FY identified in Box 5.
7. **Current Transaction.** Enter the total amount of funds for this action. Indicate a deobligation either by placing parentheses around the amount deobligated or a minus sign before the amount deobligated.
  - a. **Formula Funds.** Of the amount indicated in Box 7, indicate the amount that is for formula funds. If this is a formula fund deobligation, show the distribution of that amount of funds in Box 7a.1 CHDO funds and/or Box 7a.2 non-CHDO funds.
    1. **CHDO.** Of the amount indicated in Box 7a, indicate the amount that is CHDO funds. If none, enter "0." Note: If this is a CHDO competitive reallocation, enter the amount in 7b.



## Instructions for Completing the Funding Approval and HOME Investment Partnerships Agreement

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- 2. Non-CHDO.** Of the amount indicated in Box 7a, indicate the amount that is Non-CHDO funds. If none, enter "0".
- b. CHDO Competitive Reallocation or Deobligation.** Of the amount indicated in Box 7, indicate the amount that is reallocated or deobligated from the CHDO competition funds.
- 8. Revised Obligation.** Enter the total amount of funds available to the jurisdiction (or entity) after this transaction (Box 6 plus/minus Box 7). Most grants have several source years of funds, therefore, the funding information in #20 must be filled out with the applicable source year of funds and amounts to be deobligated.
- a. Formula Funds.** Enter the total amount of formula funds available to the participating jurisdiction after this transaction (Box 6a plus/minus Box 7a).
- b. CHDO Competitive Reallocation.** Enter the total amount of funds available to the PJ/entity as a competitive reallocation for CHDOs after this transaction (Box 6b plus/minus Box 7b).
- 9. Special Conditions.** If applicable, check the box and attach any special conditions that are part of the Agreement.
- 10. Federal Award Date.** This is the date of obligation which is the **initial date of the HUD Authorized Official's signature** (Box 15) This date of the initial obligation does not change regardless of the Agreement being amended for a deobligation because of a reduction by HUD.
- 11. Indirect Cost Rate.** If funding assistance will be used for payment of indirect costs pursuant to 2 CFR 200, Subpart E-Cost Principles, complete the Addendum to Agreement Grantee (Indirect Cost Rate(s), including the name of the department/agency, its indirect cost rate (including if the de minimis rate is charged per 2 § CFR 200.414(f)), and the direct cost base to which the rate will be applied (for example, Modified Total Direct Costs (MTCD)). If the rate information provided by Recipient in the Addendum is consistent with the applicable requirements in 2 CFR Part 200, the Addendum will be incorporated into and made part of the Agreement. The Recipient also shall provide HUD with a revised schedule if changes occur, and shall become incorporated herein upon HUD's amendment to the Agreement. If there are more than four agencies/departments carrying out activities with the Funding Assistance, attach a list with the additional agencies/departments that will carry out activities with the Funding Assistance. Do not include indirect cost rates for subrecipients.
- 12. Period of Performance.** Performance begins on the **initial date of the HUD Authorized Official's signature** (Box 15 and Box 10) and ends on September 30th<sup>1</sup> of the 6<sup>th</sup> fiscal year after the expiration of the period of availability for obligation.
- 13. For the U.S. Department of HUD (Name and Title of Authorized Official).** Enter the name and title of the HUD official who is authorized to sign the Agreement on behalf of HUD. This is usually the Field Office CPD Director.
- 14. Signature.** The authorized HUD official signs the Agreement here.
- 15. Date.** Enter the date the authorized HUD official signed the form. In the case of initial agreements. This is also the same date as the **Federal Award Date**, date of obligation (Box 10).
- 16. For the Participating Jurisdiction/Entity (Name and Title of Authorized Office).** Enter the name and title of the official authorized to sign on behalf of the participating jurisdiction/entity. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.
- 17. Signature of PJ/Entity Official.** The PJ/entity official signs the Agreement here. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.
- 18. Date.** Enter the date the PJ/Entity official signs the Agreement. This is not required if the Agreement is being amended for a deobligation because of a reduction by HUD.
-



Instructions for Completing the Funding Approval and HOME Investment Partnerships Agreement

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**19. Type of Agreement.** Check either Initial Agreement or Amendment #. If an amendment, indicate the amendment number.

**20. Funding Information.** For each source year of funding, the following information is provided: Source year of Funds, Appropriation Code, PAS Code (with fiscal year indicator code), and amount.



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## Information

### Agenda Item

**Resolution - Community Development:** Consider a resolution authorizing the Mayor to grant the waiver of Payment in Lieu of Taxes for Fiscal Year 2023, requested by the Lubbock Housing Authority.

### Item Summary

In April 2003, the City Council amended the cooperation agreement dated August 24, 1995, between the Lubbock Housing Authority (LHA) and the City of Lubbock, concerning the Payment in Lieu of Taxes (PILOT). The amendment allows the City Council to reconsider the request to waive the PILOT on an annual basis. Approval is based on the previous year's use of the waived taxes to ensure the funds were used on affordable housing projects. A review of the use of funds is conducted each year.

For the period beginning October 1, 2022, and ending September 30, 2023, net rental revenue collected by LHA was \$423,199. The U.S. Department of Housing and Urban Development (HUD) requires the City to approve a waiver of PILOT on an annual basis. The PILOT is equivalent to 10% of rent. The amounts retained by LHA will be used to enhance the properties of LHA. The amount to be waived for Fiscal Year 2023 is \$42,320.

### Fiscal Impact

As a result of waiving the PILOT, \$42,320 will not be added as revenue to the General Fund of the City of Lubbock.

### Staff/Board Recommending

Bill Howerton, Deputy City Manager

Karen Murfee, Community Development Director

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## Attachments

LHA PILOT Resolution

PILOT Computation



**RESOLUTION**

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

**THAT** the City Council of the City of Lubbock hereby grants waiver of the Payment in Lieu of Taxes (PILOT) for FY 2023 requested by Lubbock Housing Authority (LHA). Said LHA PILOT Waiver Request is attached hereto and incorporated into 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 \_\_\_\_\_.**

\_\_\_\_\_  
**MARK W. MCBRAYER, MAYOR**

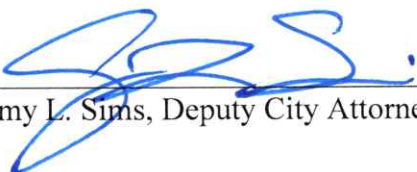
**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Karen Murfee, Director of Community Development

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Amy L. Sims, Deputy City Attorney





# HOUSING AUTHORITY OF THE CITY OF LUBBOCK

1708 Crickets Ave    Lubbock, Texas 79401    Main Office 806•762•1191

July 24, 2024  
Karen Murfee  
Community Development  
Director  
City of Lubbock  
PO Box 2000  
Lubbock, TX 79457

Re: PILOT

Karen,

Historically, the Lubbock Housing Authority has requested that the City of Lubbock waive the Payment in Lieu of Taxes (PILOT) calculated based on our rental income. Some years ago, the City Council requested documentation of the Housing Authority's capital improvement expenditures to show that the Lubbock Housing Authority was actively maintaining Lubbock's Public Housing units. Our PILOT documentation, form HUD-52267 is attached, and the numbers are from our FY 2023 audit for the year ending on September 30, 2023.

The Lubbock Housing Authority (LHA) receives a formula grant on an annual basis for capital improvements. This grant is referred to as the Capital Fund Program or CFP. This grant amount varies from year to year depending on HUD's budget.

Total Capital Improvement Grant spending for LHA's Public Housing in the past year has been \$1,071,945 for FY 2023.

Once again, the Housing Authority of the City of Lubbock would request that the City Council waive our payment of the PILOT for FY 2023.

Sincerely,

A handwritten signature in blue ink that reads "Mike Chapman". The signature is fluid and cursive, with the first name "Mike" and last name "Chapman" clearly distinguishable.

Mike Chapman  
Executive Director



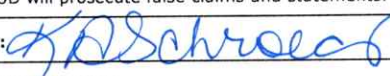
# Computation of Payments in Lieu of Taxes

## U.S. Department of Housing and Urban Development Office of Public and Indian Housing

For Fiscal Year Ended 2023

OMB Approval No. 2577-0026 (Exp. 10/31/2009)

Public reporting burden for the collection of information is estimated to average .4 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used for HUD to ascertain compliance with requirements of Section 6(D) of the U.S. Housing Act, which provides for PHA exemptions from real and personal property taxes, and inclusion in the formula data used to determine public housing operating subsidies. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

<b>Name of Local Agency:</b> Lubbock Housing Authority	<b>Location:</b> Lubbock, TX	<b>Contract Number:</b> N/A	<b>Project Number:</b> All
<b>Part I - Computation of Shelter Rent Charged.</b>			
1. Tenant Rental Revenue (FDS Line 703)	\$	716,711.00	
2. Tenant Revenue Other (FDS Line 704)		14,763.00	
3. <b>Total Rental Charged</b> (Lines 1 & 2)	\$		731,474.00
4. Utilities Expense (FDS Line 931 - 939)			-236,403.00
5. Shelter Rent Charged (Line 3 minus Line 4)			495,071.00
<b>Part II - Computation of Shelter Rent Collected.</b> To be completed only if Cooperation Agreement provides for payment of PILOT on basis of Shelter Rent Collected.)			
1. Shelter Rent Charged (Line 5 of Part I, above)	\$		495,071.00
2. Add: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at beginning of fiscal year			13,650.00
3. Less: Tenant Bad Debt Expense (FDS Line 964)			-57,400.00
4. Less: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at end of fiscal year			-28,122.00
5. Shelter Rent Collected (Line 1 plus Line 2 minus Lines 3 & 4)			423,199.00
<b>Part III - Computation of Approximate Full Real Property Taxes.</b>			
(1) Taxing Districts	(2) Assessable Value	(3) Tax Rate	(4) Approximate Full Real Property Taxes
<b>Total</b>			0.00
<b>Part IV - Limitation Based on Annual Contribution.</b> (To be completed if Cooperation Agreement limits PILOT to an amount by which real property taxes exceed 20% of annual contribution.)			
1. Approximate full real property taxes	\$		
2. Accruing annual contribution for all projects under the contract	\$		
3. Prorata share of accruing annual contribution*			
4. 20% of accruing annual contribution (20% of Line 3)			
5. Approximate full real property taxes less 20% of accruing annual contribution (Line 1 minus Line 4, if Line 4 exceeds Line 1, enter zero)	\$		
<b>Part V - Payments in Lieu of Taxes.</b>			
1. 10% of shelter rent (10% of Line 6 of Part I or 10% of Line 5 of Part II, whichever is applicable)**	\$		42,320.00
2. Payments in Lieu of Taxes (If Part IV is not applicable, enter the amount shown on Line 1, above, or the total in Part III, whichever is the lower. If Part IV is applicable, enter the amount shown on Line 1, above, or the amount shown on Line 5 of Part IV, whichever is lower.)	\$		
* Same as Line 2 if the statement includes all projects under the Annual Contributions Contract. If this statement does not include all projects under the Annual Contributions Contract, enter prorata share based upon the development cost of each project. ** If the percentage specified in the Cooperation Agreement or the Annual Contributions Contract with HUD is lower, such lower percentage shall be used.			
<b>Warning:</b> HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012: 31 U.S.C. 3729, 3802).			
<b>Prepared By:</b> 	<b>Approved By:</b> 		
<b>Name:</b> Kris Schroeder	<b>Name:</b> Mike Chapman		
<b>Title:</b> Finance Director	<b>Date:</b> 07/23/2024	<b>Title:</b> Executive Director	<b>Date:</b> 07/23/2024

Previous Editions are Obsolete

Page 1 of 1

form HUD-52267 (8/2005)

Print

Reset



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### Information

#### Agenda Item

**Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute Amendment No. 19 to Contract 15200, with RS&H, Inc., for professional architectural and engineering services for Runway Lights Replacement at Lubbock Preston Smith International Airport.

#### Item Summary

The City of Lubbock (Airport) has requested RS&H, Inc., under the on-call professional architectural and engineering agreement, to provide a scope and fee for design and construction support for Runway Lights Replacement at Lubbock Preston Smith International Airport. The purpose of the project is to convert existing incandescent runway lights to light-emitting diodes (LED). Proposed Amendment No. 19 services are summarized as follows:

Scope/Task Title	Total
Task 1 - Existing Conditions Documentation	\$18,454.54
Task 2 - Design Documents	78,415.60
Task 3 - Bidding Phase Services	22,541.46
Task 4 - Construction Phase Services	31,722.48
Task 5 - Resident Project Representative	22,673.52
<b>Total Fee for all Services</b>	<b>\$173,807.60</b>

Airport Staff and the Airport Advisory Board recommend Amendment No. 19 to Contract 15200, with RS&H, Inc. of Jacksonville, Florida, for \$173,807.60.

#### Fiscal Impact

Amendment No. 19 to Contract 15200 with RS&H, Inc. for \$173,807.60 is funded in Capital Improvements Project 92884, Replace Airfield Lighting/LED Conversion.

#### Staff/Board Recommending

Bill Howerton, Deputy City Manager  
Kelly Campbell, Executive Director of Aviation  
Airport Advisory Board

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### Attachments

Resolution Amendment 19 RS&H, Inc. Runway Light Replacement  
Amendment 19 RS&H, Inc. Runway Light Replacement



CIP 92884 Budget Detail

CIP Project Detail



**RESOLUTION**

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Amendment No. 19 to LBB Contract 15200, by and between the City of Lubbock and RS&H for Runway Lights Replacement, at the Lubbock Preston Smith International Airport, and related documents. Said Amendment is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, MAYOR

ATTEST:

\_\_\_\_\_  
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Kelly Campbell, Executive Director of Aviation

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Mitchell Satterwhite, First Assistant City Attorney

ccdocs II/RES.Amend 19-RS&H  
September 12, 2024



***LBB Runway Lights  
Replacement – Design,  
Bidding, Construction  
Support & RPR  
Scope of Work***

Amendment No. 19

September 17, 2024

City of Lubbock, Texas

Lubbock Preston Smith International Airport

LBB Contract No.: 15200

RS&H Project No.: 1023-1874-019

Prepared by *RS&H, Inc.*

at the direction of

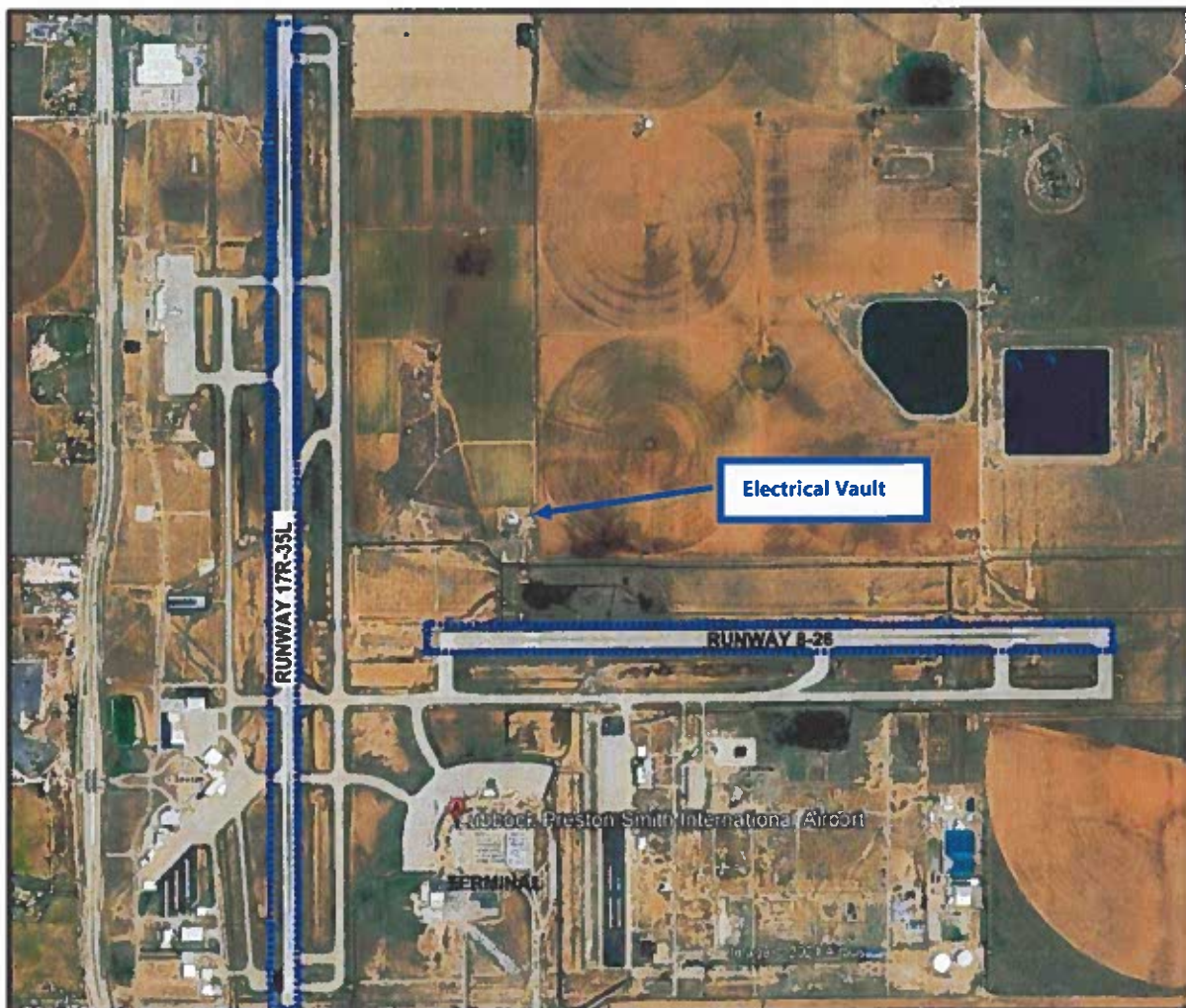
Lubbock Preston Smith International Airport



## I PROJECT DESCRIPTION

The City of Lubbock (City) has requested that RS&H (Consultant) provide a scope and fee for Design and Construction Support of the Lubbock Preston Smith International Airport (LBB or Airport) Runway Lights Replacement (Project).

The purpose of the project is to convert existing incandescent runway lights to LED at the Lubbock Preston Smith International Airport (LBB). All taxiway lights have already been converted to LED. This project scope effectively has three components of work: 1) Replacement of primary Runway 17R-35L incandescent airfield lighting with LED lighting; 2) Replacement of Runway 8-26 incandescent airfield lighting with LED lighting; and 3) Replacement of Airfield Lighting Regulators. Figure 1 shows the location of each runway. With this project, the Airport will complete its transition to LED light fixtures for the entire airfield.



**FIGURE 1 – RUNWAY LIGHT LOCATIONS (IN BLUE)**



The electrical improvements include the removal of existing high intensity runway edge lights and threshold end lights along Runway 17R-35L and Runway 8-26 and replacement with new high intensity LED light fixtures. Additionally, the project will replace existing regulators that are beyond their useful life and are requiring increased maintenance (four regulator replacements have been assumed). No vault modifications are anticipated, other than replacing the existing regulators and associated cables/conduits. Existing conduit and circuitry powering each runway are anticipated to remain in use.

Repair items will be included in the design to repair approximately 10% of these items in the runway environment (broken conduit, damaged cable, damaged light cans, etc.). Damaged conduit/cable may not be apparent during the design process. Any damaged light cans and/or other circuit/infrastructure issues discovered visually during site visits and as noted by LBB maintenance staff will be noted in the Design Documents. Additionally, standard repair details and a contingency quantity will be provided in the Design Documents to account for any damaged items found during the course of construction that were not apparent during design.

There is an inherent risk of failure in aging electrical infrastructure. The existing incandescent runway lights were installed more than two decades ago and have exceeded their useful design life. LBB maintenance staff has noted that the lighting system has required increased maintenance as the lighting components have aged and recent megger readings suggest low circuit resistance and that the system is not operating efficiently. LBB staff have been regularly replacing components of the two lighting systems over the last several years to help stave off a more extensive system failure. Failure of either runway lighting could have obvious catastrophic safety and/or operational impacts to LBB and the larger National Airspace System.

Additionally, several airfield electrical material suppliers have noted certifications of the incandescent / quartz / halogen family of lights will be ending in early 2025, which will impose difficulties to obtain and maintain spare parts and fixtures. This further exacerbates the potential risk of failure by potentially extending any operational downtime if replacement parts are not available.

The project will provide a safe and efficient system moving forward, increasing operational resiliency for the purpose of maintaining commercial service flight operations and allowing the runways to operate as scheduled without the current safety or operational risks experienced today. The project will additionally minimize future maintenance requirements, providing for reliability and effectiveness of airfield lighting infrastructure. The project will allow LBB runways to operate intact during varied operational circumstances, primarily during IFR conditions.

The project will additionally provide long-term energy savings. Increased energy savings are anticipated at a magnitude of approximately 139,500 kWh annually. Replacement of aging and failing equipment with more reliable and energy efficient systems and equipment will reduce



airport operating costs. This allows LBB the ability to reduce rates and charges and potentially increase competition and access for its passenger base.

The following professional disciplines are expected to play a significant role in the development of the Project:

- » Project Management
- » Civil Engineering
- » Electrical Engineering
- » Cost Estimating
- » RPR Services (Part-Time)

It is assumed for this scope of work that coordination with the City will be performed by Airport staff and resulting direction will be provided to the Consultant. The Consultant will not directly contact the City without the Airport present.

The Consultant's design is intended to comply with local, state, and federal codes. If standards conflict, the most stringent standard will govern. The Project components will be evaluated and designed to the following publications and standards, latest published edition at time of contract execution, as applicable, but not limited to:

- » *FAA AC 150/5300-13, Airport Design*
- » *FAA AC 150/5340-30, Design and Installation Details for Airport Visual Aids*
- » *FAA AC 150/5345-46 Specification for Runway and Taxiway Light Fixtures*
- » *FAA AC 150/5370-2, Operation Safety on Airports During Construction*
- » *FAA AC 150/5370-10, Standards for Specifying Construction of Airports*
- » *FAA STD-19F, Lightning and Surge Protection, Grounding, Bonding and Shielding Requirements for Facilities and Electronic Equipment*
- » *National Electrical Safety Code (NESC)*
- » *National Electrical Code (NFPA-70)*
- » OSHA – Occupational Safety and Health Administration
- » Any other Applicable Federal Aviation Administration (FAA) Advisory Circulars for design and construction not listed above development of optimized design solutions to maximize Board's Return-On-Investment (ROI) where applicable
- » Applicable environmental restrictions to comply with EPA regulations

Project drawings will be prepared in AutoCAD format.

This scope of work assumes that all proposed project elements will be constructed in one (1) project. There is significant overlap between design items in each task, and the fee proposal reflects that. Any deviations from these assumptions once notice has been given to the Consultant to begin the work of this contract may require a change to the Project scope and additional fees.



The project can be scaled, as appropriate, depending on funding availability. The three project components (replacement of primary Runway 17R-35L incandescent airfield lighting with LED lighting; replacement of Runway 8-26 incandescent airfield lighting with LED lighting; and replacement of airfield lighting regulators) are each useful units of work that can be completed independently if funding restrictions are required. The most likely scaled funding option would be to design and bid the Runway 17R-35L work as the base bid – as the primary runway, the safety and operational risk of current infrastructure failure is greatest with this scope of work. The Runway 8-26 and airfield lighting regulator work could be designed and bid as additive alternates to allow for flexibility in award of a partial or fully bundled project. This approach will be further discussed with LBB during the design process.

Deletion of a task(s) or the requirement for additional work not specifically noted herein as part of the Consultant's scope will require re-evaluation of the proposed design fees.

## II PROJECT TASKS

### TASK 1 EXISTING CONDITION DOCUMENTATION

The intent of this task is to develop the baseline documentation necessary to properly establish, design, model, and document the Project. Specific task breakdowns as follows:

#### **Task 1.1 Project Initiation & Set Up**

Upon receiving Notice to Proceed (NTP), the Consultant will coordinate and attend one (1) project initiation meeting with the Airport to review and document the visible conditions of the project site and discuss the Project scope, goals, and client expectations. The Airport will attend with knowledgeable staff and provide access to all areas associated with the Project to ensure a comprehensive walkthrough. As part of this task, measurements will be taken to validate existing condition documentation, and access to the existing electrical vault is expected. This meeting is anticipated to be held at the Airport and will require travel by two members of the Consultant's team.

The discussion topics of the meeting will define, among others:

- » The methods by which the Project will be performed
- » Budgetary considerations, including additive alternate strategies
- » Understanding other ongoing work that may impact the Project
- » Development of preliminary design and construction schedule
- » Communication channels, coordination requirements, and responsibilities

Further, the Consultant will complete the necessary Project initiation and documentation setup in order to appropriately manage the Project.



**Task 1.2 Data Collection and Review of As-Built Conditions**

The Airport will provide the Consultant with all available information pertinent to the design. It is anticipated that the following information will be provided for review:

- » Division 00 / Contract Documents (If required for Public Bid Package)
- » Latest available as-built drawings for the areas in question (all disciplines)
- » Megger info of existing runway lighting systems.

The Consultant will review all provided information and will forward any questions or comments to the Airport for response and additional information.

**Task 1.3 Development of Existing Conditions Model**

The Consultant, based on the information obtained in Task 1.2, will develop/update a baseline 2D CAD model to be used and updated throughout the design process towards the development of the Design Documents.

**Task 1.4 Project Management**

The Consultant will manage the Project in a professional manner, assign and manage qualified individuals or subconsultants to the Project, and complete the efforts within the proposed time frame.

This task will include scheduling, resource allocation, monitoring, oversight, direction and control for aspects of the team's efforts including assembly and coordination of documentation. The Consultant will complete meeting preparation activities, prepare and distribute meeting minutes, and assign appropriate follow-up activities.

This task will also include routine communication, as necessary, with the Airport, the City, or other, as necessary, to discuss Project progress. The Consultant will issue monthly progress reports with each invoice to the Airport project manager during this portion of the project.

**TASK 2 DESIGN DOCUMENTS****Task 2.1 Development of Design Documents (Draft)**

The Consultant will prepare Design Documents (drawings, project manual, Engineer's report, and EOPC). The design will evaluate and identify specific elements of the Project for a technically and economically sound project.

The project manual will consist of technical specifications and referenced documents, which may include applicable FAA ACs, any applicable permitting requirements, contract documents, and a site-specific Construction Safety Phasing Plan (CSPP), and a site-specific Construction Management Plan (CMP).



If any standard FAA design guidelines or specifications for Consultant's related scope of work as listed herein are found to be not applicable for the site-specific situations of this project, the Consultant will initiate and coordinate a Modifications of Standards (MOS) request with the FAA.

The Consultant will prepare a site-specific CSPP in conformance with FAA AC 150/5370-2, Operational Safety on Airports during Construction, latest published edition at time of contract execution. Paragraph 103.a defines the parameters for a CSPP. It is anticipated that a CSPP is required since this project will impact the AOA. Paragraph 103.a states:

*"A CSPP must be developed for each on-airfield construction project funded by the Airport Improvement Program (AIP)... As per (FAA) Order 5200.11, FAA Airports (ARP) Safety Management System (SMS), such projects do not include construction, rehabilitation, or change of any facility that is entirely outside the air operations area, does not involve any expansion of the facility envelope and does not involve construction equipment, haul routes or placement of material in locations that require access to the air operations area, increase the facility envelope, or impact line-of-sight... However, extraordinary circumstances may trigger the need for a Safety Assessment and a CSPP. The CSPP is subject to subsequent review and approval under the FAA's Safety Risk Management procedures..."*

The Consultant will prepare a site-specific CMP for the Project in conformance with FAA AC 150/5370-12, Quality Management for Federally Funded Airport Construction Projects, latest edition, which will be used to ensure that construction meets or exceeds the minimum standards required by the Design Documents. The CMP will identify key contacts and their responsibilities throughout construction of the project. The CMP will be prepared as a component of the project manual.

The Engineer's Report will generally consist of a description of the scope of the project, evaluation of design elements, evaluation of design standards, evaluation of applicable requirements of governmental authorities having jurisdiction, evaluation of environmental concerns, evaluation of preliminary safety and phasing concepts, preparation of a preliminary construction schedule, and the Consultant's findings and recommendations. Any adjacent, out-of-scope deficiencies noticed during the evaluation, particularly within the electrical vault, will be included in the Engineer's report, as a point of reference. If deficiencies are found in such related items, a revision to the scope, schedule, and fee may be required to provide a complete evaluation.

The draft Design Documents will identify, evaluate, and resolve specific elements of the project for a technically sound and economically complete project.

#### **Task 2.2 Perform In-House Quality Control Review – Design Documents (Draft)**

The Consultant will conduct an in-house quality control (QC) review of the draft Design Documents prior to submittal to the Airport and the City. A technical QC Review will be performed by an independent Engineer not actively involved in the Project. This independent Engineer will review for readability, accuracy, appearance, and acceptability. Additionally, the independent



Engineer will review the documents for alignment with design methodologies, calculations, and code compliance. Finally, the independent Engineer will provide a comprehensive look at the Project to ensure alignment between plans and specifications, phasing impacts, potential conflicts, etc.

### **Task 2.3 Submit Design Documents (Draft)**

The Consultant will review the in-house quality control review of the draft Design Documents and incorporate applicable comments. The Consultant will then submit and distribute copies of the draft Design Documents. All distribution is anticipated to be via electronic delivery (pdf copies). Comments requesting changes to the draft Design Documents after this submittal will be performed under a change order for additional time and cost, unless due to an error or omission by the Consultant.

The Consultant will participate in a review workshop with the Airport and/or City to be held virtually.

### **Task 2.4 Prepare and Submit FAA Form 7460-1**

The Consultant will prepare and file a Notice of Proposed Construction or Alteration (FAA Form 7460-1) for the Project electronically to the FAA for OE/AAA review and approval.

### **Task 2.5 Development of Design Documents (Final)**

The Consultant will review comments received from the Airport's authorized representative(s) from the draft Design Documents submittal reviews and incorporate applicable comments into drawings, project manual, and EOPC. The Consultant will provide a written response on each comment on how it will be incorporated into the documents, or why it was not applicable. Comments that require a significant change in scope from previous direction provided may require an additional scope and fee.

Additional rounds of comments from the Airport's authorized representative(s) are considered additional effort and will result in the revision of this scope.

The Consultant will prepare final (sealed) Design Documents (drawings, project manual, and EOPC). The design will evaluate and identify specific elements of the Project for a technically and economically sound project, with applicable additive alternates included for bidding to correspond to available budgets.

### **Task 2.6 Perform In-House Quality Control Review – Design Documents (Final)**

The Consultant will conduct an in-house quality control (QC) review of the draft Design Documents prior to submittal to the Airport and the City. A technical QC Review will be performed by an independent Engineer not actively involved in the Project. This independent Engineer will review for readability, accuracy, appearance, and acceptability. Additionally, the independent Engineer will review the documents for alignment with design methodologies, calculations, and code compliance. Finally, the independent Engineer will provide a comprehensive look at the



Project to ensure alignment between plans and specifications, phasing impacts, potential conflicts, etc.

#### **Task 2.7 Submit Design Documents (Final)**

The Consultant will then submit and distribute copies of the final (sealed) Design Documents. All distribution is anticipated to be via electronic delivery (pdf copies). Comments requesting changes to the draft Design Documents after this submittal will be performed under a change order for additional time and cost, unless due to an error or omission by the Consultant.

#### **Task 2.8 Design Coordination Meetings**

The Consultant will coordinate and attend up to one in-person and three (3) virtual coordination meetings with the Airport to coordinate design issues related to the project. The Consultant will provide written minutes of the meeting and distribute to all attendees within seven (7) calendar days from the meeting.

#### **Task 2.9 Project Management**

The Consultant will manage the Project in a professional manner, assign and manage qualified individuals or subconsultants to the Project, and complete the efforts within the proposed time frame.

This task will include scheduling, resource allocation, monitoring, oversight, direction and control for aspects of the team's efforts including assembly and coordination of documentation. The Consultant will complete meeting preparation activities, prepare and distribute meeting minutes, and assign appropriate follow-up activities.

This task will also include routine communication, as necessary, with the Airport, the City, or other, as necessary, to discuss Project progress. The Consultant will issue monthly progress reports with each invoice to the Airport project manager during this portion of the project.

### **TASK 3 BIDDING SERVICES**

#### **Task 3.1 Pre-Bid Conference**

The Consultant will prepare for and attend one (1) pre-bid conference at the Airport. The Consultant will describe specific elements of the project as requested by the Airport, receive comments, assist the Airport in reviewing the meeting minutes before distribution to the Airport's authorized representatives and prospective contractors. The Consultant will attend a site walk/visit during the Pre-Bid Conference.

#### **Task 3.2 Addenda**

The Consultant will assist in the preparation of addenda to revise drawings, technical specifications, and other contract documents prepared by the Consultant, limited to one (1) revision. The Consultant will submit this information in PDF format to the Airport to distribute to



plan holders. Any Client-requested deviations from the content and scope of the Bid Documents may require a change to the Project scope and additional fees.

### **Task 3.3 Bid Opening**

The Consultant will attend one (1) bid opening virtually.

### **Task 3.4 Bid Review and Award Recommendation**

The Consultant will receive construction bids and the bid form/proposals from the Airport. The Consultant will prepare the bid tabulation, provide evaluation of checking for correctness, qualifications of apparent low bidder, and submit a letter of evaluation to the Airport based on the qualified and responsive apparent low bidder. The Consultant and the Airport will collaborate to determine responsiveness. The Consultant cannot and does not guarantee that bids will not vary from the EOPC.

### **Task 3.5 Prepare Conformed Construction Documents**

The Consultant will prepare and provide Conformed Construction Documents, incorporating appropriate modifications made via addenda during the bidding process. This conformed set of documents will be provided to the Contractor and the Client as the baseline for construction activities.

## **TASK 4 CONSTRUCTION SUPPORT SERVICES**

The basis of the construction support services is a 120-calendar day construction timeline. If during the design and construction phasing processes the timeline is extended, a revision to Task 4 services may be required.

A lengthy procurement period whereby the contractor provides submittals for review prior to ordering materials and equipment can be anticipated. There may be an extended delay before actual construction begins due to equipment delivery lead times. All materials are expected to be on-site prior to any runway closure to minimize airport operational impacts.

### **Task 4.1 Pre-Construction Conference**

The Consultant will attend one (1) pre-construction conference meeting virtually. The Consultant will assist the Airport in preparing the Pre-Construction Meeting Agenda Meeting Minutes.

### **Task 4.2 RFI/Substitutions/Submittal Review**

The Consultant will review and respond to Requests for Information (RFIs), substitution requests, product data, shop drawings, samples, and other submissions furnished by the Contractor and submitted to the Consultant. The Consultant will review and approve (or take other appropriate action) as required. The Consultant will utilize Newforma or another mutually agreed upon Project Information Management software program between the Consultant and Contractor for tracking, reviewing, and responding to RFIs and submittals. Submittal review will be limited to the initial



review and a single resubmittal. It is anticipated that twenty-five (25) reviews of submittals, RFIs, substitution requests, and other submissions will be completed. Additional reviews may require a change to the Project scope and additional fees.

The Consultant's review is limited to checking for conformance with the information given and the design concept expressed in the Contract Documents. The Consultant is not responsible for Work or requirements that are the Contractor's responsibility as defined in the Contractor's contract with the City. The Consultant will respond to claims, disputes, and other matters in question between the City and the Contractor relating to the execution or progress of the Work or interpretation of the Contract Documents. Interpretations and decisions of the Consultant will be provided in written form.

#### **Task 4.3 Review Contractor Pay Requests**

The Consultant will review Contractor applications for payment and any attached supporting data, review the amount owed to the Contractor based on Contractor completed progress, and recommend approval or rejection, in writing, payments to be made by the Owner to the Contractor in accordance with the Contract Documents.

One (1) Contractor pay request will be reviewed monthly for the Project. It is anticipated four (4) applications for payment reviews will be completed. Additional reviews may require a change to the Project scope and additional fees.

#### **Task 4.4 Construction Meetings/Site Visit/Punch List**

The Consultant will participate in up to six (6) virtual construction coordination meetings. The Consultant assumes that the Contractor will provide an agenda and meeting minutes for construction progress meetings.

The Consultant will conduct one (1) site visit / punch list during construction at the request of the Airport. No follow-up work required is anticipated to be inspected by the Consultant. Site visits are anticipated to be completed over one full day (not including travel). Site visits will be followed by a Field Report to summarize observations and be submitted to the Airport.

#### **Task 4.5 Prepare Project Closeout Documents**

The Consultant will prepare Project Record Drawings, corrected to show significant changes made in the work during the construction of the project, and other Closeout Documents. Record Drawings corrections will be based upon "as-built" prints, drawings, field sketches and other data furnished to the Consultant by the Client, and upon change orders issued during construction.

#### **Task 4.6 General Administration of the Construction Contract**

The Consultant will communicate with the Airport and act as their representative with respect to the project components throughout construction of the Project.



This task provides oversight of project components designed by the Consultant; general correspondence by the Consultant with the Client, the Contractor, the City, and other governmental authorities, as needed; coordination of meetings with the Client, the Contractor, the City, and other governmental authorities; Project reporting; and project record keeping.

The Consultant will manage the Project in a professional manner to complete the efforts within the proposed time frame. The Consultant will provide scheduling, resource allocation, monitoring, oversight, direction, and control for aspects of the Consultant's efforts, and assembly and coordination of documentation.

The Consultant will not have control or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures or for the safety precautions and programs in connection with the project construction, for the acts or omissions of the Contractor, subcontractors, any of their agents or subcontractor's employees, or any other person performing any of the work or for the failure of such persons to carry out the work in accordance with the Conformed Construction Documents.

The anticipated construction duration is 120 calendar days, based on a preliminary construction schedule prepared by the Consultant. Construction is anticipated to commence approximately summer of 2025. Any deviation from these assumptions may require a change to the Project scope and additional fees.

### III SPECIAL SERVICES

#### Task 5 PROJECT REPRESENTATIVE

##### **Task 5.1 On-Site Resident Project Representation (Part-Time RPR)**

The proposed schedule is based upon part-time RPR services over an active 9-week construction period, approximating 12 hours of estimated on-site RPR work per week during that period. The RPR will be stationed at the site and will be responsible for assisting the Consultant in administering the contract. Through the observations of the RPR, the Consultant shall endeavor to provide further protection for the Airport against defects and deficiencies in the Contractor's Work. Apart from such further protection, the Consultant's rights, responsibilities, and obligations of the Consultant described in the Master Agreement between the Airport and Consultant shall not be modified by the furnishing of such RPR staff.



## IV MEETINGS AND PRESENTATIONS

The following meetings and presentations will be attended as part of this proposal:

Task	Presentation / Meeting / Site Visit	Total Meetings	In-Person	Virtual
1.1	Project Initiation	1	1	0
2.3	Draft Design Documents Review	1	0	1
2.9	Design Coordination Meetings	4	1	3
3.1	Pre-bid Conference	1	1	0
3.2	Bid Opening	1	0	1
4.1	Pre-Construction Conference	1	0	1
4.4	Construction Meetings	7	1	6

## V DELIVERABLES

The following deliverables will be submitted as part of this proposal:

Task	Deliverable	Information Included	Format
2.3	Draft Design Documents	Drawings, project manual, Engineer's report, EOPC	.pdf
2.4	FAA Form 7460-1	FAA Form 7460-1	.pdf
2.6	Final Design Documents	Drawings, project manual, Engineer's report, EOPC	.pdf

## VI PROPOSED PROJECT SCHEDULE

The Project's schedule is anticipated as follows:

Consultant Receives Executed Agreement	NTP
Existing Condition Documentation	1 month after NTP *
Draft Design documents	6 weeks additional
Owner Review	2 weeks additional
Final Design documents	3 weeks additional
City Approval	1 month additional (approx.)
Solicitation	2 weeks additional (approx.)
Bidding/Permitting and Addenda	4 weeks additional (approx.)
Construction Support Services (approx.)	120 calendar days from construction NTP

The actual schedule may vary significantly as the design progresses or as construction materials procurement commences. Changes to the project scope may require changes to the project



schedule. Although that is not anticipated, if such changes occur and are significant, it may require an increase to the compensation indicated in the Project Proposal.

## VII ASSUMPTIONS AND EXCLUSIONS

The following assumptions have been made for this Scope of Work:

- » Other than the runway light replacements and four regulator replacements, existing runway lighting infrastructure is expected to remain in place and in use, with the exception of approximately 10% of these items (broken conduit, damaged cable, damaged light cans, etc.) that will be repaired as needed during construction. The intent of the project is not to replace significant portions of these items. Lights and associated isolation transformers will be replaced on their existing base cans. Existing base cans will remain, with the exception of those deemed to need repair.
- » The existing lighting layout, spacing, offset from runway edges, and coloring is assumed to be in compliance with the latest ACs and no relocations will be provided. The Consultant will provide a cursory review and note any lights that appear to be out of compliance.
- » No megger testing, or similar electrical testing, is included in this proposal for the runway lighting systems. Testing data will available will be provided by LBB staff.
- » The existing vault is currently in acceptable condition and is code compliant. No vault modifications, other than replacement of regulators, will be provided.
- » All utilities are available at the site and no offsite improvements are required.
- » Existing airfield utilities will be marked out by the Airport's maintenance personnel and FAA Tech Ops.
- » Airport will provide all as-built documentation for the affected areas (all disciplines).
- » No survey, geotechnical investigation, or other exploratory investigation is included in this scope of work.
- » In providing estimates of probable construction cost, the Airport understands that the Consultant has no control over the cost or availability of labor, equipment, or materials, or over market conditions or a Contractor's method of pricing, and that the Consultant's estimates of probable construction costs are made on the basis of the Consultant's professional judgement and experience. The Consultant makes no warranty, express or implied, that the bids or the negotiated cost of the Work will not vary from the Consultant's estimate of probable construction cost.
- » Permitting, if required, will be acquired by the Contractor.
- » The proposed fee for RPR services assumes that the runway lights replacement construction activity time frame will have overlap with the current electrical upgrades and/or mechanical upgrades projects while RS&H already has an RPR posted at the Airport. Therefore, this fee represents the limited, part-time RPR services that are not part



of the RPR services for either of those two projects. Should the schedules for any of these projects change, RS&H will re-evaluate the RPR costs for potential additional compensation and notify the Airport.

- » The Consultant will not perform services/work related in any way to PFAS chemicals or substances possibly containing PFAS chemicals and the Consultant will not be liable for the non-performance of such services/work.

Tasks not specifically identified in this scope of work are not included in this Contract. In addition, the following is a listing of major items not included as part of this Proposal. This list will not be construed as the only items not included as part of this scope of services.

- » Existing condition measurements beyond the areas identified in Figure 1
- » Fees associated with permitting
- » Funding coordination
- » FAA Reimbursable Agreement coordination
- » National Environmental Policy Act (NEPA) documentation beyond SWPPP plan sheets
- » National Pollutant Discharge Elimination System ("NPDES") / Texas Pollutant Discharge Elimination System ("TPDES") / TCEQ permits
- » Environmental remediation (wetlands, soil contamination, etc.)
- » Topographic survey
- » Boundary surveys
- » Obstruction surveys
- » Survey platting
- » Geotechnical investigation
- » Subsurface Utility Explorations
- » Stormwater / drainage improvements
- » Per- and polyfluoroalkyl substances (PFAS) analysis and mitigation
- » Design of utilities
- » Trench safety plan
- » Confined space plan
- » Design or construction administration of any NAVAID improvements / relocations
- » Design or construction administration of any ALCMS improvements / updates
- » Design for Leadership in Energy and Environmental Design ("LEED") or Envision™ certification
- » Construction verification surveys
- » Additional travel to the Airport, FAA offices, or any other requested travel, beyond those meetings explicitly noted herein



- » Americans with Disabilities Act (ADA) design or Texas Accessibility Standards (TAS) design
- » TDLR review

## VIII PROFESSIONAL SERVICES FEE AND FEE TYPE

RS&H will provide Task 1 Design, Bidding, and Construction Administrative Services for a Lump Sum Fee of \$151,134.08. RS&H will provide Task 2 RPR Services for a Cost-Plus Not to Exceed Labor fee of \$22,673.52. Total Contract Value is proposed at \$173,807.60. See Attachment A for a breakdown of costs.


Should scope items/activities/efforts/durations be modified at the request of the Airport or need to be adjusted based on design/construction scheduling, the Consultant Team may need to modify the fee to accommodate the changes. Such changes will be compensated through a revision (through Additional Services requested by the Consultant) to the Amendment or similar vehicle. Effort, fee, and schedule adjustments resulting from a change in scope will be assessed and approved by the Airport prior to the execution of the change.



SCOPE OF WORK

**Submitted by:**

**RS&H, INC.:**

By:   
Print Name: Elliot Neph  
Title: Vice President

**City of Lubbock - Mayor:**

By: \_\_\_\_\_  
Print Name: Mark McBrayer  
Title: Mayor

**Attest:**

By: \_\_\_\_\_  
Print Name: Courtney Paz  
Title: City Secretary

**Approved as to Content:**

By:   
Print Name: Kelly Campbell  
Title: Executive Director of Aviation

**Approved as to Form:**

By:   
Print Name: Mitch Satterwhite  
Title: First Assistant City Attorney



ATTACHMENT A  
Fee Table





ATTACHMENT A  
SUMMARY OF PROFESSIONAL FEES  
Lubbock Preston Smith International Airport  
LBB Runway Lights Replacement  
RS&H, Inc.

DESIGN, BIDDING, CONSTRUCTION SUPPORT & RPR SERVICES

SCOPE / TASK TITLE		PROJECT OFFICER	PROJECT MANAGER	SENIOR CIV ENG	CIV ENG III	CIV ENG I	SENIOR ELEC ENG	ELEC ENG II	SR. FIELD REP	ADMIN ASST.	TOTAL
Task 1 – Existing Conditions Documentation											
1	Task 1.1 Project Initiation & Set Up										
	Task 1.1.1 Project Initiation Meeting (1, in-person)		12.0				16.0				28.0
	Task 1.1.2 Project Set Up	1.0	1.0		2.0	6.0	2.0	6.0		2.0	20.0
	Task 1.2 Data Collection and Review of As-Built Conditions					4.0	1.0	4.0			9.0
	Task 1.3 Development of Existing Conditions Model				4.0						4.0
4	Task 1.4 Project Management		4.0								4.0
	TOTAL HOURS	1.0	17.0	0.0	2.0	14.0	19.0	10.0	0.0	2.0	65.0
	RATE	\$ 433.60	\$ 342.42	\$ 262.48	\$ 203.85	\$ 134.18	\$ 337.68	\$ 121.74	\$ 209.94	\$ 162.63	
	TOTAL LABOR \$	\$ 433.60	\$ 5,821.14	\$ -	\$ 407.70	\$ 1,876.52	\$ 6,415.92	\$ 1,217.40	\$ -	\$ 325.26	\$ 16,499.54
OTHER DIRECT NON-SALARY COSTS											
TRAVEL											
	Task 1.1.1 Project Initiation Meeting (1, in-person)	#People 2	#Days 2	Flight @ \$ 650.00	Car @ \$ 100.00	Lodging @ \$ 150.00	Per Diem @ \$ 50.00	Tolls @ \$ -	No. of Times 1		\$ 1,900.00
	MILEAGE	100	Miles @ \$ 0.55								\$ 55.00
	SUM OF ODC's										\$ 1,955.00
Task 1 – Existing Conditions Documentation											
	Total Proposed Fee for:									LUMP SUM	\$ 18,454.54
Task 2 – Design Documents											
	Task 2.1 Development of Design Documents (Draft)										
	Task 2.1.1 Drawings		2.0		6.0	20.0	12.0	32.0			72.0
	Task 2.1.2 Project Manual		2.0		8.0		8.0	20.0			38.0
	Task 2.1.3 Engineer's Report		2.0		16.0		6.0	20.0			44.0
	Task 2.1.4 CSPP		1.0		8.0		2.0				11.0
	Task 2.1.5 CMP		1.0		8.0						9.0
	Task 2.1.6 EOPC		1.0		2.0	4.0	2.0	4.0			13.0
	Task 2.2 Perform In-House Quality Control Review (Draft)	1.0	2.0	4.0			4.0		4.0		15.0
	Task 2.3 Submit Design Documents (Draft)		2.0					2.0	2.0	2.0	6.0
	Task 2.3.1 Review Meeting (1, virtual)		2.0				2.0	2.0			6.0
	Task 2.4 Prepare and Submit FAA Form 7460-1		1.0			4.0					5.0
	Task 2.5 Development of Design Documents (Final)										
	Task 2.5.1 Drawings		1.0		4.0	13.0	8.0	21.0			47.0
	Task 2.5.2 Project Manual		1.0		5.0		5.0	13.0			24.0
	Task 2.5.3 Engineer's Report		1.0		11.0		4.0	13.0			29.0
	Task 2.5.4 CSPP		1.0		5.0		1.0				7.0
	Task 2.5.5 CMP		1.0		5.0						6.0
	Task 2.5.6 EOPC					1.0					1.0





ATTACHMENT A  
SUMMARY OF PROFESSIONAL FEES  
Lubbock Preston Smith International Airport  
LBB Runway Lights Replacement  
RS&H, Inc.

DESIGN, BIDDING, CONSTRUCTION SUPPORT & RPR SERVICES

SCOPE / TASK TITLE		PROJECT OFFICER	PROJECT MANAGER	SENIOR CIV/ENG	CIV/ENG III	CIV/ENG I	SENIOR ELEC/ENG	ELEC/ENG II	SR. FIELD REP	ADMIN ASST.	TOTAL
Task 2.6 Perform In-House Quality Control Review (Final)		1.0	2.0	4.0			4.0			4.0	15.0
Task 2.7 Submit Design Documents (Final)			2.0					2.0		2.0	6.0
Task 2.8 Design Coordination Meetings											
1	Task 2.8.1 In-person Meetings (1)							16.0			16.0
3	Task 2.8.2 Virtual Meetings (3)		3.0				3.0	3.0			9.0
6	Task 2.9 Project Management		6.0				2.0				8.0
TOTAL HOURS		2.0	34.0	8.0	78.0	42.0	63.0	148.0	0.0	12.0	387.0
RATE		\$ 433.60	\$ 342.42	\$ 262.48	\$ 203.85	\$ 134.18	\$ 337.68	\$ 121.74	\$ 209.94	\$ 162.63	
TOTAL LABOR \$		\$ 867.20	\$ 11,642.28	\$ 2,099.84	\$ 15,900.30	\$ 5,635.56	\$ 21,273.84	\$ 18,017.52	\$ -	\$ 1,951.56	\$ 77,388.10
OTHER DIRECT NON-SALARY COSTS											
TRAVEL											
		#People	#Days	Flight @	Car @	Lodging @	Per Diem @	Tolls @	No. of Times		
Task 2.8.1 In-person Meetings (1)		1	2	\$ 650.00	\$ 100.00	\$ 150.00	\$ 100.00	\$ 0	1	\$ 1,000.00	
		\$ 1,000.00									
MILEAGE		50	Miles @	\$ 0.55							
		\$ 27.50									
		\$ 1,027.50									
Task 2 - Design Documents											
LUMP SUM											
\$ 78,415.60											
Task 3 – Bidding Phase Services											
1	Task 3.1 Pre-Bid Conference (1, in-person)		12.0				16.0				28.0
	Task 3.2 Addenda		1.0			2.0	2.0	8.0			13.0
	Task 3.3 Bid Opening (1, virtual)		1.0				1.0	1.0			3.0
	Task 3.4 Bid Review and Award Recommendation		2.0				2.0	6.0			10.0
	Task 3.5 Prepare Conformed Construction Documents		2.0		4.0	12.0	4.0	12.0			34.0
TOTAL HOURS		0.0	18.0	0.0	4.0	14.0	25.0	27.0	0.0	0.0	86.0
RATE		\$ 433.60	\$ 342.42	\$ 262.48	\$ 203.85	\$ 134.18	\$ 337.68	\$ 121.74	\$ 209.94	\$ 162.63	
TOTAL LABOR \$		\$ -	\$ 6,163.56	\$ -	\$ 815.40	\$ 1,878.52	\$ 8,442.00	\$ 3,286.98	\$ -	\$ -	\$ 20,586.46





ATTACHMENT A  
SUMMARY OF PROFESSIONAL FEES  
Lubbock Preston Smith International Airport  
LBB Runway Lights Replacement  
RS&H, Inc.

DESIGN, BIDDING, CONSTRUCTION SUPPORT & RPR SERVICES

SCOPE / TASK TITLE	PROJECT OFFICER	PROJECT MANAGER	SENIOR CIV ENG	CIV ENG III	CIV ENG I	SENIOR ELEC ENG	ELEC ENG II	SR FIELD REP	ADMIN ASST.	TOTAL
OTHER DIRECT NON-SALARY COSTS										
TRAVEL										
Task 3.1 Pre-Bid Conference (1, in-person)	#People 2	#Days 2	Flight @ \$ 650.00	Car @ \$ 100.00	Lodging @ \$ 150.00	Per Diem @ \$ 50.00	Tolls @ \$ -	No. of Times 1		\$ 1,900.00
			2 \$ 1,300.00	\$ 100.00	\$ 300.00	\$ 200.00	\$ -	0		\$ 1,900.00
MILEAGE										
	100	Miles @ \$ 0.55								\$ 55.00
										\$ 1,955.00
SUM OF ODC's										
Task 3 – Bidding Phase Services										
									LUMP SUM	\$ 22,541.46
Task 4 – Construction Phase Services										
Task 4.1 Pre-Construction Conference (1, virtual)		2.0				1.0	4.0			7.0
Task 4.2 RFIs/Substitutions/Submittal Review (25)		2.0			8.0	8.0	24.0			42.0
Task 4.3 Review Contractor Pay Requests (4)		2.0					4.0			6.0
Task 4.4 Construction Meetings/Site Visit/Punch List										
6 Task 4.4.1 Virtual Meetings (6)		6.0				6.0	6.0			18.0
1 Task 4.4.2 Site Inspections (1)		12.0				16.0				28.0
Task 4.5 Prepare Project Closeout Documents		1.0			4.0	1.0	4.0			14.0
16 Task 4.6 General Administration of the Construction Contract		8.0				4.0				12.0
	0.0	33.0	0.0		12.0	36.0	42.0	0.0	0.0	127.0
TOTAL HOURS										
RATE	\$ 433.60	\$ 342.42	\$ 262.48	\$ 203.85	\$ 134.18	\$ 337.68	\$ 121.74	\$ 209.94	\$ 162.63	
TOTAL LABOR \$	\$ -	\$ 11,299.86	\$ -	\$ 815.40	\$ 1,610.16	\$ 12,156.48	\$ 5,113.08	\$ -	\$ -	\$ 30,984.98
OTHER DIRECT NON-SALARY COSTS										
TRAVEL										
Task 4.4.2 Site Inspections (1)	#People 1	#Days 1	Flight @ \$ 650.00	Car @ \$ 100.00	Lodging @ \$ 150.00	Per Diem @ \$ 50.00	Tolls @ \$ -	No. of Times 1		\$ 700.00
			\$ 650.00	\$ -	\$ -	\$ 50.00	\$ -	0		\$ 700.00
MILEAGE										
	50	Miles @ \$ 0.55								\$ 27.50
										\$ 727.50
SUM OF ODC's										
Task 4 – Construction Phase Services										
									LUMP SUM	\$ 31,722.48
Total Proposed Fee for:										
Total Fee for Design, Bidding, and Construction Administrative Services:									LUMP SUM	\$ 151,134.08





ATTACHMENT A  
SUMMARY OF PROFESSIONAL FEES  
Lubbock Preston Smith International Airport  
LBB Runway Lights Replacement  
RS&H, Inc.

DESIGN, BIDDING, CONSTRUCTION SUPPORT & RPR SERVICES

SCOPE / TASK TITLE	PROJECT OFFICER	PROJECT MANAGER	SENIOR CIV/ENG	CIV/ENG III	CIV/ENG I	SENIOR ELEC/ENG	ELEC/ENG II	SR FIELD REP	ADMIN ASST.	TOTAL
<b>Task 5 – Resident Project Representative</b>										
Task 5.1 On-Site Resident Project Representation (Part-Time RPR)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	108.0	0.0	108.0
TOTAL HOURS										
RATE	\$ 433.60	\$ 342.42	\$ 262.48	\$ 203.85	\$ 134.18	\$ 337.68	\$ 121.74	\$ 209.94	\$ 162.63	
TOTAL LABOR \$	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 22,673.52	\$ -	\$ 22,673.52
<b>OTHER DIRECT NON-SALARY COSTS</b>										
TRAVEL										
N/A										
MILEAGE										
SUM OF ODC's										
<b>Task 5 – Resident Project Representative</b>										
Total Proposed Fee for:								COST PLUS, NOT-TO-EXCEED	\$	22,673.52
<b>Total Fee for Resident Project Representation Services:</b>										
								COST PLUS, NOT-TO-EXCEED	\$	22,673.52



**City of Lubbock, TX  
Capital Project  
Project Cost Detail  
October 8, 2024**

Capital Project Number: 92884

Capital Project Name: Replace Airfield  
Lighting/LED Conversion

	<u><b>Budget</b></u>
<i>Encumbered/Expended</i>	
<i>Agenda Item October 8, 2024</i>	
RS&H, Inc. Amendment 19 - Contract 15200	<u>\$ 173,808</u>
<b><i>Encumbered/Expended To Date</i></b>	<u>173,808</u>
<i>Estimated Costs for Remaining Appropriation</i>	<u>26,192</u>
<b><i>Remaining Appropriation</i></b>	<u>26,192</u>
<b>Total Appropriation</b>	<u><u>\$ 200,000</u></u>





# CIP 92884 Replace Airfield Lighting/LED Conversion

Upgrade/Major Maintenance

**Project Manager: Kelly Campbell - Aviation Oper - Field Maint**

## Project Scope

This project involves the comprehensive replacement of all existing incandescent/quartz/halogen runway lights with Light Emitting Diode (LED) fixtures across the airfield. This includes runway edge lights, threshold lights, touchdown zone lights, and any other necessary lighting elements. Additionally, compatibility assessments will be conducted to ensure seamless integration with existing infrastructure, and the implementation will be carried out in a phased approach to minimize operational disruptions.

## Project Justification

The transition to LED technology is justified by the increasing obsolescence of traditional lamps, as evidenced by industry suppliers' cessation of certifications and the challenges associated with sourcing replacement parts. LED lighting offers superior reliability, longevity, and energy efficiency compared to traditional lamps, reducing operational costs and environmental impact. Furthermore, the widespread adoption of LED technology in the aviation industry underscores its effectiveness in enhancing safety and operational efficiency, making it the preferred choice for airfield lighting systems.

## Project Highlights

**Council Priorities Addressed:**  
Safety

## Project Dates

\*The airport is seeking supplemental AIP funding. Should the project get selected for funding, this project will be expedited and amended accordingly.

RS&H Selected through 5-year master architecture and engineering contract.

Award date for Design: Oct 2024

Design Completion: Jan 2025

Bid Date for Construction: TBD

Award date for Construction: TBD

Begin Construction: TBD

Construction Completion: TBD

## Project History

- FY 2024-25 \$200,000 was appropriated by Ord. 2024-00129

## Project Location

5401 N. Martin Luther King Boulevard, Lubbock, TX 79403

## Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Design	\$0	\$200,000	\$0	\$0	\$0	\$0	\$0
Construction	\$0	\$0	\$1,000,000	\$0	\$0	\$0	\$0
TOTAL	\$0	\$200,000	\$1,000,000	\$0	\$0	\$0	\$0



## Project Funding

	Funding to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Airport Fund Cash	\$0	\$200,000	\$0	\$0	\$0	\$0	\$0
AIP Grant	\$0	\$0	\$1,000,000	\$0	\$0	\$0	\$0
TOTAL	\$0	\$200,000	\$1,000,000	\$0	\$0	\$0	\$0

## Operating Budget Impacts

	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Facilities Maint & Custodial	\$100	\$100	\$100	\$100	\$100	\$100
TOTAL	\$100	\$100	\$100	\$100	\$100	\$100



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## Information

### Agenda Item

**Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute a Fifth Amendment to Contract 15038, with Webber LLC, to extend the contract term and rental rate for the land lease agreement at Lubbock Preston Smith International Airport.

### Item Summary

Webber LLC entered into a land lease agreement with the City of Lubbock on November 19, 2019, for a temporary office site during the I-27 road construction project. Webber LLC was granted the right to utilize 45,150 square feet of land on the east side of Lubbock Preston Smith International Airport, through June 30, 2021.

Amendment Two to the land lease agreement extended the term to December 31, 2022.

Amendment Three extended the term to December 31, 2023.

Amendment Four extended the term to December 31, 2024.

Amendment Five will extend the land lease agreement until September 30, 2026.

The extension will increase the rental rate to the current rate of \$0.2780 per square foot, and it includes a Consumer Price Index (CPI) adjustment each January. The extension will generate annual revenue of approximately \$12,551.70.

Airport Staff and the Airport Advisory Board recommend approval.

### Fiscal Impact

Additional \$12,551.70 in airport revenue

### Staff/Board Recommending

Bill Howerton, Deputy City Manager

Kelly Campbell, Executive Director of Aviation

Airport Advisory Board

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## Attachments

Resolution Amendment 5 Webber LLC

Amendment 5 Webber LLC



**RESOLUTION**

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Fifth Amendment to Lease Agreement by and between the City of Lubbock and Webber LLC., for certain real property located at Lubbock Preston Smith International Airport (LPSIA), and related documents. Said Amendment is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, MAYOR

ATTEST:

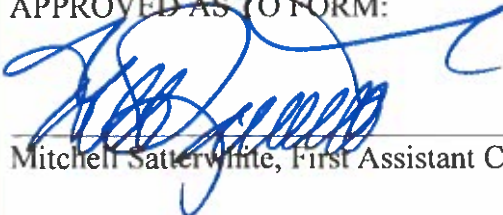
\_\_\_\_\_  
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



\_\_\_\_\_  
Kelly Campbell, Executive Director of Aviation

APPROVED AS TO FORM:



\_\_\_\_\_  
Mitchell Satterwhite, First Assistant City Attorney



STATE OF TEXAS           §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK   §

### **FIFTH AMENDMENT TO LEASE AGREEMENT**

THIS FIFTH AMENDMENT TO LEASE AGREEMENT, hereinafter referred to as the “Amendment” is entered into by the **CITY OF LUBBOCK** (referred to herein as City), a Home Rule Municipality of Lubbock County, Texas, and **WEBBER LLC.**, (referred to herein as Lessee).

#### **WITNESSETH:**

WHEREAS, City and Lessee executed a Lease Agreement (“Agreement”) on November 19, 2019, in which Lessee was granted the right to utilize approximately 45,000 square feet of land located on the east side of Preston Smith International Airport (referred to herein as Airport); and

WHEREAS, City and Lessee have extended the term of the Lease on several occasions, the most recent extension expiring on December 31, 2024; and

WHEREAS, Lessee requests the term of the Agreement be extended until September 30, 2026, and rates adjusted accordingly.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree to the following:

#### **I.**

Article Two, 2.01 Term of the Agreement is amended to read as follows:

“The initial term of this Agreement shall begin on NOVEMBER 1, 2019 and terminate on SEPTEMBER 30, 2026.”

