City of Lubbock, Texas
Regular City Council Meeting
March 25, 2025

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.

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).

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.

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

12:30 p.m. - City Council convenes in City Council Chambers and immediately recesses into Executive Session.

1. **Executive Session**

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

1. 1. 1. Highland Oaks Annexation (Chapter 43 of the Texas Local Government Code)

1. 1. 2. MB3, LLC - Housing Discussion

1. 2. Hold an executive session in accordance with the Texas Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property.

1. 2. 1. Original Town Lubbock, Block 130, Lots 1-20 and Alley

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 Lake Alan Henry Board of Appeals.

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

1. 4. 1. Central Business District

Adjourn from Executive Session

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

2. **Ceremonial Items**

2. 1. Invocation

2. 2. Pledges of Allegiance

Call to Order

3. **Citizen Comments - According to Lubbock City Council Rules, any citizen wishing to appear in-person before a regular meeting of the City Council, regarding any matter posted on the City Council Agenda below, shall complete the sign-up form provided at the meeting, no later than 2:00 p.m. on March 25, 2025. Citizen Comments provide an opportunity for citizens to make comments and express a position on agenda items.**

4. **Minutes**

4. 1. February 25, 2025 Regular City Council Meeting
March 5, 2025 Special City Council Meeting - State of the City

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

5. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2025-O0038, Amendment 11, amending the FY 2024-25 Budget for municipal purposes respecting the 66th Street from I-27 to Ash Avenue Capital Improvement Project in the Streets Capital Project Fund; providing for filing; and providing for a savings clause.

5. 1. 1. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Development Agreement Contract 18627, with CRS Business Park, LLC., for the construction of a portion of 66th Street, from I-27 to Ash Avenue.

5. 2. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2025-O0039, Amendment 15, establishing the McAlister Park Playground Capital Improvement Project in the Parks Capital Project Fund; providing for filing; and providing for a savings clause.

5. 3. **Resolution - Risk Management:** Consider a resolution authorizing and directing the City Manager to purchase, for and on behalf of the City of Lubbock, property insurance to include terrorism from HDI Global Specialty, Princeton Excess & Surplus Lines Insurance and Underwriters at Lloyds, London/Hiscox, for a limit of $50,000,000 coverage for John T. Montford Dam, for a total premium not to exceed $266,791.91.

5. 4. **Resolution - Risk Management:** Consider a resolution authorizing and directing the City Manager to purchase, for and on behalf of the City of Lubbock, layered excess liability insurance coverage from Texas Insurance Company (41%) and Upland Specialty Insurance Company (59%), for which the total premium amount shall not exceed $1,056,926.14.

5. 5. **Resolution - Risk Management:** Consider a resolution authorizing and directing the City Manager to purchase for and on behalf of the City of Lubbock, excess workers' compensation coverage from Midwest Employer's Casualty Company, for which the total amount shall not exceed $283,195 annually for a two-year term.

5. 6. **Resolution - Risk Management:** Consider a resolution authorizing and directing the City Manager to execute Contract No. 18578, and related documents, for Third Party Workers' Compensation Claims Administrator Services, by and between City of Lubbock and TRISTAR Claims Management Services.

5. 7. **Ordinance 2nd Reading - Right-of-Way:** Consider Ordinance No. 2025-O0030, abandoning and closing portions of alley right-of-way, located in Block 102, Overton Addition to the City of Lubbock, Lubbock County, Texas, between 14th Street and 15th Street, west of Avenue X in Block 102.

5. 8. **Ordinance 2nd Reading - Right-of-Way:** Consider Ordinance No. 2025-O0040, abandoning and closing portions of an Underground Utility Easement, located on the southwest line of Tract TT, West Business Park Addition to the City of Lubbock, Lubbock County, Texas, near the southeast corner of Alcove Avenue and 66th Street.

5. 9. **Ordinance 2nd Reading - Right-of-Way:** Consider Ordinance No. 2025-O0041, abandoning and closing portions of an Underground Street Light Cable Easement, located on the east side of Lot 19, Block 102, Overton Addition to the City of Lubbock, Lubbock County, Texas.

5. 10. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing portions of an Access Easement, located in Tracts 4C-4F, Huntington Business Park, City of Lubbock, Lubbock County, Texas, at the southeast corner of Indiana Avenue and 122nd Street.

5. 11. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing portions of Right-of-Way, located in Section 6, Block E, of the GC & SF R.R. Co. survey, Lubbock County, Texas, at the northeast and northwest corners of 82nd Street and Cedar Avenue.

5. 12. **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 all related documents, in connection with certain real property located in Section 43, Block AK, Lubbock County, Texas (Parcel 37), on the east side of Upland Avenue, south of 27th Street, and north of 28th Street, to be utilized for the Upland Avenue Project, which is a portion of the 2022 Street Bond Project.

5. 13. **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 all related documents, in connection with real property located in Section 8, Block E, of the GC & SF R.R. Co. Survey, Lubbock County, Texas (Parcel 22), at the southwest corner of 82nd Street and Ash Avenue, to be utilized for the 2022 Street Bond Project.

5. 14. **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 all related documents, in connection with real property located in Section 23, Block E-2, Lubbock County, Texas (Parcel 52), on the south side of 114th Street, between Elkhart Avenue and Chicago Avenue, to be utilized for the 114th Street Project, which is a portion of the 2022 Street Bond Project.

5. 15. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to execute a Real Property Sales Contract and Deed, and all related documents, by and between the City of Lubbock and M&M Homes, for real property located within Lots 2-5, Block 1, Park View Addition to the City of Lubbock, Lubbock County, southwest of 3rd Street and Avenue C.

5. 16. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to execute a Street Use License, and related documents, by and between the City of Lubbock and Texland Petroleum, LP, for an underground oil flow pipeline on 199.91 square feet of Right-of-Way, crossing East Municipal Drive, east of Northeast Loop 289.

5. 17. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to execute a Street and Alley Use License, and related documents, by and between the City of Lubbock and Texland Petroleum, LP, for an underground pipeline for secondary recovery operations at 13 locations, totaling 75,355 square feet of right-of-way, generally north of North Loop 289, between University Avenue and Interstate-27.

5. 18. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Amendment No. 1 to Design Contract 18087, and related documents, with Freese and Nichols, Inc., for water reclamation electrical replacement and monitoring at the Southeast Water Reclamation Plant.

5. 19. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Amendment No. 3 to the Professional Services Agreement Contract No. 17130, and related documents, with Kimley-Horn and Associates, Inc., for engineering services for the reconstruction of 34th Street from Upland Avenue to Milwaukee Avenue, which is a portion of the 2022 Street Bond Project

5. 20. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Amendment No. 1 to Professional Services Agreement Contract No. 17625, and related documents, with Freese and Nichols, Inc., for design services for Upland Avenue from 50th Street to 66th Street, which is a portion of the 2022 Street Bond Project.

5. 21. **Ordinance 2nd Reading - Planning:** Consider Ordinance No. 2025-O0042, for a request for annexation, from Thomas L. Cooke and Deidra DeAnn Williams Martin, to annex an area of approximately 407.28 acres, adjacent to the eastern city limits of the City of Lubbock, north of East Bluefield Street and east of North Guava Avenue, into Lubbock's corporate limits.

5. 22. **Resolution - Public Works Water Utilities:** Consider a resolution authorizing the Mayor to execute Purchase Order 23105965, with Essential Equipment, Texas, LLC, in accordance with Sourcewell Contract No. 120721-RVL, for the purchase of sewer line camera inspection equipment to verify sewer tap locations and pipe condition.

5. 23. **Resolution - Public Works Wastewater:** Consider a resolution authorizing the mayor to execute Purchase Order 23105947, with James, Cook, Hobson, to purchase two submersible pumps for use at Lift Station 48 at the Southeast Water Reclamation Plant.

5. 24. **Resolution - Public Health Services:** Consider a resolution authorizing the Mayor to execute Amendment No. 2 to the Department of State Health Services Contract No. HHS001331300015, and all related documents, by and between the City of Lubbock and the State of Texas Department of State Health Services, under the Immunization Local Grant Program, to prevent and control the transmission of vaccine-preventable diseases in children and adults.

5. 25. **Resolution - Public Health Services:** Consider a resolution authorizing the Mayor to execute a Professional Services Agreement, and all related documents, by and between the City of Lubbock Health and Texas Tech University Health Sciences Center, to provide certain infectious disease healthcare services to the City of Lubbock Health Department Intermediary Care Clinic.

5. 26. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Community Development Block Grant Funding Agreement 18708, and all related documents, by and between the City of Lubbock, Community Development and Lubbock Children’s Health Clinic.

5. 27. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute a Community Development Funding Contract 18723, and all related documents, with Lutheran Social Services of the South, Inc., to provide utility assistance to qualified low-income persons and families through the Comprehensive Energy Assistance Program, administered by Texas Department of Housing and Community Affairs.

5. 28. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute a Community Development Block Grant Funding Agreement 18709, and all related documents, by and between the City of Lubbock, Community Development and Children’s Advocacy Center, for funding to replace the parking garage roof at 720 Texas Avenue.

5. 29. **Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute Contract 18761, with RS&H, Inc., and Contract 18543, with Parkhill, for Architectural/Engineering Services at Lubbock Preston Smith International Airport.

5. 30. **Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute Contract 18651, with FMG Construction Group, LLC, for Second Floor Renovations at Lubbock Preston Smith International Airport.

5. 31. **Resolution - Business Development:** Consider a resolution confirming that the City of Lubbock has no objection to the proposed 4% Non-Competitive Housing Tax Credit application to be submitted to the Texas Department of Housing and Community Affairs, for the Hillcrest Manor Apartments, located at 1102 North Memphis Avenue in Lubbock, Texas.

5. 32. **Resolution - Human Resources:** Consider a resolution authorizing the Mayor to execute the Plan Document for the existing Health Reimbursement Arrangement, for the purpose of allowing retirees to obtain reimbursement of eligible medical expenses incurred by the retiree and their family members.

5. 33. **Resolution - Parks and Recreation:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement, Contract 18678, with Parkhill, to provide Engineering and Design Services for a new pump station and irrigation system at the Lubbock Cemetery.

5. 34. **Resolution - Parks and Recreation:** Consider a resolution authorizing the Mayor to execute Contract 18669, with SRH Landscapes LLC, for landscape maintenance services for the City of Lubbock facilities.

5. 35. **Resolution - Parks and Recreation:** Consider a resolution authorizing the Mayor to execute Contract 18399, with Reeder Landscape, for landscape maintenance services for the City of Lubbock Streetscapes, Medians, Turnarounds, and Rights-of-Way.

5. 36. **Resolution - Police:** Consider a resolution authorizing the Mayor to execute Purchase Order 10028284, with Angel Armor, LLC, for the purchase of ballistic vests with load-bearing carriers for the Lubbock Police Department.

5. 37. **Resolution - Police:** Consider a resolution authorizing the Mayor to execute Purchase Order 10028285, with GT Distributors, Inc., for the purchase of Glock service pistols for the Lubbock Police Department.

5. 38. **Resolution - Police:** Consider a resolution authorizing the Mayor to execute Purchase Order 10028288, with SSD International Inc., for the purchase of ammunition for the Lubbock Police Department.

5. 39. **Resolution - City Manager:** Consider a resolution authorizing the Mayor to execute, for and on behalf of the City of Lubbock, Amendment No. 2 to American Rescue Plan Act (ARPA) Funding Agreement No. 16514, to alter the payout agreement for the previously approved funding.

6. **Regular Agenda**

6. 1. **Public Hearing - Planning (District 2):** Consider a request for Zone Case 1112-G, a request of Presto Hail Lifters for Lon Miller, for a zone change from Neighborhood Commercial District (NC) to Auto-Urban Commercial (AC), at 2110 and 2112 50th Street, located north of 50th Street and west of Avenue U, Felix Addition, Lot 10 and the west 37.5 feet of Lot 9, and consider an ordinance.

6. 2. **Ordinance (Single Reading) - Finance:** Consider approval of an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Bonds, in one or more series, in a principal amount not to exceed $54,000,000, for the purpose of paying the costs of acquiring, constructing and reconstructing street improvements, including but not limited to sidewalks, utility line relocation and traffic signalization, necessary and related storm damage facilities and the acquisition of land and rights-of-way therefor, 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. Street bond projects funded by the 2022 voter authorization include Upland Avenue: 4th Street to 19th Street, 114th Street from Frankford Avenue to Slide Road, 114th Street from Indiana Avenue to University Avenue, and Residential Unpaved Roadways East of I-27. Street bond projects funded by the 2024 voter authorization include Broadway from Avenue Q to Avenue E, University Avenue from 50th Street to Loop 289, Avenue P from 130th Street to 146th Street, 146th Street from University Avenue to Avenue P, and 146th Street from Slide Road to Quaker Avenue.

AI# 13302
Regular City Council Meeting **1. 3.**
03/25/2025:

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 Lake Alan Henry Board of Appeals.

Item Summary

Discuss personnel matters, regarding the duties, responsibilities, and/or appointments to the Lake Alan Henry Board of Appeals.

Fiscal Impact

None

Staff/Board Recommending

Courtney Paz, City Secretary

Attachments

No file(s) attached.

AI# 13324
Regular City Council Meeting **4. 1.**
03/25/2025:

Information

Agenda Item

February 25, 2025 Regular City Council Meeting
March 5, 2025 Special City Council Meeting - State of the City

Item Summary

February 25, 2025 Regular City Council Meeting
March 5, 2025 Special City Council Meeting - State of the City

Fiscal Impact

None

Staff/Board Recommending

Courtney Paz, City Secretary

Attachments

2.25.2025
3.5.2025 S State of the City

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
February 25, 2025
12:30 P. M.

The City Council of the City of Lubbock, Texas met in regular session on the 25th of February, 2025, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas at 12:30 p.m.

12:33 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; 5.1-5.9; 5.11-5.19; 5.10; and 6.1-6.7.*

1. Executive Session

The meeting recessed at 12:34 p.m. and reconvened in Executive Session under the provisions of Section 551, Texas Government Code. City Council reconvened in open session at 2:25 p.m., and the meeting was called to order at 2:28 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. Luskey - Tract A

1. 1. 2. Upland Avenue Street Bond Project - 4th Street to 19th Street

1. 1. 3. Central Business District

1. 1. 4. Baymont Inn and Suites aka Baymont by Wyndham Lubbock - Downtown Civic Center, 601 Avenue Q, Lubbock, Texas, 79401; R552750-00007-00010-000; Memorial Center BLK 7 L1A LESS SE245' X 182.91' & LESS SE 14' & 4A; SAI BHOLE-NATH HOTELS, INC. (13705 Jones St., Lavonia, GA 30553), managed by Chetan (Chaz) Patel – (Tex. Civ. Prac. Rem. Code Chapter 125)

1. 1. 5. Executive Inn - 4401 AVE Q LUBBOCK, TX 79412, R851000-00000-00010-000, Townhouse L1, owned by Dihenia Property Investment LLC, managed/registered agent Arun Dihenia, Lalitaben Dihenia, Jonalyn Dihenia – (Tex. Civ. Prac. Rem. Code Chapter 125)

1. 2. Hold an executive session in accordance with the Texas Government Code, Section 551.072, to deliberate the purchase, exchange, lease, or value of real property.

1. 2. 1. Luskey - Tract A

1. 2. 2. Upland Avenue Street Bond Project - 4th Street to 19th Street

1. 2. 3. Central Business District

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

1. 3. 1. Central Business District

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

City Council reconvened at 2:22 p.m.

2. Ceremonial Items

2. 1. Invocation

Pastor Jared Baker, Glad Tidings Church, led the invocation.

2. 2. Pledges of Allegiance

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

Call to Order

The meeting was called to order at 2:28 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 February 25, 2025. Citizen Comments provide an opportunity for citizens to make comments and express a position on agenda items.

No one appeared to speak.

4. Minutes

4. 1. January 28, 2025 Regular City Council Meeting

Motion by Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member Tim Collins, to approve the January 28, 2025 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 Tim Collins, to approve items 5.1-5.9 and 5.11-5.19.

Vote: 7 - 0 Motion carried

5. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Ordinance No. 2025-O0024, Amendment 12, amending the FY 2024-25 Budget for municipal purposes respecting the Traffic Capital Project Fund; providing for filing; and providing for a savings clause.

5. 1. 1. **Resolution - Public Works Traffic Operations:** Resolution No. 2025-R0078 authorizing the Mayor to execute Advanced Funding Agreement No. 0905-06-131, with the Texas Department of Transportation, for the City to furnish and install vehicular and pedestrian detection equipment at sixty traffic signals across the City.

5. 2. **Ordinance 2nd Reading - Right-of-Way:** Ordinance No. 2025-O0023, abandoning and closing portions of private utility, drainage, and transformer pad easements located in Lots 194-237 and Tract K-1, Solaris Estates Addition to the City of Lubbock, Lubbock County, Texas, east of Quaker Avenue and south of 126th Street.

5. 3. **Ordinance 1st Reading - Right-of-Way:** Ordinance No. 2025-O0030 abandoning and closing portions of alley right-of-way located in Block 102, Overton Addition to the City of Lubbock, Lubbock County, Texas, between 14th Street and 15th Street, west of Avenue X in Block 102.

5. 4. **Ordinance 1st Reading - Right-of-Way:** Ordinance No. 2025-O0031 abandoning and closing portions of an access easement located in Tracts 4A & 4B, Huntington Business Park, City of Lubbock, Lubbock County, Texas, at the southeast corner of Indiana Avenue and 122nd Street.

5. 5. **Ordinance 1st Reading - Right-of-Way:** Ordinance No. 2025-O0032 abandoning and closing an alley right-of-way located in Section 22, Block E-2, L.A. Patillo Survey, abstract No. 744, Lubbock County, Texas, at the southeast corner of Indiana Avenue and 122nd Street.

5. 6. **Resolution - Right-of-Way:** Resolution No. 2025-R0079 authorizing the Mayor to accept, for and on behalf of the City of Lubbock, two (2) Street, Public Use, and Right-of-Way Deeds, and all related documents, in connection with real property located in Section 8, Block E, of the GC & SF Railroad Company Survey, Lubbock County, Texas, (Parcels 19 & 20), to be utilized for the 2022 Street Bond Project.

5. 7. **Ordinance 2nd Reading - Engineering:** Ordinance No. 2025-O0025, amending Chapter 39.04.014 of the City of Lubbock Code of Ordinances, regarding the maintenance of drainage easements.

5. 8. **Resolution - Engineering:** Resolution No. 2025-R0080 authorizing the Mayor to execute Professional Services Agreement Contract 18600, and related documents, with Kimley-Horn and Associates, Inc., for the reconstruction of 114th Street, from Indiana Avenue to University Avenue – 22B, which is a portion of the 2022 Street Bond Project.

5. 9. **Resolution - Public Works Water Utilities:** Resolution No. 2025-R0081 authorizing the Mayor to execute Contract 18655, with Fuquay, Inc., for Cured in Place Pipe for pipeline rehabilitation at the Southeast Water Reclamation Plant.

5. 10. **Resolution - Public Works Water System Operations:** Resolution No. 2025-R0087 authorizing the Mayor to execute Purchase Order 22105397, with VWR International, LLC, for the purchase of a 6495 Triple Quadrupole Liquid Chromatograph Mass Spectrophotometer, to enable testing for "forever chemicals", pharmaceuticals, and unregulated contaminants in water and wastewater.

Wood Franklin, division director of public works, gave a presentation and answered questions from City Council.

Motion by Council Member Brayden Rose, seconded by Council Member Tim Collins, to approve Resolution No. 2025-R0087.

Vote: 7 - 0 Motion carried

5. 11. **Ordinance 2nd Reading - Public Works Traffic Operations:** Ordinance No. 2025-O0026, amending Section 20.05.103 of the City of Lubbock Code of Ordinances, with regard to the establishment of school zones and speed limits.

5. 12. **Resolution - Public Transit Services:** Resolution No. 2025-R0082 authorizing the Mayor to execute Contract 18460, with Applied Operations Security & Investigation, for armed security guard services for Citibus.

5. 13. **Resolution - Public Transit Services:** Resolution No. 2025-R0083 authorizing the Mayor to execute Contract 18338, with Michelin North America, Inc., for tire leasing to supply transit bus tires for Citibus.

5. 14. **Resolution - Business Development:** Resolution No. 2025-R0084 confirming that the City of Lubbock is in support of the proposed 9% Housing Tax Credit application to be submitted to the Texas Department of Housing and Community Affairs, for the Avenue U Villas Development, to be located at 8401 Avenue U, Lubbock, Texas.

5. 15. **Resolution - Business Development:** Resolution No. 2025-R0085 authorizing the Mayor to execute Contract 18526, with West Texas Services, LLC, dba Tom's Tree Place, for the purchase of gravel for the North Overton Public Improvement District (PID).

5. 16. **Resolution - Information Technology:** Resolution No. 2025-R0086 authorizing the Mayor to execute Contract 18465, with US Digital Designs by Honeywell, for the Zetron Fire Station Alerting System for Lubbock Fire Rescue.

5. 17. **Ordinance 2nd Reading - Planning (District 1):** Ordinance No. 2025-O0027, for Zone Case 3515, a request of Lubbock Habitat for Humanity, for a zone change from Medium Density Residential District (MDR) to Low Density Single-Family District (SF-2), at 1719, 1721, 1723, and 1725 21st Street, located south of 21st Street and east of Avenue S, McCrummen's Second Addition, Block 9, Lots 10, 11, 12, and 13.

5. 18. **Ordinance 2nd Reading - Planning (District 2):** Ordinance No. 2025-O0028, for Zone Case 1635-B, a request of Mr. T's Auto Sales, LLC, for a zone change from Medium Density Residential District (MDR) to Heavy Commercial District (HC), at 4412 Avenue Q, located north of 45th Street and west of Avenue Q, Syfrett Addition, Block 5, Lot 2A.

5. 19. **Ordinance 2nd Reading - Planning (District 6):** Ordinance No. 2025-O0029, for Zone Case 2538-OO, a request of Mountain Top Engineering for Yolanda Vargas, for a zone change from Low Density Single-Family District (SF-2) to Heavy Commercial District (HC), at 2210 Research Boulevard, located south of 19th Street and west of Research Boulevard, on approximately 4.11 acres of unplatted land out of Block D-6, Section 5.

6. Regular Agenda

6. 1. **Board Appointments - City Secretary:** Declare three appointments by the Mayor to the Lubbock Housing Authority Board of Commissioners: Toby Cecil, Vecelia Mann, Jerry Ramirez.

Courtney Paz, city secretary, read into the record the declaration of three appointments by the Mayor to the Lubbock Housing Authority Board of Commissioners: Toby Cecil, Vecelia Mann, Jerry Ramirez.

6. 2. **Resolution - Finance:** Resolution No. 2025-R0088 accepting the City of Lubbock Annual Comprehensive Financial Report, for Fiscal Year that ended September 30, 2024.

Jarrett Atkinson, city manager, introduced the item, gave comments, answered questions from City Council.

Jennifer Ripka, engagement partner with Weaver, gave a presentation and answered questions from City Council on the FY 2023-24 Annual Comprehensive Financial Report as it relates to the audit process, engagement timeline, overview, significant risks and required communications.

Joe Jimenez, chief financial officer, gave a presentation on the FY 2023-24 Annual Comprehensive Financial Report as it relates to General Fund revenues, expenditures, fund balance and current ratios; Enterprise Funds including water/wastewater, the airport, and stormwater; and the City of Lubock debt profile, pensions, and investments results and gave comments, answered questions from City Council.

Motion by Council Member Brayden Rose, seconded by Mayor Pro Tem Christy Martinez-Garcia, to approve Resolution No. 2025-R0088.

Vote: 7 - 0 Motion carried

6. 3. **Public Hearing - Planning (District 2):** Ordinance No. 2025-O0033, for Zone Case 437-C, a request of Michael Session for Raymond and Gaynell Lemon, for a zone change from Low Density Single-Family District (SF-2) to Low Density Single-Family District (SF-2) Specific Use for a Manufactured Home Subdivision, at 2909 East Broadway, located west of David Avenue and north of East Broadway, Flake Addition, Block 7, Lot 8.

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

Mayor McBrayer opened the public hearing at 3:10 p.m.

No one appeared to speak in favor or opposition.

Mayor McBrayer closed the public hearing at 3:21 p.m.

Motion by Council Member David Glasheen, seconded by Council Member Tim Collins, to approve Ordinance No. 2025-O0033.

Vote: 6 - 1 Motion carried

NAY: Council Member Brayden Rose

6. 4. **Public Hearing - Planning (District 2):** Ordinance No. 2025-O0034, for Zone Case 3516, a request of Hugo Reed and Associates, Inc. for Elliott Arroyo Seco, LTD., for a zone change from Low Density Single-Family District (SF-2) to Heavy Commercial District (HC), at 2415 114th Street, located east of University and south of 114th Street, on 10 acres of unplatted land out of Block E, Section 15.

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

Mayor McBrayer opened the public hearing at 3:10 p.m.

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

No one appeared to speak in opposition.

Mayor McBrayer closed the public hearing at 3:21 p.m.

Motion by Council Member David Glasheen, seconded by Council Member Tim Collins, to approve Ordinance No. 2025-O0034.

Vote: 6 - 1 Motion carried

NAY: Council Member Brayden Rose

6. 5. **Public Hearing - Planning (District 4):** Ordinance No. 2025-O0035, for Zone Case 1794-K, a request of AMD Engineering, LLC for Community Christian Church, for a zone change from High Density Residential District (HDR) to Auto-Urban Commercial District (AC), at 3417 96th Street, located north of 98th Street and west of Indiana Avenue, on 1.16 acres out of Raintree Addition, Tract F-1.

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

Mayor McBrayer opened the public hearing at 3:10 p.m.

Will Stephens, with AMD Engineering, appeared to speak in favor.

Billie Stelzer; and Marcus Hurd appeared to speak in opposition.

Mayor McBrayer closed the public hearing at 3:21 p.m.

Motion by Council Member David Glasheen, seconded by Council Member Tim Collins, to approve Ordinance No. 2025-O0035.

Vote: 6 - 1 Motion carried

NAY: Council Member Brayden Rose

6. 6. **Public Hearing - Planning (District 5):** Ordinance No. 2025-O0036, for Zone Case 2916-F, a request of SK Architecture Group, LLC, for a zone change from Industrial Park District (IP) to Neighborhood Commercial District (NC), at 8310 and 8314 Upland Avenue, located south of 82nd Street and west of Upland Avenue, Centerline Addition, Tracts B and C.

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

Mayor McBrayer opened the public hearing at 3:10 p.m.

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

No one appeared to speak in opposition.

Mayor McBrayer closed the public hearing at 3:21 p.m.

Motion by Council Member David Glasheen, seconded by Council Member Tim Collins, to approve Ordinance No. 2025-O0036.

Vote: 6 - 1 Motion carried

NAY: Council Member Brayden Rose

6. 7. **Public Hearing - Planning (District 3):** Ordinance No. 2025-O0037, for Zone Case 3174-D, a request of AMD Engineering, LLC for Texas District LCMS and Generator 1, LLC, for a zone change Low Density Single-Family District (SF-2) and Heavy Commercial District (HC) to High Density Residential District (HDR), at 2601, 2605, and 2615 19th Street, located west of University Avenue and south of 19th Street, on 1.56 acres out of Ellwood Place, Block 7.

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

Mayor McBrayer opened the public hearing at 3:26 p.m.

Cory Dulin, with AMD Engineering; Tyler Perlmutter, with Pinecrest; Joseph Ahmadi, with Lessard Design, Inc.; George Hardberger; and Eric Lamburt appeared to speak in favor.

Tom Pitts; Cindy Pratas; Richard Murphy; Laurin Prather; Urs Flueckiger; Alaistair Hamilton; Sally Conroy; Ivan Naranjo; Tai Kreidler; Holle Humphries; Roger Settler, with the Congress of Neighborhood Associations; Kay Overly; Teresa Greer; and Cyd Seideman appeared to speak in opposition.

Mayor McBrayer closed the public hearing at 5:50 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Council Member Brayden Rose, to approve Ordinance No. 2025-O0037.

Vote: 7 - 0 Motion carried* (Mayor Mark W. McBrayer voted "Abstain". See Article 9, Section 15 of the City of Lubbock Charter.)

5:59 P.M. CITY COUNCIL ADJOURNED

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

The February 25, 2025 Regular City Council Meeting minutes were approved by the City Council on the 25th day of March, 2025.

_____
MARK W. McBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

CITY OF LUBBOCK
SPECIAL CITY COUNCIL MEETING
March 5, 2025
11:30 A.M.

The City Council of the City of Lubbock, Texas met in special session on the 5th of March, 2025, at Lubbock Memorial Civic Center, 1501 Mac Davis Lane, Banquet Hall, Lubbock, Texas at 11:30 a.m.

11:57 A.M. CITY COUNCIL CONVENED
Lubbock Memorial Civic Center, 1501 Mac Davis Lane, Banquet Hall, Lubbock, Texas

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

Absent: Council Member David Glasheen; Council Member Gordon Harris

Note: City Council addressed agenda items in the following order:
- *1.1*

1. REGULAR SESSION

1. 1. State of the City Address and Panel Discussion - concerning the Lubbock economy, economic development, employment, core services, including but not limited to: utilities (water, wastewater, and electricity), development and redevelopment, public safety, crime, streets and transportation, community services, facilities, infrastructure, parks and recreation, and other modes of delivery of governmental services; budgetary matters, and the operations, communications, programs, and personnel of the City of Lubbock. No action will be taken by the Lubbock City Council.

Jason Cantu, with Tigris Real Estate and President of the Apartment Association, gave opening remarks and welcomed those in attendance.

The Lubbock Police Department and Lubbock Fire Rescue Honor Guard presented the colors; the pledges of allegiance, to the United States and Texas Flags, were led by Lubbock County Commissioner Mike Dalby; Toby and Jason Burt, with BurtBoys806, performed the national anthem; and the invocation was led by Pastor Johnson.

Mayor Mark McBrayer delivered the 43rd Annual State of the City Address and conducted a question and answer session with the following panelists: Jarrett Atkinson, city manager; Seth Herman, chief of police; Richard Stewart, fire chief; Erik Rejino, assistant city manager; Colby VanGundy, director of parks and recreation; and Wood Franklin, division director of public works.

Mayor Mark McBrayer gave closing remarks.

12:54 P.M. CITY COUNCIL ADJOURNED

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

The March 5, 2025 Special City Council Meeting minutes were approved by the City Council on the 25th day of March, 2025.

_____
MARK W. McBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

AI# 13186
Regular City Council Meeting 5. 1.
03/25/2025:

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2025-O0038, Amendment 11, amending the FY 2024-25 Budget for municipal purposes respecting the 66th Street from I-27 to Ash Avenue Capital Improvement Project in the Streets Capital Project Fund; providing for filing; and providing for a savings clause.

Item Summary

On February 11, 2025, the City Council approved the first reading of the ordinance.

I. Establish Capital Improvement Project 92903, 66th Street from I-27 to Ash Avenue and appropriate $128,418. Funding will be from the General Fund and Stormwater Fund.
II. Increase the transfer from General Fund to the Streets Capital Project Fund by $96,779, from $14,600,000 to $14,696,779.
III. Amend the transfer from the Stormwater Fund to the Streets Capital Projects Fund by $31,638.

The purpose of this project is to improve the drainage and paving along 66th Street from I-27 to Ash Avenue through a Development Agreement with the adjacent landowner. 66th Street from I-27 to Ash Avenue is designated as a collector in the 2018 Master Thoroughfare Plan. The north side of this segment of 66th Street is fully developed and mostly occupied by the Texas Department of Transportation and City of Lubbock facilities. A City facility is also on the southeast corner of this segment of 66th Street. This project will increase the safety and functionality of this segment of 66th Street.

Fiscal Impact

The funding appropriation in the amount of $128,418 will be from the General Fund and Stormwater Fund.
$96,779 will come from the General Fund and the remaining $31,638 will be from the Stormwater Fund.

Staff/Board Recommending

Joe Jimenez, Chief Financial Officer

Attachments

Budget Amendment 11

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2024-25 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE 66TH STREET FROM I-27 TO ASH AVENUE CAPITAL IMPROVEMENT PROJECT IN THE STREETS CAPITAL PROJECTS FUND; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE

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

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

WHEREAS, the City Council deems it advisable to change the FY 2024-25 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

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

SECTION 1. The City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2024-25 (Budget Amendment #11) for municipal purposes, as follows:

I. Establish Capital Improvement Project 92903, 66th Street from I-27 to Ash Avenue and appropriate $128,418. Funding will be from General Fund and Stormwater Fund.
II. Increase the transfer from General Fund to the Streets Capital Project Fund by $96,779, from $14,600,000 to $14,696,779.
III. Amend the transfer from the Stormwater Fund to the Streets Capital Projects Fund by $31,638.

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

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

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

MARK W. MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Joe Jimenez, Chief Financial Officer

APPROVED AS TO ~~FORM~~:

Mitch Satterwhite, First Assistant City Attorney

AI# 13181
Regular City Council Meeting **5. 1. 1.**
03/25/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Development Agreement Contract 18627, with CRS Business Park, LLC., for the construction of a portion of 66th Street, from I-27 to Ash Avenue.

Item Summary

This development agreement between the City of Lubbock and CRS Business Park, LLC. pertains to the construction of a segment of 66th Street, extending from I-27 to Ash Avenue. The agreement outlines the intention for all parties to contribute financially to the project, with the developer assuming full responsibility for the construction and completion of the roadway improvements.

The Engineer's Opinion of Probable Construction Costs (OPCC) for 66th Street from I-27 to Ash Avenue is in the amount of $428,059.00. This City's contribution in the development agreement is up to 30%, with a not-to-exceed amount of $128,417.70.

Fiscal Impact

Contract 18627 in the amount of $128,417.70, is funded in Capital Improvements Project 92903, 66th Street from I-27 to Ash Avenue.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

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Attachments

Resolution
Contract 18627
Location Exhibit

CIP 92903 - Budget Detail

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, the Development Agreement Contract No. 18627 for the construction of two (2) lanes on 66th Street from Interstate 27 (I-27) to Ash Avenue, by and between the City of Lubbock and CRS Business Park, LLC and related documents. Said Agreement is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
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.development agreement – 18627 66th St I27 to Ash
3.18.25

STATE OF TEXAS §
COUNTY OF LUBBOCK §

DEVELOPMENT AGREEMENT
FOR CONSTRUCTION OF
A PORTION OF 66th STREET

This Development Agreement ("Agreement") Contract No. 18627 is entered into this___day of _____, 2025 by and between the City of Lubbock, Texas, a Texas home rule municipal corporation (the "City") and CRS Business Park, LLC (the "Developer").

WHEREAS, Developer is the owner of certain real property adjacent to 66th Street located within the corporate limits of the City; and

WHEREAS, Developer shall construct 2 lanes on 66th Street from Interstate 27 (I-27) to Ash Avenue (the "Project"); and

WHEREAS, the portion of 66th Street that is the subject to this agreement, details thereof, and the associated opinion of probable cost (the "Contract Price") of the Project are set forth in Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, the City and Developer participation amounts shall be in the amount set forth in Exhibit "A"; and

WHEREAS, the City shall participate in the cost of the Project at an amount not to exceed 30 percent (30%) of the total Contract Price, in accordance with the Texas Local Government Code Sec. 212.702(b)(1).

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants, promises and obligations set forth herein, the sufficiency of which is hereby acknowledged, the City and Developer hereby agree as follows:

SECTION 1 Developer Activities

101 Developer shall proceed in a diligent manner to completion of the Project in accordance with all applicable federal and state laws, City of Lubbock Code of Ordinances, and City of Lubbock policies. Completion of such improvements shall occur within eighteen (18) months after execution of this agreement. Completion of the Project shall not be deemed to have occurred unless and until the City shall have accepted such improvements as being in compliance with the terms of this Agreement and federal, state, and local laws.

1.02 Developer shall comply with applicable laws related to private performance of public improvements, including without limitation, Subchapter C of Chapter 212 of the Local Government Code.

SECTION 2 City Participation

2.01 The City shall, subject to the terms hereof, participate in the Project in an amount not to exceed, one hundred twenty-eight thousand four hundred seventeen and 70/100 Dollars ($128,417.70), based on the actual bid prices of the Project. It is expressly hereby represented and warranted by Developer to City that the total Contract Price regarding this project is estimated to be four hundred twenty-eight thousand fifty-nine and 00/100 Dollars ($428,059.00).

2.02 The City shall pay to Developer the actual bid price amount, as limited herein not to exceed $128,417.70 upon completion of the Project and inspection and acceptance thereof by the City. It is expressly stipulated that the City shall owe no funds to Developer unless and until the Project is completed in accordance with all state laws, City of Lubbock Code of Ordinance provisions, and City of Lubbock policies.

2.03 Under no circumstance or event shall the participation of the City exceed thirty percent (30%) of the total Contract Price contemplated by subchapter C of Chapter 212 of the Texas Local Government Code. In the event such participation, as computed and limited herein by the "not to exceed" sum provided in Section 2.01, above, shall so exceed thirty percent (30%) of the Contract Price, the City shall only be obligated to pay the lesser of thirty percent (30%) of the Contract Price, or the "not to exceed" sum provided in Section 2.01, above. In the case that the Project costs exceed the Contract Price attached, the Developers shall be solely responsible for any and all excess costs.

SECTION 3 Performance Bond

3.01 Developer shall execute a Performance Bond for the construction of the Project to ensure completion of the Project. The bond must be executed by a corporate surety in accordance with Chapter 2253 of the Texas Government Code. The bond shall be submitted to the City Engineer of the City of Lubbock on or before beginning any work on the Project. In the event such performance bond is not so submitted, this Agreement shall be null and void and of no force and effect.

SECTION 4 Additional Safeguards

4.01 All of Developer's books and other records related to the Developer's construction of the Project shall be available for inspection by the City upon request. Developer shall furnish actual contract documentation to the City that depicts the actual costs of the Project prior to request for payment from the City.

SECTION 5 Term

5.01 The term of this Agreement shall begin on the date of execution of this Agreement by City and end upon the complete performance of all obligations by each party to this Agreement, but shall be no longer than eighteen (18) months.

SECTION 6 Indemnity

6.01 Developer agrees to defend, indemnify, and hold City, its officers, agents, employees, and elected officials, harmless from and against any and all claims, lawsuits, liabilities, judgments, costs and expenses for any harm for which recovery of damages is sought that may arise out of, be occasioned by or related to Developer's breach of any of the terms or provisions of this Agreement.

SECTION 7 Events of Default / Remedies

7.01 A default shall exist if any party fails to perform or observe any material covenant or obligation contained in this Agreement, or if any material representation and/or warranty provided for herein is not true or correct. The non-defaulting party shall notify the defaulting party in writing upon becoming aware of any event that constitutes a default. Such notice shall specify the nature of the default and what action, if any, the non-defaulting party requires or proposes to require with respect to curing the default.

7.02 If a default shall occur and be continuing, after ten (10) days written notice to cure such default, the non-defaulting party may pursue any and all remedies it may be entitled to at law, contract, equity, or otherwise, including without limitation, termination of this Agreement. It is agreed that failure to declare this Agreement terminated upon the default of Developer for any of the reasons set forth above shall not be construed as a waiver of any of the City's rights hereunder or otherwise bar or preclude City from declaring this Agreement terminated as a result of any subsequent violation of any of the terms or conditions of this Agreement. All of such remedies are expressly cumulative and the exercise of one or more remedies shall not preclude the simultaneous or subsequent exercise of different or additional remedies.

SECTION 8 Miscellaneous

8.01 This Agreement is performable in Lubbock County, Texas, and venue for any action arising out of this Agreement shall be exclusively in Lubbock County, Texas. This Agreement shall governed by and construed in accordance with the laws of the State of Texas.

8.02 Any notice required by this Agreement shall be deemed to be properly served, if:

(i) Provided in person, email, or by telephonic facsimile; or

(ii) Deposited in the United States mail by certified letter, return receipt requested, addressed to the recipient at recipient's address shown below, subject to the right of either party to designate a different address by notice given in the manner just described.

Notice shall be deemed to be received when delivered if provided in person or by telephonic facsimile or, if deposited in the United States mail, as set forth above, (4) days after depositing such notice in the United States mail, as set forth above.

For City:

City Manager
City of Lubbock
P. O. Box 2000
Lubbock, Texas 79457
Facsimile No. 806-775-2051
jatkinson@mylubbock.us

with copy to:
John Turpin
City Engineer
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457
Facsimile No. 806-775-3074
mkeenum@mylubbock.us

For Developer:

CRS Business Park, LLC
16200 Dallas Parkway, Suite 145
Dallas, Texas 75248

8.03 In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, except as may otherwise be provided herein, such invalidity, illegality or unenforceability shall not in any way affect any other provision hereof and this Agreement shall be considered as if such invalid, illegal or unenforceable provision had never been contained in this Agreement.

8.04 City and Developer each bind themselves and their successors and assigns to the other parties of this Agreement. Developer represents and warrant to City that it (i) possesses the requisite power and authority to execute, deliver and perform this Agreement; (ii) has taken all actions and formalities necessary to authorize Developer to execute, deliver and perform this Agreement; and (iii) the party executing for and on behalf the Developer has been duly authorized to act in such

behalf.

8.05 City and Developer herein recognize that the continuation of any agreement at the close of any given fiscal year of the City of Lubbock, Texas, which fiscal year ends on September 30 of each year, shall be subject to Council budget approval of the City, providing for or covering such agreement item as an expenditure therein. The City does not represent that said budget item will actually be adopted as this determination is within the sole discretion of the City Council.

8.06 The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, this provision shall control.

8.07 This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

8.08 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.

8.09 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.

8.10 Texas Government Code 2274. By entering into this Agreement, Developer 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 Developer is a company with 10 or more full-time employees and if this Agreement has a value of at least $100,000 or more, Developer 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.

8.11 Developer 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 Developer is a company with 10 or more full-time employees and if this Agreement has a value of at least $100,000 or more, Developer 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.

8.12 Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Developer agrees that the contract can be terminated if Developer knowingly or intentionally fails to comply with a requirement of that subchapter.

8.13 To the extent Subchapter J, Chapter 552, Government Code applies to this agreement, Developer 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.

CITY OF LUBBOCK:

MARK W. MCBRAYER, MAYOR

CRS BUSINESS PARK, LLC:

Rex Robertson, Manager

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

John Turpin, P.E., CFM
Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

EXHIBIT "A"

66th Street - I-27 to Ash Avenue
Opinion of Probable Construction Cost

20-Feb-25 11:11 AM

Item	Quantity	Unit	Unit Price	Total
66th Street - I-27 to Ash Avenue				
Demolition				
HMAC Removal	950	SY	$ 25.00	$ 23,750
Concrete Removal	84	SY	$ 50.00	$ 4,200
Paving and Drainage Improvements				
Excavation and Embankment	2,330	CY	$ 12.00	$ 27,960
Pavement Section (2" Type C, 8" Flex Base, 12" Subgrade)	3,730	SY	$ 57.00	$ 212,610
Rock Rip Rap	13	SY	$ 50.00	$ 650
6" Concrete Driveway	150	SY	$ 80.00	$ 12,000
4" Concrete Rip Rap	21	SY	$ 55.00	$ 1,155
5'x2' CIP Concrete Box Culvert	80	LF	$ 500.00	$ 40,000
Safety End Treatment	2	EA	$ 20,000.00	$ 40,000
18" Corrugated Metal Pipe	90	LF	$ 110.00	$ 9,900
Construction Total				$ 372,225
Miscellaneous Items				
Contingency	15	%		$ 55,834
Total Estimated Cost				$ 428,059

City of Lubbock Share (30%) $ 128,417.70
Ford Development Share (70%) $ 299,641.30

Stormwater Items include: rip rap, box culverts, safety end treatment, and 18" metal pipe

Stormwater Items:
Total = $105,461 (including 15% contingency)
City portion (30%) = $31,638.30

Roadway Items:
Total = $322,598 (including 15% contingency)
City portion (30%) = $96,779.40

66th Street Road Improvements

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

0 125 250 500 750 US Feet

City of Lubbock TEXAS

City of Lubbock, TX
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92903
Capital Project Name:	66th Street from I-27 to Ash Avenue

Encumbered/Expended	**Budget**
City of Lubbock Staff Time	$
Agenda Items, March 25, 2025	
Contract 18627 - Development Agreement with CRS Business Park, LLC	128,41
Encumbered/Expended To Date	128,41
Estimated Costs for Remaining Appropriation	
Construction of 66th Street from I-27 to Ash Avenue	
Remaining Appropriation	
Total Appropriation	$ 128,41

AI# 13259
Regular City Council Meeting 5. 2.
03/25/2025:

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2025-O0039, Amendment 15, establishing the McAlister Park Playground Capital Improvement Project in the Parks Capital Project Fund; providing for filing; and providing for a savings clause.

Item Summary

On February 11, 2025, the City Council approved the first reading of the ordinance.

I. Establish Capital Improvement Project 92905, McAlister Park Playground and appropriate funding in the amount of $903,300. Funding will be the remaining funds from the George McMahan donation.

The McAlister Park Playground Capital Improvement Project will design and install a new, inclusive playground that caters to children of various ages and abilities. The project will feature separate play areas for 5-12 year olds and 2-5 year olds, ensuring age-appropriate equipment and activities for different developmental stages.

Additionally, the playground will incorporate inclusive play elements and adhere to the American with Disability Act (ADA) standards, making it accessible and enjoyable for children of all abilities, thus promoting community engagement and equal opportunities for recreation.

Fiscal Impact

The funding in the amount of $903,300 is the remaining funds from the George McMahan donation.

Staff/Board Recommending

Joe Jimenez, Chief Financial Officer

Attachments

Budget Amendment 15

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2024-25 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE MCALISTER PARK PLAYGROUND CAPITAL IMPROVEMENT PROJECT IN THE PARKS CAPITAL PROJECT FUND; PROVIDING FOR FILING; AND PROVIDING FOR A SAVINGS CLAUSE

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

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

WHEREAS, the City Council deems it advisable to change the FY 2024-25 Budget for municipal purposes and reallocate funds as follows; NOW, THEREFORE,

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

SECTION 1. The City Council of the City of Lubbock hereby approves changes to the City of Lubbock Budget FY 2024-25 (Budget Amendment #15) for municipal purposes, as follows:

I. Establish Capital Improvement Project 92905, McAlister Park Playground and appropriate funding in the amount of $903,300. Funding will be the remaining funds from the George McMahon donation.

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

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

AND IT IS SO ORDERED

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

Courtney Paz
City Secretary

APPROVED AS TO CONTENT:

Joe Jimenez
Chief Financial Officer

APPROVED AS TO FORM:

Mitch Satterwhite
First Assistant City Attorney

ccdocsII/BudgetFY24-25.Amend15.ord
February 13, 2025

AI# 13252
Regular City Council Meeting 5. 3.
03/25/2025:

Information

Agenda Item

Resolution - Risk Management: Consider a resolution authorizing and directing the City Manager to purchase, for and on behalf of the City of Lubbock, property insurance to include terrorism from HDI Global Specialty, Princeton Excess & Surplus Lines Insurance and Underwriters at Lloyds, London/Hiscox, for a limit of $50,000,000 coverage for John T. Montford Dam, for a total premium not to exceed $266,791.91.

Item Summary

It is recommended that the City maintain a property insurance policy covering exposures to loss at the John T. Montford Dam at Lake Alan Henry. The City has maintained a policy since taking over the dam and reservoir ownership and operations in 2005 from the Brazos River Authority (BRA).

The City's current coverage for the dam, which is based on a total insurable value (TIV) of $90,000,000, has a limit of $50,000,000, with a $2,000,000 deductible at a premium of $198,834. This policy includes coverage for acts of terrorism, with the exception of domestic terrorism.

Zurich American Insurance Company, the City's current carrier, provided a quote for $578,000 for the same expiring terms; however the City's broker was able to secure another option. This option offers $50,000,000 in coverage and a $2,000,000 deductible, based on a $92,270,600 total insurable value. This coverage would be split equally between two carriers, HDI Global Specialty and Princeton Excess & Surplus Lines Insurance, and includes terrorism coverage placed with Underwriters at Lloyds, London/Hiscox, for a premium not to exceed $266,791.91.

Staff recommends the purchase of $50,000,000 in coverage with a $2,000,000 deductible, based on a $92,270,600 total insurable value; to be split equally between HDI Global Specialty and Princeton Excess & Surplus Lines Insurance,

and includes terrorism placed with Underwriters at Lloyds, London/Hiscox, for a premium not to exceed $266,791.91. This option reflects a 34.18% increase based on the increased valuation of the dam.

Carriers bind insurance coverage on April 1, 2025, after notification of City Council approval. Insurance policies are issued after premiums are received from the City. The policy for the insurance coverage is approved by the Texas Department of Insurance as to content, and may not be modified. Current insurance policies are available in Risk Management.

Fiscal Impact

Funds for this coverage are included in the FY 2024-25 Risk Management Fund.

Staff/Board Recommending

Joe Jimenez, Chief Financial Officer

Attachments

Montford Dam reso

Montford Dam

RESOLUTION

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

THAT the City Manager is hereby authorized and directed to purchase for and on behalf of the City of Lubbock, property insurance by and between the City of Lubbock and HDI Global Specialty, Princeton Excess & Surplus Lines Insurance and Underwriters at Lloyds, London/Hiscox in the amount of $50,000,000 insurance coverage to include terrorism for Montford Dam, for a total premium in an amount not to exceed $266,791.91; and

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

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Joe Jimenez, Chief Financial Officer

APPROVED AS TO FORM:

_____
Jeff Hartsell, Deputy City Attorney

vw/ccdocsII/Res.Risk Mgmt-HDI Global Specialty
March 18, 2025

John T. Montford Dam Property

Named Insured: John T. Montford Dam; City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

Policy Term: April 1, 2025 to April 1, 2026

Insurance Carrier U.S. Risk Insurance –
Property - HDI Global Specialty | 50% Participation | AM Best Rating: A
Property -Princeton Excess & Surplus Lines Insurance | 50% Participation | AM Best Rating: A+
Domestic Terrorism – Underwriters at Lloyds, London /Hiscox | AM Best Rating: A+

Coverage: Property insurance covers your interest against direct physical loss or damage by covered perils to named property that you own or are required to insure. **See attached schedule for covered locations**

Limit of Liability	
Limit of Liability	$50,000,000
Earthquake	$10,000,000
Flood	$10,000,000
Named Windstorm	$50,000,000
Income Coverage	NCP
Pollutant Clean-Up and Removal	$25,000
Additional Debris Removal Expenses	$5,000
Inland Marine Equipment	Included
Total Insured Value: $92,270,600	

Deductibles	
All Other Perils (AOP)	$2,000,000
Earthquake	$2,000,000
Flood	$2,000,000
Named Storm	$2,000,000
Coinsurance	Other – Waived%

Premium Overview

Description	Expiring Premium	Renewal Premium
Dam Coverage:	$263,588.00	$254,354.00
Surplus Lines Tax		$12,336.17
Stamping Fee		$101.74
Total Annual Premium:	$263,588.00	**$266,791.91**

TRIA Included in above noted pricing

AI# 13253

Regular City Council Meeting **5. 4.**

03/25/2025:

Information

Agenda Item

Resolution - Risk Management: Consider a resolution authorizing and directing the City Manager to purchase, for and on behalf of the City of Lubbock, layered excess liability insurance coverage from Texas Insurance Company (41%) and Upland Specialty Insurance Company (59%), for which the total premium amount shall not exceed $1,056,926.14.

Item Summary

Excess liability insurance provides additional liability limits that are in excess of the package liability policies for the following: General liability; Auto liability; Employment practices liability; Employee benefits liability; Law enforcement liability; and Public Officials errors and omissions liability.

The City's current layered coverage consists of; 35.714% from Texas Insurance Company for an expiring premium of $422,928.01, and 64.286% from Upland Specialty Insurance Company for an expiring premium of $761,280.09, for $7,000,000 of coverage per occurrence and an aggregate limit of $14,000,000. This program also includes additional abuse and molestation coverage as well as pollutant coverage.

Staff recommends renewal of this layered coverage with Texas Insurance Company (41%) and Upland Specialty Insurance Company (59%) for $7,000,000 of coverage per occurrence and an aggregate limit of $14,000,000, same as expiring for a total premium not to exceed $1,056,932.14 which is a decrease of 10.75%.

Carriers bind insurance coverage April 1, 2025, after notification of City Council approval. Insurance policies are issued after premiums are received from the City. The policy for the insurance coverage is approved by the Texas Department of Insurance as to content. Current insurance policies are available in Risk Management.

Fiscal Impact

Funds for this coverage are included in the FY 2024-25 Risk Management Fund.

Staff/Board Recommending

Joe Jimenez, Chief Financial Officer

Attachments

Excess Liability reso

Excess Liability

RESOLUTION

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

THAT the City Manager of the City of Lubbock is hereby authorized and directed to purchase for and on behalf of the City of Lubbock, layered excess liability insurance coverage from Texas Insurance Company (41%) and Upland Specialty Insurance Company (59%) for which the total premium shall not exceed $1,056,923.14; and

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

Passed by the City Council this _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, Interim City Secretary

APPROVED AS TO CONTENT:

_____
Joe Jimenez, Chief Financial Officer

APPROVED AS TO FORM:

_____
Jeff Hartsell, Deputy City Attorney
Ryan Brooks for

RES.Risk Mgmt-Liability Insurance
March 18, 2025

Excess Liability

Named Insured: City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

Policy Term: April 1, 2025 to April 1, 2026

Insurance Company: Layer 1 – Texas Insurance Company | AM Best Rating: A- XII
Layer 2 – Upland Specialty Insurance Company | AM Best Rating: A- XII

Coverage: Provides additional liability limits that are in excess of the limits provided on specified underlying liability policies.

Coverage Description	Limit
Limit Per Occurrence	$7,000,000
General Aggregate	$14,000,000
Self-Insured Retention	$0

Your coverage follows the policies listed below unless otherwise noted

General Liability
Policy Number: TBD
Insurance Carrier: Gemini Insurance Company
Policy Term: 04/01/2025 to 04/01/2026

Coverage Description	Limit
Each Occurrence	$3,000,000
General Aggregate	$6,000,000

Auto Liability
Policy Number: TBD
Insurance Carrier: Gemini Insurance Company
Policy Term: 04/01/2025 to 04/01/2026

Coverage Description	Limit
Combined Single Limit	$3,000,000

Miscellaneous Liability
Policy Number: TBD
Insurance Carrier: Gemini Insurance Company
Policy Term: 04/01/202 to 04/01/2026

Coverage Description	Limit
Cov B – Law Enforcement Activities	$3,000,000 Each Claim $6,000,000 Annual Aggregate
Cov C – Public Officials, Employment Practices and Employee Benefit Liability **Claims Made Retro Date: 09/10/99-Public Officials, Employment Practices and Employee Benefit Liability**	$3,000,000 Each Claim $6,000,000 Annual Aggregate
Limited Sexual Abuse Liability **(Claims Made)-Retro Date 04/01/2022 *Included in Coverage C Aggregate**	$2,000,000 Each Act $2,000,000 Aggregate
Pesticide or Herbicide Pollutant Liability	$3,000,000 Each Occurrence $3,000,000 Aggregate
Dam, Reservoir, Levee Coverage ***(included in Coverage A Aggregate Above)**	$3,000,000 Each Occurrence $3,000,000 Aggregate

Limits above Excess of $750,000 Self Insured Retention

Premium Overview

Description	Expiring Premium	Renewal Premium
Layer 1 – Texas Insurance Company	$422,928.01	**$433,300.59**
Layer 2 – Upland Specialty	$761,280.09	**$623,631.55**
Total Annual Premium:	**$1,184,208.10**	**$1,056,932.14**

***TRIA Included in Premium Above**

AI# 13256
Regular City Council Meeting 5. 5.
03/25/2025:

Information

Agenda Item

Resolution - Risk Management: Consider a resolution authorizing and directing the City Manager to purchase for and on behalf of the City of Lubbock, excess workers' compensation coverage from Midwest Employer's Casualty Company, for which the total amount shall not exceed $283,195 annually for a two-year term.

Item Summary

The City is required by theTexas Labor Code to provide workers' compensation benefits to all municipal employees. The City extends workers' compensation benefits to elected officials, board members, and volunteers, to limit liability exposure. Workers' compensation provides medical care and lost wages, on a no-fault basis. Over the last several years, the workers' compensation insurance market has narrowed for municipalities, prompting staff to engage in a comprehensive review of the program. The results of this 3-year review have shown that it would be more cost-effective if the City transitions back to a self-insured program.

The City currently has a workers' compensation plan with Texas Municipal League Intergovernmental Risk Pool (TMLIRP). The City's current year contribution for workers' compensation insurance totals $1,870,994. The contribution consists of an annual premium one-time payment in the amount of $1,770,994 plus a $100,000 annual deductible deposit. At the end of each month, the City reimburses TMLIRP for any claims that do not meet the deductible of $25,000.

The transition to self-insuring the City's workers' compensation program requires us to utilize a third-party administrator for claims handling and purchase of excess coverage. The company staff recommends the selection of Midwest Employer's Casualty. They will provide us with a 2-year guaranteed annual premium in the amount of $283,195, for $1,000,000 in employer's liability coverage, and life of the claim in excess of the City's self-insured retention of $750,000 per incident.

The annual projected savings of transitioning to self-insured totals $718,680 based on current data.

Carriers bind coverage on April 1, 2025, after notification of City Council approval. Insurance policies are issued after premiums are received from the City. The policy for the insurance coverage is approved by the Texas Department of Insurance as to content. Current insurance policies are available in Risk Management.

Fiscal Impact

Funds for this coverage are included in the FY 2024-25 Risk Management Fund.

Staff/Board Recommending

Joe Jimenez, Chief Financial Officer

Attachments

Excess Workers' Comp Resolution

Excess Workers' Comp Quote

RESOLUTION

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

THAT the City Manager of the City of Lubbock is hereby authorized and directed to purchase for and on behalf of the City of Lubbock, excess workers' compensation coverage from the Midwest Employers Casualty Company, for which the premium amount shall not exceed $283,195.00; and

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

Passed by the City Council this _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Joe Jimenez, Chief Financial Officer

APPROVED AS TO FORM:

_____
Jeff Hartsell, Deputy City Attorney

sj:ccdocsII//RES.Risk Mgmt-Midwest Employers Casualty Company
March 18, 2025

Excess Workers Compensation

Named Insured: City of Lubbock and Lubbock
P.O. Box 2000
Lubbock, Texas 79457

Policy Term: April 1, 2025 to April 1, 2026

Insurance Carrier: Midwest Employers Casualty Company

Coverage: Excess Workers Compensation

Coverage Description	Limits
Employers Liability - Each Accident	$1,000,000
Self Insured Retention Per Occurrence/Accident	$750,000
Rating Basis	$173,358,923
Rate per $100 of Payroll	0.1663
Length of Policy Term	1 Year
Statutory Limits Apply	Yes
Total Estimated Premium (Annual)	$283,195*

***2 Year Plan – Premium of $283,195 will be billed annually (includes TRIA)**
Premium without TRIA is annual $274,947 at a rate of .1586.

Premium Overview

Description	Expiring Premium	Estimated Renewal Annual Premium
Excess Workers Compensation – **$1M Limit/$750k SIR**	NEW LINE	$283,195.00
Total Annual Premium:	**NEW LINE**	**$283,195.00**

AI# 13257

Regular City Council Meeting **5. 6.**

03/25/2025:

Information

Agenda Item

Resolution - Risk Management: Consider a resolution authorizing and directing the City Manager to execute Contract No. 18578, and related documents, for Third Party Workers' Compensation Claims Administrator Services, by and between City of Lubbock and TRISTAR Claims Management Services.

Item Summary

The City of Lubbock has historically managed its Workers' Compensation claims through Texas Municipal League Intergovernmental Risk Pool (TMLIRP). Over the last several years, the workers' compensation insurance market has narrowed for municipalities, prompting staff to engage in a comprehensive review of our program. The results of this review revealed that it would be more cost-effective if the City transitions to a self-insured program.

In transitioning from our current premium/deductible plan with TML to self-insuring our workers' compensation program, it is imperative to engage a Third-Party Claims Administrator (TPA). The objectives for this transition include:

- Improved Claims Management**:** Ensuring timely and accurate processing of claims in compliance with state laws;.
- Cost Reduction**:** Identifying opportunities to reduce indemnity and medical costs associated with claims;.
- Enhanced Communication**:** Establishing clear and consistent communication channels with injured employees and relevant parties; and
- Expertise and Experience**:** Leveraging the TPA's knowledge to navigate complex claims and implement best practices.

A Request for Proposal (RFP) was issued, inviting qualified firms to submit proposals for TPA services. The selection process encompassed a thorough review of seven submitted proposals based on criteria such as experience, service offerings, compliance with legal requirements, and cost-effectiveness. Reference

checks provided an insight into the performance and reliability of TRISTAR Claims Management Services (TRISTAR).