#### **II.**

Article Three, 3.01 Rentals is amended to read as follows:



**"3.01 RENTALS**

In consideration of the rights and privileges herein granted as singularly related to its use and enjoyment of the Leased Premises, Lessee shall pay to the City the following:

A. The annual rental rate is \$0.2780 per square foot, per year. The annual rent will be TWELVE THOUSAND FIVE HUNDRED FIFTY-ONE AND 70/100 DOLLARS (\$12,551.70) which shall be due and payable, in twelve (12) equal monthly installments of ONE THOUSAND FORTY-FIVE AND 98/100 DOLLARS (\$1045.98).

**B. CONSUMER PRICE INDEX**

The parties hereto mutually agree that during the initial term of this Agreement, and during any renewal period, except as otherwise might be set out in this Agreement, the rental rates will be adjusted upward or downward for each ensuing calendar year beginning January 1, 2025, in direct proportion to the fluctuation in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index.

All other terms and conditions of the Agreement shall remain unchanged and in full force and effect.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

THE CITY OF LUBBOCK

WEBBER LLC

BY: \_\_\_\_\_  
MARK W. MCBRAYER, MAYOR

BY: R. Michael Oliver  
R. Michael Oliver

ATTEST:

West Texas Construction Mgr  
Title: SR. PROJECT MANAGER

\_\_\_\_\_  
Courtney Paz, City Secretary

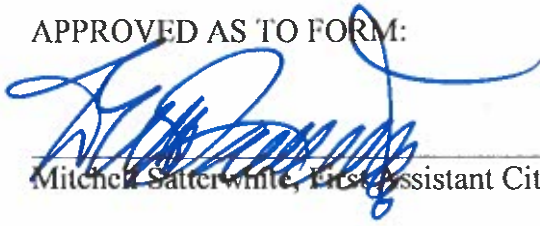
Date: 09/17/24

APPROVED AS TO CONTENT:

Kelly Campbell  
Kelly Campbell, Executive Director of Aviation



APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Mitchell Salterwhite", is written over a horizontal line.

Mitchell Salterwhite, First Assistant City Attorney



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## Information

### Agenda Item

**Resolution - Information Technology:** Consider a resolution authorizing the Mayor to execute Purchase Order 33100052, with Paradigm Traffic Systems, for the purchase of Ruggedcom L3 Switches for the Traffic Signal Network.

### Item Summary

The purchase of 13 Ruggedcom L3 Switches, components, and software will replace existing traffic systems switches that are, or are approaching, the end of service life.

The purchase is made available through the Buy Board - Technology Equipment, Products, Services and Software Contract # 695-23. Texas Local Government Code Chapter 271.083 authorizes local governments to acquire hardware, software and other Information Technology products through the Buy Board program. Pursuant to Texas Government Code Chapter 791.025, purchases from DIR contracts meet competitive bid requirements.

### Fiscal Impact

The purchase price of \$135,089 for 13 Ruggedcom L3 Switches with software, is funded in Capital Improvement Project 92754 - Cybersecurity Infrastructure ARPA funds.

### Staff/Board Recommending

Brooke Witcher, Assistant City Manager  
James C. Brown, Chief Information Officer

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## Attachments

Resolution - Paradigm Traffic Systems

PO - Paradigm Traffic Systems

Budget Detail

CIP ProjectDetail



**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. 33100052, for Ruggedcom L3 Switches, per BuyBoard 695-23, by and between the City of Lubbock and Paradigm Traffic Systems, 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 \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, 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.Paradigm Traffic Systems-PurchaseOrd  
September 18, 2024





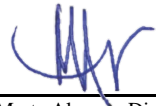
PURCHASE ORDER

Page - 1  
Date - 9/17/2024  
Order Number 33100052 000 OP  
Branch/Plant 92754

TO: PARADIGM TRAFFIC SYSTEMS INC  
2201 E DIVISION ST  
ARLINGTON TX 76005-5508

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 9/17/2024 Freight  
Requested 10/25/2024 Taken By YBUSBY  
Delivery Per J Zhine / Req # 62261 PUR 18347/Quo #Q35061RK/BuyBoard 695-23

If you have any questions contact Jay Zhine: JZhine@mylubbock.us Phone 806-775-2366

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Level 5 Ethernet Switch	13.000	10,009.0000	EA	130,117.00	10/25/2024
Rugged.com #RST2428P w/L3 SW					
Level 3 Misc Traffic Component	2.000	663.0000	EA	1,326.00	10/25/2024
Ruggedcom #RMM2982 4Port Modul					
Level 3 Misc Traffic Component	1.000	650.0000	EA	650.00	10/25/2024
#RMM2973-4RJ12 4P Copper Modul					
Level 3 Misc Traffic Component	4.000	749.0000	EA	2,996.00	10/25/2024
Ruggedcom SFP+ Optical Dvc SM					
				Total Order	
Terms NET 30					135,089.00

This purchase order encumbers funds in the amount of \$135,089.0 awarded to Paradigm Traffic Systems, Inc. of Arlington, TX, on \_\_\_\_\_, 2024. The following is incorporated into and made part of this purchase order by reference: Quote dated September 04, 2024, from Paradigm Traffic Systems, Inc. of Arlington, TX, and BuyBoard Contract 695-23.

Resolution # \_\_\_\_\_

CITY OF LUBBOCK:

ATTEST:

\_\_\_\_\_  
Mark McBrayer, Mayor

\_\_\_\_\_  
Courtney Paz, City Secretary





PURCHASE ORDER

Page - 2  
Date - 9/17/2024  
Order Number 33100052 000 OP  
Branch/Plant 92754

TO: PARADIGM TRAFFIC SYSTEMS INC  
2201 E DIVISION ST  
ARLINGTON TX 76005-5508

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 9/17/2024 Freight .  
Requested 10/25/2024 Taken By YBUSBY  
Delivery Per J Zhine / Req # 62261 PUR 18347/Quo #Q35061RK/BuyBoard 695-23

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).

**Technology Errors and Omissions Requirements:**

\$1M of coverage is needed.

**Cyber Liability Requirements:** \$1M of coverage is needed for Cyber Liability.

\*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.



# 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](mailto:orr@mylubbock.us). Please send this request to this email address for it to be processed





P.O. Box 5508 – Arlington – Texas – 76005-5508  
 817.831.9406 – fax 817.831.9407  
[Estimating@Paradigmtraffic.com](mailto:Estimating@Paradigmtraffic.com)  
[www.paradigmtraffic.com](http://www.paradigmtraffic.com)

## QUOTATION

**REVISED 9-4-2024 @ 0833hrs (RK)**

**RFQ: CITY OF LUBBOCK**

**TO:** Paradigm Traffic Systems  
 2201 East Division Street  
 Arlington, Texas 76011  
**attn:** Estimating Department  
**ph:** 817-831-9406  
**fx:** 817-831-9407

**Matthew Matlock Request for Quote - Ethernet Switches**  
 BuyBoard Contract # 695-23  
 Traffic Light & Signal Systems,  
 Supplies & Equipment  
 512-467-0222 pn  
 1-800-211-5454 fax

DATE 8/22/2024	SLSMN RK	Delivery Date 30 - 45 Days ARO	FREIGHT PPD & Allowed	SHIP VIA Best Way	F.O.B Destination	TERMS Net 30	QTE NUMBER Q35061RK
ITEM	QTY	DESCRIPTION				UNIT PRICE	TOTAL PRICE
		<b>This quote is valid for 60 days. Thereafter it is subject to change without notice.</b>					
1	13	LEVEL 5 ETHERNET SWITCH -- PARADIGM TRAFFIC SYSTEMS RUGGEDCOM RST2428P WITH L3 SOFTWARE / NO MODS <i>*NOTE* Configuration 6GK6242-6PA00-5CC0-Z A00+B00+C00+D00+E00+F00+G00+L01 Quoted</i> <i>*NOTE* SFP's are not quoted. Switches only</i>  <b>*TECHNICAL INFORMATION*</b> <i>Fully managed Layer 2 Ethernet switch with up to 28 non-blocking interfaces. Standard four 1/10 Gbps SFP+ uplink ports. Dual redundant hot swappable power supply modules. Operating temperature of -40 to +85 °C (fanless). . . 19" Rack mount kit, panel mount kit HI VDC / VAC, screw terminal HI VDC / VAC None LED Panel Front. Layer 3 basic edition</i>				\$10,009.00	<b>\$130,117.00</b>
2	2	LEVEL 3 MISC. TRAFFIC COMPONENT -- PARADIGM TRAFFIC SYSTEMS RUGGEDCOM RMM2982 4 PORT (1/10Gb) MODULES <i>*NOTE* Configuration 6GK62982SA004AA0 Quoted</i>  <b>*TECHNICAL INFORMATION*</b> <i>Media Module for RUGGEDCOM RST2428P series, 4 x SFP+ slot. The RUGGEDCOM RMM2982-4SFP Module features sockets for up to four 1000/10GBase-X Small Form-factor Pluggable (SFP/SFP+) transceivers, SFPs are not included.</i>				\$663.00	<b>\$1,326.00</b>
3	1	LEVEL 3 MISC. TRAFFIC COMPONENT -- PARADIGM TRAFFIC SYSTEMS RUGGEDCOM RMM2973-4RJ45 4 PORT COPPER MODULE <i>*NOTE* Configuration 6GK6297-3RD00-4AB0 Quoted</i>  <b>*TECHNICAL INFORMATION*</b> <i>Media Module for RUGGEDCOM RST2000 series, 4 x RJ45, 10/100/1000 BASE-TX</i>				\$650.00	<b>\$650.00</b>
4	4	LEVEL 3 MISC. TRAFFIC COMPONENT -- PARADIGM TRAFFIC SYSTEMS RUGGEDCOM SFP+ OPTICAL DEVICES, SINGLE MODE <i>*NOTE* Configuration 6GK6000-8FT51-0AA0 Quoted</i>  <b>*TECHNICAL INFORMATION*</b> <i>10Gb, LC connector, 10Km, SingleMode</i>				\$749.00	<b>\$2,996.00</b>



DATE 8/22/2024	SLSMN RK	Delivery Date 30 - 45 Days ARO	FREIGHT PPD & Allowed	SHIP VIA Best Way	F.O.B Destination	TERMS Net 30	QTE NUMBER Q35061RK
ITEM	QTY	DESCRIPTION  This quote is valid for 60 days. Thereafter it is subject to change without notice.  <					

**\*This quote is valid for 60 days.** Thereafter it is subject to change without notice.

\*Thank you for the opportunity to submit a proposal to you on this equipment. Please reference this quotation (by QTE number) when placing order. If you have any questions, please call or send a fax to me.

\*When sending RFQ's, PO's or RFI's, please send to  
**ESTIMATING@PARADIGMTRAFFIC.COM**

\*Unless previously discussed, quote is for material only

**OFFERED BY:**



**Robert Kelly**  
**Paradigm Traffic Systems, Inc.**  
[Estimating@paradigmtraffic.com](mailto:Estimating@paradigmtraffic.com)  
**Federal ID# 75-2520341**



**City of Lubbock  
Capital Project  
Project Cost Detail  
October 8, 2024**

Capital Project Number:	92754
Capital Project Name:	Cyber Security Infrastructure

Capital Project Number:	3410
Capital Project Name:	Information Technology

<i>Encumbered/Expended</i>	<b>Budget</b>		
	92754	3410	Total
Sciens LLC	\$ 85,620		\$ 85,620
Dell Marketing LP	1,381,940		1,381,940
Computex, Inc.	46,206		46,206
Tom's Tree Place	64,849		64,849
Johnston Technical Services	54,160		54,160
ThinkGard	265,914		265,914
Newspaper Ads	548		548
SHI Gov Solutions - DarkTrace	52,478		52,478
Information Technology		9,540,184	9,540,184
SHI Gov Solutions - DarkTrace	52,478		52,478

*Agenda Item October 8, 2024*

<b>Paradigm Traffic Systems, Inc.</b>	<b>135,089</b>	<b>-</b>	<b>135,089</b>
<b><i>Encumbered/Expended To Date</i></b>	2,139,282	9,540,184	11,679,467

*Estimated Cost for Remaining Appropriation*

Cyber Security Infrastructure	110,718		110,718
Information Technology		2,608,979	2,608,979
<b><i>Remaining Appropriation</i></b>	110,718	2,608,979	2,719,696

<b>Total Appropriation</b>	\$ 2,250,000	12,149,163	\$ 14,399,163
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# CIP 92754 Cyber Security Infrastructure

## Infrastructure Improvements

**Project Manager: James Brown - Information Technology**

### Project Scope

Many components that control the critical infrastructures are at or near end of service life. This project will replace those components, and add additional functionality to enhance our overall cyber security capabilities.

### Project Justification

Enhance cyber security for critical infrastructures.

### Project Highlights

#### Council Priorities Addressed:

### Project History

- FY 2021-22 \$2,240,500 was appropriated by Ord. 2022-00001
- FY 2023-24 \$9,500 was appropriated by Ord. 2024-00037

### Project Dates

### Project Location

Internal Project

### Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Acquisition	\$2,250,000	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$2,250,000	\$0	\$0	\$0	\$0	\$0	\$0

### Project Funding

	Funding to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
ARPA Funding	\$2,250,000	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$2,250,000	\$0	\$0	\$0	\$0	\$0	\$0

### Operating Budget Impacts

Description	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	Total
No Impact Anticipated	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$0



## Information

### Agenda Item

**Resolution - Fleet Services:** Consider a resolution authorizing the City Manager or his designee, to purchase all approved vehicles and equipment, including their lighting and associated accessories, for Fiscal Year 2024-25, to replace essential assets in various City departments.

### Item Summary

The City of Lubbock, like many other organizations, has experienced challenges related to supply chain shortages, especially with vehicle purchases. The Fleet Operations Department continues to experience issues in ordering and receiving vehicles for the current fiscal year.

While the vehicles and equipment have been ordered, the delivery of many of these purchases has been delayed with no definitive timeframe or guarantee from the vendors that our orders will be fulfilled.

The following 146 vehicles and equipment, including lighting and associated accessories, from the upcoming FY 2024-25 Vehicle Replacement Schedule, have been approved by the City Council and need to be purchased for the City:

Codes	(1) ½ Ton Pickup Truck
Traffic Operations	(2) 1 ½ Ton Bucket Trucks
	(1) Heavy Duty Pole Truck
Paved Streets	(1) Commercial Dump Truck
	(1) Asphalt Roller
	(2) 1 ½ Ton Bucket Trucks
Engineering Inspection Services	(3) ½ Ton Pickup Trucks
Parks & Recreation	(5) ¾ Ton Pickup Trucks
	(1) All Terrain Vehicle
	(1) Backhoe
	(1) Riding Mower
	(1) ½ Ton Pickup Truck
	(1) Utility Terrain Vehicle
Lubbock Fire & Rescue	(2) E-One Platform Pumpers
Police Special Operations	(2) ½ Ton Pickup Trucks
Police Special Investigations	(14) Sedans
Police Patrol	(6) Sedans



	(41) Sports Utility Vehicles
	(4) ½ Ton Pickup Trucks
	(1) ½ Ton K9 Pickup Truck
Residential Collections	(5) Commercial Side Loader Trash Trucks
	(2) ¾ Ton Pickup Trucks
	(1) Roll-Off Truck
Alley Maintenance	(1) Motor Grader
	(1) Hydraulic Excavator
	(1) Commercial Dump Truck with Snow Plow
	(1) 1-Ton Pickup Truck
	(1) Wheel Loader
	(1) Tractor 4x4
	(1) Landfill Compactor
	(1) ¾ Ton Pickup Truck
	(1) Articulated Dump Truck
Fleet Operations	(1) ½ Ton Pickup Truck
Aviation Field Maintenance	(1) Street Sweeper
Aviation Security	(1) ½ Ton Pickup Truck
Civic Center	(1) 1-Ton Pickup Truck
Water Meter & Customer Service	(5) ¾ Ton Pickup Trucks
	(1) ½ Ton Pickup Truck
Water Distribution & Maintenance	(1) 1-Ton Pickup Truck with Flatbed
	(1) Heavy Duty Commercial Truck with Service Body
	(1) 5th Wheel Trailer
	(2) Backhoe Loaders
	(2) Backhoe Loader Trailers
	(1) Lowboy Trailer
Water Pumping & Control	(1) 1 Ton Pickup Truck with Service Body
	(1) ¾ Ton Pickup Truck with Service Body
Water Treatment	(1) Utility Terraine Vehicle
Water Reservoir	(1) Utility Terraine Vehicle
Wastewater Collections	(1) Heavy Duty Vacuum Truck
	(1) 1-Ton Pickup Truck with Service Body
	(1) ¾ Ton Pickup Truck
Land Application	(2) 1-Ton Pickup Trucks with Flatbeds
	(3) Tractors



	(1) Telescopic Handler
	(2) Hay Balers
	(1) Cultivator
Street Cleaning	(1) Street Sweeper
	(1) Heavy Duty Commercial Dump Truck with Salt Spreader
	(1) ¾ Ton Pickup Truck
	(1) Regenerative Air Sweeper
Storm Sewer Maintenance	(1) 6-Yard Dump Truck with Salt Spreader

The Fleet Operations Department estimates the cost of the proposed 146 vehicles and equipment, including lighting and associated accessories, referenced above, not to exceed \$20,637,707.

The resolution that is attached authorizes the City Manager to move forward with these purchases as the opportunities to acquire the assets become available. The resolution is structured so that the vehicles and quantities referenced above can be modified, if necessary, based on market conditions.

### **Fiscal Impact**

The funds for the purchase of 146 vehicles and equipment, including lighting and associated accessories, for Fiscal Year 2024-25 have been appropriated from the Water/Wastewater balance, Stormwater balance, General Fund Fiscal Year 2024-25 Tax Note balance, Fleet balance, Civic Center balance, and the General Fund balance.

The total cost of the vehicles and equipment purchase shall not exceed \$20,637,707.

### **Staff/Board Recommending**

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

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### **Attachments**

Resolution  
Exhibit A  
CIP 92863 Project Detail  
CIP 92864 Project Detail



## **RESOLUTION**

WHEREAS, the City of Lubbock Fleet Services Department administers a vehicle replacement program that evaluates City vehicles and equipment to determine their remaining useful life and replacement eligibility; and

WHEREAS, 146 vehicles and equipment, including lighting and associated accessories, have been identified and scheduled for replacement as part of the vehicle replacement program for FY 2024-25; and

WHEREAS, due to global supply chain issues causing limited inventories and unknown delivery schedules, the current vehicle and equipment purchasing environment has become increasingly unpredictable; and

WHEREAS, this creates difficulty for City of Lubbock Fleet Services Department to anticipate what current and future supply of vehicles and equipment will be due to the highly competitive market for new vehicles and equipment; and

WHEREAS, the aforementioned factors present challenges in fulfilling the City's vehicle and equipment replacement needs as the items become available, especially with regard to the timing of and approval of such purchases; and NOW THEREFORE:

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

THAT, due to continued national vehicle marketplace issues and the associated shortage of available vehicles and equipment, the City Council of the City of Lubbock (the "Council") hereby authorizes the City Manager to purchase the 146 vehicles and equipment, including lighting and associated accessories, scheduled for replacement on the FY 2024-25 Vehicle Replacement List attached hereto as Exhibit "A" and incorporated herein as if fully set forth; and

THAT, as part of the authorization herein, the Council delegates the authority to the City Manager, or his designee, to approve purchase agreements and sign all related documents for said vehicles and equipment, including lighting and associated accessories; and

THAT, the purchases authorized herein shall comply with all competitive bidding requirements, and shall be for an amount not to exceed twenty million six hundred thirty-seven thousand seven hundred seven and NO/100 (\$20,637,707.00).

Passed by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, MAYOR

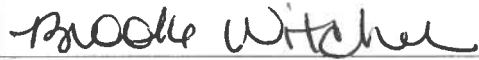


ATTEST:

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Courtney Paz, City Secretary

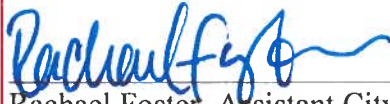
APPROVED AS TO CONTENT:



---

Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:



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Rachael Foster, Assistant City Attorney



**EXHIBIT "A"**

**FY2024-25 Vehicle Replacement List**

#	Fund	Department	Cost Center	V#	Proposed Replacement	Cash	Tax Note
1	General	Codes Administration	4211	12011116	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 60,000	
					<b>Codes Administration Total</b>	<b>\$ 60,000</b>	<b>\$ -</b>
2	General	Traffic Operations	4525	52013004	1.5 Ton Pick Up 4X4 Bucket Truck w/ full upfit	\$ 209,500	
3	General	Traffic Operations	4525	82014044	Heavy Duty Pole Truck		\$ 509,500
4	General	Traffic Operations	4525	52012008	1.5 Ton Pick Up 4X4 Bucket Truck w/ full upfit	\$ 209,500	
					<b>Traffic Operations Total</b>	<b>\$ 419,000</b>	<b>\$ 509,500</b>
5	General	Paved Streets	4531	72003186	Commercial Dump Truck	\$ 145,500	
6	General	Paved Streets	4531	92010062	Roller	\$ 64,500	
7	General	Paved Streets	4531	12011150	1/2 Ton Extended or Crew Cab 4x4	\$ 59,500	
					<b>Paved Streets Total</b>	<b>\$ 269,500</b>	<b>\$ -</b>
8	General	Engineering Inspections Services	4541	12013090	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 60,000	
9	General	Engineering Inspections Services	4541	12014049	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 60,000	
10	General	Engineering Inspections Services	4541	12015050	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 60,000	
					<b>Engineering Ins. Total</b>	<b>\$ 180,000</b>	<b>\$ -</b>
11	General	Parks and Recreation	5221	32013015	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 75,000	
12	General	Parks and Recreation	5221	22013026	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 75,000	
13	General	Parks and Recreation	5221	92011130	ATV w/ racks	\$ 20,000	
14	General	Parks and Recreation	5221	92008127	Backhoe	\$ 135,000	
15	General	Parks and Recreation	5221	92011044	Riding Mower	\$ 30,000	
16	General	Parks and Recreation	5221	12003072	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 60,000	
17	General	Parks and Recreation	5221	22013042	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 90,000	
18	General	Parks and Recreation	5221	22009019	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 130,000	
19	General	Parks and Recreation	5221	22008085	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 95,000	
20	General	Parks and Recreation	5221	92013009	UTV	\$ 25,000	
					<b>Parks and Rec Total</b>	<b>\$ 735,000</b>	<b>\$ -</b>
21	General	Lubbock Fire and Rescue	5615	82009245	Platform Truck		\$ 2,100,000
22	General	Lubbock Fire and Rescue	5615	82009194	Platform Truck		\$ 2,100,000
					<b>Lubbock Fire Total</b>	<b>\$ -</b>	<b>\$ 4,200,000</b>
23	General	Police Special Operations	5719	12013059	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 54,000	
24	General	Police Special Operations	5719	12013097	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 54,000	
					<b>Police Special Ops Total</b>	<b>\$ 108,000</b>	<b>\$ -</b>
25	General	Police Investigations	5731	12010088	Sedan w/ full upfit	\$ 34,500	
26	General	Police Investigations	5731	12008039	Sedan w/ full upfit	\$ 34,500	



27	General	Police Investigations	5731	12009049	Sedan w/ full upfit	\$ 34,500	
28	General	Police Investigations	5731	12012069	Sedan w/ full upfit	\$ 34,500	
29	General	Police Investigations	5731	12012070	Sedan w/ full upfit	\$ 34,500	
30	General	Police Investigations	5731	12013109	Sedan w/ full upfit	\$ 34,500	
31	General	Police Investigations	5731	12008066	Sedan w/ full upfit	\$ 34,500	
32	General	Police Investigations	5731	12012060	Sedan w/ full upfit	\$ 34,500	
33	General	Police Investigations	5731	12013103	Sedan w/ full upfit	\$ 34,500	
34	General	Police Investigations	5731	12013105	Sedan w/ full upfit	\$ 34,500	
35	General	Police Investigations	5731	12013107	Sedan w/ full upfit	\$ 34,500	
36	General	Police Investigations	5731	12013108	Sedan w/ full upfit	\$ 34,500	
37	General	Police Investigations	5731	12013111	Sedan w/ full upfit	\$ 34,500	
38	General	Police Investigations	5731	12013113	Sedan w/ full upfit	\$ 34,500	
				Police Investigations Total		\$ 483,000	\$ -
39	General	Police Patrol	5735	12013021	SUV w/ full upfit	\$ 80,000	
40	General	Police Patrol	5735	12008026	Sedan w/ full upfit	\$ 34,500	
41	General	Police Patrol	5735	12008049	Sedan w/ full upfit	\$ 34,500	
42	General	Police Patrol	5735	12008052	Sedan w/ full upfit	\$ 34,500	
43	General	Police Patrol	5735	12009127	Sedan w/ full upfit	\$ 34,500	
44	General	Police Patrol	5735	12010106	Sedan w/ full upfit	\$ 34,500	
45	General	Police Patrol	5735	12010108	Sedan w/ full upfit	\$ 34,500	
46	General	Police Patrol	5735	12011052	SUV w/ full upfit	\$ 80,000	
47	General	Police Patrol	5735	12011000	SUV w/ full upfit	\$ 80,000	
48	General	Police Patrol	5735	12011061	SUV w/ full upfit	\$ 80,000	
49	General	Police Patrol	5735	12011062	SUV w/ full upfit	\$ 80,000	
50	General	Police Patrol	5735	12011064	SUV w/ full upfit	\$ 80,000	
51	General	Police Patrol	5735	12011073	SUV w/ full upfit	\$ 80,000	
52	General	Police Patrol	5735	12011083	SUV w/ full upfit	\$ 80,000	
53	General	Police Patrol	5735	12011085	SUV w/ full upfit	\$ 80,000	
54	General	Police Patrol	5735	12011087	SUV w/ full upfit	\$ 80,000	
55	General	Police Patrol	5735	12011091	SUV w/ full upfit	\$ 80,000	
56	General	Police Patrol	5735	12011092	SUV w/ full upfit	\$ 80,000	
57	General	Police Patrol	5735	12011097	SUV w/ full upfit	\$ 80,000	
58	General	Police Patrol	5735	12012004	SUV w/ full upfit	\$ 80,000	
59	General	Police Patrol	5735	12012006	SUV w/ full upfit	\$ 80,000	
60	General	Police Patrol	5735	12012009	SUV w/ full upfit	\$ 80,000	
61	General	Police Patrol	5735	12012015	SUV w/ full upfit	\$ 80,000	
62	General	Police Patrol	5735	12012019	SUV w/ full upfit	\$ 80,000	
63	General	Police Patrol	5735	12012021	SUV w/ full upfit	\$ 80,000	
64	General	Police Patrol	5735	12012024	SUV w/ full upfit	\$ 80,000	
65	General	Police Patrol	5735	12012026	SUV w/ full upfit	\$ 80,000	
66	General	Police Patrol	5735	12012028	SUV w/ full upfit	\$ 80,000	
67	General	Police Patrol	5735	12012029	SUV w/ full upfit	\$ 80,000	
68	General	Police Patrol	5735	12012033	SUV w/ full upfit	\$ 80,000	
69	General	Police Patrol	5735	12012035	SUV w/ full upfit	\$ 80,000	
70	General	Police Patrol	5735	12012041	SUV w/ full upfit	\$ 80,000	
71	General	Police Patrol	5735	12013005	SUV w/ full upfit	\$ 80,000	
72	General	Police Patrol	5735	12013013	SUV w/ full upfit	\$ 80,000	
73	General	Police Patrol	5735	12013081	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 54,000	
74	General	Police Patrol	5735	12013082	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 54,000	
75	General	Police Patrol	5735	12013092	1/2 Ton Pick Up 4X2 w/ full upfit	\$ 54,000	
76	General	Police Patrol	5735	12013015	SUV w/ full upfit	\$ 80,000	
77	General	Police Patrol	5735	12013018	SUV w/ full upfit	\$ 80,000	
78	General	Police Patrol	5735	12013019	SUV w/ full upfit	\$ 80,000	
79	General	Police Patrol	5735	12013021	SUV w/ full upfit	\$ 80,000	



80	General	Police Patrol	5735	12013023	SUV w/ full upfit	\$ 80,000	
81	General	Police Patrol	5735	12013027	SUV w/ full upfit	\$ 80,000	
82	General	Police Patrol	5735	12013028	SUV w/ full upfit	\$ 80,000	
83	General	Police Patrol	5735	12013030	SUV w/ full upfit	\$ 80,000	
84	General	Police Patrol	5735	12013035	SUV w/ full upfit	\$ 80,000	
85	General	Police Patrol	5735	12013037	SUV w/ full upfit	\$ 80,000	
86	General	Police Patrol	5735	12013038	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 54,000	
87	General	Police Patrol	5735	12013040	1/2 Ton K9 Pick Up 4X4 w/ full upfit	\$ 100,000	
88	General	Police Patrol	5735	ELR	SUV	\$ 76,920	
89	General	Police Patrol	5735	ELR	SUV	\$ 76,920	
90	General	Police Patrol	5735	ELR	SUV	\$ 76,920	
					Police Patrol Total	\$ 3,793,760	\$ -
91	General	Solid Waste Residential Collections	5811	22011113	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 110,000	
92	General	Solid Waste Residential Collections	5811	12008154	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 80,000	
93	General	Solid Waste Residential Collections	5811	82012017	Commercial Side Loader *		\$ 300,000
94	General	Solid Waste Residential Collections	5811	82013004	Roll Off Truck		\$ 300,000
95	General	Solid Waste Residential Collections	5811	82014009	Commercial Side Loader *		\$ 300,000
96	General	Solid Waste Residential Collections	5811	82014025	Commercial Side Loader *		\$ 300,000
97	General	Solid Waste Residential Collections	5811	82014031	Commercial Side Loader *		\$ 300,000
98	General	Solid Waste Residential Collections	5811	82014028	Commercial Side Loader *		\$ 300,000
					Solid Waste Residential Collections Total	\$ 190,000	\$ 1,800,000
99	General	Alley Maintenance	5812	92015006	Motorgrader		\$ 340,000
100	General	Alley Maintenance	5812	92008168	4x2 2023 Crossover HYD Excavator		\$ 285,000
101	General	Alley Maintenance	5812	82014041	Unibody Dump Bed w/Snow Plow and Full Upfit		\$ 367,000
					Alley Maintenance Total	\$ -	\$ 992,000
102	General	Inmate Clean Up	5814	32006246	1 Ton Pick Up 4X4 w/ full upfit	\$ 90,000	
					Inmate Clean up Total	\$ 90,000	\$ -
103	General	Solid Waste Disposal	5815	92013012	Wheel Loader		\$ 250,000
104	General	Solid Waste Disposal	5815	92008163	4x4 Tractor		\$ 253,000
105	General	Solid Waste Disposal	5815	92019003	Landfill Compactor		\$ 1,300,000
106	General	Solid Waste Disposal	5815	32011035	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 85,000	
107	General	Solid Waste Disposal	5815	92004065	Articulated Dump Truck		\$ 595,000
					Solid Waste Disposal Total	\$ 85,000	\$ 2,398,000
108	Internal	Fleet Services	3526	12006231	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 60,000	
					Fleet Services Total	\$ 60,000	\$ -
109	Airport	Aviation Field Maintenance	4613	72009133	Sweeper	\$ 255,500	
					Aviation Field Maintenance Total	\$ 255,500	\$ -



110	Airport	Aviation Security	4616	12011113	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 60,000	
					Aviation Security Total	\$ 60,000	\$ -
111	Civic	Civic Center	4813	12003128	1 Ton Pick Up 4X4 w/ No Upfit	\$ 47,000	
					Civic Center Total	\$ 47,000	\$ -
112	Water	Water Meter & Customer Services	6311	22013015	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 95,000	
113	Water	Water Meter & Customer Services	6311	22013020	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 90,000	
114	Water	Water Meter & Customer Services	6311	12013078	1/2 Ton Pick Up 4X4 w/ full upfit	\$ 60,000	
115	Water	Water Meter & Customer Services	6311	ELR	3/4 Ton 4x4 Extended Cab	\$ 135,000	
116	Water	Water Meter & Customer Services	6311	ELR	3/4 Ton 4x4 Extended Cab	\$ 135,000	
117	Water	Water Meter & Customer Services	6311	ELR	3/4 Ton 4x4 Extended Cab	\$ 135,000	
					Water Meter & Customer Service Total	\$ 650,000	\$ -
118	Water	Water Distribution and Maintenance	6331	32008082	1 Ton Pick Up 4X4 w/ full upfit	\$ 119,500	
119	Water	Water Distribution and Maintenance	6331	82014036	International 7500 SBA4X2 or Equivalent	\$ 309,500	
120	Water	Water Distribution and Maintenance	6331	82003184	5th Wheel or Equivalent	\$ 155,000	
121	Water	Water Distribution and Maintenance	6331	2011107	Backhoe Trailer	\$ 25,000	
122	Water	Water Distribution and Maintenance	6331	2012014	Backhoe Trailer	\$ 25,000	
123	Water	Water Distribution and Maintenance	6331	92011109	Backhoe	\$ 132,000	
124	Water	Water Distribution and Maintenance	6331	92016001	Backhoe	\$ 132,000	
125	Water	Water Distribution and Maintenance	6331	2004086	Lowboy Trailer	\$ 88,000	
					Water Distribution and Maintenance Total	\$ 986,000	\$ -
126	Water	Water Pumping and Control	6343	32013004	1 Ton Pick Up 4X4 w/ full upfit	\$ 120,000	
127	Water	Water Pumping and Control	6343	22011115	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 95,000	
					Water Pumping and Control Total	\$ 215,000	\$ -
128	Water	Water Treatment	6345	90177	UTV	\$ 25,000	
					Water Treatment Total	\$ 25,000	\$ -
129	Water	Water Reservoir	6349	92014016	UTV	\$ 25,000	
					Water Reservoir Total	\$ 25,000	\$ -
130	Wastewater	Wastewater Collection	6413	82014001	Freightliner 108SD or equivalent w/ VacCon	\$ 250,000	
131	Wastewater	Wastewater Collection	6413	32015008	1 Ton Pick Up 4X4 w/ full upfit	\$ 120,000	
132	Wastewater	Wastewater Collection	6413	22013013	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 95,000	
					Wastewater Collection Total	\$ 465,000	\$ -



133	Wastewater	Land Application	6415	32015007	1 Ton Pick Up 4X4 w/ full upfit	\$ 120,000	
134	Wastewater	Land Application	6415	32011100	1 Ton Pick Up 4X4 w/ full upfit	\$ 120,000	
135	Wastewater	Land Application	6415	92003009	Tractor	\$ 253,000	
136	Wastewater	Land Application	6415	92003011	Tractor	\$ 253,000	
137	Wastewater	Land Application	6415	92003004	Tractor	\$ 253,000	
138	Wastewater	Land Application	6415	2006079	Baler	\$ 73,000	
139	Wastewater	Land Application	6415	2006080	Baler	\$ 73,000	
140	Wastewater	Land Application	6415	92005090	Telehandler	\$ 119,500	
141	Wastewater	Land Application	6415	91992096	Cultivator	\$ 109,000	
					Land Application Total	\$ 1,373,500	\$ -
142	Stormwater	Street Cleaning	6512	72013004	Sweeper	\$ 341,500	
143	Stormwater	Street Cleaning	6512	82013008	Freightliner or equivalent w/ salt spreader	\$ 365,500	
144	Stormwater	Street Cleaning	6512	12014056	3/4 Ton Pick Up 4X4 w/ full upfit	\$ 90,000	
145	Stormwater	Street Cleaning	6512	82014046	Regenerative air sweeper	\$ 341,500	
					Street Cleaning Total	\$ 1,138,500	\$ -
146	Stormwater	Storm Sewer Maintenance	6513	82010006	6yd dump truck w/salt spreader controls	\$ 365,500	
					Storm Sewer Maintenance Total	\$ 365,500	\$ -
					Grand Total	\$ 12,079,260	\$ 9,899,500
					*UTILIZATION OF PRIOR YEAR TAX NOTES (Commercial Side Loaders - 5811)		\$ 1,341,053
					TOTAL ALL FUNDS (LESS PRIOR YEAR TAX NOTES)	\$ 12,079,260	\$ 8,558,447
					Not To Exceed		\$ 20,637,707
					Total Vehicles		146





# CIP 92863 Vehicle Replacements FY 2024-25 Cash

Replacement Equipment/Fleet

Project Manager: Dominic Esperat - Vehicle Maintenance

## Project Scope

This project is for the annual vehicle replacement for the city. For a list of the vehicles, refer to the replacement list located at the end of this section.

## Project Justification

Vehicles included for replacement in this year are at end of life and maintenance costs have increased to the point that the vehicles needs to be replaced.

## Project Highlights

### Council Priorities Addressed:

Public Safety

Fiscal Discipline

## Project History

- FY 2024-25 \$11,763,760 was appropriated by Ord. 2024-00129

## Project Dates

Fiscal Year 24-25

## Project Location

City-wide

## Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Acquisition	\$0	\$11,763,760	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$11,763,760	\$0	\$0	\$0	\$0	\$0

## Project Funding

	Funding to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
General Fund Cash	\$0	\$6,413,260	\$0	\$0	\$0	\$0	\$0
Civic Center Fund Cash	\$0	\$47,000	\$0	\$0	\$0	\$0	\$0
Fleet Fund Prior Year Cash	\$0	\$60,000	\$0	\$0	\$0	\$0	\$0
Stormwater Fund Cash	\$0	\$1,504,000	\$0	\$0	\$0	\$0	\$0
Water/Wastewater Fund Cash	\$0	\$3,739,500	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$11,763,760	\$0	\$0	\$0	\$0	\$0

## Operating Budget Impacts

Description	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	Total
No Impact Anticipated	\$0	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0	\$0





# CIP 92864 Vehicle Replacements FY 2024-25 Tax Note

Replacement Equipment/Fleet

Project Manager: Dominic Esperat - Vehicle Maintenance

## Project Scope

This project is for the annual vehicle replacement for the city. For a list of the vehicles, refer to the replacement list located at the end of this section.

## Project Justification

Vehicles included for replacement in this year are at end of life and maintenance costs have increased to the point that the vehicles needs to be replaced.

## Project Highlights

### Council Priorities Addressed:

Public Safety

Fiscal Discipline

## Project History

- FY 2024-25 \$9,899,500 was appropriated by Ord. 2024-00129

## Project Dates

Fiscal Year 24-25

## Project Location

City-wide

## Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Acquisition	\$0	\$9,899,500	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$9,899,500	\$0	\$0	\$0	\$0	\$0

## Project Funding

	Funding to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Fleet Prior Year Tax Notes	\$0	\$1,341,053	\$0	\$0	\$0	\$0	\$0
Fleet Fund Tax Notes	\$0	\$8,558,447	\$0	\$0	\$0	\$0	\$0
TOTAL	\$0	\$9,899,500	\$0	\$0	\$0	\$0	\$0

## Operating Budget Impacts

Description	2024-25	2025-26	2026-27	2027-28	2028-29	2029-30	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 - Police:** Consider a resolution authorizing the Mayor to execute an agreement, by and between the City of Lubbock, the United States Department of Justice, and the United States Drug Enforcement Administration, for participation in the Fiscal Year 2025-High Intensity Drug Trafficking Area Task Force Agreement and any associated documents, including an Asset Sharing Agreement, to disrupt illicit drug traffic in the Lubbock area.

### Item Summary

Trafficking in narcotics and dangerous drugs in the Lubbock area has a substantial and detrimental effect on the health and general welfare of Lubbock Citizens. Participation with the Lubbock High Intensity Drug Trafficking Area (HIDTA) Task Force, under the purview of the United States Drug Enforcement Administration (DEA), is effective in combating the problem.

The Lubbock Police Department (LPD) participation in the Lubbock HIDTA will include the following activities and duties:

- a. Disrupt the illicit drug traffic in the Lubbock area by immobilizing targeted violators and trafficking organizations;
- b. Gather and report intelligence data relating to trafficking in narcotics and dangerous drugs; and
- c. Conduct undercover operations where appropriate and engage in other traditional methods of investigation in order that the Task Force's activities will result in effective prosecution before the courts of the United States and the State of Texas.

LPD will detail 3 experienced officers to the Task Force for not less than 2 years. These officers will be under direct supervision and control of DEA supervisory personnel assigned to the Task Force. The Lubbock Sheriff's Office and the Texas Department of Public Safety will also supply personnel to the HIDTA. DEA will assign 4 Special Agents to the Task Force. DEA will provide necessary funds and equipment to support the activities of the DEA Special Agents and officers assigned to the Task Force. This support will include office space, office supplies, travel funds, funds for the purchase of evidence and information, investigative equipment, training, and other support items.

The Department of Justice (DOJ) will receive a minimum of 20% of awarded assets as a result of Task Force investigations. Up to 80% of the remainder is subject to equitable sharing among the participating agencies, based on the number of officers assigned to the Lubbock HIDTA at the time of the seizure.

Upon approval, the term of the agreement will be in effect until September 30, 2026.

### Fiscal Impact



LPD will remain responsible for the salary and benefits including overtime of the officers assigned to the Task Force. The Lubbock HIDTA will, subject to availability of funds, reimburse LPD for overtime payments made to its officers assigned to the Task Force, capped at the equivalent of 25% of a GS-12, Step 1, of the general pay scale for the rest of the United States, per officer.

**Staff/Board Recommending**

Seth Herman, Chief of Police

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**Attachments**

Resolution - HIDA DEA Task Force Agmt

Agreement - HIDA DEA Task Force



**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, the FY 2025 Asset Forfeiture Sharing Agreement by and between the City of Lubbock and the United States Drug Enforcement Administration, High Intensity Drug Trafficking Areas (DEA HIDTA) Task Force Group (Task Force), including the terms and conditions of the incorporated Memorandum of Understanding (MOU) governing the Task Force's equitable sharing requests and participation in the United States Department of Justice (DOJ) Equitable Sharing Program, and all related documents. Said Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
**MARK W. MCBRAYER, MAYOR**

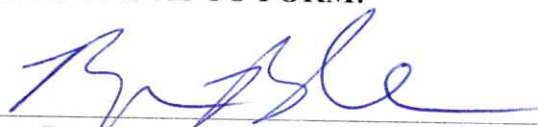
**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Seth Herman, Chief of Police

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Ryan Brooke, Senior Assistant City Attorney

RES.MOU LPD HIDTA Asset Forfeiture FY2025  
9.18.24



**FY 2025 Asset Forfeiture Sharing Agreement  
HIDTA Task Force Group (Lubbock)  
Lubbock Police Department**

The U.S. Department of Justice, 2018 Joint Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies, governs this Agreement. The State and Local Law Enforcement members ("Participants"), of the DEA HIDTA Task Force Group (Lubbock) ("Task Force"), hereby agree to the following terms and conditions of this Memorandum of Understanding ("MOU") governing the Task Force's equitable sharing requests and participation in the United States Department of Justice ("DOJ") Equitable Sharing Program.

The following are the Task Force Participants and their contribution to the Task Force:

- Lubbock Police Department/Three (3) officers assigned to the Task Force
- Lubbock County Sheriff's Office/Four (4) officers assigned to the Task Force
- Department of Public Safety of the State of Texas/One (1) officer assigned to the Task Force

Participants acknowledge that equitable sharing is at the discretion of the Attorney General and not guaranteed in any case. Participants acknowledge that sharing will not be awarded in a case if victims have not been fully compensated. State and Local government entities can be considered victims. Participants acknowledge that the DOJ Money Laundering and Asset Recovery Section (MLARS) will be the sole decider for 100% property requests.

Sharing percentages shall be based upon the following formula:

Agencies with one or more full time deputized Task Force Officers (TFOs) assigned to the Task Force will receive an equitable, prearranged sharing percentage that fairly reflects the overall agencies' investigative, financial, or administrative contributions to the task force and/or the agencies' efforts resulting in federal forfeiture of the asset, including accounting for any participation by a federal agency.

The maximum amount available for sharing is currently 80% of the asset value minus expenses related to the seizure, and minus any percentages allotted for agencies not a part or recently added to this Sharing Agreement who have also participated quantitatively or qualitatively in the asset seizure. The new minimum sharing amount is \$500. Sharing is not automatically 80%. The actual sharing amount allocated to participating agencies may be impacted by numerous factors. The sharing percentages awarded to State and Local Law Enforcement agencies is based on qualitative and quantitative contributions, and is no longer deducted from the 20% federal share.

Participants understand that if a non-MOU member receives an equitable share based upon their contribution, then the MOU Participants' shares shall be reduced proportionately (e.g., if non-MOU agency receives 10% based upon their contribution, then the MOU Participants' percentages shall be based upon 90% of the maximum amount available for sharing).

Participants further understand that additional adjustments may be necessary so to ensure that DOJ receives a minimum of 20%.



Participants further understand that the federal decision-makers, including DEA, on each equitable sharing request retain discretion to modify percentages as deemed appropriate based on the facts and circumstances in each case.

The additional and/or departure of Participant agencies and personnel shall not require renewal of this Sharing Agreement. Rather, the equitable, prearranged sharing percentages shall continue to fairly reflect Participant agencies investigative, financial, or administrative contributions to the task force and/or the agencies' efforts resulting in federal forfeiture of the asset.

This Sharing Agreement shall remain in force upon the addition or departure of law enforcement agencies in the DEA HIDTA Task Force Group (Lubbock). This agreement shall be reviewed for the coming Fiscal Year. Termination shall be by mutual consent in writing by all Task Force Participants or by the withdrawal of DEA, (the latter upon 30 days advance written notice to all current Task Force Participants).

\_\_\_\_\_  
Eduardo A. Chávez  
Special Agent in Charge  
Dallas Field Division

Date: \_\_\_\_\_

o

\_\_\_\_\_  
Mark McBrayer  
Mayor  
City of Lubbock

Date: \_\_\_\_\_



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## Information

### Agenda Item

**Resolution - Police:** Consider a resolution authorizing the Mayor to execute an agreement, by and between the City of Lubbock, the United States Department of Justice, and the United States Drug Enforcement Administration, for participation in the FY 2025 Program-Funded State and Local Task Force Agreement - Task Force Group (Lubbock) and any associated documents, including an Asset Sharing Agreement, to disrupt illicit drug traffic in the Lubbock area.

### Item Summary

Trafficking in narcotics and dangerous drugs in the Lubbock area has a substantial and detrimental effect on the health and general welfare of Lubbock citizens. Participation with the United States Drug Enforcement Administration (DEA), as part of a task force, is effective in combating the problem.

The Lubbock Police Department (LPD) participation in a Task Force with the U.S. DEA Lubbock Resident Office, will include the following activities and duties:

- a. Disrupt the illicit drug traffic in the Lubbock area by immobilizing targeted violators and trafficking organizations;
- b. Gather and report intelligence data relating to trafficking in narcotics and dangerous drugs; and
- c. Conduct undercover operations where appropriate and engage in other traditional methods of investigation in order that the Task Force's activities will result in effective prosecution before the courts of the United States and the State of Texas.

LPD will detail 3 experienced officers to the Task Force for not less than 2 years. These officers will be under direct supervision and control of DEA supervisory personnel assigned to the Task Force. DEA will assign 5 Special Agents to the Task Force. DEA will provide necessary funds and equipment to support the activities of the DEA Special Agents and officers assigned to the Task Force. This support will include office space, office supplies, travel funds, funds for the purchase of evidence and information, investigative equipment, training, and other support items.

The Department of Justice (DOJ) will receive a minimum of 20% of awarded assets as a result of Task Force investigations. Up to 80% of the remainder is subject to equitable sharing among the participating agencies based on the number of officers assigned to the DEA Task Force Group (Lubbock) at the time of the seizure.

Upon approval, the term of the agreement will be in effect until September 30, 2026.

### Fiscal Impact



LPD will remain responsible for the salary and benefits including overtime of the officers assigned to the Task Force. The DEA will, subject to availability of funds, reimburse LPD for overtime payments made to its officers assigned to the Task Force, capped at the equivalent of 25% of a GS-12, Step 1, of the general pay scale for the rest of the United States, per officer.

**Staff/Board Recommending**

Seth Herman, Chief of Police

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**Attachments**

Resolution - DEA Task Force Agmt.

Agreement - DEA Task Force



**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, the FY 2025 Asset Forfeiture Sharing Agreement by and between the City of Lubbock and the United States Drug Enforcement Administration (DEA) Task Force Group (Task Force), including the terms and conditions of the incorporated Memorandum of Understanding (MOU) governing the Task Force's equitable sharing requests and participation in the United States Department of Justice (DOJ) Equitable Sharing Program, and all related documents. Said Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.


Passed by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, MAYOR

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Seth Herman, Chief of Police

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Ryan Brooke, Senior Assistant City Attorney

RES.MOU LPD DEA FY 2025 Asset Forfeiture  
9.11.24



**FY 2025 Asset Forfeiture Sharing Agreement  
Task Force Group (Lubbock)  
Lubbock Police Department**

The U.S. Department of Justice, 2018 Joint Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies, governs this Agreement. The State and Local Law Enforcement members ("Participants"), of the DEA Task Force Group (Lubbock) ("Task Force"), hereby agree to the following terms and conditions of this Memorandum of Understanding ("MOU") governing the Task Force's equitable sharing requests and participation in the United States Department of Justice ("DOJ") Equitable Sharing Program.

The following are the Task Force Participants and their contribution to the Task Force:

- Lubbock Police Department/Three (3) officers assigned to the Task Force
- Lubbock County Sheriff's Office/Two (2) officers assigned to the Task Force
- Brownfield Police Department/One (1) officer assigned to the Task Force

Participants acknowledge that equitable sharing is at the discretion of the Attorney General and not guaranteed in any case. Participants acknowledge that sharing will not be awarded in a case if victims have not been fully compensated. State and Local government entities can be considered victims. Participants acknowledge that the DOJ Money Laundering and Asset Recovery Section (MLARS) will be the sole decider for 100% property requests.

Sharing percentages shall be based upon the following formula:

Agencies with one or more full time deputized Task Force Officers (TFOs) assigned to the Task Force will receive an equitable, prearranged sharing percentage that fairly reflects the overall agencies' investigative, financial, or administrative contributions to the task force and/or the agencies' efforts resulting in federal forfeiture of the asset, including accounting for any participation by a federal agency.

The maximum amount available for sharing is currently 80% of the asset value minus expenses related to the seizure, and minus any percentages allotted for agencies not a part or recently added to this Sharing Agreement who have also participated quantitatively or qualitatively in the asset seizure. The new minimum sharing amount is \$500. Sharing is not automatically 80%. The actual sharing amount allocated to participating agencies may be impacted by numerous factors. The sharing percentages awarded to State and Local Law Enforcement agencies is based on qualitative and quantitative contributions, and is no longer deducted from the 20% federal share.

Participants understand that if a non-MOU member receives an equitable share based upon their contribution, then the MOU Participants' shares shall be reduced proportionately (e.g., if non-MOU agency receives 10% based upon their contribution, then the MOU Participants' percentages shall be based upon 90% of the maximum amount available for sharing).

Participants further understand that additional adjustments may be necessary so to ensure that DOJ receives a minimum of 20%.



Participants further understand that the federal decision-makers, including DEA, on each equitable sharing request retain discretion to modify percentages as deemed appropriate based on the facts and circumstances in each case.

The additional and/or departure of Participant agencies and personnel shall not require renewal of this Sharing Agreement. Rather, the equitable, prearranged sharing percentages shall continue to fairly reflect Participant agencies investigative, financial, or administrative contributions to the task force and/or the agencies' efforts resulting in federal forfeiture of the asset.

This Sharing Agreement shall remain in force upon the addition or departure of law enforcement agencies in the DEA Task Force Group (Lubbock). This agreement shall be reviewed for the coming Fiscal Year. Termination shall be by mutual consent in writing by all Task Force Participants or by the withdrawal of DEA, (the latter upon 30 days advance written notice to all current Task Force Participants).

\_\_\_\_\_  
Eduardo A. Chávez  
Special Agent in Charge  
Dallas Field Division

Date: \_\_\_\_\_

\_\_\_\_\_  
Mark McBrayer  
Mayor  
City of Lubbock

Date: \_\_\_\_\_



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## Information

### Agenda Item

**Resolution - Police:** Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding with the Children's Advocacy Center of the South Plains, for coordination of joint investigations involving child abuse.

### Item Summary

Pursuant to the provisions of Texas Family Code, Title 5, Chapter 264, Subchapter E, the Interagency Agreement defines the scope and extent of the City's participation, along with other Lubbock County entities and agencies, in a county-wide collaborative effort to promote child welfare services. A team approach among participating entities and the establishment and maintenance of child-friendly environments are emphasized. Specific roles for participating entities are defined to minimize the trauma and other negative effects on children who are often associated with child abuse, and to assist in the joint investigations of such abuse.

### Fiscal Impact

None

### Staff/Board Recommending

Seth Herman, Chief of Police

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## Attachments

Resolution - Crimes Against Children MOU  
MOU - Crimes Against Children  
Multidisciplinary Team Working Protocols



**RESOLUTION**

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

**THAT** the Chief of Police of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, the Lubbock County Interagency Memorandum of Understanding, and related documents (including the Working Protocols for Lubbock County), between the City of Lubbock and other certain entities operating within Lubbock County, to coordinate activities and responses related to the investigation of child abuse within the county. Said Agreement and related documents are attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

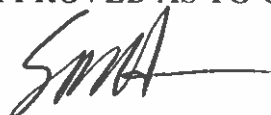
**Passed by the City Council on \_\_\_\_\_.**

**\_\_\_\_\_  
MARK W. MCBRAYER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Seth Herman, Chief of Police

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Ryan Brooke, Senior Assistant City Attorney



## **LUBBOCK COUNTY INTERAGENCY MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding ("Agreement" or "MOU") is entered into by and between the Lubbock County District Attorney's Office, the Lubbock Police Department, the Ransom Canyon Police Department, the Slaton Police Department, the Idalou Police Department, the New Deal Police Department, the Abernathy Police Department, the Wolfforth Police Department, the Shallowater Police Department, the Lubbock County Sheriff's Office, the Children's Advocacy Center of the South Plains (CACSP), the Texas Department of Family and Protective Services, the Health and Human Services Commission, the TTUHSC C.A.R.E. Clinic, the Forensic Nurse Staffing of West Texas group, Lubbock County Hospital District, d/ b/a University Medical Center, Covenant Health Systems and the Lubbock Rape Crisis Center – d.b.a. Voice of Hope, each a "Participating Agency" and collectively the "Multidisciplinary Team" or the "Parties". The purpose of this Agreement is to set forth the duties and obligations of the Parties.

### **I. LEGAL AUTHORITY**

This Agreement is authorized by and in compliance with the provisions of Texas Family Code, Section 264.403

### **II. MISSION STATEMENT**

The mission of the Multidisciplinary Team is to effectively protect the children of the community by consolidating the community's investigative, legal, and social services into one collaborative effort. In support of this mission, each Participating Agency agrees to cooperate pursuing the following goals:

1. Minimizing revictimization of alleged abuse and neglect victims and nonoffending family members through the investigation, assessment, intervention, and prosecution process; and
2. Maintaining a cooperative team approach to facilitate successful outcomes in the criminal justice and child protection systems through shared fact-finding and strong, collaborative case development.

The Multidisciplinary Team recognizes that one of the primary tools to be utilized in the achievement of the aforementioned goals will be reports generated by the Department of Family and Protective Services (DFPS). The reports are received by the DFPS, Law Enforcement and CACSP. Partner Agencies recognize CACSP's role is to receive, review, and track the reports relating to the suspected abuse or neglect of a child or the death of a child from abuse or neglect and identify those cases that meet the case acceptance criteria outlined in the Multidisciplinary Team Working Protocols, attached hereto as Attachment A. The CACSP shall coordinate the



activities of the Participating Agencies relating to abuse and neglect investigations and delivery of services to alleged abuse and neglect victims and their families.

In addition, the Multidisciplinary Team understands that the duties prescribed to the CACSP do not relieve a Participating Agency of its duty to investigate a report of abuse or neglect as required by law. This MOU shall not be construed to change, reduce, or expand the authority or jurisdiction of the CACSP or any Participating Agency as it relates to initiating and conducting investigations, assessments, and/or interventions.

### **III. THE MULTIDISCIPLINARY TEAM**

The Multidisciplinary Team recognizes that the best interest of the children is served when investigations and services are coordinated and when agencies collaborate in a way that is mutually supportive. Each Participating Agency accepts and supports the value of the role and contribution of every other agency and agrees to support the collaborative effort. This includes the commitment of resources to the Multidisciplinary Team and the sharing of information to the extent allowed by law

### **IV. TERM OF THE MOU**

This MOU is effective on the signature date of the latter of the Participating Agency to sign this MOU. This MOU will remain in effect for three (3) years from the effective date. There are no extension options.

All Participating Agencies commit to a routine evaluation of the collaborative effort.

This Agreement must be re-executed at least every three (3) years, on a significant change to the Agreement, or on a change of authorized signatory of a Participating Agency. The Parties agree to provide written notice to the other Parties if it determines that there is a material change in the Agreement.

### **V. BUDGET**

There is no funding associated with this MOU.

### **VI. GENERAL TERMS**

- A. This MOU may be amended or modified by the consent of all Parties at any time during its term. Amendments to this MOU must be in writing and signed by all Participating Agencies.
- B. The Parties shall comply with all applicable federal and state statutes, rules, and regulations as these statutes, rules, and regulations currently exist and as amended throughout the term of this MOU.



- C. This MOU may be terminated by any Participating Agency without cause upon thirty (30) days written notice to the signatory of each Participating Agency.
- D. The Participating Agencies shall not discriminate against any person in the delivery of services on the basis of race, color, national origin, religion, sex, disability, or age. The Participating Agencies shall take reasonable steps to communicate with and provide meaningful access to services to persons with limited English proficiency and persons with disabilities.
- E. Upon termination of all or part of this MOU, the Parties will be discharged from any further obligation created under the applicable terms of this MOU except for the equitable settlement of the respective accrued interests or obligations incurred prior to termination. All confidentiality requirements survive termination or expiration of this MOU.
- F. The Parties agree there is nothing in this MOU that is meant to be a waiver by any state governmental agency or the State of Texas of any immunities from suit or from liability that each state governmental agency or the State of Texas may have by operation of law.
- G. A member of the Multidisciplinary Team, a Board member, staff member, or volunteer of the CACSP is not liable for civil damages for a recommendation made or an opinion rendered in good faith while acting in the official scope of the person's duties. The limitation on civil liability does not apply if a person's actions constitute gross negligence.
- H. This Agreement may be executed in any number of counterparts, each of which will be an original, and all of such counterparts will together constitute but one and the same agreement.
- I. This document and the Multidisciplinary Team Working Protocols 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 this Agreement will be harmonized with this Agreement to the extent possible.

## **VII. ATTACHMENTS**

### **Attachment A – Multidisciplinary Team Working Protocols**

By signing below, the Participating Agency acknowledges that it has read the MOU and agrees to its terms, and that the person whose signature appears below has the requisite authority to execute this MOU on behalf of the named Participating Agency.

***SIGNATURE PAGES FOLLOW***



FOR THE LUBBOCK COUNTY DISTRICT ATTORNEY:

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Sunshine Stanek

Lubbock County District Attorney

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Date of Signature



FOR THE LUBBOCK COUNTY SHERIFF'S DEPARTMENT:

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Kelly Rowe

Lubbock County Sheriff

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Date of Signature



FOR THE CITY OF LUBBOCK:



Seth Herman

Lubbock Police Department Chief

09.23.2024

Date of Signature

ATTEST:



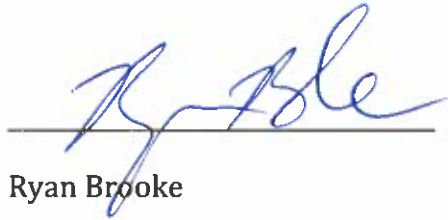
Courtney Paz

City of Lubbock Secretary



Date of Signature

APPROVED AS TO FORM:



Ryan Brooke

Assistant City Attorney

9/9/24

Date of Signature



FOR THE CITY OF RANSOM CANYON POLICE DEPARTMENT:

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James Hill

Ransom Canyon Police Chief

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Date of Signature



FOR THE CITY OF SLATON POLICE DEPARTMENT:

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Ross Hester

Slaton Police Chief

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Date of Signature



FOR THE CITY OF IDALOU POLICE DEPARTMENT:

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Eric Williams

Idalou Police Chief

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Date of Signature



FOR THE CITY OF NEW DEAL POLICE DEPARTMENT:

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Landon Stephenson

New Deal Police Chief

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Date of Signature



FOR THE CITY OF ABERNATHY POLICE DEPARTMENT:

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Dwain Read

Abernathy Police Chief

---

Date of Signature



FOR THE CITY OF WOLFFORTH POLICE DEPARTMENT:

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Rick Scott

Wolfforth Police Chief

---

Date of Signature



FOR THE CITY OF SHALLOWATER POLICE DEPARTMENT:

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Brian Williams

Shallowater Police Chief

---

Date of Signature



FOR THE TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER:

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Dr. Jennifer Hansen

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Date of Signature

TTUHSC Director of Child Abuse Pediatrics



FOR THE LUBBOCK RAPE CRISIS CENTER – D.B.A. VOICES OF HOPE:

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Kristin Murray

Lubbock Rape Crisis Center – D.B.A. Voice of Hope

Executive Director

---

Date of Signature



FOR THE TEXAS DEPARTMENT OF FAMILY PROTECTIVE SERVICES:

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Tonya Harmon

---

Date of Signature

Regional Director

Texas Department of Family Protective Services - CPI

---

George Cannata

---

Date of Signature

Regional Director

Texas Department of Family Protective Services – CPS

---

Cody Minze

---

Date of Signature

District Director

Texas Department of Family Protective Services – APS

---

Cameron Garza

---

Date of Signature

Childcare Investigator Deputy Director

Texas Department of Family Protective Services

---

Marshall Davidson

---

Date of Signature

Regional Director

Special Investigations



FOR THE TEXAS HEALTH AND HUMAN SERVICES COMMISSION:

---

David Kostroun

---

Date of Signature

Deputy Executive Commissioner for Regulatory Services

Health and Human Services Commission



FOR FORENSIC NURSE STAFFING OF WEST TEXAS:

\_\_\_\_\_

Carrie Edwards

Forensic Nurse Staffing of West Texas

\_\_\_\_\_

Date of Signature



**FOR UNIVERSITY MEDICAL CENTER:**

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Tammy Williams  
Chief Nursing Officer

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Date of Signature



**FOR COVENANT HEALTH SYSTEMS:**

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Daniel Hronek  
Chief Nursing Officer

---

Date of Signature



**FOR THE CHILDREN'S ADVOCACY CENTER:**

\_\_\_\_\_

**Jeremy Steen**

**Children's Advocacy Center Board President**

\_\_\_\_\_

**Date of Signature**

\_\_\_\_\_

**Derek Danner**

**Children's Advocacy Center Executive Director**

\_\_\_\_\_

**Date of Signature**



**Attachment A**  
**MULTIDISCIPLINARY TEAM WORKING PROTOCOLS**  
**LUBBOCK COUNTY**

**I. Children's Advocacy Center of the South Plains, Texas, Inc. Mission Statement**

The mission of the Children's Advocacy Center of the South Plains, Texas, Inc. (CACSP or Center) is to bring together community resources to speed the healing of child victims of abuse and other forms of trauma. In furtherance of this mission, the Center has facilitated a multidisciplinary team response to abuse and neglect allegations and sets forth the role of each participating agency through adoption of these Working Protocol.