After careful consideration, TRISTAR offers:

- Proven Expertise**:** TRISTAR has over thirty-eight years of experience managing Workers' Compensation claims for municipalities, demonstrating a deep understanding of our unique needs.
- Comprehensive Services**:** The proposed services encompass key services such as claims processing, legal support, return-to-work programs, etc., aligning with our program objectives.
- Competitive Pricing**:** The proposed fee structure offers a 3-year guaranteed cost, ensuring fiscal responsibility. The annual pricing for TPA services with TRISTAR includes the guaranteed 3-year base cost of $91,500 plus additional ancillary costs.

As a strategic move to enhance the efficiency, compliance, and cost-effectiveness of the City’s Workers’ Compensation Program, staff recommends contracting with TRISTAR Claims Management Services.

Fiscal Impact

Funds for this contract are included in the FY 2024-25 Risk Management Fund.

Staff/Board Recommending

Joe Jimenez, Chief Financial Officer

Attachments

Workers' Comp TPA Resolution

RESOLUTION

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

THAT the City Manager of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract No. 18578 and related documents for Third Party Workers' Compensation Claims Administrator Services by and between City of Lubbock and TRISTAR Claims Management Services. 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:

_____
Joe Jimenez, Chief Financial Officer

APPROVED AS TO FORM:

_____
Jeff Hartsell, Deputy City Attorney

Ryan Brooke for

sj:ccdocsII/RES.Risk Mgmt-Federal Insurance Co.
March 18, 2025

AI# 13227

Regular City Council Meeting **5. 7.**

03/25/2025:

Information

Agenda Item

Ordinance 2nd Reading - Right-of-Way: Consider Ordinance No. 2025-O0030, abandoning and closing portions of alley right-of-way, located in Block 102, Overton Addition to the City of Lubbock, Lubbock County, Texas, between 14th Street and 15th Street, west of Avenue X in Block 102.

Item Summary

On February 25, 2025, the City Council approved the first reading of the ordinance.

The City of Lubbock is in receipt of a request to abandon and close portions of the alley running east and west between 14th and 15th Streets, west of Avenue X in Block 102, Overton Addition on behalf of Lubbock 2413 Properties KP7, LLC.

Lubbock 2413 Properties KP7, LLC is closing the alley to accommodate a proposed student housing building, and they have dedicated a new alley in order to re-route the utilities from the alley closure.

The total area of the alley being closed is 7,002 square feet. The proponent gets credit for the dedication of a new alley with an area of 3,084 square feet. The net area subject to the closure fee is 3,918 square feet. Based on adjacent land values, the Right-of-Way Department valued the closure at $2.50 per square foot, for a total of $9,795.

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

Fiscal Impact

$9,795.00 revenue to the General Fund

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

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Attachments

Ordinance Alley Closure Overton,Blk102

20203-08-09_Alley Closure Description and Exhibit

GIS Map Alley Closure Overton,Blk102

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING PORTIONS OF ALLEY RIGHT-OF-WAY LOCATED IN BLOCK 102, OVERTON ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

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

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

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

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2025.

Passed by the City Council on second reading this ____day of _____, 2025.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

John Turpin, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior City Attorney

Ord.Alley Right-of-Way, Block 102 Overton Add'n
2.4.25

Parkhill

ALLEY CLOSURE IN BLOCK 102,
OVERTON ADDITION TO THE CITY OF LUBBOCK,
LUBBOCK COUNTY, TEXAS

An alley closure in Block 102, Overton Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat, and/or dedication deed thereof recorded in Volume 18, Page 610 of the Deed Records of Lubbock County, Texas, said alley closure contains 7,002 square feet being further described by metes and bounds as follows:

BEGINNING at a 1/2-inch iron rod with a plastic cap marked "PARKHILL RPLS 6453" found in the west right-of-way line of Avenue X, dedicated with said plat of Overton Addition, in the east line of said Block 102, at the southeast corner of Lot 1 of said Block 102, for the northeast corner of this alley closure, said beginning point having coordinates of NORTHING: 7,275,015.68 and EASTING: 942,820.26, Texas Coordinate System, North Central Zone 4202, North American Datum of 1983, whence a 1/2-inch iron rod with a plastic cap marked "PARKHILL RPLS 6453" found at the northeast corner of said Block 102 bears *North 01 degrees 42 minutes 55 seconds East* a distance of 127.35 feet;

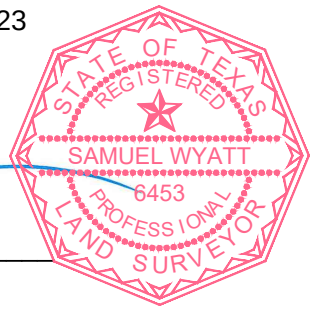
(1) THENCE *South 01 degrees 42 minutes 55 seconds West*, along the west line of said Avenue X, a distance of 20.00 feet to a 1/2-inch iron rod with a plastic cap marked "PARKHILL RPLS 6453" found in the east line of said Block 102, at the northeast corner of Lot 24 of said Block 102, for the southeast corner of this alley closure, whence a 1/2-inch iron rod found at the southeast corner of said Block 102 bears *South 01 degrees 42 minutes 55 seconds West* a distance of 127.35 feet;

(2) THENCE *North 88 degrees 19 minutes 35 seconds West*, along the south line of said alley dedicated with said plat of Overton Addition, a distance of 350.08 feet to a 1/2-inch iron rod with a plastic cap marked "PARKHILL RPLS 6453" found at the north common corner of Lot 17 and Lot 18 of said Block 102 for the southwest corner of this alley closure;

(3) THENCE *North 01 degrees 43 minutes 30 seconds East* a distance of 20.00 feet to a 1/2-inch iron rod with a plastic cap marked "PARKHILL RPLS 6453" found in the north line of said alley dedicated with said plat of Overton Addition, at the south common corner of Lot 7 and Lot 8 of said Block 102, for the northwest corner of this alley closure, whence a 1/2-inch iron rod with an orange plastic cap found at the north common corner of said Lot 7 and Lot 8 bears *North 01 degrees 43 minutes 30 seconds East* a distance of 127.52 feet;

(4) THENCE *South 88 degrees 19 minutes 35 seconds East*, along the north line of said alley, a distance of 350.08 feet to the **POINT OF BEGINNING**. Bearings called in this description are based on the Texas Coordinate System, North Zone 4201, North American Datum of 1983. Distances called in this description are at surface. Areas reported hereon are based on calculations made from surface distances. This survey is subject to any facts which may be disclosed by a full and accurate title search. Record documents other than those shown may affect this tract. A plat of this survey accompanies this description on Page 2.

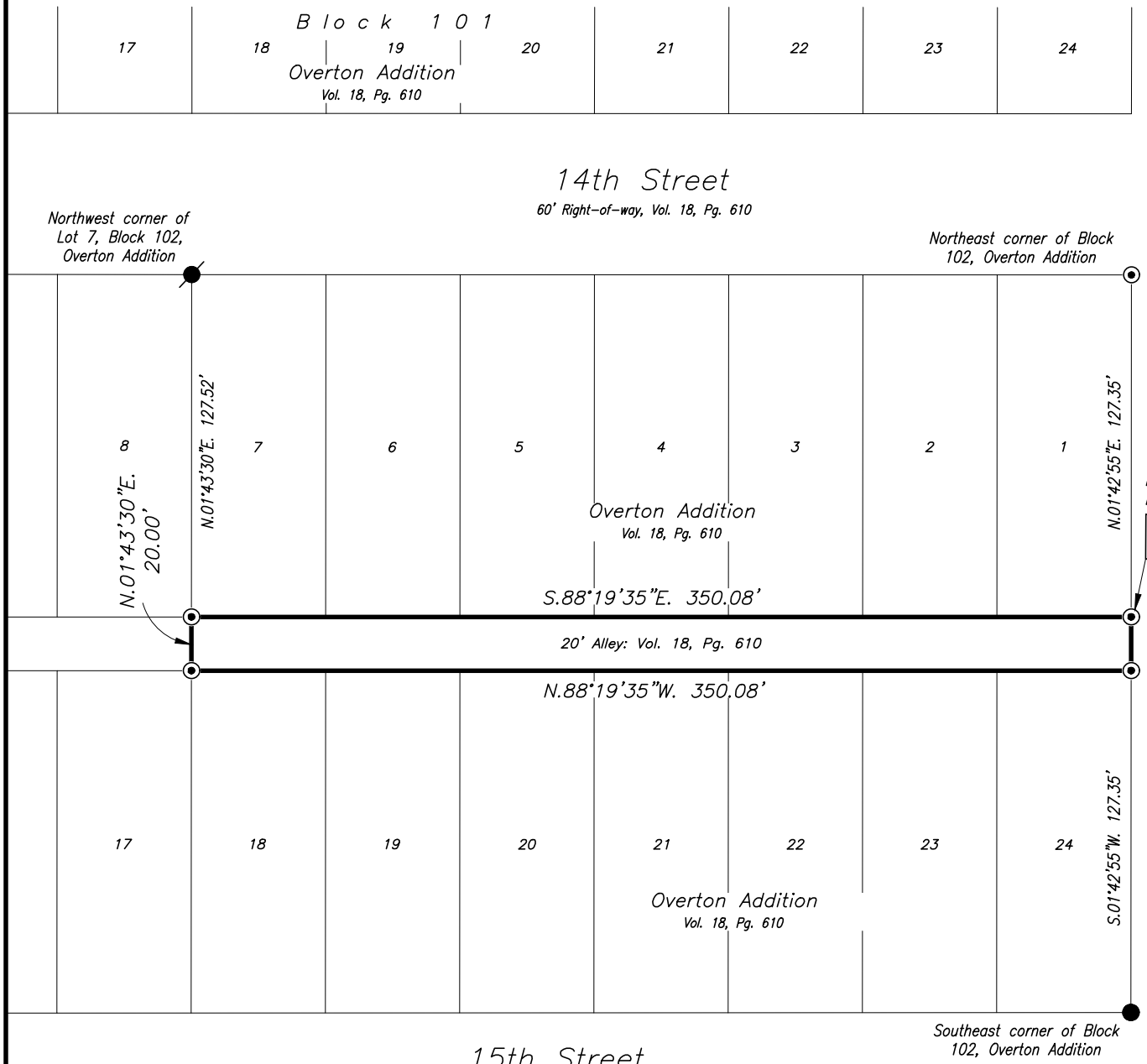
Surveyed on the ground: April 27, 2023
Signed: August 09, 2023

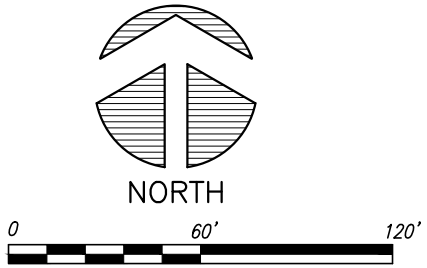


Samuel Wyatt
R.P.L.S. 6453

AN ALLEY CLOSURE IN BLOCK 102, OVERTON ADDITION TO THE CITY OF LUBBOCK

PLAT: VOLUME 18, PAGE 610 OF THE
DEED RECORDS OF LUBBOCK COUNTY, TEXAS





SURVEYOR'S REPORT:

BEARINGS AND COORDINATES SHOWN ON THIS SURVEY ARE BASED ON THE TEXAS COORDINATE SYSTEM, TXNC ZONE 4202, NAD'83 (2018).

DISTANCES REPORTED HEREON ARE AT SURFACE. AREAS REPORTED HEREON ARE BASED ON CALCULATIONS MADE AT SURFACE DISTANCES.

THIS SURVEY IS SUBJECT TO ANY FACTS WHICH MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH. RECORD DOCUMENTS OTHER THAN THOSE SHOWN MAY AFFECT THIS TRACT.

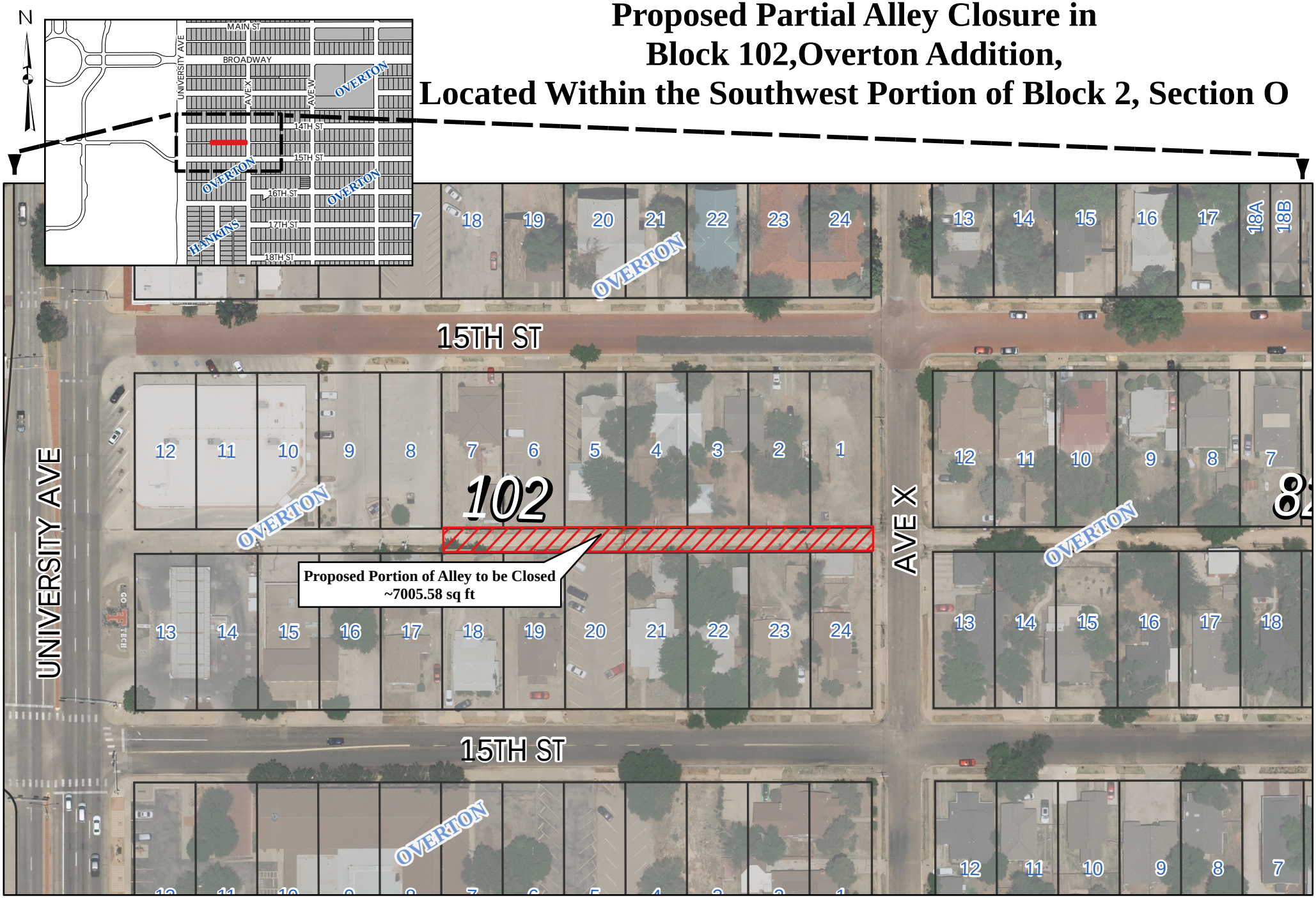
MONUMENTS INDICATED AS FOUND BY THIS SURVEY ARE NOT "PHYSICAL MONUMENTS OF RECORD DIGNITY" UNLESS SO NOTED.

FOUND MONUMENTS ARE ACCEPTED BY THIS SURVEYOR AS CONTROLLING EVIDENCE DUE TO SUBSTANTIAL AGREEMENT WITH RECORD DOCUMENTS.

A METES AND BOUNDS DESCRIPTION OF THIS CLOSURE IS INCLUDED ON PAGE 1 OF THIS DOCUMENT.

Parkhill
Parkhill.com
TBPELS FIRM REGISTRATION NO. 10194091

Proposed Partial Alley Closure in Block 102,Overton Addition, Located Within the Southwest Portion of Block 2, Section O



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 TEXAS

Digital Orthophotography - May 2022

AI# 13274
Regular City Council Meeting 5. 8.
03/25/2025:

Information

Agenda Item

Ordinance 2nd Reading - Right-of-Way: Consider Ordinance No. 2025-O0040, abandoning and closing portions of an Underground Utility Easement, located on the southwest line of Tract TT, West Business Park Addition to the City of Lubbock, Lubbock County, Texas, near the southeast corner of Alcove Avenue and 66th Street.

Item Summary

On March 11, 2025, the City Council approved the first reading of the ordinance.

The City of Lubbock is in receipt of a request to abandon and close an underground utility easement located between Tracts SS & TT in West Business Park near the southeast corner of Alcove Avenue and 66th Street, on behalf Centerline Engineering.

Centerline is closing the Underground Utility Easement and will combine the two tracts and re-plat as Tract SS-1. This closure will be recorded prior to the re-plat.

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

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

Attachments

Ordinance - West Business Park
Exhibit A - West. Bus. Pk. m&b
West. Bus. Pk. GIS map

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING PORTIONS OF AN UNDERGROUND UTILITY EASEMENT LOCATED IN THE SOUTHWEST LINE OF TRACT TT, WEST BUSINESS PARK ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the rights-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 _____, 2025.

Passed by the City Council on second reading this ____day of _____, 2025.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

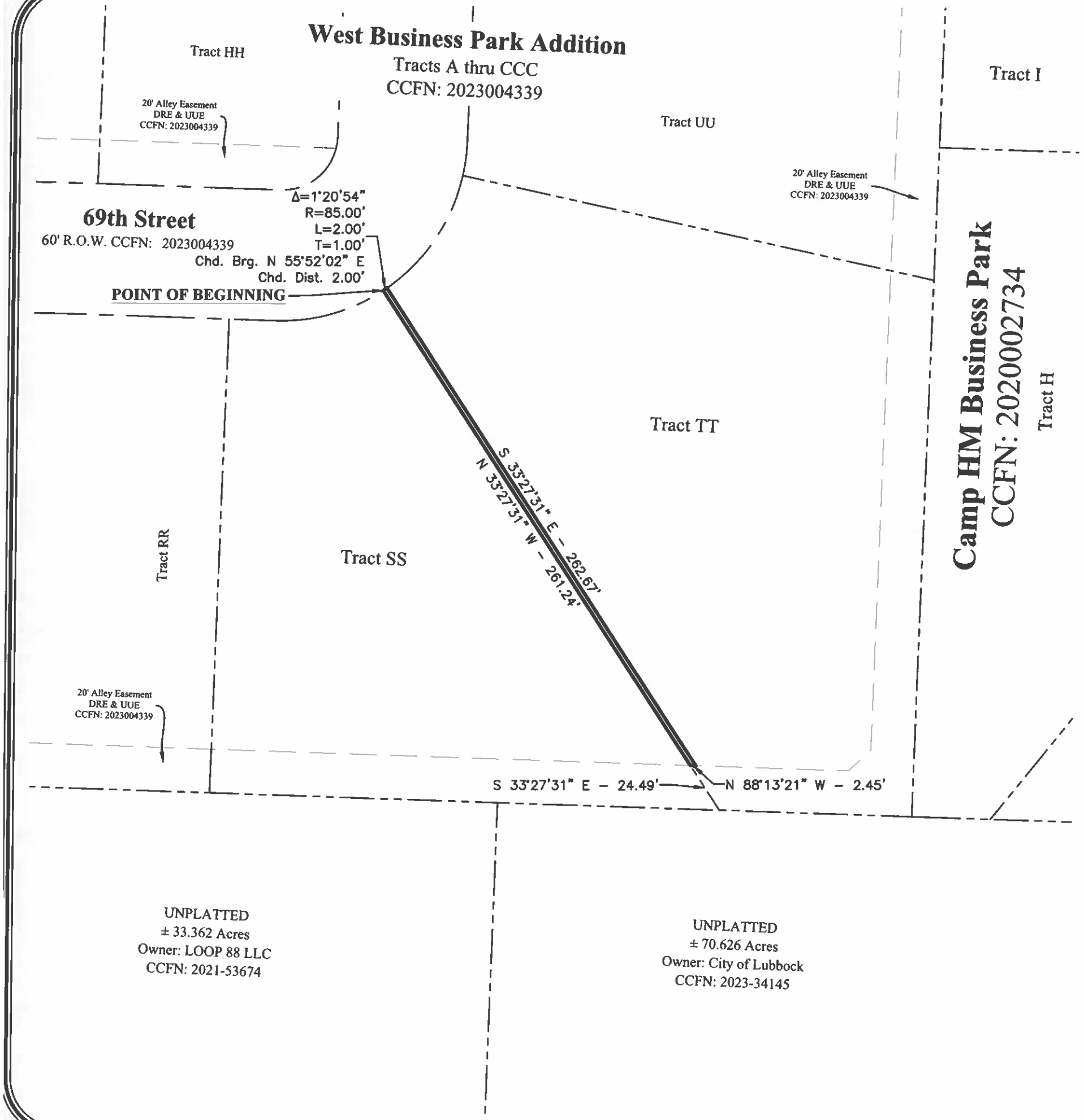
John Turpin, Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior City Attorney

Ord. Underground Utility Easement Closure W. Bus. PK
2.14.25

EXHIBIT "A"



Metes and Bounds

BEING a 2.00 feet wide Underground Service Easement for Lubbock Power & Light, located on Tract TT, West Business Park Addition, as shown on the map or plat thereof recorded in County Clerk File No. 2023004339, Official Public Records of Lubbock County, Texas, situated in Section 31, Block AK, Abstract 243, G. R.R. Co. Survey, Lubbock County, Texas, and said Underground Service Easement being further described by metes and bounds as follows:

BEGINNING at a Point for the Northwest Corner of this tract, same being the most Westerly Northwest Corner of said Tract TT;

THENCE following the Northwest line of said Tract TT along a curve to the left, with a Chord Bearing and Distance of 55°52'02" East - 2.00 feet, a Radius of 85.00 feet, and an Arc Length of 2.00 feet to a Point for the Northeast Corner of this easement;

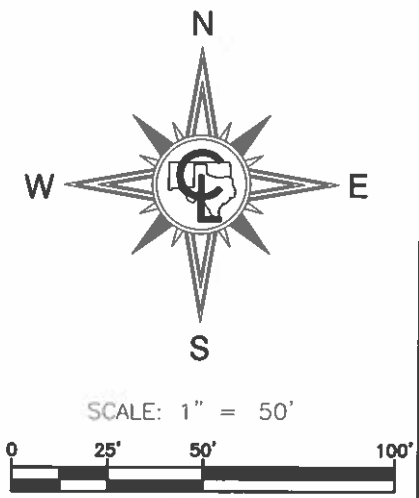
THENCE South 33°27'31" East - 262.67 feet to a Point in the North line of a 20.00 feet wide alley, Drainage, and Underground Utility Easement, as described by said West Business Park Addition, for the Southeast Corner of this tract;

THENCE North 88°13'21" West - 2.45 feet to a Point in the Southwest line of said Tract TT, from which the Southwest Corner of said Tract TT bears South 33°27'31" East - 24.49 feet;

THENCE North 33°27'31" West - 261.24 feet along the Southwest line of said Tract TT to the POINT OF BEGINNING and containing 0.012 Acres (524 Sq. Ft.) of land, more or less.

LEGEND

———	– Plat Limits
———	– Lot Line
—·—·—	– Adjoiner Lot Line
— — —	– Right–of–Way line
- - - -	– Easement Line – As Described
ROW	– Right–of–Way
CCFN	– County Clerk File No.
UUE	– Underground Utility Easement
DRE	– Drainage Easement
LP&L	– Lubbock Power & Light



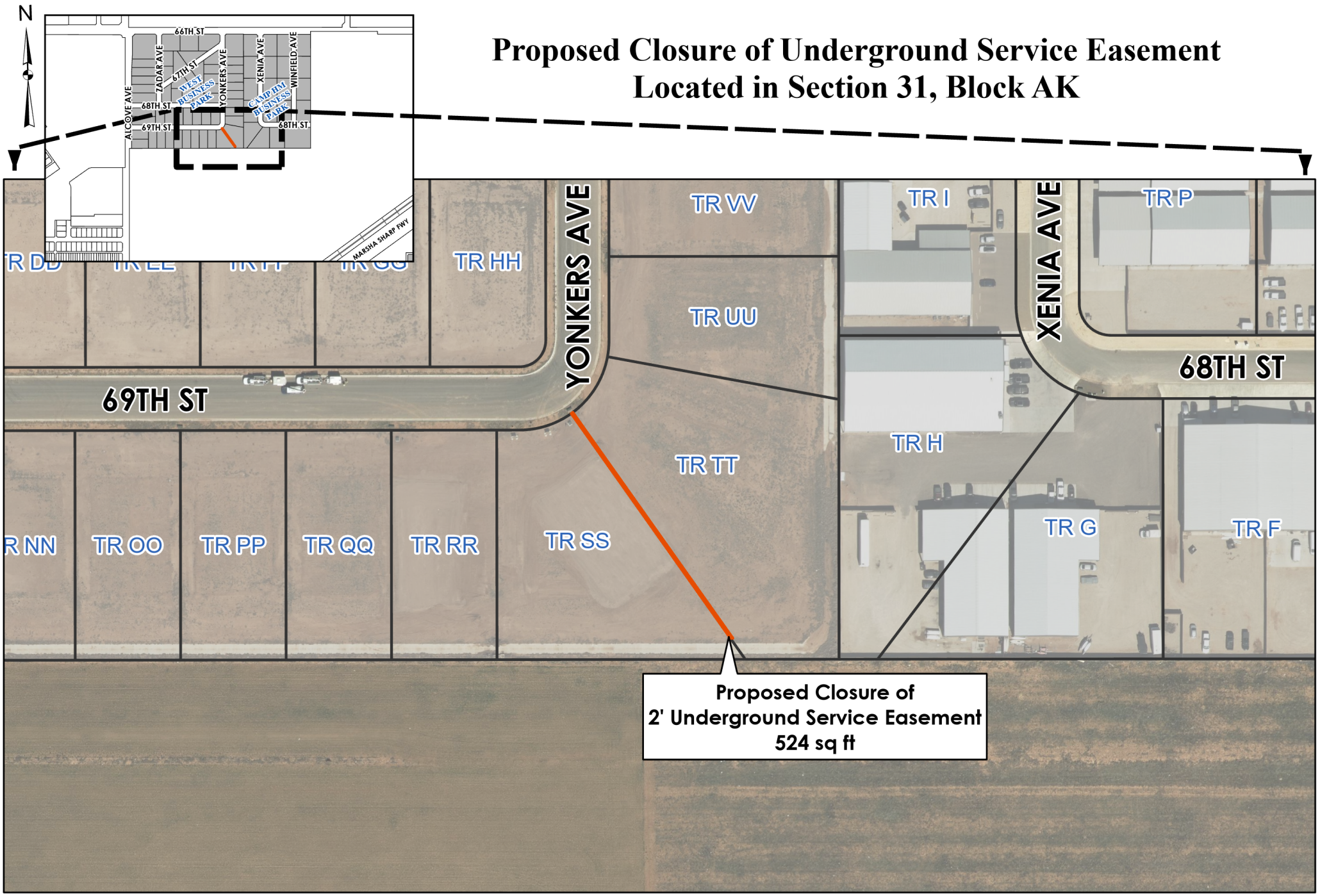
VACATE EXHIBIT

Underground Service Easement
± 0.012 Acres (524 Sq. Ft.)
Lubbock, Lubbock County, Texas

CENTERLINE
8312 Upland Avenue, Lubbock, Texas 79424
(806) 470–8686
TBPE Reg. No. F–16713, TBPLS Reg. No. 10194378
OKLAHOMA CA NO. 8646

Drawn by: CF — Checked by: MY — 24–06–1584 – FP

Proposed Closure of Underground Service Easement Located in Section 31, Block AK



0 100 200 300 400 500 Feet

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

City of Lubbock TEXAS

Digital Orthophotography - March 2024

AI# 13293
Regular City Council Meeting 5. 9.
03/25/2025:

Information

Agenda Item

Ordinance 2nd Reading - Right-of-Way: Consider Ordinance No. 2025-O0041, abandoning and closing portions of an Underground Street Light Cable Easement, located on the east side of Lot 19, Block 102, Overton Addition to the City of Lubbock, Lubbock County, Texas.

Item Summary

On March 11, 2025, the City Council approved the first reading of the ordinance.

The City of Lubbock is in receipt of a request from Lubbock 2413 Properties KP7, LLC, to abandon and close an Underground Street Light Cable Easement running north-south on the east side of Lot 19 in Block 102, Overton. The total area of the easement being closed is 255 square feet.

Lubbock 2413 Properties is closing the easement to accommodate a student housing project.

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

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

Attachments

Ordinance Easement Closure Overton,Lot 19, Blk102

Easement Closure Application-22197
GIS Map Easement Closure Overton,Blk102, Lot 19

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING PORTIONS OF AN UNDERGROUND STREET LIGHT CABLE EASEMENT LOCATED IN THE LOT 19, BLOCK 102, OVERTON ADDITION ADDITION TO THE CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the rights-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 underground street light cable 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 _____, 2025.

Passed by the City Council on second reading this ____day of _____, 2025.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

John Turpin, Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior City Attorney

Exhibit "A"

CITY OF LUBBOCK, TEXAS

APPLICATION FOR ABANDON & CLOSE THE USE OF PUBLIC RIGHT-OF-WAY

APPLICANT: (note: Applicant's name should be the correct name of the person, firm or corporation)

Johna Anthony, Parkhill

ADDRESS:
4222 85th Street, Lubbock, Texas 79423

REQUIREMENTS:

1. **Letter requesting Closure**
2. **Name and Address of Abutting Property Owners**
3. **Approval of Abutting Property Owners by Signature (Written letter from each Property owner)**
4. **Preliminary Plat Filed with Planning Department**

LEGAL DESCRIPTION OF PUBLIC RIGHT-OF-WAY TO BE COVERED BY THE ORDINANCE TO ABANDON A CLOSURE:
The East 2.00 feet of Lot 19, Bock 102, Overton Addition to the City of Lubbock, Lubbock County, Texas.

PROPOSED USE OF PUBLIC RIGHT-OF-WAY:

Easement Closure to allow for construction of student housing facility and parking garage, and removal of street light and associated power supply.

This application shall be accompanied by such reproducible drawings or plans and specifications as are necessary to accurately show the exact locations, size and details of the proposed use of Public Right-of-Way. Also a one-time non-refundable application fee $500.00 is required to accompany this application.