The mission of the Lubbock County Multidisciplinary Team is to more effectively protect the children of the service area by consolidating the community investigative, legal, and social services provided by the Lubbock County District Attorney's Office, the Lubbock Police Department, the Ransom Canyon Police Department, the Slaton Police Department, the Idalou Police Department, the New Deal Police Department, the Abernathy Police Department, the Wolfforth Police Department, the Shallowater Police Department, the Lubbock County Sheriff's Office, the Texas Tech University C.A.R.E. clinic, the Lubbock Rape Crisis Center-d.b.a. Voice of Hope, the Forensic Nurse Staffing of West Texas group, Lubbock County Hospital District, d/ b/a University Medical Center, Covenant Health Systems, the CACSP, and the Health and Human Services Commission into one collaborative effort.

The South Plains service area consists of the following counties: Lubbock, Hockley/Cochran, Hockley/Cochran, Cochran, Dickens, Hockley/Cochran, Garza, Lynn, Hockley, King, Lubbock, Motley, Terry, Hockley/Cochran, and Yoakum.

**II. Multidisciplinary Team (MDT) Members**

The Multidisciplinary Team members for Lubbock County include the following participating agencies: Lubbock County District Attorney's office, the Lubbock Police Department, the Ransom Canyon Police Department, the Slaton Police Department, the Idalou Police Department, the New Deal Police Department, the Abernathy Police Department, the Wolfforth Police Department, the Shallowater Police Department, the Lubbock County Sheriff's Office, the Texas Tech University C.A.R.E. Clinic, the Forensic Nurse Staffing of West Texas group, University Medical Center, Covenant Health Systems, the Lubbock Rape Crisis Center – d.b.a. Voice of Hope, the CACSP, and the Health and Human Services Commission.



### **III. MDT Member Roles and Responsibilities**

#### **A. Lubbock County District Attorney's Office:**

- Represents the Texas Department of Family and Protective Services in criminal cases involving child abuse and neglect
- Assists with all aspects of criminal investigations of child abuse
- Assists with grand jury subpoenas, search warrants, and decisions on filing charges
- Reviews all criminal child abuse cases for presentation to the grand jury, closure, or return for further investigation
- Prosecutes all criminal cases of physical abuse, sexual abuse, and neglect of a child
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case review meetings
- Presents pertinent case information at MDT case review meetings

#### **B. Lubbock, Ransom Canyon, Slaton, Idalou, New Deal, Abernathy, Wolfforth, and Shallowater - Police Departments**

- Investigates all criminal cases of physical abuse and neglect of children who are 16 years of age and younger and sexual abuse of children younger than 17 years of age in the above-named cities of Lubbock County, Texas.
- Makes referrals to CACSP that meet the target population defined in this document
- If a sexual assault is reported within 120 hours after the assault, the department shall request a forensic medical examination. If reported after the 120 hours, the department shall request a medical examination at the C.A.R.E. Center.
- Gathers and preserves investigation evidence to ensure a prosecutable criminal case
- Interviews and takes statements of witnesses and suspects
- Preserves crime scenes
- Prepares and executes search and arrest warrants
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case review meetings
- Presents pertinent case information at MDT case review meetings



**C. Lubbock County Sheriff's Offices**

- Investigates all criminal cases of physical abuse and neglect of children who are 16 years of age and younger and sexual abuse of children younger than 17 years of age in Lubbock County
- Makes referrals to CACSP that meet the target population defined in this document
- If a sexual assault is reported within 120 hours after the assault, the department shall request a forensic medical examination. If reported after the 120 hours, the department shall request a medical examination at the C.A.R.E. Center.
- Gathers and preserves investigation evidence to ensure a prosecutable criminal case
- Interviews and takes statements of witnesses and suspects
- Preserves crime scenes
- Prepares and executes search and arrest warrants
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case review meetings
- Presents pertinent case information at MDT case review meetings

**D. Texas Tech University Health Sciences Center C.A.R.E Clinic**

- Performs forensic sexual abuse exams
- Performs physical abuse/neglect exams
- Review 100% of all findings deemed abnormal or “diagnostic” of trauma from sexual abuse have been reviewed by an “advanced medical consultant”
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case review meetings
- Shares exam result information at case review meetings and with other members of the MDT.

**E. Forensic Nurse Staffing of West Texas group, University Medical Center, Covenant Health Systems**

- Performs forensic sexual abuse exams of children on acute cases presenting at the local hospital emergency rooms



- Review 100% of all findings deemed abnormal or “diagnostic” of trauma from sexual abuse have been reviewed by an “advanced medical consultant”.
- May perform forensic sexual abuse exams of children on non- acute cases that present at local hospital emergency rooms or make referral to the C.A.R.E. Center.
- Informs and shares information on children’s cases with CACSP
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case review meetings
- Shares exam result information at case review meetings and with other members of the MDT

**F. Lubbock Rape Crisis Center – d.b.a. Voice of Hope**

- Accompanies sexual assault victims at local hospital emergency rooms
- Assures that child victims of sexual assault are not interviewed at the hospital
- Gathers information from caregivers and outcry witnesses
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case review meetings and shares pertinent case information on cases seen at Lubbock hospitals

**G. Texas Department of Family and Protective Services (DFPS)**

- Investigates allegations of child/elder/disabled abuse and neglect by parents, relatives, or caretakers
- Makes referrals to CACSP that meet the target population as defined in this document
- The following circumstances require a response by the CACSP and MDT. DFPS must attempt to contact CACSP before making initial contact with a child who is the subject of a report of abuse that:
  - Is made by a professional reporter and:
  - alleges sexual abuse of a child; or
  - is a type of case handled by CACSP according to CACSP’s Working Protocol; or
  - Involves a child fatality in which there are surviving children in the deceased child’s household or under the supervision of a caregiver involved in the child fatality.
- Assesses and addresses any issues related to the child’s protection, including issues of present or future risk of abuse or neglect
- If a sexual assault is reported within 120 hours after the assault, the department shall request a forensic medical examination. If reported after the 120 hours, the department shall request a medical examination at the C.A.R.E. Center.



- If risk is identified, provides services to families and children to reduce the risks and alleviate the effects of abuse and neglect
- Coordinates with community resources, family members, and the courts to address any factors affecting the child's ongoing safety
- Provides a secure, confidential area for forensic interviews as needed (if the victim cannot be transported to the CAC) and a supervisor has given approval for an off-site interview
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case review meetings
- Presents pertinent case information at MDT case review meetings

#### **H. Texas Department of Family and Protective Services – Adult Protective Services in Home Investigations (DFPS-APS)**

- One of the mandates of DFPS – APS In Home Investigations is to investigate allegations of elder and disabled individuals and neglect by parents, relatives, or caretakers to assess and address any issues related to the individual's protection, including issues of present or future risk of abuse or neglect.
- Once risk is identified, services are provided to reduce the risks and to alleviate the effects of abuse and neglect.
- Services range from moderate in-home contact to removal of the adult from the home. Responsibilities include coordinating with outside resources, family members, and the courts to address any changing factors affecting the adult's ongoing safety.
- Provides a secure, confidential area for forensic interviews as needed (if the victim cannot be transported to CACSP and a supervisor has given approval for an off-site interview)
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case review meetings as needed
- Presents pertinent case information at MDT case review meetings

#### **I. Texas Department of Family and Protective Services – Child Care Investigations (DFSP-CCI)**

- One of the mandates of DFPS – CCI is to investigate allegations of abuse and neglect in childcare facilities.
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case review meetings as needed



- Presents pertinent case information at MDT case review meetings

**J. Health and Human Services Commission – Adult Protective Services Provider Investigations**

- Investigates allegations of abuse, neglect, and exploitation of clients receiving services in state operated or contracted settings, or both, that serve adults and children with mental illness or intellectual or developmental disability.
- Collaborates with other MDT members in child abuse investigations
- Attends MDT case reviews as needed

**K. Children’s Advocacy Center of the South Plains, Texas Inc.**

Provides a neutral, child-focused environment that is comfortable, private, and physically and psychologically safe for diverse populations at which an MDT can meet to facilitate the efficient and appropriate disposition of abuse and neglect cases through the civil and criminal justice systems as follows:

- At the agency office in Lubbock, Texas or
- Travels to counties with signed agreements and interviews children using the agency’s mobile interviewing equipment, when feasible or
- During inclement weather, when travel is not safe, investigators are asked to transport or schedule for a time when travel is safer or
- CACSP staff ensures the separation of victims and alleged offenders (adult and juvenile offenders)
- Receives and reviews DFPS reports and contacts the appropriate investigative agencies when the intake meets CACSP services criteria
- Collaborates with MDT members to prevent the re-victimization of the child by minimizing the trauma surrounding the interview and reducing the number of times a child must be interviewed
- Facilitates joint investigations and forensic interviews among participating agencies
- Coordinates and facilitates MDT case review meetings on a regular basis
- Assists with MDT training
- Provides case follow-up
- Provides support services for children and families such as family advocacy, assistance with Crime Victim’s Compensation paperwork, referral to social service agencies as needed, and referrals to therapy as needed
- Provides community education regarding child abuse issues



- To request CACSP services/response after normal working hours or on holidays, DFPS or Law Enforcement shall contact the Associate Director (AD) or Executive Director (ED) by their cell phones. The AD and ED shall maintain a current on-call schedule for CACSP staff. The AD or ED shall immediately contact the on-call staff on behalf of the MDT member that is requesting services.
- The AD or ED will then contact the staff on call that the participating agencies are requesting services.

#### **IV. Target Population**

The target population served by the Lubbock County Multidisciplinary Team includes:

- Persons with a disability and children between the ages of 0 to 17 involved in reports of suspected sexual or physical abuse or neglect of the child or the death of a child from abuse or neglect.

#### **V. Intake and Case Coordination Process**

- The CACSP's role in reviewing the reports is to review and identify DFPS reports within the case acceptance criteria as defined by this Working Protocol and facilitate CACSP/MDT services related to case investigation, assessment, and intervention.
- In addition, the Multidisciplinary Team understands that the CACSP's access to the DFPS reports shall not be construed to change, reduce, or expand the authority or jurisdiction of the CACSP or MDT member agency as it relates to initiating and conducting investigations, assessments, and/or interventions.
- The CACSP shall review the intake reports daily, Monday through Friday.
- The intake reports are then recorded in the CACSP database as reviewed or referred with case notes.
- Upon determination of the suspected allegations, it will be the responsibility of Law Enforcement investigators and/or DFPS investigators to determine the need for a forensic interview by the CACSP following the criteria in this Working Protocol.
- It is the responsibility of DFPS and/or Law Enforcement to collaborate and make direct referrals when the CACSP does not receive an intake report.
- The *preferred* location is CACSP for forensic interviews at established neutral, child-friendly, safe site in Lubbock County.
- In cases where a DFPS investigator determines that a school visit is most appropriate, a DFPS supervisor must approve.

#### **A. Definitions**

Forensic Interviewers:

- Forensic Interviewers have specialized training equipping them to talk with alleged child victims in a safe environment and in a developmentally appropriate, non-suggestive manner.



- By meeting the informational needs of the various investigative agencies, forensic interviewers can eliminate the need for unnecessarily duplicative interviews by multiple individuals.
- Conduct forensic interviews of children between the ages of 2 to 17 who have made an outcry of sexual or severe physical abuse/neglect
- Conduct forensic interviews of children considered to be at risk for sexual or severe physical abuse/neglect due to reported allegations of abuse for other children
- Conduct forensic interviews of developmentally delayed adults over the age of 17 who are suspected victims of abuse/neglect
- Conduct forensic interviews of children who have been witnesses to abuse/neglect, domestic violence, kidnappings, homicides, suicides
- Conduct forensic interviews of child fatality incidents in which there are surviving children living in the household or under supervision of a caregiver involved in a child fatality
- Presents pertinent case information at MDT case review meetings

#### **B. Forensic Interviews (FI)**

- A developmentally sensitive and legally sound method of gathering factual information regarding allegations of abuse and/or exposure to violence using a semi-structured narrative process.
- This interview is conducted by a competently trained, neutral professional utilizing research and practice-informed techniques as part of a larger investigative process.

#### **C. Subsequent Forensic Interviews**

- An interview to supplement the initial completed forensic interview.
- Based upon a unanimous team decision of the MDT members
- Subsequent interview to be conducted by the same Forensic Interviewer
- Used in cases in which a child makes a disclosure about something but later on discloses additional information. (ex: child discloses fondling at initial FI but later discloses oral sex as well)

#### **D. Multi-Session Forensic Interview (MSFI)**

- One forensic interview completed over multiple sessions for children and cases with special considerations
- Based upon a unanimous team decision of the MDT members
- Suitable for
  - Children with disabilities
  - Children from diverse cultural backgrounds



- Preschool children
- Children who have experienced extreme trauma
- Children who are victims of human trafficking

#### **E. Forensic Interview Process**

- Initial DFPS reports of abuse/neglect will go through Law Enforcement and/or DFPS. CACSP shall also receive and review DFPS reports and contact the appropriate investigative agencies when the intake meets CACSP services criteria.
- DFPS and HHSC shall assume responsibility for referring cases in which they are involved that pertain to the target population as defined in this document. Law enforcement agencies shall refer those cases that do not fall under the jurisdiction of DFPS that pertain to the target population as defined in this document.
- Scheduling, Notification of other member agencies
  - The CACSP shall only take appointments for forensic interviews from Law Enforcement and/or DFPS investigators
  - Appointments shall be scheduled via a phone call either to the CACSP office in Lubbock or the Executive Director or Associate Director's cell phone.
  - If investigators cannot get in touch with the SWI Coordinator, Associate Director, a phone call should be made to the Executive Director at the CACSP office or to the E.D.'s cell phone. The E.D. shall then assist in setting up the appointment.
  - Only the SWI Coordinator and Associate Director may schedule forensic interviews. No other CACSP staff has the authority to schedule interviews for the interviewers except for the Executive Director.
  - Cell phone numbers for the Associate Director and Executive Director shall be provided to all investigators.
  - It is the responsibility of the investigator making the forensic interview appointment to notify any other MDT members that could be involved in the investigation about the appointment (i.e.: cases in which DFPS and Law Enforcement will be working simultaneously).
- CACSP shall conduct emergency forensic interviews after hours and on weekends and holidays. To request CACSP services/response after normal working hours or on weekends or holidays, DFPS or Law Enforcement shall contact the Associate Director or Executive Director by their cell phones. The AD and ED shall maintain a current on-call schedule for CACSP staff. The AD or ED will immediately contact the on-call staff for the MDT member requesting services.



- Who conducts interviews:
  - Interviews may only be conducted by the CACSP's appropriately trained forensic interviewers.
  - Interviewers shall conduct the interviews using a Semi-Structured Narrative Process.
  - Interviewers shall utilize interview aids when necessary to assist a child and/or adult with disabilities in communicating about an event. All interviewers shall be properly trained and familiar with field-tested and accepted methods on how to properly use interview aids as taught in all forensic interview core curriculum training. Interview aids may include, but are not limited to, one or more of the following:
    - Anatomical Diagrams;
    - Anatomical Dolls;
    - Baby Dolls;
    - Paper to allow the child to write or make free hand drawings to help describe something to the interviewer;
    - Flash Cards; and/or
    - Other items to help active or distracted children focus, concentrate, and communicate with the interviewer (e.g., paper, crayons, markers, shape sorter, playdough and other miscellaneous items deemed necessary by the trained interviewer).
  - Should the need arise, forensic interviewers may present physical evidence during the interview (e.g., photos, text messages, writings or drawings done by the child before the interview, etc.). Each case shall be discussed by all MDT members involved to make a team decision on whether evidence should be presented during the interview.
  - Criteria for selecting an interviewer for a specific case shall include Spanish speaking or when investigators state the parents/child have a preference of male or female interviewer.
  - When necessary, the requesting agencies, DFPS and Law Enforcement, will arrange for any interpreter needed when meeting with the families.
  - The only people in the interview room are the forensic interviewer and the individual being interviewed and any interpreter necessary to conduct the interview.



- Who must be present for observation:
  - Lead investigators must be present in the observation of the forensic interview.
  - CACSP does not offer/allow remote live observation of forensic interviews.
  - If an investigator (Law Enforcement or DFPS) is not present, the interview shall not take place.
  - Others allowed to observe the interview include other representatives of the MDT member agencies and CACSP staff and representatives.
  - Parents/guardians and other parties who are not members of the MDT member agencies or the CACSP shall not be allowed in the observation room during an interview.
  - CACSP does not offer tele-forensic forensic interviews.
- Procedures for MDT team staffing (pre- and post- interview):
  - Investigators will staff with forensic interviewers prior to the interview if desired.
  - Assigned staff shall share pertinent case background and information.
  - Investigators may also staff the case with the forensic interviewer, family advocate, other investigators, and supervisors after the interview.
  - Decisions about whether a case meets the requirements for MSFI should be made during the pre-interview staffing or post-interview decision making.
- Procedures for communications with parent/guardian pre/post interview:
  - Investigators are responsible for communicating with parents/guardians to advise of appointments for forensic interviews or the need for multiple session forensic interviews.
  - Investigators shall meet with parents/guardians after the interview.
  - The CACSP Family Advocate shall assist parents/guardians in completing intake paperwork at the interview appointment.
- Digital recording procedures:
  - All cases scheduled for a forensic interview at the CACSP office, the mobile interviewing unit, or at local law enforcement and/or DFPS offices shall be digitally recorded.
- Which interviews shall be digitally recorded:



- All forensic interviews involving outcries and/or reports of child abuse/neglect that fit the criteria shall be digitally recorded.
- DFPS investigators who decide to have the forensic interviewer interview a child at school are responsible for audio-taping the interview.
- Operation of digital recording equipment:
  - The forensic interviewers are responsible for operation of digital recording equipment.
- Communication between the MDT and the forensic interviewer:
  - The case team (investigators, forensic interviewer, family advocate) shall have a pre-interview meeting to discuss any pertinent information related to the case.
  - The forensic interviewer shall take a break after the conversation regarding the allegations with the child.
  - At that time, the forensic interviewer shall enter the observation room for discussion with the team regarding any additional questions, clarifications, or additional concerns that have arisen regarding the forensic interview of the victim.
  - The above may be repeated as many times as needed.
- Issues involving ownership, storage, duplication, viewing of video:
  - A digital recording of an interview with a child that is made by the CACSP is the property of the prosecuting attorney involved in the criminal prosecution of the case involving the child. If no criminal prosecution occurs, the digital recording is the property of the attorney involved in representing the department in civil action alleging child abuse, neglect, or exploitation. If the matter involving the child is not prosecuted, the digital recording is the property of the department if the department is investigating the alleged abuse, neglect, or exploitation. If the department is not investigating or does not intend to investigate the matter, the electronic recording is the property of the agency that referred the matter to the Center.
  - The CACSP does not usually store copies of the interviews. The investigating agency has sole responsibility for storage of digitally recorded interviews. (\*\*Exceptions to this are delineated below).
  - The CACSP shall provide additional digital recordings, as needed, to other MDT member agencies participating in the investigation
  - Digital recordings are the property of the investigating agency and thus it is at their discretion who may view those digital recordings. Those cases selected by forensic interviewers for peer review are an exception to this statement.



- \*\* The CACSP forensic interviewers shall have the option to make copies of interviews only upon the express written permission of parents/legal guardian(s).
- \*\*Interviews that are copied may be used for two limited purposes: 1) Peer review meetings in which forensic interviewers meet with other forensic interviewers for the purpose of additional training and critique from their colleagues; and 2) To assist CACSP in its role of training law enforcement officers on the CASP model and procedures.

#### **F. Joint investigations**

- Lead investigators are responsible for notifying investigators from member agencies of interviews (i.e., DFPS shall notify Law Enforcement and vice versa in cases that could involve criminal proceedings).
- Procedures for developing joint strategies
  - Each agency shall work with and assist the others and the Center to ensure that the best interest and protection of children will be served.
  - The appropriate law enforcement agency shall investigate and determine whether a crime has been committed, and, if so, present information to the proper authorities for prosecution.
  - DFPS is responsible for the protection of children/elders/disabled from harm by their parents or others responsible for their care. DFPS is responsible for conducting a civil investigation and taking whatever action it deems necessary to protect the children from further harm.
  - The Health and Human Services Commission Adult Protection Services Provider is responsible for investigating allegations of abuse, neglect, and exploitation of clients receiving services in state-operated or contracted settings, or both, that serve adults and children with mental illness or intellectual or developmental disabilities.
  - The office of the appropriate prosecuting authority is responsible for assessing and handling the civil and criminal legal aspects of the case in accordance with civil and criminal law.
  - Appropriate medical personnel shall be responsible for providing the medical direction.
  - Mental health direction shall be provided by the Center's Director of Clinical Services.
- **Procedures for sharing information and reports**
  - All MDT members shall assume responsibility for sharing pertinent case



information with other MDT member agencies in a timely manner. All MDT members must share pertinent case information with the appropriate agency. In reports involving a public agency or medical organization, or its staff, as the suspected offenders; confidentiality shall be maintained by all MDT members involved in the investigation, and these cases shall not be reviewed in MDT Case review.

- Information sharing may take place during staffing and/or during MDT case review meetings as well as through e-mails and phone calls.
- The end goal is providing the best services and building the strongest case for the best overall outcome for the families served by the Center and MDT member agencies.

#### **H. MSFI considerations**

- If determined by the Case Team after the initial forensic interview that a MSFI is needed, it shall be conducted by the managing forensic interviewer.
- The Case Team shall agree on the scheduling of the impending interviews.
- Sessions should be scheduled close together (later the same day or the next day) when possible.
- MSFI may take up to 7 sessions (usually finished with 2-3 sessions).
- Each session shall be recorded on a separate digital recording and labeled “session \_\_\_\_ of \_\_\_\_.”
- All tools used during the interviews shall be turned over to the investigators after each MSFI session.
- Staffing at MDT case review shall occur as usual with continued discussion at subsequent case review meetings until the case is resolved.
- For each session the “Case Team” shall consist of the same MSFI-trained forensic interviewer and, when possible, the same investigators from Law Enforcement and/or DFPS and HHSC, as were involved in the initial session.
- “Comfort” gifts should not be given to the child until the conclusion of all sessions.
- Courtesy interviews – the CACSP MSFI-trained forensic interviewer should consult with the prosecuting attorney prior to starting the MSFI.

#### **I. Separation of Victims and Alleged Perpetrators**

- CACSP staff shall ensure the separation of victims and alleged offenders (adult and juvenile offenders)



- Adult alleged perpetrators shall remain separated from victims by sight and sound by placing them in the lobby that has secure access into the main building by a security code lock.
- Juvenile alleged perpetrators shall remain separated from victims by sight and sound by placing them in the lobby with parent/caregiver that has secure access into the main building by a security code lock.
- Juvenile perpetrators of sexual abuse may be interviewed for the purpose of establishing whether they have been victims of sexual abuse at the request of investigators. These interviews shall be conducted separately and apart from the victim interviews.

#### **J. Team Meeting/Case Review Process**

- Case review is the formal process that enables the MDT to monitor and assess its independent and collective effectiveness to ensure the safety and well-being of children and families. The process encourages mutual accountability and assures children's and families' needs are met sensitively, effectively, and in a timely manner.
- Cases reviewed are those that have met the criteria for a forensic interview, received other CAC services (i.e., Sexual Assault Nurse Examination, or other medical examination) when the child is too young or non-verbal for a forensic interview
- Case review meetings for Lubbock County will be held twice monthly usually on the 1<sup>st</sup> and 3<sup>rd</sup> Thursday of each month at 9:30 a.m. at the CACSP office in Lubbock, Texas. The CACSP reserves the right to schedule the case review meeting at a different day or time as needed. Notification of change will be sent via e-mail, fax, or phone calls.
- If there are fewer than 2 new cases and/or only case continuations, the case review meetings shall be conducted remotely at a time and date that accommodates the MDT members.
- If there are no new cases and no continuous cases without dispositions, then no case review meeting will take place that month.
- Representatives of each member agency are required to attend each case review meeting: Law Enforcement, DFPS, HHSC, the CACSP, the District Attorney's office, C.A.R.E. clinic staff, Forensic Nurse Staffing of West Texas, Voice of Hope Executive Director or other paid staff, and the Sheriff's office. If the investigator working the case is not present – those who are representing that agency shall have information about, and be prepared to discuss, the case during the meeting.



- DFPS CCI, DFPS APS In-Home Investigations, and HHSC Provider Investigations are only required to have a representative at the case review meeting if they have a case on the case review list.
- The CACSP staff has the responsibility of including DFPS-APS In-Home Investigations and DFPS-CCI cases on the case review list and sending the assigned representative the case review list, as needed.
- Cases are reviewed at the next case review meeting following the interview and at each case review meeting thereafter until final disposition.
- MDT member agencies may request cases for review that do not fall in the required review category. These may be cases in which Law Enforcement or DFPS did not request a forensic interview or any other CACSP service but want the MDT to discuss/review the investigation. This can be accomplished by contacting the MDT coordinator to place the case on the MDT case review list.
- The MDT Coordinator or other designated representative of the CACSP is responsible for generating the case review list and agenda for each meeting. The list and agenda are disseminated via encrypted e-mail the week of the meeting.
- MDT case review meetings are facilitated by the MDT Coordinator or other designated CACSP representative.
- CACSP staff is responsible for documentation of the dispositions of the cases being reviewed and that information shall be entered into the CACSP case tracking system database.
- Any recommendations from the MDT regarding concerns about the family should be followed-up with by the lead investigator or the family advocate and discussed at the next case review meeting as to the status of the recommendations.
- Case disposition shall be communicated to CACSP staff at case review meetings by the investigator(s). If the investigator(s) are unable to attend the meeting, the investigator(s) shall provide the information by phone or email.
- The appropriate District Attorney's office are available to conduct preliminary intake of cases for initial filing decisions at each case review meeting.

#### **K. Case Tracking**

- Case tracking collects and documents essential demographic and case information and investigation/intervention outcomes as well as generating statistical reports. The data collected is useful for monitoring ongoing case progress and program evaluation to inform continuous quality improvement. This enables MDT members to provide



accurate information on the status and disposition of cases to clients and critical support for seeking funding and responding to grant requirements.

- CACSP provides case tracking via CACTX case tracking database system. Cases receiving services are entered into the database by CACSP staff. The cases that are identified based on pending criminal charges and civil dispositions due to Law Enforcement and/or DFPS involvement shall be entered through completion.
- CACSP shall monitor cases. As part of that monitoring, CACSP staff shall update the database in a timely manner from the moment when services are first accessed up to completion of the case.
- MDT member agencies may contact CACSP to request information entered in the database.
- The information includes demographic information about the child, family, and about the alleged offender, type(s) of alleged abuse, relationship of alleged offender to the child, services provided to the families, MDT members involvement with children and the families and relevant outcomes, criminal charges filed and case dispositions, child protection outcomes and status/follow up through of medical and mental health referrals.

#### **L. Mental Health Component**

- The CACSP provides free Trauma Focused Cognitive-Behavioral Therapy for abused children and their non-offending caregivers, siblings, etc. that meet the target population criteria at a designated location or at the child's school. Funding for these services is provided by grants and volunteers.
- The child and family will meet with a therapist and based on familial needs and individual needs a determination of what type of treatment will work in the best interest of the child and family.
- Therapy is not a part of the forensic process and is not intended for gathering information of abuse. Therapy is about helping the child heal from trauma and should begin only after the forensic interview has been completed.
- If investigators decide to refer the child off-site for a forensic evaluation, therapy may not begin until after that process has been completed.
- Therapists at the CACSP do not conduct forensic evaluations to determine whether abuse has taken place.
- Therapy is provided by four full-time therapists and one part-time therapist.
- Therapy is also provided by graduate student interns supervised by the CACSP contracted supervisor.



- Interns providing therapy are Master and Doctoral level graduate student interns in a counseling/therapy field.
- Therapy/counseling is offered to individuals, families and in group settings.
- Therapy may also be conducted through tele-health.
- Referrals for therapy may be initiated by CACSP staff or any MDT member agency staff.
  - Criteria for selecting a therapist for a specific case shall include Spanish speaking.
  - Therapist will confer with the families if any interpreter is necessary to conduct the mental health services.
- The initial appointment for therapy is scheduled by the CACSP Family Advocate or the Executive Director. Individual therapists are responsible for any subsequent appointments.
- Referrals to other therapy resources shall be made when all CACSP therapy slots are filled or when the child did not make an outcry during their forensic interview.
- Therapist will share relevant information with the MDT while protecting the clients' right to confidentiality and the mental health professional's legal and ethical requirements.
- Therapist will monitor and share with the MDT regarding the child's and caregiver's engagement in, and completion of, treatment.
- Expectations of the CACSP mental health providers include providing feedback at case review meetings, preparing children for court, and providing copies of therapy case notes upon subpoena.
- Volunteers and staff monitor (both visual and auditory) families who are in the building for therapy to keep an eye on any sexually reactive children who may be attending therapy as well as to assure that adults are not freely entering other offices where confidential information may be kept.
- MSFI consideration: Referrals to mental health services should be made at the conclusion of MSFI sessions. The exception to this would be with victims of human trafficking.
- Therapists shall serve as clinical consultants to the MDT members on issues relevant to child trauma and evidence-based treatment.

#### **M. Medical Component**

The inability of a member of the target population to pay for a forensic medical evaluation shall not present a barrier to receiving one in this service area. Sexual assaults examinations reported within 120 hours may performed at a hospital. SANE shall be reimbursed through a fund operated by the Victim Services Office of the Texas Attorney General. If a family has



medical insurance, the exam may be billed to their insurance; however, not having insurance does not exclude anyone from receiving an exam if needed.

- The CACSP collaborates with the Texas Tech University Health Sciences Center C.A.R.E. Clinic (TTUSHC), Forensic Nurse Examiners Staffing of West Texas (FNSWT), Covenant Health Systems, and University Medical Center, which provide forensic sexual abuse exams.
- If a sexual assault is reported within 120 hours after the assault, DFPS or Law Enforcement shall request a forensic medical examination. If reported after 120 hours, DFPS or Law Enforcement shall request for a medical examination at the TTUHSC C.A.R.E. Clinic.
- Exams for sexual assaults that have occurred within 120 hours (acute exams) should be referred to the emergency rooms at the above-mentioned hospitals. If patients present at the ER for a non-acute sexual assault case, the ER staff shall notify the SANE on-call. The SANE on-call shall evaluate the patient and determine whether a SANE exam should be performed or if the patient would be best served by a referral to the C.A.R.E. Clinic. The SANE on-call shall notify the C.A.R.E. Clinic with information on any patient who is being referred.
- Exams not considered acute (assault has taken place more than 120 hours ago) may be conducted Monday through Friday between 8 a.m. and 5 p.m. and may be scheduled with the TTUHSC C.A.R.E. Clinic by calling that agency at (806) 743-7770. Exam appointments may be scheduled by the investigator or by CACSP staff (at the request of investigators).
- Forensic interviews generally shall occur after an acute SANE exam and usually before a non-acute exam.
- Forensic sexual abuse exams are conducted by specially trained Sexual Assault Nurse Examiners only.
- Medical services results may be shared with the MDT at case review meetings. The providing medical personnel may also share medical services results to investigators in writing.
- Exams for physical abuse are at the direction and discretion of the investigators (Law Enforcement or DFPS).
- Medical examinations/reports provided by a medical provider that is not an MDT member shall be referred by DFPS or Law Enforcement to the MDT medical member for review.
- Medical providers are expected to attend case review meetings and be prepared to discuss exam results. Medical providers shall also provide written reports to the investigators regarding exam results.



- Circumstances under which a medical evaluation is recommended:
  - For acute/hospital cases - All ER patients are screened and cleared medically by the ER physician prior to the SANE exam. SANEs shall consult with the ER physician following the forensic exam if needed for additional treatment or follow-up care.
  - For C.A.R.E. cases – where there are allegations or an outcry of sexual abuse.
- Purpose of the medical evaluation:
  - For acute/hospital cases - To screen for injuries and/or underlying medical conditions aside from the sexual assault
  - For C.A.R.E. cases – to determine if there are any physical findings to corroborate a sexual assault
- How the medical evaluation is made available:
  - For acute/hospital cases – once medical staff and an investigator have determined that an exam is necessary, the hospital SANE or contact is made with the on-call Forensic Nurse of West Texas SANE to request that they conduct the exam at the hospital.
  - For C.A.R.E. cases – an appointment is scheduled by the investigator or by CACSP staff if requested by the investigator
- How emergency situations are addressed:
  - For acute/hospital cases - Emergency situations are handled by the hospital Emergency Department SANES and physicians
  - For C.A.R.E. cases – emergency cases can be seen between the hours of 8 a.m. – 5 p.m., Monday through Friday.
- How multiple evaluations are limited:
  - The hospital SANE, Forensic Nurse Staffing of West Texas SANE and the C.A.R.E. Clinic shall contact each other to ensure an exam has not already been performed at the agency.
- How medical care is documented:
  - For acute/hospital cases - The medical evaluation and hospital staff nursing notes are available in the patient's medical record. The forensic medical evaluation files are kept in a separate location from the patient's hospital chart.
  - For C.A.R.E. cases – the SANE report includes the patient's history as well as the results of the examination. This information shall be shared with the investigator and discussed at case review meetings.



- How the medical evaluation is coordinated with the MDT to avoid duplication of interviewing and history taking:
  - There shall be communication at MDT case review meetings regarding exams already conducted and whether an exam is needed or not.
- Procedures for medical intervention in cases of suspected physical abuse and maltreatment, if applicable:
  - For acute/hospital cases - emergency room personnel contact DFPS and/or Law Enforcement
  - For C.A.R.E. cases – Staff contact DFPS and/or Law Enforcement
- C.A.R.E. personnel, Hospital SANE's and Forensic Nurse Staffing of West Texas present pertinent case information at MDT case review meetings

#### **N. Victim Support and Advocacy Component**

- The CACSP is responsible for providing a family advocate for clients in the target population who access CACSP services in the service area.
  - A Spanish speaking family advocate will be provided when required.
  - When necessary, the requesting agencies, DFPS and Law Enforcement, will arrange for any interpreter needed when meeting with the families.
- Initial contact between the family and the CACSP family advocate occurs when the family comes in for the forensic interview appointment.
- The Family Advocate (or if necessary trained CACSP staff) provides the following services to families:
  - Sits with the non-offending caregivers while other CACSP services are being conducted
  - Explains the MDT response for all cases when a forensic interview cannot be conducted (e.g., too young, non-verbal, etc.)
  - Explains the process of conducting a forensic interview
  - Assists the family with filling out intake paperwork
  - Explains the rights available to the families during the process
  - Explains the Crime Victims' Compensation Program and assists in filling out paperwork
  - Explains crime victims' rights



- Assesses the families for unmet needs and makes referrals to social service agencies, as needed
- Provides education on the dynamics of abuse
- Provides families with a trauma symptom checklist
- Provides crisis intervention when needed
- Discusses the importance of therapy with the family and makes referrals for therapy to the CACSP Clinical Director
- Explains the medical forensic evaluation to families
- Makes follow-up phone calls to families to check on their progress and assess any needs throughout the life of the case
- Presents pertinent case information at MDT case review meetings
- Contacts families regarding an appointment for court room orientation when a case is proceeding to criminal court
- Accompanies families to court proceedings during trial
- Family Advocates of the CACSP, within the bounds allowed by law, agree to maintain confidentiality of all records and information gathered on all child sexual and physical abuse cases as outlined by the Texas Family Code.

## **VI. Confidentiality**

All files, reports, records, communications, and working papers used or developed in providing services under these Working Protocol are confidential and not subject to public release under Chapter 552, Texas Government Code, and may only be disclosed for purposes consistent with Chapter 264, Subchapter E, Texas Family Code. A file may include client data including, but not limited to: names, addresses, names of children, children's date of birth, ages, school(s) attended, type of abuse alleged, alleged perpetrator, and age and sex of alleged perpetrator. The file may also include the following information: identity of person(s) conducting the interview(s), identity of persons(s) in the screening room during interview(s), each MDT member who received a digital recording of the interview(s), and any information related to referral(s) for additional services.

All personnel involved with the operations of the CACSP, within the bounds allowed by law, agree to maintain confidentiality of all records and information gathered on all child sexual and physical abuse cases as outlined by the Texas Family Code.

## **VII. Conflict Resolution**

Conflicts that occur within the Multidisciplinary Team shall be escalated to each participating Agency's immediate supervisors. If the dispute is not resolved, then the matter shall be addressed in a meeting with each agency's designated representative(s) and the CACSP Executive Director. The role of the CACSP is to ensure continued collaboration and



communication between member agencies, which shall be encouraged and reinforced through a successful dispute resolution process.

#### **VIII. Other general provisions**

1. All MDT member agencies and their staff shall be invited and encouraged to attend training sponsored by the CACSP. The CACSP shall provide financial support for professionals and volunteers to attend specialized training when funding is available.
2. CACSP shall provide opportunities for community involvement through its formalized volunteer program dedicated to supporting the Center. To qualify as a volunteer, a community member must meet the CACSP's eligibility criteria.
3. Each MDT member agency expressly understands that it will work within its departmental mandates and policies. Nothing contained in this document supersedes the statutes, rules, and regulations governing each agency. To the extent that any provision of these Working Protocol is inconsistent with any such statute, rule, or regulation; the statute, rule, or regulation shall prevail.
4. The MDT member agencies understand that the duties prescribed to the CACSP do not relieve an agency of its duty to investigate a report of abuse or neglect as required by law. This Working Protocol shall not be construed to change, reduce, or expand the authority or jurisdiction of the CACSP or any MDT member agency as it relates to initiating or conducting investigations, assessments, and/or interventions.
5. All agencies/organizations participating in the MDT agree to provide specially trained professionals with skills in child abuse interviewing, assessment, and investigation. The trained professionals shall be jointly assigned to multidisciplinary teams for review of appropriate abuse or neglect cases as provided by this Working Protocol.
6. This Working Protocol is effective on the signature date of the latter of the participating agency to sign this document. This Working Protocol will remain in effect for three (3) years from the effective date. There are no renewal or extension options.
7. This Working Protocol must be re-executed at least every three (3) years; on a significant change to the Working Protocol; or on a change of a signatory of a participating agency. The Working Protocol may be reviewed and modified during its term as determined by the CACSP Executive Director and the members of the Multidisciplinary Team. The appropriate agencies shall be notified of any modification, and if agreed, shall sign the modified Working Protocol document this Working Protocol may be modified:
  - a. to conform to existing or new statutes, rules, regulations, or departmental policies that may conflict with any provisions of this Working Protocol;
  - b. to better meet the needs of families and children in the provision of child abuse related services;
  - c. to improve the procedures set forth in this Working Protocol;



- d. to add or delete agencies as participants to the Multidisciplinary Team; and
  - e. for such other purposes as the Parties may agree.
8. The Working Protocol may be terminated by any participating agency upon thirty (30) days written notice to the signatory of each participating agency.
9. This Working Protocol may be executed in any number of counterparts, each of which will be an original, and all of such counterparts will together constitute but one and the same agreement.
10. This document and the Memorandum of Understanding 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 this Working Protocol will be harmonized with this document to the extent possible.
11. Signatories of these Working Protocol include the following participating agencies:
- a. Lubbock County District Attorney's Office
  - b. Lubbock County Sheriff's Office
  - c. Texas Department of Family and Protective Services-CPI
  - d. Texas Department of Family and Protective Services – CPS
  - e. Texas Department of Family and Protective Services - APS
  - f. Texas Department of Family and Protective Services- CCI
  - g. Health and Human Services Commission
  - h. City of Lubbock -Police Department
  - i. City of Slaton– Police Department
  - j. City of Ransom Canyon– Police Department
  - k. City of Wolfforth – Police Department
  - l. City of Idalou – Police Department
  - m. City of New Deal – Police Department
  - n. City of Abernathy – Police Department
  - o. City of Shallowater – Police Department
  - p. Texas Tech University Health Science Center C.A.R.E. Clinic - Director
  - q. Forensic Nurse Examiners Staffing of West Texas – Director
  - r. University Medical Center
  - s. Covenant Health Systems
  - t. Lubbock Rape Crisis Center d.b.a. Voice of Hope - Executive Director
  - u. Board Chairperson—Children's Advocacy Center of the South Plains, Texas, Inc.
  - v. Executive Director—Children's Advocacy Center of the South Plains, Texas, Inc.

By signing below, the Participating Agency acknowledges that it has read these Working Protocol and agree to its terms, and that the person whose signature appear below have the requisite authority to execute these Working Protocol on behalf of the named Agency.

***SIGNATURE PAGES FOLLOW***



FOR THE LUBBOCK COUNTY DISTRICT ATTORNEY:

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Sunshine Stanek

Lubbock County District Attorney

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Date of Signature



FOR THE LUBBOCK COUNTY SHERIFF'S DEPARTMENT:

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Kelly Rowe

Lubbock County Sheriff

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Date of Signature



FOR THE CITY OF LUBBOCK:



Seth Herman

Lubbock Police Department Chief

09.23.2024

Date of Signature

ATTEST:

Courtney Paz

City of Lubbock Secretary

Date of Signature

APPROVED AS TO FORM:



Ryan Brooke

Assistant City Attorney

9-23-24

Date of Signature



FOR THE CITY OF RANSOM CANYON POLICE DEPARTMENT:

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James Hill

Ransom Canyon Police Chief

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Date of Signature



FOR THE CITY OF SLATON POLICE DEPARTMENT:

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Ross Hester

Slaton Police Chief

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Date of Signature



FOR THE CITY OF IDALOU POLICE DEPARTMENT:

\_\_\_\_\_

Eric Williams

Idalou Police Chief

\_\_\_\_\_

Date of Signature



FOR THE CITY OF NEW DEAL POLICE DEPARTMENT:

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Landon Stephenson

New Deal Police Chief

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Date of Signature



FOR THE CITY OF ABERNATHY POLICE DEPARTMENT:

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Dwain Read

Abernathy Police Chief

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Date of Signature



FOR THE CITY OF SHALLOWATER POLICE DEPARTMENT:

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Brian Williams

Shallowater Police Chief

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Date of Signature



FOR THE TEXAS DEPARTMENT OF FAMILY PROTECTIVE SERVICES:

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Tonya Harmon	Date of Signature
Regional Director	
Texas Department of Family Protective Services - CPI	

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George Cannata	Date of Signature
Regional Director	
Texas Department of Family Protective Services – CPS	

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Cody Minze	Date of Signature
District Director	
Texas Department of Family Protective Services – APS	

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Clint Cox	Date of Signature
Childcare Investigator Director	
Texas Department of Family Protective Services	

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Marshall Davidson	Date of Signature
Regional Director	
Texas Department of Family Protective Services – Special Investigations	



**FOR COVENANT HEALTH SYSTEMS:**

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Daniel Hronek  
Chief Nursing Officer

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Date of Signature



FOR THE CHILDREN'S ADVOCACY CENTER:

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Jeremy Steen

Children's Advocacy Center Board President

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Date of Signature

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Derek Danner

Children's Advocacy Center Executive Director

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Date of Signature



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## Information

### Agenda Item

**Resolution - Police:** Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding for Law Enforcement Services, by and between the City of Lubbock and the Lubbock Independent School District, to outline communication and coordination efforts between the department and the agency, according to Texas Education Code, Section 37.081 (g).

### Item Summary

The Texas Education Code, Section 37.081 (g), requires school district police departments and the law enforcement agencies with which it has overlapping jurisdiction, to enter into a Memorandum of Understanding that outlines reasonable communication and coordination efforts between the departments and the agencies. This Memorandum of Understanding meets the requirements of this statute.

### Fiscal Impact

None

### Staff/Board Recommending

Seth Herman, Chief of Police

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## Attachments

Resolution-LISD for Law Enforcement Services

MOU - LISD for Law Enforcement Services

Appendix A-Data and Communication Services

Appendix B-TLETS/NLETS/TCIC/NCIC Crime Records Services

Appendix C-Police Property Room Services



**RESOLUTION**

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Memorandum of Understanding by and between the City of Lubbock and Lubbock Independent School District (LISD) for law enforcement services, and related all documents. Said Memorandum of Understanding 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 \_\_\_\_\_.

\_\_\_\_\_  
MARK W. MCBRAYER, MAYOR

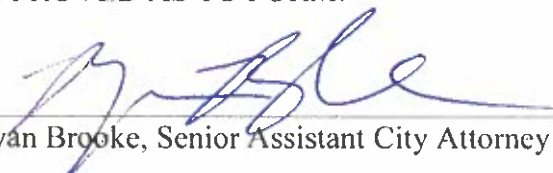
ATTEST:

\_\_\_\_\_  
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Seth Herman, Chief of Police

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Ryan Brooke, Senior Assistant City Attorney

ccdocs/RES.MOU-LISD  
8.19.24



THE STATE OF TEXAS

§

§

Memorandum of Understanding For

§

Law Enforcement Services

§

by and between the City of Lubbock,

§

and the Lubbock Independent School

§

District.

COUNTY OF LUBBOCK

§

This Memorandum of Understanding ("MOU") is entered into on this 12<sup>th</sup> day of September, 2024, by and among the CITY OF LUBBOCK, a home-rule municipality in Lubbock County, Texas, (hereinafter referred to as "CITY") and the LUBBOCK INDEPENDENT SCHOOL DISTRICT, an independent school district located at Lubbock County, Texas (hereinafter referred to as "SCHOOL DISTRICT") (collectively referred to as the "Part(ies)."

WITNESSETH:

WHEREAS, the SCHOOL DISTRICT is an independent school district maintaining and operating facilities within the CITY, and

WHEREAS, the SCHOOL DISTRICT has commissioned peace officers for security and law enforcement purposes; and

WHEREAS, the Texas Education Code, Section 37.081, requires that the jurisdiction of a peace officer employed by a school district shall be determined by the board of trustees and may include all territory in the boundaries of the school district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the school district, and

WHEREAS, Texas Education Code, Section 37.081, requires that school district police departments and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies, and

WHEREAS, the CITY and the SCHOOL DISTRICT each find that this undertaking is necessary for the benefit of the public and that each party has legal authority to provide the governmental functions, which are the subject matter of this MOU, and

WHEREAS, the CITY and the SCHOOL DISTRICT desire to improve the efficiency and effectiveness of their police departments by cooperating in the provision and performance of law enforcement services pursuant to Chapter 791 of the Texas Government Code; and

WHEREAS, the CITY and the SCHOOL DISTRICT desire to specify the terms and conditions of an agreement through which this mutually beneficial relationship may be affected; and



WHEREAS, the CITY and the SCHOOL DISTRICT recognize and understand that the circumstances of an incident may necessitate that the requirements of this MOU be amended or revised to allow the law enforcement officers of each party to better address the unique demands of a specific situation and provide appropriate mutual aid and support to each other, under the circumstances; and

NOW THEREFORE IN CONSIDERATION of the mutual undertaking hereinafter set forth and for adequate consideration given, the above named governmental entities agree as follows:

## **I. Definitions**

The following terms shall have the following meanings when used in this MOU:

- (a) "Peace officer" means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, or other law, and licensed by the Texas Commission on Law Enforcement Officer Standards and Education;
- (b) "Party" means a governmental entity which is a party to this MOU;
- (c) "Chief law enforcement officer" means the chief of police of a municipality and the chief of police of an independent school district;
- (d) "Chief administrative officer" means the city manager or superintendent of an independent school district;
- (e) "Requesting governmental entity" or "requesting party" shall mean and refer to the contracting governmental entity that requests another party to this MOU for law enforcement services in aid and assistance in responding to an emergency condition within the boundaries of the requesting party.
- (f) "Responding governmental entity" or "responding party" shall mean and refer to the governmental entity that answers or responds to request of another party to this MOU for law enforcement services in aid and assistance in responding to an emergency condition within the boundaries of the requesting party.

## **II. Purpose**

The purpose of this MOU is to assist in providing additional law enforcement officers and equipment necessary to protect health, life, and property against violations of criminal law and breaches of the peace. The Parties recognize and acknowledge that mutual cooperation and communication are in the best interest of their constituents, employees and the public, and the Parties therefore pledge to meet on a periodic basis to discuss the purpose of this MOU and to



develop practices and procedures in keeping with this purpose.

### **III. Primary Jurisdiction and Concurrent Jurisdiction**

- A. the CITY shall retain primary jurisdiction over property owned by the CITY, and over property located within the CITY's corporate limits and not owned by any other Party.
- B. the SCHOOL DISTRICT shall retain primary jurisdiction, over property owned by the SCHOOL DISTRICT and located within the CITY.

### **IV. Requests for Assistance and Response**

A responding party may assign its law enforcement officers to perform law enforcement duties outside the responding party's Primary Jurisdiction, subject to the responding party's determination of availability of personnel and at the responding party's sole discretion as to participation, when:

- A. requested by the chief law enforcement officer, or his designee, of a requesting party; and
- B. the chief law enforcement officer, or his designee, of the responding party has determined, in his sole discretion, that the assignment is necessary to the providing of law enforcement services within the Primary Jurisdiction of the requesting party for the purposes set forth at paragraph II above.

The CITY reserves the right to retain the primary authority for its specialized police units, dispatched in response to incidents within the corporate limits of the CITY such as a missing child, sexual assault, kidnapping, armed barricaded subject, active shooter or sniper, riot, an incident involving fatalities or any other incident within the city limits for which the CITY believes the use of its specialized police services is reasonable and necessary.

The ranking on-duty peace officer of each party present at the response location shall be deemed the authorizing official for that party.

Any request for aid under this MOU shall include a statement of the amount and type of equipment and number of personnel requested, and shall specify the location to which the equipment and personnel are to be dispatched, but the amount and type of equipment and number of personnel to be furnished shall be finally determined by the responding party's chief law enforcement officer or his designee. Requests for aid shall be directed to the attention of the following named persons or officers of each respective party, or to such other persons or officers as a party may hereinafter designate:

- A. City of Lubbock:  
Request "Shift Commander," Lubbock Police Department, by dialing the Communications Center: 806-775-2811.



- B. Lubbock Independent School District:  
Request "Chief of Police," Lubbock Independent School District Police  
Department, by dialing 806-219-0200.

Law enforcement personnel of the responding party will be released by the requesting party when their services are no longer required as determined by the chief law enforcement officer, or his designee, of the requesting party. The chief law enforcement officer of the responding party, or his designee, in collaboration with the requesting party's chief law enforcement officer, may withdraw his personnel or equipment or discontinue participation in any activity initiated pursuant to this MOU, at any time. Such withdrawal should be made in such a way that it does not pose a threat to the safety or security of the location and/or situation.

#### **V. Status of Responding Peace Officers and Command Authority**

While any law enforcement officer regularly employed as such by a responding party is in the service of any requesting party, he shall at all times remain a peace officer of the responding party and shall be under the command of the responding party's chief law enforcement officer.

#### **VI. Service of Arrest and Search Warrants**

Whenever possible, a peace officer of a municipality should notify the police department of a school district before serving any arrest or search warrant on the property of a school district. A peace officer of a school district may accompany a peace officer of a municipality when the municipal peace officer is serving an arrest or search warrant on the property of a school district.

#### **VII. Responsibility for Completing Investigation**

The completion of any investigation upon termination of a response to request, or upon withdrawal from an initiated response, will remain under the jurisdiction and authority of the party having primary jurisdiction, unless otherwise agreed to by the parties.

#### **VIII. Dispatching Calls Between Police Departments**

The dispatcher of a party receiving or dispatching a call relating to the provision made for law enforcement services by this MOU will:

- A. Maintain a record of calls received, routed and dispatched to any other party to this MOU, which record shall be available to all parties upon request;
- B. When referring an emergency caller to a party under this MOU, the dispatcher should advise the caller that the referral is being made and should remain on the



line with the caller until a connection is made with the party referred to; and

- C. When dispatching a unit to another party's primary jurisdiction, the dispatcher should attempt to notify the dispatcher of the department for the other party as soon as possible.

#### **IX. No Waiver of Reimbursement for Services**

No party to this MOU waives the right granted by Section 362.003(c), Texas Local Government Code, to request reimbursement for services performed under this MOU. The governmental entity whose authorized official requested the services shall reimburse the governmental entity providing such services upon request, unless the responding entity had jurisdiction to perform the law enforcement services notwithstanding this MOU.

#### **X. Employee Compensation Unaffected**

Any law enforcement officer or other person who is assigned, designated, or ordered by the chief law enforcement officer of the party which regularly employs him, or his designee, to perform police or peace officer duties pursuant to this MOU, shall receive the same wage, salary, pension, and all other compensation and all other rights for such service, including injury or death benefits, and workers' compensation benefits, the same as though the service had been rendered within the limits of the party where he is regularly employed. Moreover, all wages and disability payments, including equipments and clothing, medical expenses, expenses of travel, food, and lodging, shall be paid by the party which regularly employs such person in the same manner as though the service had been rendered within the limits of the party where the person is regularly employed.

#### **XI. Civil Lawsuits and Retention of Benefits Related to Employee Status**

In the event that any person performing law enforcement services pursuant to this MOU shall be cited as a party to any state or federal civil lawsuit arising out of the performance of those services, he shall be entitled to the same benefits that he would be entitled to receive if such civil action has arisen out of the performance of his duties as a party of the department where he is regularly employed and in the jurisdiction of the party by which he is regularly employed. Nothing in this MOU is construed as creating any personal liability on the part of any employee, officer or agent of any public body that may be a party to this MOU.

#### **XII. Data and Communication Services**

The CITY agrees to furnish the DISTRICT with data and communication services in accordance with the terms and conditions set forth in **APPENDIX A** to this Agreement.

#### **XIII. Access to TLETS/NLETS/TCIC/NCIC Crime Records Services**



The CITY agrees to provide the DISTRICT with access to TLETS, NLETS, TCIC and NCIC Crime Records Services in accordance with the terms and conditions set forth in **APPENDIX B** to this Agreement.

#### **XIV. Property Room Access and Services**

The CITY agrees to provide the DISTRICT with access to the CITY's Police Property Room in accordance with the terms and conditions set forth in **APPENDIX C** to this Agreement.

#### **XV. Non-Waiver of Immunity**

It is expressly understood and agreed that, in the execution of this MOU, no Party waives nor shall be deemed hereby to waive any immunity or defense that would otherwise be available to it against claims made by third parties and arising directly or indirectly out of the performance of this MOU. **THE PARTIES RETAIN ALL GOVERNMENTAL IMMUNITIES.**

#### **XVI. Duration of MOU**

This MOU shall be effective for a period beginning on the date first written above and ending on September 30, 2024, and shall thereafter automatically renew for one year terms running from October 1 until September 30 of each year unless terminated in accordance with the terms and conditions of this MOU.

#### **XVII. Termination**

Any party to this MOU may terminate it, by giving the other parties thirty (30) days prior written notice of its intent to terminate the MOU, mailed by certified mail and addressed to the person or officer of each other party to this MOU designated herein for notice.

#### **XVIII. Performance of Services**

Law enforcement services, and all other services reasonably related thereto, which are provided under this MOU shall be performed in accordance with the standard operating procedures, rules, regulations, and ordinances of the department by which each such peace officer or employee providing such services is employed, and in conformity with the requirements and mandates of laws of the State of Texas and the United States.

#### **XIX. Release and Indemnification**

To the extent permitted by law each Party to this MOU expressly waives all claims against every other Party to this MOU for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of this MOU, and shall, to the extent permitted by law, indemnify each other Party for any liability arising out of the acts or omissions of its own employees and officers.



## **XX. Waiver of Subrogation**

The Parties hereby release each other, and their respective officers, agents, and employees, from any and all liability to each other or anyone claiming through or under them by way of subrogation or otherwise for any loss, injury or damage caused by or resulting from risks insured against under any insurance policy maintained by the Parties.

## **XXI. Remedies**

No right or remedy granted herein or reserved to the Parties is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this MOU may be waived without first obtaining consent of the Parties in writing. Forbearance or indulgence by either Party shall not constitute a waiver of any covenant or condition to be performed pursuant to this MOU.

## **XXII. Severability**

If any of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this MOU, are for any reason held to be invalid, void or unenforceable, the remainder of the terms, sections, subsections, sentences, clauses, phrases, provisions, covenants, conditions or any other part of this MOU shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

## **XXIII. Applicable Law**

This MOU is entered into subject to and is to be construed, governed and enforced under all applicable State of Texas and federal law.

## **XXIV. Venue**

The Parties to this MOU agree and covenant that this MOU will be enforceable in Lubbock County, Texas; and that if legal action is necessary to enforce this MOU exclusive venue will be in Lubbock County, Texas.

## **XXV. Notice**

Notice by any party to any other party hereto shall be in writing and shall be deemed to have been duly given only if delivered personally or sent by registered or certified mail, with proper postage attached addressed to the respective party as follows subject to change as the respective party may hereafter give notice to the other parties:

For the CITY:



Lubbock City Manager  
P.O. Box 2000  
Lubbock, Texas 79457-2000

For the SCHOOL DISTRICT:  
LISD Superintendant  
1628 19<sup>th</sup> Street  
Lubbock, Texas 79401-4895

#### **XXVI. Public Information**

This MOU is public information. To the extent, if any, that any provision of this MOU is in conflict with Tex. Gov't. Code Ann. Chapter 552 et seq., as amended (the "Texas Public Information Act") the same shall be of no force and effect. Each party agrees that it will notify the other party of any public information request which seeks disclosure of "law enforcement tactical information" and will assert a lawful objection or privilege to keep such information confidential.

#### **XXVII. No Joint Enterprise**

This MOU does not, is not intended to, and shall not be construed to, create any joint enterprise between or among the parties.

#### **XXVIII. Entire Understanding**

This MOU embodies the complete understanding of the parties hereto superseding all oral or written previous and contemporaneous agreements or understandings between the parties relating to matters herein; and, except as otherwise provided herein, must be modified in writing by the parties, unless the circumstances of a particular situation make such a written amendment impracticable, in which case, the ranking on-duty peace officer of each party present at the response location is authorized to deviate from this MOU as that officer, in his sole discretion, deems necessary and advisable.

#### **XXIX. Authorization**

The undersigned officers and agents are properly authorized to execute this MOU on behalf of the parties hereto and each party hereby certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.



IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the date first state above.

**FOR THE CITY OF LUBBOCK,  
TEXAS:**

\_\_\_\_\_  
MARK W. MCBRAYER, Mayor

ATTEST:

\_\_\_\_\_  
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Seth Herman,  
Chief of Police, Lubbock

APPROVED AS TO FORM:

\_\_\_\_\_  
Ryan Brooke,  
Senior Assistant City Attorney

**FOR THE LUBBOCK INDEPENDENT  
SCHOOL DISTRICT:**

\_\_\_\_\_  
DR. KATHY ROLLO, Superintendent

ATTEST:

\_\_\_\_\_  
Beth Bridges, Board President

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Ray Mendoza,  
Chief of Police, Lubbock ISD

APPROVED AS TO FORM:

\_\_\_\_\_  
ANN MANNING,  
Attorney for LISD



### **Data and Communication Services Appendix**

This document outlines policies of the CITY and SCHOOL DISTRICT for the mutual benefit of the agencies and the furtherance of necessary law enforcement functions; specifically, to ensure the safety of citizens, staff, students, and law enforcement personnel by providing for a common inter- and intra-agency data and communications platform. The SCHOOL DISTRICT agrees to abide by all federal, state, and local rules, as well as rules and regulations promulgated by the CITY pertaining to the use of the CITY's radio communications system which includes, but is not limited to, the following:

1. SCHOOL DISTRICT is limited to using and shall be capable of transmitting only on channels assigned to the SCHOOL DISTRICT by the CITY. Each of these channels shall only be used for specific radio traffic as designated by CITY procedure and then only when necessary for conducting criminal investigations. All other communications with the CITY shall be by telephone or in person.
2. SCHOOL DISTRICT will suspend use of CITY communications during operations not involving the SCHOOL DISTRICT or at any other time when deemed necessary by CITY.
3. Each radio used by the SCHOOL DISTRICT for communications shall be inspected by the City of Lubbock Radio Shop for a determination of the fitness and compatibility with the CITY communications system once each year or as deemed appropriate by CITY.
4. SCHOOL DISTRICT will adhere to CITY radio procedures. Unless begun or authorized by CITY, no car to car radio communications by SCHOOL DISTRICT is permitted. Should SCHOOL DISTRICT need to communicate with a CITY mobile unit, SCHOOL DISTRICT shall request CITY communications to notify the appropriate CITY unit. Should SCHOOL DISTRICT unit need CITY back-up, the SCHOOL DISTRICT will request a back-up from CITY communications who will determine the appropriate number of units to respond.
5. SCHOOL DISTRICT computer or manual records checks shall be limited to necessary criminal investigations. CITY will be the sole determiner of when requests become excessive.
6. Any notifications by CITY for incidents occurring at SCHOOL DISTRICT will be by normal notification processes to the SCHOOL DISTRICT. It is not the responsibility of the CITY to notify the SCHOOL DISTRICT police department directly.
7. CCH requests by SCHOOL DISTRICT shall be limited to criminal investigations. SCHOOL DISTRICT shall adhere to CITY requirements regarding CCH requests.
8. SCHOOL DISTRICT will turn in a copy of any served warrant to the police desk as a trailing document for their report.
9. SCHOOL DISTRICT shall abide by any other procedures deemed appropriate by CITY.

### **APPENDIX A**



### **TLETS/NLETS/TCIC/NCIC Crime Records Services Appendix**

This document outlines policies of the CITY and SCHOOL DISTRICT for the mutual benefit of the agencies and the furtherance of necessary law enforcement functions; specifically, to ensure the safety of citizens, staff, students, and law enforcement personnel by providing the SCHOOL DISTRICT with access to state and national criminal databases.

1. SCHOOL DISTRICT agrees to abide by all laws of the United States and the State of Texas, and all present or hereafter approved rules, policies and procedures of TLETS, NLETS, TCIC, NCIC and any other systems now or in the future associated with TLETS concerning the collection, storage, processing, retrieval, dissemination and exchange of information for criminal justice purposes.
2. CITY agrees to enter names and property into TLETS, NLETS, TCIC, and NCIC when appropriate to do so when state, national, and local laws and rules allow. SCHOOL DISTRICT agrees to provide names and property meeting entry criteria in a timely manner. SCHOOL DISTRICT further is responsible for notifying CITY when there is a status change or persons or property are recovered or found by SCHOOL DISTRICT so the information can be canceled from TLETS, NLETS, TCIC, or NCIC.
3. SCHOOL DISTRICT agrees to indemnify and save harmless City of Lubbock, CITY, and its employees from and against all claims, demands, actions and suits, including but not limited to any liability for damages by reason of or arising out of any false arrest or imprisonment or any cause of SCHOOL DISTRICT in the exercise of the agreement to provide certain TLETS, NLETS, TCIC, and NCIC information.



### **Police Property Room Services Appendix**

This document outlines policies of the CITY and SCHOOL DISTRICT for the mutual benefit of the agencies and the furtherance of necessary law enforcement functions; specifically, to ensure the safety of citizens, staff, students, and law enforcement personnel by providing the SCHOOL DISTRICT with access to the CITY's Police Property Room.

1. In addition to following CITY Police Property Room procedures, SCHOOL DISTRICT officers shall be limited to posted Property Room hours, which are 0700 hours to 1500 hours, Monday through Friday.
2. SCHOOL DISTRICT officers who turn drug evidence into the Police Property Room will be responsible for having that evidence analyzed as may be required by the Criminal District Attorney's Office for filing of charges.
3. SCHOOL DISTRICT officers who check property into the Police Property Room are responsible for releasing it. Only property involved in a criminal case requiring follow-up by CITY becomes the responsibility of CITY. Found or abandoned property may be delivered to the SCHOOL DISTRICT for proper disposition, or, at the CITY's sole discretion, may be disposed of by the CITY in accordance with State Law and CITY procedures.
4. All authorizations from SCHOOL DISTRICT to release property shall be in writing from the SCHOOL DISTRICT officer involved or his supervisor on a form acceptable to the CITY.

### **APPENDIX C**



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## Information

### Agenda Item

**Ordinance 2nd Reading - Planning (District 4):** Consider Ordinance No. 2024-00131, for Zone Case 2161-M, a request of HFA for Lubbock Commercial Buildings, for a zone change from Neighborhood Commercial District (NC) to Auto-Urban Commercial District (AC), at 2731 82nd Street, located south of 82nd Street and east of Elgin Avenue, on approximately 1.25 acres of unplatted land out of Block E-2, Section 13.

### Item Summary

On September 24, 2024, the City Council approved the first reading of the ordinance, unanimously.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of this request. The Planning and Zoning Commission heard this case on September 5, 2024, and recommended approval of the request by a unanimous vote of 7-0-0.

### Fiscal Impact

None

### Staff/Board Recommending

Erik Rejino, Assistant City Manager  
Kristen Sager, Director of Planning  
Planning and Zoning Commission

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## Attachments

Ordinance 2161-M  
Staff Report 2161-M  
Documentation 2161-M



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ZONING ORDINANCE NO. 2023-O0054 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: ZONE CASE NO. 2161-M; A ZONING CHANGE FROM NC TO AC ZONING DISTRICT AT 2731 82<sup>ND</sup> STREET, LOCATED SOUTH OF 82<sup>ND</sup> STREET AND EAST OF ELGIN AVENUE, ON APPROXIMATELY 1.25 ACRES OF UNPLATTED LAND OUT OF BLOCK E-2, SECTION 13, LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND, PROVIDING FOR PUBLICATION.**

**WHEREAS**, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

**WHEREAS**, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 39.07.007 of the Unified Development Code, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; **NOW THEREFORE:**

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

**ZONE CASE NO. 2161-M**

**SECTION 1. THAT** Ordinance No. 2023-O0054 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 39.07.032 of the Unified Development Code of the City of Lubbock from NC to AC zoning district at **2731 82<sup>nd</sup> Street, located south of 82<sup>nd</sup> Street and east of Elgin Avenue, on approximately 1.25 acres of unplatted land out of Block E-2, Section 13, City of Lubbock, Lubbock County, Texas, and being further described as follows:**

**METES AND BOUNDS DESCRIPTION:** Attached as Exhibit "A".



**SECTION 2. THAT** violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars (\$2,000.00) as provided in Section 39.09.004 of the Unified Development Code of the City of Lubbock.

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

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

**AND IT IS SO ORDERED.**

**Passed by the City Council on first reading on \_\_\_\_\_.**

**Passed by the City Council on second reading on \_\_\_\_\_.**

\_\_\_\_\_  
**MARK W. MCBRAYER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
*Kristen Sager*

Kristen Sager, Director of Planning

**APPROVED AS TO FORM:**

\_\_\_\_\_  
*Kelli Leisure*

Kelli Leisure, Senior Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC2161-M  
September 5, 2024



Valvoline LLC  
Lubbock 82nd Street Lease Site  
1.2547 acres

Broocks & Burleson  
A-9

STATE OF TEXAS        §

Exhibit "A"

COUNTY OF LUBBOCK   §

A **METES & BOUNDS** description of a certain 1.2547 acre tract of land situated in the northeast quarter of section 13, Block E-2, Broocks & Burleson Survey, Abstract No. A-9 in Lubbock County, Texas; being a portion of a tract of land conveyed to Lubbock Commercial Buildings, Inc., recorded under Volume 4553, Page 50, Lubbock County Official Public Records of Real Property (LCOPRRP); said 1.2547 acre tract being more particularly described as follows with all bearings being based on Texas Coordinate System of 1983, North Central Zone:

**COMMENCING** at point for corner at the northeast corner of the northeast quarter of Section 13, Block E-2, Lubbock County, Texas;

THENCE, North 88°11'11" West, 2255.15 feet along the north line of said northeast quarter to a point for corner.

THENCE, South 01°47'37" West, 60.13 feet over and across said northeast quarter to a set 5/8-inch iron rod (With Cap Stamped "Quiddity Eng. Property Corner") in the north line of said Lubbock Commercial Buildings tract, in the south line of 82nd Street (right-of-way varies) recorded in Volume 637, Page 21 and Volume 2784, Page 106 of the Lubbock County Deed Records (LCDR), being in the common line of a called 1.210 acre tract of land conveyed to Lubbock Commercial Buildings Inc., recorded under Clerk's File No. 2013036304, LCOPRRP and said Lubbock Commercial Buildings tract, also being the **POINT OF BEGINNING** of the herein described tract of land;

THENCE, South 01°47'37" West, 309.87 feet along the common line of said 1.210 acre tract and said Lubbock Commercial Buildings tract to a found 3/8-inch iron rod (with blue cap) being in the north line of a 20 feet alley of the Summerfield Addition, recorded under Volume 4933, Page 91, LCOPRRP;

THENCE, North 88°11'14" West, 180.48 feet along the south line of said Lubbock Commercial Buildings tract and the north line of said 20 feet alley to a found 3/4-inch iron rod being the southwest corner of the herein described tract and the southeast corner of Tract "D" of High Plains recorded under Volume 5495, Page 341, LCOPRRP;

THENCE, North 01°48'49" East, 281.02 feet along the west line of said Lubbock Commercial Buildings tract and the west line of said Tract "D" to a found 5/8-inch iron rod (with blue cap) being in the common line of said Lubbock Commercial Buildings tract and the aforementioned south line of 82nd Street;

THENCE, South 87°24'28" East, 37.45 feet along said common line to a point for corner, from which a found 1/2-iron rod (with blue cap) bears North 52° West, 0.57 feet, also being the beginning of a non-tangent curve to the right;



Valvoline LLC  
Lubbock 82nd Street Lease Site  
1.2547 acres

Broocks & Burleson  
A-9

THENCE, along the arc of said non-tangent curve to the right and said common line, having a radius of 30.00 feet, a central angle of  $90^{\circ}56'49''$  (called  $90^{\circ}56'43''$ ), an arc length of 47.62 feet, and a long chord bearing North  $47^{\circ}17'07''$  East, 42.78 (called 42.77) feet to a point for corner, from which a found 1/2-iron rod (bent) bears South  $17^{\circ}$  East, 0.31 feet;

THENCE, South  $86^{\circ}55'59''$  East, 30.64 feet along said common line to a found 1/2-inch iron rod;

THENCE, South  $88^{\circ}12'33''$  East, 81.80 feet continuing along said common line to the **POINT OF BEGINNING, CONTAINING** 1.2547 acres of land in Lubbock County, Texas, as shown on Drawing No. 19962 in the offices of Quiddity Engineering in Bellaire, Texas.

Quiddity Engineering  
6330 West Loop South  
Bellaire, TX 77401  
(713) 777-5337  
*Texas Board of Professional Land Surveying  
Registration No. 10046100*

  
Acting by/Through Steven Jares  
Registered Professional Land Surveyor  
No. 5317  
Sjares@quiddity.com





Staff Report		Zone Case 2161-M
City Council Meeting		September 24, 2024

<b><u>Applicant</u></b>	HFA
<b><u>Property Owner</u></b>	Lubbock Commercial Buildings
<b><u>Council District</u></b>	4

**Recommendations**

- Staff recommends approval of the request.

**Prior Board or Council Action**

- September 11, 1958, Ordinance No. 2535: The northern portion of the subject property was annexed into City limits.
- June 11, 1959, Zone Case, 769, Ordinance No. 2813: The northern portion of the subject property was zoned Single Family District (R-1).
- October 28, 1971, Ordinance No. 6201: The remainder of the subject property was annexed into City limits and zoned Single-Family District (R-1).
- May 8, 1986, Zone Case 2161-B, Ordinance No. 8917: The subject property was rezoned from R-1 to Local Retail District (C-2).
- May 9, 2023, Ordinance No. 2023-00054 (effective October 1, 2023): The subject property was rezoned from C-2 to Neighborhood Commercial District (NC) with the adoption of the Unified Development Code.
- September 5, 2024, Zone Case 2161-M: The Planning and Zoning Commission recommended approval of a zone change from NC to Auto-Urban Commercial District (AC), by a vote of 7-0-0.

**Notification Summary**

- Notifications Sent: 87
- Received In Favor: 0
- Received In Opposition: 2

**Site Conditions and History**

The subject property is currently vacant undeveloped land.

**Adjacent Property Development**

Properties to the north, east, and west are zoned for a mix of NC and Office District (OF) land uses. The eastern property is developed with a fast food restaurant, while the properties to the west and north feature various office spaces. To the south, the area is zoned Low Density Single-Family District (SF-2) and is developed with single-family homes.

**Zoning Request and Analysis**

*Item Summary*

The subject property is addressed at 2731 82<sup>nd</sup> street, located south of 82<sup>nd</sup> Street and east of Elgin Avenue. The applicant requests a zone change from Neighborhood Commercial District (NC) to Auto-Urban Commercial District (AC).

**Current zoning:** Neighborhood Commercial District (NC)

**Requested zoning:** Auto-Urban Commercial District (AC)



### *Intent Statements*

The purpose of the Neighborhood Commercial (NC) zoning district is “to provide for small-scale retail and moderate density residential uses located away from major intersections (nodes), with building and site design standards that are compatible and have adjacent residential uses.”

The intent of the proposed Auto-Urban Commercial (AC) zoning district is “to provide for a broad range of single-use and multi-tenant centers that vary in scale, and that provide for retail, service, and office uses typically with on-site surface parking. The district may be located along major thoroughfares or at nodes with increased intensity.”

### *Traffic Network/Infrastructure Impacts*

The proposed zone change is along 82<sup>nd</sup> Street. The Master Thoroughfare Plan, 2018 designates 82<sup>nd</sup> Street as a principal arterial. Arterial streets are continuous routes whose function is to serve the high-volume needs of local traffic and regional traffic.

### *Compatibility with Surrounding Property*

The proposed zone change is compatible with the surrounding area and will not change the character of the existing development.

### *Conformance with Comprehensive Plan Principles and Future Land Use Map*

The Future Land Use Map designates this area for “Commercial Uses”. The proposed zone change to AC would be in conformance with the Commercial designation. This request would be appropriate next to adjacent lower intensity commercial land uses, and fronting an Arterial Street.

### *Conformance with Zoning Ordinance*

The proposed zone change is in conformance with the zoning ordinance. The properties are located along an arterial, and the requested zoning district is appropriate adjacent to the nearby commercial land uses.

### *Suitability of Property for Allowed Uses*

The property is suitable for the proposed use and will not need any additional public improvements.

### **Attachments**

- A. Case Information
- B. Thoroughfare Plan Map
- C. Notification Map
- D. Aerial Map
- E. Zoning Map
- F. Future Land Use Map
- G. Photos
- H. Application and supporting documentation
- I. Notification Replies

### **Staff Contacts**

Cassie Bermea  
Planner  
Planning Department  
806-775-2096  
[cassiebermea@mylubbock.us](mailto:cassiebermea@mylubbock.us)

Victor Escamilla  
Planning and Zoning Manager  
Planning Department  
806-775-3029  
[vescamilla@mylubbock.us](mailto:vescamilla@mylubbock.us)



## Case Information: Zone Case 2161-M



**Allowable Uses:** [Auto-Urban Commercial District \(AC\)](#)

**Transportation:** The proposed development has a point of access from 82<sup>nd</sup> Street.

Thoroughfare	Existing	Per Thoroughfare Development Plan
82 <sup>nd</sup> Street, <i>Principal Arterial, Completed</i>	R.O.W. 90 feet, seven-lane, undivided, paved	R.O.W. 62 feet, seven-lane, undivided, paved

**Engineering Comments:** No comments.

**Public Works Comments:** No comments.

**Building Safety Comments:** No comments.

**Fire Marshal Comments:** No comments.

### Draft Planning and Zoning Commission Minutes

#### District 4

3.2 **Zone Case 2161-M:** HFA for Lubbock Commercial Buildings, request for a zone change from Neighborhood Commercial District (NC) to Auto-Urban Commercial District (AC), at:

- 2731 82<sup>nd</sup> Street, located south of 82<sup>nd</sup> Street and east of Elgin Avenue, on approximately 1.25 acres of unplatted land out of Block E-2, Section 13.

**PLANNER CASSIE BERMEA** gave a presentation and answered questions from the Commission. Staff recommended approval of the request.

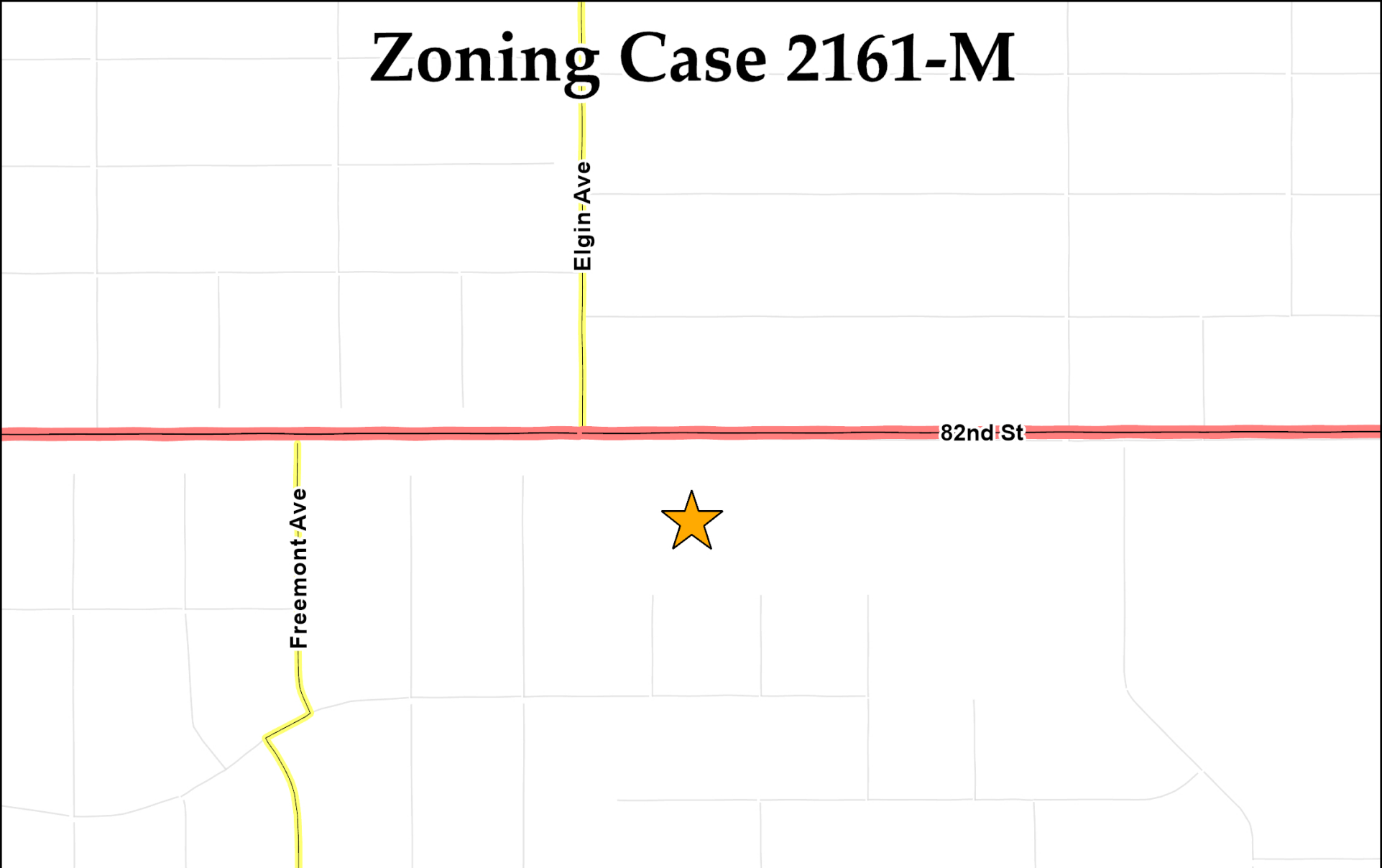
**APPLICANT HAYDEN BOCCHI**, 1705 S Walton Boulevard, in Bentonville, Arkansas, was available for questions.

No one appeared to speak in favor or in opposition.

In the matter of **Zone Case 2161-M**, a motion was made by **JORDAN WHEATLEY** and seconded by **TERRI MORRIS** to approve the request as presented. The Commission voted 7 (in favor) to 0 (in opposition) to approve the motion. The case will be forwarded to City Council for consideration.



# Zoning Case 2161-M



## Collector

- Completed
- Partial
- Future

## Minor Arterial

- Completed
- Partial
- Future

## Modified Arterial

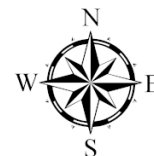
- Partial
- Future

## Principal Arterial

- Completed
- Partial
- Future

## Freeway

- Completed
- Partial
- Proposed Outer Loop





# PZC Mailout Notifications Received




## Legend


• LocatorPnt2161\_M


### Notification Result

 In Favor

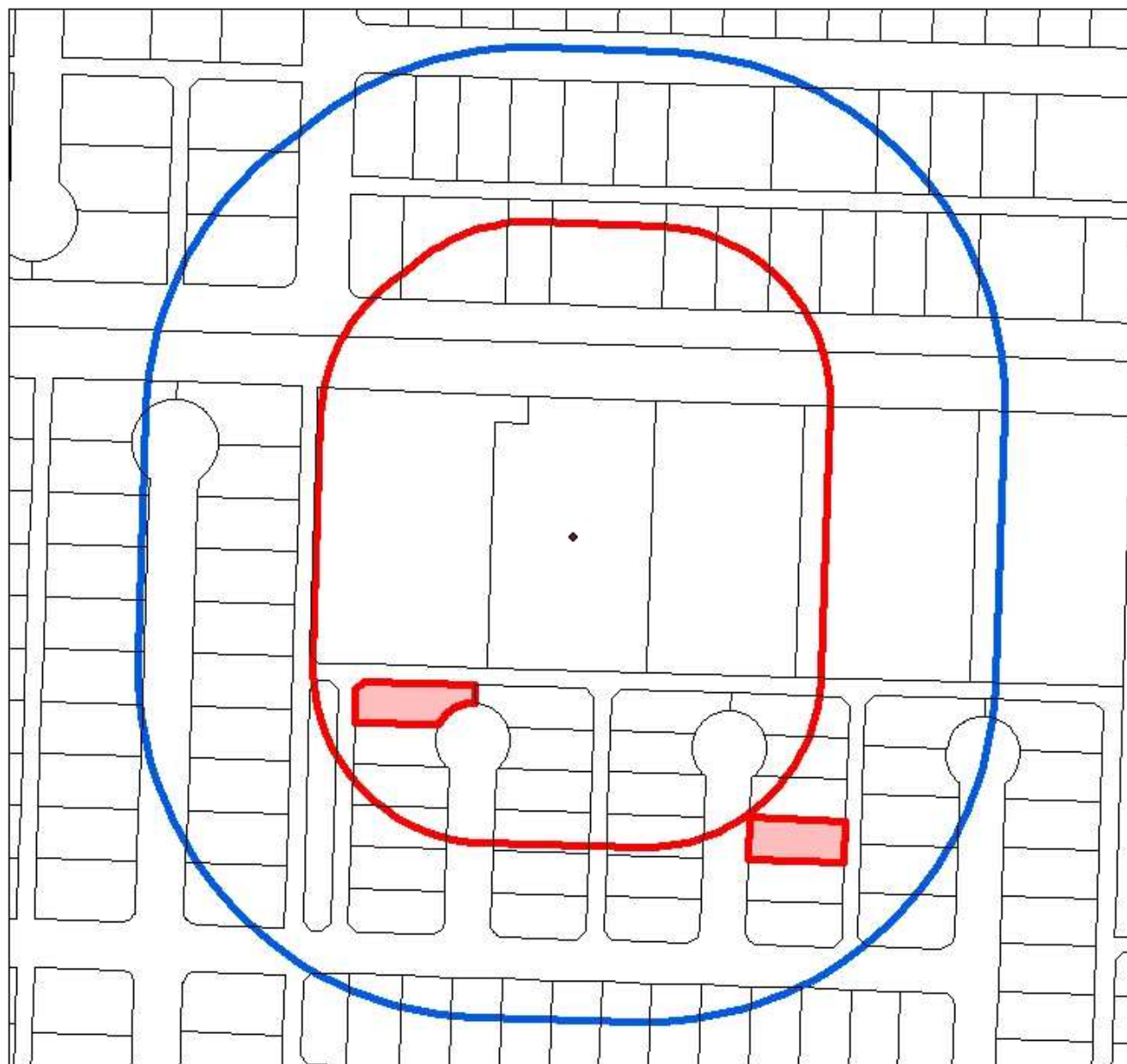
 No Feedback

 Opposed

 MailoutBuffer2161\_M\_400ft

 MailoutBuffer2161\_M\_200ft

 LCAD.DBO.TaxParcel



0 100 200 400 Feet

Created by Planning Department  
Date: 9/5/2024



# Zoning Case 2161-M






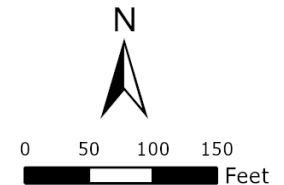
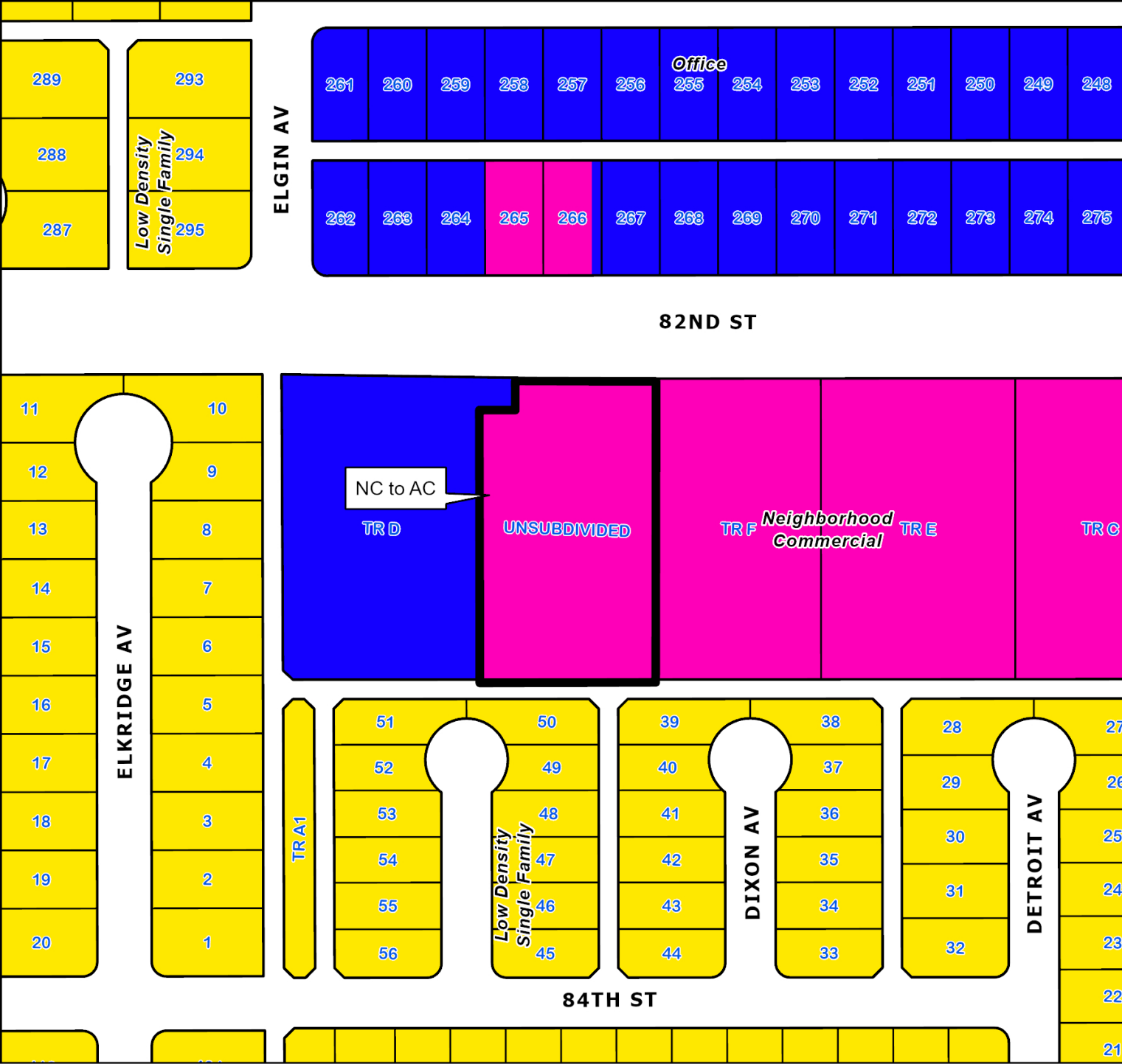


# Current Zoning

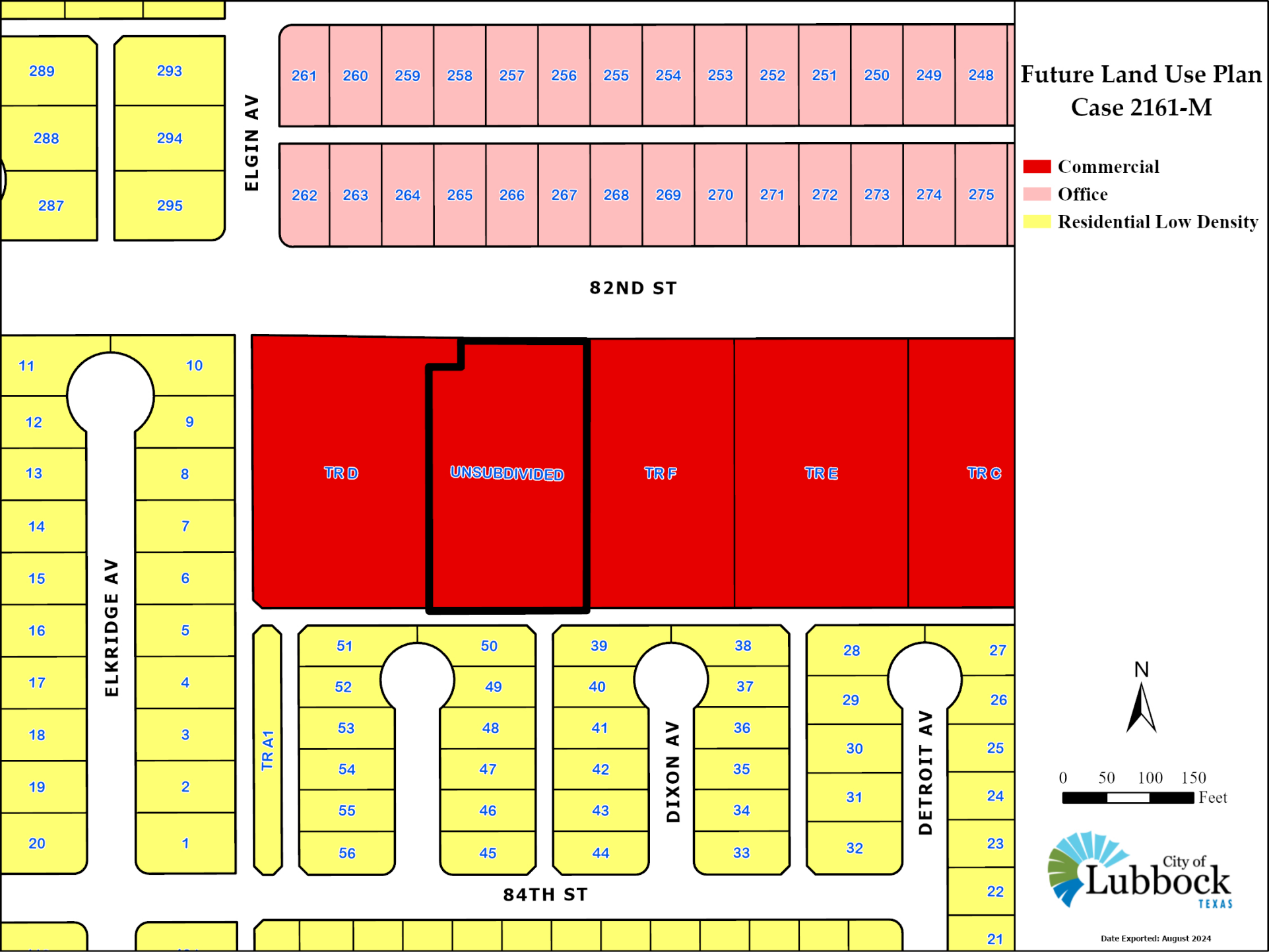
## 2161-M

### Zoning Districts

-  Neighborhood Commercial (NC)
-  Office (OF)
-  Low Density Single Family (SF-2)











West View.



East View.



North View.



South View –Subject Property

2161-M



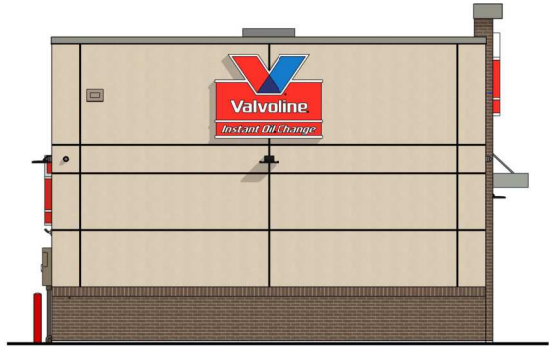
Autosked Des/DOC Print - RV172428-Flat Roof Arch, No Rear Tower.rvt 7/15/2024 11:56:37 AM



2 EXTERIOR ELEVATION (RIGHT)  
Scale: 1/8" = 1'-0"



1 EXTERIOR ELEVATION (REAR)  
Scale: 1/8" = 1'-0"



4 EXTERIOR ELEVATION (LEFT)  
Scale: 1/8" = 1'-0"



3 EXTERIOR ELEVATION (FRONT)  
Scale: 1/8" = 1'-0"

T.O. TOWER  
± 24' - 0"

T.O. PARAPET  
± 21' - 6"

T.O. ACCENT BAND  
14' - 0"

B.O. ACCENT BAND  
12' - 0"

T.O. WAINSCOT  
4' - 0"

UPPER LEVEL  
0' - 0"

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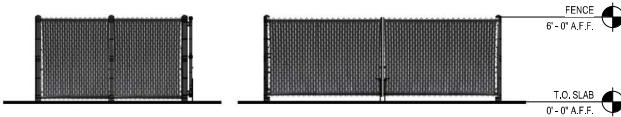
UPPER LEVEL  
0' - 0"

### EXTERIOR FINISHES - BRICK / EIFS / FENCE

EXTERIOR INSULATED FINISH SYSTEM:	DRYVIT (SANDPEBBLE FINE) COLOR #1: #113 AMARILLO WHITE
THIN BRICK #1 (WAINSCOT AND TOWER):	GLEN-GERY "MODULAR BAXTER BROWN WIRECUT"
PRECAST CAP TRASH ENCLOSURE:	CUSTOM CAST STONE - "LIGHT BUFF"
MORTAR:	LEHIGH STANDARD KIT - "BEIGE"
MASONRY SEALER:	ALL MASONRY SURFACES SHALL BE TREATED w/ SEALER.

PREFABRICATED METAL CANOPY:	AWNEX INC. "SEATTLE" DESIGN PREFINISHED TO MATCH PAC-CLAD "SILVER"
PARAPET CAP FLASHING:	ALUMINUM BREAK METAL PREFINISHED TO MATCH PAC-CLAD "SILVER"
TOWER SOFFIT AND FASCIA:	PAC-CLAD SNAP EDGE EXTENDED FASCIA (12'-12") PREFINISHED TO MATCH PAC-CLAD "SILVER"
THRU-WALL SCUPPER:	ALUMINUM BREAK METAL - PREFINISHED TO MATCH DIMENSIONAL METALS, INC. - "BEIGE"

STOREFRONT SYSTEM:	2x4 1/2" KAWNEER TRIFAB VG 451T SERIES CLEAR ANODIZED ALUMINUM STOREFRONT SYSTEM W/ 1" INSULATED GLAZING.
TRASH ENCLOSURE GATE SYSTEM:	BLACK VINYL COATED CHAIN LINK FENCE WITH BLACK FENCE SLATS
O.H. DOOR FINISH:	CLEAR ANODIZED ALUMINUM
ACCESS PANEL:	STAINLESS STEEL



5 TRASH ENCLOSURE ELEVATIONS  
Scale: 1/8" = 1'-0"

ISSUE RECORD

DATE

2BAY FLAT ROOF - BRICK / EIFS  
NO REAR TOWER



Project No: #####



7/15/2024 11:57:01 AM Autodesk Docs/WDC Photo - RV17242B-Flat Roof Arch. No Rear Tower.rvt



2 EXTERIOR ELEVATION (RIGHT)  
Scale: 1/8" = 1'-0"



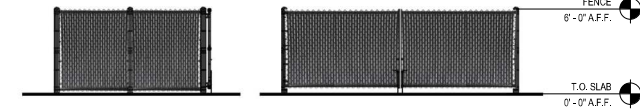
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4 EXTERIOR ELEVATION (LEFT)  
Scale: 1/8" = 1'-0"



3 EXTERIOR ELEVATION (FRONT)  
Scale: 1/8" = 1'-0"



5 TRASH ENCLOSURE ELEVATIONS  
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THIN BRICK #2 (ABOVE WAINSCOT):	GLEN-GERY "MODULAR MT RUSHMORE"	PARAPET CAP FLASHING:	ALUMINUM BREAK METAL PREFINISHED TO MATCH PAC-CLAD "SILVER"	O.H. DOOR FINISH:	CLEAR ANODIZED ALUMINUM
PRECAST CAP TRASH ENCLOSURE:	CUSTOM CAST STONE - "LIGHT BUFF"	TOWER SOFFIT AND FASCIA:	PAC-CLAD SNAP EDGE EXTENDED FASCIA (12-12") PREFINISHED TO MATCH PAC-CLAD "SILVER"	ACCESS PANEL:	STAINLESS STEEL
MORTAR:	LEHIGH STANDARD KIT - "BEIGE"	THRU-WALL SCUPPER:	ALUMINUM BREAK METAL - PREFINISHED TO MATCH DIMENSIONAL METALS, INC. - "BEIGE"		

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T.O. WAINSCOT	4' - 0"
UPPER LEVEL	0' - 0"

ISSUE RECORD

DATE

2BAY FLAT ROOF - BRICK / BRICK  
NO REAR TOWER



Project No: #####



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PRECAST CAP TRASH ENCLOSURE:	CUSTOM CAST STONE - "LIGHT BUFF"	TOWER SOFFIT AND FASCIA:	PAC-CLAD SNAP EDGE EXTENDED FASCIA (12-12") PREFINISHED TO MATCH PAC-CLAD "SILVER"	GATE SYSTEM:	FIELD PAINTED SHERWIN-WILLIAMS SW-7515 "HOMESTEAD BROWN". PROVIDE MOCK-UP AND VERIFY COLOR W/ OWNER.
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ISSUE RECORD

DATE

2BAY FLAT ROOF - BRICK / EIFS  
NO REAR TOWER



Project No: #####



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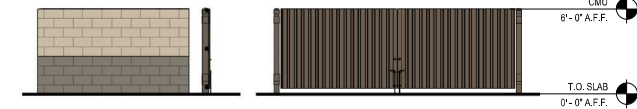
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T.O. WAINSCOT	4' - 0"
UPPER LEVEL	0' - 0"

ISSUE RECORD

DATE

2BAY FLAT ROOF - BRICK / BRICK  
NO REAR TOWER



Project No: #####





July 31, 2024

City of Lubbock, TX

RE: Rezone Request  
Valvoline Instant Oil Change  
7231 82<sup>nd</sup> Street

Dear City of Lubbock,

On behalf of Valvoline Instant Oil Change, interested in developing the 1.25-acre site at 2731 82<sup>nd</sup> Street with a two-bay oil change facility, we are requesting a Rezone from NC (Neighborhood Commercial), to AC (Auto-Urban Commercial). We hope to develop this site with minor automotive repair to allow Valvoline Instant Oil Change to operate. Please see our included site plan and building elevations which show how we would propose to develop this site if this request is approved.

Valvoline Instant Oil Change has a business model where customers remain in their vehicles while minor automotive repair services are performed, usually taking 15-20 minutes per vehicle. No major repair services will be offered. The business model for Valvoline is such that vehicles enter the bay for their services. The services are completed through the basement component of the building. Additional vehicles await service in the stacking spaces behind the bays.

We believe Valvoline will provide a valuable service to the residents of Lubbock, TX, and the aesthetics of our building will suit the area well. Additionally, we also believe our business model to be above the standard auto shop in that no vehicles remain on site for extended periods of time, as Valvoline is a low traffic producer due to our services.

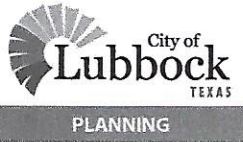
If our request is approved, Valvoline and HFA will work together to create a formal plan submittal adhering to the City of Lubbock code.

If additional information is needed, or if questions arise associated with this request or Valvoline business operations, please contact me.

Sincerely,

Kelsey Kreher  
Team Lead  
HFA  
479.273.7780 ext. 355  
[kelsey.kreher@hfa-ae.com](mailto:kelsey.kreher@hfa-ae.com)





Lubbock Planning Department  
PO Box 2000 / 1314 Avenue K  
Lubbock, TX 79457  
**APPLICATION FOR ZONING CHANGE**

**Project Information**

Location or Address: 2731 82nd Street Lubbock, TX  
Lots/Tracts: \_\_\_\_\_  
Survey & Abstract: Broocks & Burleson Survey Abstract No. A-9  
Metes and Bounds Attached: Yes ☒ No ☐ Total Acreage of Request: 1.25  
Existing Land Use: Vacant Existing Zoning: NC  
Requested Zoning: AC  
If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☐

**Representative/Agent Information (if different from owner)**

Firm Name: HFA  
Name: Kelsey Kreher  
Address: 1705 S Walton Blvd. City: Bentonville State: AR  
ZIP Code: 72712 Telephone: 816-872-7190 Email: \_\_\_\_\_  
Applicant's Signature: Kelsey Kreher  
Date: 7/31/24 Printed Name: Kelsey Kreher

**Owner Information**

Firm Name: Lubbock Commercial Buildings  
Owner: Ross Rushing  
Address: 2737 82nd Street City: Lubbock State: TX  
ZIP Code: 79423 Telephone: (806) 748-7310 Email: Ross@lubbocklease.com  
Property Owner's Signature: Ross Rushing  
Date: 7/31/24 Printed Name: Ross Rushing

**Preparer Information**

Preparer's Signature: Kelsey Kreher  
Date: 7/31/24 Printed Name: Kelsey Kreher

**For City Use Only**

Zone Case No: \_\_\_\_\_ Planning and Zoning Commission Date: \_\_\_\_\_  
Request for zoning change from: \_\_\_\_\_ To: \_\_\_\_\_  
Lots: \_\_\_\_\_ Blocks: \_\_\_\_\_  
Addition: \_\_\_\_\_

By signing this application, Applicant agrees and warrants that any and all materials submitted to the City in support or reference to this application are not protected by copyrights or, in cases of potential copyrighted materials, the Applicant is the sole owner of any copyrighted interest and grants to the City permission and license to reproduce, publish, distribute and utilize such materials.

If you have any questions pertaining to the zoning process, please contact the City of Lubbock Planning Department by phone at (806) 775 - 2108 or by e-mail at [cityplanning@mylubbock.us](mailto:cityplanning@mylubbock.us).



8302 ELGIN

City of Lubbock, TX  
Planning Department  
Planning and Zoning Commission  
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX 79457 or email to CityPlanning@mylubbock.us.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 806-775-2108.

Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **2161-M**

In Favor ☐

Opposed ☒

Reasons and/or Comments:

I oppose because any drive through or egress to the Alley would be a constant problem at my house.

Print Name: Luther Bailey  
Signature: Luther Bailey  
Address: 5406 C.R. 7350 Lubbock, TX 79424  
Address of Property Owned: 8302 ELGIN Ave 79423  
Phone Number: 806-789-6993  
Email: lbailey@REAGAN.COM

Zone Case Number: **2161-M**

R138754

Recipient 60 of 87

BAILEY LUTHER C

5406 CR 7350

LUBBOCK TX 79424-7312



City of Lubbock, TX  
Planning Department  
Planning and Zoning Commission  
Reply Form

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Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **2161-M**

In Favor

Opposed



Reasons and/or Comments:

We do not want our property to decrease in value, and we do not want the right next associated with used car sales and unmanaged surroundings.

Print Name: Helen C. Newman  
Signature: Helen C. Newman  
Address: 8307 Dixon Ave  
Address of Property Owned: 8307 Dixon Ave  
Phone Number: 806-777-3058  
Email: darlene.gemanytile@gmail.com

Zone Case Number: **2161-M**

R138738

Recipient 57 of 87

NEWMAN, HELEN C

8307 DIXON AVE

LUBBOCK TX 79423





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## Information

### Agenda Item

**Ordinance 2nd Reading - Planning (District 4):** Consider Ordinance No. 2024-00132, for Zone Case 3267-A, a request of Spindlebock Properties, LLC for a zone change from Neighborhood Commercial District (NC) to Heavy Commercial District (HC), at 3202, 3204, 3206, 3208, 3210, and 3212 118th Street and 3215, and 3217 116th Street, located between 116th Street and 118th Street and east of Indiana Avenue, Triple C Business Park Addition, Tracts A through H.

### Item Summary

On September 24, 2024, the City Council approved the first reading of the ordinance, unanimously.

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff recommends approval of this request. The Planning and Zoning Commission heard this case on September 5, 2024, and recommended approval of the request by a unanimous vote of 7-0-0.

### Fiscal Impact

None

### Staff/Board Recommending

Erik Rejino, Assistant City Manager  
Kristen Sager, Director of Planning  
Planning and Zoning Commission

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## Attachments

Ordinance 3267-A  
Staff Report 3267-A  
Documentation 3267-A



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING ZONING ORDINANCE NO. 2023-O0054 AND THE OFFICIAL MAP OF THE CITY OF LUBBOCK MAKING THE FOLLOWING CHANGES: ZONE CASE NO. 3267-A; A ZONING CHANGE FROM NC TO HC ZONING DISTRICT AT 3202, 3204, 3206, 3208, 3210, AND 3212 118<sup>TH</sup> STREET AND 3215, AND 3217 116<sup>TH</sup> STREET, LOCATED BETWEEN 116<sup>TH</sup> STREET AND 118<sup>TH</sup> STREET AND EAST OF INDIANA AVENUE, TRIPLE C BUSINESS PARK ADDITION, TRACTS A THROUGH H, LUBBOCK, TEXAS; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND, PROVIDING FOR PUBLICATION.**

**WHEREAS**, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation which was received by the City Council and, after due consideration, the City Council found that due to changed conditions, it would be expedient and in the interest of the public health, safety and general welfare to make those proposed changes in zoning; and

**WHEREAS**, all conditions precedent required by law for a valid amendment to the Zoning Ordinance and Map have been fully complied with, including giving notices in compliance with Section 39.07.007 of the Unified Development Code, City of Lubbock, Texas, and the notices provided by the Texas Local Government Code §211.007 (Vernon, 1990), and notice was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the public hearing before the City Council on such proposed amendment, and the public hearing according to said notice, was held in the City Council Chamber of the Municipal Building, Lubbock, Texas, at which time persons appeared in support of the proposal; and after said hearing, it was by the City Council determined that it would be in the public interest, due to changed conditions, that the Zoning Ordinance and the Zoning Map be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; **NOW THEREFORE:**

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

**ZONE CASE NO. 3267-A**

**SECTION 1. THAT** Ordinance No. 2023-O0054 and the Official Zoning Map are amended as follows:

A change of zoning under the provisions of Section 39.07.032 of the Unified Development Code of the City of Lubbock from NC to HC zoning district at **3202, 3204, 3206, 3208, 3210, and 3212 118<sup>th</sup> Street and 3215, and 3217 116<sup>th</sup> Street, located between 116<sup>th</sup> Street and 118<sup>th</sup> Street and east of Indiana Avenue, Triple C Business Park Addition, Tracts A through H, City of Lubbock, Lubbock County, Texas.**



**SECTION 2. THAT** violation of any provision of this Ordinance shall be deemed a misdemeanor punishable by fine not to exceed Two Thousand and No/100 Dollars (\$2,000.00) as provided in Section 39.09.004 of the Unified Development Code of the City of Lubbock.

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

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

**AND IT IS SO ORDERED.**

**Passed by the City Council on first reading on \_\_\_\_\_.**

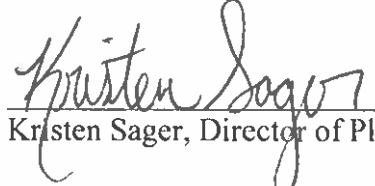
**Passed by the City Council on second reading on \_\_\_\_\_.**

\_\_\_\_\_  
**MARK W. MCBRAYER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Kristen Sager, Director of Planning

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Kelli Leisure, Senior Assistant City Attorney

vw/cityatt/Kelli/ZoneCase/ZC3267-A  
September 5, 2024



Staff Report		Zone Case 3267-A
City Council Meeting		September 24, 2024

**Applicant** Spindlebock Properties, LLC

**Property Owner** Taylor Carmona

**Council District** 4

**Recommendations**

- Staff recommends approval of the request.

**Prior Board or Council Action**

- December 7, 2006, Ordinance No. 00121: The subject properties were annexed into City limits and zoned Transition District (T).
- December 17, 2015, Zone Case 3267, Ordinance No. 00127: The subject properties were rezoned from T to Local Retail District (C-2).
- May 9, 2023, Ordinance No. 2023-00054 (effective October 1, 2023): The subject properties were rezoned from C-2 to Neighborhood Commercial District (NC) with the adoption of the Unified Development Code.
- August 1, 2024, Zone Case 3267-A: The Planning and Zoning Commission voted to postpone a request to rezone the subject property from NC to Heavy Commercial District (HC) to September 5, 2024 by a vote of 8-0-0.
- September 5, 2024, Zone Case 3267-A: The Planning and Zoning Commission recommended approval of a zone change from NC to HC, by a vote of 7-0-0.

**Notification Summary**

- Notifications Sent: 25
- Received In Favor: 3
- Received In Opposition: 0

**Site Conditions and History**

The subject properties were originally platted as Triple C Business Park Addition, Tracts A through H on May 21, 2024. The property is currently undeveloped, vacant land.

**Adjacent Property Development**

The properties to the north and south are zoned with a combination of HC, NC and Low Density Single-Family District (SF-2). To the east, there is a mini self-storage facility zoned HC. The property to the west is zoned SF-2, built with a church.

**Item Summary**

The subject properties are addressed as 3202, 3204, 3206, 3208, 3210, and 3212 118<sup>th</sup> Street and 3215, and 3217 116<sup>th</sup> Street, located between 116<sup>th</sup> Street and 118<sup>th</sup> Street, and east of Indiana Avenue, Triple C Business Park Addition, Tracts A through H. The applicant is requesting to rezone the properties from Neighborhood Commercial District (NC) to Heavy Commercial District (HC).

**Current zoning:** Neighborhood Commercial District (NC)

**Requested zoning:** Heavy Commercial District (HC)



### *Purpose Statements*

The purpose of the Neighborhood Commercial (NC) zoning district “is to provide for small-scale retail and moderate density residential uses located away from major intersections (nodes), with building and site design standards that are compatible and have adjacent residential uses.”

The purpose of the Heavy Commercial (HC) zoning district “is to provide or development of heavy vehicle repair, wholesale trade, warehousing and freight movement uses that typically are characterized by outside storage of materials or merchandise. The district should be located away from residential areas or, if unavoidable, should be heavily buffered.”

### *Traffic Network/Infrastructure Impacts*

The location is between 116<sup>th</sup> Street and 118<sup>th</sup> Street, which are designated as local streets by the Master Thoroughfare Plan, 2018. Local streets typically provide access to smaller, destination oriented areas, such as neighborhoods, subdivisions or local business districts.

### *Compatibility with Surrounding Property*

The subject properties are surrounded by commercially zoned districts. The zoning change to Heavy Commercial District (HC) will not change the surrounding area or the character of the existing development.

### *Conformance with the Comprehensive Plan Principles and Future Land Use Map*

The future land use map designates this property for commercial land uses. The proposed zone change to HC would be in conformance with the Future Land Use Plan and the Comprehensive Plan Principles.

### *Conformance with Zoning Ordinance*

The proposed zone change is in conformance with the zoning ordinance.

### *Suitability of Property for Allowed Uses*

The property is suitable for the proposed zoning of HC, and will not need any additional public improvements as the property has recently been platted.

### **Attachments**

- A. Case Information
- B. Thoroughfare Map
- C. Notification Map
- D. Aerial Map
- E. Zoning Map
- F. Future Land Use Map
- G. Photos
- H. Application and supporting documentation
- I. Notification Replies

### **Staff Contacts**

Cassie Bermea  
Planner  
Planning Department  
806-775-2096  
[cassiebermea@mylubbock.us](mailto:cassiebermea@mylubbock.us)

Victor Escamilla  
Planning and Zoning Manager  
Planning Department  
806-775-3029  
[vescamilla@mylubbock.us](mailto:vescamilla@mylubbock.us)



## Case Information: Zone Case 3267-A



**Allowable Uses:** [Heavy Commercial District \(HC\)](#)

**Transportation:** The proposed development has points of access from 116<sup>th</sup> Street and 118<sup>th</sup> Street.

Thoroughfare	Existing	Per Thoroughfare Development Plan
116 <sup>th</sup> Street, <i>Local Street, Completed</i>	R.O.W. 62 feet, two-lane, undivided, paved	R.O.W. 62 feet, two-lane, undivided, paved
118 <sup>th</sup> Street, <i>Local Street, Completed</i>	R.O.W. 62 feet, two-lane, undivided, paved	R.O.W. 62 feet, two-lane, undivided, paved

**Engineering Comments:** No comments.

**Public Works Comments:** No comments.

**Building Safety Comments:** No comments.

**Fire Marshal Comments:** No comments.

### Draft Planning and Zoning Commission Minutes

#### District 4

3.4 **Zone Case 3267-A:** Spindlebock Properties, LLC, request for a zone change from Neighborhood Commercial District (NC) to Heavy Commercial District (HC), at:

- 3202, 3204, 3206, 3208, 3210, and 3212 118<sup>th</sup> Street and 3215, and 3217 116<sup>th</sup> Street, located between 116<sup>th</sup> Street and 118<sup>th</sup> Street and east of Indiana Avenue, Triple C Business Park Addition, Tracts A through H.

**PLANNER CASSIE BERMEA** gave a presentation and answered questions from the Commission. Staff recommended approval of the request.

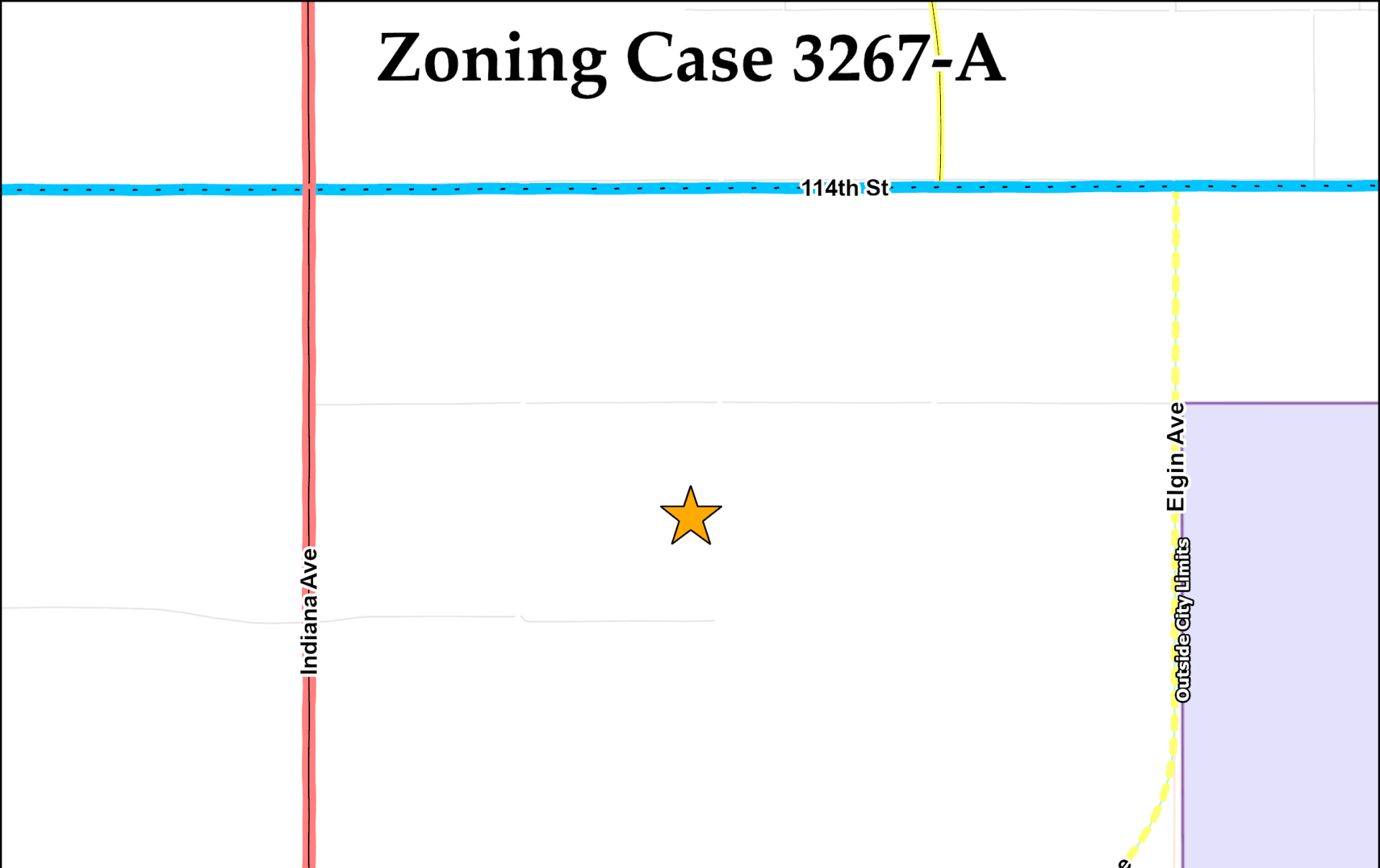
**APPLICANT TAYLOR CARMONA**, 6309 Indiana Avenue, Suite B, gave comments and answered questions from the Commission.

No one appeared to speak in favor or in opposition.

In the matter of **Zone Case 3267-A**, a motion was made by **ZACH SAWYER** and seconded by **JORDAN WHEATLEY** to approve the request as presented. The Commission voted 7 (in favor) to 0 (in opposition) to approve the motion. The case will be forwarded to City Council for consideration.



# Zoning Case 3267-A



## Collector

- Completed
- Partial
- Future

## Minor Arterial

- Completed
- Partial
- Future

## Modified Arterial

- Partial
- Future

## Principal Arterial

- Completed
- Partial
- Future

## Freeway

- Completed
- Partial
- Proposed Outer Loop





# PZC Mailout Notifications Received



## Legend

- ◆ LocatorPnt3267\_A
- MailoutBuffer3267\_A\_400ft
- MailoutBuffer3267\_A\_200ft
- Notification Result**
  - In Favor
  - No Feedback
  - Opposed
  - LCAD.DBO.TaxParcel

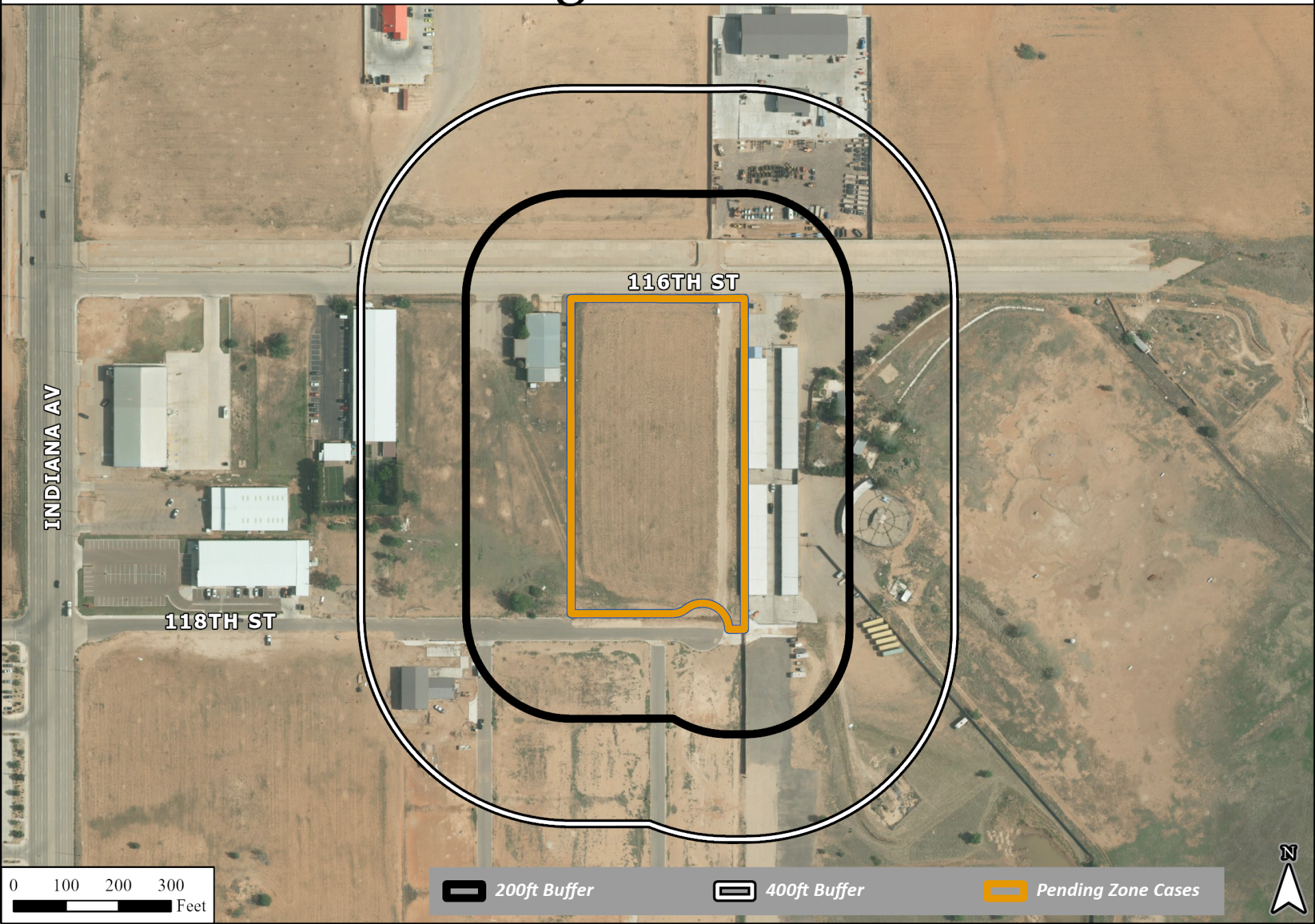


0 130 260 520 Feet

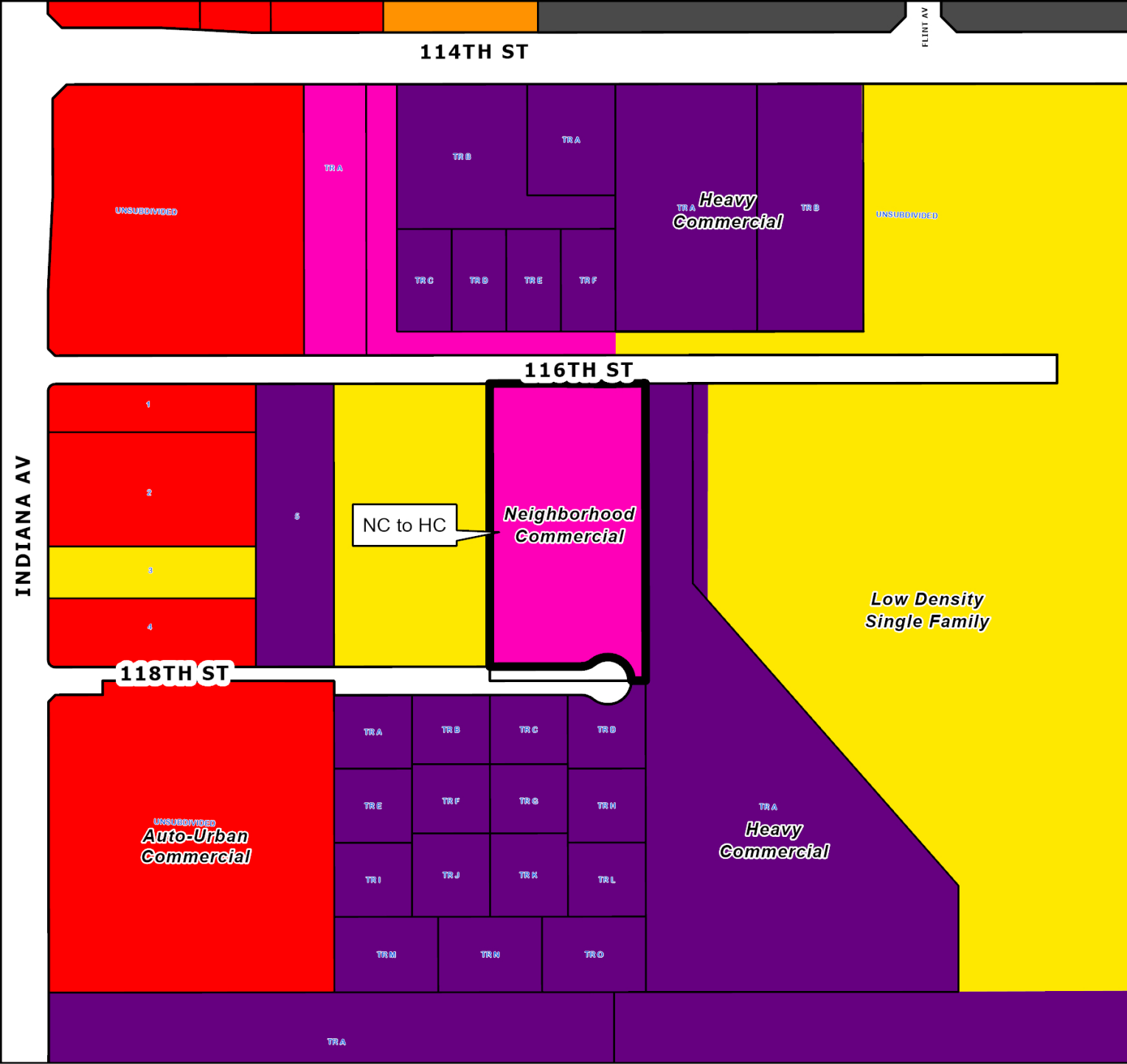
Created by Planning Department  
Date: 8/26/2024



# Zoning Case 3267-A







# Current Zoning

## 3267-A

### Zoning Districts

-  Auto-Urban Commercial (AC)
-  Heavy Commercial (HC)
-  Industrial Park (IP)
-  Medium Density Residential (MDR)
-  Neighborhood Commercial (NC)
-  Low Density Single Family (SF-2)



0 100 200 300 Feet





114TH ST

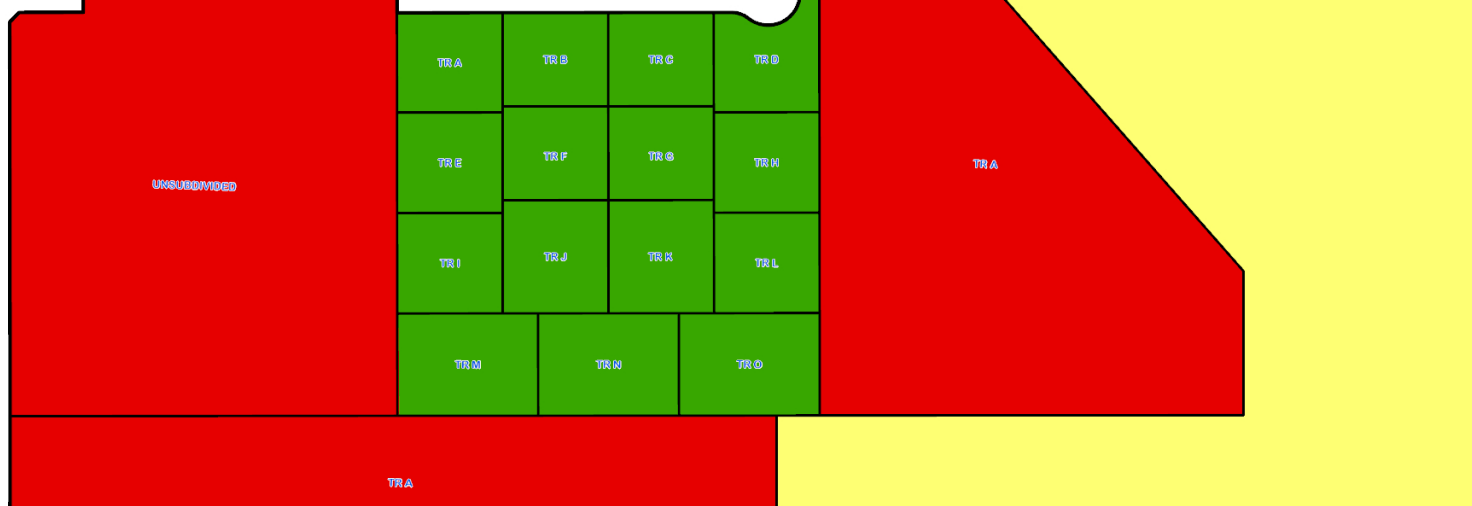
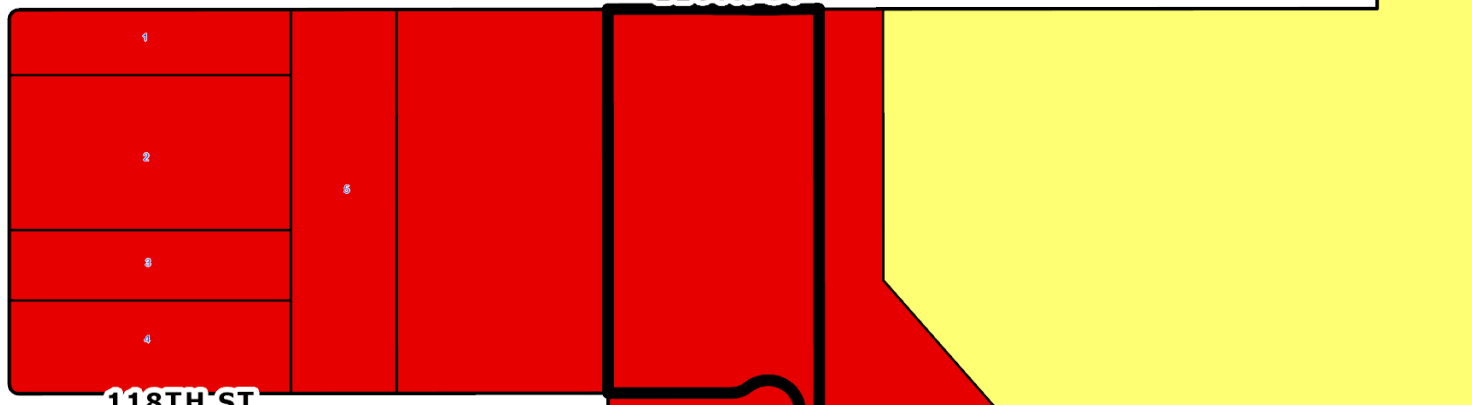
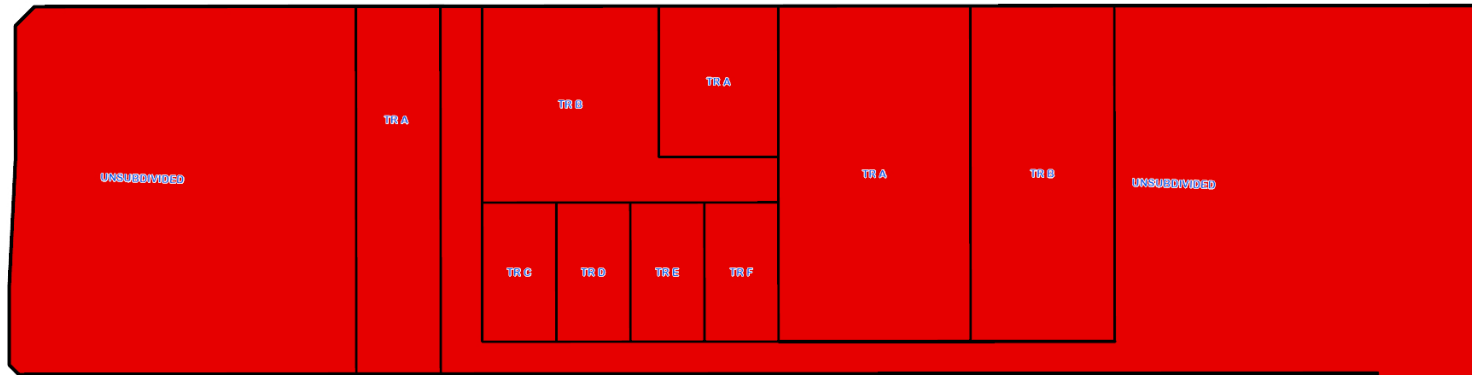
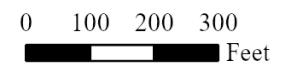
# Future Land Use Plan Case 3267-A

- Commercial
- Parks
- Residential Low Density
- Residential High Density

116TH ST

118TH ST

INDIANA AV







West View.