The issuance or granting of the closure shall not be constructed to be waiver of, or an approval of, any violation of any of the provisions of any applicable City Ordinances unless specifically authorized by the City Council.

Date: 03/03/2025

Johna Anthony

Applicant/Authorized Representative's Signature

Parkhill

March 3, 2025

Mr. Jernberg
Right-of-way Agent
City of Lubbock
1314 Avenue K
Lubbock, Texas 79401

Re:

Dear Mr. Jernberg:

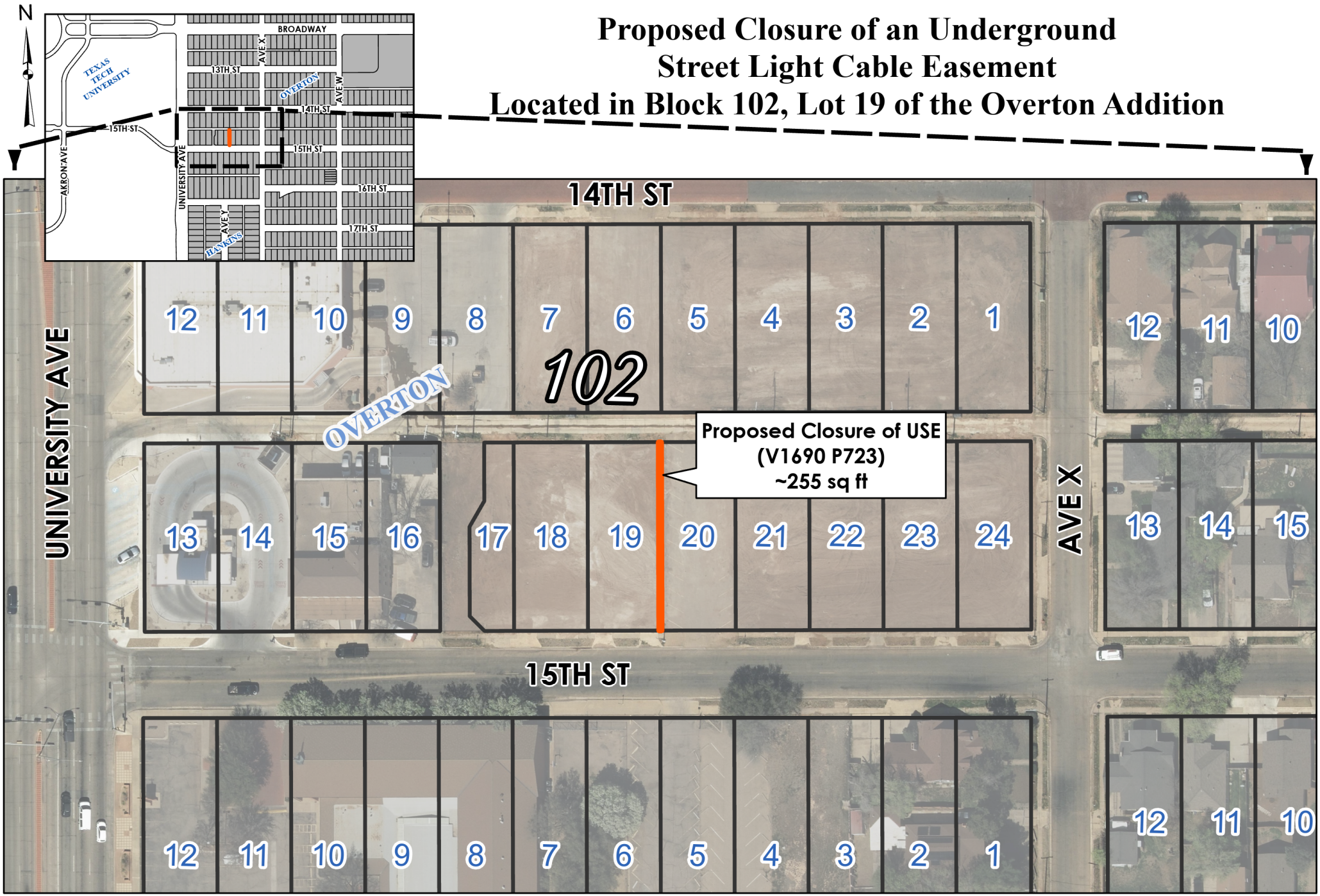
On behalf of Lubbock 2413 Properties KP7, LLC, please accept this letter as a request to close the Underground Street Light Cable Easement located at the East 2.00 feet of Lot 19, Block 102, Overton Addition to the City of Lubbock, Lubbock County, Texas. A student housing facility with parking garage is planned for Lots 1-7 and 17-24. The existing street light that this easement serves will be removed, negating the necessity for this easement.

Sincerely,

PARKHILL

By _____
Johna Anthony, P.E
Civil Engineer

Proposed Closure of an Underground Street Light Cable Easement Located in Block 102, Lot 19 of the Overton Addition



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City of Lubbock TEXAS

Digital Orthophotography - March 2024

AI# 13307

Regular City Council Meeting **5. 10.**

03/25/2025:

Information

Agenda Item

Ordinance 1st Reading - Right-of-Way: Consider an ordinance abandoning and closing portions of an Access Easement, located in Tracts 4C-4F, Huntington Business Park, City of Lubbock, Lubbock County, Texas, at the southeast corner of Indiana Avenue and 122nd Street.

Item Summary

The City of Lubbock is in receipt of a request to abandon and close a portion of an access easement in Tracts 4C-4F in Huntington Business Park, at the southeast corner of Indiana Avenue and 122nd Street, on behalf of Centerline Engineering.

Centerline is closing portions of the Access Easement to create additional buildable area.

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

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

Attachments

Huntington Business Park, Tr. 4C- 4F - Ordinance

Huntington Bus. Pk. Tr. 4C-4F, m&b

Huntington Business Park, Tr. 4C- 4F - GIS map

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING PORTIONS OF AN ACCESS EASEMENT LOCATED IN TRACTS 4C-4F, HUNTINGTON BUSINESS PARK, CITY OF LUBBOCK, LUBBOCK COUNTY, TEXAS, WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the 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 access 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 _____, 2025.

Passed by the City Council on second reading this ____day of _____, 2025.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

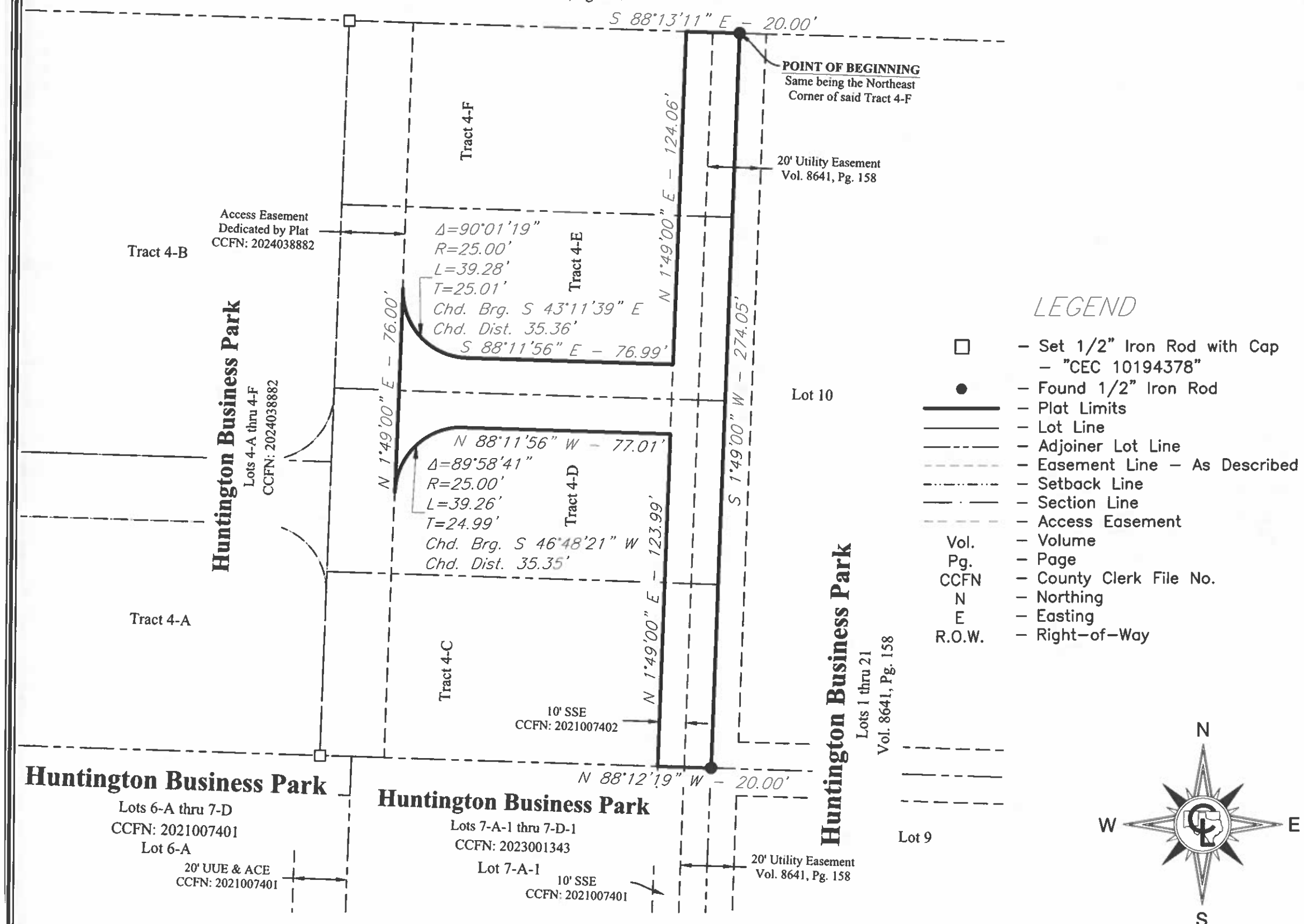
APPROVED AS TO CONTENT:

John Turpin, Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior City Attorney

Ord. Access Easement Closure Tracts 4C-4F Huntington bus pk.
3.6.25



METES AND BOUNDS

Exhibit "A"

BEING a 0.19 acre portion of an Access Easement located on Tracts 4-C thru 4-F, Huntington Business Park Addition, as shown on the map or plat thereof recorded in County Clerk File No. 2024038882, Official Public Records of Lubbock County, Texas, situated in Section 21, Block E2, Abstract 270, La Patillo Survey, Lubbock County, Texas, and said 0.19 acre portion of Access Easement being further described by metes and bounds as follows:

BEGINNING at a 1/2 Inch Iron Rod Found for the Northeast Corner of this this tract, same being the Northeast Corner of said Tract 4-F;

THENCE South 1°49'00" West - 274.05 feet along the East line of said Huntington Business Park Addition to a 1/2 Inch Iron Rod Found for the Southeast Corner of this tract, same being the Southeast Corner of said Tract 4-C;

THENCE North 88°12'19" West - 20.00 feet along the South line of said Tract 4-C to a Point for the most Southerly Southwest Corner of this tract;

THENCE North 1°49'00" East - 123.99 feet along the West line of a 10.00 feet wide Sewer Line Easement, as described in County Clerk Cile No. 2021007402, Official Public Records of Lubbock County, Texas, to a Point for a Corner of this tract;

THENCE North 88°11'56" West - 77.01 feet to a Point for a Corner of this tract;

THENCE along a curve to the left, with a Chord Bearing and Distance of South 46°48'21" West - 35.35 feet, a Radius of 25.00 feet, and an Arc Length of 39.26 feet to a Point for the most Westerly Southwest Corner of this tract;

THENCE North 1°49'00" East - 76.00 feet to a Point for the most Westerly Northwest Corner of this tract;

THENCE along a curve to the left, with a Chord Bearing and Distance of South 43°11'39" East - 35.36 feet, a Radius of 25.00 feet, and an Arc Length of 39.28 feet to a Point for a Corner of this tract;

THENCE South 88°11'56" East - 76.99 feet to a Point in the West line of said 10.00 feet wide Sewer Line Easement for a Corner of this tract;

THENCE North 1°49'00" East - 124.06 feet along the West line of said 10.00 feet wide Sewer Line Easement to a Point for the most Northerly Northwest Corner of this tract;

THENCE South 88°13'11" East - 20.00 feet along the North line of said Tract 4-F to the POINT OF BEGINNING and containing 0.19 acres (8401 Sq. Ft.) of land, more or less.

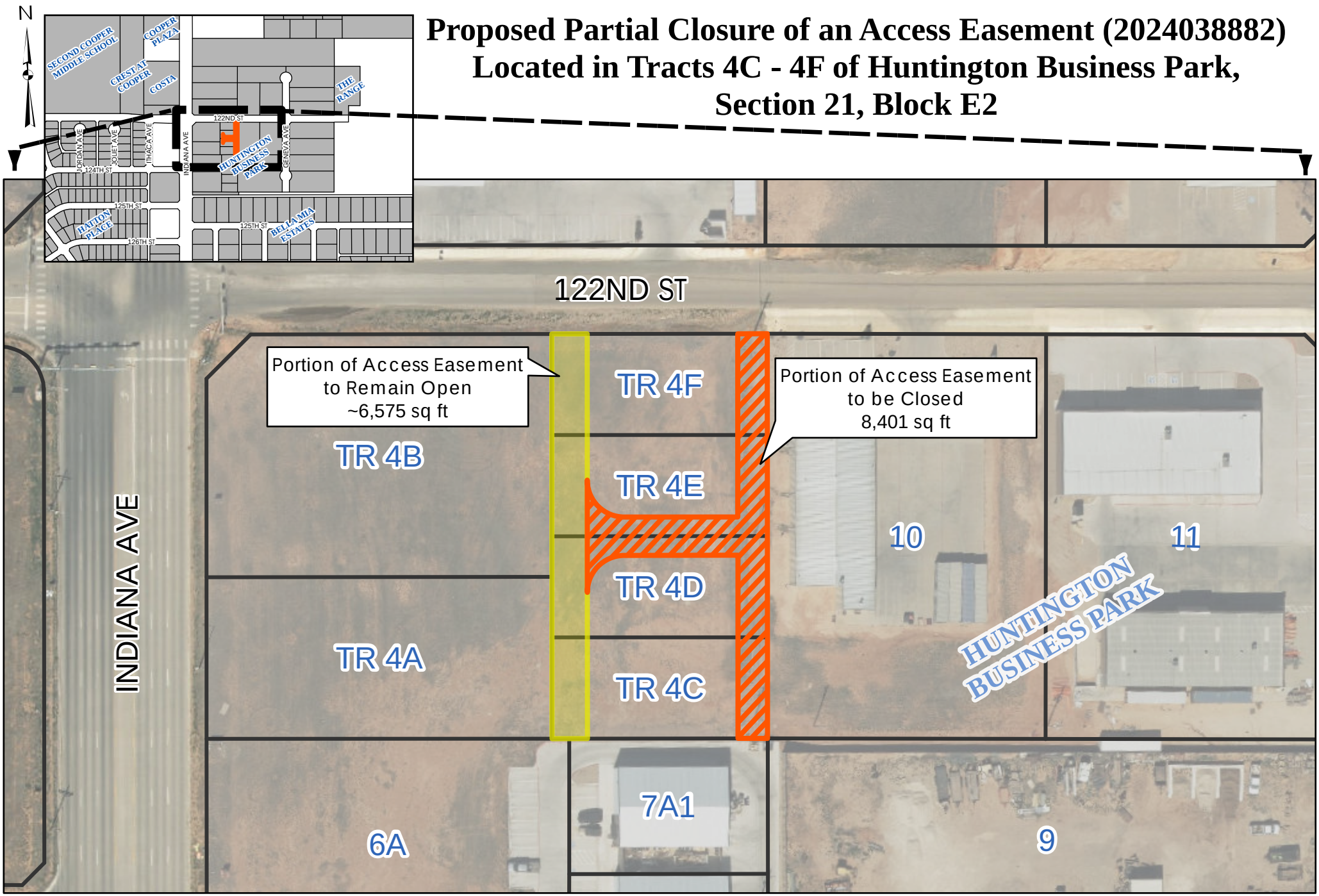
VACATE EXHIBIT

Access Easement Vacate
± 0.19 Acres
Lubbock, Lubbock County, Texas

CENTERLINE
8312 Upland Avenue, Lubbock, Texas 79424
(806) 470-8686
TBPE Reg. No. F-16713, TBPLS Reg. No. 10194378
OKLAHOMA CA NO. 8646

Drawn by: CF Checked by: MY 24-06-1489 - FP

Proposed Partial Closure of an Access Easement (2024038882) Located in Tracts 4C - 4F of Huntington Business Park, Section 21, Block E2



0 100 200 300 400 500 Feet

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City of Lubbock TEXAS

Digital Orthophotography - March 2024

AI# 13308
Regular City Council Meeting 5. 11.
03/25/2025:

Information

Agenda Item

Ordinance 1st Reading - Right-of-Way: Consider an ordinance abandoning and closing portions of Right-of-Way, located in Section 6, Block E, of the GC & SF R.R. Co. survey, Lubbock County, Texas, at the northeast and northwest corners of 82nd Street and Cedar Avenue.

Item Summary

The City of Lubbock obtained excess right-of-way (ROW) on 82nd Street, with the platting of the Antioch Baptist Church and EWJ subdivisions. With the design of the 82nd Street improvements, it was determined that this ROW is surplus, and the City will abandon and close the ROW at the northeast and northwest corners of 82nd Street and Cedar Avenue.

The total area of the ROW being closed is 1,045 and 7,117 square feet respectively. The land will revert to the adjacent landowners.

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

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Manager of Engineering/City Engineer

Attachments

Ordinance - Section 6, Block E, Closure
13308_301_E_82ND_STREET_-_SURPLUS_ROW_EXHIBIT (rs)

13308_111_E_82ND_STREET_-_SURPLUS_ROW_EXHIBIT (rs)
GIS map - EWJ 301 E 82ndSt
GIS Map 82nd St. Antioch Baptist Church

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING RIGHT-OF-WAY LOCATED IN SECTION 6, BLOCK E, OF THE GC & SF R.R. CO. SURVEY, LUBBOCK COUNTY, TEXAS, WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

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

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

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

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

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

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

AND IT IS SO ORDERED.

Passed by the City Council on first reading this _____ day of _____, 2025.

Passed by the City Council on second reading this ____day of _____, 2025.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

John Turpin, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Ord.ROW abandon and close Antioch BC
2.27.25

EXHIBIT "A"

DESCRIPTION

A 1,045 square feet tract out of a 20 feet wide right-of-way dedicated by the E.W.J. Addition located in Section 6, Block E, of the GC & SF R.R. Co. Survey, Lubbock County, Texas.

BEING a 1,045 square feet tract of land out of a 20 feet wide right-of-way dedicated by the E.W.J. Addition, recorded in Volume 1373, Page 677, of the Official Public Records of Lubbock County, Texas and being further described by metes and bounds as follows;

BEGINNING at a 1/2 inch MAGnail with washer stamped "COBB FENDLEY BOUNDARY" (N: 7,253,542.66', E: 952,997.05') set for the southeast corner of this tract and being the same as the southeast corner of said 20 feet wide right-of-way, from which a Railroad Spike (N: 7,253,537.48', E: 952,252.99') found for the southwest corner of said Section 6 bears South 01°44'21" West, 30.00 feet and North 88°05'16" West, 743.56 feet;

THENCE North 88°15'17" West, along the south line of said 20 feet right-of-way, a distance of **40.62 feet** to a 5/8 inch iron rod with yellow cap stamped "COBB FENDLEY BOUNDARY" (N: 7,253,543.89', E: 952,956.45') set for the southernmost southwest corner of this tract;

THENCE North 43°05'15" West, departing the south line of said 20 feet right-of-way, a distance of **21.21 feet** to a 5/8 inch iron rod with yellow cap stamped "COBB FENDLEY BOUNDARY" set for the westernmost southwest corner of this tract;

THENCE North 01°'54'45" East, along the east line of Cedar Avenue, a distance of **19.96 feet** to a Point for the northwest corner of this tract and being the same as the westernmost southwest corner of Lot 1 of said E.W.J. Addition;

THENCE with the southwest line of said Lot 1, along a **Curve** to the **Left**, with a **Radius of 15.00 feet**, **Arc Length of 23.57 feet**, **Delta Angle of 90°00'00"**, and **Chord Bearing and Distance of South 43°15'39" East, 21.22 feet** to a Point for a corner of this tract and being the same as the southernmost southwest corner of said Lot 1;

THENCE South 88°05'15" East, along the south line of said Lot 1, a distance of **40.51 feet** to a Point for the northeast corner of this tract and being the same as the southeast corner of said Lot 1;

THENCE South 01°44'21" West, along the east line of the plat limits of said E.W.J. Addition, a distance of **19.88 feet** to the POINT OF BEGINNING and containing within these calls a calculated area of 1,045 square feet of land.

EXHIBIT "A"

Bearings shown hereon are referenced to the Texas Coordinate System of 1983, North Central Zone, and are based on the North American Datum of 1983, 2011 Adjustment. All coordinates shown hereon are Surface values displayed in US Survey Feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021. All distances shown hereon are Surface values displayed in US Survey feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021.

This written description is accompanied by a survey plat which covers the identical parcel that is described herein, signed and sealed on even date herewith and is hereby made a part of this document.

I, Jeffrey L. Fansler, a Registered Professional Land Surveyor in the State of Texas, hereby certify that this description and plat represent an on-the-ground survey made under my supervision.

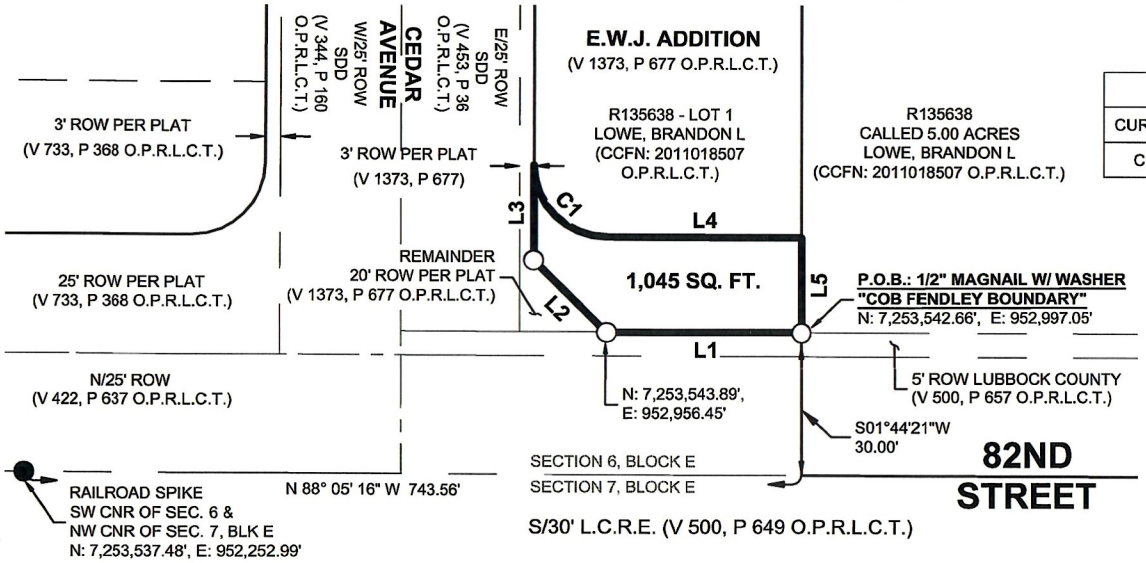
Jeffrey L. Fansler 2025-02-18

Jeffrey L. Fansler Date
Registered Professional Land Surveyor
Texas Registration No. 4348

Cobb, Fendley & Associates, Inc.
TBPELS Land Surveying Firm No. 10046700

7727 Quaker Avenue, Suite A,
Lubbock, Texas 79424

EXHIBIT "A"



CURVE TABLE					
CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD LENGTH	CHORD BEARING
C1	15.00'	90°00'00"	23.57'	21.22'	S 43°15'39" E

Line Table		
Line #	Direction	Length
L1	N 88°15'17" W	40.62'
L2	N 43°05'15" W	21.21'
L3	N 01°54'45" E	19.96'
L4	S 88°05'15" E	40.51'
L5	S 01°44'21" W	19.88'

GRAPHIC SCALE
(in feet)
40 0 20 40
1 inch = 40 ft.

LEGEND
P.O.B. = POINT OF BEGINNING
I.R. = IRON ROD
EE = ELECTRICAL EASEMENT
GLE = GAS LINE EASEMENT
UTE = UNDERGROUND TELECOMMUNICATIONS EASEMENT
UEE = UNDERGROUND ELECTRICAL EASEMENT
ROW = RIGHT-OF-WAY
L.C.R.E. = LUBBOCK COUNTY RIGHT-OF-WAY EASEMENT
COL = CITY OF LUBBOCK
SWBT = SOUTHWESTERN BELL TELEPHONE
SDD = STREET DEDICATION DEED
V. / P. = VOLUME / PAGE
CCFN = COUNTY CLERK FILE NUMBER
O.P.R.L.C.T. = OFFICIAL PUBLIC RECORDS, LUBBOCK COUNTY, TEXAS
● = MONUMENT FOUND (AS NOTED)
○ = MONUMENT SET (5/8" IRON ROD SET WITH YELLOW PLASTIC CAP STAMPED "COBB FENDLEY BOUNDARY")
= PROPERTY LINE
— — — — = EASEMENT LINE - AS DESCRIBED
= ADJOINING PROPERTY LINE
——— – ——— = RIGHT-OF-WAY / RIGHT-OF-WAY EASEMENT LINE

NORTH

NOTES:

1. Bearings shown hereon are referenced to the Texas Coordinate System of 1983, North Central Zone, and are based on the North American Datum of 1983, 2011 Adjustment. All coordinates shown hereon are Surface values displayed in US Survey Feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021. All distances shown hereon are Surface values displayed in US Survey feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021.

2. This survey plat is accompanied by a written description which covers the identical parcel that is shown hereon, signed and sealed on even date herewith and is hereby made a part of this document.

3. This survey plat was prepared without the benefit of a title report. The surveyor did not research subject property title information. All easements of record may not be shown.

Jeffrey L. Fansler 2025-02-18

Jeffrey L. Fansler Date
Registered Professional Land Surveyor
No. 4348

STATE OF TEXAS
REGISTERED
JEFFREY L. FANSLER
4348
PROFESSIONAL
LAND SURVEYOR

DATE: 02/10/2025	SCALE: 1" = 40'
DRAWN BY: PTT	CHECKED BY: JLF
SHEET NO. 3 of 3	JOB NUMBER: 2302-019-01
SHEET ID: 2302-019-01-301 E 82ND STREET.dwg	

© copyright Cobb, Fendley & Associates, Inc.

301 E 82ND STREET, LUBBOCK, TEXAS

A 1,045 Sq. Ft. TRACT OUT OF A 20 FEET WIDE RIGHT-OF-WAY DEDICATED BY THE E.W.J. ADDITION LOCATED IN SECTION 6, BLOCK E, OF THE GC & SF R.R. CO. SURVEY, LUBBOCK COUNTY, TEXAS.

CobbFendley
TBPELS Land Surveying Firm Registration No. 10046700
7727 Quaker Avenue, Suite A, Lubbock, Texas 79424
Phone: 806.993.0071 | www.cobbfendley.com

EXHIBIT "A"

DESCRIPTION

A 0.16 acre (7,117 sq. Ft.) tract out of a 25 feet wide right-of-way dedicated by the Antioch Baptist Church Addition located in Section 6, Block E, of the GC & SF R.R. Co. Survey, Lubbock County, Texas.

BEING a 0.16 acre tract of land out of a 25 feet wide right-of-way dedicated by the Antioch Baptist Church Addition, recorded in Volume 733, Page 368, of the Official Public Records of Lubbock County, Texas and being further described by metes and bounds as follows;

BEGINNING at a 5/8 inch iron rod with yellow cap stamped "COBB FENDLEY BOUNDARY" (N: 7,253,560.00', E: 952,507.77') set for the southwest corner of this tract on the common west line of said 25 feet right-of-way and east line of a called 0.22 acre tract described in a Warranty Deed with Vendor's Lein to Kevin L. Walkup, recorded in County Clerk File Number 2012009061, of the Official Public Records of Lubbock County, Texas, from which a 1/2 inch iron rod with yellow cap stamped "HUGO REED & ASSOC." found for the southeast corner said called 0.22 acre tract bears South 01°52'42" West, 6.00 feet and a Railroad Spike (N: 7,253,537.48', E: 952,252.99') found for the southwest corner of said Section 6 bears South 01°52'42" West, 25.00 feet and North 88°05'16" West, 253.90 feet from said southeast corner of said called 0.22 acre tract;

THENCE North 01°52'42" East, along said common line, a distance of **19.00 feet** to a Point for the northwest corner of this tract and being the same as the southwest corner of Lot 1 of said Antioch Baptist Church;

THENCE South 88°05'15" East, along the south line of said Lot 1, a distance of **363.08 feet** to a Point for a corner of this tract and being the same as the southernmost southeast corner of said Lot 1;

THENCE continuing with the south line of said Lot 1, along a **Curve** to the **left** with a **Radius of 15.00 feet**, **Arc Length of 23.57 feet**, **Delta Angle of 90°00'00"** and **Chord Bearing and Distance of North 46°54'45" East, 21.22 feet** to a point for the northeast corner of this tract and being the same as the easternmost southeast corner of said Lot 1;

THENCE South 01°54'45" West, departing from the south line of said Lot 1 along the west line of Cedar Avenue, a distance of **19.00 feet** to a 5/8 inch iron rod with yellow cap stamped "COBB FENDLEY BOUNDARY" set for easternmost south east corner of this tract;

THENCE South 46°54'45" West, a distance of **21.21 feet** to a 5/8 inch iron rod with yellow cap stamped "COBB FENDLEY BOUNDARY" (N: 7,253,547.89', E: 952,870.65') set for the southernmost southeast corner of this tract;

THENCE North 88°05'15" West, a distance of **363.07 feet** to the POINT OF BEGINNING and containing within these calls a calculated area of 0.16 feet (7,117 square feet) of land.

EXHIBIT "A"

Bearings shown hereon are referenced to the Texas Coordinate System of 1983, North Central Zone, and are based on the North American Datum of 1983, 2011 Adjustment. All coordinates shown hereon are Surface values displayed in US Survey Feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021. All distances shown hereon are Surface values displayed in US Survey feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021.

This written description is accompanied by a survey plat which covers the identical parcel that is described herein, signed and sealed on even date herewith and is hereby made a part of this document.