East View.



North View.



South View from 116<sup>th</sup> Street of all Subject Properties.











ON PROPOSED LOTS 1-8, TRIPLE C BUSINESS PARK, AN ADDITION  
TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS

- 1) This survey is subject to any facts which may be disclosed by a full and accurate title search. No title search was provided to this office.
- 2) Record documents other than those shown may affect this tract.
- 3) Only those copies which bear an original ink impression seal and signature will be considered a "valid" copy. Delta Land Surveying LLC will not be responsible for anything other than a valid copy of this survey.
- 4) Controlling Monuments are those that were held for the purpose of this survey or agree with this survey.
- 5) Physical monuments of record dignity are those that are expressly called for in the records and can be identified with a reasonable amount of certainty. They are also controlling monuments unless otherwise noted.
- 6) Monuments indicated as found on this survey are not "physical monuments of record dignity" unless otherwise noted.
- 7) Found monuments are accepted by this surveyor as controlling evidence due to substantial agreement with record documents unless otherwise noted.
- 8) Heavy lines indicate plat limits.

- 1) Bearings are based on the West line of that tract described as CCN: 2019037687, being previously recognized as S01°47'27"W
- 2) Distances are actual surface distances.
- 3) Benchmark 1: "X" cut in box in concrete approximately 110' North and 38' West of Northeast corner of proposed Lot 5. Elevation: 3214.62 NAVD88
- 4) Benchmark 2: "X" in concrete approximately 110' North and 237' East of Northeast corner of proposed Lot 5. Elevation: 3213.58 NAVD88

SURVEYED FOR:  
TAYLOR CARMONA



DELTA LAND SURVEYING, LLC  
FIRM # 10194496  
DELTA ENGINEERING, LLC  
FIRM # F-22948  
1310 JARVIS STREET  
LUBBOCK, TX 79403  
806-701-5707  
WWW.DELTALBK.COM

DRAFTED BY: KG REV. BY: JN





Lubbock Planning Department  
PO Box 2000 / 1314 Avenue K  
Lubbock, TX 79457  
**APPLICATION FOR ZONING CHANGE**

**Project Information**

Location or Address: 3215-3217 116<sup>th</sup> + 3202-3212 118<sup>th</sup> Street

Lots/Tracts: 1-8

Survey & Abstract: \_\_\_\_\_

Metes and Bounds Attached: Yes ☐ No ☒

Total Acreage of Request: 4.54

Existing Land Use: Vacant Subdivided

Existing Zoning: NC

Requested Zoning: HC

If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☐

**Representative/Agent Information (if different from owner)**

Firm Name: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

ZIP Code: \_\_\_\_\_ Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Printed Name: \_\_\_\_\_

**Owner Information**

Firm Name: Taylor Carmona

Owner: Taylor Carmona - Spindleback Properties LLC

Address: 6309 Indiana Avenue City: Lubbock State: TX

ZIP Code: 79413 Telephone: 409 656 5199 Email: taylor.m.carmona@gmail

Property Owner's Signature: [Signature]

Date: 6-24-2024 Printed Name: Taylor Carmona

**Preparer Information**

Preparer's Signature: [Signature]

Date: 6-24-2024 Printed Name: Taylor Carmona

**For City Use Only**

Zone Case No: \_\_\_\_\_ Planning and Zoning Commission Date: \_\_\_\_\_

Request for zoning change from: \_\_\_\_\_ To: \_\_\_\_\_

Lots: \_\_\_\_\_ Blocks: \_\_\_\_\_

Addition: \_\_\_\_\_

If you have any questions pertaining to the zoning process, please contact the City of Lubbock Planning Department by phone at (806) 775 - 2108 or by e-mail at [cityplanning@mylubbock.us](mailto:cityplanning@mylubbock.us).



City of Lubbock, TX  
Planning Department  
Planning and Zoning Commission  
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX 79457 or email to CityPlanning@mylubbock.us.

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 806-775-2108.

Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **3267-A**

In Favor ☒

Opposed ☐

Reasons and/or Comments:

Print Name

Steve Berner

Signature:

Steve Berner

Address:

8000 Monticello Ct Amarillo TX 79119

Address of Property Owned:

3115 W 114th St Lubbock TX

Phone Number:

806 236 1165

Email:

Steve@fabern.net

Zone Case Number: **3267-A**

R347554

Recipient 4 of 25

2413 HTS MANAGEMENT LLC

8000 MONTICELL CT

AMARILLO TX 79119-4969



City of Lubbock, TX  
Planning Department  
Planning and Zoning Commission  
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX 79457 or email to CityPlanning@mylubbock.us.

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Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by: P&Z Case No.: **3267-A**

In Favor ☒

Opposed ☐

Reasons and/or Comments:

Print Name

Signature:

Address:

Address of Property Owned:

Phone Number:

Email:

Zone Case Number: **3267-A**

R347553

Recipient 8 of 25

2413 HTS MANAGEMENT LLC

8000 MONTICELL CT

AMARILLO TX 79119-4969



City of Lubbock, TX  
Planning Department  
Planning and Zoning Commission  
Reply Form

If for any reason you will be unable to attend the public hearing advertised by this notice, and wish to present your comments regarding the case, please complete this form and return it to the Secretary of the Planning and Zoning Commission, c/o Planning Department, P.O. Box 2000, Lubbock, TX 79457 or email to [CityPlanning@mylubbock.us](mailto:CityPlanning@mylubbock.us).

If you have any questions pertaining to the case, please call the City of Lubbock Planning Department at 806-775-2108.

Please check one of the following to indicate if you are in favor of, or opposed to, the zone change requested by:      P&Z Case No.:      **3267-A**

*In Favor*



*Opposed*

\_\_\_\_\_

**Reasons and/or Comments:**

Print Name \_\_\_\_\_

Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Address of Property Owned: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

Zone Case Number: **3267-A**      R54745

Recipient 24 of 25

DAY & CO INC

6309 INDIANA AVE STE B

LUBBOCK      TX      79413-5739



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## Information

### Agenda Item

**Ordinance Single Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Refunding Bonds, not to exceed \$50,000,000, in one or more series, of current outstanding bond issuances with the refunding candidates being General Obligation Refunding Bonds, Series 2014, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2015, General Obligation Refunding, Series 2015 and General Obligation Refunding Bonds, Taxable Series 2015; levying a tax in payment thereof; providing for the award of the sale thereof in accordance with specified parameters; approving an official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.

### Item Summary

The City's bonds are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapter 1207, Chapter 1371, and Article VIII of the City's Home-Rule Charter. The bonds may be issued, from time to time, in one or more series, on the dates and in the aggregate principal amount designated in the Pricing Certificate, for the purpose of (i) refunding the Refunded Obligations and (ii) paying the costs of issuing the Bonds and refunding the Refunded Obligations.

Current outstanding bond issuances that are refunding candidates are:

1. General Obligation Refunding Bonds, Series 2014;
2. Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2015;
3. General Obligation Refunding Bonds, Series 2015; and
4. General Obligation Refunding Bonds, Taxable Series 2015.

### Fiscal Impact

The aggregate principal amount of all Bonds issued pursuant to this ordinance shall not exceed \$50,000,000.

### Staff/Board Recommending

Cheryl Brock, Interim Chief Financial Officer

---

## Attachments

Ordinance - 2024 GO Refunding



Ordinance No. 2024 – \_\_\_\_\_

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ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS  
GENERAL OBLIGATION REFUNDING BONDS

Adopted: October 8, 2024

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, IN ONE OR MORE SERIES; LEVYING A TAX IN PAYMENT THEREOF; PROVIDING FOR THE AWARD OF THE SALE THEREOF IN ACCORDANCE WITH SPECIFIED PARAMETERS; APPROVING AN OFFICIAL STATEMENT; APPROVING EXECUTION OF A PURCHASE CONTRACT; AND ENACTING OTHER PROVISIONS RELATING THERETO

WHEREAS, there are presently outstanding certain obligations of the City of Lubbock, Texas (the "City") described on Schedule I attached hereto (collectively, the "Refunding Candidates");

WHEREAS, the City now desires to refund all or a portion of such Refunding Candidates (such refunded obligations to be hereinafter referred to as the "Refunded Obligations");

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207") authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof, together with any other available funds or resources, directly with the paying agent for any of the Refunded Obligations or a trust company or commercial bank, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations;

WHEREAS, Chapter 1207 further authorizes the City to enter into an escrow agreement with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit;

WHEREAS, the City Council hereby finds and determines that the refunding contemplated by this Ordinance will benefit the City by providing present value debt service savings in an amount or amounts to be certified in the Pricing Certificate (hereinafter defined) and that such benefit is sufficient consideration for the issuance of refunding bonds, as provided by this Ordinance, and the refunding of the Refunded Obligations;

WHEREAS, the City Council hereby finds and determines that it is necessary and in the best interest of the City and its citizens that it authorize by this Ordinance the issuance of bonds, in one or more series, the proceeds of which will be sufficient to (i) refund the Refunded Obligations and (ii) pay costs of issuance of such bonds;

WHEREAS, the City is an "Issuer" within the meaning of Chapter 1371, Texas Government Code ("Chapter 1371"), as amended, and the City Council desires to delegate, pursuant to Chapter 1207 and Chapter 1371 and the parameters of this Ordinance, to the Authorized Officer, the authority to approve the principal amount, the interest rate(s), the date(s) of sale and the number of series, the price and the terms of the Bonds authorized hereby and to otherwise take such actions as are necessary and appropriate to effect the sale of the Bonds and to select the specific maturities or series of Refunding Candidates to be refunded; and



WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended;

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

ARTICLE I  
DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01 Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Authorized Officer” means each of the Mayor, City Manager and the Chief Financial Officer, acting individually.

“Bond” means any of the Bonds.

“Bond Date” means the date designated as the initial date of the Bonds by Section 3.02(a) of this Ordinance.

“Bonds” means the City’s bonds authorized to be issued by Section 3.01 of this Ordinance.

“Business Day” means any day other than a Saturday, Sunday or legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close.

“Chapter 1207” means Chapter 1207, Texas Government Code, as amended.

“Chapter 1371” means Chapter 1371, Texas Government Code, as amended.

“City” means the City of Lubbock, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended by all legislation, if any, enacted on or before the Issue Date.

“Defeasance Securities” has the meaning assigned in the Escrow Agreement.

“Designated Payment/Transfer Office” means the Designated Payment/Transfer Office, as designated in the Paying Agent/Registrar Agreement, or such other location designated by the Paying Agent/Registrar.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.



“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“EMMA” means the Electronic Municipal Market Access System.

“Escrow Agreement” means an agreement referred to in Section 14.03 of this Ordinance.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Fiscal Year” means such fiscal year as shall from time to time be set by the City Council.

“Initial Bond” means the initial bond authorized by Section 3.04 of this Ordinance.

“Interest and Sinking Fund” means each interest and sinking fund or accounts established by Section 2.02 of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, as set forth in the Pricing Certificate.

“Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Issue Date” for each series of Bonds is the respective date on which such series of Bonds is delivered against payment therefor.

“MSRB” means the Municipal Securities Rulemaking Board.

“Official Statement” means a document described in Section 7.01(c) prepared for dissemination to potential investors in connection with the public offering and sale of the Bonds.

“Owner” means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

“Paying Agent/Registrar” means the bank or trust company identified in the Paying Agent/Registrar Agreement referred to in Section 5.01 of this Ordinance, or any successor thereto as provided in this Ordinance.

“Preliminary Official Statement” means a document described in Section 7.01(c) prepared for dissemination to potential investors prior to the availability of the final Official Statement.



“Pricing Certificate” means a certificate or certificates signed by an Authorized Officer establishing the terms and features of each series of Bonds in accordance with Section 7.01 hereof.

“Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Purchase Contract” means any contract, agreement or investment letter pursuant to which the Bonds of each series are sold to the Purchaser thereof.

“Purchaser” means the purchaser or purchasers of the Bonds of each series identified in the Pricing Certificate or Purchase Contract.

“Record Date” means the date specified in the Pricing Certificate.

“Refunding Candidates” means the obligations of the City described in Schedule I attached hereto.

“Refunded Obligations” means the Refunding Candidates designated as Refunded Obligations in the Pricing Certificate.

“Register” means the Register specified in Section 3.06(a) of this Ordinance.

“Regulations” means the final or temporary Income Tax Regulations applicable to the Bonds issued pursuant to Sections 141 through 150 of the Code. Any reference to a section of the Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to Sections 141 through 150 of the Code and applicable to the Bonds.

“Representation Letter” means the Blanket Letter of Representations between the City and DTC.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the Special Payment Date prescribed by Section 3.03(b).

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b).

“Taxable Bonds” means any Bonds for which the City does not intend that the interest thereon shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Code, as determined and set forth in the Pricing Certificate therefor.

“Tax-Exempt Bonds” means any Bonds for which the City intends that the interest thereon shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Code, as determined and set forth in the Pricing Certificate therefor.

“Term Bonds” has the meaning set forth in Section 4.03 hereof.



“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal of or interest on the Bonds as the same come due and payable and remaining unclaimed by the Owners of such Bonds after the applicable payment or redemption date.

Section 1.02 Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03 Table of Contents, Titles and Headings.

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04 Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Any action required to be taken on a date which is not a Business Day shall be done on the next succeeding Business Day and have the same effect as if done on the date so required.

(c) Any duty, responsibility, privilege, power or authority conferred by this Ordinance upon an officer shall extend to an individual who occupies such office in an interim, acting or provisional capacity.

(d) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

ARTICLE II  
SECURITY FOR THE BONDS; INTEREST AND SINKING FUND

Section 2.01 Tax Levy.

(a) Pursuant to the authority granted by the Texas Constitution and the laws of the State of Texas, there shall be levied and there is hereby levied for the current year and for each succeeding year thereafter while any of the Bonds or any interest thereon is outstanding and unpaid, an ad valorem tax on each one hundred dollars valuation of taxable property within the City, at a rate sufficient, within the limits prescribed by law, to pay the debt service requirements of the Bonds, being (i) the interest on the Bonds, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent (2%) per annum (whichever amount is greater), when due and payable, full allowance being made for delinquencies and costs of collection.



(b) The ad valorem tax thus levied shall be assessed and collected each year against all property appearing on the tax rolls of the City most recently approved in accordance with law and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Bonds when and as due and payable in accordance with their terms and this Ordinance.

(d) If the lien and provisions of this Ordinance shall be released in a manner permitted by Article XI hereof, then the collection of such ad valorem tax may be suspended or appropriately reduced, as the facts may permit, and further deposits to the Interest and Sinking Fund may be suspended or appropriately reduced, as the facts may permit. In determining the aggregate principal amount of outstanding Bonds, there shall be subtracted the amount of any Bonds that have been duly called for redemption and for which money has been deposited with the Paying Agent/Registrar for such redemption.

#### Section 2.02 Interest and Sinking Fund.

(a) A special fund or account for each series of Bonds (each, an "Interest and Sinking Fund") shall be and is hereby created solely for the benefit of the Bonds of such series and each such fund or account shall be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund established for each series of Bonds shall be used solely for the purpose of paying the interest on and principal of the Bonds of such series when and as due and payable in accordance with their terms and this Ordinance.

### ARTICLE III AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

#### Section 3.01 Authorization.

The Bonds are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapter 1207, Chapter 1371, and Article VIII of the City's Home-Rule Charter. The Bonds may be issued, from time to time, in one or more series, on the dates and in the aggregate principal amount designated in the Pricing Certificate therefor, for the purpose of (i) refunding the Refunded Obligations and (ii) paying the costs of issuing the Bonds and refunding the Refunded Obligations. The aggregate principal amount of all Bonds issued pursuant to this Ordinance shall not exceed \$50,000,000.

If the Bonds are issued in more than one series, the provisions of this Ordinance shall apply to each such series in the manner, to the extent and subject to such terms and conditions as shall be specified in the Pricing Certificate therefor.



Section 3.02 Date, Denomination, Maturities and Interest.

(a) The Bonds shall be dated the date set forth in the Pricing Certificate (the "Bond Date"). The Bonds shall be in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof, and shall be numbered separately from one upward, except the Initial Bond, which shall be numbered T-1, or in such other manner provided in the Pricing Certificate.

(b) The Bonds shall mature on the date or dates, in the years and in the principal amounts set forth in the Pricing Certificate.

(c) Interest shall accrue and be paid on each Bond respectively until its maturity or prior redemption, from the later of the date set forth in the Pricing Certificate or the most recent Interest Payment Date to which interest has been paid or provided for at the rates per annum for each respective maturity specified in the Pricing Certificate. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Bonds shall be calculated on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each, or on such other basis as set forth in the Pricing Certificate.

Section 3.03 Medium, Method and Place of Payment.

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be payable to the Owners as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be fifteen (15) days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each Owner of a Bond appearing on the Register at the close of business on the last Business Day next preceding the date of mailing of such notice.

(c) Interest shall be paid by check, dated as of the Interest Payment Date, and sent by United States mail, first class postage prepaid, by the Paying Agent/Registrar to each Owner, at the address thereof as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, that the Owner shall bear all risk and expense of such other banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar.

(d) The principal of each Bond shall be paid to the Owner thereof on the due date (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.



(e) If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, then the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the accounts of the Owners of the Bonds to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains three years after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed monies or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

#### Section 3.04 Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the City by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by (or, to the extent allowed by law, bearing a facsimile signature of) the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State of Texas, that it is a valid and binding obligation of the City and that it has been registered by the Comptroller of Public Accounts of the State of Texas.



(d) On the Closing Date, one Initial Bond of each series reflecting the terms set forth in the Pricing Certificate and representing the entire principal amount of all Bonds of such series, payable in stated installments to the Purchaser, or its designee, executed by the Mayor and City Secretary of the City by their manual or facsimile signatures, approved by the Attorney General, and registered and manually signed by (or, to the extent allowed by law, bearing a facsimile signature of) the Comptroller of Public Accounts, will be delivered to the Purchaser or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver a single registered, definitive Bond for each maturity, in the aggregate principal amount thereof, to DTC on behalf of the Purchaser.

#### Section 3.05 Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as provided herein (except interest shall be paid to the person in whose name such Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

#### Section 3.06 Registration, Transfer and Exchange.

(a) So long as any Bonds remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of the Bonds presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) Each exchange Bond delivered by the Paying Agent/ Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.



(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for any different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Bond called for redemption, in whole or in part, where such redemption is scheduled to occur within forty five (45) calendar days after the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

#### Section 3.07 Cancellation.

All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be cancelled and proper records shall be made regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall then return such cancelled Bonds to the City or may in accordance with law destroy such cancelled Bonds and periodically furnish the City with certificates of destruction of such Bonds.

#### Section 3.08 Temporary Bonds.

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and shall authenticate and deliver in exchange therefor Bonds of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

#### Section 3.09 Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a



replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

### Section 3.10 Book-Entry Only System.

(a) Notwithstanding any other provision hereof, upon initial issuance of the Bonds, the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate fully registered certificate for each of the maturities thereof.



(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a bondholder, as shown in the Register of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of and interest on such Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) An Authorized Officer is authorized and directed to execute and deliver the Representation Letter applicable to the City's obligations (including the Bonds) delivered in book-entry-only form to DTC as securities depository.

Section 3.11 Successor Securities Depository; Transfer Outside Book-Entry Only System.

In the event that the City determines that it is in the best interest of the City and the beneficial owners of the Bonds that they be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository; or (ii) notify DTC and DTC Participants of the availability through DTC of certificated Bonds and cause the Paying Agent/Registrar to transfer one or more separate registered Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.



Section 3.12 Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Representation Letter.

ARTICLE IV  
REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01 Limitation on Redemption.

The Bonds shall be subject to redemption before scheduled maturity only as provided in this Article IV and the Pricing Certificate.

Section 4.02 Optional Redemption.

(a) The City reserves the option to redeem Bonds on the terms and in the manner provided in the Form of Bond attached hereto as Exhibit C, with such changes as are required by the Pricing Certificate.

(b) Except as otherwise provided in a Pricing Certificate, if less than all of the Bonds are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot, or by any other customary method that results in a random selection, the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The City, at least forty-five (45) days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

Section 4.03 Mandatory Sinking Fund Redemption.

Bonds designated as "Term Bonds," if any, in the Pricing Certificate are subject to scheduled mandatory redemption and will be redeemed by the City, out of moneys available for such purpose in the Interest and Sinking Fund, in the manner provided in the Form of Bond attached hereto as Exhibit C, with such changes as are required by the Pricing Certificate. Term Bonds shall be subject to mandatory redemption at the price, on the dates, and in the respective principal amounts set forth in the Pricing Certificate.

Section 4.04 Partial Redemption.

(a) Except as otherwise provided in a Pricing Certificate, a portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Bond as though it were a single Bond for purposes of selection for redemption.



(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

#### Section 4.05 Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by United States mail, first class postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the Business Day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) The City reserves the right to give notice of its election or direction to redeem Bonds under Section 4.02 conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

(d) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

#### Section 4.06 Payment Upon Redemption.

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Bonds being redeemed.



(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

Section 4.07 Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance and subject to any conditions or rights reserved by the City under Section 4.05(c), the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in its obligation to make provision for the payment of the principal thereof, or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall remain outstanding and continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the City.

Section 4.08 Lapse of Payment.

Money set aside for the redemption of Bonds and remaining unclaimed by the Owners of such Bonds shall be subject to the provisions of Section 3.03(f) hereof.

ARTICLE V  
PAYING AGENT/REGISTRAR

Section 5.01 Appointment of Paying Agent/Registrar.

The form of Paying Agent/Registrar Agreement presented at the meeting at which this Ordinance was approved and the appointment of the Paying Agent/Registrar identified therein are hereby approved.

The Mayor is hereby authorized and directed to execute the Paying Agent/Registrar Agreement with the Paying Agent/Registrar, specifying the duties and responsibilities of the City and the Paying Agent/Registrar, in substantially the form presented at the meeting at which this Ordinance was approved with such changes as may be approved by an Authorized Officer. The signature of the Mayor shall be attested by the City Secretary.

Section 5.02 Qualifications.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.



Section 5.03 Maintaining Paying Agent/Registrar.

(a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

Section 5.04 Termination.

The City, upon not less than sixty (60) days' notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

Section 5.05 Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by United States mail, first class postage prepaid, at the address in the Register thereof, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06 Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

Section 5.07 Delivery of Records to Successor.

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

ARTICLE VI  
FORM OF THE BONDS

Section 6.01 Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds, (i) shall be generally in the form set forth in Exhibit C hereto, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as,



consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds, if any, shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

#### Section 6.02 CUSIP Registration.

The City or the Purchaser may secure identification numbers through CUSIP Global Services, managed on behalf of the American Bankers Association by S&P Capital IQ, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

#### Section 6.03 Legal Opinion.

The approving legal opinion of Orrick, Herrington & Sutcliffe LLP, Bond Counsel, may be attached to or printed on the reverse side of each Bond over the certification of the City Secretary of the City, which may be executed in facsimile.

#### Section 6.04 Statement of Insurance.

A statement relating to a municipal bond insurance policy, if any, to be issued for any Bond or Bonds may be printed on or attached to such Bond.

### ARTICLE VII SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS

#### Section 7.01 Sale of Bonds; Official Statement.

(a) The Bonds shall be sold to the Purchaser in accordance with the terms of this Ordinance, including this Section 7.01(a) and Exhibit B hereto, provided that all of the conditions set forth in Exhibit B can be satisfied. As authorized by Chapter 1207, the Authorized Officer is authorized to act on behalf of the City, upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering the Bonds, and carrying out the other procedures specified in this Ordinance, including determining (i) the manner of sale (which may be by private placement, public, private, negotiated or competitive sale, limited or public offering or any combination thereof), (ii) the total aggregate principal amount and the number of series of the Bonds (including the aggregate principal amount of each series of Bonds issued to effect the



purposes identified in Section 3.01 of this Ordinance), (iii) the date(s) on which the Bonds of each series will be sold and delivered, (iv) whether to acquire bond insurance for the Bonds, (v) the price at which the Bonds will be sold, (vi) the Refunding Candidates to be refunded by the Bonds, and their redemption dates, (vii) the number and title or designation for the Bonds of each series, (viii) whether particular Bonds will be issued as Tax-Exempt Bonds or Taxable Bonds, (ix) the form in which the Bonds shall be issued, (x) the dates on which the Bonds will mature, the principal amount to mature in each year, the rate of interest to be borne by each such maturity, the interest payment dates, and the initial date from which interest will accrue, (xi) the dates, prices and other terms upon and at which the Bonds shall be subject to redemption prior to maturity (including terms for optional and mandatory sinking fund redemption), and (xii) all other terms and provisions of the Bonds and all other matters relating to the issuance, sale and delivery thereof and the refunding of the Refunded Obligations, all of which shall be specified in the Pricing Certificate.

The Authorized Officer may approve modifications to this Ordinance to conform to the terms of the Bonds, as approved by the Authorized Officer, and execute any instruments, agreements and other documents as the Authorized Officer shall deem necessary or appropriate in connection with the issuance, sale and delivery of Bonds pursuant to this Ordinance.

The authority granted to the Authorized Officer under this Section 7.01(a) shall expire at 11:59 p.m., on the first anniversary of the date of adoption of this Ordinance (the "Expiration Date"), unless otherwise extended by the City Council by separate action. Bonds sold pursuant to a Purchase Contract (in the case of a private placement or negotiated sale) or winning bid (in the case of a competitive offering) executed on or before the Expiration Date may be delivered after such date.

In satisfaction of Section 1201.022(a)(3), Texas Government Code, the City Council hereby determines that the delegation of the authority to the Authorized Officer to approve the final terms and conditions of each series of the Bonds as set forth in this Ordinance is, and the decisions made by the Authorized Officer pursuant to such delegated authority and incorporated in a Pricing Certificate will be, in the best interests of the City and shall have the same force and effect as if such determination were made by the City Council, and the Authorized Officer is hereby authorized to make and include in a Pricing Certificate an appropriate finding to that effect. Any finding or determination made by the Authorized Officer relating to the issuance and sale of the Bonds and the execution of the Purchase Contract in connection therewith shall have the same force and effect as a finding or determination made by the City Council.

(b) The Authorized Officer is hereby authorized and directed to execute and deliver the Purchase Contract (in the case of a private placement or negotiated sale) or the winning bid (in the case of a competitive offering) in the form and on the terms approved by the Authorized Officer and all other officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds.

(c) The form and substance of a Preliminary Official Statement and any addenda, supplement or amendment thereto, prepared for use in connection with the public offering and sale of each series of Bonds is hereby approved, with such appropriate variations in the form of any



Preliminary Official Statement previously prepared, as shall be approved by the Authorized Officer, and such Preliminary Official Statement is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Authorized Officer is hereby authorized and directed to cause to be prepared a final Official Statement (the "Official Statement") incorporating applicable pricing information and other terms pertaining to the Bonds, and to execute the same by manual or facsimile signature and deliver appropriate numbers of executed copies thereof to the Purchaser. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Authorized Officer and the Purchaser, may be used by the Purchaser in the public offering and sale of the Bonds. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Bonds by the Purchaser, is hereby ratified, approved and confirmed. In the event the Bonds are sold pursuant to a competitive sale, the Authorized Officer is hereby authorized to approve the preparation and distribution of a notice of sale.

(d) All officers of the City are authorized to execute such documents, certificates, receipts and other instruments as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the terms of sale therefor including, without limitation, the Purchase Contract.

(e) The obligation of the Purchaser to accept delivery of the Bonds is subject to the closing conditions set forth in the Purchase Contract being satisfied, including specifically the Purchaser being furnished with the final, approving opinion of Bond Counsel, which opinion shall be dated as of and delivered on the Closing Date.

#### Section 7.02 Control and Delivery of Bonds.

(a) The Authorized Officer of the City is hereby authorized to have control of the Initial Bonds and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Purchaser under and subject to the general supervision and direction of the Authorized Officer, against receipt by the City of all amounts due to the City under the terms of sale.

(c) In the event the Mayor or City Secretary is absent or otherwise unable to execute any document or take any action authorized herein, the Mayor Pro Tem and the Assistant City Secretary, respectively, shall be authorized to execute such documents and take such actions, and the performance of such duties by the Mayor Pro Tem and the Assistant City Secretary shall for the purposes of this Ordinance have the same force and effect as if such duties were performed by the Mayor and City Secretary, respectively.



Section 7.03 Deposit of Proceeds.

Proceeds from the sale of the Bonds shall be applied in accordance with the provisions set forth in the Pricing Certificate, which may provide for the creation of any special accounts deemed necessary or appropriate by the Authorized Officer. In addition, in furtherance of the authority conferred by this Ordinance, any Authorized Officer may direct that lawfully available funds of the City be applied (in such amounts as the Authorized Officer shall direct), deposited and invested to effect the purposes of the Bonds and this Ordinance.

ARTICLE VIII  
INVESTMENTS

Section 8.01 Investments.

(a) Money in the Interest and Sinking Fund created by this Ordinance and any special accounts provided for in the Pricing Certificate pursuant to Section 7.03, at the City's option, may be invested in such securities or obligations as permitted under applicable law. The Authorized Officer, and any other officer of the City authorized to make investments on behalf of the City, are hereby authorized and directed to execute and deliver, on behalf of the City, any and all investment agreements, guaranteed investment contracts or repurchase agreements in connection with the investment of moneys on deposit in the Interest and Sinking Fund and the special account provided for in the Pricing Certificate pursuant to Section 7.03, but only to the extent such investment agreements, guaranteed investment contracts or repurchase agreements are authorized investments under applicable law.

(b) Any securities or obligations in which money in the Interest and Sinking Fund is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the fund from which the investment was made.

Section 8.02 Investment Income.

(a) Interest and income derived from investment of the Interest and Sinking Fund shall be credited to such fund.

(b) Interest and income derived from investment of other funds to be deposited pursuant to Section 7.03 hereof shall be credited to the fund or account where deposited or shall be transferred to the Interest and Sinking Fund as shall be determined by the City Council.

ARTICLE IX  
PARTICULAR REPRESENTATIONS AND COVENANTS

Section 9.01 Payment of the Bonds.

On or before each Interest Payment Date for the Bonds and while any of the Bonds are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of the Bonds as



will accrue or mature on the applicable Interest Payment Date, maturity date or date of prior redemption.

#### Section 9.02 Other Representations and Covenants.

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Bond; the City will promptly pay or cause to be paid the principal of and interest on each Bond on the dates and at the places and manner prescribed in such Bond; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The City is duly authorized under the laws of the State of Texas to issue the Bonds; all action on its part for the creation and issuance of the Bonds has been duly and effectively taken; and the Bonds in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

#### Section 9.03 Covenants to Maintain Tax Exempt Status.

(a) The City intends that the interest on the Tax-Exempt Bonds shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and all applicable temporary, proposed and final regulations (the "Regulations") and procedures promulgated thereunder and applicable to the Tax-Exempt Bonds: For this purpose, the City covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Tax-Exempt Bonds (including all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with the proceeds of the Tax-Exempt Bonds) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause interest on the Tax-Exempt Bonds to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Tax-Exempt Bonds for federal income tax purposes. Without limiting the generality of the foregoing, the City shall comply with each of the following covenants:

(i) The City will use all of the proceeds of the Tax-Exempt Bonds to (i) provide funds for the purposes described in Section 3.01 hereof, and (ii) to pay the costs of issuing the Tax-Exempt Bonds. Other than as described in Section 3.01 hereof, the City will not use any portion of the proceeds of the Tax-Exempt Bonds to pay the principal of or interest or redemption premium on, any other obligation of the City or a related person.

(ii) All property financed or refinanced with the proceeds of the Tax-Exempt Bonds will be owned and operated by the City. The City will not directly or indirectly take any action, or omit to take any action, which action or omission would cause the Tax-Exempt Bonds to constitute "private activity bonds" within the meaning of Section 141(a) of the Code.

(iii) Principal of and interest on the Tax-Exempt Bonds will be paid solely from ad valorem taxes collected by the City and investment earnings on such collections.



(iv) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Tax-Exempt Bonds are delivered, the City reasonably expects that the proceeds of the Tax-Exempt Bonds will not be used in a manner that would cause the Tax-Exempt Bonds or any portion thereof to be an "arbitrage bond" within the meaning of Section 148 of the Code.

(v) At all times while the Tax-Exempt Bonds are outstanding, the City will identify and properly account for all amounts constituting gross proceeds of the Tax-Exempt Bonds in accordance with the Regulations. The City will monitor the yield on the investments of the proceeds of the Tax-Exempt Bonds and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Tax-Exempt Bonds. To the extent necessary to prevent the Tax-Exempt Bonds from constituting "arbitrage bonds," the City will make such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Tax-Exempt Bonds to be less than the yield that is materially higher than the yield on the Tax-Exempt Bonds.

(vi) The City will not take any action or knowingly omit to take any action that, if taken or omitted, would cause the Tax-Exempt Bonds to be treated as "federally guaranteed" obligations for purposes of Section 149(b) of the Code.

(vii) The City represents that not more than fifty percent (50%) of the proceeds of the Refunded Obligations were invested in nonpurpose investments (as defined in Section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and on the date of issue of the Refunded Obligations, the City reasonably expected that at least eighty-five percent (85%) of the spendable proceeds of the Refunded Obligations would be used to carry out the governmental purpose of the Refunded Obligations within the three-year period beginning on the issue date of Refunded Obligations .

(viii) The City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Tax-Exempt Bonds, if any, be rebated to the federal government. Specifically, the City will (i) maintain records regarding the receipt, investment, and expenditure of the gross proceeds of the Tax-Exempt Bonds as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the City allocable to other obligations of the City or moneys which do not represent gross proceeds of any obligations of the City and retain such records for at least six years after the day on which the last outstanding Tax-Exempt Bond is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of any gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Tax-Exempt Bonds and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the City will exercise reasonable diligence to assure that no errors



are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, interest thereon and any penalty.

(ix) The City will not directly or indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Tax-Exempt Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the Tax-Exempt Bonds not been relevant to either party.

(x) The City will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Tax-Exempt Bonds on such form and in such place as the Secretary may prescribe.

(xi) The City will not issue or use the Tax-Exempt Bonds as part of an "abusive arbitrage device" (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Tax-Exempt Bonds are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the City to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(xii) Proper officers of the City charged with the responsibility for issuing the Tax-Exempt Bonds are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the date of issuance of the Tax-Exempt Bonds and stating whether there are facts, estimates or circumstances that would materially change the City's expectations. On or after the date of issuance of the Tax-Exempt Bonds, the City will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(xiii) The covenants and representations made or required by this Section are for the benefit of the Tax-Exempt Bond holders and any subsequent Tax-Exempt Bond holder, and may be relied upon by the Tax-Exempt Bond holders and any subsequent Tax-Exempt Bond holder and bond counsel to the City.

(b) In complying with the foregoing covenants, the City may rely upon an unqualified opinion issued to the City by nationally recognized bond counsel that any action by the City or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Tax-Exempt Bonds to be includable in gross income for federal income tax purposes under existing law.

(c) Notwithstanding any other provision of this Ordinance, the City's representations and obligations under the covenants and provisions of this Section shall survive the defeasance



and discharge of the Tax-Exempt Bonds for as long as such matters are relevant to the exclusion of interest on the Tax-Exempt Bonds from the gross income of the owners for federal income tax purposes.

## ARTICLE X DEFAULT AND REMEDIES

### Section 10.01 Events of Default.

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or
- (ii) default in the performance or observance of any other covenant, agreement or obligation of the City, which default materially and adversely affects the rights of the Owners, including but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Owner to the City.

### Section 10.02 Remedies for Default.

- (a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.
- (b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Bonds then outstanding.

### Section 10.03 Remedies Not Exclusive.

- (a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.
- (b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.



## ARTICLE XI DISCHARGE

### Section 11.01 Discharge.

Except as otherwise provided in the Pricing Certificate, the Bonds may be defeased, discharged or refunded in any manner permitted by applicable law.

## ARTICLE XII CONTINUING DISCLOSURE UNDERTAKING

### Section 12.01 Annual Reports.

(a) The City shall provide annually to the MSRB, (1) within six (6) months after the end of each Fiscal year of the City, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 7.01 of this Ordinance, being information of the type described in Exhibit A hereto, including financial statements of the City if audited financial statements of the City are then available, and (2) if not provided as part such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within twelve (12) months after any such Fiscal year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable Fiscal year, when and if the audit report on such financial statements becomes available.

(b) If the City changes its Fiscal year, it will notify the MSRB of the change (and of the date of the new Fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific referenced to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

(d) An Authorized Officer is authorized to establish and implement written procedures to ensure compliance with the reporting requirements imposed by this Section. Such procedures may be modified and amended by the Authorized Officer from time to time to the extent the modification or amendment of such procedures are deemed necessary, useful or appropriate.

### Section 12.02 Event Notices.

(a) The City shall notify the MSRB, in a timely manner (not in excess of ten (10) Business Days after the occurrence of an event), of any of the following events with respect to the Bonds:



- (i) principal and interest payment delinquencies;
- (ii) nonpayment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of Owners, if material;
- (viii) redemption calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the City;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor trustee or change in the name of the trustee, if material;
- (xv) Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- (xvi) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (xii) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent,



or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the City in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City, and (b) the City intends the words used in the immediately preceding paragraphs (xv) and (xvi) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

(b) The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 12.01 of this Ordinance by the time required by such Section.

#### Section 12.03 Identifying Information.

All documents provided to the MSRB pursuant to this Article shall be provided in electronic format and be accompanied by identifying information as prescribed by the MSRB.

#### Section 12.04 Limitations, Disclaimers and Amendments.

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any Bond calls and any defeasances that cause the City to be no longer an “obligated person.”

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.



(c) No default by the City in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the outstanding Bonds consent to such amendment or (B) an entity or individual person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in type of financial information or operating data so provided.

### ARTICLE XIII AMENDMENTS; ATTORNEY GENERAL MODIFICATION

#### Section 13.01 Amendments.

This Ordinance shall constitute a contract with the Owners, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains outstanding except as permitted in this Section. The City may, without consent of or notice to any Owners, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of the Owners of the Bonds holding a majority in aggregate principal amount of the Bonds then outstanding, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Owners of outstanding Bonds, no such amendment, addition, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, or interest on the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of Bonds required to be held by Owners for consent to any such amendment, addition, or rescission.

#### Section 13.02 Attorney General Modification.

In order to obtain the approval of the Bonds by the Attorney General of the State of Texas, any provision of this Ordinance may be modified, altered or amended after the date of its adoption



if required by the Attorney General in connection with the Attorney General's examination as to the legality of the Bonds and approval thereof in accordance with the applicable law. Such changes, if any, shall be provided to the City Secretary and the City Secretary shall insert such changes into this Ordinance as if approved on the date hereof.

#### ARTICLE XIV REDEMPTION OF REFUNDED OBLIGATIONS

##### Section 14.01 Redemption of Refunded Obligations.

(a) The City hereby calls the Refunded Obligations for redemption prior to maturity on the dates and at the prices set forth in the Pricing Certificate.

(b) The Authorized Officer is hereby authorized and directed to cause a copy of this Ordinance to be delivered to each paying agent/registrar for the Refunded Obligations, together with the Pricing Certificate therefor, the delivery of which shall constitute notice of redemption and notice of defeasance to such paying agent/registrar.

##### Section 14.02 Arrangements for Defeasance of Refunded Obligations.

The Authorized Officer may execute and deliver escrow agreements, deposit agreements or similar agreements (each an "Escrow Agreement"), letters of instructions or any other instruments relating to the safekeeping, investment, administration and disposition of moneys deposited to effect the defeasance of the Refunded Obligations in such form and subject to such terms and conditions as the Authorized Officer determines may be necessary or convenient to carry out the intent and purpose of this Ordinance. An Authorized Officer is further authorized to solicit bids and subscribe for and make other arrangements for the purchase of Defeasance Securities, as may be necessary for the defeasance of the Refunded Obligations, and the solicitation of offers and application for the acquisition of the Defeasance Securities is hereby approved and ratified.

##### Section 14.03 Notice of Redemption.

Each paying agent/registrar for the Refunded Obligations is hereby authorized and directed to give notice of redemption and deposit with respect to the Refunded Obligations as required under the ordinance pursuant to which the Refunded Obligations were issued.

#### ARTICLE XV EFFECTIVE IMMEDIATELY

##### Section 15.01 Effective Immediately.

Notwithstanding the provisions of the City Charter, this Ordinance shall become effective immediately upon its adoption at this meeting pursuant to Section 1201.028, Texas Government Code.

*[Signature Page Follows.]*



PRESENTED, FINALLY PASSED AND APPROVED, AND EFFECTIVE on the 8<sup>th</sup> day of October, 2024, at a regular meeting of the City Council of the City of Lubbock, Texas.

\_\_\_\_\_  
MARK MCBRAYER, Mayor

ATTEST:

\_\_\_\_\_  
COURTNEY PAZ, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: Cheryl Brock  
CHERYL BROCK, Interim Chief Financial Officer

APPROVED AS TO FORM:

By: J. V. Kyle, Jr.  
JERRY V. KYLE, JR., Bond Counsel



## **SCHEDULE I**

### **REFUNDING CANDIDATES**

All outstanding maturities of the following obligations of the City:

- General Obligation Refunding Bonds, Series 2014
- General Obligation Refunding Bonds, Series 2015
- General Obligation Refunding Bonds, Taxable Series 2015
- Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2015



## **EXHIBIT A**

### **DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION\***

The following information is referred to in Article XII of this Ordinance.

#### **Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as APPENDIX B, but for the most recently concluded Fiscal year.

2. Statistical and financial data set forth in the Official Statement in "APPENDIX A - FINANCIAL INFORMATION REGARDING THE CITY" (Tables 1-5 and 7-17).

#### **Accounting Principles**

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in Paragraph 1 above.

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\* Subject to any changes prescribed by the Pricing Certificate.



## **EXHIBIT B**

### **SALE PARAMETERS**

In accordance with Section 7.01(a) of the Ordinance, the following conditions with respect to the Bonds must be satisfied in order for the Authorized Officer to act on behalf of the City in selling and delivering the Bonds to the Purchaser:

(a) the price to be paid for the Bonds of any series shall not be less than 90% of the aggregate principal amount of the Bonds of such series;

(b) the Bonds of any series shall not bear interest at a rate greater than the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;

(c) no Bond shall mature later than the final maturity date of the Refunded Obligations designated in the Pricing Certificate for the Bonds of such series;

(d) the principal amount of the Bonds of each series shall produce proceeds in an amount sufficient, as determined by the Authorized Officer, to fund the purpose(s) identified in Section 3.01 for which such Bonds are issued, and the aggregate principal amount of all Bonds issued for the purposes identified in Section 3.01 shall not exceed the maximum amount authorized in Section 3.01;

(e) the refunding of the Refunded Obligations shall result in (i) positive gross debt service savings and (ii) net present value debt service savings of at least two percent (2.0%) of the principal amount of the Refunded Obligations; and

(f) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.



## EXHIBIT C

### FORM OF THE BONDS

The form of the Bond, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds, shall be generally as follows, provided, however, that the substantially final form of the Bonds shall be set forth in or attached to the Pricing Certificate and shall incorporate and reflect the final terms of the Bonds set forth in the Pricing Certificate:

(a) Form of Bonds.

REGISTERED  
No. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

United States of America  
State of Texas  
County of Lubbock  
CITY OF LUBBOCK, TEXAS  
GENERAL OBLIGATION REFUNDING BOND  
[TAXABLE] SERIES 2024

INTEREST RATE: \_\_\_\_\_%      MATURITY DATE: \_\_\_\_\_      BOND DATE: \_\_\_\_\_<sup>1</sup>      CUSIP NUMBER: \_\_\_\_\_

The City of Lubbock (the "City"), in the County of Lubbock, State of Texas, for value received, hereby promises to pay to

\_\_\_\_\_ or registered assigns, on the Maturity Date specified above, the sum of

\_\_\_\_\_ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the Bond Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360 day year of twelve 30 day months, such interest to be paid semiannually on February 15 and August 15 of each year, commencing \_\_\_\_\_.<sup>2</sup> All capitalized terms used herein but not defined shall have the meaning assigned to them in the Ordinance (defined below).

<sup>1</sup> Information to be inserted from Pricing Certificate.

<sup>2</sup> Information to be inserted from Pricing Certificate.



The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate trust office in Dallas, Texas (the "Designated Payment/Transfer Office") of The Bank of New York Mellon Trust Company, National Association, the initial Paying Agent/Registrar or, with respect to a successor Paying Agent/Registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Bond is payable by check dated as of the interest payment date, and will be mailed by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the registered owner; provided, however, such registered owner shall bear all risk and expenses of such customary banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the last Business Day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a scheduled payment date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each owner of a Bond appearing in the registration books of the Paying Agent/Registrar at the close of business on the last Business Day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday, or day on which banking institutions are required or authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

This Bond is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$ \_\_\_\_\_<sup>3</sup> (herein referred to as the "Bonds"), issued pursuant to a certain ordinance of the City (the "Ordinance") for the purposes of providing funds with which to refund certain outstanding obligations of the City, and to pay the costs of issuing the Bonds.

[The City has reserved the option to redeem the Bonds maturing on or after February 15, 20\_\_, in whole or in part, before their respective scheduled maturity dates, on \_\_\_\_\_, 20\_\_, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be

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<sup>3</sup> Information to be inserted from Pricing Certificate.



redeemed and shall direct the Paying Agent/Registrar to call by lot or other customary method that results in a random selection the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption] [Bonds maturing on February 15 in each of the years \_\_\_\_\_ through \_\_\_\_\_, inclusive (the "Term Bonds"), are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the City, in part at a redemption price equal to the principal amount thereof, without premium, plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

Term Bonds Maturing February 15, 20\_\_\_\_

<u>Redemption Date</u>	<u>Principal Amount</u>
February 15, 20____	
February 15, 20____	
February 15, 20____ (maturity)	

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Bonds which, at least forty-five (45) days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.<sup>4</sup>

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. In the Ordinance, the City reserves the right in the case of an optional redemption to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make

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<sup>4</sup> Insert mandatory sinking fund redemption provisions, if any, and revise as necessary to conform to the Pricing Certificate.



moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.]<sup>5</sup>

As provided in the Ordinance, and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the designated office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within forty five (45) calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date or Special Record Date, as applicable) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Paying Agent/Registrar shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Bond and the series of which it is a part is duly authorized by law; that all acts, conditions and things required to be done precedent to and in the issuance of the Bonds have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that ad valorem taxes upon all taxable property in the City have been levied for and pledged to the payment of the debt service requirements of the Bonds, within the limit prescribed by law; and that the total indebtedness of the City, including the Bonds, does not exceed any constitutional or statutory limitation.

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<sup>5</sup> Insert mandatory sinking fund redemption provisions, if any, and conform as necessary to the Pricing Certificate.



IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

\_\_\_\_\_  
Mayor, City of Lubbock, Texas

\_\_\_\_\_  
City Secretary,  
City of Lubbock, Texas

[SEAL]

(b) Form of Comptroller's Registration Certificate.

The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such certificate on the Initial Bond is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding obligation of the City of Lubbock, Texas, and that this Bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, \_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Comptroller of Public Accounts of the State  
of Texas

(c) Form of Certificate of Paying Agent/Registrar. The following Certificate of Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.



## CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that the Initial Bond of this series of Bonds was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Bonds referred to in the within-mentioned Ordinance.

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, NATIONAL  
ASSOCIATION

\_\_\_\_\_  
as Paying Agent/Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Signatory

(d) Form of Assignment.

### ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): \_\_\_\_\_

\_\_\_\_\_  
(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed By:

\_\_\_\_\_  
Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) The Initial Bond shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below"; and



(ii) in the first paragraph of the Bond, the words “on the Maturity Date specified above” shall be deleted and the following will be inserted: “on February 15 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

Years

Principal Installments

Interest Rate

(Information to be inserted from the Pricing Certificate  
pursuant to Section 3.02 of this Ordinance)



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## Information

### Agenda Item

**Ordinance Single Reading - Finance:** Consider an ordinance providing for the issuance of City of Lubbock, Texas, Water and Wastewater System Revenue Refunding Bonds not to exceed \$65,000,000, in one or more series, of current outstanding bond issuances with the refunding candidates being the General Obligation Refunding Bonds, Series 2014, Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2015, and General Obligation Refunding Bonds, Series 2015; providing for the award of the sale thereof in accordance with specified parameters; approving an official statement; approving execution of a purchase contract; and enacting other provisions relating thereto.

### Item Summary

The City's bonds are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapter 1207, Chapter 1371, and Article VIII of the City's Home-Rule Charter. The bonds may be issued, from time to time, in one or more series, on the dates and in the aggregate principal amount designated in the Pricing Certificate, for the purpose of:

- (i) payment of professional services of attorneys, financial advisors, engineers, and other professionals in connection with the Project and the issuance of the Certificates;
- (ii) refunding the Refunded Obligations; and
- (iii) paying the costs of issuing the Bonds and refunding the Refunded Obligations.

Current outstanding bond issuances that are refunding candidates are:

1. General Obligation Refunding Bonds, Series 2014;
2. Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2015; AND,
3. General Obligation Refunding Bonds, Series 2015.

### Fiscal Impact

The aggregate principal amount of all Bonds issued pursuant to this ordinance shall not exceed \$65,000,000.

### Staff/Board Recommending

Cheryl Brock, Interim Chief Financial Officer

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## Attachments

2024 WWW Refunding Ordinance



Ordinance No. 2024 – \_\_\_\_\_

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ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS  
WATER AND WASTEWATER SYSTEM  
REVENUE REFUNDING BONDS

Adopted: October 8, 2024

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, WATER AND WASTEWATER SYSTEM REVENUE REFUNDING BONDS, IN ONE OR MORE SERIES; PROVIDING FOR THE AWARD OF THE SALE THEREOF IN ACCORDANCE WITH SPECIFIED PARAMETERS; APPROVING AN OFFICIAL STATEMENT; APPROVING EXECUTION OF A PURCHASE CONTRACT; AND ENACTING OTHER PROVISIONS RELATING THERETO

WHEREAS, in accordance with the Constitution and laws of the State of Texas, specifically Chapter 1502, Texas Government Code, as amended ("Chapter 1502"), the City Council (the "City Council") of the City of Lubbock, Texas (the "City") has previously determined that it is in the best interest of the City to create and maintain a combined water and wastewater system (the "Water and Wastewater System" or the "System");

WHEREAS, the City Council hereby finds and determines that bonds secured by a first lien on and pledge of the Net Revenues of the Water and Wastewater System should be issued for the purposes hereinafter provided;

WHEREAS, Chapter 1207, Texas Government Code, as amended ("Chapter 1207"), authorizes the City to issue refunding bonds to refund all or a portion of the outstanding obligations of the City identified on Schedule I attached hereto (collectively, the "Refunding Candidates");

WHEREAS, the City now desires to refund all or a portion of such Refunding Candidates (such refunded obligations to be hereinafter referred to as the "Refunded Obligations");

WHEREAS, Chapter 1207 further authorizes the City to deposit the proceeds from the sale of refunding bonds, together with any other available funds or resources, directly with the paying agent for any of the Refunded Obligations or a trust company or commercial bank, and such deposit, if made before the payment dates therefor, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations;

WHEREAS, the City Council hereby finds and determines that the refunding contemplated by this Ordinance will benefit the City by providing present value debt service savings in an amount or amounts to be certified in the Pricing Certificate(s) (hereinafter defined) and that such benefit is sufficient consideration for the issuance of refunding bonds, as provided by this Ordinance, and the refunding of the Refunded Obligations;

WHEREAS, the City is an "Issuer" within the meaning of Chapter 1371, Texas Government Code ("Chapter 1371"), as amended, and the City Council desires to delegate, pursuant to Chapters 1207 and 1371 and the parameters of this Ordinance, to the Authorized Officer (hereinafter defined), the authority to approve the terms of the bonds authorized hereby and to otherwise take such actions as are necessary and appropriate to effect the sale of such bonds and the refunding of the Refunded Obligations;

WHEREAS, the revenue bonds hereinafter authorized are to be issued and delivered pursuant to Chapter 1207 and Chapter 1371 and in accordance with the general laws of the State of Texas; and



WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended;

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

ARTICLE I  
DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01 Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Account” means any account created within a Fund established pursuant to the terms of this Ordinance or an ordinance authorizing the issuance of Parity Obligations.

“Additional Bonds” means the additional parity obligations the City reserves the right to issue in accordance with the terms and conditions prescribed in Section 9.01 hereof.

“Authorized Officer” means each of the Mayor, the City Manager and the Chief Financial Officer, acting individually.

“Bond” means any of the Bonds.

“Bond Date” means the date designated as the initial date of the Bonds by Section 3.02(a) of this Ordinance.

“Bond Fund” has the meaning assigned in Section 7.01 hereof.

“Bonds” means the bonds authorized to be issued by Section 3.01 of this Ordinance.

“Business Day” means any day other than a Saturday, Sunday or legal holiday or other day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are required or authorized by law or executive order to close.

“Chapter 1207” means Chapter 1207, Texas Government Code, as amended.

“Chapter 1208” means Chapter 1208, Texas Government Code, as amended.

“Chapter 1371” means Chapter 1371, Texas Government Code, as amended.

“Chapter 1502” means Chapter 1502, Texas Government Code, as amended.

“Chief Financial Officer” means the Chief Financial Officer of the City or such other City official or officer who has assumed the duties of the Chief Financial Officer.

“City” means the City of Lubbock, Texas.



“Closing Date” means the date of the initial delivery of and payment for Bonds.

“Code” means the Internal Revenue Code of 1986, as amended by all legislation, if any, enacted on or before the Issue Date.

“Computation Date” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Covered Parity Bonds” means Parity Bonds (other than TWDB Bonds) designated as Covered Parity Bonds.

“Credit Facility” means an agreement (including a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase Parity Bonds, purchase or sale agreement, or commitment or other contract) that is (a) authorized, recognized and approved by the City as a Credit Facility in connection with the authorization, issuance, security, or payment of Parity Bonds or (b) entered into with a financial institution for the purpose of (i) enhancing or supporting the creditworthiness of (A) a series or installment of Parity Bonds or (B) all of the Parity Bonds, (ii) providing a surety policy or other similar instrument in order to fund all or a portion of a Reserve Fund Requirement for one or more series of Parity Bonds, or (iii) providing liquidity with respect to a series or installment of Parity Bonds which by their terms are subject to tender for purchase, and which, by its terms, creates a liability on the part of the City on a parity with the Parity Bonds; provided that, on the date any such credit facility is issued, any rating agency having an outstanding rating on the Parity Bonds would not lower the rating on the Parity Bonds as confirmed in writing by such rating agency. A determination by the City Council contained in the ordinance authorizing the issuance of Parity Bonds and/or authorizing the execution and delivery of a Credit Facility that such agreement constitutes a Credit Facility under this definition shall be conclusive as against all Owners.

“Debt Service” means, as of any particular date of computation, with respect to any series or installment of obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the City as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming in the case of obligations required to be redeemed or prepaid as to principal prior to maturity, the principal amounts thereof will be redeemed or paid prior to maturity in accordance with the mandatory redemption or prepayment provisions applicable thereto.

“Defeasance Securities” has the meaning assigned in the Escrow Agreement.

“Designated Payment/Transfer Office” means the Designated Payment/Transfer Office, as designated in the Paying Agent/Registrar Agreement, or such other location designated by the Paying Agent/Registrar.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.



“EMMA” means the Electronic Municipal Market Access System.

“Escrow Agreement” means an agreement referred to in Section 15.02 of this Ordinance.

“Event of Default” means any event of default as described in Section 11.01 of this Ordinance.

“Financial Obligation” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Fiscal Year” means the twelve (12) month accounting period used by the City in connection with the operations of the System which may be any twelve (12) consecutive month period established by the City.

“Fund” means any of the funds, accounts or a portion of a fund or account, confirmed and/or established pursuant to Article VII hereof.

“General Reserve Fund” has the meaning assigned in Section 7.01 hereof.

“General Reserve Fund Requirement” means an amount equal to the lesser of (i) the maximum annual debt service (calculated on a Fiscal Year basis) for all Outstanding Covered Parity Bonds, as determined on the date of issuance of each series or installment of Additional Bonds issued as Covered Parity Bonds, and annually following each principal payment date or redemption date for the Covered Parity Bonds, as the case may be, or (ii) the maximum amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of section 148 of the Code and regulations promulgated thereunder.

“Initial Bond” means the initial bond or bonds authorized by Section 3.04 of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, as set forth in the Pricing Certificate.