I, Jeffrey L. Fansler, a Registered Professional Land Surveyor in the State of Texas, hereby certify that this description and plat represent an on-the-ground survey made under my supervision.

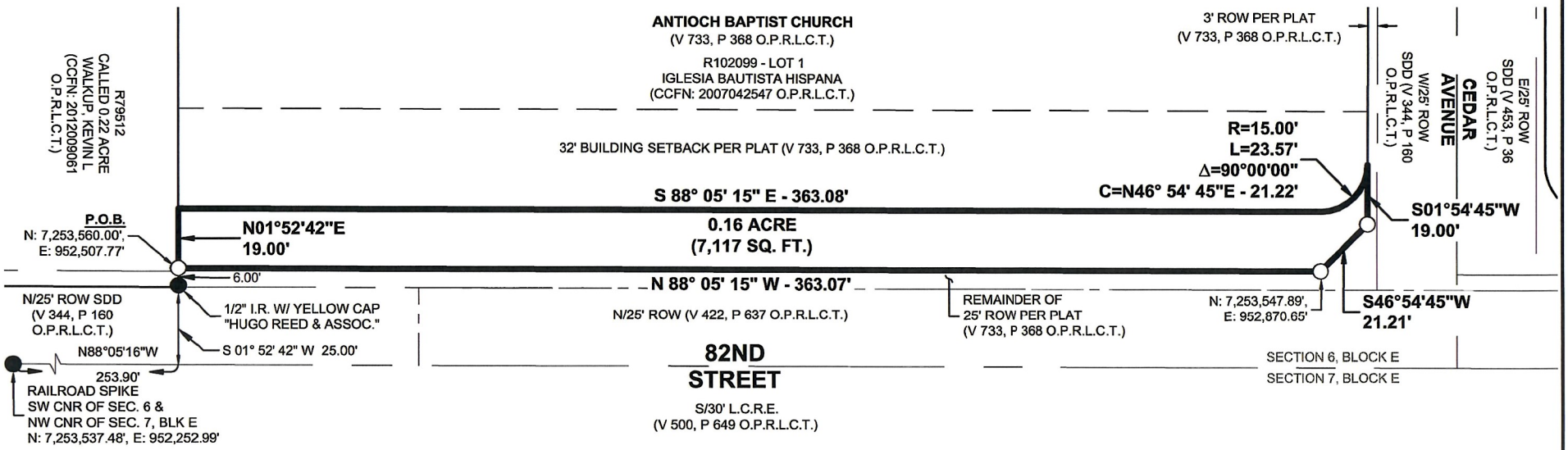
Jeffrey L. Fansler 2025-02-18

Jeffrey L. Fansler Date
Registered Professional Land Surveyor
Texas Registration No. 4348

Cobb, Fendley & Associates, Inc.
TBPELS Land Surveying Firm No. 10046700

7727 Quaker Avenue, Suite A,
Lubbock, Texas 79424

EXHIBIT "A"



GRAPHIC SCALE
(in feet)
50 0 25 50
1 inch = 50 ft.

LEGEND
P.O.B. = POINT OF BEGINNING
I.R. = IRON ROD
EE = ELECTRICAL EASEMENT
GLE = GAS LINE EASEMENT
UTE = UNDERGROUND TELECOMMUNICATIONS EASEMENT
UEE = UNDERGROUND ELECTRICAL EASEMENT
ROW = RIGHT-OF-WAY
L.C.R.E. = LUBBOCK COUNTY RIGHT-OF-WAY EASEMENT
COL = CITY OF LUBBOCK
SWBT = SOUTHWESTERN BELL TELEPHONE
SDD = STREET DEDICATION DEED
V. / P. = VOLUME / PAGE
CCFN = COUNTY CLERK FILE NUMBER
O.P.R.L.C.T. = OFFICIAL PUBLIC RECORDS, LUBBOCK COUNTY, TEXAS
● = MONUMENT FOUND (AS NOTED)
○ = MONUMENT SET (5/8" IRON ROD SET WITH YELLOW PLASTIC CAP STAMPED "COBB FENDLEY BOUNDARY")
= PROPERTY LINE
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NORTH

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3. This survey plat was prepared without the benefit of a title report. The surveyor did not research subject property title information. All easements of record may not be shown.

Jeffrey L. Fansler 2025-02-18

Jeffrey L. Fansler Date
Registered Professional Land Surveyor
No. 4348

STATE OF TEXAS
REGISTERED
JEFFREY L. FANSLER
4348
PROFESSIONAL
LAND SURVEYOR

DATE: 02/10/2025	SCALE: 1" = 50'
DRAWN BY: PTT	CHECKED BY: JLF
SHEET NO. 3 of 3	JOB NUMBER: 2302-019-01
SHEET ID: 2302-019-01-111 E 82ND STREET.dwg	

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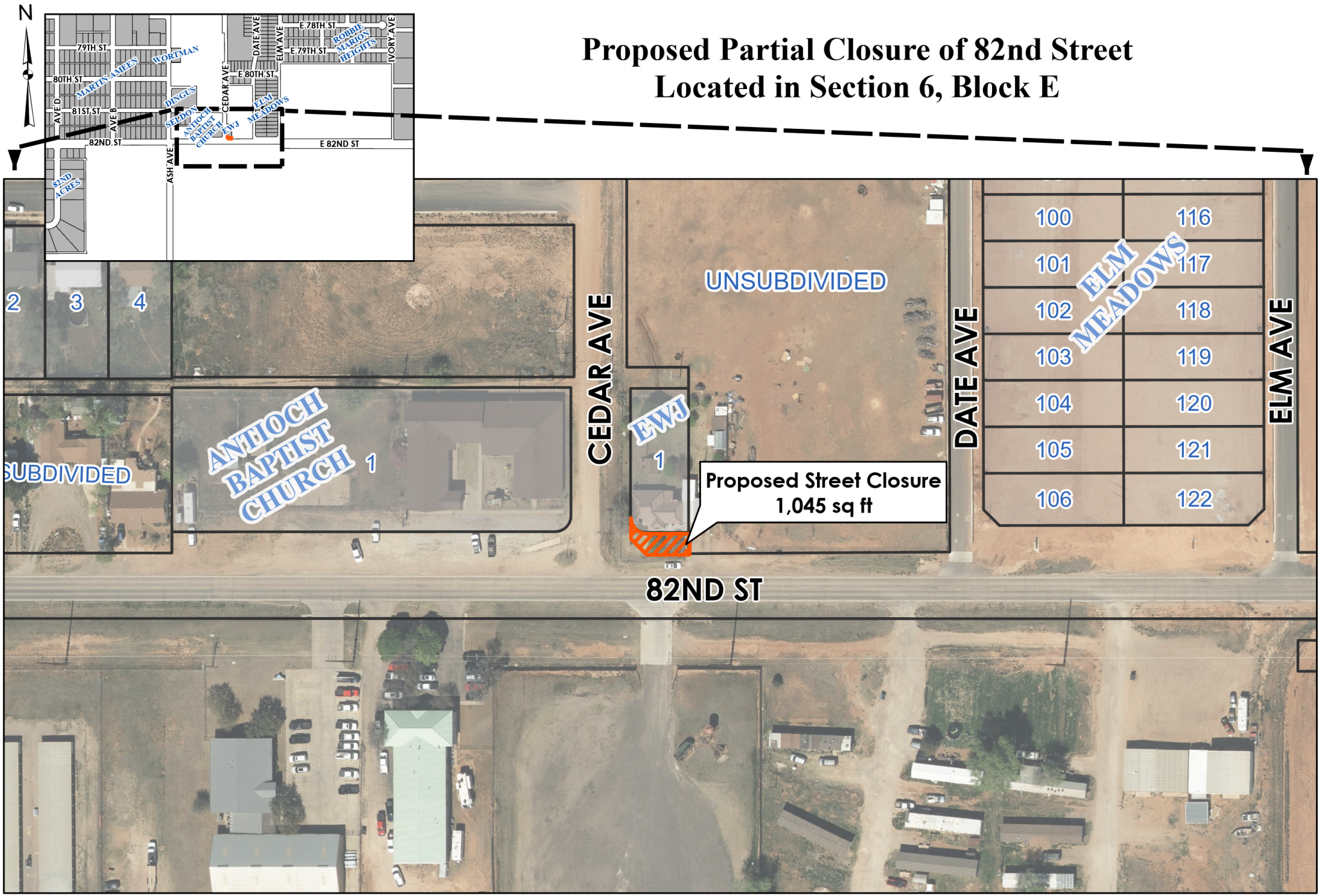
111 E 82ND STREET, LUBBOCK, TEXAS

A 0.16 ACRE (7,117 Sq. Ft.) TRACT OUT OF A 25 FEET WIDE RIGHT-OF-WAY DEDICATED BY THE ANTIOCH BAPTIST CHURCH ADDITION LOCATED IN SECTION 6, BLOCK E, OF THE GC & SF R.R. CO. SURVEY, LUBBOCK COUNTY, TEXAS.

CobbFendley
TBPELS Land Surveying Firm Registration No. 10046700
7727 Quaker Avenue, Suite A, Lubbock, Texas 79424
Phone: 806.993.0071 | www.cobbfendley.com

Proposed Partial Closure of 82nd Street Located in Section 6, Block E



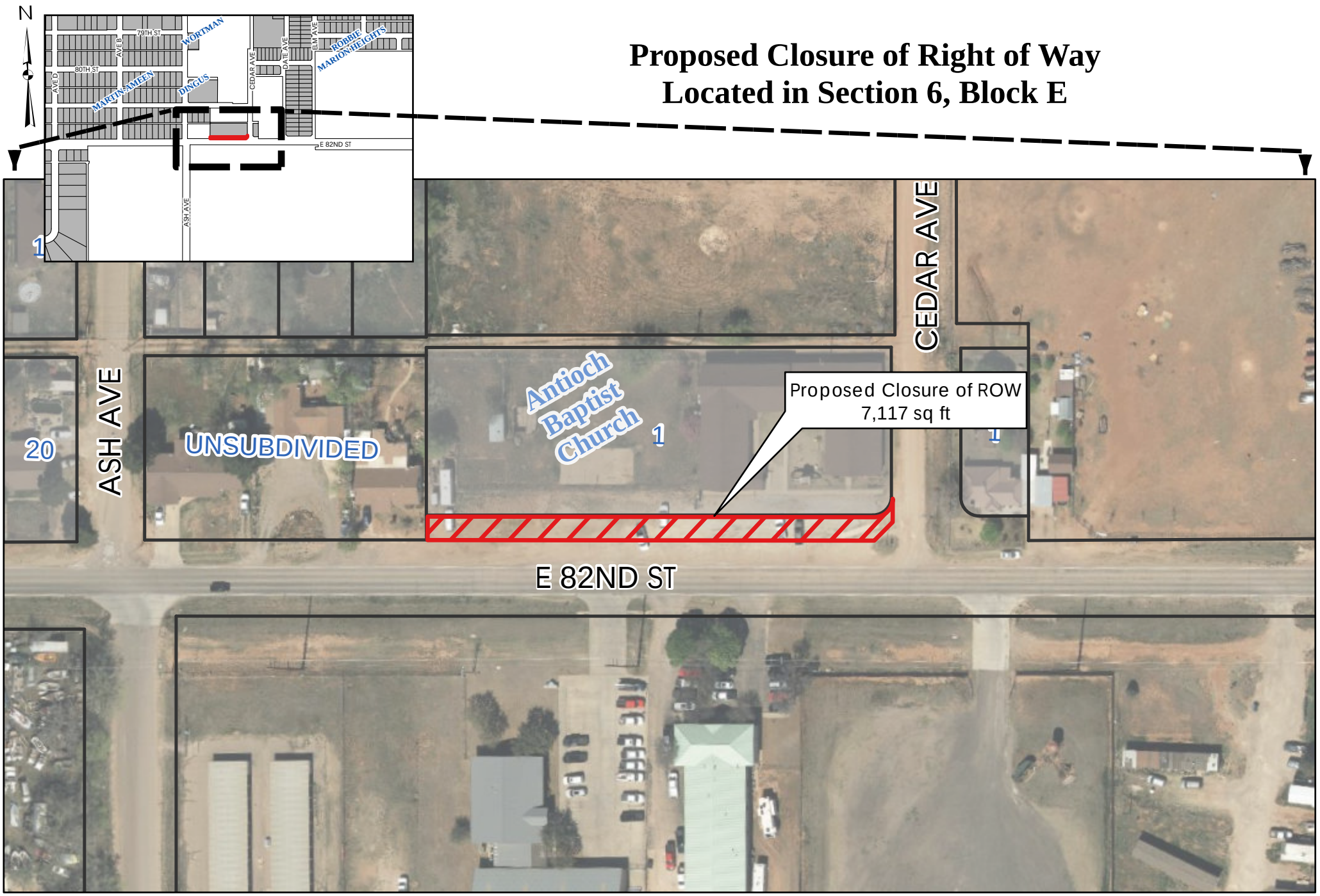
0 100 200 300 400 500 Feet

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

City of Lubbock TEXAS

Digital Orthophotography - March 2024

Proposed Closure of Right of Way
Located in Section 6, Block E



0 100 200 300 400 500 Feet

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City of Lubbock TEXAS

Digital Orthophotography - March 2024

AI# 13304
Regular City Council Meeting 5. 12.
03/25/2025:

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 all related documents, in connection with certain real property located in Section 43, Block AK, Lubbock County, Texas (Parcel 37), on the east side of Upland Avenue, south of 27th Street, and north of 28th Street, to be utilized for the Upland Avenue Project, which is a portion of the 2022 Street Bond Project.

Item Summary

Jim and Karen Duncan are dedicating right-of-way to the City of Lubbock to be utilized for roadway improvements on the Upland Avenue: 19th Street to 34th Street Capital Improvements Bond Project, on the east side of Upland Avenue, south of 27th Street, and north of 28th Street.

The proponents will dedicate a 7,752 square feet tract of land for street right-of-way purposes, subject to final approval by the City Council and approval of title.

Fiscal Impact

The cost of the land acquisition is $9,772 plus closing costs. This acquisition is funded in Capital Improvements Project 92816, Upland Avenue: 19th Street to 34th Street – 22B.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

Attachments

Parcel 37 - Resolution
Parcel 37 - Dedication Deed
Parcel 37 - GIS Map
CIP 92816 - Budget Detail
CIP 92816 - 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 in connection with certain real property located in Section 43, Block AK, Lubbock County, Texas (Parcel 37), to be utilized for the Upland Avenue Project and all related documents. Said Deed is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
John Turpin, Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

Ccdocs://Res. Street and ROW Deed – Sec 43 Blk AK Upland Project
3.5.25

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

Upland Avenue (19th to 34th) Project
Parcel No. 37
Abbreviated Property Description: a 0.1780-acre parcel located in Section 43, Block AK, Lubbock County, Texas, being a portion of that tract described in Volume 2783, Page 126, Real Property Records of Lubbock County, Texas (RPRLCT)

CITY OF LUBBOCK
STREET, PUBLIC USE AND RIGHT OF WAY DEED

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

THAT **JIM DUNCAN** and **KAREN DUNCAN**, 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 **GRANTOR** 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 and utility 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 under Chapter 21 of the Texas Property Code.

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.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

WITNESS MY HAND this 27th day of February, 2025

GRANTOR:

JIM DUNCAN, A MARRIED MAN

KAREN DUNCAN, A MARRIED WOMAN

ACKNOWLEDGEMENT

STATE OF Texas

COUNTY OF Lubbock

This instrument was acknowledged before me on the 27th day of February, 2025 by **Jim Duncan** and **Karen Duncan**, husband and wife. The acknowledging person personally appeared by:

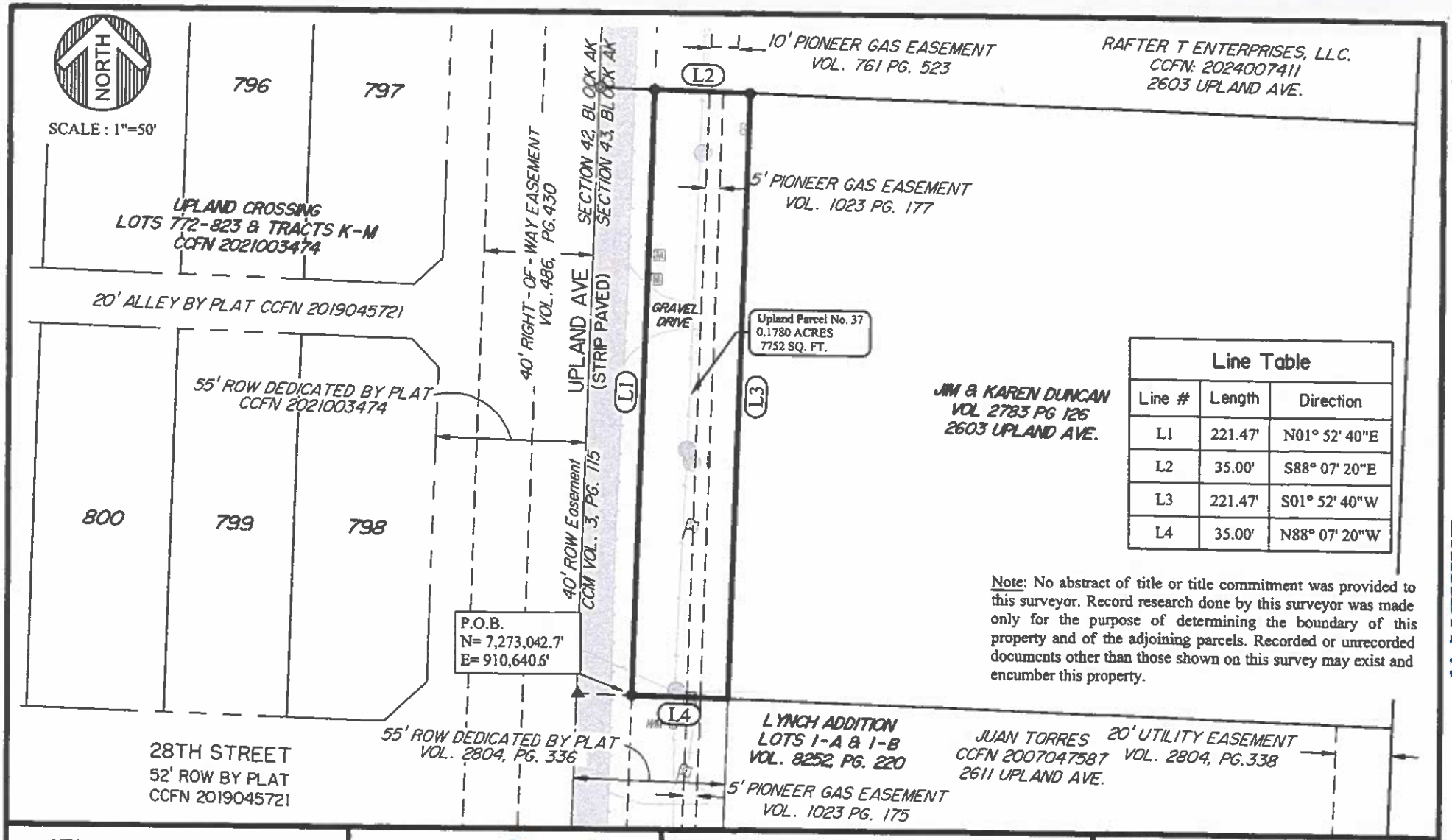
☑ physically appearing before me.

☐ appearing by an interactive two-way audio and video communication that meets the requirements for online notarization under Texas Government Code chapter 406, subchapter C.

Elizabeth Ann Edwards
My Commission Expires
11/19/2025
Notary ID
133457392

NOTARY PUBLIC, STATE OF Texas
My Commission Expires: 11/19/2025

Grantee's Address:
City of Lubbock
1314 Avenue K, 7th Floor
Lubbock, Texas 79401



Line Table		
Line #	Length	Direction
L1	221.47'	N01° 52' 40"E
L2	35.00'	S88° 07' 20"E
L3	221.47'	S01° 52' 40"W
L4	35.00'	N88° 07' 20"W

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

EXHIBIT A

UPLAND DESIGN PROJECT
19TH STREET TO 34TH STREET

Parcel 37
PERIMETER SURVEY OF A
0.1780 ACRE PARCEL LOCATED IN
SECTION 43, BLOCK AK
LUBBOCK COUNTY, TEXAS

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

STATE OF TEXAS REGISTERED ROBERT A. CHRISTOPHER 5167 PROFESSIONAL LAND SURVEYOR

Surveyed on the ground, September 20, 2024

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),
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.00024

Copyright 2024, Hugo Reed and Associates, Inc.

LEGEND:

- SURVEYED PROPERTY
- ADJACENT PROPERTY
- RIGHT-OF-WAY
- EASEMENT
- SET 1/2" ROD w/CAP
- FD. 3/4" IRON PIPE
- FD. RAILROAD SPIKE

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

DESCRIPTION FOR PARCEL 37

METES AND BOUNDS DESCRIPTION of a 0.1780-acre parcel located in Section 43, Block AK, Lubbock County, Texas, being a portion of that tract described in Volume 2783, Page 126, Real Property Records of Lubbock County, Texas (RPRLCT), said 0.1780-acre parcel being further described as follows:

BEGINNING at a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' (N= 7,273,042.7', E= 910,640.6') set in the North line of that 55.00-foot right-of-way dedicated by plat of Lot 1, Lynch Addition to the City of Lubbock as recorded in Volume 2804, Page 338, RPRLCT, in the West line of that 20.00-foot right-of-way easement, described in Volume 3, Page 115, Commissioner Court Minutes of Lubbock County, Texas, which bears N. 01°52'40" E. a distance of 2112.94 feet and S. 88°07'20" E. a distance of 20.00 feet from a railroad spike found at the Southwest corner of said Section 43, Block AK, for the Northwest corner of this tract;

THENCE N. 01°52'40" E., with said 20.00-foot right-of-way easement a distance of 221.47 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set in the South line of that tract described in County Clerk File Number (CCFN) 2024007411, Official Public Records of Lubbock County, Texas, for the Northwest corner of this tract;

THENCE S. 88°07'20" E., with the South line of said tract described in CCFN 2024007411, a distance of 35.00 feet to a 1/2" iron rod with yellow cap marked 'HUGO REED & ASSOC' set for the Northeast corner of this tract;

THENCE S. 01°52'40" W., parallel with and 55.00 feet East of the West line of said Section 43, a distance of 221.47 feet to a point for the Northwest corner of Lot 1-A, Lynch Addition, as recorded in Volume 8252, Page 220, RPRLCT, for the Southeast corner of this tract;

THENCE N. 88°07'20" W, with the North line of said 55.00-foot right-of-way, a distance of 35.00 feet to the Point of Beginning.

Containing 0.1780 acre (7, 752 sq. ft.) of land, more or less.

UPLAND DESIGN PROJECT
19TH STREET TO 34TH STREET

Parcel 37
PERIMETER SURVEY OF A
0.1780 ACRE PARCEL LOCATED IN
SECTION 43, BLOCK AK
LUBBOCK COUNTY, TEXAS

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

STATE OF TEXAS REGISTERED ROBERT A. CHRISTOPHER 5167 PROFESSIONAL LAND SURVEYOR

Surveyed on the ground, September 20, 2024

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),
Distances and coordinates are surface, U.S. Survey feet.
Combined Scale Factor: 1.00024

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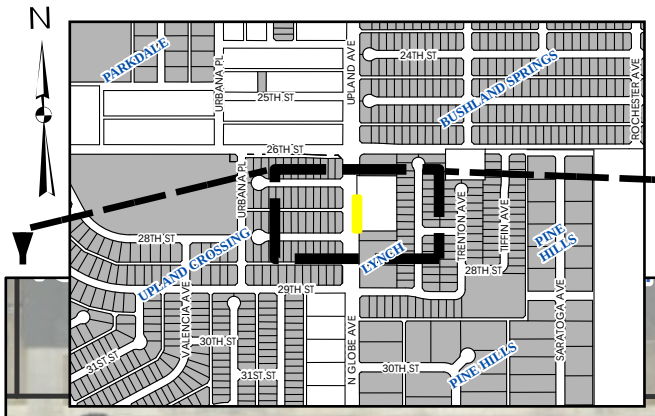
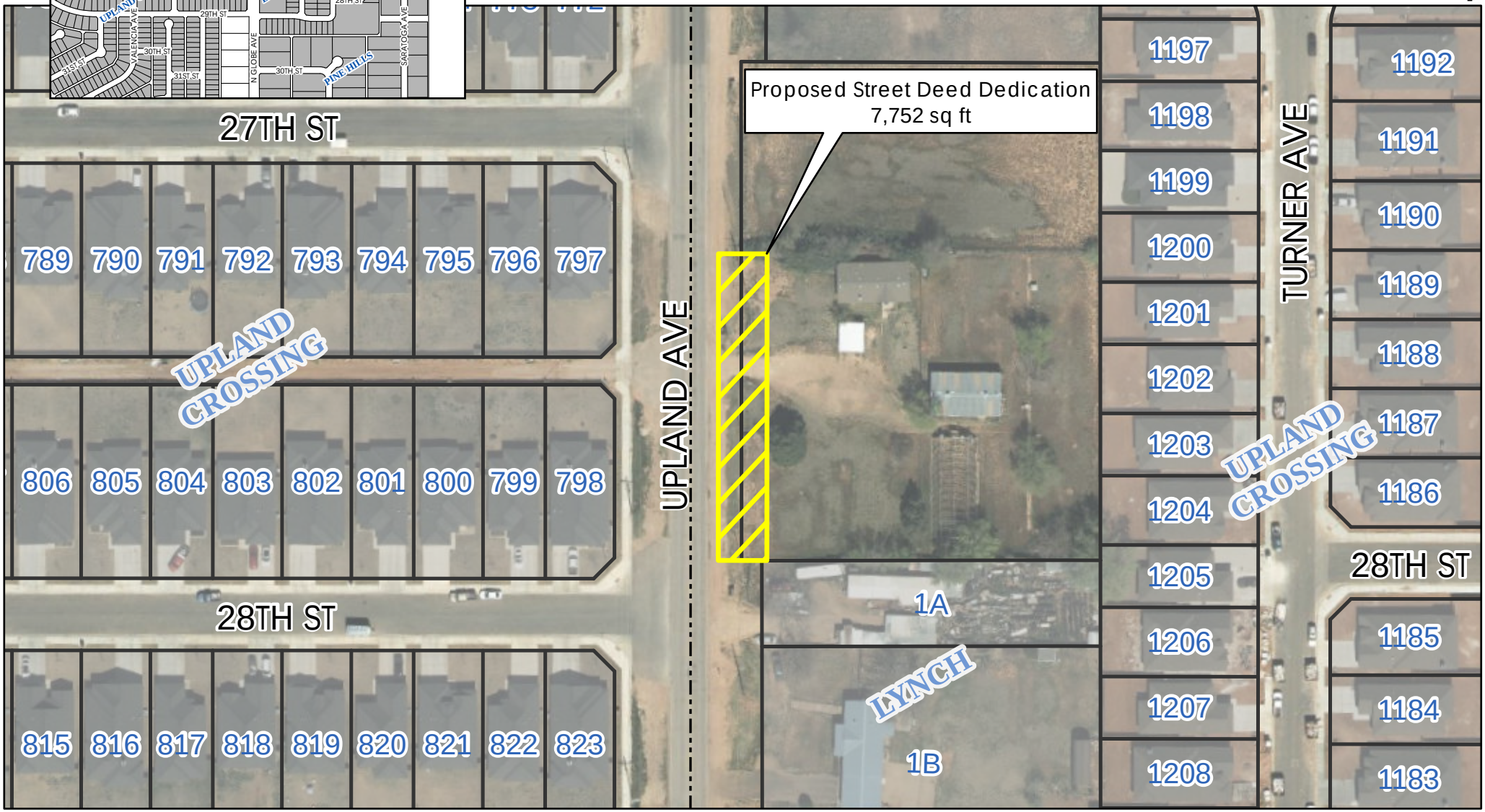
Proposed Street Deed Dedication
Located in Section 43 Block AK





0 50 100 200 300 400 500 Feet

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City of Lubbock TEXAS

Digital Orthophotography - March 2024

City of Lubbock, TX
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92816
Capital Project Name:	Upland Avenue from 19th Street to 34th Street - 22B

Encumbered/Expended	**Budget**
City of Lubbock Staff Time	4,912
Contract 17636 -with Halff Associates, Inc. for Design Services	1,280,700
Agenda Items, March 25, 2025	
Parcel 37 - Land Acquisition	9,772
Encumbered/Expended To Date	1,295,384
Estimated Costs for Remaining Appropriation	
Upland Avenue: 19th St to 34th St - 22B Construction	13,404,616
Remaining Appropriation	13,404,616
Total Appropriation	$ 14,700,000

CIP 92816 Upland Ave: 19th St to 34th St - 22B

Bond Election Project – 2022

Project Manager: Kerry Koehler - Engineering

Project Scope

Upland Avenue from 19th Street to 34th Street is currently a two-lane paved road and is designated in the 2018 Thoroughfare Master Plan to become a five-lane Principal Arterial (Modified). Continued growth in west Lubbock has increased traffic demands along the Upland Avenue corridor from 19th Street to 34th Street. This thoroughfare will include the ultimate design of a five-lane undivided thoroughfare with curb and gutter, drainage, streetlights, sidewalk improvements, utility adjustment and right of way acquisition services.

Project Justification

On November 8, 2022, Lubbock voters approved issuance of a $200 million street improvements bond package for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Project Highlights

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

Project History

- FY 2023-24 $3,200,000 was appropriated by Ord. 2023-O0108
- FY 2024-25 $11,500,000 was appropriated by Ord. 2024-O0128

Project Dates

Design Start Date: 10/2023
Design Completion: 05/2025
Bid for Constuction:09/2025
Award Construction: 11/2025
Project Completion: 04/2027

Project Location

Upland Ave - 19th to 34th St

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Design	$3,200,000	$0	$0	$0	$0	$0	$0
Construction	$11,500,000	$0	$0	$0	$0	$0	$0
TOTAL	**$14,700,000**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Project Funding

	Funding to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
General Obligation Bonds	$14,700,000	$0	$0	$0	$0	$0	$0
TOTAL	**$14,700,000**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Operating Budget Impacts

Description	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	Total
No Impact Anticipated	$0	$0	$0	$0	$0	$0	$0
TOTAL	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Powered by OpenGov

AI# 13309
Regular City Council Meeting 5. 13.
03/25/2025:

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 all related documents, in connection with real property located in Section 8, Block E, of the GC & SF R.R. Co. Survey, Lubbock County, Texas (Parcel 22), at the southwest corner of 82nd Street and Ash Avenue, to be utilized for the 2022 Street Bond Project.

Item Summary

With the widening of 82nd Street from I-27 to Martin Luther King Jr. Blvd., the following street dedication will allow for the construction of the arterial. Paul J. Hodges, a single person, is dedicating right-of-way at the southwest corner of 82nd Street and Ash Avenue to the City of Lubbock.

The proponents will dedicate 15,805 square feet of land for street right-of-way purposes, for $54,999, plus closing costs.

Fiscal Impact

The cost of the land acquisition is $54,999, plus closing costs, and is funded in Capital Improvements Project 92825, Street Bond 82nd and MLK – 22 B.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

Attachments

P22 - Resolution
P22_Deed_Signed
P22 - GIS map

CIP 92825) - Budget Detail
CIP92825 - 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 in connection with certain real property located in Section 8, Block E of the GC & SF R.R. Co. Survey, Lubbock County, Texas (Parcel 22), to be utilized for the 2022 Street Bond Project and all related documents. Said Deed is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
John Turpin, Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

Ccdocs://Res. Street and ROW Deed – 108 E 82nd st
2.27.25

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

82nd Street and MLK Jr. Boulevard, 2022 Street Bond Project
Parcel No. 22
108 E. 82nd Street, Lubbock, TX 79404
0.36 acres out of Section 8, Block E, of the GC & SF R.R. Co. Survey

CITY OF LUBBOCK
STREET, PUBLIC USE AND RIGHT OF WAY DEED

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

THAT **PAUL J. HODGES, a single person,** herein called "GRANTORS", for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other good and valuable consideration, to him 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 and utility purposes, the following described tract of land situated in Lubbock County, Texas, as more particularly described in the attached Exhibit "A".

The consideration cited herein represents a settlement and compromise by all parties as to the value of the property herein conveyed in order to avoid formal eminent domain proceedings and the added expense of litigation.

GRANTOR is retaining title to the following improvements ("Retained Improvements") located on the Property, to wit: Chain Link Fence (160 LF).

GRANTOR covenants and agrees to remove the Retained Improvements from the Property by June 1, 2025, subject to such extensions of time as may be granted by Grantee in writing. In the event Grantor fails, for any reason, to remove the Retained Improvements within the time prescribed, then, without further consideration, title to all or part of such Retained Improvements not so removed shall pass to and vest in Grantee, its successors and assigns, forever.

GRANTOR agrees to grant the property described in Exhibit "A" and releases the City of Lubbock from the obligation of obtaining an appraisal under Chapter 21 of the Texas Property Code.

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.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

WITNESS MY HAND this 14th day of Feb., 2025

GRANTORS:

Paul Hodges

PAUL J. HODGES, a single person

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF LUBBOCK

This instrument was acknowledged before me on the 14th day of February, 2025 by Paul J. Hodges, a single person.

The acknowledging person personally appeared by:

☑ physically appearing before me.

☐ appearing by an interactive two-way audio and video communication that meets the requirements for online notarization under Texas Government Code chapter 406, subchapter C.

Patricia Cross

NOTARY PUBLIC, STATE OF TEXAS
My Commission Expires: 9/10/2028

PATRICIA ANNETTE CROSS
Notary Public, State of Texas
Comm. Expires 09-10-2028
Notary ID 135082791

Grantee's Address:
City of Lubbock
1314 Avenue K, 7th Floor
Lubbock, TX 79401

EXHIBIT "A"

DESCRIPTION – PARCEL 22C - ROW

Field notes describing a 0.36 acre Right-of-Way out of three called 0.59 acre tracts listed as R54249, R54169, and R54220 (Tract 3) by the Lubbock County Appraisal District, a called 0.55 acre tract of land described as Tract 2, and the remainder of a Tract of land described as Tract 1, located in Section 8, Block E, of the GC & SF R.R. Co. Survey, Lubbock County, Texas.

BEING a 0.36 acre tract of land out of a called 0.59 acre tract of land herein referred to in this description as R54249, the parcel ID assigned to the tract by the Lubbock County Appraisal District at the time of this survey, said tract is described in a deed to Paul J. Hodges recorded in Volume 1856, Page 679, Official Public Records, Lubbock County, Texas, a called 0.59 acre tract (R54169) described in a Warranty Deed to Paul Hodges recorded in Volume 1902, Page 824, Official Public Records, Lubbock County, Texas, a called 0.59 acre tract described as Tract 3 (R54220) in a Warranty Deed to Paul J. Hodges recorded in Volume 3995, Page 338, Official Public Records, Lubbock County, Texas, a called 0.55 acre tract described as Tract 2 in a Warranty Deed to Paul J. Hodges recorded in Volume 3995, Page 338, Official Public Records, Lubbock County, Texas, and out of the remainder of a tract of land described as Tract 1 in a Warranty Deed to L.K. Lankford recorded in Volume 1908, Page 822, Official Public Records, Lubbock County, Texas, located in Section 8, Block E, of the GC & SF R.R. Co. Survey, Lubbock County, Texas and more particularly described by metes and bounds as follows;

BEGINNING at a Point (N: 7,253,508.24', E: 952,227.09') for the northeast corner of this tract on the south line of a Lubbock County right-of-way easement for 82nd Street described in Volume 500, Page 641, Official Public Records, Lubbock County, Texas and on the west line of a 25.00 feet right-of-way and easement for Ash Avenue described in a deed recorded in Volume 1908, Page 820, Official Public Records, Lubbock County, Texas, from which a Railroad Spike (N: 7,253,537.48', E: 952,252.99') found for the northeast corner of said Section 8 and being the same as the northeast corner of said Tract 2, bears South 88°15'27" East, 25.00 feet and North 01°44'18" East, 30.01 feet;

THENCE South 01°44'18" West, along the west line of said Ash Avenue, a distance of **65.01 feet** to a 5/8 inch iron rod with yellow cap stamped "CobbFendley Boundary" set for the southeast corner of this tract;

THENCE North 43°15'35" West, a distance of **21.42 feet** to a 5/8 inch iron rod with yellow cap stamped "CobbFendley Boundary" set for a corner of this tract;

THENCE North 88°15'27" West, at a distance of 33.73 feet pass a 5/8 inch iron rod with yellow cap stamped "CobbFendley Boundary" set for reference on the west line of said Tract 2, at a distance of 59.66 feet pass a 5/8 inch iron rod with yellow cap stamped "CobbFendley Boundary" set for reference on the east line of said Parcel R54220, at 139.53 feet pass the common west line of said Parcel R54220 and east line of said Parcel R54169, at 219.51 feet pass the common west line of Parcel R54169 and east line of said Parcel R54249, and continuing for a **total distance of 299.49 feet** to a 5/8 inch iron rod with yellow cap stamped "CobbFendley Boundary" (N: 7,253,467.96', E: 951,911.10') set for the southwest corner of this tract on the common west line of said Parcel R54249 and east line of a called 0.59 acre tract, described in a described as Tract 1 in a Warranty Deed to Alfred and Rosa E Mendez recorded in County Clerk File Number 2017041051, Official Public Records, Lubbock County, Texas;

EXHIBIT "A"

THENCE North 01°44'48" East, along said common line, a distance of **49.87 feet** to a 1/2 inch iron rod found for the northwest corner of this tract on the south line of said 82nd street;

THENCE South 88°15'27" East, along the south line of said 82nd street, at a distance of 79.98 feet pass the common east line of said Parcel R54249 and west line of said Parcel R54169, at 159.96 feet pass a 1/2 inch iron rod found for reference on the common east line of said Parcel R54169 and west line of said Parcel R54220, at 239.84 feet pass a 1/2 inch iron rod found for reference on the east line of said Parcel R54220, at 265.96 feet pass the west line of said Tract 2, and continuing for a **total distance of 314.62 feet** to the POINT OF BEGINNING and containing within these calls a calculated area of 0.36 acres (15,805 square feet) of land.

Bearings shown hereon are referenced to the Texas Coordinate System of 1983, North Central Zone, and are based on the North American Datum of 1983, 2011 Adjustment. All coordinates shown hereon are Surface values displayed in US Survey Feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021. All distances shown hereon are Surface values displayed in US Survey feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021.

This written description is accompanied by a survey plat which covers the identical parcel that is described herein, signed and sealed on even date herewith and is hereby made a part of this document.

I, Jeffrey L. Fansler, a Registered Professional Land Surveyor in the State of Texas, hereby certify that this description and plat represent an on-the-ground survey made under my supervision.

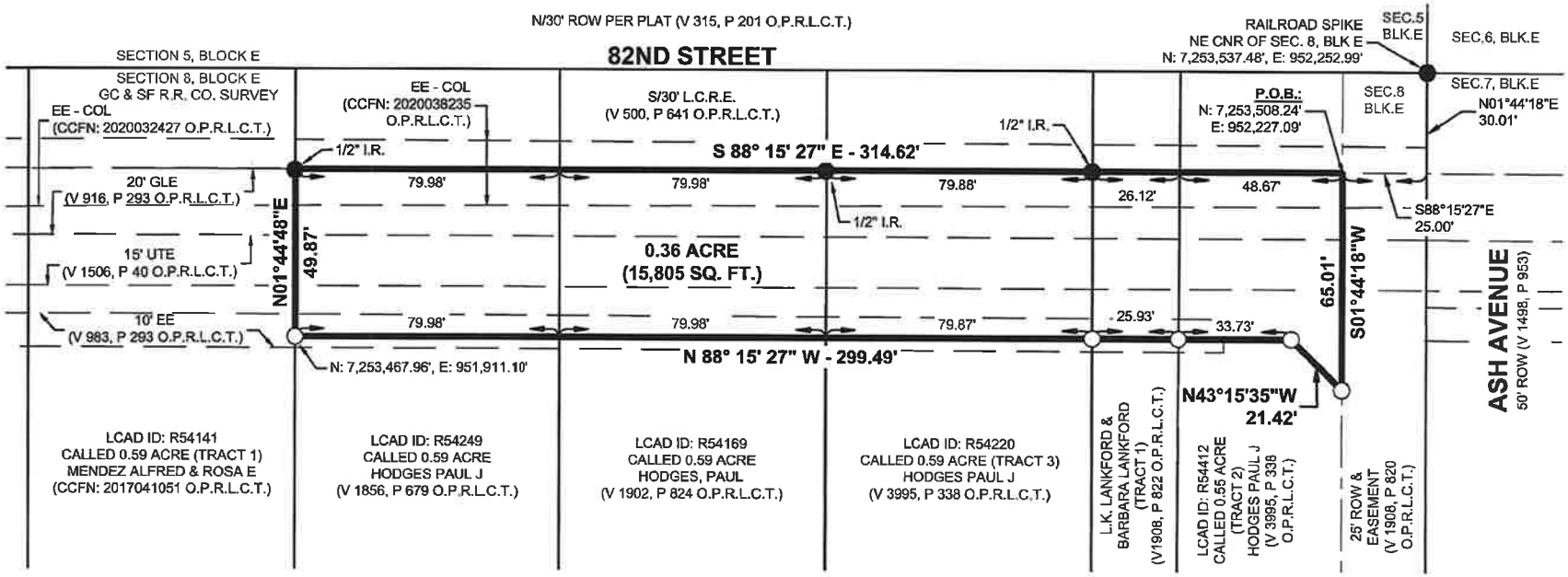
Jeffrey L. Fansler 2024-09-16

Jeffrey L. Fansler Date
Registered Professional Land Surveyor
Texas Registration No. 4348

Cobb, Fendley & Associates, Inc.
TBPELS Land Surveying Firm No. 10046700

7727 Quaker Avenue, Suite A,
Lubbock, Texas 79424

EXHIBIT "A"



LEGEND
P.O.B. = POINT OF BEGINNING
I.R. = IRON ROD
EE = ELECTRICAL EASEMENT
GLE = GAS LINE EASEMENT
UTE = UNDERGROUND TELECOMMUNICATIONS EASEMENT
UEE = UNDERGROUND ELECTRICAL EASEMENT
ROW = RIGHT-OF-WAY
L.C.R.E. = LUBBOCK COUNTY RIGHT-OF-WAY EASEMENT
COL = CITY OF LUBBOCK
SWBT = SOUTHWESTERN BELL TELEPHONE
SDD = STREET DEDICATION DEED
V. / P. = VOLUME / PAGE
CCFN = COUNTY CLERK FILE NUMBER
O.P.R.L.C.T. = OFFICIAL PUBLIC RECORDS, LUBBOCK COUNTY, TEXAS
● = MONUMENT FOUND (AS NOTED)
○ = MONUMENT SET (5/8" IRON ROD SET WITH YELLOW PLASTIC CAP STAMPED "COBB FENDLEY BOUNDARY")
= PROPERTY LINE
— — — — = EASEMENT LINE - AS DESCRIBED
= ADJOINING PROPERTY LINE
——— – ——— = RIGHT-OF-WAY / RIGHT-OF-WAY EASEMENT LINE

50 0 25 50
1 inch = 50 ft.
GRAPHIC SCALE
(in feet)

NORTH

NOTES:

1. Bearings shown hereon are referenced to the Texas Coordinate System of 1983, North Central Zone, and are based on the North American Datum of 1983, 2011 Adjustment. All coordinates shown hereon are Surface values displayed in US Survey Feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021. All distances shown hereon are Surface values displayed in US Survey feet and may be converted to Grid values by dividing those Surface values by a Surface Adjustment Factor of 1.00021.

2. This survey plat is accompanied by a written description which covers the identical parcel that is shown hereon, signed and sealed on even date herewith and is hereby made a part of this document.

3. This survey plat was prepared without the benefit of a title report. The surveyor did not research subject property title information. All easements of record may not be shown.

Jeffrey L. Fansler 2024-09-16

Jeffrey L. Fansler Date
Registered Professional Land Surveyor
No. 4348

STATE OF TEXAS
REGISTERED
JEFFREY L. FANSLER
4348
PROFESSIONAL
LAND SURVEYOR

DATE: 08/06/2024	SCALE: 1" = 50'
DRAWN BY: PTT	CHECKED BY: JLF
SHEET NO. 3 of 3	JOB NUMBER: 2302-019-01
SHEET ID: 2302-019-01-PARCEL 22C.dwg	

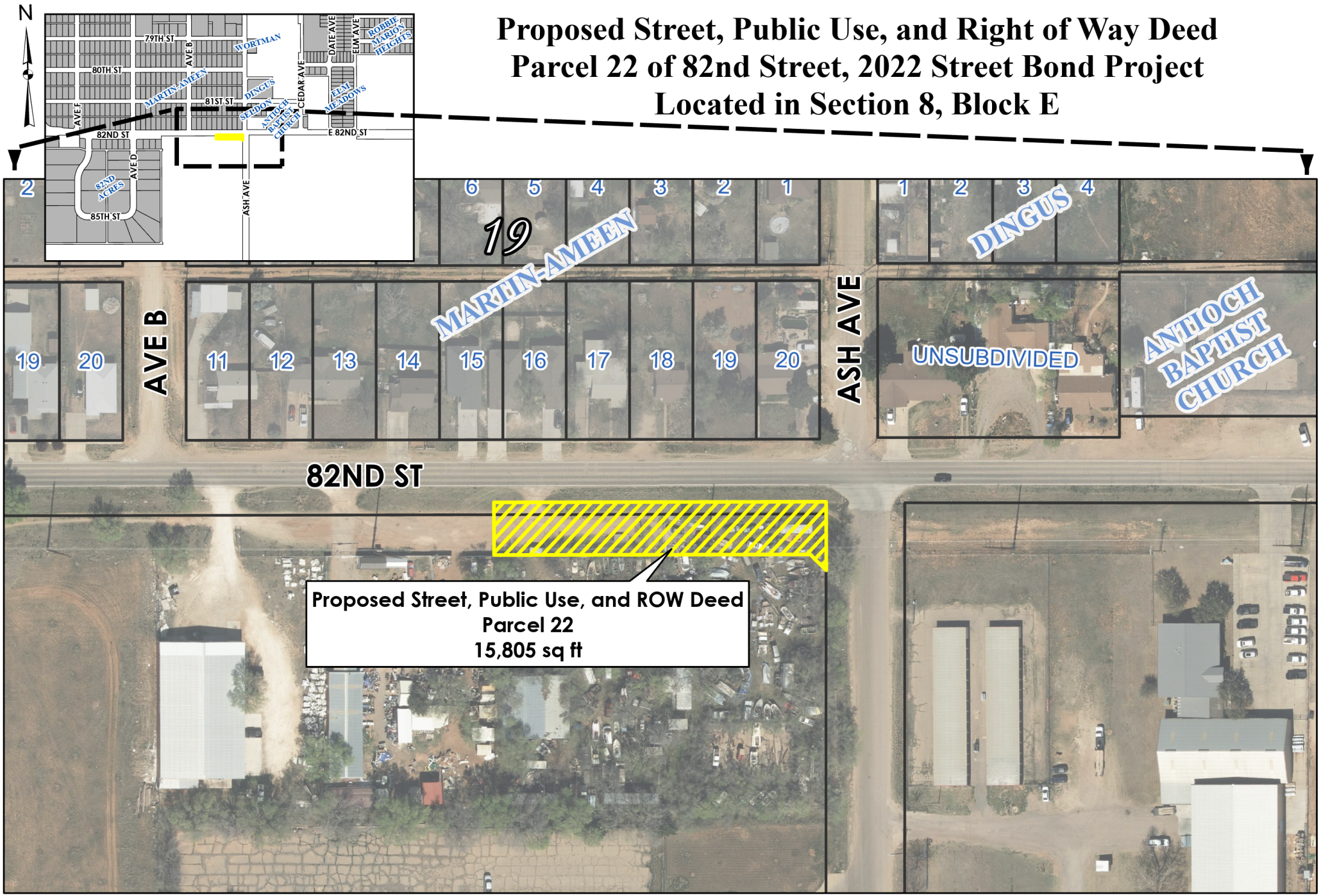
© copyright Cobb, Fendley & Associates, Inc.

PARCEL 22C - ROW

A 0.36 ACRE (15,805 Sq. Ft.) RIGHT-OF-WAY OUT OF THREE CALLED 0.59 ACRE TRACTS LISTED AS R54249, R54169, AND R54220, BY THE LUBBOCK COUNTY APPRAISAL DISTRICT, A CALLED 0.55 ACRE TRACT OF LAND DESCRIBED AS TRACT 2, AND THE REMAINDER OF A TRACT OF LAND DESCRIBED AS TRACT 1, LOCATED IN SECTION 8, BLOCK E, OF THE GC & SF R.R. CO. SURVEY, LUBBOCK COUNTY, TEXAS.

CobbFendley
TBPELS Land Surveying Firm Registration No. 10046700
7727 Quaker Avenue, Suite A, Lubbock, Texas 79424
Phone: 806.993.0071 | www.cobbfendley.com

Proposed Street, Public Use, and Right of Way Deed
Parcel 22 of 82nd Street, 2022 Street Bond Project
Located in Section 8, Block E



0 100 200 300 400 500 Feet

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

City of Lubbock TEXAS

Digital Orthophotography - March 2024

City of Lubbock, TX
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92825
Capital Project Name:	Street Bond 82nd and MLK - 22B

Encumbered/Expended	**Budget**
City of Lubbock Staff Time	$ 18,53
Contract 17088 with LAN for Design Services on 82nd and MLK	3,424,87
Playa Lake 82 Land Purchase	700,00
Parcel 30 Land Purchase	128,54
Parcel 17 Land Purchase	50
Parcel 16 Land Purchase	50
Parcel 34 Land Purchase	59,21
Parcel 10 Land Purchase	2,80
Parcel 28 Land Purchase	80,41
Parcel 35 Land Purchase	35,00
Parcel 33 Land Purchase	99,90
Parcel 1 Land Purchase	45,77
Amendment 1 to Contract 17088	-
Parcel 2 Land Purchase	500
Parcel 23 Land Purchase	35,335
Parcel 29 Land Purchase	295,24
Parcel 3 Land Purchase	500
Parcel 4 Land Purchase	2,000
Parcel 32 Land Purchase	234,377
Parcel 21 Land Purchase	18,926
Parcel 26 Land Purchase	39,999
Parcel 27 Land Purchase	19,999
Parcel 19 Land Purchase	49,317
Parcel 20 Land Purchase	6,854
Agenda Items, March 25th, 2025	
Parcel 22 Land Purchase	54,999
Encumbered/Expended To Date	5,354,10
Estimated Costs for Remaining Appropriation	
Purchase of Land and Roadway Construction	345,89
Remaining Appropriation	345,89
Total Appropriation	$ 5,700,00

CIP 92825 82nd Street and MLK Blvd- 22B

New Roadway Infrastructure

Project Manager: Bailey Rateliffe - Engineering

Project Scope

82nd Street from I-27 to MLK Blvd and MLK BLVD from 74th Street to 82nd Street are currently a two-lane paved road and are designated in the 2018 Thoroughfare Master Plan to become a seven-lane Principal Arterial and a five-land Principal Arterial (Modified). Continued growth in east Lubbock has increased traffic demands along the 82nd Street and MLK BLVD corridors. This thoroughfare will include the ultimate design of a seven-lane and five-lane undivided thoroughfares with curb and gutter, drainage, streetlights, sidewalk improvements, utility adjustment and right of way acquisition services.

Project Justification

On November 8, 2022, Lubbock voters approved issuance of a $200 million street improvements bond package for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Project Highlights

Council Priorities Addressed:
Public Safety
Community Improvement
Growth and Development

Project History

- FY 2022-23 $5,700,000 was appropriated by Ord. 2022-O0169

Project Dates

Design Start Date: 01/2023
Design Completion: 01/2025
Bid for Constuction: 09/2025
Award Construction: 11/2025
Project Completion: 04/2029

Project Location

82nd St and Martin Luther King Boulevard

Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Construction	$5,700,000	$0	$14,100,000	$0	$0	$0	$0
TOTAL	**$5,700,000**	**$0**	**$14,100,000**	**$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 Obligation Bonds	$5,700,000	$0	$14,100,000	$0	$0	$0	$0
TOTAL	**$5,700,000**	**$0**	**$14,100,000**	**$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**

AI# 13311

Regular City Council Meeting **5. 14.**
03/25/2025:

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 all related documents, in connection with real property located in Section 23, Block E-2, Lubbock County, Texas (Parcel 52), on the south side of 114th Street, between Elkhart Avenue and Chicago Avenue, to be utilized for the 114th Street Project, which is a portion of the 2022 Street Bond Project.

Item Summary

With the widening of 114th Street from Frankford Avenue to Slide Road, the following street dedication will allow for the construction of the arterial. Chester M. Bradford and Deanna D. Bradford, husband and wife, are dedicating right-of-way on the south side of 114th Street, between Elkhart Avenue and Chicago Avenue, to the City of Lubbock.

The proponents will dedicate 876 square feet of land for street right-of-way purposes, for $2,628 plus $6,520 for cost to cure items, for a total of $9,148 plus closing costs.

Fiscal Impact

The cost of the land acquisition is $9,148, plus closing costs, and is funded in Capital Improvements Project 92820, Street Bond 114th Street: Frankford Avenue to Slide Road – 22 B.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

Attachments

Resolution_Parcel 52_114_FS_20250305
Deed_Parcel 52_114_FS_20250305
GIS map_Parcel 52_114_FS_20250305
CIP 92820 - Budget Detail
CIP 92820 - 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 in connection with certain real property located in Section 23, Block E-2, Lubbock County, Texas (Parcel 52), to be utilized for the 114th Street Project and all related documents. Said Deed is attached hereto and incorporated in this Resolution as if fully set forth herein and shall be included in the minutes of the Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
John Turpin, Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

Ccdocs://Res. Street and ROW Deed – Sec 24 Blk E-2 114th Project
3.5.25

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

114th Street (Frankford to Slide) Project
Parcel No. 52
Abbreviated Property Description: a 5-foot right-of-way parcel situated in a called 2.0 acre tract described in Volume 5617, Page 29 of the Official Real Property Records of Lubbock County, Texas

CITY OF LUBBOCK
STREET, PUBLIC USE AND RIGHT OF WAY DEED

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

THAT **CHESTER M. BRADFORD** and **DEANNA D. BRADFORD**, husband and wife herein called "GRANTOR" (whether one or more) for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS and other good and valuable consideration, to **GRANTOR** 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 and utility 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 under Chapter 21 of the Texas Property Code.

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.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

WITNESS MY HAND this 5th day of February, 2025.

GRANTOR:

Chester M. Bradford **Deanna D. Bradford**

ACKNOWLEDGMENT

STATE OF Texas

COUNTY OF Lubbock

This instrument was acknowledged before me on the 5th day of February, 2025 by **Chester M. Bradford** and **Deanna D. Bradford**. The acknowledging person personally appeared by:

☒ physically appearing before me.

☐ appearing by an interactive two-way audio and video communication that meets the requirements for online notarization under Texas Government Code chapter 406, subchapter C.

PATRICE A REESE
Notary Public, State of Texas
Comm. Expires 04-11-2025
Notary ID 553153-3

NOTARY PUBLIC, STATE OF Texas
My Commission Expires: 4-11-25

Grantee's Address:
City of Lubbock
1314 Avenue K, 7th Floor
Lubbock, Texas 79401

Proposed Street Deed Dedication
Located in Section 21 Block E-2

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 TEXAS

Digital Orthophotography - March 2024

City of Lubbock
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92820
Capital Project Name:	114th Street: Frankford Ave to Slide Road - 22B

Encumbered/Expended	**Budget**
Contract 17632 with KHA for Design Services	1,242,700
Staff Time	18,570
Agenda Item March 25, 2025	
ROW Acquisition, Parcel 52	9,148
Encumbered/Expended To Date	1,270,418
Estimated Cost for Remaining Appropriation	
114th Street: Frankford to Slide - 22B Construction	14,729,582
Remaining Appropriation	-
Total Appropriation	$ 16,000,000

CIP 92820 114th Street from Frankford Avenue to Slide Road - 22B

New Roadway Infrastructure

Project Manager: Bailey Ratcliffe - Engineering

Project Scope

This roadway is designated on the 2018 Master Thoroughfare Plan to become a (5-lane) minor arterial. Improvements will also be made to the pedestrian elements as well as the street lighting and the drainage.

Project Justification

On November 8, 2022, Lubbock voters approved issuance of a $200 million street improvements bond package for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Project Highlights

Council Priorities Addressed:
Growth and Development
Public Safety
Community Improvement

Project History

- FY 2023-24 $2,200,000 was appropriated by Ord. 2023-O0108
- FY 2024-25 $13,800,000 was appropriated by Ord. 2024-O0128

Project Dates

Design Start Date: 10/2023
Design Completion: 10/2024
Bid for Constuction:10/2024
Award Construction: 12/2024
Project Completion: 06/2026

Project Location

114th St - Frankford Ave to Slide Rd

Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Design	$2,200,000	$0	$0	$0	$0	$0	$0
Construction	$0	$13,800,000	$0	$0	$0	$0	$0
TOTAL	**$2,200,000**	**$13,800,000**	**$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 Obligation Bonds	$2,200,000	$13,800,000	$0	$0	$0	$0	$0
TOTAL	**$2,200,000**	**$13,800,000**	**$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**

AI# 13312

Regular City Council Meeting **5. 15.**
03/25/2025:

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to execute a Real Property Sales Contract and Deed, and all related documents, by and between the City of Lubbock and M&M Homes, for real property located within Lots 2-5, Block 1, Park View Addition to the City of Lubbock, Lubbock County, southwest of 3rd Street and Avenue C.

Item Summary

On May 29, 2024, Lowery Property Advisors, LLC appraised the vacant tract of land located southwest of 3rd Street and Avenue C, with a value of $8,000. The property was put out to public bid. M&M Homes of Lubbock, Texas was the sole bidder, with a bid for this property of $10,000 plus closing costs.

Fiscal Impact

Revenue of $10,000 to the General Fund in Account 100.7107, Sale of Other Land

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

Attachments

Resolution - Sales Contract & Deed, M&M Homes
Sales Contract & Deed, M&M Homes
GIS Map Parkview, M&M Homes

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Real Property Sales Contract and Deed for real property located within Lots 2-5, Block 1, Park View Addition to the City of Lubbock, Lubbock County, by and between the City of Lubbock and M&M Homes, of Lubbock, Texas, and related documents. Said Contract and Deed 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:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

RES.Contract- Real Property Sales Contract M&M Homes
2.19.25

CONTRACT NO. 18622

City f Lubbock

Sale City owned property, Parkview, Block 1, Lots 2-5

This Contract is entered into as of the ____ day of _____ 2025 ("Effective Date") by and between, M&M Homes Inc (the "Buyer"), and the City of Lubbock (the "Seller").

WHEREAS, Seller owns that certain tract of land located in Lubbock County, Texas, being described on Attachment "A" attached hereto (the "Land"); and

WHEREAS, Seller desires to sell and convey the Land, the rights appurtenant to the Land, and the fixtures affixed to the Land (collectively, the "Property") to Buyer.

ARTICLE I
SALE AND PURCHASE

Section 1.1. Sale and Purchase. Subject to the terms and conditions of this Contract, Seller shall sell and Buyer shall purchase and pay for, on MARCH 3, 2025, or at such time thereafter as the Seller may direct (the "Closing Date"), without warranty, either expressed or implied, the Property.

ARTICLE II
PURCHASE PRICE

Section 2.1. Purchase Price. The Purchase Price (herein so called) to be paid by Buyer to Seller for the Property shall be $ 10,000 :

Section 2.2. Earnest Money. Buyer shall deposit ten percent (10%) of the Purchase Price on **February 11, 2025** as Earnest Money (herein so called), in cash or cashier's check, with Bid Submittal. In the event Buyer shall not be awarded the bid for the purchase of the Property, the Earnest Money shall be returned to the Buyer, upon Buyer's execution of a release satisfactory in form and substance to Seller, on or before ten (10) business days after the awarding of the successful bid. Seller shall be deemed to have offered to return the Earnest Money deposit upon contacting Buyer at the address and/or phone number set forth in the Bid Form described in Section 10.01, below.

Section 2.3. Payment of Purchase Price. The Purchase Price shall be payable to Seller, in cash or other immediately available funds, at the Closing Date.