“Investment” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Issue Date” for each series of Bonds or other obligations of the City is the respective date on which such series of Bonds or other obligations of the City is delivered against payment therefor.

“MSRB” means the Municipal Securities Rulemaking Board.

“Net Revenues” means all income, revenues and receipts of every nature derived from and received by virtue of the operation of the System including interest income and earnings received



from the investment of moneys in the special Funds created by this Ordinance or ordinances authorizing Parity Obligations, after deducting and paying, and making provisions for the payment of, current expenses of maintenance and operation thereof, including all salaries, materials, repairs and extensions necessary to render efficient service; provided, however, only such expenses for repairs and extensions as in the judgment of the City Council reasonably and fairly exercised, are necessary to keep the System in operation and to render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair any obligations payable from Net Revenues of the System, shall be deducted in determining "Net Revenues". Contractual payments for the purchase of water or the treatment of sewage shall be a maintenance and operating expense of the System to the extent provided in the contract incurred therefor and as may be authorized by law. Depreciation shall never be considered as an expense of operation and maintenance.

"Non-Recourse Debt" means any debt secured by a lien (other than a lien on Net Revenues), liability for which is effectively limited to the property subject to such lien with no recourse, directly or indirectly, to any other property of the City attributable to the Water and Wastewater System; provided, however, that such debt is being incurred in connection with the acquisition of property only, which property is not, at the time of such occurrence, owned by the City and being used in the operations of the City.

"Official Statement" means a document described in Section 8.01(c) prepared for dissemination to potential investors in connection with the public offering and sale of Bonds.

"Outstanding" when used in this Ordinance with respect to Parity Bonds, means, as of the date of determination, all Parity Bonds theretofore sold, issued and delivered by the City, except:

- (1) those Parity Bonds cancelled or delivered to the transfer agent or registrar for cancellation in connection with the exchange or transfer of such obligations;
- (2) those Parity Bonds paid or deemed to be paid in accordance with the provisions of Section 12.01 of this Ordinance; and
- (3) those Parity Bonds that have been mutilated, destroyed, lost, or stolen and replacement bonds have been registered and delivered in lieu thereof.

"Owner" means the person who is the registered owner of a Bond or Bonds, as shown in the Register.

"Parity Bonds" means any Previously Issued Bonds, the Bonds and Additional Bonds, if any.

"Parity Obligations" means all Parity Bonds, as well as any other obligations issued or incurred by the City that are determined and declared by the City Council of the City to be on a parity with the Parity Bonds, including obligations of the City issued or incurred under the terms of a Credit Facility.



“Paying Agent/Registrar” means the bank or trust company identified in the Paying Agent/Registrar Agreement referred to in Section 5.01 of this Ordinance, or any successor thereto as provided in this Ordinance.

“Preliminary Official Statement” means a document described in Section 8.01(c) prepared for dissemination to potential investors prior to the availability of the final Official Statement.

“Previously Issued Bonds” means Outstanding and unpaid revenue bonds payable from and secured by a first lien on and pledge of the Net Revenues of the System, which consist of the following:

- (i) City of Lubbock, Texas Water and Wastewater System Revenue Bonds, Series 2019,
- (ii) City of Lubbock, Texas Water and Wastewater System Revenue Improvement and Refunding Bonds, Series 2019A,
- (iii) City of Lubbock, Texas Water and Wastewater System Revenue Refunding Bonds, Taxable Series 2019B,
- (iv) City of Lubbock, Texas Water and Wastewater System Revenue Bonds, Series 2020A,
- (v) City of Lubbock, Texas Water and Wastewater System Revenue Refunding Bonds, Series 2020B,
- (vi) City of Lubbock, Texas Water and Wastewater System Revenue Refunding Bonds, Taxable Series 2020C,
- (vii) City of Lubbock, Texas Water and Wastewater System Revenue Bonds, Series 2021,
- (viii) City of Lubbock, Texas Water and Wastewater System Revenue Bonds, Series 2021A,
- (ix) City of Lubbock, Texas Water and Wastewater System Revenue Bonds, Series 2022, and
- (x) City of Lubbock, Texas Water and Wastewater System Revenue Bonds, Series 2023.

“Pricing Certificate” means a certificate or certificates signed by an Authorized Officer establishing the terms and features of each series of Bonds in accordance with Section 8.01 hereof.

“Proceeds” has the meaning stated in Section 1.148-1(b) of the Regulations.

“Purchase Contract” means any contract, agreement or investment letter pursuant to which the Bonds of each series are sold to the Purchaser thereof.



“Purchaser” means the purchaser or purchasers of the Bonds of each series identified in the Pricing Certificate or Purchase Contract.

“Record Date” means the date specified in the Pricing Certificate.

“Refunding Candidates” means the obligations described in Schedule I attached hereto.

“Refunded Obligations” means the Refunding Candidates designated as Refunded Obligations in a Pricing Certificate.

“Register” means the register specified in Section 3.06(a) of this Ordinance.

“Regulations” means the final or temporary Income Tax Regulations applicable to obligations issued pursuant to Sections 141 through 150 of the Code. Any reference to a section of the Regulations shall also refer to any successor provision to such section hereafter promulgated by the Internal Revenue Service pursuant to Sections 141 through 150 of the Code and applicable to the Bonds.

“Representation Letter” means the Blanket Letter of Representations between the City and DTC.

“Reserve Fund Obligations” means cash or investment securities of any of the type or types permitted under Sections 7.04 and 7.09 of this Ordinance (in the case of the General Reserve Fund) or Sections 7.05 and 7.09 of this Ordinance (in the case of the TWDB Reserve Fund).

“Reserve Funds” has the meaning assigned in Section 7.01 hereof.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the special payment date prescribed by Section 3.03(b).

“Special Record Date” means the special record date prescribed by Section 3.03(b).

“Subordinate Obligations” means any debt secured by or payable in whole or in part from revenues of the System or any portion thereof which expressly provides that all payments thereon shall be subordinated to the timely payment of all Parity Obligations then outstanding or subsequently issued.

“System” or “Water and Wastewater System” means the City’s combined water and wastewater system, including all properties and interests in properties (real, personal or mixed and tangible or intangible, including contract rights, water rights and permits) owned, operated, maintained, and vested in, the City for the supply, storage, treatment and distribution of treated water for municipal, domestic, commercial, industrial and other uses and the collection and treatment of watered wastes, together with all future additions, extensions, replacements and improvements thereto; provided that, notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term Water and Wastewater System shall not include



any water or wastewater facilities that are declared not to be a part of the Water and Wastewater System and are acquired or constructed by the City with the proceeds from the issuance of "Special Facilities Bonds," which are hereby defined as being special revenue obligations of the City which are not secured by or payable from the Net Revenues as defined herein, but which are secured by and payable solely from special contract revenues or payments received from any other legal entity in connection with such facilities, and thus constitute Non-Recourse Debt; and such revenues or payments shall not be considered as or constitute gross revenues of the Water and Wastewater System, unless and to the extent otherwise provided in the ordinance or ordinances authorizing the issuance of such "Special Facilities Bonds."

"System Fund" has the meaning assigned in Section 7.01 hereof.

"Taxable Bonds" means any Bonds for which the City does not intend that the interest thereon shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Code, as determined and set forth in the Pricing Certificate therefor.

"Tax-Exempt Bonds" means any Bonds for which the City intends that the interest thereon shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Code, as determined and set forth in the Pricing Certificate therefor.

"Term Bonds" has the meaning set forth in Section 4.02 hereof.

"TWDB" means Texas Water Development Board.

"TWDB Bonds" means Parity Bonds owned by the Texas Water Development Board and designated as TWDB Bonds.

"TWDB Reserve Fund" has the meaning assigned in Section 7.01 hereof.

"TWDB Reserve Fund Requirement" means an amount equal to the lesser of (i) the average annual debt service (calculated on a Fiscal Year basis) for all Outstanding TWDB Bonds, as determined on the date of issuance of each series or installment of Additional Bonds issued as TWDB Bonds, and annually following each principal payment date or redemption date for TWDB Bonds, as the case may be, or (ii) the maximum amount in a reasonably required reserve fund that can be invested without restriction as to yield pursuant to Subsection (d) of section 148 of the Code and regulations promulgated thereunder.

"Unclaimed Payments" mean money deposited with the Paying Agent/Registrar for the payment of principal of, premium, if any, or interest on the Bonds as the same come due and payable and remaining unclaimed by the Owners of such Bonds after the applicable payment or redemption date.



#### Section 1.02 Findings.

- (a) The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.
- (b) The Water and Wastewater System shall be maintained in accordance with this Ordinance as long as the Bonds remain Outstanding.
- (c) The Bonds are payable from and secured by a first lien on and pledge of the Net Revenues of the Water and Wastewater System.
- (d) All conditions precedent to the issuance of the Bonds have been or will be satisfied prior to delivery of the Bonds to the Purchasers.
- (e) Each of the Bonds shall be deemed and construed to be a "Security", and as such a negotiable instrument, within the meaning of Article 8 of the Texas Uniform Commercial Code.
- (f) The provisions of this Ordinance shall constitute a contract between the City and the holder or holders from time to time of the Bonds and no change, variation or alteration of any kind of the provisions of this Ordinance may be made, unless as herein otherwise provided, until all of the Bonds shall have been paid as to both principal and interest.

#### Section 1.03 Table of Contents, Titles and Headings.

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

#### Section 1.04 Interpretation.

- (a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.
- (b) Any action required to be taken on a date which is not a Business Day shall be done on the next succeeding Business Day and have the same effect as if done on the date so required.
- (c) Any duty, responsibility, privilege, power or authority conferred by this Ordinance upon an officer shall extend to an individual who occupies such office in an interim, acting or provisional capacity.
- (d) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.



## ARTICLE II SECURITY FOR THE BONDS

### Section 2.01 Pledge of Security.

The Bonds are and shall be equally and ratably secured by and payable from a first lien on and pledge of the Net Revenues.

The City hereby covenants and agrees that all of the Net Revenues derived from the operation of the System, with the exception of Net Revenues in excess of the amounts required to establish and maintain the special Funds created for the payment and security of the Parity Obligations, are hereby irrevocably pledged for the payment of the Parity Obligations (including the Bonds) and the interest thereon, and it is hereby ordained that the Parity Obligations (including the Bonds) and the interest thereon, shall constitute a first lien on the Net Revenues of the System and be valid and binding without any physical delivery thereof or further act by the City as provided in Chapter 1208, Texas Government Code, as amended.

### Section 2.02 Limited Obligations.

(a) The Bonds are special obligations of the City, payable solely from the pledged Net Revenues, and do not constitute a prohibited indebtedness of the City, and the Bonds shall never be payable out of funds raised or to be raised by taxation.

(b) The Net Revenues shall not in any manner be pledged to the payment of any debt or obligation of the City or the System, other than Parity Obligations, except on a subordinate lien basis.

### Section 2.03 Security Interest.

Chapter 1208 applies to the issuance of the Bonds and the pledge of the Net Revenues granted by the City under Section 2.01 hereof, and such pledge is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the Net Revenues granted by the City is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

## ARTICLE III AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

### Section 3.01 Authorization.

The Bonds are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, including specifically Chapter 1207, Chapter 1371, and Article VIII of the Charter of the City. The Bonds shall bear the title or designation set forth



in the Pricing Certificate therefor and be issued as Covered Parity Bonds in one or more series, from time to time, on the dates and in the principal amount designated in the Pricing Certificate therefor, such aggregate principal amount not to exceed \$65,000,000, for the purposes of (i) refunding the Refunded Obligations and (ii) paying the costs of issuing the Bonds and refunding the Refunded Obligations.

If the Bonds are issued in more than one series, the provisions of this Ordinance shall apply to each such series in the manner, to the extent and subject to such terms and conditions as shall be specified in the Pricing Certificate therefor.

### Section 3.02 Date, Denomination, Maturities and Interest.

(a) The Bonds shall be dated the Bond Date set forth in the Pricing Certificate. The Bonds shall be issued in fully registered form, without coupons, in the denomination of \$5,000 or any integral multiple thereof and shall be numbered separately from one upward or such other designation acceptable to the City and the Paying Agent/Registrar, except the Initial Bond, which shall be numbered T-1, or in such other manner provided in the Pricing Certificate.

The Bonds shall mature on the date or dates, in the years and in the principal amounts set forth in the Pricing Certificate; provided, that the maximum maturity for the Bonds shall not exceed the number of years set forth in Exhibit B.

(b) Interest shall accrue and be paid on each Bond respectively until its maturity or prior redemption, from the later of the date set forth in the Pricing Certificate or the most recent Interest Payment Date to which interest has been paid or provided for at the rates per annum for each respective maturity specified in the Pricing Certificate. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Bonds shall be calculated on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each, or on such other basis as set forth in the Pricing Certificate.

### Section 3.03 Medium, Method and Place of Payment.

(a) The principal of, premium, if any, and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on the Bonds shall be payable to each Owner as shown in the Register at the close of business on the Record Date; provided, however, in the event of nonpayment of interest on a scheduled Interest Payment Date and for 30 days thereafter, a new record date for such interest payment (a "Special Record Date") shall be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which shall be 15 days after the Special Record Date) shall be sent at least five Business Days prior to the Special Record Date by first-class United States mail, postage prepaid, to the address of each Owner of a Bond appearing on the Register at the close of business on the last Business Day next preceding the date of mailing of such notice.

(c) Interest shall be paid by check, dated as of the Interest Payment Date, and sent by the Paying Agent/Registrar to each Owner by United States mail, first class postage prepaid, to the



address of each Owner as it appears in the Register, or by such other customary banking arrangement acceptable to the Paying Agent/Registrar and the Owner; provided, however, the Owner shall bear all risk and expense of such other banking arrangement. At the option of an Owner of at least \$1,000,000 principal amount of the Bonds, interest may be paid by wire transfer to the bank account of such Owner on file with the Paying Agent/Registrar.

(d) The principal of each Bond shall be paid to the Owner thereof on the due date (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office.

(e) If the date for the payment of the principal of, premium, if any, or interest on the Bonds is not a Business Day, then the date for such payment shall be the next succeeding day that is a Business Day, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the accounts of the Owners of the Bonds to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains three (3) years after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any owners of such Bonds for any further payment of such unclaimed monies or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

#### Section 3.04 Execution and Registration of Bonds.

(a) The Bonds shall be executed on behalf of the City by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Bonds ceases to be such officer before the authentication of such Bonds or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided in the form of bond attached hereto as Exhibit C, duly authenticated by execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of



the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided in the form of bond attached hereto as Exhibit C, manually executed by (or, to the extent allowed by law, bearing a facsimile signature of) the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which Certificate shall be evidence that the Bond has been duly approved by the Attorney General of the State of Texas, that it is a valid and binding obligation of the City and that it has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one Initial Bond of each series reflecting the terms set forth in the Pricing Certificate and representing the entire principal amount of all Bonds of such series, payable in stated installments to the Purchaser, or its designee, executed by the Mayor and City Secretary of the City by their manual or facsimile signatures, approved by the Attorney General, and registered and manually signed by (or, to the extent allowed by law, bearing a facsimile signature of) the Comptroller of Public Accounts, will be delivered to the Purchaser or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver a single registered, definitive Bond for each maturity, in the aggregate principal amount thereof, to DTC on behalf of the Purchaser.

#### Section 3.05 Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment as provided herein (except interest shall be paid to the person in whose name such Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Bond shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

#### Section 3.06 Registration, Transfer and Exchange.

(a) So long as any Bond remains outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender of the Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) The Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of the same series, maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of



the Bonds presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Bonds exchanged for other Bonds in accordance with this Section.

(d) Each exchange Bond delivered by the Paying Agent/ Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such exchange Bond is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for any different denomination of any of the Bonds. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Bond called for redemption, in whole or in part, where such redemption is scheduled to occur within forty-five (45) calendar days after the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Bond.

#### Section 3.07 Cancellation.

All Bonds paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance with this Ordinance, shall be cancelled and proper records shall be made regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall then return such cancelled Bonds to the City or may in accordance with law destroy such cancelled Bonds and periodically furnish the City with certificates of destruction of such Bonds.

#### Section 3.08 Temporary Bonds.

(a) Following the delivery and registration of the Initial Bond and pending the preparation of definitive Bonds, the proper officers of the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Bonds that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Bonds may determine, as evidenced by their signing of such temporary Bonds.

(b) Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Bonds in definitive form; thereupon, upon the presentation and surrender of the Bonds in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Bonds in temporary form and shall authenticate and deliver in exchange therefor Bonds of the same maturity and series, in definitive form, in the authorized



denomination, and in the same aggregate principal amount, as the Bonds in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

### Section 3.09 Replacement Bonds.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of the same series and of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Bond is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Bond of the same series and of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Bond, may pay such Bond if it has become due and payable or may pay such Bond when it becomes due and payable.

(e) Each replacement Bond delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and



security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 3.10 Book-Entry Only System.

(a) Notwithstanding any other provision hereof, upon initial issuance of the Bonds, the ownership of the Bonds shall be registered in the name of Cede & Co., as nominee of DTC. The definitive Bonds shall be initially issued in the form of a single separate fully registered certificate for each of the maturities thereof.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than a Bondholder, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on such Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(c) An Authorized Officer is authorized and directed to execute and deliver the Representation Letter applicable to the City's obligations (including the Bonds) delivered in book-entry only form to DTC as securities depository for the Bonds.

Section 3.11 Successor Securities Depository; Transfer Outside Book-Entry Only System.

In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter of the City to DTC, or in the event DTC discontinues the services described herein, the City or the Paying



Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 3.12 Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such Bonds, shall be made and given, respectively, in the manner provided in the Representation Letter.

ARTICLE IV  
REDEMPTION OF BONDS BEFORE MATURITY

Section 4.01 Limitation on Redemption.

The Bonds shall be subject to redemption before scheduled maturity only as provided in this Article IV and in the Pricing Certificate.

Section 4.02 Mandatory Sinking Fund Redemption.

Bonds designated as "Term Bonds," if any, in the Pricing Certificate are subject to scheduled mandatory redemption and will be redeemed by the City at the price(s), on the date(s), and in the respective principal amounts set forth in the Pricing Certificate out of moneys available for such purpose in the Bond Fund, in the manner provided in the Form of Bond attached hereto as Exhibit C, with such changes as are required by the Pricing Certificate.

Section 4.03 Optional Redemption.

(a) The City reserves the option to redeem Bonds on the terms and in the manner provided in the Form of Bond attached hereto as Exhibit C, with such changes as are required by the Pricing Certificate.

(b) Except as otherwise provided in a Pricing Certificate, if less than all of the Bonds are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot, or by any other customary method that results in a random selection, the Bonds, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.



(c) The City, at least forty-five (45) days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Bonds to be redeemed.

#### Section 4.04 Partial Redemption.

(a) Except as otherwise provided in a Pricing Certificate, a portion of a single Bond of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Bond is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Bond as though it were a single Bond for purposes of selection for redemption.

(b) Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and deliver an exchange Bond or Bonds in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered, such exchange being without charge.

(c) The Paying Agent/Registrar shall promptly notify the City in writing of the principal amount to be redeemed of any Bond as to which only a portion thereof is to be redeemed.

#### Section 4.05 Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Bonds by sending notice by United States mail, first class postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the Owner of each Bond (or part thereof) to be redeemed, at the address shown on the Register at the close of business on the Business Day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Bonds are to be surrendered for payment, and, if less than all the Bonds outstanding are to be redeemed, an identification of the Bonds or portions thereof to be redeemed.

(c) The City reserves the right to give notice of its election or direction to redeem Bonds under Section 4.03 conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.



(d) Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice.

#### Section 4.06 Payment Upon Redemption.

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Bonds to be redeemed on such date by setting aside and holding in trust such amounts as are received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of and accrued interest on the Bonds being redeemed.

(b) Upon presentation and surrender of any Bond called for redemption at the Designated Payment/Transfer Office on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of and accrued interest on such Bond to the date of redemption from the money set aside for such purpose.

#### Section 4.07 Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance and subject to any conditions or rights reserved by the City under Section 4.05(c), the Bonds or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City defaults in its obligation to make provision for the payment of the principal thereof, or accrued interest thereon, such Bonds or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Bonds are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, then any Bond or portion thereof called for redemption shall remain Outstanding and continue to bear interest at the rate stated on the Bond until due provision is made for the payment of same by the City.

#### Section 4.08 Lapse of Payment.

Money set aside for the redemption of Bonds and remaining unclaimed by the Owners of such Bonds shall be subject to the provisions of Section 3.03(f) hereof.

### ARTICLE V PAYING AGENT/REGISTRAR

#### Section 5.01 Appointment of Paying Agent/Registrar.

The form of Paying Agent/Registrar Agreement presented at the meeting at which this Ordinance was approved and the appointment of the Paying Agent/Registrar identified therein are hereby approved.

The Mayor is hereby authorized and directed to execute the Paying Agent/Registrar Agreement with the Paying Agent/Registrar, specifying the duties and responsibilities of the City



and the Paying Agent/Registrar, in substantially the form presented at the meeting at which this Ordinance was approved with such changes as may be approved by an Authorized Officer. The signature of the Mayor shall be attested by the City Secretary.

Section 5.02 Qualifications.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Bonds.

Section 5.03 Maintaining Paying Agent/Registrar.

(a) At all times while any Bonds are Outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

Section 5.04 Termination.

The City, upon not less than sixty (60) days' notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination.

Section 5.05 Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by United States mail, first class postage prepaid, at the address in the Register thereof, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06 Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

Section 5.07 Delivery of Records to Successor.

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.



## ARTICLE VI FORM OF THE BONDS

### Section 6.01 Form Generally.

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds, (i) shall be generally in the form set forth in Exhibit C hereto, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association, referred to herein as “CUSIP numbers”) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Bonds, as evidenced by their execution thereof.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The definitive Bonds shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bonds, as evidenced by their execution thereof.

(d) The Initial Bond submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

### Section 6.02 CUSIP Registration.

The City or the Purchaser may secure CUSIP numbers or other identification numbers for the Bonds, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of identification numbers on the Bonds shall be of no significance or effect regarding the legality thereof and neither the City nor the attorneys approving said Bonds as to legality are to be held responsible for identification numbers incorrectly printed on the Bonds.

### Section 6.03 Legal Opinion.

The approving legal opinion of Orrick, Herrington & Sutcliffe LLP, Austin, Texas, Bond Counsel to the City (“Bond Counsel”), may be attached to or printed on the reverse side of each Bond over the certification of the City Secretary of the City, which may be executed in facsimile.

### Section 6.04 Statement of Insurance.

A statement relating to a municipal bond insurance policy, if any, issued for any Bond or Bonds may be printed on or attached to each such Bond.



## ARTICLE VII FUNDS AND ACCOUNTS

### Section 7.01 Segregation of Revenues; Fund Designations.

All receipts, revenues and income derived from the operation and ownership of the System shall be kept separate from other funds of the City and deposited within twenty-four (24) hours after collection into the "Water and Wastewater System Fund" (hereinafter referred to as the "System Fund") which has been created and established on the books of the City. The System Fund shall continue to be kept and maintained at an official depository bank of the City while the Parity Obligations (including the Bonds) remain Outstanding. Furthermore, the City affirms that the following special funds have been created and established and such funds shall continue to be maintained by the City while any Parity Obligations (including the Bonds) remain Outstanding: the "Special Water and Wastewater System Revenue Bond Fund" (hereinafter referred to as the "Bond Fund"), the "Special Water and Wastewater System Revenue Bond General Reserve Fund" (hereinafter referred to as the "General Reserve Fund") and the "Special Water and Wastewater System Revenue Bond TWDB Reserve Fund" (herein after referred to as the "TWDB Reserve Fund" and, together with the General Reserve Fund, the "Reserve Funds"). The Bond Fund, the General Reserve Fund and the TWDB Reserve Fund shall continue to be kept and maintained at the City's official depository bank, and moneys deposited therein shall be used for no purpose other than for the payment, redemption and retirement of Parity Obligations, as herein provided. The City may provide for the creation of any special Accounts deemed necessary or appropriate for the efficient administration of the System and payment of Parity Obligations.

### Section 7.02 System Fund.

The City hereby covenants and agrees with the owners of the Bonds that the moneys deposited in the System Fund shall be used first for the payment of the reasonable and proper expenses of operating and maintaining the System. All moneys deposited in the System Fund in excess of the amounts required to pay operating and maintenance expenses of the System shall be applied and appropriated, to the extent required and in the order of priority prescribed, as follows:

First: To the payment of the amounts required to be deposited in the Bond Fund for the payment of Parity Obligations, including the principal of and interest on the Parity Bonds as the same become due and payable;

Second: To the payment, equally and ratably, of the amounts required to be deposited in the Reserve Funds to accumulate, restore and maintain the amounts required to be deposited therein;

Third: To the payment of Subordinate Obligations, including the payment of amounts required to maintain any special funds created to secure payment of Subordinate Obligations; and

Fourth: For any other purpose of the City now or hereafter permitted by law.



### Section 7.03 Bond Fund.

The City hereby agrees and covenants to deposit to the Bond Fund an amount equal to one hundred percent (100%) of the amount required to fully pay all Parity Obligations as such payments mature and become due, including the amount required to pay the principal of and interest on the Bonds on or before each maturity date and Interest Payment Date therefor, such payments to be made in substantially equal monthly installments on or before the first day of each month beginning on or before the first day of the month next following the month the Bonds are delivered to the Purchasers. The required monthly deposits to the Bond Fund for the payment of principal of and interest on the Bonds shall continue to be made as hereinabove provided until such time as (i) the total amount on deposit in the Bond Fund, together with the amount deposited in the Reserve Funds, is equal to the amount required to fully pay and discharge all Outstanding Parity Obligations, including Parity Bonds (principal and interest), or (ii) the Bonds are no longer Outstanding. Accrued interest, if any, received from the purchasers of the Bonds shall be deposited in the Bond Fund, and shall be taken into consideration and reduce the amount of the monthly deposits hereinabove required which would otherwise be required to be deposited in the Bond Fund from the Net Revenues of the System.

### Section 7.04 General Reserve Fund.

(a) The City covenants and agrees to accumulate and maintain Reserve Fund Obligations in the General Reserve Fund equal to not less than the General Reserve Fund Requirement which shall be calculated and predetermined at the time of issuance of each series or installment of Covered Parity Bonds. Upon issuance of Additional Bonds designated as Covered Parity Bonds, the General Reserve Fund Requirement shall be increased, if required, to an amount equal to the General Reserve Fund Requirement after taking into account such Additional Bonds. The General Reserve Fund shall be made available for and reasonably employed to pay principal of and interest on Covered Parity Bonds in the event that amounts in the Bond Fund are insufficient for such purpose. If any amount of the General Reserve Fund is employed to pay principal of or interest on Covered Parity Bonds and, after disbursement of such amounts for such purpose, the amount on deposit in the General Reserve Fund is less than the General Reserve Fund Requirement, or if an event of default under any Credit Facility held in the General Reserve Fund has occurred and is continuing, the General Reserve Fund Requirement shall be restored from Net Revenues in twenty-four (24) approximately equal monthly payments from the first available Net Revenues in the System Fund, subject only to (and in accordance with) the priority of payments hereinabove prescribed in Section 7.02.

(b) The City may, at its option, withdraw all surplus on deposit in the General Reserve Fund over the General Reserve Fund Requirement and deposit the same in the System Fund; provided, however, that to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(c) For the purpose of determining compliance with the requirements of subsections (a) and (b) of this Section 7.04, Reserve Fund Obligations shall be valued each year as of the last day of the Fiscal Year at their market value, except that any direct obligations of the United States



(State and Local Government Series) held for the benefit of the Reserve Fund in book-entry form shall be continuously valued at their par value or face principal amount.

(d) To the extent permitted by and in accordance with applicable law, the City may replace or substitute a Credit Facility for cash or investment securities on deposit in the General Reserve Fund or in substitution or replacement of any existing Credit Facility. Upon such replacement or substitution, cash or investment securities of any of the types permitted by Section 7.09 hereof on deposit in the General Reserve Fund, which (taken together with the face amount of any existing Credit Facilities) are in excess of the General Reserve Fund Requirement may be withdrawn by the City, at its option, and transferred to the System Fund; provided that the face amount of any Credit Facility may be reduced at the option of the City in lieu of such transfer. However, to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(e) If the City is required to make a withdrawal from the General Reserve Fund, the City shall promptly notify the issuer of any Credit Facility of the necessity for a withdrawal from the General Reserve Fund, and shall make such withdrawal first from available moneys or investment securities then on deposit in the General Reserve Fund, and next from a drawing under any Credit Facility to the extent of such deficiency.

(f) In the event of a deficiency in the General Reserve Fund (including a deficiency resulting in whole or in part from termination or expiration of a Credit Facility or an event of default under a Credit Facility), the City shall restore such deficiency from the first available Net Revenues of the System in the System Fund, subject only to (and in accordance with) the priority of payments hereinabove prescribed in Section 7.02, in twenty-four (24) approximately equal monthly payments.

(g) In the event of the redemption or defeasance of any of the Outstanding Covered Parity Bonds, any Reserve Fund Obligations on deposit in the General Reserve Fund in excess of the General Reserve Fund Requirement may be withdrawn and transferred, at the option of the City and subject to the last sentence of this subparagraph (g), to the System Fund, as a result of (i) the redemption of the Outstanding Covered Parity Bonds, or (ii) funds for the payment of the Outstanding Covered Parity Bonds having been deposited irrevocably with the paying agent or place of payment therefor in the manner described in this Ordinance, the result of such deposit being that such Covered Parity Bonds no longer are deemed to be Outstanding under the terms of this Ordinance. However, to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(h) In the event there is a draw upon a Credit Facility, the City shall reimburse the issuer of such Credit Facility for such draw in accordance with the terms of any agreement pursuant to which the Credit Facility is issued from Net Revenues; however, such reimbursement from Net Revenues shall be (i) subject to the provisions of subparagraph (f) hereof, and (ii) subordinate and junior in right of payment to the payment of principal of and premium, if any, and interest on the Parity Bonds. Any interest due on any reimbursement obligation under the Credit Facility shall not exceed the highest lawful rate of interest which may be paid by the City.



(i) Notwithstanding anything to the contrary contained in this Ordinance, the requirement set forth above in this Section 7.04 to maintain the General Reserve Fund shall be suspended for such time as the Net Revenues for each Fiscal Year are equal to at least 1.25 times the maximum annual debt service requirements of all Outstanding Parity Bonds. In the event that the Net Revenues for any Fiscal Year are less than 1.25 times the maximum annual debt service requirements of all Outstanding Parity Bonds, the City will be required to commence making deposits to the General Reserve Fund, as provided in subsection (f) above, and to continue such deposits until the earlier of (i) such time as the General Reserve Fund contains the General Reserve Fund Requirement or (ii) the end of any period of two consecutive Fiscal Years during which Net Revenues were equal to not less than 1.25 times the maximum annual debt service requirements of all Outstanding Parity Bonds.

During such time as the obligation to maintain the General Reserve Fund Requirement in the General Reserve Fund has been suspended pursuant to this subsection (i), the City may, at its option, withdraw all monies from the General Reserve Fund and deposit such surplus in the System Fund; provided, however, to the extent such monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

#### Section 7.05 TWDB Reserve Fund.

(a) The City covenants and agrees to accumulate and maintain Reserve Fund Obligations in the TWDB Reserve Fund equal to not less than the TWDB Reserve Fund Requirement which shall be calculated and predetermined at the time of issuance of each series or installment of TWDB Bonds. The City covenants and agrees that the TWDB Reserve Fund Requirement in connection with the issuance of each series of TWDB Bonds shall be accumulated in equal monthly installments over the initial sixty (60) months following the initial delivery of such series of TWDB Bonds. Upon issuance of Additional Bonds designated as TWDB Bonds, the TWDB Reserve Fund Requirement shall be increased, if required, to an amount equal to the TWDB Reserve Fund Requirement after taking into account such Additional Bonds. The TWDB Reserve Fund shall be made available for and reasonably employed to pay principal of and interest on TWDB Bonds in the event that amounts in the Bond Fund are insufficient for such purpose. If any amount of the TWDB Reserve Fund is employed to pay principal of or interest on TWDB Bonds and, after disbursement of such amounts for such purpose, the amount on deposit in the TWDB Reserve Fund is less than the TWDB Reserve Fund Requirement, or if an event of default under any Credit Facility held in the TWDB Reserve Fund has occurred and is continuing, the TWDB Reserve Fund Requirement shall be restored from Net Revenues in twenty-four (24) approximately equal monthly payments from the first available Net Revenues in the System Fund, subject only to (and in accordance with) the priority of payments hereinabove prescribed in Section 7.02.

(b) The City may, at its option, withdraw all surplus on deposit in the TWDB Reserve Fund over the TWDB Reserve Fund Requirement and deposit the same in the System Fund; provided, however, that to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.



(c) For the purpose of determining compliance with the requirements of subsections (a) and (b) of this Section 7.05, Reserve Fund Obligations shall be valued each year as of the last day of the Fiscal Year at their market value, except that any direct obligations of the United States (State and Local Government Series) held for the benefit of the Reserve Fund in book-entry form shall be continuously valued at their par value or face principal amount.

(d) To the extent permitted by and in accordance with applicable law, the City may replace or substitute a Credit Facility for cash or investment securities on deposit in the TWDB Reserve Fund or in substitution or replacement of any existing Credit Facility. Upon such replacement or substitution, cash or investment securities of any of the types permitted by Section 7.09 hereof on deposit in the TWDB Reserve Fund, which (taken together with the face amount of any existing Credit Facilities) are in excess of the TWDB Reserve Fund Requirement may be withdrawn by the City, at its option, and transferred to the System Fund; provided that the face amount of any Credit Facility may be reduced at the option of the City in lieu of such transfer. However, to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(e) If the City is required to make a withdrawal from the TWDB Reserve Fund, the City shall promptly notify the issuer of any Credit Facility of the necessity for a withdrawal from the TWDB Reserve Fund, and shall make such withdrawal first from available moneys or investment securities then on deposit in the TWDB Reserve Fund, and next from a drawing under any Credit Facility to the extent of such deficiency.

(f) In the event of a deficiency in the TWDB Reserve Fund (including a deficiency resulting in whole or in part from termination or expiration of a Credit Facility or an event of default under a Credit Facility), the City shall restore such deficiency from the first available Net Revenues of the System in the System Fund, subject only to (and in accordance with) the priority of payments hereinabove prescribed in Section 7.02, in twenty-four (24) approximately equal monthly payments.

(g) In the event of the redemption or defeasance of any of the Outstanding TWDB Bonds, any Reserve Fund Obligations on deposit in the TWDB Reserve Fund in excess of the TWDB Reserve Fund Requirement may be withdrawn and transferred, at the option of the City and subject to the last sentence of this subparagraph (g), to the System Fund, as a result of (i) the redemption of the Outstanding TWDB Bonds, or (ii) funds for the payment of the Outstanding TWDB Bonds having been deposited irrevocably with the paying agent or place of payment therefor in the manner described in this Ordinance, the result of such deposit being that such TWDB Bonds no longer are deemed to be Outstanding under the terms of this Ordinance. However, to the extent such surplus monies constitute bond proceeds, including interest and income derived therefrom, such amounts shall not be deposited to the System Fund and shall only be used for the purposes for which bond proceeds may be used.

(h) In the event there is a draw upon a Credit Facility, the City shall reimburse the issuer of such Credit Facility for such draw in accordance with the terms of any agreement pursuant to which the Credit Facility is issued from Net Revenues; however, such reimbursement from Net Revenues shall be (i) subject to the provisions of subparagraph (f) hereof, and (ii) subordinate and



junior in right of payment to the payment of principal of and premium, if any, and interest on the Parity Bonds. Any interest due on any reimbursement obligation under the Credit Facility shall not exceed the highest lawful rate of interest which may be paid by the City.

Section 7.06 Reserved.

Section 7.07 Payment of Bonds.

While any of the Bonds are Outstanding, the proper officers of the City are hereby authorized to transfer or cause to be transferred to the Paying Agent/Registrar, from funds on deposit in the Bond Fund and, if necessary, the Reserve Fund amounts sufficient to fully pay and discharge promptly each installment of interest and principal on the Bonds as such installments mature and come due; such transfer of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the Business Day next preceding the date of payment for the Bonds.

Section 7.08 Deficiencies in Funds.

If in any month the City shall, for any reason, fail to pay into any Fund the full amounts above stipulated, amounts equivalent to such deficiencies shall be set apart and paid into such Fund from the first available and unallocated Net Revenues of the System, subject to the priority of payments prescribed in Section 7.02, in the following month or months and such payments shall be in addition to the amounts hereinabove provided to be otherwise paid into such Fund during such month or months.

Section 7.09 Security and Investment of Funds.

(a) All Funds and Accounts shall be secured in the manner and to the fullest extent required by law for the security of public funds, including Chapter 2257, Texas Government Code, as amended, and the funds created by the Ordinance shall be used only for the purposes therein specified.

(b) Money in any Fund or Account established or affirmed pursuant to this Ordinance or any ordinance authorizing the issuance of Parity Obligations, may, at the option of the City, be invested in time deposits or certificates of deposit secured in the manner required by law for public funds, or be invested in direct obligations of, including obligations the principal and interest on which are unconditionally guaranteed by, the United States of America, in obligations of any agencies or instrumentalities thereof, or in such other investments as are permitted under the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended, or any successor law, as in effect from time to time, consistent with the City's investment policy; provided that all such deposits and investments shall be made in such manner (which may include repurchase agreements for such investment with any primary dealer of such agreements) that the money required to be expended from any such Fund will be available at the proper time or times. Such investments shall be valued each year in terms of current market value as of the last day of the Fiscal Year. For purposes of maximizing investment returns, to the extent permitted by law, money in such Funds may be invested in common investments of the kind described above, or in a common pool of such investment which shall be kept and held at an official depository bank, which shall not be deemed to be or constitute a commingling of such money or funds provided that safekeeping receipts or



certificates of participation clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such fund are held by or on behalf of each such Fund. If necessary, such investments shall be promptly sold to prevent any default. Any investment made with money deposited to the credit of a Reserve Fund shall not have a maturity in excess of five (5) years.

Section 7.10 Excess Revenues.

All revenues of the System in excess of those required to establish and maintain the Bond Fund and the Reserve Funds as required herein may be used for any proper City purpose now or hereafter permitted by law including, without limitation, pledging any excess revenues in support of Subordinate Obligations.

ARTICLE VIII  
SALE AND DELIVERY OF BONDS; DEPOSIT OF PROCEEDS

Section 8.01 Sale of Bonds; Official Statement.

(a) The Bonds shall be sold in accordance with the terms of this Ordinance, including this Section 8.01(a) and Exhibit B hereto, provided that all of the conditions set forth in Exhibit B can be satisfied. As authorized by Chapter 1207 and Chapter 1371, the Authorized Officer is authorized to act on behalf of the City upon determining that the conditions set forth in Exhibit B can be satisfied, in selling and delivering each series of Bonds and carrying out the other procedures specified in this Ordinance, including determining (i) the manner of sale (which may be by private placement, public, private, negotiated or competitive sale, limited or public offering or any combination thereof), (ii) the total aggregate principal amount and the number of series of the Bonds, (iii) the date(s) on which the Bonds of each series will be sold and delivered, (iv) whether to acquire bond insurance for each series of Bonds, (v) the amount of capitalized interest, if any, (vi) the amount and manner of funding the General Reserve Fund Requirement, if necessary, (vii) the price at which the Bonds of each series will be sold, (viii) the Refunding Candidates to be refunded and their redemption dates, (ix) the title, designation and/or number for each series of Bonds, (x) whether particular Bonds will be issued as Tax-Exempt Bonds or Taxable Bonds, (xi) the form in which the Bonds of each series shall be issued, (xii) the dates on which the Bonds of each series will mature, the principal amount to mature in each year, the rate of interest to be borne by each such maturity, the interest payment dates, and the initial date from which interest will accrue, (xiii) the dates, prices and other terms upon and at which the Bonds of each series shall be subject to redemption or tender prior to maturity (including terms for optional and mandatory sinking fund redemption), and (xiv) all other terms and provisions of the Bonds and the refunding of the Refunded Obligations and all other matters relating to the issuance, sale and delivery thereof and the refunding of the Refunded Obligations, all of which shall be specified in the Pricing Certificate for each series of Bonds.

The Authorized Officer may approve modifications to this Ordinance to conform to the terms of the Bonds, as approved by the Authorized Officer, and execute any instruments, agreements and other documents as the Authorized Officer shall deem necessary or appropriate in connection with the issuance, sale and delivery of Bonds and the refunding of the Refunded Obligations pursuant to this Ordinance.



The authority granted to the Authorized Officer under this Section 8.01(a) shall expire at 11:59 p.m. on the first anniversary of the date of adoption of this Ordinance (the "Expiration Date"), unless otherwise extended by the City Council by separate action. Bonds sold pursuant to a Purchase Contract (in the case of a private placement or negotiated sale) or winning bid (in the case of a competitive offering) executed on or before the Expiration Date may be delivered after such date.

In satisfaction of Section 1201.022(a)(3), Texas Government Code, the City Council hereby determines that the delegation of the authority to the Authorized Officer to approve the final terms and conditions of each series of the Bonds as set forth in this Ordinance is, and the decisions made by the Authorized Officer pursuant to such delegated authority and incorporated in a Pricing Certificate will be, in the best interests of the City and shall have the same force and effect as if such determination were made by the City Council, and the Authorized Officer is hereby authorized to make and include in a Pricing Certificate an appropriate finding to that effect. Any finding or determination made by the Authorized Officer relating to the issuance and sale of the Bonds and the execution of the Purchase Contract in connection therewith shall have the same force and effect as a finding or determination made by the City Council.

(b) An Authorized Officer is hereby authorized and directed to execute and deliver the Purchase Contract (in the case of a private placement or negotiated sale) or the winning bid (in the case of a competitive offering) in the form and on the terms approved by the Authorized Officer, and all other officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to satisfy the conditions set out therein and to provide for the issuance and delivery of the Bonds.

(c) The form and substance of a Preliminary Official Statement, and any addenda, supplement or amendment thereto, prepared for use in connection with the public offering and sale of each series of Bonds is hereby approved, with such appropriate variations in the form of any Preliminary Official Statement previously prepared, as shall be approved by the Authorized Officer, and such Preliminary Official Statement is hereby deemed final as of its date within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Authorized Officer is hereby authorized and directed to cause to be prepared a final Official Statement (the "Official Statement") incorporating applicable pricing information and other terms pertaining to each series of Bonds, and to execute the same by manual or facsimile signature and deliver appropriate numbers of executed copies thereof to the Purchasers. The Official Statement as thus approved, executed and delivered, with such appropriate variations as shall be approved by the Authorized Officer and the Purchasers, may be used by the Purchasers in the public offering and sale of the Bonds. The use and distribution of the Preliminary Official Statement, and the preliminary public offering of the Bonds by the Purchasers, is hereby approved and confirmed. In the event the Bonds are sold pursuant to a competitive sale, the Authorized Officer is hereby authorized to approve the preparation and distribution of a notice of sale.

(d) All officers of the City are authorized to execute such documents, certificates, receipts and other instruments as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the terms of sale therefor including, without limitation, the Purchase Contract.



The obligation of the Purchasers to accept delivery of the Bonds is subject to the closing conditions set forth in the Purchase Contract, including specifically the Purchasers being furnished with the final, approving opinion of Bond Counsel, which opinion shall be dated as of and delivered on the Closing Date.

Section 8.02 Control and Delivery of Bonds.

(a) An Authorized Officer of the City is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination, and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts, delivery of the Bonds shall be made to the Purchasers under and subject to the general supervision and direction of the Authorized Officer, against receipt by the City of all amounts due to the City under the terms of sale.

(c) In the event the Mayor or City Secretary is absent or otherwise unable to execute any document or take any action authorized herein, the Mayor Pro Tem and the Assistant City Secretary, respectively, shall be authorized to execute such documents and take such actions, and the performance of such duties by the Mayor Pro Tem and the Assistant City Secretary shall for the purposes of this Ordinance have the same force and effect as if such duties were performed by the Mayor and City Secretary, respectively.

Section 8.03 Deposit of Proceeds.

Proceeds from the sale of the Bonds shall be applied in accordance with the provisions set forth in the Pricing Certificate for such Bonds, which may provide for the creation of any special accounts deemed necessary or appropriate by the Authorized Officer. In addition, in furtherance of the authority conferred by this Ordinance, any Authorized Officer may direct that lawfully available funds of the City be applied (in such amounts as the Authorized Officer shall direct), deposited and invested to effect the purposes of the Bonds and this Ordinance.

ARTICLE IX  
ADDITIONAL BONDS

Section 9.01 Issuance of Additional Bonds.

(a) In addition to the right to issue obligations of inferior lien as authorized by the laws of the State of Texas, the City hereby reserves the right to issue Additional Bonds which, when duly authorized and issued in compliance with the terms and conditions hereinafter appearing, shall be on a parity with the Parity Obligations herein authorized (including the Bonds), payable from and equally and ratably secured by a first lien on and pledge of the Net Revenues of the System. The Additional Bonds may be issued in one or more series or installments, provided, however, that none shall be issued unless and until the following conditions have been met:



(i) The City is not then in default as to any covenant, condition or obligation prescribed by any ordinance authorizing the issuance of Parity Obligations then Outstanding;

(ii) Each of the special Funds created for the payment and security of the Parity Obligations contains the amount of money and investments then required to be on deposit therein;

(iii) With respect to Covered Parity Bonds, the General Reserve Fund Requirement shall be accumulated and supplemented as necessary to maintain therein the General Reserve Fund Requirement (unless the obligation to maintain the General Reserve Fund Requirement is suspended pursuant to subsection 7.04(i)) and, with respect to TWDB Bonds, the TWDB Reserve Fund Requirement shall be accumulated and supplemented as necessary to maintain therein the TWDB Reserve Fund Requirement; the ordinance authorizing the issuance of the Additional Bonds shall provide for any required increase in the General Reserve Fund or the TWDB Reserve Fund, as applicable, and (if supplementation is necessary to meet all conditions of said Reserve Funds) said ordinance shall make provision that same be supplemented by the required amounts in equal monthly installments from the date of delivery of such Additional Bonds, as provided by this Ordinance;

(iv) The Chief Financial Officer shall provide a certificate to the effect that, according to the books and records of the City, during the last completed Fiscal Year, or during any consecutive twelve (12) month period of the last fifteen (15) months next preceding the date of delivery of the Additional Bonds, the Net Revenues of the System were equal to at least 1.25 times the maximum annual debt service requirements of the Parity Bonds which will be outstanding upon the issuance of the Additional Bonds. In making a determination of the Net Revenues, the Chief Financial Officer may take into consideration a change in the charges for services afforded by the System that became effective at least 60 days prior to the last day of the period for which Revenues are determined and, for purposes of satisfying the above Net Revenues test, make a pro-forma determination of the Net Revenues of the System for the period of time covered by the certificate based on such change in charges being in effect for the entire period covered by the certificate of the Chief Financial Officer.

When thus issued, such Additional Bonds may be secured by a pledge of the Net Revenues of the System on a parity in all things with the pledge securing the Parity Bonds.

(b) Wherever, in this Ordinance, the City reserves the right to issue Additional Bonds, such term shall also include, mean and refer to any other forms or types of obligations which may be made lawfully payable from and secured by the same source of revenues of the City.

(c) If Additional Bonds are being issued for the purpose of refunding less than all outstanding Parity Bonds, the certification described in subsection (a)(iv) of this Section is not required so long as the aggregate debt service requirements of such refunding Parity Bonds (or Parity Obligations) will not exceed the aggregate debt service requirements of the Parity Bonds being refunded.



## Section 9.02 Credit Facilities.

Payments to be made under a Credit Facility may be treated as Parity Obligations if the governing body of the City makes a finding in the ordinance authorizing the execution and delivery of such Credit Facility that the obligations of the City incurred under the Credit Facility shall be treated as a Parity Obligation and that, based upon the findings contained in a certificate executed and delivered by the Chief Financial Officer, the City will have sufficient funds to meet the financial obligations of the System, including sufficient Net Revenues to satisfy the annual debt service requirements of the System and the financial obligations of the City relating to the System after giving effect to the treatment of the Credit Facility as a Parity Obligation.

## Section 9.03 Separately Financed Projects.

The City expressly retains the right to issue or incur bonds, notes, or other obligations or evidences of indebtedness, other than Parity Obligations, for any project or purpose for goods or services other than the supply, storage, treatment and distribution of treated water for municipal, domestic, commercial, industrial and other uses and the collection and treatment of watered wastes, which presently are or hereafter may be authorized or permitted to be provided or maintained by water and wastewater systems generally or the City specifically under the laws of the State of Texas, federal law or the City's home rule charter; provided, that the bonds, notes or other obligations issued or incurred for any such separately financed project are payable from and secured by other available funds derived from the ownership or operation thereof or excess Net Revenues remaining after satisfying, or making provision for the satisfaction of, the priority of claims identified on such Net Revenues in Section 7.02 hereof and separate books and records for such separately financed project or activity are maintained by the City.

# ARTICLE X PARTICULAR REPRESENTATIONS AND COVENANTS

## Section 10.01 Rates and Charges.

The City shall, at all times while any of the Parity Obligations are outstanding and unpaid, maintain rates and collect charges for the facilities and services afforded by the Water and Wastewater System, as required by Section 1502.057, Texas Government Code, which will provide revenues sufficient at all times to:

- (a) pay all maintenance, operation, debt service, depreciation, replacement and betterment charges of the Water and Wastewater System;
- (b) pay the amounts required to be deposited to the Bond Fund to pay the principal of and interest on the Parity Bonds as the same becomes due and payable, to accumulate and maintain the reserve amount, if any, required to be deposited in the Reserve Fund, and to pay any other costs of Parity Obligations as the same becomes due and payable;
- (c) produce Net Revenues each year in an amount reasonably estimated to be not less than 1.25 times the maximum annual debt service requirements of the Parity Bonds from time to time outstanding; and



(d) pay any other legally incurred indebtedness payable from the revenues of the System and/or secured by a lien on the System or the revenues thereof.

Section 10.02 Maintenance and Operation; Insurance.

The City shall maintain the Water and Wastewater System in good condition and operate the same in an efficient manner and at reasonable cost. So long as any Parity Bonds are outstanding, the City agrees to carry and maintain liability and property damage insurance of the kind and in the amounts customarily carried by municipal corporations in Texas on such kind of properties; provided, however, the City, in lieu of and/or in combination with carrying such insurance, may self-insure against all perils and risks by establishing self-insurance reserves.

Section 10.03 Records, Accounts, Accounting Reports.

The City hereby covenants and agrees while any of the Bonds or any interest thereon remain Outstanding and unpaid, it will keep and maintain a proper and complete system of records and accounts pertaining to the operation of the System separate and apart from all other records and accounts of the City in accordance with generally accepted accounting principles prescribed for municipal corporations, and complete and correct entries shall be made of all transactions relating to said System, as provided by applicable law. The Owner of any Bonds, or any duly authorized agent or agents of such Owner, shall have the right at all reasonable times to inspect all such records, accounts and data relating thereto and to inspect the System and all properties comprising the same. The City further agrees that as soon as possible following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of certified public accountants. Each such audit, in addition to whatever other matters may be thought proper by the certified public accountant, shall particularly include the following:

- (a) A detailed statement of the income and expenditures of the System for such Fiscal Year;
- (b) A balance sheet as of the end of such Fiscal Year;
- (c) The comments of such accountant regarding the manner in which the City has complied with the covenants and requirements of this Ordinance and his recommendations for any changes or improvements in the operation, records and accounts of the System;
- (d) A list of the insurance policies in force at the end of the Fiscal Year on the System properties, setting out as to each policy the amount thereof, the risk covered, the name of the insurer, and the policy's expiration date.

Expenses incurred in making the audits above referred to are to be regarded as maintenance and operating expenses of the System and paid as such. Copies of the aforesaid annual audit shall be furnished upon written request to the original purchasers and any subsequent Owners of the Bonds.



Section 10.04 Further Covenants.

The City hereby further covenants and agrees as follows:

(a) That it has the lawful power to pledge the Net Revenues to the payment of the Bonds and has lawfully exercised said power under the Constitution and laws of the State of Texas; that the Bonds, when issued, shall be equally and ratably secured by a first lien on and pledge of the Net Revenues *pari passu* with the lien securing payment of all other Parity Obligations in such manner that no Parity Obligation shall have preference or priority over the Bonds.

(b) That, other than for the payment of Parity Obligations, the Net Revenues are and shall not in any manner be pledged to the payment of any debt or obligation of the City or of the System on a parity with the Bonds.

(c) So far as it legally may, the City covenants and agrees, for the protection and security of the Parity Bonds and the holders thereof from time to time, that it will not grant a franchise for the operation of any competing system in the City until all Parity Bonds shall have been retired.

(d) That, for so long as any of the Bonds or any interest thereon remain Outstanding, the City will not sell, lease or encumber the System or any substantial part thereof; provided, however, this covenant shall not be construed to prohibit the sale of such machinery, or other properties or equipment which has become obsolete or otherwise unsuited to the efficient operation of the System when other property of equal value has been substituted therefor, and, also, with the exception of the Additional Bonds expressly permitted by this Ordinance to be issued, it will not encumber the Net Revenues unless such encumbrance is made junior and subordinate to all of the provisions of this Ordinance. In the event the City sells the System, the City will use proceeds of such sale to provide for final payment of the Parity Obligations and any Additional Bonds.

(e) That, it will cause to be rendered monthly to each customer receiving water and wastewater services a statement therefor and will not accept payment of less than all of any statement so rendered, using its power under existing ordinances and under all such ordinances to become effective in the future to enforce payment, to withhold service from such delinquent customers and to enforce and authorize reconnection charges.

(f) That it will faithfully and punctually perform all duties with respect to the System required by the Constitution and laws of the State of Texas, including the making and collecting of reasonable and sufficient rates for services supplied by the System, and the segregation and application of the revenues of the System as required by the provisions of this Ordinance.

(g) That no free service shall be provided by the System and to the extent the City or its departments or agencies utilize the services provided by the System, payment shall be made therefor at rates charged to others for similar service.

(h) That it will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance; the City will promptly pay or cause to be paid the principal of, premium, if any, and interest on each Bond on the dates and at the places and



manner prescribed in such Bond; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

#### Section 10.05 Covenants to Maintain Tax Exempt Status.

(a) The City intends that the interest on the Tax-Exempt Bonds shall be excludable from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and all applicable temporary, proposed and final regulations (the "Regulations") and procedures promulgated thereunder and applicable to the Tax-Exempt Bonds: For this purpose, the City covenants that it will monitor and control the receipt, investment, expenditure and use of all gross proceeds of the Tax-Exempt Bonds (including all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with the proceeds of the Tax-Exempt Bonds) and take or omit to take such other and further actions as may be required by Sections 103 and 141 through 150 of the Code and the Regulations to cause interest on the Tax-Exempt Bonds to be and remain excludable from the gross income, as defined in Section 61 of the Code, of the owners of the Tax-Exempt Bonds for federal income tax purposes. Without limiting the generality of the foregoing, the City shall comply with each of the following covenants:

(i) The City will use all of the proceeds of the Tax-Exempt Bonds to (i) provide funds for the purposes described in Section 3.01 hereof, and (ii) to pay the costs of issuing the Tax-Exempt Bonds. Other than as described in Section 3.01 hereof, the City will not use any portion of the proceeds of the Tax-Exempt Bonds to pay the principal of or interest or redemption premium on, any other obligation of the City or a related person.

(ii) All property financed or refinanced with the proceeds of the Tax-Exempt Bonds will be owned and operated by the City. The City will not directly or indirectly take any action, or omit to take any action, which action or omission would cause the Tax-Exempt Bonds to constitute "private activity bonds" within the meaning of Section 141(a) of the Code.

(iii) Principal of and interest on the Tax-Exempt Bonds will be paid solely from ad valorem taxes collected by the City and investment earnings on such collections.

(iv) Based upon all facts and estimates now known or reasonably expected to be in existence on the date the Tax-Exempt Bonds are delivered, the City reasonably expects that the proceeds of the Tax-Exempt Bonds will not be used in a manner that would cause the Tax-Exempt Bonds or any portion thereof to be an "arbitrage bond" within the meaning of Section 148 of the Code.

(v) At all times while the Tax-Exempt Bonds are outstanding, the City will identify and properly account for all amounts constituting gross proceeds of the Tax-Exempt Bonds in accordance with the Regulations. The City will monitor the yield on the investments of the proceeds of the Tax-Exempt Bonds and, to the extent required by the Code and the Regulations, will restrict the yield on such investments to a yield which is not materially higher than the yield on the Tax-Exempt Bonds. To the extent necessary to prevent the Tax-Exempt Bonds from constituting "arbitrage bonds," the City will make



such payments as are necessary to cause the yield on all yield restricted nonpurpose investments allocable to the Tax-Exempt Bonds to be less than the yield that is materially higher than the yield on the Tax-Exempt Bonds.

(vi) The City will not take any action or knowingly omit to take any action that, if taken or omitted, would cause the Tax-Exempt Bonds to be treated as “federally guaranteed” obligations for purposes of Section 149(b) of the Code.

(vii) The City represents that not more than fifty percent (50%) of the proceeds of the Refunded Obligations were invested in nonpurpose investments (as defined in Section 148(f)(6)(A) of the Code) having a substantially guaranteed yield for four years or more within the meaning of Section 149(g)(3)(A)(ii) of the Code, and on the date of issue of the Refunded Obligations, the City reasonably expected that at least eighty-five percent (85%) of the spendable proceeds of the Refunded Obligations would be used to carry out the governmental purpose of the Refunded Obligations within the three-year period beginning on the issue date of Refunded Obligations .

(viii) The City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Tax-Exempt Bonds, if any, be rebated to the federal government. Specifically, the City will (i) maintain records regarding the receipt, investment, and expenditure of the gross proceeds of the Tax-Exempt Bonds as may be required to calculate such excess arbitrage profits separately from records of amounts on deposit in the funds and accounts of the City allocable to other obligations of the City or moneys which do not represent gross proceeds of any obligations of the City and retain such records for at least six years after the day on which the last outstanding Tax-Exempt Bond is discharged, (ii) account for all gross proceeds under a reasonable, consistently applied method of accounting, not employed as an artifice or device to avoid in whole or in part, the requirements of Section 148 of the Code, including any specified method of accounting required by applicable Regulations to be used for all or a portion of any gross proceeds, (iii) calculate, at such times as are required by applicable Regulations, the amount of excess arbitrage profits, if any, earned from the investment of the gross proceeds of the Tax-Exempt Bonds and (iv) timely pay, as required by applicable Regulations, all amounts required to be rebated to the federal government. In addition, the City will exercise reasonable diligence to assure that no errors are made in the calculations required by the preceding sentence and, if such an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter, including payment to the federal government of any delinquent amounts owed to it, interest thereon and any penalty.

(ix) The City will not directly or indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Tax-Exempt Bonds that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if such arrangement had been at arm's length and had the yield on the Tax-Exempt Bonds not been relevant to either party.



(x) The City will timely file or cause to be filed with the Secretary of the Treasury of the United States the information required by Section 149(e) of the Code with respect to the Tax-Exempt Bonds on such form and in such place as the Secretary may prescribe.

(xi) The City will not issue or use the Tax-Exempt Bonds as part of an “abusive arbitrage device” (as defined in Section 1.148-10(a) of the Regulations). Without limiting the foregoing, the Tax-Exempt Bonds are not and will not be a part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations, by (i) enabling the City to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, or (ii) increasing the burden on the market for tax-exempt obligations.

(xii) Proper officers of the City charged with the responsibility for issuing the Tax-Exempt Bonds are hereby directed to make, execute and deliver certifications as to facts, estimates or circumstances in existence as of the date of issuance of the Tax-Exempt Bonds and stating whether there are facts, estimates or circumstances that would materially change the City's expectations. On or after the date of issuance of the Tax-Exempt Bonds, the City will take such actions as are necessary and appropriate to assure the continuous accuracy of the representations contained in such certificates.

(xiii) The covenants and representations made or required by this Section are for the benefit of the Tax-Exempt Bond holders and any subsequent Tax-Exempt Bond holder, and may be relied upon by the Tax-Exempt Bond holders and any subsequent Tax-Exempt Bond holder and bond counsel to the City.

(b) In complying with the foregoing covenants, the City may rely upon an unqualified opinion issued to the City by nationally recognized bond counsel that any action by the City or reliance upon any interpretation of the Code or Regulations contained in such opinion will not cause interest on the Tax-Exempt Bonds to be includable in gross income for federal income tax purposes under existing law.

(c) Notwithstanding any other provision of this Ordinance, the City's representations and obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Tax-Exempt Bonds for as long as such matters are relevant to the exclusion of interest on the Tax-Exempt Bonds from the gross income of the owners for federal income tax purposes.

#### Section 10.06 Disposition of Project.

The City covenants that the property financed or refinanced with the proceeds of the Tax-Exempt Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of a nationally-recognized bond counsel substantially to the effect that such sale or other disposition will not adversely affect the tax-exempt status of the Tax-Exempt Bonds. For purposes of this Section, the portion of the property comprising personal property and disposed of in the ordinary course of business shall not be treated as a transaction resulting in the receipt of cash or other compensation.



For purposes of this Section, the City shall not be obligated to comply with this covenant if it obtains an opinion of a nationally-recognized bond counsel to the effect that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

## ARTICLE XI DEFAULT AND REMEDIES

### Section 11.01 Events of Default.

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (a) defaults in payments to be made to the Bond Fund as required by this Ordinance;
- (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance.

### Section 11.02 Remedies for Default.

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance and shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the City Council and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Bonds then Outstanding.

### Section 11.03 Remedies Not Exclusive.

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right or power may be exercised from time to time and as often as may be deemed expedient.



## ARTICLE XII DISCHARGE

### Section 12.01 Discharge.

Except as otherwise provided in the Pricing Certificate, the Bonds may be defeased, discharged or refunded in any manner permitted by applicable law.

## ARTICLE XIII CONTINUING DISCLOSURE UNDERTAKING

### Section 13.01 Annual Reports.

(a) The City shall provide annually to the MSRB, (1) within six (6) months after the end of each fiscal year of the City, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 8.01 of this Ordinance, being information of the type described in Exhibit A hereto, including financial statements of the City if audited financial statements of the City are then available, and (2) if not provided as part such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within twelve (12) months after any such fiscal year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available.

(b) If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific referenced to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

(d) An Authorized Officer is authorized to establish and implement written procedures to ensure compliance with the reporting requirements imposed by this Section. Such procedures may be modified and amended by the Authorized Officer from time to time to the extent the modification or amendment of such procedures are deemed necessary, useful or appropriate.

### Section 13.02 Event Notices.

(a) The City shall notify the MSRB, in a timely manner (not in excess of ten (10) Business Days after the occurrence of an event), of any of the following events with respect to the Bonds:



- (i) principal and interest payment delinquencies;
- (ii) nonpayment related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of Owners, if material;
- (viii) redemption calls, if material, and tender offers;
- (ix) defeasances;
- (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership or similar event of the City;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor trustee or change in the name of the trustee, if material;
- (xv) incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (xii) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a



court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers of the City in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City, and (b) the City intends the words used in the immediately preceding paragraphs (xv) and (xvi) and the definition of Financial Obligation in this Ordinance to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

(b) The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 13.01 of this Ordinance by the time required by such Section.

#### Section 13.03 Identifying Information.

All documents provided to the MSRB pursuant to this Article shall be provided in an electronic format and be accompanied by identifying information as prescribed by the MSRB.

#### Section 13.04 Limitations, Disclaimers and Amendments.

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any Bond calls and any defeasances that cause the City to be no longer an “obligated person.”

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.



(c) No default by the City in observing or performing its obligations under this Article shall constitute a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (B) an entity or individual person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.01 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in type of financial information or operating data so provided.

#### ARTICLE XIV AMENDMENT OF ORDINANCE

##### Section 14.01 Amendment of Ordinance.

(a) That the holders of the Parity Bonds aggregating a majority in principal amount of then outstanding Parity Bonds shall have the right from time to time to approve any amendment to this Ordinance which may be deemed necessary or desirable by the City; provided, however, that without the consent of the holders of all of the Parity Bonds at the time outstanding, nothing herein contained shall permit or be construed to permit the amendment of the terms and conditions in this Ordinance or in the Bonds so as to: (i) make any change in the maturity of the outstanding Bonds; (ii) reduce the rate of interest borne by any of the outstanding Bonds; (iii) reduce the amount of the principal payable on the outstanding Bonds; (iv) modify the terms of payment of principal or of interest on the outstanding Bonds or impose any conditions with respect to such payment; (v) affect the rights of the holders of less than all of the Bonds then outstanding; or (vi) change the minimum percentage of the principal amount of Bonds necessary for consent to such amendment.

(b) That if at any time the City shall desire to amend the Ordinance under this Section, the City shall cause notice of the proposed amendment to be (i) posted on the MSRB's EMMA system or (ii) published in a financial newspaper or journal published in The City of New York, New York, once during each calendar week for at least two (2) successive calendar weeks; provided, however, that the publication of such notice shall not constitute a condition precedent to the adoption of such amendatory ordinance and the failure to post or publish such notice shall not



adversely affect the implementation of such amendment as adopted pursuant to such amendatory ordinance. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the Paying Agent/Registrar for inspection by all holders of Bonds. Such publication is not required, however, if notice in writing is given to each holder of Bonds.

(c) That whenever at any time not less than thirty (30) days, and within one year, from the date of the first posting or publication of said notice or other service of written notice the City shall receive an instrument or instruments executed by the holders of at least a majority in aggregate principal amount of all Bonds then outstanding, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the copy thereof on file with the Paying Agent/Registrar, the City Council may pass the amendatory ordinance in substantially the same form.

(d) That upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be amended in accordance with such amendatory ordinance, and the respective rights, duties and obligations under this Ordinance of the City and all the holders of then outstanding Bonds shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such amendments.

(e) That any consent given by the holder of a Bond pursuant to the provisions of this Section shall be irrevocable for a period of six (6) months from the date of the first publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six (6) months from the date of the first publication of such notice by the holder who gave such consent, or by a successor in title, by filing notice thereof with the Paying Agent/Registrar therefor and the City, but such revocation shall not be effective if the holders of a majority in aggregate principal amount of the then outstanding Bonds as in this Section defined have, prior to the attempted revocation, consented to and approve the amendment.

(f) For the purposes of this Section, the ownership and other matters relating to all Bonds registered as to ownership shall be determined from the registration books kept by the registrar therefor. The Paying Agent/Registrar may conclusively assume that such ownership continues until written notice to the contrary is served upon the Paying Agent/Registrar.

(g) The foregoing provisions of this Section notwithstanding, the City by action of the City Council may amend this Ordinance for any one or more of the following purposes:

(i) To add to the covenants and agreements of the City in this Ordinance contained, other covenants and agreements thereafter to be observed, grant additional rights or remedies to bondholders or to surrender, restrict or limit any right or power herein reserved to or conferred upon the City;

(ii) To make such provisions for the purpose of clarifying matters or questions arising under this Ordinance, as are required by the Attorney General of Texas to obtain the Attorney General's approval of the issuance of the Bonds or required by the Purchaser



before their issuance or for the purpose of curing any ambiguity, or curing, correcting or supplementing any defective provision contained in this Ordinance, or at any time before or after issuance, including, without limitation, those matters described in Section 13.04 hereof, as are necessary or desirable and not contrary to or inconsistent with this Ordinance, and in all events which shall not adversely affect the interests of the owners of the Bonds;

(iii) To modify any of the provisions of this Ordinance in any other respect whatsoever, provided that such modification shall be, and be expressed to be, effective only after all previously issued Parity Bonds outstanding at the date of the adoption of such modification shall cease to be outstanding;

(iv) To make such amendments to this Ordinance as may be required, in the opinion of Bond Counsel, to ensure compliance with sections 103 and 141 through 150 of the Code and the regulations promulgated thereunder and applicable thereto.

Notice of any such amendment may be posted or published by the City in the manner described in clause (b) of this Section; provided, however, that the publication of such notice shall not constitute a condition precedent to the adoption of such amendatory ordinance and the failure to post or publish such notice shall not adversely affect the implementation of such amendment as adopted pursuant to such amendatory ordinance.

(h) If any Section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid, null, void, of no force and effect, then such provisions shall be construed as severable from the remainder of this Ordinance and shall not affect the validity of all other provision of this Ordinance which shall remain in full force and effect.

## ARTICLE XV REDEMPTION OF REFUNDED OBLIGATIONS

### Section 15.01 Redemption of Refunded Obligations.

(d) The City hereby calls the Refunded Obligations for redemption prior to maturity on the dates and at the prices set forth in the Pricing Certificate.

(e) The Authorized Officer is hereby authorized and directed to cause a copy of this Ordinance to be delivered to each paying agent/registrar for the Refunded Obligations, together with the Pricing Certificate therefor, the delivery of which shall constitute notice of redemption and notice of defeasance to such paying agent/registrar.

### Section 15.02 Arrangements for Defeasance of Refunded Obligations.

The Authorized Officer may execute and deliver escrow agreements, deposit agreements or similar agreements (each an "Escrow Agreement"), letters of instructions or any other instruments relating to the safekeeping, investment, administration and disposition of moneys deposited to effect the defeasance of the Refunded Obligations in such form and subject to such terms and conditions as the Authorized Officer determines may be necessary or convenient to carry out the intent and purpose of this Ordinance. An Authorized Officer is further authorized to solicit bids and subscribe for and make other arrangements for the purchase of Defeasance Securities, as



may be necessary for the defeasance of the Refunded Obligations, and the solicitation of offers and application for the acquisition of the Defeasance Securities is hereby approved and ratified.

Section 15.03 Notice of Redemption.

Each paying agent/registrar for the Refunded Obligations is hereby authorized and directed to give notice of redemption and deposit with respect to the Refunded Obligations as required under the ordinance pursuant to which the Refunded Obligations were issued.

ARTICLE XVI  
EFFECTIVE IMMEDIATELY

Section 16.01 Effective Immediately.

Notwithstanding the provisions of the City Charter, this Ordinance shall become effective immediately upon its adoption at this meeting pursuant to Section 1201.028, Texas Government Code.

*[Signature Page Follows.]*



PRESENTED, FINALLY PASSED AND APPROVED, AND EFFECTIVE on the 8th day of October, 2024, at a regular meeting of the City Council of the City of Lubbock, Texas.

\_\_\_\_\_  
MARK MCBRAYER, Mayor

ATTEST:

\_\_\_\_\_  
COURTNEY PAZ, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: Cheryl Brock  
CHERYL BROCK, Interim Chief Financial Officer

APPROVED AS TO FORM:

By: J. Kyle  
JERRY V. KYLE, JR., Bond Counsel

*Signature Page for Ordinance*



## **SCHEDULE I**

### **REFUNDING CANDIDATES**

All outstanding maturities of the following obligations of the City:

- General Obligation Refunding Bonds, Series 2014
- Tax and Waterworks System Surplus Revenue Certificates of Obligation, Series 2015
- General Obligation Refunding Bonds, Series 2015



## **EXHIBIT A**

### **DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION\***

The following information is referred to in Article XIII of this Ordinance.

#### **Annual Financial Statements and Operating Data**

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. Statistical and financial data set forth in the Official Statement in Tables 1 – 15 of APPENDIX A.

2. The portions of the financial statements of the City appended to the Official Statement as APPENDIX B, but for the most recently concluded fiscal year.

#### **Accounting Principles**

The accounting principles referred to in such Article XIII are the accounting principles described in the notes to the respective financial statements appended to the Official Statement.

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\*Subject to any changes prescribed by the Pricing Certificate.



## **EXHIBIT B**

### **SALE PARAMETERS**

In accordance with Section 8.01(a) of the Ordinance, the following conditions with respect to the Bonds of each series must be satisfied in order for the Authorized Officer to act on behalf of the City in selling and delivering the Bonds to the Purchaser:

(a) the price to be paid for the Bonds shall be not less than 90% of the aggregate principal amount of the Bonds;

(b) the interest rate of the Bonds of any series shall not exceed the maximum rate allowed by Chapter 1204, Texas Government Code, as amended;

(c) no Bond shall mature later than the final maturity date of the Refunded Obligations designated in the Pricing Certificate for the Bonds of such series;

(d) the principal amount of the Bonds of each series shall produce proceeds in an amount sufficient, as determined by the Authorized Officer, to fund the purpose(s) identified in Section 3.01 being financed by the issuance of the Bonds of such series and such principal amount (when combined with the aggregate principal amount of any other series of Bonds issued pursuant to this Ordinance) shall not exceed the maximum amount authorized in Section 3.01;

(e) the refunding of the Refunded Obligations shall result in (i) positive gross debt service savings and (ii) net present value debt service savings of at least two percent (2.0%) of the principal amount of the Refunded Obligations; and

(f) the Bonds to be issued, prior to delivery, must have been rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for long term obligations.



## EXHIBIT C

### FORM OF THE BONDS

The form of the Bonds shall be generally in the form set forth below, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas to accompany the initially delivered Bonds, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds shall be substantially as follows, provided however, that the substantially final form of the Bonds shall be set forth in or attached to the Pricing Certificate and shall incorporate and reflect the final terms of the Bonds set forth in the Pricing Certificate:

(a) Form of Bond.

REGISTERED  
No. \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

United States of America  
State of Texas  
County of Lubbock  
CITY OF LUBBOCK, TEXAS  
WATER AND WASTEWATER SYSTEM  
REVENUE REFUNDING BOND  
[TAXABLE] SERIES 20\_\_

INTEREST RATE:	MATURITY DATE:	BOND DATE:	CUSIP NUMBER:
_____ %	_____, _____	_____, _____ <sup>1</sup>	_____

The City of Lubbock (the "City"), in the County of Lubbock, State of Texas, for value received, hereby promises to pay to

\_\_\_\_\_

or registered assigns, but solely from the sources and in the manner hereinafter provided, on the Maturity Date specified above, the sum of

\_\_\_\_\_ DOLLARS

unless this Bond shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the

\_\_\_\_\_  
1 Information to be inserted from Pricing Certificate.



later of the Bond Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a 360-day year of twelve 30-day months, such interest to be paid semiannually on \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing \_\_\_\_\_, 20\_\_.<sup>2</sup> All capitalized terms used herein but not defined shall have the meaning assigned to them in the Ordinance (defined below).

The principal of this Bond shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Bond at the corporate office in Dallas, Texas (the "Designated Payment/Transfer Office"), of The Bank of New York Mellon Trust Company, N.A., the initial Paying Agent/Registrar, or, with respect to a successor Paying Agent/Registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Bond is payable by check dated as of the interest payment date, and mailed by the Paying Agent/Registrar to the registered owner at the address shown on the Register kept by the Paying Agent/Registrar, or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the registered owner; provided, however, such registered owner shall bear all risk and expense of such other banking arrangement. For the purpose of the payment of interest on this Bond, the registered owner shall be the person in whose name this Bond is registered at the close of business on the "Record Date," which shall be the [last/fifteenth] Business Day of the month next preceding an Interest Payment Date.

If the date for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, legal holiday or day on which banking institutions in the city where the Paying Agent/Registrar is located are required or authorized by law or executive order to close, the date for such payment shall be the next succeeding day that is not a Saturday, Sunday, legal holiday or day on which banking institutions are required or authorized to close and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

This Bond is one of a series of fully registered bonds specified in the title hereof issued in the aggregate principal amount of \$ \_\_\_\_\_<sup>3</sup> (herein referred to as the "Bonds"), issued pursuant to the authority provided by Chapters 1207 and 1371, Texas Government Code, as amended, and a certain ordinance of the City (the "Ordinance"), for the purposes described in the Ordinance.

The Bonds are secured by and payable solely from a first lien on and pledge of the Net Revenues of the System, as provided or incorporated by reference in the Ordinance. The Bonds constitute special obligations of the City payable solely from the sources and in the manner set forth herein and in the Ordinance and not from any other revenues, funds or assets of the City.

The City has reserved the right, subject to the restrictions stated or incorporated by reference in the Ordinance, to issue additional parity revenue bonds that may be secured in the same manner and on a parity with the Bonds and the Previously Issued Bonds.

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<sup>2</sup> Information to be inserted from Pricing Certificate.

<sup>3</sup> Information to be inserted from Pricing Certificate.



[The City has reserved the option to redeem the Bonds maturing on or after \_\_\_\_\_, 20\_\_\_\_, before their respective scheduled maturities in whole or in part on \_\_\_\_\_, 20\_\_\_\_, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portion thereof, within such maturity and in such principal amounts, for redemption.]<sup>4</sup>

[Bonds maturing on \_\_\_\_\_, 20\_\_ (the "Term Bonds") are subject to mandatory sinking fund redemption prior to their scheduled maturity, and will be redeemed by the City, in part at a redemption price equal to the principal amount thereof, without premium, plus interest accrued to the redemption date, on the dates and in the principal amounts shown in the following schedule:

Term Bonds Maturing _____, 20____	
<u>Redemption Date</u>	<u>Principal Amount</u>
_____, 20__	
_____, 20__	
_____, 20__ (maturity)	

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof; and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.]<sup>5</sup>

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than 30 days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. Subject to the right of the City to give a conditional notice of redemption with respect to an optional redemption, as described below, notice having been so given, the Bonds or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice; from and after such date, notwithstanding that any of the Bonds or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Bonds or portions thereof shall cease to accrue.

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4 Insert optional redemption provisions, if any, and revise to conform to the Pricing Certificate.

5 Insert mandatory sinking fund redemption provisions, if any, and revise as necessary to conform to the Pricing Certificate.



Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the registered owner of each of the Bonds to be redeemed in whole or in part. In the Ordinance, the City reserves the right in the case of an optional redemption to give notice of its election or direction to redeem Bonds conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date or (ii) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected owners. Any Bonds subject to conditional redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an event of default. Further, in the case of a conditional redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an event of default.

As provided in the Ordinance and subject to certain limitations therein set forth, this Bond is transferable upon surrender of this Bond for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully registered Bonds of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Bond called for redemption where such redemption is scheduled to occur within 45 calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Bond.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Bond is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Bond is registered on the Record Date) and for all other purposes, whether or not this Bond be overdue, and neither the City nor the Paying Agent/Registrar, nor any such agent shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that this Bond has been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the issuance and delivery of this Bond have been performed, existed, and been done in accordance with law; that the Bonds do not exceed any constitutional or statutory limitation; and that provision has been made for the payment of the principal of and interest on the Bonds by irrevocably pledging the net revenues of the System, as hereinabove recited.

The registered owner hereof shall never have the right to demand payment of this Bond out of any funds raised or to be raised by taxation.



IN WITNESS WHEREOF, the City has caused this Bond to be executed in its name by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary, and the official seal of the City has been duly impressed or placed in facsimile on this Bond.

\_\_\_\_\_  
Mayor, City of Lubbock, Texas

\_\_\_\_\_  
City Secretary, City of Lubbock, Texas

[SEAL]

(b) Form of Comptroller's Registration Certificate.

The following Comptroller's Registration Certificate may be deleted from the definitive Bonds if such Certificate on the initial Bond is fully executed.

OFFICE OF THE COMPTROLLER	§	
OF PUBLIC ACCOUNTS	§	REGISTER NO. _____
OF THE STATE OF TEXAS	§	

I hereby certify that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this Bond has been examined by him as required by law, that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding special obligation of the City of Lubbock, Texas, payable from the revenues pledged to its payment by and in the ordinance authorizing same and that said bond has this day been registered by me.

Witness my hand and seal of office at Austin, Texas, \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

[SEAL]



(c) Form of Certificate of Paying Agent/Registrar.

The following Certificate of Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

CERTIFICATE OF PAYING AGENT/REGISTRAR

It is hereby certified that this Bond has been issued under the provisions of the Ordinance described on this Bond; and that this Bond has been issued in conversion of and exchange for or replacement of a bond, bonds, or portion of a bond or bonds of an issue which was originally approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas as shown in the records kept by the undersigned.

THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A.,  
as Paying Agent/Registrar

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Authorized Representative

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto (print or typewrite name, address and Zip Code of transferee): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
(Social Security or other identifying number: \_\_\_\_\_) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed By:

\_\_\_\_\_  
Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) The Initial Bond shall be in the form set forth in subsections (a), (b) and (d) of this Section, except for the following alterations:



(i) immediately under the name of the Bond (which name shall be set forth in the Pricing Certificate), the headings "INTEREST RATE" and "MATURITY DATE" shall be completed with the words "As shown below";

(ii) in the first paragraph of the Bond, the words "on the Maturity Date specified above" shall be deleted and the following will be inserted: "on February 15 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

Year	Principal Installment	Interest Rate
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(Information to be inserted from the Pricing Certificate)

(iii) the Initial Bond shall be numbered T-1.



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## Information

### Agenda Item

**Resolution - Finance:** Consider a resolution authorizing the defeasance and redemption of Lubbock Preston Smith International Airport's outstanding General Obligation Refunding Bonds, Series 2019A; approving and authorizing the execution of an escrow agreement; and resolving other matters incident and related thereto.

### Item Summary

The Lubbock Preston Smith International Airport (LPSIA) is requesting to prepay the remaining Airport Fund allocation of the General Obligation Refunding Bonds, Series 2019A.

LPSIA originally allocated these funds for boilers that are now failing.

### Fiscal Impact

Upon the regular debt principal and interest payment of \$77,572 for the Lubbock Preston Smith International Airport portion of the 2019A General Obligation Refunding Bonds, the Airport will pay an additional principal amount of \$515,000 and an interest amount not to exceed \$44,631.

### Staff/Board Recommending

Cheryl Brock, Interim Chief Financial Officer

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## Attachments

Resolution - LPSIA 2019A GO Ref Defeasance



RESOLUTION AUTHORIZING THE DEFEASANCE AND  
REDEMPTION OF CERTAIN OF THE CITY'S OUTSTANDING  
BONDS; AUTHORIZING THE EXECUTION OF AN ESCROW  
AGREEMENT; AND RESOLVING OTHER MATTERS INCIDENT AND  
RELATED THERETO

WHEREAS, pursuant to an ordinance passed and adopted by the City Council of the City of Lubbock, Texas (the "City Council") on September 24, 2019 (the "Ordinance"), the City of Lubbock, Texas (the "City") has heretofore issued certain bonds more particularly described as "City of Lubbock, Texas General Obligation Refunding Bonds, Taxable Series 2019A" dated October 15, 2019 (the "Series 2019A Bonds") currently outstanding in the aggregate principal amount of \$32,475,000; and

WHEREAS, the City wishes to defease a portion of the Series 2019A Bonds, and to redeemed a portion of such Series 2019A Bonds that are subject to redemption at the option of the City prior to the date of their scheduled maturity; and

WHEREAS, in accordance with the provisions of Texas Government Code, Chapter 1207, as amended, the City is authorized and empowered to deposit funds directly with the place of payment for its outstanding bonds, or other authorized depository, and enter into an escrow or similar agreement for the safekeeping, investment, reinvestment, administration, and disbursement of such deposit of funds, and such deposit, when made in accordance with said statute, shall constitute the making of firm banking and financial arrangements for the discharge and full payment of its outstanding bonds; and

WHEREAS, City Council hereby finds and determines that an agreement for the payment and defeasance of a portion of the Series 2019A Bonds should be approved and authorization for its execution provided; and

WHEREAS, the City Council further finds and determines that a portion of the Series 2019A Bonds should be redeemed prior to their stated maturity and notice of such redemption should be given, as hereinafter provided and in accordance with the requirements prescribed therefor in the Ordinance;

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

**Section 1.**

(a) A portion of the Series 2019A Bonds, maturing on the dates and in the principal amounts set forth in **Exhibit A** hereto (the "Defeased Bonds"), shall be defeased and a portion of such Defeased Bonds, maturing on the dates and in the principal amounts set forth in **Exhibit A** hereto (the "Redeemed Bonds"), shall be called for redemption prior to their scheduled maturity dates, such redemption to occur on the dates set forth in **Exhibit A** hereto (the "Redemption Dates"). The City Council's election to exercise the City's right to defease and redeem a portion of the Series 2019A Bonds and direction to provide



notice of defeasance and redemption of such bonds shall be irrevocable upon the City's transfer of lawfully available funds pursuant to subsection (b) of this section.

(b) To effectuate the defeasance of the Defeased Bonds and redemption of the Redeemed Bonds, at the direction of the Mayor, City Manager, or Chief Financial Officer (each an "Authorized Representative"), the City shall transfer lawfully available funds in the amount sufficient to discharge the Defeased Bonds and the Redeemed Bonds (such amount referred to herein as the "Defeasance Deposit") to BOKF, NA, Dallas, Texas, as the escrow agent for the Defeased Bonds (the "Escrow Agent").

(c) Notice of defeasance of the Defeased Bonds and redemption of the Redeemed Bonds shall be provided in accordance with the Ordinance.

**Section 2.** The Escrow Agreement (the "Escrow Agreement"), by and between the City and the Escrow Agent, in substantially the form attached hereto as **Exhibit B**, is hereby approved as to form and content, and such Escrow Agreement, together with such changes or revisions as may be deemed by an Authorized Representative to be necessary to accomplish the defeasance of the Defeased Bonds, is hereby authorized to be executed and delivered by an Authorized Representative, for and on behalf of the City and as the act and deed of this City Council.

Furthermore, upon delivery to the Escrow Agent of the Defeasance Deposit described in Section 1 of this Resolution, each Authorized Representative, the City's Financial Advisor, and Bond Counsel, in cooperation with the Escrow Agent, are hereby authorized and directed to make the necessary arrangements for the deposit of cash and/or the purchase of any securities referenced in the Escrow Agreement to the credit of the special escrow fund established and maintained by the Escrow Agent for such purpose (the "Escrow Fund"), including the execution of subscription forms or agreements, if any, for the purchase of eligible securities for investment of amounts deposited to the Escrow Fund; all as contemplated and provided by the provisions of Chapter 1207, Texas Government Code, as amended, this Resolution, and the Escrow Agreement.

**Section 3.** An Authorized Representative is authorized and directed to instruct the paying agent/registrars for the Defeased Bonds to provide notice of the defeasance of the Defeased Bonds and (in the case of the Redeemed Bonds) notice of defeasance and redemption of the Redeemed Bonds, as provided and required by the Ordinance.

**Section 4.** An Authorized Representative is authorized to engage a recognized firm of certified or independent public accountants or other qualified finance professionals (the "Verification Agent") to verify the sufficiency of the Defeasance Deposit to accomplish the defeasance of the Defeased Bonds, to the extent that an Authorized Representative deems such appointment necessary or appropriate; provided, however, that in the event of a gross defeasance of the Defeased Bonds, the sufficiency of the Defeasance Deposit to accomplish such defeasance may be certified to the City by the City's Financial Advisor or another qualified financial institution in lieu of verification by a Verification Agent.

**Section 5.** Each Authorized Representative is hereby authorized and directed to finalize, execute and deliver such agreements, certificates, notices, letters, and other instruments



as any such official shall deem necessary, appropriate, or convenient to effect the defeasance and redemption described herein and otherwise give effect to the intent and purpose hereof.

**Section 6.** The City Council hereby approves payment from its lawfully available funds of professional fees and expenses of the City's Financial Advisor and Bond Counsel, the Escrow Agent, the Verification Agent, and the paying agent/registrar for the Defeased Bonds, respectively, and any other party whose services have been determined by an Authorized Representative to be necessary or appropriate to accomplish the purpose and intent of this Resolution.

**Section 7.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

**Section 8.** This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**Section 9.** If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

**Section 10.** It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

**Section 11.** This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

*[Signature page follows.]*



ADOPTED THIS 8<sup>th</sup> day of October 2024, by the City Council of the City of Lubbock, Texas.

\_\_\_\_\_  
MARK MCBRAYER, Mayor

ATTEST:

\_\_\_\_\_  
COURTNEY PAZ, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: Cheryl Brock  
CHERYL BROCK, Interim Chief Financial Officer

APPROVED AS TO FORM:

By: J. V. Kyle, Jr.  
JERRY V. KYLE, JR., Bond Counsel

Exhibit A — Schedule of Defeased Bonds and Redeemed Bonds  
Exhibit B — Form of Escrow Agreement

*[Signature Page to Resolution]*



## EXHIBIT A

### Schedule of Defeased Bonds and Redeemed Bonds

City of Lubbock, Texas  
General Obligation Refunding Bonds, Taxable Series 2019A

<u>CUSIP No.</u>	<u>Original Maturity (February 15)</u>	<u>Principal Amount Outstanding</u>	<u>Amount Defeased</u>	<u>Amount Remaining Outstanding</u>	<u>Redemption Date and Redemption Price for Redeemed Bonds</u>
549188S76	2026	\$4,110,000	\$70,000	\$4,040,000	N/A
549188S84	2027	4,200,000	70,000	4,130,000	N/A
549188S92	2028	4,295,000	70,000	4,225,000	N/A
549188T26	2029	4,390,000	75,000	4,315,000	N/A
549188T34	2030	4,490,000	75,000	4,415,000	2/15/2029 @ Par
549188T42	2031	4,605,000	75,000	4,530,000	2/15/2029 @ Par
549188T59	2032	2,360,000	80,000	2,280,000	2/15/2029 @ Par



**EXHIBIT B**  
**FORM OF ESCROW AGREEMENT**



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## Information

### Agenda Item

**Resolution - Finance:** Consider a resolution authorizing the redemption of Lubbock Preston Smith International Airport's portion of the 2015 General Obligation Refunding Bonds.

### Item Summary

The Lubbock Preston Smith International Airport (LPSIA) is requesting the redemption of the remaining Airport Fund allocation of the General Obligation Refunding Bonds, Series 2015.

### Fiscal Impact

Upon the regular debt principal and interest payment of \$28,625 for the Lubbock Preston Smith International Airport portion of the 2015 General Obligation Refunding Bonds, the Airport will pay an additional principal amount of \$60,000 and an interest amount not to exceed \$3,000, for the remaining FY26 and FY27 outstanding bond serials.

### Staff/Board Recommending

Cheryl Brock, Interim Chief Financial Officer

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## Attachments

Resolution - LPSIA 2015 GO Ref Redemption



RESOLUTION AUTHORIZING REDEMPTION OF  
CERTAIN OF THE CITY'S OUTSTANDING BONDS

WHEREAS, the City of Lubbock, Texas (the "City") has heretofore issued its General Obligation Refunding Bonds, Series 2015 (the "Outstanding Bonds"), and the City has reserved the right to redeem the Outstanding Bonds prior to their stated maturity; and

WHEREAS, the City Council of the City (the "City Council") desires (i) to redeem a portion of such Outstanding Bonds (the "Redeemed Bonds") prior to their stated maturity in the amount and on the date(s) (the "Redemption Date") set forth in Schedule I and (ii) to make due provision for the payment of the redemption price of the Redeemed Bonds by depositing with the paying agent/registrar for the Redeemed Bonds (the "Paying Agent/Registrar"), current funds in an amount sufficient to provide for the full and timely payment of all principal of, premium, if any, and interest on the Redeemed Bonds on their Redemption Date;

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

1.     Definitions.

Capitalized terms used in this Resolution have the same meaning assigned to such terms in the ordinance (the "Ordinance") authorizing the issuance of the Outstanding Bonds, except as otherwise indicated in this Resolution.

2.     Redemption of Bonds.

The City Council hereby orders that the Redeemed Bonds be redeemed on the Redemption Date; and, the Mayor, City Manager and Chief Financial Officer of the City, each individually, are hereby authorized and directed to determine the Redemption Date and take all necessary and appropriate action to effect such redemption and to provide or cause to be provided notice of redemption to the bondholders and the Paying Agent/Registrar, as required by the Ordinance. In addition, the City Council hereby ratifies and approves all action taken by the Mayor, City Manager and Chief Financial Officer of the City to effect such redemption and to provide or cause to be provided notice of redemption to the Owners and the Paying Agent/Registrar, as required by the Ordinance.

3.     Notice of Redemption.

The Mayor, City Manager and Chief Financial Officer of the City and any other employee or agent of the City, each individually, are hereby authorized and directed to issue notice to the Paying Agent/Registrar, in the form of Exhibit A attached hereto, instructing and directing the Paying Agent/Registrar to redeem the Redeemed Bonds and provide notice to bondholders, information repositories and any other notice parties in accordance with the Ordinance.



4. Deposit with Paying Agent/Registrar.

The City shall deposit funds with the Paying Agent/Registrar in an amount sufficient to pay the redemption price and interest accrued on the Redeemed Bonds on the Redemption Date not later than the Business Day next preceding the Redemption Date. Upon the deposit of such funds with the Paying Agent/Registrar, due provision shall have been made with the Paying Agent/Registrar for the payment in full and discharge of the Redeemed Bonds. The City Council's election to exercise the City's right to redeem the Redeemed Bonds and direction to provide notice of redemption of such bonds shall be irrevocable upon the earlier of (i) the City's transfer of lawfully available funds in an amount sufficient to redeem the Redeemed Bonds pursuant to this section and (ii) the date on which notice of redemption of the Redeemed Bonds is disseminated to bondholders or submitted to an information repository.

5. Related Matters; Power to Revise Form of Documents.

(a) The Mayor, City Manager and Chief Financial Officer of the City and all other appropriate officers, agents and representatives of the City are hereby authorized and directed to take all other actions determined to be reasonably necessary to effect the redemption of the Redeemed Bonds, including, without limitation, (i) execution and delivery of all instructions, notices, certificates, consents, receipts and other instruments as may be reasonably necessary to effect the redemption of the Redeemed Bonds in accordance with this Resolution and the Ordinance, (ii) approving and effecting the disbursement, transfer and application of funds of the City consistent with the provisions of this Resolution and (iii) approving payment of expenses incurred in connection therewith, including the fees and disbursements of the City's legal counsel and consultants.

(b) Notwithstanding any other provision of this Resolution to the contrary, the Mayor, the City Manager and the Chief Financial Officer of the City are each hereby authorized to make or approve such revisions, additions, deletions and variations to this Resolution and in the form of the documents attached hereto as exhibits as, in the judgment of each such official or officer and in the opinion of the City's legal counsel, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

6. Open Meeting.

It is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by the Open Meetings Law, Chapter 551, Texas Government Code, as amended.

7. Effective Date.

This Resolution shall be in full force and effect from and upon its adoption.



8. Severability.

If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

9. Repealer.

All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

*[Signature page follows.]*



ADOPTED THIS 8<sup>th</sup> day of October 2024, by the City Council of the City of Lubbock, Texas.

\_\_\_\_\_  
MARK MCBRAYER, Mayor

ATTEST:

\_\_\_\_\_  
COURTNEY PAZ, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: Cheryl Brock  
CHERYL BROCK, Interim Chief Financial Officer

APPROVED AS TO FORM:

By: J. V. Kyle, Jr.  
JERRY V. KYLE, JR., Bond Counsel

Schedule I — Outstanding Bonds Called for Redemption  
Exhibit A — Form of Instruction Letter to Paying Agent

*[Signature Page to Resolution]*



## SCHEDULE I

### OUTSTANDING BONDS CALLED FOR REDEMPTION

City of Lubbock, Texas  
General Obligation Refunding Bonds, Series 2015

<u>Original Dated Date</u>	<u>CUSIP No.</u>	<u>Original Maturity Date (February 15)</u>	<u>Principal Amount Outstanding</u>	<u>Amount Called for Redemption</u>	<u>Redemption Date and Redemption Price</u>
4/15/2015	549188TC4	2026	\$12,295,000	\$30,000	2/15/2025 @ Par
4/15/2015	549188TD2	2027	12,380,000	30,000	2/15/2025 @ Par



**EXHIBIT A**  
**FORM OF INSTRUCTION LETTER TO PAYING AGENT**

**CITY OF LUBBOCK, TEXAS**  
**P.O. Box 2000**  
**Lubbock, Texas 79547**

[DATE]

BOKF, NA  
5956 Sherry Lane, Suite 900  
Dallas, Texas 75225

Re: City of Lubbock, Texas General Obligation Refunding Bonds, Series 2015 (the  
"Bonds")

Ladies and Gentlemen:

The City of Lubbock, Texas (the "City") has elected to exercise its option to redeem a portion of the Bonds identified in Schedule I hereto (the "Redeemed Bonds") prior to their stated maturity.

As paying agent/registrar for the Bonds, you are instructed to provide notice of redemption of the Redeemed Bonds in accordance with the ordinance that authorized issuance of the Bonds.

Please sign and return the enclosed counterpart of this letter to acknowledge your receipt of this letter.

CITY OF LUBBOCK TEXAS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Receipt Acknowledged this \_\_\_\_ day of \_\_\_\_\_, 20\_\_:

BOKF, NA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## **Schedule I**

### **Redeemed Bonds**

City of Lubbock, Texas  
General Obligation Refunding Bonds, Series 2015

<u>Original Dated Date</u>	<u>CUSIP No.</u>	<u>Original Maturity Date (February 15)</u>	<u>Principal Amount Outstanding</u>	<u>Amount Called for Redemption</u>	<u>Redemption Date and Redemption Price</u>
4/15/2015	549188TC4	2026	\$12,295,000	\$30,000	2/15/2025 @ Par
4/15/2015	549188TD2	2027	12,380,000	30,000	2/15/2025 @ Par



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## Information

### Agenda Item

**Resolution - Finance:** Consider a resolution expressing intent to finance expenditures to be incurred in the General Fund, Internal Service Fund, Airport fund and Water/Wastewater Fund for various capital projects and equipment approved by the City Council in the Fiscal Year 2024-25 Operating Budget and Capital Program, and to reimburse the City from the proceeds of obligations that will be issued after the expenditure of funds to pay costs of such projects and equipment.

### Item Summary

The City will issue bonds during Fiscal Year 2024-25 to fund projects that the City Council approved in the FY 2024-25 Capital Program. To allow capital projects to be completed within prescribed timeframes, the design, engineering, and construction costs may be incurred prior to delivery of the bond proceeds. For the costs to be eligible for reimbursement with bond proceeds, the City must declare its intent to reimburse bond-funded costs that are incurred prior to the bond issuance.

Total cost of \$120,234,447 is divided into 4 categories:

- General Fund is \$45,300,000.
- Internal Service Fund is \$8,558,447.
- Airport Fund is \$5,600,000.
- Water/Wastewater Fund is \$60,776,000

The annual debt service is budgeted through the annual operating budget process and is included in long-term financial planning and rate models. The annual payments are made from the annual revenues of the respective Enterprise and Governmental Funds where the projects are incurred.

### Fiscal Impact

The total cost of projects funded is \$120,234,447, and the maximum principal amount of obligations to be issued will not exceed \$135,000,000.

### Staff/Board Recommending

Cheryl Brock, Interim Chief Financial Officer

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## Attachments

Resolution - 24-25 Reimbursement



RESOLUTION EXPRESSING INTENT TO  
FINANCE EXPENDITURES TO BE INCURRED

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

WHEREAS, the Issuer will make or has made, not more than 60 days prior to the date hereof, payments for capital expenditures with respect to the acquisition, construction, renovation, improvement and equipment of the projects listed on Exhibit A attached hereto;

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

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

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

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

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

Section 2. The Issuer reasonably expects that the maximum principal amount of Obligations issued to reimburse the Issuer for the costs associated with the projects listed on Exhibit A attached hereto will not exceed \$135,000,000.

*[Signature page follows]*



ADOPTED THIS 8<sup>th</sup> day of October, 2024 by the City Council of the City of Lubbock, Texas.

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MARK MCBRAYER, MAYOR

ATTEST:

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COURTNEY PAZ, City Secretary

APPROVED AS TO CONTENT:

  
CHERYL BROCK, Interim Chief Financial Officer

APPROVED AS TO FORM:

  
JERRY V. KYLE, JR., Bond Counsel



## **EXHIBIT A**

The acquisition, construction, renovation, improvement and equipment of projects, including but not limited to:

<b>Category &amp; Project</b>	<b>Cost Estimate</b>	<b>Total</b>
<b>General Fund</b>		
Residential Unpaved Roadways: East of I-27 - 22B	\$4,000,000	
114th Street from Indiana Avenue to University Avenue – 22B	2,500,000	
114th Street from Frankford Avenue to Slide Road – 22B	13,800,000	
Upland Ave from 19th Street to 34th Street – 22B	11,500,000	
Upland Ave: 4th St to 19th St - 22B	11,500,000	
Cemetery Irrigation System	2,000,000	\$45,300,000
<b>Internal Transfer</b>		
Vehicle Replacements FY 24-25 Tax Note	8,558,447	8,558,447
<b>Airport</b>		
Extend Taxiway L, Taxiline Addition, and Apron Expansion	5,600,000	5,600,000
<b>Water/Wastewater</b>		
Lake 7 Design and Land Acquisition	22,276,000	
West Lubbock Water System Expansion	28,000,000	
Pump Station 11B	5,000,000	
East 50th Street Water Line Extension	2,000,000	
Southwest Lubbock Sanitary Sewer Expansion	1,000,000	
SEWRP Plant #4 Primary Clarifier Rehabilitation	2,500,000	\$60,776,000
<b>Total</b>		<b>\$120,234,447</b>



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## Information

### Agenda Item

**Resolution - Finance:** Consider a resolution authorizing publication of Notice of Intent to issue City of Lubbock, Texas, Water and Wastewater System Revenue Bonds, not to exceed \$66,000,000 for the following projects: Lake 7 Design and Land Acquisition, West Lubbock Water System Expansion, Pump Station 11B, East 50th Street Water Line Extension, Southwest Lubbock Sanitary Sewer Expansion and SEWRP Plant #4 Primary Clarifier Rehabilitation.

### Item Summary

The Water and Wastewater System Revenue Bonds (the "Bonds") are being issued for the following purposes:

1. Paying the costs of acquiring, purchasing, constructing, improving, renovating, enlarging and equipping property, buildings, structures, facilities and related infrastructure for the System;
2. Funding capitalized interest on the Bonds;
3. Funding the reserve fund requirement for the Bonds; and,
4. Paying the costs of issuing the Bonds.

Specifically, the Bonds are designated to fund the following projects:

1. Lake 7 Design and Land Acquisition
2. West Lubbock Water System Expansion
3. Pump Station 11B
4. East 50th Street Water Line Extension
5. Southwest Lubbock Sanitary Sewer Expansion
6. SEWRP Plant #4 Primary Clarifier Rehabilitation

### Fiscal Impact

The total amount of the Project costs financed with the Revenue Bonds will not exceed the \$66,000,000 total principal amount of one or more series of Water and Wastewater System Revenue Bonds. The annual debt service payments for the Bonds are budgeted through the annual operating budget process and are included in long-term financial planning and rate models. The annual payments are made from all or part of the net revenues of the City's Water and Wastewater System.

### Staff/Board Recommending

Cheryl Brock, Interim Chief Financial Officer

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## Attachments

Resolution - 2025 WWW Notice of Intent



RESOLUTION AUTHORIZING PUBLICATION OF NOTICE OF  
INTENTION TO ISSUE CITY OF LUBBOCK, TEXAS WATER AND  
WASTEWATER SYSTEM REVENUE BONDS

WHEREAS, the City of Lubbock, Texas (the "City"), pursuant to Chapter 1502, Texas Government Code, as amended, is authorized to issue its water and wastewater system revenue bonds (the "Bonds") for the purposes set forth in Exhibit A hereto; and

WHEREAS, the City Council of the City has found and determined that a notice of intention to issue the Bonds should be published in accordance with the requirements of the City's charter;

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

Section 1. The findings and determinations set forth in the preambles hereto are hereby incorporated by reference for all purposes.

Section 2. The City Secretary of the City is hereby authorized and directed to publish a notice of intention to issue the Bonds, in substantially the form set forth in Exhibit A hereto (the "Bond Notice") incorporated herein by reference for all purposes. The Bond Notice shall be published once a week for a period of thirty (30) days prior to the date set forth in the Bond Notice for passage of the ordinance authorizing the Bonds. Such Bond Notice shall be published in a newspaper of general circulation in the area of the City.

Section 3. The Mayor, the City Manager, the Chief Financial Officer, the City Secretary and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution. The Mayor is authorized to determine or revise (and insert in the Bond Notice prior to publication) the maximum principal amount of Bonds to appear in the Bond Notice and the date and time of the meeting at which such ordinance referenced in the Bond Notice will be considered.

Section 4. This resolution shall take effect from and after the date of its passage.

*[Remainder of this page intentionally left blank.]*



ADOPTED THIS 8<sup>th</sup> day of October 2024, by the City Council of the City of Lubbock, Texas.

CITY OF LUBBOCK, TEXAS

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MARK MCBRAYER, Mayor

ATTEST:

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COURTNEY PAZ, City Secretary

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
CHERYL BROCK, Interim Chief Financial Officer

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JERRY V. KYLE, JR., Bond Counsel



Exhibit A<sup>1</sup>

NOTICE OF INTENTION TO ISSUE CITY OF LUBBOCK, TEXAS  
WATER AND WASTEWATER SYSTEM REVENUE BONDS

NOTICE IS HEREBY GIVEN that on December 3, 2024, at 2:00 p.m. at a regular meeting of the City Council of the City of Lubbock, Texas (the "City"), to be held in the City Council Chambers at Citizens Tower, 1314 Avenue K, Lubbock, Texas, the regular meeting place of the City Council, the City Council intends to pass one or more ordinances authorizing the issuance of not to exceed \$66,000,000 total principal amount of water and wastewater system revenue bonds, in one or more series (collectively, the "Bonds"), for the following purposes, to wit: (i) paying the costs of acquiring, purchasing, constructing, improving, renovating, enlarging and equipping property, buildings, structures, facilities and related infrastructure for the Water and Wastewater System, (ii) funding capitalized interest for the Bonds, if necessary, (iii) funding the reserve fund requirement for the Bonds, if necessary, and (iv) paying the costs of issuing the Bonds. A complete description of the Bonds may be obtained from the Finance Department, City of Lubbock, 1314 Avenue K, Lubbock, Texas 79457; or from RBC Capital Markets, LLC, 200 Crescent Court, Suite 1500, Dallas Texas, 75201, Financial Advisors to the City.

THIS NOTICE is given in accordance with law and as directed by the City Council of the City of Lubbock, Texas on October 8, 2024.

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<sup>1</sup> Prior to publication, the Mayor may determine or revise the maximum principal amount of Bonds to appear in the Bond Notice and the date and time of the meeting at which the ordinance referenced in the Bond Notice will be considered.



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## Information

### Agenda Item

**Resolution - Lubbock Power & Light:** Consider a resolution authorizing the redemption of the outstanding Series 2015 Electrical Light and Power Systems Revenue Bonds.

### Item Summary

The Electric Light and Power System Revenue Bonds, Series 2015 (“Bonds”), were issued for the purposes of (i) acquiring, purchasing, constructing, improving, renovating, enlarging and/or equipping property, buildings, structures, facilities, and/or related infrastructure for Lubbock Power & Light (LP&L).

The preliminary plan of finance contemplates that the outstanding bonds maturing on April 15, 2026, in the years 2026 through 2035 can be called and redeemed on April 15, 2025. The redemption of the Series 2015 Bond based on its 10-Year callable period, in the amount of \$7,660,000, would provide \$2.1M in future interest costs at 5% for the remaining life of the Bond. The reserve funds used to redeem this bond are expected to be earning a rate less than 5% in interest.

### Fiscal Impact

The \$7,660,000 redemption will be paid out of reserve funds with savings of \$2,097,000 in future interest costs

### Staff/Board Recommending

Joel Ivy, Director of Electric Utilities  
Electric Utility Board

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## Attachments

Resolution - Redemption of Revenue Bond - CC

Resolution - EUB



RESOLUTION AUTHORIZING REDEMPTION OF  
CERTAIN OF THE CITY'S OUTSTANDING ELECTRIC  
LIGHT AND POWER SYSTEM REVENUE BONDS

WHEREAS, the City of Lubbock, Texas (the "City") has heretofore issued its Electric Light and Power System Revenue Bonds, Series 2015 (the "Outstanding Bonds") and the City has reserved the right to redeem the Outstanding Bonds prior to their stated maturity; and

WHEREAS, the City Council of the City (the "City Council") desires (i) to redeem a portion of such Outstanding Bonds (the "Redeemed Bonds") prior to their stated maturity in the amount and on the date(s) (the "Redemption Date") set forth in Schedule I and (ii) to make due provision for the payment of the redemption price of the Redeemed Bonds by depositing with the paying agent/registrar for the Redeemed Bonds (the "Paying Agent/Registrar"), current funds in an amount sufficient to provide for the full and timely payment of all principal of, premium, if any, and interest on the Redeemed Bonds on the Redemption Date;

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

1.     Definitions.

Capitalized terms used in this Resolution have the same meaning assigned to such terms in the ordinance (the "Ordinance") authorizing the issuance of the Outstanding Bonds, except as otherwise indicated in this Resolution.

2.     Redemption of Bonds.

The City Council hereby orders that the Redeemed Bonds be redeemed on the Redemption Date; and, the Mayor, City Manager and Chief Financial Officer of the City, each individually, are hereby authorized and directed to determine the Redemption Date and take all necessary and appropriate action to effect such redemption and to provide or cause to be provided notice of redemption to the bondholders and the Paying Agent/Registrar, as required by the Ordinance. In addition, the City Council hereby ratifies and approves all action taken by the Mayor, City Manager and Chief Financial Officer of the City to effect such redemption and to provide or cause to be provided notice of redemption to the Owners and the Paying Agent/Registrar, as required by the Ordinance.

3.     Notice of Redemption.

The Mayor, City Manager and Chief Financial Officer of the City and any other employee or agent of the City, each individually, are hereby authorized and directed to issue notice to the Paying Agent/Registrar, in the form of Exhibit A attached hereto, instructing and directing the Paying Agent/Registrar to redeem the Redeemed Bonds and



provide notice to bondholders, information repositories and any other notice parties in accordance with the Ordinance.

4. Deposit with Paying Agent/Registrar.

The City shall deposit funds with the Paying Agent/Registrar in an amount sufficient to pay the redemption price and interest accrued on the Redeemed Bonds on the Redemption Date not later than the Business Day next preceding the Redemption Date. Upon the deposit of such funds with the Paying Agent/Registrar, due provision shall have been made with the Paying Agent/Registrar for the payment in full and discharge of the Redeemed Bonds. The City Council's election to exercise the City's right to redeem the Redeemed Bonds and direction to provide notice of redemption of such bonds shall be irrevocable upon the earlier of (i) the City's transfer of lawfully available funds in an amount sufficient to redeem the Redeemed Bonds pursuant to this section and (ii) the date on which notice of redemption of the Redeemed Bonds is disseminated to bondholders or submitted to an information repository.

5. Related Matters; Power to Revise Form of Documents.

(a) The Mayor, City Manager and Chief Financial Officer of the City and all other appropriate officers, agents and representatives of the City are hereby authorized and directed to take all other actions determined to be reasonably necessary to effect the redemption of the Redeemed Bonds, including, without limitation, (i) execution and delivery of all instructions, notices, certificates, consents, receipts and other instruments as may be reasonably necessary to effect the redemption of the Redeemed Bonds in accordance with this Resolution and the Ordinance, (ii) approving and effecting the disbursement, transfer and application of funds of the City consistent with the provisions of this Resolution and (iii) approving payment of expenses incurred in connection therewith, including the fees and disbursements of the City's legal counsel and consultants.

(b) Notwithstanding any other provision of this Resolution to the contrary, the Mayor, the City Manager and the Chief Financial Officer of the City are each hereby authorized to make or approve such revisions, additions, deletions and variations to this Resolution and in the form of the documents attached hereto as exhibits as, in the judgment of each such official or officer and in the opinion of the City's legal counsel, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

6. Open Meeting.

It is hereby officially found and determined that the meeting at which this Resolution was adopted was open to the public, and public notice of the time, place, and purpose of said meeting was given, all as required by the Open Meetings Law, Chapter 551, Texas Government Code, as amended.



7. Effective Date.

This Resolution shall be in full force and effect from and upon its adoption.

8. Severability.

If any section, paragraph, clause, or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Resolution.

9. Repealer.

All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

*[Signature page follows.]*



ADOPTED THIS 8<sup>th</sup> day of October 2024, by the City Council of the City of Lubbock, Texas.

\_\_\_\_\_  
MARK MCBRAYER, Mayor

ATTEST:

\_\_\_\_\_  
COURTNEY PAZ, City Secretary

[SEAL]

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
CHERYL BROCK, Interim Chief Financial Officer

APPROVED AS TO FORM:

By:  \_\_\_\_\_  
JERRY V. KYLE, JR., Bond Counsel

*[Signature Page to Resolution]*



Schedule I — Outstanding Bonds Called for Redemption  
Exhibit A — Form of Instruction Letter to Paying Agent

*[Signature Page to Resolution]*



# SCHEDULE I

## OUTSTANDING BONDS CALLED FOR REDEMPTION

City of Lubbock, Texas  
Electric Light and Power System Revenue Bonds, Series 2015

<u>Original Dated Date</u>	<u>CUSIP No.</u>	<u>Original Maturity Date (April 15)</u>	<u>Principal Amount Outstanding</u>	<u>Amount Called for Redemption</u>	<u>Redemption Date and Redemption Price</u>
4/15/2015	549203TK3	2026	\$565,000	\$565,000	4/15/2025 @ Par
4/15/2015	549203TL1	2027	595,000	595,000	4/15/2025 @ Par
4/15/2015	549203TM9	2028	625,000	625,000	4/15/2025 @ Par
4/15/2015	549203TN7	2029	655,000	655,000	4/15/2025 @ Par
4/15/2015	549203TP2	2030	685,000	685,000	4/15/2025 @ Par
4/15/2015	549203TQ0	2031	720,000	720,000	4/15/2025 @ Par
4/15/2015	549203TR8	2032	760,000	760,000	4/15/2025 @ Par
4/15/2015	549203TS6	2033	795,000	795,000	4/15/2025 @ Par
4/15/2015	549203TT4	2034	835,000	835,000	4/15/2025 @ Par
4/15/2015	549203TU1	2035	875,000	875,000	4/15/2025 @ Par



**EXHIBIT A**  
**FORM OF INSTRUCTION LETTER TO PAYING AGENT**

**CITY OF LUBBOCK, TEXAS**  
**P.O. Box 2000**  
**Lubbock, Texas 79547**

[DATE]

BOKF, NA  
5956 Sherry Lane, Suite 900  
Dallas, Texas 75225

Re: City of Lubbock, Texas Electric Light and Power System Revenue Bonds, Series  
2015 (the "Bonds")

Ladies and Gentlemen:

The City of Lubbock, Texas (the "City") has elected to exercise its option to redeem a portion of the Bonds identified in Schedule I hereto (the "Redeemed Bonds") prior to their stated maturity.

As paying agent/registrar for the Bonds, you are instructed to provide notice of redemption of the Redeemed Bonds in accordance with the ordinance that authorized issuance of the Bonds.

Please sign and return the enclosed counterpart of this letter to acknowledge your receipt of this letter.

CITY OF LUBBOCK TEXAS

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Receipt Acknowledged this \_\_\_\_ day of \_\_\_\_\_, 20\_\_:

BOKF, NA

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## Schedule I

### Redeemed Bonds

City of Lubbock, Texas  
Electric Light and Power System Revenue Bonds, Series 2015

<u>Original Dated Date</u>	<u>CUSIP No.</u>	<u>Original Maturity Date (April 15)</u>	<u>Principal Amount Outstanding</u>	<u>Amount Called for Redemption</u>	<u>Redemption Date and Redemption Price</u>
4/15/2015	549203TK3	2026	\$565,000	\$565,000	4/15/2025 @ Par
4/15/2015	549203TL1	2027	595,000	595,000	4/15/2025 @ Par
4/15/2015	549203TM9	2028	625,000	625,000	4/15/2025 @ Par
4/15/2015	549203TN7	2029	655,000	655,000	4/15/2025 @ Par
4/15/2015	549203TP2	2030	685,000	685,000	4/15/2025 @ Par
4/15/2015	549203TQ0	2031	720,000	720,000	4/15/2025 @ Par
4/15/2015	549203TR8	2032	760,000	760,000	4/15/2025 @ Par
4/15/2015	549203TS6	2033	795,000	795,000	4/15/2025 @ Par
4/15/2015	549203TT4	2034	835,000	835,000	4/15/2025 @ Par
4/15/2015	549203TU1	2035	875,000	875,000	4/15/2025 @ Par



## **RESOLUTION**

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

WHEREAS, subject to certain rights retained by the City Council of the City (the "City Council"), Chapter 1, Article XII, Section 1, of the City Charter (the "Charter"), provides that Lubbock Power & Light shall be governed, managed and operated by the Electric Utility Board (the "Board");

WHEREAS, Chapter 1, Article XII, Section 1, of the Charter and Section 2.03.414 of the Code of Ordinances of the City collectively provide that the City Council retains the sole and exclusive authority with respect to issuing bonds or otherwise creating any indebtedness in the name of the City for the benefit of Lubbock Power & Light that is secured by the general tax revenue of the City or the net revenue of the Lubbock Power & Light system or the pledging of the assets thereof;

WHEREAS, Lubbock Power & Light's staff has worked with the City's financial advisor, bond counsel and other consultants to prepare a preliminary plan of finance (the "Preliminary Plan of Finance") for the proposed redemption by the City of a portion of the City's Electric Light and Power System Revenue Bonds, Series 2015 (the "Outstanding Bonds"), which are currently outstanding in the aggregate principal amount of \$7,660,000, in order to achieve debt service savings;

WHEREAS, the Preliminary Plan of Finance contemplates that the Outstanding Bonds maturing on April 15 in the years 2026 through 2035 (the "Called Bonds") be called and redeemed on April 15, 2025, or such other dates as determined by the Mayor, City Manager and Chief Financial Officer of the City; and

WHEREAS, the Board has determined that the redemption of the Called Bonds in accordance with the Preliminary Plan of Finance is in the best interests of Lubbock Power & Light, its customers, and the City and will further the Board's primary purpose of providing dependable and reliable electric service at reasonable and competitive rates to the citizens of the City while being financially self-sustaining;

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

THAT the Board hereby recommends consideration of the Preliminary Plan of Finance by the City Council.

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

THAT the Board hereby recommends that the City Council authorize the redemption of the Called Bonds in accordance with the Preliminary Plan of Finance.



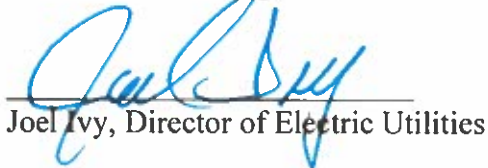
Passed by the Board this 17th day of September, 2024.

  
GWEN STAFFORD, CHAIR

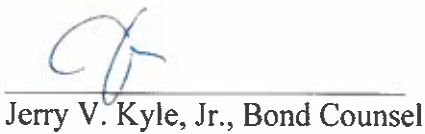
ATTEST:

  
Eddie Schulz, Board Secretary

APPROVED AS TO CONTENT:

  
Joel Ivy, Director of Electric Utilities

APPROVED AS TO FORM:

  
Jerry V. Kyle, Jr., Bond Counsel



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## Information

### Agenda Item

**Board Appointments - City Secretary:** Consider appointments to the Airport Board, Animal Services Advisory Board, Capital Improvements Advisory Committee, Health/Educational Facilities Development Corporation Board, Keep Lubbock Beautiful Advisory Committee, Lubbock Economic Development Alliance, Inc. Board of Directors, Lubbock Emergency Communications District Board of Managers, Market Lubbock, Inc. Board of Directors, Model Codes & Construction Advisory Board, Planning & Zoning Commission, Veterans Advisory Committee, and the Zoning Board of Adjustment.

### Item Summary

Consider appointments to the Airport Board, Animal Services Advisory Board, Capital Improvements Advisory Committee, Health/Educational Facilities Development Corporation Board, Keep Lubbock Beautiful Advisory Committee, Lubbock Economic Development Alliance, Inc. Board of Directors, Lubbock Emergency Communications District Board of Managers, Market Lubbock, Inc. Board of Directors, Model Codes & Construction Advisory Board, Planning & Zoning Commission, Veterans Advisory Committee, and the Zoning Board of Adjustment.

### Fiscal Impact

None

### Staff/Board Recommending

Courtney Paz, City Secretary

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## Attachments

*No file(s) attached.*



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### 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

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### Attachments

*No file(s) attached.*



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## Information

### Agenda Item

**Ordinance 1st Reading - Planning:** Consider and take action on the City of Lubbock Planning and Zoning Commission's final report of October 3, 2024, 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. Section 39.03.015.e – Ground cover Requirements
2. Table 39.03.016-2 – Bufferyard Classifications and Division 3.4 Trees, Landscaping, and Buffering
3. Table 39.03.015-1 Landscape Points System
4. Section 39.10.002 Definitions
5. Table 39.03.015-1 Landscape Points System
6. Section 39.03.019.a.6.B - Installation & Maintenance
7. Section 39.10.002 - Definitions
8. Appendix A Plant List and Chapter 39 – Unified Development Code
9. Section 39.03.019.a.2 – Installation and Maintenance
10. Section 39.03.016.e.1 – Bufferyard Standards
11. Section 39.03.014.b General Provisions and Table 39.03.014-1 Required Landscaping Types Summary
12. Table 39.03.015-1 Landscape Points System
13. Table 39.03.015-1 Landscape Points System
14. Section 39.03.016.e.3.B – Parking Bufferyard Standards
15. Section 39.03.019.e.6 - Installation and Maintenance
16. Table 39.03.014-1 – Required Landscaping Types Summary
17. Table 39.03.015-1 – Landscape Points System
18. Table 39.03.015-1 – Landscape Points System - Other
19. Section 39.03.016.e.4 – Street Bufferyard
20. Table 39.03.016-3 – Street Bufferyard Requirements
21. Section 39.03.016.e.3.A – Parking Bufferyard Standards
22. Section 39.03.016.e.3.B.i – Parking Bufferyard Standards - Composition
23. Section 39.03.019.d.6 - Installation and Maintenance
24. Section 39.03.015 – Development Landscaping
25. Section 39.03.015 – Development Landscaping
26. Figure 39.03.015-2 – Illustrative Parking Lot Planting Requirements
27. Section 39.03.016.d.1 - Composition of Bufferyards
28. Table 39.03.016-1 – District Bufferyard Standards

### Item Summary



The Planning and Zoning Commission (PZC) and City Council held a joint public hearing on September 26, 2024, to discuss amending the Unified Development Code (Ordinance No. 2023-O0054).

The attached amendments were presented by staff at the joint hearing. The Planning and Zoning Commission (PZC) will make a recommendation on the amendments at their regular meeting on Thursday, October 3, 2024.

**Fiscal Impact**

None

**Staff/Board Recommending**

Erik Rejino, Assistant City Manager

Kristen Sager, Director of Planning

Planning and Zoning Commission

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**Attachments**

Ordinance - UDC Landscape Amendments

Proposed UDC Landscape Amendments



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE (ORDINANCE NO. 2023-O0054), AMENDING DIVISION 3.4, RELATED TO TREES, LANDSCAPING, AND BUFFERING, INCLUDING, BUT NOT LIMITED TO, SECTION 39.03.014.b REGARDING GENERAL PROVISIONS, TABLE 39.03.014-1 REGARDING REQUIRED LANDSCAPE TYPES, SECTIONS 39.03.015 AND 39.03.015.e REGARDING DEVELOPMENT LANDSCAPING AND GROUND COVER REQUIREMENTS, TABLES 39.03.015-1&2 REGARDING LANDSCAPE POINT SYSTEM AND PARKING LOT PLANTING REQUIREMENTS, SECTIONS 39.03.016.d.1, 39.03.016.e.1, 39.03.016.c.3.A, 39.03.016.e.3.B.i, 39.03.016.e.4&6, AND TABLES 39.03.016-1 THROUGH 39.03.016-3 REGARDING BUFFERYARD LANDSCAPING, SECTION 39.03.017 TREE PRESERVATION, SECTIONS 39.03.019.a.2, 39.03.019.a.6.B, AND 39.03.019.d.6 REGARDING INSTALLATION AND MAINTENANCE, THE APPENDICES SECTION, APPENDIX A RELATED TO PLANT LISTS, DIVISION 2.2, TABLES 39.02.004.a-4, 39.02.004.b-4, 39.02.004.c-4, 39.02.004.d-4, 39.02.004.e-4, 39.02.006.a-4, 39.02.006.b-4, 39.02.006.c-4, 39.02.006.d-4, 39.02.006.e-4, 39.02.006.f-4, AND 39.02.006.g-4 RELATED TO ZONING DISTRICTS AND STANDARDS, SPECIFICALLY REQUIRED LANDSCAPING TYPES SUMMARY, AND SECTION 39.10.002, RELATED TO DEFINITIONS, PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.**

**WHEREAS**, the proposed changes in zoning as hereinafter made have been duly presented to the Planning and Zoning Commission for its recommendation at a joint public hearing of the Planning and Zoning Commission and the City of Council of the City of Lubbock held on September 26, 2024 at 6:00 p.m., and after due consideration, and upon receiving the final report of the Planning and Zoning Commission regarding said changes, the City Council considered the amendments herein at its regularly scheduled City Council meeting on October 8, 2024; and

**WHEREAS**, all conditions precedent required by law for a valid amendment to the City of Lubbock Code of Ordinances, including zoning ordinances, have been fully complied with, including giving notice through social media sites, the City of Lubbock's public access channel, access links on the City of Lubbock's website, media releases and media advisory fliers provided to the public media, hard copies of the proposed amendments available in the City of Lubbock Planning Department and notice of the joint public hearing as required by the Texas Local Government Code Sec. 211.007(d), and in accordance with the notice plan passed by the City Council of the City of Lubbock by at least a two-thirds vote on August 13, 2024 by Resolution No. 2024-R0374; and

**WHEREAS**, notice of the joint public hearing was duly published in the Lubbock Avalanche-Journal more than fifteen (15) days prior to the date of the joint public hearing before the City Council and the Planning and Zoning Commission on such proposed amendments and in accordance with the hearing notice schedule as adopted by Resolution No. 2024-R0374, and the joint public hearing according to said notice, was held in the City Council Chamber of



Citizens Tower in Lubbock, Texas, at which time persons appeared and had the opportunity to participate in the joint public hearing; and

WHEREAS, the Planning and Zoning Commission has reconsidered the amendments herein, and upon receiving the final report of the Planning and Zoning Commission regarding said changes, it was by the City Council determined that it would be in the public interest that the City of Lubbock Code of Ordinances, the Unified Development Code (UDC), Ordinance No. 2023-O0054, be amended in the manner hereinafter set forth in the body of this Ordinance and this Ordinance having been introduced prior to first reading hereof; **NOW THEREFORE:**

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

**SECTION 1. THAT** the Unified Development Code of the City of Lubbock (Ordinance No. 2023-O0054) is hereby amended with regard to **Division 3.4, related to Trees, Landscaping, and Buffering, including, but not limited to, Section 39.03.014.b regarding General Provisions, Table 39.03.014-1 regarding Required Landscape Types, Sections 39.03.015 and 39.03.015.e regarding Development Landscaping and Groundcover Requirements, Tables 39.03.015-1&2 regarding Landscape Point System and Parking Lot Planting Requirements, Sections 39.03.016.d.1, 39.03.016.e.1, 39.03.016.e.3.A, 39.03.016.e.3.B.i, 39.03.016.e.4&6, and Tables 39.03.016-1 through 39.03.016-3 regarding Bufferyard Landscaping, Section 39.03.017 Tree Preservation , Sections 39.03.019.a.2, 39.03.019.a.6.B, and 39.03.019.d.6 regarding Installation and Maintenance, the Appendices section, Appendix A related to Plant Lists, Division 2.2, Tables 39.02.004.a-4, 39.02.004.b-4, 39.02.004.c-4, 39.02.004.d-4, 39.02.004.e-4, 39.02.006.a-4, 39.02.006.b-4, 39.02.006.c-4, 39.02.006.d-4, 39.02.006.e-4, 39.02.006.f-4, and 39.02.006.g-4 related to Zoning Districts and Standards, specifically Required Landscaping Types Summary, and Section 39.10.002, related to Definitions**

**SECTION 2. THAT** the UDC amendments to the sections mentioned above and set forth in “Exhibit A”, attached hereto and incorporated herein, are hereby adopted by the City Council of the City of Lubbock.