ARTICLE III
INDEPENDENT INVESTIGATION AND DISCLAIMER

Section 3.1. Independent Evaluation. Buyer has made an independent inspection and evaluation of the Property and the title to same and acknowledges that Seller, except as provided in the Contract Documents, as defined below, has made no statements or representations concerning the present or future value of the Property, the state of the title to the Property, the condition, including the environmental condition of the Property, or the anticipated income, costs, or profits, if any, to be derived from the Property. FURTHER,

SELLER MAKES NO REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESSED, STATUTORY, OR IMPLIED, INCLUDING, BUT WITHOUT LIMITATION, AS TO THE DESCRIPTION, TITLE, INCLUDING, WITHOUT LIMITATION, TO THE EXISTENCE OF LIENS AGAINST THE PROPERTY, THE VALUE, QUALITY, PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY AND/OR MATERIALS CONTAINED OR LOCATED IN, ON OR UNDER THE PROPERTY AND/OR IMPROVEMENTS LOCATED THEREON, THE NATURE OF THE PAST OR HISTORIC USE OF THE PROPERTY, MERCHANTABILITY, OR FITNESS FOR PURPOSE OF ANY OF THE PROPERTY. Buyer further acknowledges that, in entering into this Contract, he/she/it has relied solely upon his/her/its independent evaluation and examination of the Property and public records relating to the Property and the independent estimates, computations, evaluations and studies based thereon. Seller makes no warranty or representation as to the accuracy, completeness or usefulness of any information furnished to Buyer, if any, whether furnished by Seller or any other third party. Seller, its officers, employees, elected officials and agents assume no liability for the accuracy, completeness or usefulness of the material furnished by the Seller, or any of its officers, employees, elected officials and/or agents, if any, and/or any other person or party. Reliance on any material so furnished shall not give rise to any cause, claim or action against Seller, its officers, employees, elected officials and/or agents, and any such reliance shall be at Buyer's sole risk.

Section 3.2. Disclaimer-No Warranty, Expressed or Implied. THE DEED WITHOUT WARRANY OF THE PROPERTY DESCRIBED ON EXHIBIT "B" SHALL BE ON A "WHERE IS", "AS IS" AND "WITH ALL FAULTS" BASIS, AND SHALL BE WITHOUT REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESSED, STATUTORY OR IMPLIED, INCLUDING, BUT WITHOUT LIMITATION, AS TO TITLE, INCLUDING, BUT NOT LIMITED TO THE EXISTENCE OF LIENS AGAINST THE PROPERTY, THE DESCRIPTION, PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY AND/OR MATERIALS CONTAINED OR LOCATED IN, ON OR UNDER THE PROPERTY AND/OR IMPROVEMENTS LOCATED THEREON, THE NATURE OF THE PAST OR HISTORIC USE OF THE PROPERTY, QUALITY, VALUE, FITNESS FOR PURPOSE, MERCHANTABILITY, OR OTHERWISE. Buyer has satisfied himself/herself/itself, as to the title, type, condition, quality and extent of the property and property interests which comprise the Property he/she/it is receiving pursuant to this Contract.

ARTICLE IV
REPRESENTATIONS, WARRANTIES AND COVENANTS OF BUYER

Section 4.1. Representations, Warranties and Covenants of Buyer. To induce Seller to enter into this Contract and to consummate the sale and purchase of the Property in accordance herewith, Buyer represents and warrants to Seller, as of the Closing Date, that:

(a) Buyer has the full right, power and authority to purchase the Property from Seller as provided in this Contract and to carry out all of Buyer's obligations under this Contract, and all requisite action necessary to authorize Buyer to enter into this Contract and to carry out Buyer's obligations hereunder have been, or on or before the Closing Date, will have been taken.

(b) Buyer hereby acknowledges that Buyer has been advised by Seller that it should conduct, and Buyer acknowledges, and represents and warrants to Seller, that it has conducted all investigation activities described herein.

(c) Buyer has not contracted or entered into any agreement with any real estate broker, agent, finder, or any other party in connection with this transaction and has not taken any action which would result in any real estate broker commissions or finders' fee or any other fee or fees payable to any

other party with respect to the transaction contemplated in this Contract.

(d) Buyer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to any aspect of the transaction contemplated by this Contract.

Section 4.2. Survival Beyond Closing. The representations, warranties and covenants of Buyer contained in this Contract, as set forth in this Article IV shall survive the Closing.

ARTICLE V
INDEMNITY AND RELEASE

Section 5.1. Indemnity. TO THE FULLEST EXTENT PERMITTED BY LAW, BUYER RELEASES AND SHALL INDEMNIFY AND HOLD HARMLESS SELLER, AND SELLER'S RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS AND AGENTS, FROM AND AGAINST ANY AND ALL CLAIMS WHICH ARISE DIRECTLY OR INDIRECTLY, OR ARE RELATED, IN ANY WAY, MANNER OR FORM, TO THE TRANSACTIONS AND ACTIVITIES CONTEMPLATED HEREUNDER, THE OMISSION OF THE TRANSACTIONS AND ACTIVITIES HEREUNDER, OR CAUSED BY, CONNECTED WITH, OR RELATED TO THE PRESENCE, DISPOSAL, OR RELEASE OF ANY MATERIAL OF ANY KIND INCLUDING, WITHOUT LIMITATION, HAZARDOUS SUBSTANCES, AS DEFINED IN THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (42 U.S.C.S. §9601(14)), AND THE REGULATIONS PROMULGATED THEREUNDER, AS EACH OF SAME MAY BE AMENDED, PETROLEUM AND PETROLEUM PRODUCTS AND BYPRODUCTS AND/OR ASBESTOS IN ANY FORM, FROM OR UPON THE PROPERTY AT THE TIME IT IS CONVEYED TO BUYER OR THEREAFTER, EVEN THOUGH ANY OF THE ABOVE ARE CAUSED, OR CONTRIBUTED TO, BY THE NEGLIGENCE OR FAULT OF SELLER, ITS RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS AND/OR AGENTS. THE BUYER FURTHER COVENANTS AND AGREES TO DEFEND ANY SUITS OR ADMINISTRATIVE PROCEEDINGS BROUGHT AGAINST THE SELLER, AND/OR THE SELLER'S RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS AND/OR AGENTS ON ACCOUNT OF ANY SUCH CLAIM, AND TO PAY OR DISCHARGE THE FULL AMOUNT OR OBLIGATION OF ANY SUCH CLAIM INCURRED BY, ACCRUING TO, OR IMPOSED ON THE SELLER, THE SELLER'S RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS AND/OR AGENTS, AS APPLICABLE, RESULTING FROM ANY SUCH SUITS, CLAIMS AND/OR ADMINISTRATIVE PROCEEDINGS OR ANY MATTERS RESULTING FROM THE SETTLEMENT OR RESOLUTION OF SAID SUITS, CLAIMS, AND/OR ADMINISTRATIVE PROCEEDINGS. IN ADDITION, THE BUYER SHALL PAY TO THE SELLER, THE SELLER'S RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS AND/OR AGENTS, AS APPLICABLE, ALL ATTORNEYS' FEES INCURRED BY SUCH PARTIES.

Section 5.2. Survival Beyond Closing. The indemnity provisions contained in this Contract, as set forth in this Article V, shall survive the Closing.

ARTICLE VI
CONDITIONS PRECEDENT TO SELLER'S PERFORMANCE

Section 6.1. Breach of Buyer's Representations, Warranties and Covenants. Seller is not obligated to perform under this Contract unless all of the representations, warranties, covenants and agreements of Buyer set forth in this Contract are true and correct in all material respects as of the Closing Date.

ARTICLE VII
CLOSING

Section 7.1. Place of Closing. The Closing (herein so called) shall take place on the Closing Date in the offices of the City of Lubbock, Office of the Purchasing and Contract Management, 1314 Avenue K, 9th Floor, Lubbock, Texas.

Section 7.2. Closing.

(a) Items to be Delivered at Closing - Seller. At Closing, Seller shall deliver to Buyer, at its sole cost and expense, the following item:

(i) A Deed Without Warranty, in the form attached hereto as Exhibit "B", duly executed by Seller and acknowledged. Buyer shall be responsible for any and all costs associated with the recording of said Deed Without Warranty.

(b) Items to be Delivered at Closing - Buyer. At Closing, Buyer shall deliver to the Seller the following items:

(i) the cash sum required by Section 2.1;

(ii) A Deed Without Warranty, in the form attached as Exhibit "B", duly executed by Buyer and acknowledged;

(iii) any other items reasonably requested by the Seller as administrative requirements for consummating the Closing.

Section 7.3. Responsibilities of Buyer. Notwithstanding anything to the contrary herein, this Section 7.3 shall survive the Closing. Buyer shall be solely responsible for the following items:

(a) Ad valorem taxes relating to the Property for the calendar years prior to the year in which the Closing shall occur, if any, shall be the sole responsibility of, and shall be paid by Buyer, at Closing. Further, all ad valorem taxes relating to the Property for the calendar year in which the Closing shall occur, if any, shall be the sole responsibility of Buyer and Buyer shall promptly pay such ad valorem taxes when same become due and owing.

ARTICLE VIII
DEFAULTS AND REMEDIES

Section 8.1. Seller's Default; Buyer's Remedies.

(a) Seller's Defaults. Seller is in default under this Contract if Seller fails to meet, comply with, or perform in any material respect any obligation on Seller's part required herein within the time limits and in the manner required by this Contract.

(b) Buyer's Remedies. If Seller is in default hereunder, Buyer may, as Buyer's sole and exclusive remedy, terminate this Contract and, following the expiration of five (5) calendar days after written notice delivered to Seller, receive the Earnest Money as liquidated damages.

Section 8.2 Buyer's Default; Seller's Remedies.

(a) Buyer's Defaults. Buyer is in default under this Contract if Buyer fails to:

(i) meet, comply with, or perform in any material respect, any obligation on Buyer's part required herein within the time limit and in the manner required by this Contract.

(b) Seller's Remedies. If Buyer is in default under this Contract, Seller may terminate this Contract and retain the Earnest Money and bring an action for specific performance or damages, and pursue any other remedy available to Seller at law, in equity and under the terms of this Contract. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any other right or remedy and all rights and remedies shall be cumulative.

ARTICLE IX
NOTICE

Section 9.1. Notice. Whenever notice from Buyer to Seller or from Seller to Buyer is required or permitted by this Contract and no other method of notice is provided, such notice shall be given by (i) actual delivery of the written notice to the other party by hand or telephone facsimile (in which case such notice shall be effective upon delivery); or (ii) by depositing the written notice in the United States mail, postage prepaid, 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.

Section 9.2. Seller's Address. The Seller's address and numbers for the purpose of notice are:

SELLER: CITY OF LUBBOCK
Ken Jernberg
Right of Way Agent
P. O. Box 2000
Lubbock, Texas 79457
(806) 775-3368

Section 9.3. Buyer's Address. The Buyer's address and numbers for the purpose of notice are:
BUYER: Name: GILBERT ARREDONDO, M & M Homes Inc
Address: 5402 CR 1740
Lubbock, Tx 79407

Telephone Number: 806-781-4690

ARTICLE X
MISCELLANEOUS

Section 10.1. Entire Agreement. This Contract, including all exhibits and parts hereof, including the Invitation to Bid, Bid Form and Instructions to Bidders relating to Invitation to Bid Number 24-18126 -MA hereto (the "Contract Documents"), contain the entire agreement between the Seller and Buyer, and there are no other written or oral promises, conditions, warranties, or representations relating to or effecting the matters contemplated herein.

Section 10.2. Amendment. No amendment, modification, or alteration of the terms of this Contract shall be binding unless such amendment, modification, or alteration is in writing, dated subsequent to the date of this Contract, and duly executed by the Seller and Buyer.

Section 10.3. Construction and Venue. THIS CONTRACT AND THE TRANSACTIONS CONTEMPLATED HEREIN SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS AND ACTIVITIES CONTEMPLATED HEREBY.

Section 10.4. Severability. If any provision, or part thereof, of this Contract 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 Contract 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.

Section 10.5. Successors and Assigns. This Contract binds and inures to the benefit of the Seller and Buyer, and to Seller's, and to the extent permitted, Buyer's, respective successors, legal representatives, heirs, devisees and assigns.

Section 10.6. Risk of Loss. If any part of the Property is materially damaged or destroyed by fire or other casualty loss, Buyer may either (i) terminate this Contract, provided that notice of termination is given by Buyer to Seller, as provided herein, on or before the Date of Closing; or (ii) accept the Property in its damaged condition and close the transaction contemplated by this Contract.

Section 10.7. Attorney's Fees. If either party hereto shall be required to utilize an attorney to enforce or defend the rights of such party hereunder, the prevailing party shall be entitled to recover its reasonable attorney's fees. Except as otherwise provided herein, each party hereto shall be solely responsible for all expenses, including but not limited to attorney's fees, incurred by him or her, in connection with the Contract and the transaction contemplated hereby.

Section 10.8. Captions. The captions of articles and sections in this Contract are inserted in this Contract strictly for the parties' convenience in identifying the provisions to this Contract and shall not be given any affect in construing this Contract.

Section 10.9. Incorporation of Contract Documents. The terms and provisions of the Contract Documents are hereby incorporated into this Contract for Sale for all intents and purposes.

Section 10.10 Non -Arbitration. The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and

may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this document, this provision shall control.

WITNESS WHEREOF, this Agreement is executed as of the Effective Date.

CITY OF LUBBOCK

_____
Mark McBrayer, Mayor

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Wood Franklin, Director of Public Works

APPROVED AS TO FORM

_____
Kelli Leisure, Senior Assistant City Attorney

BUYER

BY: _____
Authorized Representative

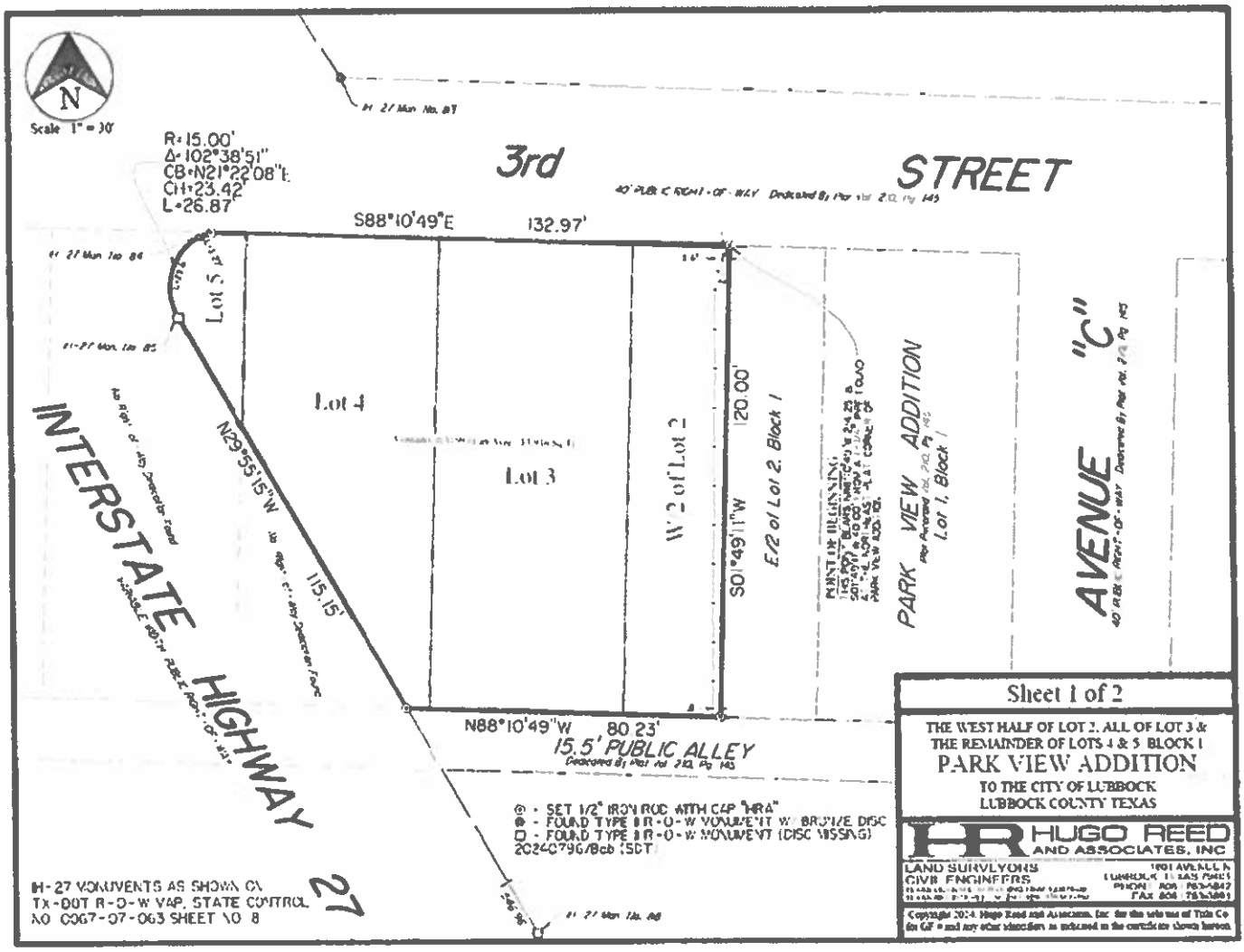
Colbert Arredondo
Print Name

5402 CR 1440
Address

Lubbock TX 79407
City, State, Zip Code

Attachment "A"

City of Lubbock



METES AND BOUNDS DESCRIPTION of a 0.3199 acre portion of Block 1, being the West Half of Lot 2, all of Lot 3, and a portion of Lots 4 and 5, Block 1, Park View Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 210, Page 45 of the Deed Records of Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with cap marked "HRA" set in the South right-of-way line of 3rd Street dedicated by plat recorded in Volume 210, Page 45 of the Deed Records of Lubbock County, Texas and the Northern boundary of said Block 1, for the Northeast corner of this tract, which bears N 88°10'49" W, a distance of 214.25 feet and S 01°49'11" W a distance of 40.00 feet from a 1-1/4" iron pipe found at the original Northeast plat corner of said Park View Addition;

THENCE S 01°49'11" W, a distance of 120.00 feet to a 1/2" iron rod with cap marked "HRA" set in the North line of a 15.5 foot public alley dedicated by plat recorded in Volume 210, Page 45 of the Deed Records of Lubbock County, Texas, for the Southeast corner of this tract,

THENCE N 88°10'49" W, along said North alley line, a distance of 80.23 feet to a 1/2" iron rod with cap marked "HRA" set in the East right-of-way line of Interstate Highway (IH) 27, as monumented on the ground, for the Southwest corner of this tract, from whence IH-27 right-of-way monument No. 88 (Type II monument, missing bronze disc) found bears S 29°55'15" E a distance of 546.96 feet;

THENCE N 29°55'15" W, along said East right-of-way line, a distance of 115.15 feet to IH-27 right-of-way monument No. 85 (Type II monument, missing bronze disc) found at a point of intersection;

THENCE Northeasterly, continuing along said East right-of-way line, around a curve to the right, said curve having a radius of 15.00 feet, a central angle of 102°38'51", a chord bearing of N 21°22'08" E, and a chord distance of 23.42 feet, at an arc length of 23.60 feet pass IH-27 right-of-way monument No. 84 (Type II monument), continuing for a total arc length of 26.87 feet to a 1/2" iron rod with cap marked "HRA" set in said South right-of-way line of 3rd Street and the Northern boundary of said Block 1 for the Northwest corner of this tract,

THENCE S 88°10'49" E, along said South right-of-way line and the Northern boundary of said Block 1, a distance of 132.97 feet to the Point of Beginning.

Contains: 13,936 square feet

Bearings are relative to Grid North, Texas Coordinate System of 1983, North-Central Zone, 2011 (epoch 2010.0). Distances are Surface, U.S. Survey Feet.

I, Cyril H. Turner, Texas Registered Professional Land Surveyor No. 6460, do hereby certify that this survey was made on the ground. A determination as to whether this property lies within a special flood hazard area was not made for this survey.

May 28, 2024

Cyril H. Turner
Registered Professional Land Surveyor
No. 6460 State of Texas
email: cturner@hugoreed.com

CYRIL HOWARD TURNER
6460

Sheet 2 of 2

THE WEST HALF OF LOT 2, ALL OF LOT 3 & THE REMAINDER OF LOTS 4 & 5, BLOCK 1
PARK VIEW ADDITION
TO THE CITY OF LUBBOCK
LUBBOCK COUNTY, TEXAS

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS
CIVIL ENGINEERS
1801 AVENUE N
LUBBOCK, TEXAS 79401
PHONE: 806 / 763-0842
FAX: 806 / 763-3891

Copyright 2024 Hugo Reed and Associates, Inc. for the sole use of Title Co. for GF # and any other identifiers as indicated on the certificate shown hereon.

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

DEED WITHOUT WARRANTY

Date:

Grantor: City of Lubbock, Texas

Grantor's Mailing Address:

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

Grantee: M&M Homes, Inc.

Grantee's Mailing Address:

5402 CR 1440
Lubbock, TX 79407

Consideration:

Ten and No/100 Dollars ($10.00) and other good and valuable consideration.

Property (including any improvements):

METES AND BOUNDS DESCRIPTON of a 0.3199 acre portion of Block 1, being the West Half of Lot 2, all of Lot 3, and a portion of Lots 4 and 5, Block 1, Park View Addition to the City of Lubbock, Lubbock County, Texas, according to the map, plat and/or dedication deed thereof recorded in Volume 210, Page 45 of the Deed Records of Lubbock County, Texas, being further described on the attached Exhibit "A".

Reservations From Conveyance:

Grantor reserves and excepts from this conveyance, for Grantor and Grantor's successors and assigns all oil, gas and other minerals on, in and under all of the land described in this deed, together within the right of ingress and egress for the purpose of exploring for, drilling for, producing and marketing oil, gas and other minerals.

Grantor reserves from this conveyance a perpetual underground utility easement for any underground utilities located on or under the Property, including but not limited to the locations described and set forth in Exhibit "A" attached hereto, to retain all rights of access and use for the purposes of laying out, opening, constructing, operating, maintaining and reconstructing underground water and stormwater utility infrastructure, together with necessary incidentals and appurtenances thereto, in, along, upon and across Property.

Exceptions to Conveyance:

None

Representations and Warranties of Grantee:

Grantee represents and warrants to Grantor that it has made an independent inspection and evaluation of the Property and the title to same and acknowledges that Grantor has made no statements or representations concerning the present or future value of the Property, the state of title of the Property, the condition, including the environmental condition of the Property, or the anticipated income, costs, or profits, if any, to be derived from the Property.

FURTHER, GRANTOR MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESSED, STATUTORY, OR IMPLIED, INCLUDING, BUT WITHOUT LIMITATION, AS TO THE DESCRIPTION, TITLE, INCLUDING WITHOUT LIMITATION, THE EXISTENCE OF LIENS AGAINST THE PROPERTY, THE VALUE, QUALITY, PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY AND/OR MATERIALS CONTAINED OR LOCATED IN, ON OR UNDER THE PROPERTY AND/OR IMPROVEMENTS LOCATED THEREON, THE NATURE OF THE PAST OR HISTORIC USE OF THE PROPERTY, MERCHANTABILITY OR FITNESS FOR PURPOSE OF ANY OF THE PROPERTY.

Grantee further acknowledges that, in accepting this Deed Without Warranty, it has relied solely upon its independent evaluation and examination of the Property, and public records relating to the Property and the independent estimates, computations, evaluations, and studies based thereon. Grantor makes no warranty or representation as to the accuracy, completeness, or usefulness of any information furnished to Grantee, if any, whether furnished by Grantor or any other third party. Grantor, its officers, employees, elected officials, independent contractors, and agents assume no liability for the accuracy, completeness, or usefulness of any material furnished by Grantor, or any of its officers, employees, elected officials, independent contractors and/or agents, if any, and/or any other person or party. Reliance on any material so furnished shall not give rise to any cause, claim, or action against Grantor, its officers, employees, elected officials, independent contractors and/or agents, and any such reliance shall be at Grantee's sole risk.

THE CONVEYANCE OF THE PROPERTY SHALL BE ON A "WHERE IS", "AS IS", AND "WITH ALL FAULTS" BASIS, AND SHALL BE WITHOUT REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESSED, STATUTORY OR IMPLIED, INCLUDING, BUT WITHOUT LIMITATION, AS TO TITLE, INCLUDING, BUT NOT LIMITED TO THE EXISTENCE OF LIENS AGAINST THE PROPERTY, THE DESCRIPTION, PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY AND/OR MATERIALS CONTAINED OR LOCATED IN, ON OR UNDER THE PROPERTY AND/OR IMPROVEMENTS LOCATED THEREON, THE NATURE OF THE PAST OR HISTORIC USE OF THE PROPERTY, QUALITY, VALUE, FITNESS FOR PURPOSE, MERCHANTABILITY OR OTHERWISE.

Grantee has satisfied itself as to the title, type, condition, quality, and extent of the property and property interests which comprise the Property it is receiving pursuant to this Deed Without Warranty.

GRANTOR, FOR THE CONSIDERATION AND SUBJECT TO THE RESERVATIONS AND EXCEPTIONS TO CONVEYANCE, GRANTS, SELLS, AND CONVEYS TO GRANTEE THE PROPERTY, TO HAVE AND TO HOLD IT TO GRANTEE AND GRANTEE'S SUCCESSORS AND ASSIGNS FOREVER, WITHOUT WARRANTY, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AND ALL WARRANTIES THAT MIGHT ARISE BY COMMON LAW AND THE WARRANTIES CREATED BY SECTION 5.023 OF THE TEXAS PROPERTY CODE (AND ALL AMENDMENTS AND SUCCESSORS THERETO) ARE EXPRESSLY EXCLUDED.

EXECUTED THIS _____ DAY OF _____, 2025.

GRANTOR:

CITY OF LUBBOCK

_____
MARK MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

GRANTEE:

_____
Signature

Gilbert Arredondo
Printed Name

ACKNOWLEDGMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This instrument was acknowledged before me on this ____ day of _____, 20___ by Mark McBrayer Mayor of the City of Lubbock.

_____
Notary Public, State of Texas
My commission expires: _____

STATE OF TEXAS §

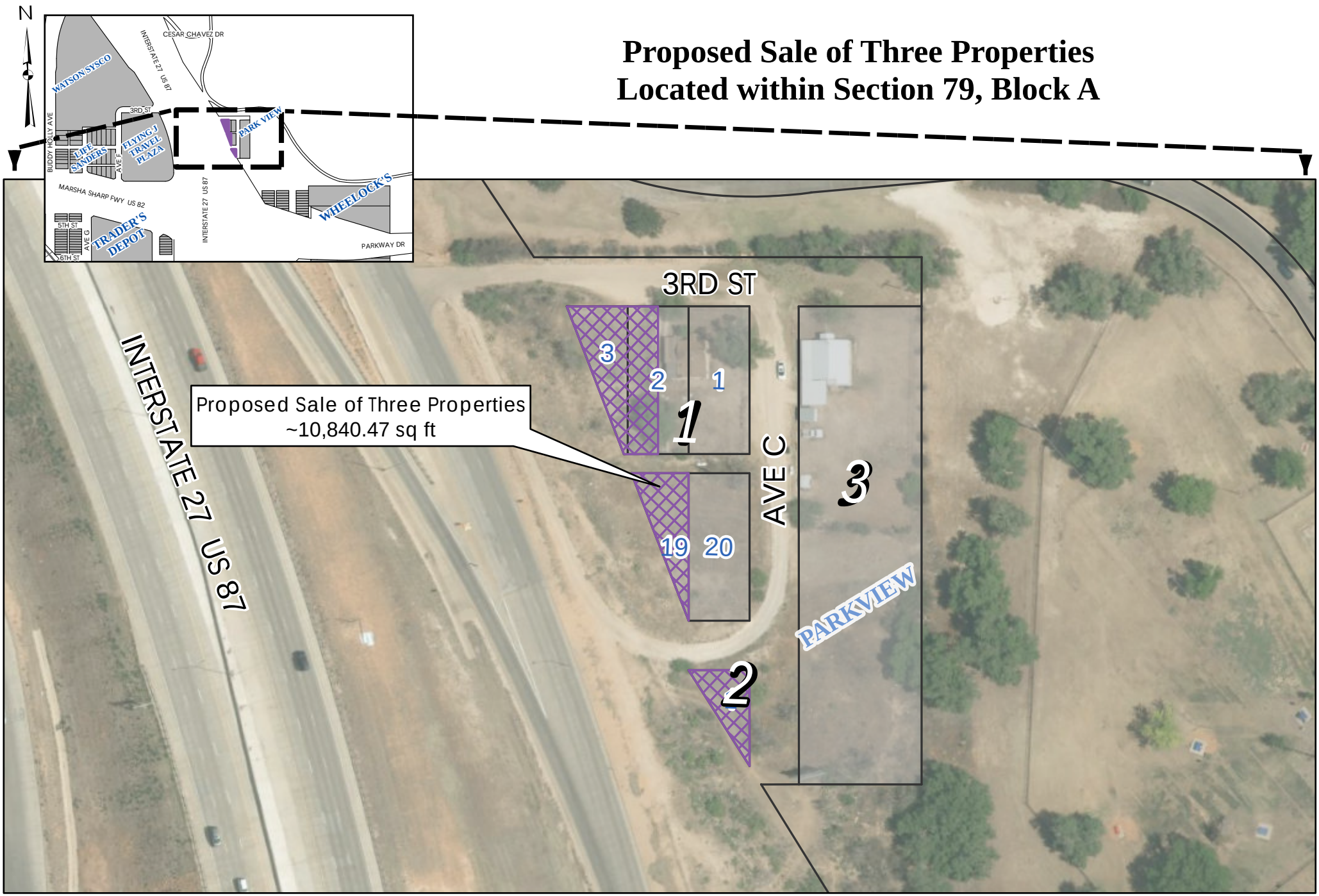
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on this 19 day of February, 2025 by Gilbert Arredondo herein Grantee.

DEBORAH HUNT
Notary Public, State of Texas
Comm. Expires 08-29-2026
Notary ID 130091951

Deborah Hunt
Notary Public, State of Texas
My commission expires: _____

Proposed Sale of Three Properties
Located within Section 79, Block A



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

City of Lubbock TEXAS

Digital Orthophotography - May 2023

AI# 13313
Regular City Council Meeting **5. 16.**
03/25/2025:

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to execute a Street Use License, and related documents, by and between the City of Lubbock and Texland Petroleum, LP, for an underground oil flow pipeline on 199.91 square feet of Right-of-Way, crossing East Municipal Drive, east of Northeast Loop 289.

Item Summary

Frank Kyle, President, on behalf of Texland Petroleum, is requesting the renewal of a Street Use License, for the purpose of an underground oil flow pipeline on 199.91 square feet of Right-of-Way crossing E. Municipal Drive, east of NE Loop 289.

The term of the license is for 20 years payable every 5 years in advance, and each successive 5-year term not to exceed 20 years, unless either party gives written notice of termination to the other party. The license fee for each five-year period is $500 paid in advance, pursuant to current City policy.