**SECTION 3. THAT** this Ordinance shall be cumulative of all other ordinances dealing with the same subject, and any provision of any ordinance in direct conflict with any provision of this Ordinance is hereby repealed, and the provisions of this Ordinance shall supersede any provisions in conflict herewith. All provisions of any other ordinance not in conflict herewith shall remain in full force and effect.

**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** 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 \_\_\_\_\_.**

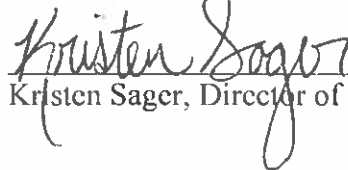
**Passed by the City Council on second reading on \_\_\_\_\_.**

**MARK W. MCBRAYER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Kristen Sager, Director of Planning

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Kelli Leisure, Senior Assistant City Attorney

Cedoes://Ordinance Amending UDC landscaping  
9.25.24



## Staff Proposed Amendments to Landscaping and Bufferyards

### 1. Section 39.03.015.e – Groundcover Requirements

- a. **Current Language: Groundcover Requirements.** Eligible groundcover area shall not include concrete, asphalt, or other impervious surfaces, with the exception of xeriscape groundcover, rocks, decorative pavers, or stamped, dyed concrete which may be used only within the first one and one-half feet of the parking island to allow persons to access their vehicle without stepping on landscaping. The height of the groundcover plant species chosen shall not interfere with the triangle established in Section 39.02.022, *Measurements*, along access drives or anywhere throughout the parking lot.
- b. **Proposed Revision: Groundcover Requirements.** Eligible groundcover area shall not include concrete, asphalt, or other impervious surfaces. ~~with the exception of x~~ Xeriscape groundcover, rocks (gravel), decorative pavers, or stamped, dyed concrete ~~which~~ may be used, ~~provided there are a minimum of 5 live plants planted within the groundcover area, for every 100 square feet of the groundcover area only within the first one and one-half feet of the parking island to allow persons to access their vehicle without stepping on landscaping.~~ The height of the groundcover plant species chosen shall not interfere with the triangle established in Section 39.02.022, *Measurements*, along access drives or anywhere throughout the parking lot.

### 2. Table 39.03.016-2 – Bufferyard Classifications and Division 3.4 Trees, Landscaping, and Buffering

- a. **Proposed Revision:** Remove all references to shrubs and Natural Bufferyards.
- b. **Add:**
  - i. When a District Bufferyard is required along the rear property line, a minimum 7 foot tall solid masonry fence meeting the regulations in Section 39.03.016.e., may be installed along the rear property line, in lieu of the landscape bufferyard.
  - ii. When a District Bufferyard is required along the rear property line adjacent to an alley, either a minimum 7 foot tall solid masonry fence meeting the regulations in Section 39.03.016.e., or the required landscape bufferyard with a minimum 7 foot tall solid wood fence, must be installed along the rear property line.
- c. Change the berm width from 34' to 18' on Type A.
- d. Change the berm width from 34' to 26' on Type B.
- e. Change the number of Ornamental Trees per 100 Linear Feet from 4 to 3 on Type C.
- f. Change the number of Canopy Trees per 100 Linear Feet from 4 to 3 on Type D.
- g. Change the number of Ornamental Trees per 100 Linear Feet from 6 to 3 on Type D.
- h. Amend Figure 39.03.016-1 Bufferyard Examples to only show the one bufferyard example for each of the four types.
- i. On Type D change Structural to Without Berm: 30
- j. On Height of Wall or Fence change from 6 to 7



Table 39.03.016-2 Bufferyard Classifications					
Bufferyard Type	Width (feet)	Required Plantings per 100 Linear Feet ( <del>Structural / Natural</del> )			Height of Wall or Fence / Berm (feet)
		Canopy	Ornamental	<del>Shrubs</del>	
A	<del>Structural or Natural</del> without berm: 5 Natural with berm: <b>18</b>	1 / <del>4</del>	2 / <del>4</del>	<del>10 / 15</del>	<b>7</b> / 4
B	<del>Structural or Natural</del> without berm: 10 Natural with Berm: <b>26</b>	2 / <del>2</del>	4 / <del>6</del>	<del>15 / 20</del>	<b>7</b> / 4
C	<del>Structural or Natural</del> without berm: 15 Natural with Berm: 34	3 / <del>5</del>	<b>3</b> / <del>6</del>	<del>20 / 20</del>	<b>7</b> / 4
D	<del>Structural</del> : 30 Natural with Berm: 34	<b>3</b> / <del>4</del>	<b>3</b> / <del>8</del>	<del>30 / 30</del>	<b>7</b> / 4

### 3. Table 39.03.015-1 Landscape Points System

- a. **Proposed Revision:** Change “One canopy or two ornamental trees per ~~1,000 square feet~~ to 2,000 square feet.” Change “Six shrubs per ~~1,000 square feet~~ to 2,000 square feet.”

Table 39.03.015-1 Landscape Points System		
Landscaping Element	Location and Design	Points Earned (+) or Deducted (-)
<b>Site Landscaping</b>		
One canopy or two ornamental trees per 1,000 square feet of site landscaping area	<ul style="list-style-type: none"> <li>All areas not designated in Figure 39.03.015-1, <i>Foundation Planting Example</i>, as foundation plantings, bufferyards, parking lot landscaping, or utilized for pedestrian and vehicular access to the building (for example, sidewalks, parking spaces, loading spaces, service areas, and drive-in or drive-through facilities) shall be landscaped with groundcover or consist of xeriscape groundcover, rocks, decorative pavers or stamped, dyed concrete, and designated as site landscaping area.</li> </ul>	+15 for entire site
Six shrubs per 1,000 square feet of site landscaping area		+10 for entire site

### 4. Section 39.10.002 Definitions

- a. **Current Language:** **Groundcover** means plants of species that will not generally reach a height of more than two feet, installed in such a manner as to form a continuous cover over the ground. Groundcover includes sod, ornamental grasses, mulch, or perennial or seasonal plantings and are listed as a Groundcover in Appendix A, *Plant List*.
- b. **Proposed Revision:** **Groundcover** means plants of species that will not generally reach a height of more than two feet, installed in such a manner as to form a continuous cover over the ground. Groundcover includes sod, ornamental grasses, mulch, or perennial or seasonal plantings ~~and are listed as a Groundcover in Appendix A, Plant List~~. Xeriscape groundcover, where a minimum of 5 live plants are planted within the groundcover area, for every 100 square feet of the groundcover area, is included in this definition.



## 5. Table 39.03.015-1 Landscape Points System

**a. Proposed Revision:** Replace this element with the proposal below:

Table 39.03.015-1 Landscape Points System		
Landscaping Element	Location and Design	Points Earned (+) or Deducted (-)
50 percent of all plant material is water efficient as listed in <a href="#">Appendix A Plant List</a>	--	+5

Landscaping Element	Location and Design	Points Earned(+) or Deducted (-)
50 percent of all plant material in the non-turfed landscape areas is Zoned USDA 7, perennial, native, and water wise as defined by a creditable source (IE: Texas Tech University Dept. of Plant & Soil Sciences)	--	+5
100 percent of all plant material in the non-turfed landscape areas is Zoned USDA 7, perennial, native, and water wise as defined by a creditable source (IE: Texas Tech University Dept. of Plant & Soil Sciences)	--	+10

## 6. Section 39.03.019.a.6.B - Installation & Maintenance

- a. Current Language:** Two one-gallon shrubs are the equivalent of one three-gallon shrub. The minimum number of shrubs required per this Division is based on three-gallon shrubs. If one-gallon shrubs are used, the required number of shrubs shall increase to comply with the 2:1 ratio.

Table 39.03.019-1 Minimum Size of Plants at Installation	
Type of Plant Material	Minimum Size at Installation
Canopy Tree	3" caliper
Ornamental Tree	2.5" caliper
Evergreen Tree	6' in height
Shrub	3 gal. container



- b. **Proposed Revision:** ~~Two one-gallon shrubs are the equivalent of one three-gallon shrub. The minimum number of shrubs required per this Division is based on three-gallon shrubs. If one-gallon shrubs are used, the required number of shrubs shall increase to comply with the 2:1 ratio.~~
- c. Change the minimum size for shrub from 3 gal. to 1 gal.

Table 39.03.019-1 Minimum Size of Plants at Installation	
Type of Plant Material	Minimum Size at Installation
Canopy Tree	3" caliper
Ornamental Tree	2.5" caliper
Evergreen Tree	6' in height
Shrub	3 gal. container

## 7. Section 39.10.002 - Definitions

- a. **Current Language:** **Canopy Tree** means a tree exceeding 30 feet in height at maturity, planted for its high crown of foliage or overhead canopy and listed as a Canopy Tree in Appendix A, *Plant List*.
- b. **Proposed Revision:** **Canopy Tree** means a tree whose canopy is a minimum of 20 feet in width ~~exceeding 30 feet in height~~ at maturity, planted for its high crown of foliage or overhead canopy ~~and listed as a Canopy Tree in Appendix A, *Plant List*.~~
- c. **Current Language:** **Ornamental Tree** means a tree 30 feet or less in height at maturity, planted primarily for its ornamental value such as flowers, leaf color, size, or shape and listed as an Ornamental Tree in Appendix A, *Plant List*.
- d. **Proposed Revision:** **Ornamental Tree** means a tree whose canopy is a minimum of 10 feet in width ~~30 feet or less in height~~ at maturity, planted primarily for its ornamental value such as flowers, leaf color, size, or shape ~~and listed as an Ornamental Tree in Appendix A, *Plant List*.~~

## 8. Appendix A Plant List and Chapter 39 – Unified Development Code

- a. **Proposed Revision:** ~~Remove Appendix A~~ in its entirety and ~~all references~~ to it within the UDC.

## 9. Section 39.03.019.a.2 – Installation and Maintenance

- a. **Current Language:** *Standards.* Within each category of required landscaping (canopy trees, ornamental trees, evergreen trees, and shrubs):
  - A. Not more than 60 percent shall be of any one genus; and
  - B. Not more than 40 percent shall be of any one species.
- b. **Proposed Revision:** ~~*Standards.* Within each category of required landscaping (canopy trees, ornamental trees, evergreen trees, and shrubs):~~
  - A. ~~Not more than 60 percent shall be of any one genus; and~~
  - B. ~~Not more than 40 percent shall be of any one species.~~



## 10. Section 39.03.016.e.1 – Bufferyard Standards

### a. Proposed Revision: Generally.

A. *Voluntary Increase in Bufferyard.* Where a lower classification bufferyard is required, the applicant may voluntarily provide a higher classification bufferyard, in part or in whole.

B. *Groundcover Requirements.* In addition to the required plantings, walls, fences, and berms, the remaining portions of all bufferyards shall contain groundcover.

C. *Landscape Points for Bufferyard.* Where a bufferyard is needed, correct location and composition of bufferyard shall result in +10 points towards the total number of landscape points required on a project.

## 11. Section 39.03.014.b General Provisions and Table 39.03.014-1 Required Landscaping Types Summary

a. **Current Language: Required Landscaping Types.** Table 39.03.014-1, *Required Landscaping Types Summary*, sets out the landscaping types eligible for points in each zoning district. Figure 39.03.014-1, *Illustrative Landscape Types*, depicts these types.

b. **Proposed Revision: Required-Eligible Landscaping Types.** ~~Table 39.03.014-1, Required Landscaping Types Summary, sets out the landscaping types eligible for points in each zoning district.~~ Figure 39.03.014-1, *Illustrative Landscape Types*, depicts ~~these~~ the landscaping types eligible for points.

c. **Proposed Revision: Delete Table 39.03.014-1 in its entirety and all references to it.**

## 12. Table 39.03.015-1 Landscape Points System

### a. Proposed Revision: Remove the following items

Table 39.03.015-1 Landscape Points System		
Landscaping Element	Location and Design	Points Earned (+) or Deducted (-)
<b>Other</b>		
100 to <del>50</del> percent of water in irrigation system comes from treated production water	--	+15
<del>25 to 49 percent of water in irrigation system comes from treated production water</del>	--	<del>+15</del>
100 percent of water in irrigation system comes from an approved well on-site	--	+10
<del>Use of locally sourced mulch wherever mulch is provided on-site</del>	<del>Shall be provided at a minimum depth of three inches.</del>	<del>+5</del>

## 13. Table 39.03.015-1 Landscape Points System

### a. Proposed Revision: Remove this item in its entirety



Table 39.03.015-1 Landscape Points System		
Landscaping Element	Location and Design	Points Earned (+) or Deducted (-)
More than 35 percent of the required landscaping area is proposed to be turf grass	--	-10

#### 14. Section 39.03.016.e.3.B – Parking Bufferyard Standards


- a. **Current Language:** *Composition.* A parking area buffer shall be composed of one of the following screening devices that are two feet tall:
- b. **Proposed Revision:** *Composition.* A parking area buffer shall be composed of ~~one~~ any combination of the following screening devices that are two feet tall:

#### 15. Section 39.03.019.e.6 - Installation and Maintenance

- a. **Current Language:** *Maintenance Easement.* In a multi-tenant development, a maintenance easement a minimum of five feet in width shall be dedicated to the homeowners' or property owners' association, PID, or TIF along applicable property lines within the development.
- b. **Proposed Revision:** ~~*Maintenance Easement.* In a multi-tenant development, a maintenance easement a minimum of five feet in width shall be dedicated to the homeowners' or property owners' association, PID, or TIF along applicable property lines within the development.~~

#### 16. Table 39.03.014-1 – Required Landscaping Types Summary

- a. **Current Language:** Bufferyards are required for new residential development that is developed using the Cluster subdivision option.
- b. **Proposed Revision:** **Remove this requirement.**

Table 39.03.014-1 Required Landscaping Types Summary					
♦ = Required landscaping type   -- = Landscape type not required Refer to Sections 39.03.015, Development Landscaping, and 39.03.016, Bufferyard Landscaping					
Zoning Districts and Land Uses	Development Landscaping				Bufferyards
	Street Yard Trees	Foundation Plantings	Parking Lot Landscaping	Site Landscaping	
RE district for all uses	Exempt				(remove this bufferyard requirement) 
All single-family detached, townhouse, and duplex dwellings in any district where they are permitted	Exempt				

#### 17. Table 39.03.015-1 – Landscape Points System



a. **Proposed Revision:** Replace all Parking Lot Landscape Elements with one element:

Table 39.03.015-1 Landscape Points System		
Landscaping Element	Location and Design	Points Earned (+) or Deducted (-)
Endcap island with groundcover and one canopy tree or one evergreen or two ornamental trees	<ul style="list-style-type: none"> <li>At minimum, at the end of alternating parking rows.</li> <li>Each endcap island shall be a minimum of 9' wide and the length of the parking row with 10-foot curb radii on the side closest to the drive aisle. For example, if there is a single row of 90-degree parking spaces, the length is 18 feet; if</li> </ul>	+10 for each double parking row with an endcap island and +5 for each single parking row with an endcap island
Corner island with groundcover and one canopy tree or one evergreen or two ornamental trees	<p>There is no need for all of these different categories of parking lot landscaping. Distill all of this down to one item: Landscape areas located within a parking lot as illustrated in Fig. 39.03.014-1..</p> <p>10 points for each canopy tree 5 points for each canopy or evergreen 5 points for each 200 SF of ground cover</p>	+5 for each corner island
Interior island with groundcover and one canopy tree, one evergreen tree, or two ornamental trees or 15 shrubs	<p>row with 5-foot curb radii on the side closest to the drive aisle. For example, if there is a single row of 90-degree parking spaces, the length is 18 feet; if there is a double row of 90-degree parking spaces, the length is 36 feet.</p>	+10 for first one and +5 for each additional one
Median with groundcover and ornamental grasses, shrubs, or planters	<ul style="list-style-type: none"> <li>At minimum, along the entire centerline of alternating double parking rows.</li> <li>Each median shall be a minimum of 5' wide.</li> </ul>	+10 for each median in a double parking row

18. Table 39.03.015-1 – Landscape Points System - Other

a. **Proposed Revision:** Remove this item:

Slope within 10 feet of street or parking area exceeds 20 percent	A berm (usually placed close to a parking lot) is one of the approved buffer types and its side slope is 25%. If that's allowed there, why is it penalized here? Remove this item.	-10
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19. Section 39.03.016.e.4 – Street Bufferyard

- a. **Current Language:** *Street Bufferyard.* A street bufferyard shall be required for any new residential development that is developed using the Cluster subdivision option or any applicable development in the OF or AC zoning districts based on the classification of the adjacent street in the current City of Lubbock [Master Thoroughfare Plan](#) and according to Table 39.03.016-3, *Street Bufferyard Requirements*. The street bufferyard shall be located along the entire length of the street (except for alleys) and shall be owned and maintained by the property owner, homeowners' association, property owners' association, Public Improvement District (PID), or Tax Increment Finance District (TIF). These buffers shall meet the requirements of the district bufferyard standards in composition.
- b. **Proposed Revision:** ~~*Street Bufferyard.* A street bufferyard shall be required for any new residential development that is developed using the Cluster subdivision option or any applicable development in the OF or AC zoning districts based on the classification of the adjacent street in the current City of Lubbock Master Thoroughfare Plan and according to Table 39.03.016-3, *Street Bufferyard Requirements*. The street bufferyard shall be located along the entire length of the street (except for alleys) and shall be owned and maintained by the property owner, homeowners' association, property owners'~~



association, Public Improvement District (PID), or Tax Increment Finance District (TIF). These buffers shall meet the requirements of the district bufferyard standards in composition.

## 20. Table 39.03.016-3 – Street Bufferyard Requirements

### a. Proposed Revision:

Table 39.03.016-3 Street Bufferyard Requirements			
-- = No street bufferyard required			
Use or District	Abutting Street Classification		
	Local Street	Arterial Street	Freeway
Cluster Residential Development	--	--	--
Office or AC District	A	B	C

## 21. Section 39.03.016.e.3.A – Parking Bufferyard Standards

- c. **Current Language:** *Applicability.* All parking areas with more than 10 parking spaces shall have a bufferyard between the street and the edge of the parking areas as follows:
- d. **Proposed Revision:** *Applicability.* All parking areas with more than ~~10~~ 30 parking spaces between the building and the street shall have a bufferyard between the street and the edge of the parking areas as follows:

## 22. Section 39.03.016.e.3.B.i – Parking Bufferyard Standards - Composition

- a. **Current Language:**
- Continuous hedge;
  - Continuous row of ornamental grasses;
- b. **Proposed Revision:**
- ~~i.~~ Continuous ~~hedge;~~ plant spacing at time of planting to provide continuous screening at time of plant maturity;
  - ~~ii.~~ ~~Continuous row of ornamental grasses;~~

## 23. Section 39.03.019.d.6 - Installation and Maintenance

- a. **Current Language:** *Mulch and Inorganic Ground Cover.* Wood-based mulch and inorganic ground cover, including rock and wood chips, may be used around all plantings and in all plant beds. Large areas of wood mulch or inorganic ground cover that do not contain plantings are not permitted except when used around a site amenity. Synthetic turf is prohibited except in limited applications deemed acceptable by the Director of Planning.
- b. **Proposed Revision:** *Mulch and Inorganic Ground Cover.* Wood-based mulch and inorganic ground cover, including rock and wood chips, may be used around all plantings and in all plant beds. ~~Large areas of wood mulch or inorganic ground cover that do not contain plantings are not permitted except when~~



~~used around a site amenity. Synthetic turf is allowed prohibited except in limited applications deemed acceptable by the Director of Planning.~~

#### 24. Section 39.03.015 – Development Landscaping

- a. Current Language: **None.**
- b. Proposed Revision: **f. Contextual Landscape Requirement.** Where an infill project is constructed on property zoned Industrial Park (IP), Light Industrial (LI), or General Industrial (GI) and the property is not adjacent to or across from any residentially zoned property, the infill site may match the landscape area coverage percentage and planting materials density on the average of those developed neighboring properties.

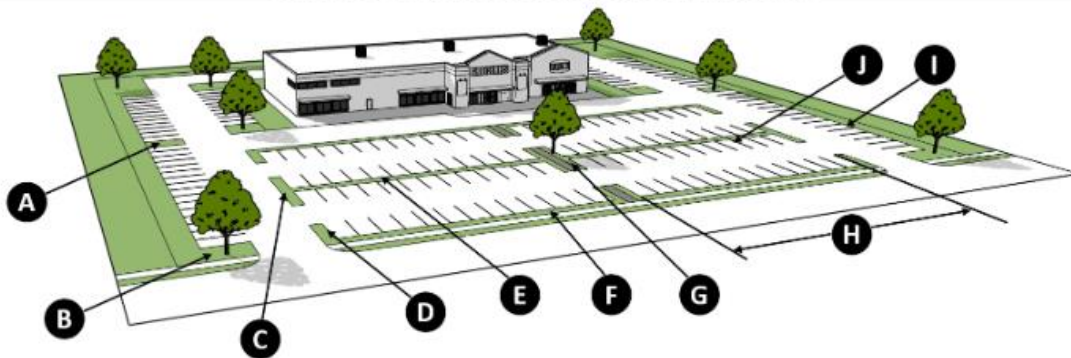
#### 25. Section 39.03.015 – Development Landscaping

- a. Current Language: **None.**
- b. Proposed Revision: **f. Landscape Architect.** When the landscape plan is stamped and sealed by a licensed landscape architect, it shall result in +5 points towards the total number of landscape points required on a project.

#### 26. Figure 39.03.015-2 – Illustrative Parking Lot Planting Requirements

- a. Proposed Revision:

Figure 39.03.015-2  
Illustrative Parking Lot Planting Requirements



~~Figure Notes:~~

~~A = Single Interior Island, B = Corner Island, C = Double Endcap, D = Single Endcap, E = Median, F = Parking Buffer yard, G = Double Interior Island, H = Maximum Interval, I = Single Parking Row, J = Double Parking Row~~

#### 27. Section 39.03.016.d.1 - Composition of Bufferyards

- a. Proposed Revision: **Delete the language below in its entirety**



d. **Composition of Bufferyards.**

1. *Structural and Natural.* Bufferyards, as established in Table 39.03.016-2, *Bufferyard Classifications*, may be classified as:
  - A. *Structural Bufferyards.* Structural bufferyards include the use of plant materials and a wall or fence to achieve the required level of buffering and screening; and
  - B. *Natural Bufferyards.* Natural bufferyards include the use of a higher density of plant materials to achieve the required level of buffering and screening. Any natural bufferyard may include an earthen berm; however, the Type D natural bufferyard requires a berm.

**28. Table 39.03.016-1 – District Bufferyard Standards**

a. **Proposed Revisions:**

- i. Move the **IP** district to the **LI** category
- ii. Move the **MU-1** district to the **MU-2 through MU-5** district
- iii. Remove the requirement for a Type B bufferyard when developing **GI** property adjacent to **LI/IP**
- iv. Remove the requirement for a Type A bufferyard when developing **SF-1/SF-2** property adjacent to **RE**
- v. Remove the requirement for a Type A bufferyard when developing **AC/HC** adjacent to **NC/OF**

Table 39.03.016-1 District Bufferyard Standards								
Zoning of Parcel Proposed for Development	Zoning of Adjoining District							
	RE	SF-1, SF-2, <del>MU-1</del>	MDR, HDR	<b>MU-1</b> through MU-6	NC, OF	AC, HC, <del>IP</del>	<b>LI, IP</b>	GI
RE	--	--	--	--	--	--	--	--
SF-1, SF-2, <del>MU-1</del>	<del>A</del>	--	--	--	--	--	--	--
MDR, HDR	B	A	--	--	--	--	--	--
<b>MU-1</b> through MU-6	B	B	--	--	--	--	--	--
NC, OF	B	B	B	B	--	--	--	--
AC, HC, <del>IP</del>	C	C	C	B	<del>A</del>	--	--	--
<b>LI, IP</b>	C	C	C	B	B	B	--	--
GI	D	D	D	C	C	C	<del>B</del>	--



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## Information

### Agenda Item

**Ordinance 1st Reading - Public Works Water Utilities:** Consider an ordinance amending Section 22.03.083 of the City of Lubbock Code of Ordinances, regarding deposit requirements and related exceptions for utility service.

### Item Summary

On February 2023, Lubbock Power and Light (LP&L) amended the electric rate schedule, terms and conditions of customers, applicable to all rate classes. This amendment removed deposits being collected for utility service. On March 4, 2024, LP&L officially transitioned to retail electric competition.

In order to protect the City of Lubbock against the financial risk from customers that do not pay their utility bill, or have no history with the City of Lubbock, Water Utilities is proposing amendments to the Ordinance to collect deposits from new and at-risk water service customers.

The proposed amendments would enable the City to charge deposits for the following conditions.

- Deposits are required to start new service or if a current customer is no longer in good standing with an account.
- Deposits can be exempt if conditions are met by customers.
- Deposits are refunded by check or credited to eligible customers' account after 12 months of good pay history including interest earned.

### Fiscal Impact

The attached proposed ordinance does not include a rate increase for any rate class. The proposed rates allow for a \$150 deposit for a residential customer and \$550 for a non-residential customer.

### Staff/Board Recommending

Erik Rejino, Assistant City Manager  
L. Wood Franklin, Division Director of Public Works  
Lubbock Water Advisory Commission

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## Attachments

Ordinance  
RedLine Ordinance  
LWAC Recommendation Letter



**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE AMENDING SECTION 22.03.083 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK REGARDING DEPOSIT REQUIREMENTS FOR UTILITY SERVICE AND EXCEPTIONS THERETO; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR IMPLEMENTATION IN ACCORDANCE WITH STATE LAW; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock deems it to be in the best interest of the citizens of the City of Lubbock to amend Section 22.03.083 of the code of ordinances of the city of Lubbock regarding deposit requirements for utility service and exceptions thereto; NOW THEREFORE:

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

SECTION 1. THAT Section 22.03.083 of the Code of Ordinances of the City of Lubbock is hereby amended to read as follows:

**§ 22.03.083 Deposit required; exceptions.**

- (a) The city shall require a deposit from any consumer of the city's water system in order to obtain water service, in accordance with the following terms and conditions:
  - (1) Water Utilities may require a deposit from a residential consumer in an amount equal to \$ one hundred fifty dollars (\$150.00), as determined by written policy of the Director of Water Utilities, except as provided herein.
  - (2) A residential consumer may be exempt from the deposit requirement if any of the following conditions are met by the consumer:
    - (A) The consumer provides proof to the satisfaction of City of Lubbock Utilities (COLU), that during the two years prior to applying for service from COLU, the consumer was a customer of one or more of the COLU services for at least twelve (12) consecutive months; and
      - i) The consumer demonstrates adequate and available credit, to the satisfaction of COLU or,



- ii) The consumer is at least sixty-five (65) years of age and has no outstanding account balance for COLU services
- (B) The consumer demonstrates adequate and available credit, to the satisfaction of COLU, by producing evidence of creditworthiness in the consumer's name from a utility providing city service of whom the primary consumer was a customer during the two years prior to applying for Service from COLU, the consumer was a customer of a utility providing service, other than an energy provider for at least twelve (12) consecutive months; and
  - i) While a customer, the consumer was not delinquent in paying for any utility service on more than one occasion; and while a customer, the consumer never had any of the utility services subject to interruption for nonpayment; or
  - ii) The consumer demonstrates adequate and available credit, to the satisfaction of COLU, by producing evidence of creditworthiness in the consumer's name from a utility providing city service of whom the primary consumer was a customer; or
  - iii) The consumer is at least sixty-five (65) years of age and has no outstanding account balance for utility service(s) including COLU services that accrued within the last two years.
- (C) The consumer has been determined to be a victim of family violence as defined in the Texas Family Code §71.004, by a family violence center as defined in Texas Human Resources Code § 51.002, by treating medical personnel, by law enforcement personnel, by the Office of a Texas District Attorney or County Attorney, by the Office of the Attorney General, or by a grantee of the Texas Equal Access to Justice Foundation. This determination shall be evidenced by submission of a certification letter developed by



the Texas Council on Family Violence. The certification letter may be submitted directly to COLU.

- (3) A residential consumer who is exempted from the deposit requirement under Section (a)(2) above may have the exemption withdrawn and a deposit applied to the account if the Customer is no longer able to demonstrate creditworthiness. Events that are considered in this determination include but are not limited to:
  - (A) The consumer's account for Services becomes delinquent and services are interrupted due to non-payment;
  - (B) Payment for Services has been returned to City of Lubbock Utilities as a dishonored payment;
  - (C) Tampering with COL Property, or theft of Service, has been found; or
  - (D) The consumer fails to comply with the terms of any agreed payment plan and/or Payment Arrangement
- (4) Residential Deposit Refund. Consumers from whom a deposit has been collected shall be eligible for a refund of said deposit after the Customer has paid bills for Service for twelve (12) consecutive residential billings and during this twelve (12) month period, demonstrated creditworthiness as defined in Section B.
- (5) Non-Residential.
  - (A) Water Utilities may require a deposit from the consumer for non-residential Service in an amount equal to \$ five hundred fifty (\$550).
  - (B) A residential consumer that demonstrates sufficient creditworthiness, according to all other criteria herein, may stand in proxy for new businesses establishing utility service and can be exempted from the requirement for deposit if ownership of the business can be proven. Proof of ownership shall be in a form and manner as determined by COLU.
  - (C) A consumer for non-residential Service shall be exempt from the deposit requirement if any of the following conditions are met by the consumer:
    - i) The consumer was during the two years prior to applying for service from COLU a customer of one or more of the COLU service, excluding energy



services, for at least twelve (12) consecutive months; and The consumer demonstrates adequate and available credit to the satisfaction of COLU.

- ii) The consumer demonstrates adequate and available credit, to the satisfaction of COLU, by producing evidence of creditworthiness in the consumer's name from a utility providing services, excluding energy services, of whom the primary consumer was a customer.
- iii) Additional forms of creditworthiness include Surety Bonds and Letter of Guarantee. of these mechanisms must guarantee payment to the utility in the event of the consumer's default.
- iv) Deposits will not be required for service to or for the following:
  - 1. Landlord transferring services to tenant
  - 2. Property Developer transferring services to home owner

(C) A non-residential consumer who is exempted from the deposit requirement under Section B may have the exemption withdrawn and a deposit applied to the account if the consumer is no longer able to demonstrate creditworthiness. Events that are considered in this determination include but are not limited to:

- i) The Customer's account for Services become delinquent and the Customer's Services are interrupted due to non-payment;
- ii) Payment for Services has been returned to City of Lubbock Utilities as a dishonored payment;
- iii) Tampering with COL Property, or theft of Service, has been found; or
- iv) The Customer fails to comply with the terms of any agreed payment plan or payment arrangement.



(6) Deposit Refunds

- (A) Interest Payment to Depositor. When the service is discontinued COLU shall return the deposit and any unpaid interest on the deposit to the depositor or the depositor's heirs or legal representatives. COLU may deduct from the amount returned for any payments due for the services.
  - (B) Refunds to eligible consumers shall be made promptly either in the form of a check payable to the consumer or as a credit to the consumer's bill, as determined at the sole discretion of COLU. A consumer who received a refund of their deposit may have the deposit requirement reapplied if the consumer no longer demonstrates creditworthiness as defined in Section B.
  - (C) COLU shall keep the following records for all deposits collected by COLU pursuant to this Section:
    - i) The name and address of each depositor;
    - ii) The amount and date of the deposit; and
    - iii) Each transaction concerning the deposit.
  - (D) Any deposit not previously refunded to consumer or credited to consumer's account as provided herein shall be credited to consumer's final bill for Service.
- (b) The city shall require a deposit for portable meter accounts and related backflow prevention assembly used to obtain water from fire hydrants. If the meter and backflow prevention assembly are not returned in working order, or are otherwise damaged, or if the fire hydrant or water supply line to the fire hydrant are damaged, the customer shall pay for the cost of repair. If the customer does not pay for the cost of repair, the city shall use the deposit to pay for the cost of repair. Any portion of the deposit so used must be repaid to city by the customer before the customer can continue using water through the portable meter account. Deposits for portable meter accounts shall be as follows:
- (1) The deposit for portable meter account and related backflow prevention assembly shall be: \$2500.00.



- (2) The deposit for a special event for a nonprofit, community or other non-construction and non-utility entity shall be \$150.00 per day with a minimum of \$300.00 for a small hose-end meter assembly.
  - (3) No deposit fee shall be required by other city departments.
  - (4) Failure to report monthly non-Automated Metering Infrastructure (AMI) reads will result in a non-refundable \$75.00 service fee and estimated volume usage charges will be applied.
  - (5) Unauthorized use charge of \$1,000.00 assessed to any consumer or corporation found connected up to a fire hydrant without a valid and current fire hydrant meter contract and metering device issued by city.
- (c) The consumer or the owner of property served must notify the COLU within five calendar days after the occurrence of:
- (A) Any change in ownership, whether by sale, foreclosure, business reorganization or otherwise; or
  - (B) Any occupancy of previously vacant property; or
  - (C) Any total vacancy in the property served; or
  - (D) Any change of place of residence or business.
- (d) Where no charge specified. When charges for a service are not specified in this article, the city manager shall establish charges which are based on the cost of performing the services including, but not limited to, such services as the moving of meter locations, and repair to damaged facilities.

SECTION 2. 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 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 \_\_\_\_\_, 2024.

Passed by the City Council on second reading this \_\_\_\_\_, 2024.

\_\_\_\_\_  
**MARK W. MCBRAYER, MAYOR**

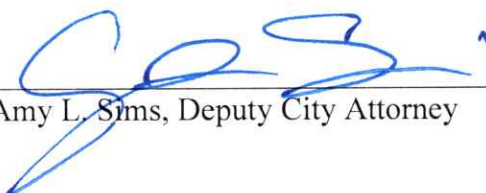
**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Greg Baier, P.E., Interim Director of Water Utilities

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Amy L. Sims, Deputy City Attorney



**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE AMENDING SECTION 22.03.083 OF THE CODE OF ORDINANCES OF THE CITY OF LUBBOCK REGARDING DEPOSIT REQUIREMENTS FOR UTILITY SERVICE AND EXCEPTIONS THERETO; PROVIDING A PENALTY; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR IMPLEMENTATION IN ACCORDANCE WITH STATE LAW; AND PROVIDING FOR PUBLICATION.

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  - (2) A residential consumer may be exempt from the deposit requirement if any of the following conditions are met by the consumer:
    - (A) The consumer provides proof to the satisfaction of City of Lubbock Utilities (COLU), that during the two years prior to applying for service from COLU, the consumer was a customer of one or more of the COLU services for at least twelve (12) consecutive months; and
    - i) The consumer demonstrates adequate and available credit, to the satisfaction of COLU or,



- ii) The consumer is at least sixty-five (65) years of age and has no outstanding account balance for COLU services
- (B) The consumer demonstrates adequate and available credit, to the satisfaction of COLU, by producing evidence of creditworthiness in the consumer's name from a utility providing city service of whom the primary consumer was a customer during the two years prior to applying for Service from COLU, the consumer was a customer of a utility providing service, other than an energy provider for at least twelve (12) consecutive months; and
  - i) While a customer, the consumer was not delinquent in paying for any utility service on more than one occasion; and while a customer, the consumer never had any of the utility services subject to interruption for nonpayment; or
  - ii) The consumer demonstrates adequate and available credit, to the satisfaction of COLU, by producing evidence of creditworthiness in the consumer's name from a utility providing city service of whom the primary consumer was a customer; or
  - iii) The consumer is at least sixty-five (65) years of age and has no outstanding account balance for utility service(s) including COLU services that accrued within the last two years.
- (C) The consumer has been determined to be a victim of family violence as defined in the Texas Family Code §71.004, by a family violence center as defined in Texas Human Resources Code § 51.002, by treating medical personnel, by law enforcement personnel, by the Office of a Texas District Attorney or County Attorney, by the Office of the Attorney General, or by a grantee of the Texas Equal Access to Justice Foundation. This determination shall be evidenced by submission of a certification letter developed by



the Texas Council on Family Violence. The certification letter may be submitted directly to COLU.

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  - (C) Tampering with COL Property, or theft of Service, has been found; or
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- (4) Residential Deposit Refund. Consumers from whom a deposit has been collected shall be eligible for a refund of said deposit after the Customer has paid bills for Service for twelve (12) consecutive residential billings and during this twelve (12) month period, demonstrated creditworthiness as defined in Section B.
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  - (A)(C) ~~(B)~~ A consumer for non-residential Service shall be exempt from the deposit requirement if any of the following conditions are met by the consumer:
    - i) The consumer was during the two years prior to applying for service from COLU a customer of one or more of the COLU service, excluding energy

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services, for at least twelve (12) consecutive months; and The consumer demonstrates adequate and available credit to the satisfaction of COLU.

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  - 1. Landlord transferring services to tenant
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#### (6) Deposit Refunds



- (A) Interest Payment to Depositor. When the service is discontinued COLU shall return the deposit and any unpaid interest on the deposit to the depositor or the depositor's heirs or legal representatives. COLU may deduct from the amount returned for any payments due for the services.
  - (B) Refunds to eligible consumers shall be made promptly either in the form of a check payable to the consumer or as a credit to the consumer's bill, as determined at the sole discretion of COLU. A consumer who received a refund of their deposit may have the deposit requirement reapplied if the consumer no longer demonstrates creditworthiness as defined in Section B.
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- (b) The city shall require a deposit for portable meter accounts and related backflow prevention assembly used to obtain water from fire hydrants. If the meter and backflow prevention assembly are not returned in working order, or are otherwise damaged, or if the fire hydrant or water supply line to the fire hydrant are damaged, the customer shall pay for the cost of repair. If the customer does not pay for the cost of repair, the city shall use the deposit to pay for the cost of repair. Any portion of the deposit so used must be repaid to city by the customer before the customer can continue using water through the portable meter account. Deposits for portable meter accounts shall be as follows:
- (1) The deposit for portable meter account and related backflow prevention assembly shall be: \$2500.00.
  - (2) The deposit for a special event for a nonprofit, community or other non-construction and non-utility entity shall be \$150.00 per day with a minimum of \$300.00 for a small hose-end meter assembly.



- (3) No deposit fee shall be required by other city departments.
  - (4) Failure to report monthly non-Automated Metering Infrastructure (AMI) meter reads will result in a non-refundable \$75.00 service fee and estimated volume usage charges will be applied.
  - (5) Unauthorized use charge of \$1,000.00 assessed to any consumer or corporation found connected up to a fire hydrant without a valid and current fire hydrant meter contract and metering device issued by city.
- (c) The consumer or the owner of property served must notify the COLU within five calendar days after the occurrence of:
- (A) Any change in ownership, whether by sale, foreclosure, business reorganization or otherwise; or
  - (B) Any occupancy of previously vacant property; or
  - (C) Any total vacancy in the property served; or
  - (D) Any change of place of residence or business.
- (d) Where no charge specified. When charges for a service are not specified in this article, the city manager shall establish charges which are based on the cost of performing the services including, but not limited to, such services as the moving of meter locations, and repair to damaged facilities.

SECTION 2. 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 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 \_\_\_\_\_, 2023.

Passed by the City Council on second reading this \_\_\_\_\_, 2024.

\_\_\_\_\_  
**TRAY PAYNE, MAYOR**

**ATTEST:**

\_\_\_\_\_  
Courtney Paz, City Secretary

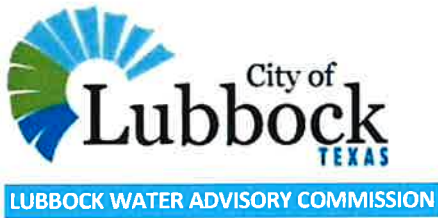
**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Greg Baier, P.E., Interim Director of Water Utilities

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Amy L. Sims, Deputy City Attorney





Jay House, Chairman  
Steve Verett, Vice-Chair  
Dr. Melanie Barnes  
Dr. Ted Cleveland  
Jeff Jones  
Wayne Kohout  
Lori Manning  
Dr. Donna McCallister  
Rusty Smith

**DATE** March 25, 2024  
**TO** Lubbock City Council  
**SUBJECT** **Recommended Water Deposit Ordinance Change**

Honorable Mayor, Councilwomen & Councilmen,

LWAC was established by the City Council for the purpose of providing advice, insight, perspective and recommendation to the Council on all matters related to water. In accordance with this mandate, LWAC hereby brings the following recommendation for the Council's consideration.

*LWAC recommends adopting the proposed change to Ordinance Section 22.03.083 including a \$150 residential deposit and a \$550 non-residential deposit, for customers who are not exempt based on billing or internal credit history, with one amendment; and additional item under Section 22.03.083 (a)(5)(A) that reads,*

*"A residential consumer that demonstrates sufficient creditworthiness, according to all other criteria herein, may stand in proxy for new businesses establishing utility service and can be exempted from the requirement for deposit if ownership of the business can be proven."*

*LWAC additionally recommends adopting the proposed change to Ordinance Section 22.03.083 as written, which sets a new deposit for portable water meters (fire hydrant meters for construction), with one amendment; change Section 22.03.083 (b)(4) to read,*

*"Failure to report monthly non-Automated Metering Infrastructure (AMI) reads will result in a non-refundable \$75 service fee and estimated volume usage charges will be applied."*

These recommended amendments have been added to the proposed Ordinance change for Section 22.03.083 as presented to Council.






Any additional questions or information needed by the Council prior to consideration of this recommendation for approval may be directed to either the LWAC Chairman or the Director of Water Utilities.

Very Sincerely,

  
\_\_\_\_\_  
Jay House  
LWAC Chairman

3-27-24  
Date

  
\_\_\_\_\_  
Greg Baier, P.E.  
Interim Director of Water Utilities

27 MAR 2025  
Date





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## Information

### Agenda Item

**Ordinance 2nd Reading - Wastewater Utility:** Consider Ordinance No. 2024-O0133, 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.

### Item Summary

On September 24, 2024, the City Council approved the first reading of the ordinance.

City staff is recommending amendments to Chapter 22 of the City of Lubbock Code of Ordinances based on discussions from budget work sessions related to the replacement of private sewer lateral lines located within public right-of-way (Street or Alley). The proposed changes discussed during the budget work sessions are as follows.

- City crews will perform the work.
- The Property Owner will pay a standard cost to the City Water Department of \$1,000 per repair.
- A payment plan is available for owner-occupied properties.
  - The payment plan cannot exceed 365 days or 12 monthly billing cycles.
- An assistance program for low income residents will be developed by the City Staff.

The proposed ordinance addresses the changes referenced above, and authorizes staff to establish the appropriate policies to support the program, as well as to establish an assistance program.

### Fiscal Impact

\$300,000 is appropriated in the FY 2024/2025 Budget for the establishment of an Assistance Program. Expenditures for the private sewer lateral repairs are funded by Capital Improvement Program (CIP) 92747 - Sewer Tap Replacements.

The sewer lateral repair cost of \$1,000 paid for by the owner will cover the average material and labor costs associated with each repair and will reimburse the expenditures in the CIP.

### Staff/Board Recommending

Erik Rejino, Assistant City Manager  
L. Wood Franklin, P.E., Division Director of Public Works

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## Attachments

Sewer Lateral Ordinance



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE CITY OF LUBBOCK, TEXAS CODE OF ORDINANCES CHAPTER 22, "UTILITIES", ARTICLE 22.04, "WASTEWATER SYSTEM" BY AMENDING §22.04.002, "DEFINITIONS", §22.04.009, "SANITARY SEWER LATERAL LINE MAINTENANCE", §22.04.045, "SEWER SERVICE CONNECTIONS" AS THEY RELATE TO REPAIRS AND REPLACEMENT OF SANITARY SEWER LATERAL LINES LOCATED IN THE CITY'S RIGHT-OF-WAY; AUTHORIZING THE CITY MANAGER TO ESTABLISH A FINANCIAL ASSISTANCE PROGRAM; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.**

**WHEREAS**, the City Council of the City of Lubbock, Texas pursuant to the constitution and laws of the State of Texas including, but not limited to, Article 11, Section 5 of the Texas Constitution as a home rule city, Chapter 552 of the Texas Local Government Code and Chapter 1, Article II, Section 10 of the City Charter, has the authority to operate a water utility system and set forth ordinances and regulations and receive compensation necessary to operate a water utility system for the benefit of the citizens of the City of Lubbock; and

**WHEREAS**, the City Council of the City of Lubbock, recognizes the public health and safety issue associated with raw, untreated sewage and wastewater discharging in the public right-of-way caused by failures in the City of Lubbock's sanitary sewer main and/or by failures with a utility customer's sanitary sewer line lateral located in the public right-of-way; and

**WHEREAS**, the City Council finds that a public purpose is served to establish policies and guidelines related to the repair of the City of Lubbock's sanitary sewer main and a utility customer's sanitary sewer lateral line located in the public right-of-way; and

**WHEREAS**, to further establish the responsibilities of the city and private parties related to the repair of sanitary sewer lateral lines in the public right-of-way, the City of Lubbock passed Ordinance No. 2023-O0119 on October 10, 2023, placing the responsibility of such repairs on the owner of such sanitary sewer lateral line; and

**WHEREAS**, due to feedback received by the City Council from the public regarding this change, the City Council reconsidered Ordinance No. 2023-O0119 and adopted an amendment to such ordinance, Ordinance No. 2024-O0053, effectively reverting to the City the repair responsibility of sanitary sewer lateral lines located in the public right-of-way; and

**WHEREAS**, as part of the consideration for passing Ordinance No. 2024-O0053, on April 9, 2024 the City Council created an ad hoc committee, the Private Sewer Lateral Ad-Hoc Committee (the "Committee") through Resolution No. 2024-R0203, to consider issues regarding the repair of sanitary sewer lateral lines in the public right-of-way in the City; and

**WHEREAS**, on July 9, 2024, the Committee reported their findings to the City Council at the Special City Council Meeting; and



WHEREAS, after reviewing the report of the Committee and discussing the financial impact any change would have on the public as well as the fiscal impact any change would have on the budget and finances of the City of Lubbock, the City Council believes it to be in the best interest of the public, health and safety of the citizens of Lubbock and it the best interest of the municipal corporation to amend Chapter 22 of the Code of Ordinances of the City of Lubbock;

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

SECTION 1. The recitals and findings outlined above are found to be true and correct and are hereby incorporated herein as the findings of the City Council.

SECTION 2. The Code of Ordinances, City of Lubbock, is hereby amended by amending §22.04.002, "Definitions" by adding the following definitions: (for reference purposes, new additions to the Code of Ordinances are underlined and italicized and deleted provisions are indicated by strikethrough text):

§ 22.04.002 Definitions

*Registered utility contractor. A person with the requisite training, expertise and skill to perform work on a public wastewater system who is a licensed plumber in the State of Texas or maintains a Wastewater Collection System Operator Class III license (or its equivalent) issued by the State of Texas and who is registered with the city's engineering right-of-way department.*

*Sewage backflow event. An event where, due to a problem with the sanitary sewer main, a connection to the sanitary sewer main or with the sanitary sewer lateral line, there is a severe lack of sanitary sewage/wastewater flow and sanitary sewage overflow is imminent or is discharging in a residence, on the property or in a place of business that is detrimental to public health.*

SECTION 3. The Code of Ordinances, City of Lubbock, is hereby amended by amending § 22.04.009, "Sanitary sewer line maintenance" to read as follows: (for reference purposes, new additions to the Code of Ordinances are underlined and italicized and deleted provisions are indicated by strikethrough text):

§ 22.04.009 Sanitary sewer lateral line maintenance.

(a) The city and its designated contractors shall be the only authorized entities or persons to repair or replace the sewer wye, tee, or tapping saddle connection to the city sewer main for an existing property with current sewer service. *Only the city or a registered utility contractor may* ~~and to~~ replace the customer's *sanitary sewer* lateral ~~service line~~ located in the city's right-of-way.

(b) The customer shall be responsible for cleaning, clearing, removing obstructions, maintenance, ~~and operation,~~ *repair or replacement* of the customer's sanitary sewer lateral line from the home, business, facility, or other point of service, to the sewer wye, tee or tapping saddle connection at the public sewer main. ~~The customer shall be responsible for the repair and replacement of the customer's lateral sewer service line from the point of service to the property line.~~



(c) The customer or the customer's contractor shall acquire the proper permits and comply with all applicable laws, ordinances, and policies for the maintenance, repair and operation of this ~~lateral~~ sanitary sewer service lateral line. Physical obstructions in the city's alley right-of-way, such as landscaping, irrigation systems, fencing, or other such surface or subsurface obstructions may potentially be damaged by excavation activity and are prohibited. All repairs and construction of the sanitary sewer lateral service-line or pavement within city right-of-way or alleyways shall be performed in accordance with all applicable ordinances and the City of Lubbock Engineering Minimum Design Standards and Specifications.

(d) The customer's utility contractor shall perform the proper one-call notification pursuant to Texas State Utility Code title 5, chapter 251. Such notification requires a 48-hour advance notice before excavation can begin. In addition, prior to excavation, the customer's utility contractor shall complete a permit with the City of Lubbock engineering right-of-way department.

(e) Repairs, sewer main or sewer tap:

(1) Emergency repairs. An emergency repair request is one where, ~~the customer does not have sewer service and the lack of wastewater flows creates a potential health concern. The city shall respond to emergency repairs if the customer's utility contractor determines there is due to a problem with the connection at the city's sanitary sewer main, a utility customer is experiencing a sewage backflow event. Upon receiving confirmation from a registered utility contractor that the sewage backflow event is being caused by a problem with the sanitary sewer main, the registered~~ utility contractor shall contact the ~~city~~ City of Lubbock right-of-way department for emergency repairs of the city's sanitary sewer main.

(2) Repair of an existing sewer wye, tee, or tapping saddle. The city shall be responsible for replacing the wye, tee, or tapping saddle if it is found to be inoperable or in disrepair. A contractor of the customer shall not make these repairs. Rather, requests for repair shall be made directly to the water utility department by the contractor making the sanitary sewer lateral line repairs.

(3) Routine repair. A routine repair request is one where there is service, but the sewer tap is in need of repair. The sewer tap repair will be scheduled and placed on the repair priority list based upon whether the service is an emergency or routine repair. City personnel or its contractors will perform all paving and concrete repair.

(4)

(f) Sanitary sewer lateral line ~~Sewer lateral service~~ in right-of-way.

(1) Emergency repair. In the event a utility customer, or a property owner, if different than the utility customer, is experiencing a sewage backflow event at their property and a licensed plumber has determined that the sewage backflow event is being caused by a collapse of the sanitary sewer lateral line located in the city's right-of-way and/or by a problem with the sanitary sewer main, the licensed plumber may request the city repair the sanitary sewer main and the collapsed sewer lateral line located in the city's right-of-way. The request for repair of a the sanitary sewer lateral service line located in the city's right-of-way shall be made directly to the water utility department by a licensed plumber. The licensed plumber must mark is responsible for marking the location of the sewer connection and/or lateral service line with paint or pin flags. The property owner shall be responsible for the costs and fees associated with the city repairing the sewer lateral line located in the city's right-of-way as outlined herein.



Nothing contained herein shall be construed to prevent a property owner from facilitating the repair of the property owner's own sewer lateral line, whether located in the city's right-of-way or not, so long as the proper permits are obtained, all applicable regulations and laws are complied with and the repairs to the sewer lateral line located in the right-of-way are done by a registered utility contractor.

(2) Payment for sewer lateral line repair.

(A) Repair fee. In the event the owner of the subject property requests the city repair the sanitary sewer lateral line in the city's right-of-way as provided for in § 22.04.009(f)(1) above, the property owner shall be assessed a charge of \$1,000.00 for such repair. Full payment of this repair fee shall be due at the time the repair is made unless a payment agreement has been executed as provided for in subsection (B) below.

(B) Payment agreement. The owner of the subject property may enter into a payment agreement with the city whereby the utility customer agrees to pay the repair fee in equal monthly installments so long as the number of monthly installments does not exceed 12 months. The property owner shall be required to execute an agreement in the form approved by and provided by the city.

(C) Financial assistance. The city may establish a financial assistance program to assist property owners with payment of this repair fee. The financial assistance program shall be available for eligible low-income property owners, based on annual gross income, and shall be subject to annual appropriation. The city manager shall be responsible for establishing the guidelines and procedures for the financial assistance program.

SECTION 4. The Code of Ordinances, City of Lubbock, is hereby amended by amending §22.04.045, "Sewer service connections" to read as follows: (for reference purposes, new additions to the Code of Ordinances are underlined and italicized and deleted provisions are indicated by strikethrough text):

§ 22.04.045            Sewer service connections.

(a) The customer shall select a ~~city approved~~ registered utility contractor to connect lateral sewer connections for residential and commercial land uses. ~~The utility contractor shall be registered with the city's engineering department and shall have a current wastewater collection operator license with the Texas Commission on Environmental Quality, or be a licensed plumber within the State of Texas.~~

(b) Construction of the sewer lateral connection shall conform to the City of Lubbock Engineering Minimum Design Standards and Specifications.

(c) The customer or the customer's contractor shall acquire the proper permits and comply with all applicable laws, ordinances, and policies for the maintenance, repair and operation of this lateral line. Physical obstructions in the city's right-of-way, such as landscaping, irrigation systems, fencing, or other such surface or subsurface obstructions may potentially be damaged by excavation activity. The contractor, at its discretion, may proceed with installing, repairing, or replacing the sewer tap or lateral service line located in the city right-of-way, through or past the obstruction. The repair or replacement of any obstructions placed in the easement or right-of-way, by the property owner or occupant of



the facility being served, or any individual, is the sole responsibility of said owner or occupant.

(d) The registered utility contractor shall notify the appropriate city staff at least 48 hours prior to construction and within 72 hours of the completion of construction. The city will issue a notice of completion within 72 hours of the contractor notifying the city. Then, the customer can request and pay the appropriate fee for the desired size water meter.

SECTION 5. The city manager, or his designee, is hereby authorized to develop and enter into payment agreements for payment of the sanitary sewer lateral line repair fee and establish a financial assistance program, including all associated guidelines and policies, to assist utility customers with payment of the repair fee. Payment arrangements may not exceed twelve (12) months and the financial assistance program shall be available for low-income utility customers, based on annual gross income, and shall be subject to annual appropriation.

SECTION 6. The city manager is authorized to develop, implement and promulgate policies and procedures related to the operation use of the City of Lubbock's personnel and assets for repairs related to sanitary sewer lateral lines located in the public right-of-way consistent with this ordinance, the Lubbock City Charter, the Code of Ordinances of the City of Lubbock and state laws and regulations.

SECTION 7. Repealed. All other terms and provisions of the Code of Ordinances, City of Lubbock, not in conflict herewith and not hereby amended shall remain in full force and effect.

SECTION 8. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Lubbock, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 9. Publication. 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 \_\_\_\_\_, 2024.

Passed by the City Council on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
MARK MCBRAYER, MAYOR



ATTEST:

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Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



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Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:



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Matthew L. Wade, City Attorney



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## Information

### Agenda Item

**Public Hearing - Business Development:** Hold a public hearing for the City Council to consider the creation of a Tax Increment Reinvestment Zone for the North Park development area, whose boundaries include approximately 332.8 acres of land in a portion of the City of Lubbock, Lubbock County, Texas, generally bounded by Erskine Street to the north, North Winston Avenue to the east, West Loop 289 to the south, and Frankford Avenue to the west.

### Item Summary

The purpose of this public hearing is to present information to the City Council regarding the advisability of establishing a Tax Increment Financing (TIF) reinvestment zone pursuant to Chapter 311 of the Texas Tax Code, and to provide an opportunity for public comment in favor of, or in opposition to, the creation of the district, its boundaries, or the concept of tax increment financing. The City Council approved the calling of the Public Hearing at the September 24, 2024 City Council Meeting. A notice of the Public Hearing was published in the Lubbock Avalanche Journal on September 27, 2024, as required by the Act.

The proposed North Park TIF includes approximately 332.8 acres of land in a portion of the City of Lubbock, Lubbock County, Texas, generally bounded by Erskine Street to the north, North Winston Avenue to the east, West Loop 289 to the south, and Frankford Avenue to the west. The purpose of the district is to facilitate development and / or redevelopment by financing the costs of public works, public improvements, and other projects benefiting the district, as well as other costs incidental to those expenditures. Section 311.005(a)(4) of the Tax Code states that an area is eligible to be designated as a Tax Increment Financing reinvestment zone if it is:

- In an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the City by the owners of property constituting at least fifty percent (50%) of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

A petition has been received and verified as meeting the requirements by City of Lubbock staff. The next step in the creation process will be for the City Council to adopt a Creation Ordinance, where they will make the following findings:

1. The petition has been submitted to the City by the owners of property constituting at least 50% of the appraised value of Property within the Zone;
2. The improvements in the Zone will significantly enhance the value of all the taxable real property in the Zone and will be of general benefit to the City; and
3. That the Zone meets the requirements of Section 311.005 of the Act.



**Fiscal Impact**

None

**Staff/Board Recommending**

Bill Howerton, Deputy City Manager

Brianna Brown, Business Development Director

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**Attachments**

TIF District Map



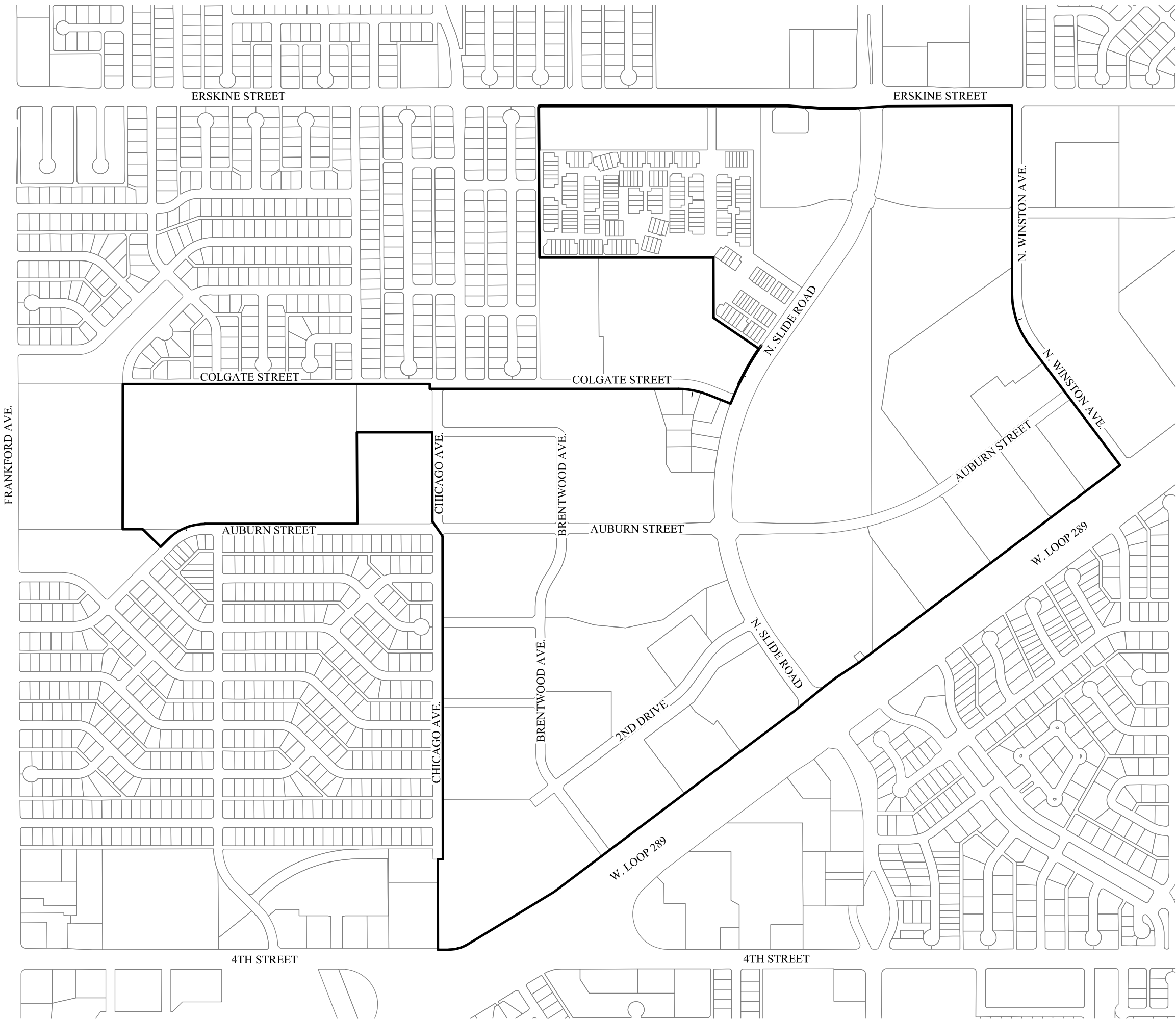
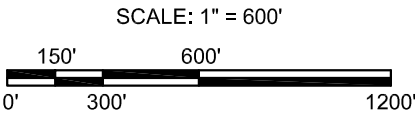


EXHIBIT OF  
**NORTH PARK TIF PARCEL,**



**NOTES:**

HEAVY LINES INDICATE LIMITS OF PARCEL.

THIS DRAWING IS FOR LOCATION PURPOSES ONLY.

**NO PORTION OF THIS DRAWING REPRESENTS AN ACTUAL SURVEY MADE ON THE GROUND.**

STREETS NAMES DERIVED FROM LUBBOCK COUNTY APPRAISAL DISTRICT'S PARCEL VIEWER MAP ([GIS.BISCLIENT.COM/LUBBOCKCAD](https://gis.bisclient.com/lubbockcad)).

LINEWORK DERIVED FROM CITY OF LUBBOCK GIS SHAPE FILE ([CI.LUBBOCK.TX.US/DEPARTMENTS/GIS-DATA-SERVICES/PUBLIC-DATA](https://ci.lubbock.tx.us/departments/gis-data-services/public-data)).

SHEET 1 OF 4  
DESCRIPTION ATTACHED AS SHEETS 2-4 OF 4



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