Fiscal Impact

$500 to the General Fund

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

---

Attachments

Resolution - Texland, Municipal Dr. Allen Ind. Park
Street Use License - Texland, Municipal Dr. Allen Ind. Park
GIS map Municipal Dr. Allen Ind. Park

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 Street Use License by and between the City of Lubbock and Texland Petroleum, LP, and related documents. Said License 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:

_____
John Turpin, Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

Res. Street Use License - Texland
3.4.25

STREET USE LICENSE

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK §

This License made this _____ day of _____, 2025, being the date of this Agreement between the **CITY OF LUBBOCK, TEXAS,** a Home Rule Municipal Corporation, and **TEXLAND PETROLEUM, LP,** hereinafter called "LICENSEE."

WITNESSETH:

Subject to the terms, conditions, and provisions herein, the CITY OF LUBBOCK does hereby grant to the LICENSEE, the right, privilege and license to use a portion of a dedicated street to construct and maintain an underground oil flow pipeline to transport petroleum, this license being classified as a subsurface license, and LICENSEE shall bore under all existing concrete and asphalt paving and drainage improvements and street appurtenances so as to avoid cutting or destroying the same and all street crossings shall be cased with steel casing and such casing shall be vented externally, and such pipelines shall be constructed of tubular steel and have a minimum cover of at least 40 inches from the ground surface at the following locations:

BEGINNING at a point that is 36.00 feet west of the northeast comer of Lot 1, Allen Industrial Park Addition to the City of Lubbock, Lubbock County, Texas and in the south right-of-way of Municipal Drive;

THENCE North 100.00 feet to a point;
THENCE East 2.00 feet to a point;
THENCE South 100.00 feet to a point;
THENCE West 2.00 feet to the POINT OF BEGINNING.

The term of this License shall be for five (5) years from date hereof, and shall be automatically extended for successive five (5) year terms not to exceed twenty (20) years in any event unless either party shall give written notice of termination to the other party before the expiration of the first, second or third five (5) year term, as the case may be, and the CITY OF LUBBOCK retains the right at its election to cancel and revoke this License, with or without cause, upon thirty (30) days notice to LICENSEE. Said notice shall be deemed properly served if deposited in the post office, postage paid, addressed to LICENSEE at **600 Bailey Avenue, Suite 150, Fort Worth, TX 76107**, or the last known address of LICENSEE.

Upon the expiration or cancellation and revocation of this License by the CITY OF LUBBOCK, or the abandonment of this License by the LICENSEE, the improvements that are permitted under this License shall be removed by the LICENSEE and the property shall be restored to its original condition at no cost or expense to the CITY OF LUBBOCK. In the event LICENSEE fails or refuses to remove such improvements after demand by the CITY OF LUBBOCK, the CITY OF LUBBOCK shall take possession and remove or cause to be removed such improvements, and the expense incurred shall be assessed against LICENSEE, for which LICENSEE shall be liable.

1. LICENSEE shall pay to the CITY OF LUBBOCK as compensation for such grant the sum of FIVE HUNDRED DOLLARS AND 00/100 ($500.00) cash in advance either contemporaneously with, or prior to, the acceptance and execution hereof by LICENSEE for the first five (5) year term of this License, and thereafter such rate of compensation may be changed for each succeeding five (5) year term by the CITY OF LUBBOCK to a rate of compensation which is based on procedures and policies as established by the City Council of the CITY OF LUBBOCK, based on an appraisal of the fair market value of such land by the Right-of-Way Department of the CITY OF LUBBOCK, as applied to the formula for determining such rate established by the City Council. If such rate is not changed by the CITY OF LUBBOCK, the rate for the preceding five (5) year term shall apply. The CITY OF LUBBOCK shall notify the LICENSEE of any change in rates in writing ninety (90) days before the start of the five (5) year term to which such change in rate shall apply, and if such notification is not made, then the rate for the preceding five (5) year term shall apply.

2. The LICENSEE agrees to pay all costs arising out of the exercise of this License herein granted including, but not limited to, the cost of cleanup of any oil, hazardous substance, or other material, the replacement and repair of paving, sidewalks and utilities of any nature damaged as a result of the construction authorized by the License.

3. In the event the CITY OF LUBBOCK determines that the License herein granted interferes with or causes the rerouting or realignment of any public utility, franchised utility or sanitary or storm sewer line constructed or to be constructed by the CITY OF LUBBOCK or franchised utility, LICENSEE agrees to reimburse the CITY OF LUBBOCK or such utility, as the case may be, for its expense in relocating or rerouting over and above the expense which would have been incurred except for LICENSEE'S use herein.

4. This License is not transferable by the LICENSEE without first receiving the written consent of the City Manager of the CITY OF LUBBOCK.

5. This License is made subject to the condition that should the LICENSEE exercise any right under this License and prepare or begin or complete any part of the construction as herein contemplated across any or all of the above described property, then and in that event, said LICENSEE, its successors and assigns, will at all time defend, indemnify and otherwise hold the CITY OF LUBBOCK, its agents, servants and employees harmless from any and all claims, demands, actions, causes of action and suits at law or in equity of whatsoever kind or nature which may grow out of or be related to the making of this License or the construction or maintenance use permitted herein. The CITY OF LUBBOCK, at its option, may require an agreement with any contractors hired by LICENSEE to perform the construction, repair or maintenance permitted herein, which agreement will indemnify the CITY OF LUBBOCK from and against all claims, liability, cost and expense growing out of the performance of the work to be done by such contractors. The CITY OF LUBBOCK may further require any of said contractors, when engaged in the construction, repair or maintenance permitted herein, to furnish, without expense to the CITY OF LUBBOCK, a reliable surety bond, in an amount and in a form satisfactory to the said CITY OF LUBBOCK, guaranteeing the faithful performance of all the terms, covenants and conditions contained in said agreement, and a certified copy of a policy of public liability insurance assumed by said contractors in said agreement with the CITY OF LUBBOCK. The CITY OF LUBBOCK agrees to give notice to LICENSEE prior to incurring any costs or expenses or the

payment of any such claims or demands in order to give LICENSEE a reasonable opportunity to settle or adjust the same.

6. LICENSEE agrees and is required to furnish a policy of public liability and property damage insurance within limits specified by and in a form satisfactory to the City Attorney for the CITY OF LUBBOCK, and which names the CITY OF LUBBOCK as the insured, said policy covering the uses herein granted.

General Liability Insurance. Owner shall maintain general liability insurance with a combined single limit of a minimum of $100,000 per occurrence and such insurance shall include the following:

- Bodily Injury and Property Damage
- Broad Form Contractual Liability

Owner shall provide a Certificate of Insurance to the City of Lubbock as evidence of the required insurance coverage. The Certificate will provide 30 days notice of cancellation. Such Certificate of Insurance shall name the City of Lubbock as an additional insured and must include wording which states that the policy shall be primary with respect to any insurance carried by City of Lubbock and be endorsed to include a waiver of subrogation in favor of the City of Lubbock.

7. All of the covenants and provisions of this License shall be binding upon and inure to the benefit of the successors, legal representatives, assigns and the duly authorized agents and contractors of the parties hereto to the same extent and effect as the same are binding upon and inure to the benefit of the parties hereto, but no assignment hereof by the LICENSEE, its successors or assigns shall be binding upon the CITY OF LUBBOCK without the consent of the CITY OF LUBBOCK in each instance, except as specified in numbered paragraph four (4).

8. LICENSEE, by the acceptance of the uses permitted herein, understands and agrees that no interest, title or rights of possession are intended or implied except those expressly set forth herein, and LICENSEE waives any and all claims in and to the public way it is permitted to use hereby and agrees to give peaceful possession of said property covered herein upon termination or cancellation of this license. No interest for real property is conveyed or granted by this License.

9. The CITY OF LUBBOCK 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 OF LUBBOCK 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.

AGREED TO AND ACCEPTED this _____ day of _____, 2025.

CITY OF LUBBOCK:

MARK W. MCBRAYER, MAYOR

TEXLAND PETROLEUM, LP:
By: Texpet Mgt., LLC, General Partner

By: _____
Frank Kyle, President

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

John Turpin, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

THE STATE OF TEXAS §

COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared **Mark W. McBrayer,** Mayor of the City of Lubbock, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2025.

Notary Public in and for the State of Texas
My Commission Expires: _____

THE STATE OF TEXAS §

COUNTY OF TARRANT §

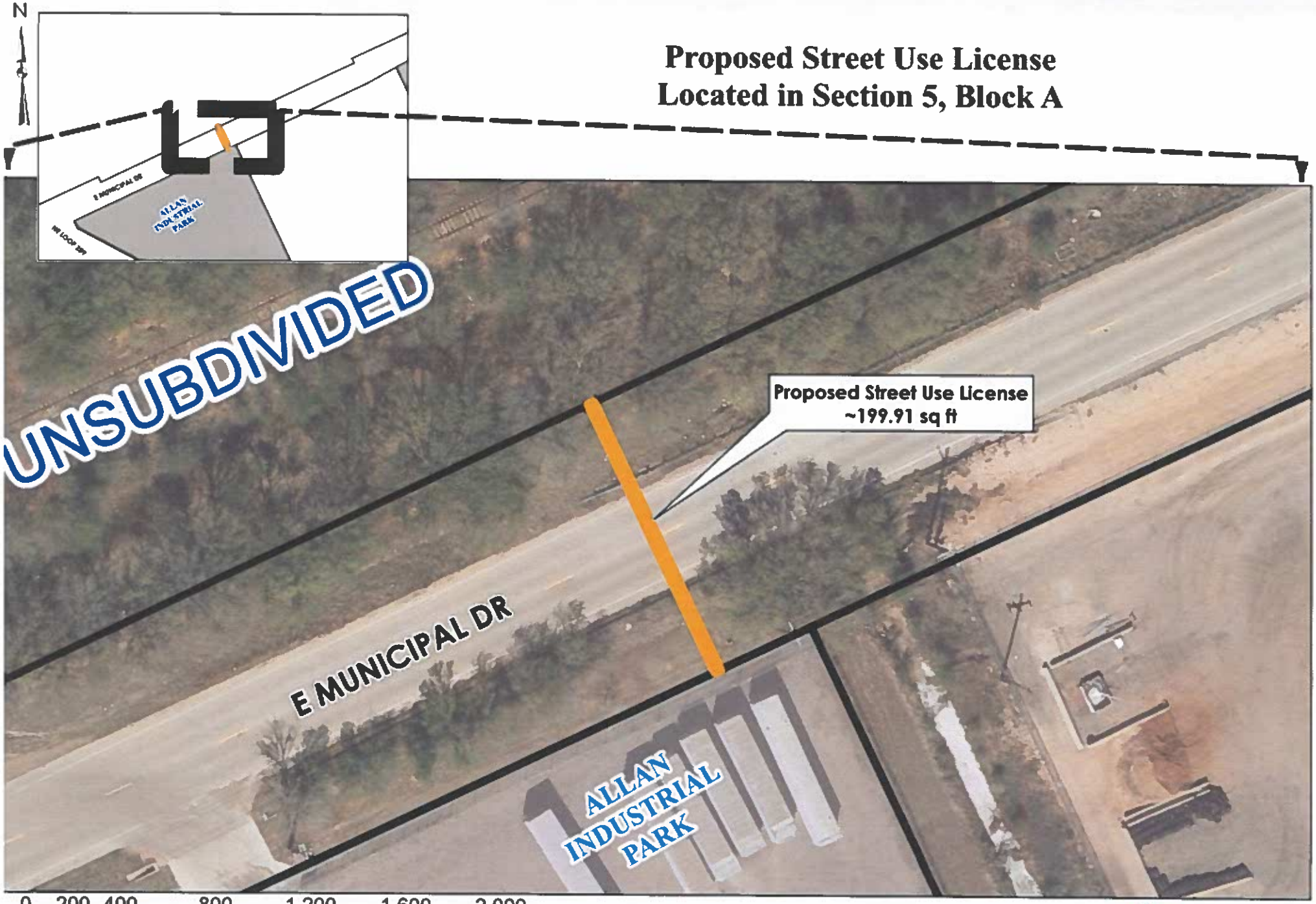
BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared FRANK LYLE, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and as an act and deed of said **TEXLAND, LP**.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27th day of February, 2025.

CHRYSTAL D. SKAGGS, ID #126600-8 NOTARY PUBLIC STATE OF TEXAS My Comm. Expires June 18, 2028

Notary Public in and for the State of Texas
My Commission Expires: 6/18/2028

Proposed Street Use License
Located in Section 5, Block A

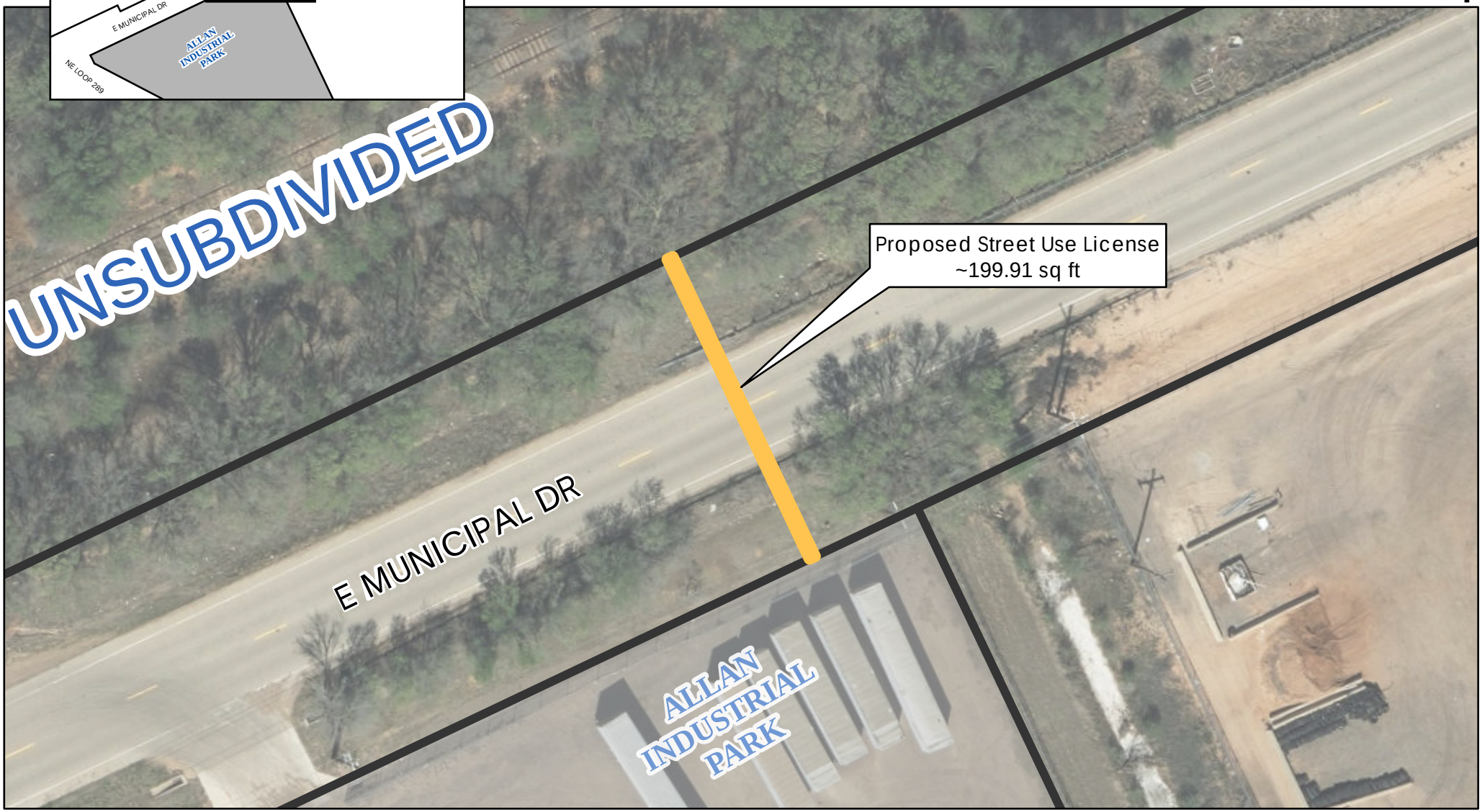


As required by Chapter 2051, Geospatial Data Products of the Government Code, this product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative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

City of Lubbock TEXAS

Digital Orthophotography - March 2024

Proposed Street Use License
Located in Section 5, Block A



0 200 400 800 1,200 1,600 2,000 Feet

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

City of Lubbock TEXAS

Digital Orthophotography - March 2024

AI# 13314
Regular City Council Meeting 5. 17.
03/25/2025:

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to execute a Street and Alley Use License, and related documents, by and between the City of Lubbock and Texland Petroleum, LP, for an underground pipeline for secondary recovery operations at 13 locations, totaling 75,355 square feet of right-of-way, generally north of North Loop 289, between University Avenue and Interstate-27.

Item Summary

Frank Kyle, President, on behalf of Texland Petroleum, is requesting the renewal of a Street and Alley Use License, for the purpose of an underground pipeline for secondary recovery operations, at 13 locations totaling 75,355 square feet of right-of-way, as shown on Exhibit "A" and the accompanying maps which are attached, generally north of North Loop 289, between University Avenue and I-27.

The term of the license is for 20 years, payable every 5 years in advance, and each successive 5-year term not to exceed 20 years, unless either party gives written notice of termination to the other party. The license fee for each 5-year period is $8,139, paid in advance, pursuant to current City policy.

Fiscal Impact

$8,139 to the General Fund

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

Attachments

Resolution - Texland Street and Alley Use License

Street and Alley Use License - TEXLAND

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 Street and Alley Use License by and between the City of Lubbock and Texland Petroleum, LP, and related documents. Said License 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:

_____
John Turpin, Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

Res. Street and Alley Use License - Texland
3.4.25

STREET AND ALLEY USE LICENSE

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF LUBBOCK §

This License made this _____ day of _____, 2025, being the date of this Agreement between the **CITY OF LUBBOCK, TEXAS,** a Home Rule Municipal Corporation, and **TEXLAND PETROLEUM, LP,** hereinafter called "LICENSEE."

WITNESSETH:

Subject to the terms, conditions and provisions herein, the CITY OF LUBBOCK does hereby grant to the LICENSEE, the right, privilege and license to use a portion of dedicated streets and alleys to construct and maintain an underground pipeline for secondary recovery operations for oil production, this license being classified as a subsurface license. LICENSE shall have a minimum cover of at least 42 inches from the ground surface, except that, under circumstances approved by all franchised utilities and the City of Lubbock utilities engineer, variances in depth and casing requirements at specific locations may be allowed. Locations of pipelines shall be as located on attached map and constructed to specifications noted at Exhibit A, under the following conditions:

(A) Licensee shall require a certified "as Built" plan to be submitted for construction of the system to the wellhead.

(B) Licensee or any contractor working for Licensee shall report pressure testing results (to the City of Lubbock) within the system or at any wellhead on the same basis as submitted to the Texas Railroad Commission.

(C) Any time a packer is to be set, relocated, or replaced in an injection well, the Oil and Gas Inspector of the City of Lubbock shall be notified three (3) days in advance of the location and approximate time of day.

(D) All franchised utilities of the City of Lubbock and the City of Lubbock shall be notified prior to installation of facilities by Licensee in any affected area so their interests may be protected as to their existing facilities in said affected area.

(E) Any oil or salt water which shall escape by leaks and/or rupture in pipelines or other facilities maintained by Licensee which shall pollute and/or damage the streets and/or alleys or the property of others shall be removed and the land restored to its original condition.

(F) If in the future the Licensee makes written request to the City Council for the use of additional pipelines and other facilities for secondary oil recovery in the streets and alleys in the vicinity of the present operation, in the discretion of the City Council of the City of Lubbock such additional pipeline or other facilities may be added to this License by Resolution of the City Council and payment of such

additional fees as determined by the City Council subject to revision as provided herein.

The term of this License shall be for five (5) years from date hereof, and shall be automatically extended for successive five (5) year terms not to exceed twenty (20) years in any event unless either party shall give written notice of termination to the other party before the expiration of the first, second or third five (5) year term, as the case may be, and the CITY OF LUBBOCK retains the right at its election to cancel and revoke this License, with or without cause, upon thirty (30) days notice to LICENSEE. Said notice shall be deemed properly served if deposited in the post office, postage paid, addressed to LICENSEE at **600 Bailey Avenue, Suite 150, Fort Worth, TX 76107**, or the last known address of LICENSEE.

Upon the expiration or cancellation and revocation of this License by the CITY OF LUBBOCK, or the abandonment of this License by the LICENSEE, the improvements that are permitted under this License shall be removed by the LICENSEE and the property shall be restored to its original condition at no cost or expense to the CITY OF LUBBOCK. In the event LICENSEE fails or refuses to remove such improvements after demand by the CITY OF LUBBOCK, the CITY OF LUBBOCK shall take possession and remove or cause to be removed such improvements, and the expense incurred shall be assessed against LICENSEE, for which LICENSEE shall be liable.

1. LICENSEE shall pay to the CITY OF LUBBOCK as compensation for such grant the sum of EIGHT THOUSAND ONE HUNDRED THIRTY-NINE DOLLARS AND 00/100 ($8,139.00) cash in advance either contemporaneously with, or prior to, the acceptance and execution hereof by LICENSEE for the first five (5) year term of this License, and thereafter such rate of compensation may be changed for each succeeding five (5) year term by the CITY OF LUBBOCK to a rate of compensation which is based on procedures and policies as established by the City Council of the CITY OF LUBBOCK, based on an appraisal of the fair market value of such land by the Right-of-Way Department of the CITY OF LUBBOCK, as applied to the formula for determining such rate established by the City Council. If such rate is not changed by the CITY OF LUBBOCK, the rate for the preceding five (5) year term shall apply. The CITY OF LUBBOCK shall notify the LICENSEE of any change in rates in writing ninety (90) days before the start of the five (5) year term to which such change in rate shall apply, and if such notification is not made, then the rate for the preceding five (5) year term shall apply.

2. The LICENSEE agrees to pay all costs arising out of the exercise of this License herein granted including, but not limited to, the cost of cleanup of any oil, hazardous substance, or other material, the replacement and repair of paving, sidewalks and utilities of any nature damaged as a result of the construction authorized by the License.

3. In the event the CITY OF LUBBOCK determines that the License herein granted interferes with or causes the rerouting or realignment of any public utility, franchised utility or sanitary or storm sewer line constructed or to be constructed by the CITY OF LUBBOCK or franchised utility, LICENSEE agrees to reimburse the CITY OF LUBBOCK or such utility, as the case may be, for its expense in relocating or rerouting over and above the expense which would have been incurred except for LICENSEE'S use herein.

4. This License is not transferable by the LICENSEE without first receiving the written consent of the City Manager of the CITY OF LUBBOCK.

5. This License is made subject to the condition that should the LICENSEE exercise any right under this License and prepare or begin or complete any part of the construction as herein contemplated across any or all of the above described property, then and in that event, said LICENSEE, its successors and assigns, will at all time defend, indemnify and otherwise hold the CITY OF LUBBOCK, its agents, servants and employees harmless from any and all claims, demands, actions, causes of action and suits at law or in equity of whatsoever kind or nature which may grow out of or be related to the making of this License or the construction or maintenance use permitted herein. The CITY OF LUBBOCK, at its option, may require an agreement with any contractors hired by LICENSEE to perform the construction, repair or maintenance permitted herein, which agreement will indemnify the CITY OF LUBBOCK from and against all claims, liability, cost and expense growing out of the performance of the work to be done by such contractors. The CITY OF LUBBOCK may further require any of said contractors, when engaged in the construction, repair or maintenance permitted herein, to furnish, without expense to the CITY OF LUBBOCK, a reliable surety bond, in an amount and in a form satisfactory to the said CITY OF LUBBOCK, guaranteeing the faithful performance of all the terms, covenants and conditions contained in said agreement, and a certified copy of a policy of public liability insurance assumed by said contractors in said agreement with the CITY OF LUBBOCK. The CITY OF LUBBOCK agrees to give notice to LICENSEE prior to incurring any costs or expenses or the payment of any such claims or demands in order to give LICENSEE a reasonable opportunity to settle or adjust the same.

6. LICENSEE agrees and is required to furnish a policy of public liability and property damage insurance within limits specified by and in a form satisfactory to the City Attorney for the CITY OF LUBBOCK, and which names the CITY OF LUBBOCK as the insured, said policy covering the uses herein granted.

General Liability Insurance. Owner shall maintain general liability insurance with a combined single limit of a minimum of $100,000 per occurrence and such insurance shall include the following:

- Bodily Injury and Property Damage
- Broad Form Contractual Liability

Owner shall provide a Certificate of Insurance to the City of Lubbock as evidence of the required insurance coverage. The Certificate will provide 30 days notice of cancellation. Such Certificate of Insurance shall name the City of Lubbock as an additional insured and must include wording which states that the policy shall be primary with respect to any insurance carried by City of Lubbock and be endorsed to include a waiver of subrogation in favor of the City of Lubbock.

7. All of the covenants and provisions of this License shall be binding upon and inure to the benefit of the successors, legal representatives, assigns and the duly authorized agents and contractors of the parties hereto to the same extent and effect as the same are binding upon and inure to the benefit of the parties hereto, but no assignment hereof by the LICENSEE, its successors or assigns shall be binding upon the CITY OF LUBBOCK without the consent of the CITY OF LUBBOCK in each instance, except as specified in numbered paragraph four (4).

8. LICENSEE, by the acceptance of the uses permitted herein, understands and agrees that no interest, title or rights of possession are intended or implied except those expressly

set forth herein, and LICENSEE waives any and all claims in and to the public way it is permitted to use hereby and agrees to give peaceful possession of said property covered herein upon termination or cancellation of this license. No interest for real property is conveyed or granted by this License.

9. The CITY OF LUBBOCK 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 OF LUBBOCK 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.

AGREED TO AND ACCEPTED this _____ day of _____, 2025.

CITY OF LUBBOCK:

_____
MARK W. MCBRAYER, MAYOR

TEXLAND PETROLEUM, LP:
By: Texpet Mgt., LLC, General Partner

By: _____
Frank Kyle, President

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
John Turpin, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

THE STATE OF TEXAS §

COUNTY OF LUBBOCK §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared **Mark W. McBrayer,** Mayor of the City of Lubbock, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2025.

_____
Notary Public in and for the State of Texas
My Commission Expires: _____

THE STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared FRANK KYLE, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed and as an act and deed of said **TEXLAND, LP.**

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27th day of February, 2025.

CHRYSTAL D. SKAGGS, ID #126560004 NOTARY PUBLIC STATE OF TEXAS My Comm. Expires June 18, 2028

Chrystal Skaggs
Notary Public in and for the State of Texas
My Commission Expires: 6/18/2028

EXHIBIT " A "

Drawing Reference Number: 1

Street/R-O-W Name: Newcomb Street

Line Length: 411 L.F. (open cut)

Street/R-O-W Conditions: Unimproved, dirt

Line Description: 2" fiberglass (2000 psi), TXLD Well #1

Line Location: Beginning in east line of Mesa Road (N. Avenue F) in the centerline of Newcomb Street at Line Sta. 22+44, thence east along the centerline of Newcomb Street 411 feet to the west line of Avenue E at Line Sta. 26+55.

Drawing Reference Number: 2

Street/R-O-W Name: Ash Avenue

Line Length: 111 L.F. (bore)

Street/R-O-W Conditions: 30-foot paved with curb and gutter

Line Description: 2" fiberglass (2000 psi) carrier line, encased in 4" Sc. 40 PVC in 12" CMP bore casing, Riverlawn King #1

Line Location: Beginning in the east side of Ash Avenue approximately 315 feet north of Ursuline Street at Line Sta. 6+80, thence southwesterly 111 feet across Ash Avenue, Line Sta. 7+91, to a point in the west side of Ash Avenue approximately 266 feet north of Ursuline Street.

Drawing Reference Number: 3

Street/R-O-W Name: Alley - Demarco Addition

Line Length: 459 feet (open cut)

Street/R-O-W Conditions: Unimproved, dirt

Line Description: 2" fiberglass (2000 psi), Riverlawn King #1

Line Location: Beginning at the north end of a 20-foot alley, 15 feet east of the northeast corner of Block 2, Demarco Addition, at Line Sta. 14+61, thence south along said 20-foot alley 459 feet to the north side of Tulane Street, Line Sta. 19+20.

Drawing Reference Number: 3

Street/R-O-W Name: Tulane Street

Line Length: 116 feet (open cut)

Street/R-O-W Conditions: Unimproved, dirt

Line Description: 2" fiberglass (2000 psi), Riverlawn King #1

Line Location: Beginning in the north side of Tulane Street approximately 70 feet east of the intersection of Park Lane in Riverlawn Addition, at Line Sta. 19+20, then south 20 feet, thence west along Tulane Street 86 feet, thence South 10 feet to the south side of Tulane Street in the intersection of Park Lane, at Line Sta. 20+36.

Drawing Reference Number: 3

Street/R-O-W Name: Park Lane - Riverlawn Addition

Line Length: 305 feet (open cut)

Street/R-O-W Conditions: Unimproved, dirt

Line Description: 2" fiberglass (2000 psi), Riverlawn King #1

Line Location: Beginning in the south side of Tulane Street at its intersection with Park Lane, Line Sta. 20+36, thence south along the west side of Park Lane 296 feet, thence west 9 feet to the west side of Park Lane, Line Sta. 23+41.

Drawing Reference Number: 5

Street/R-O-W Name: North University Avenue (F.M. 1264)

Line Length: 110 feet (bore)

Street/R-O-W Conditions: Strip paved (52'), bar ditch

Line Description: 2" fiberglass (2000 psi) in 4" Sch. 40 PVC encased in 12" CMP bore casing, Webb #3 Well

Line Location: Beginning in the east side of University Avenue approximately 120 feet north of intersection with Marlboro Street in Cresthill Addition at Line Sta. 26+73, thence west 110 feet across University Avenue to the west side at Line Sta. 26+83.

Drawing Reference Number: 6

Street/R-O-W Name: Owen Street

Line Length: 1,471 L.F. (open cut)

Street/R-O-W Conditions: Unimproved, dirt

Line Description: 4" fiberglass (2000 psi), East Satellite Injection Station

Line Location: Beginning in the south side of Owen Street at the intersection of Avenue E at Line Sta. 4+02, thence north across Owen Street 40 feet, thence east along Owen Street 1,431 feet to the west right-of-way of U.S. 87 (I-27).

Drawing Reference Number: 7

Street/R-O-W Name: Yucca Lane

Line Length: 1,476 L.F. (1,305 L.F. open cut, 60 foot bore at Manioca, 66 foot bore at Mesa Road, 45 foot bore at Yucca)

Street/R-O-W Conditions: Strip paved, no curb and gutter

Line Description: 2" fiberglass (2000 psi), 12" CMP bore casings, O'Hair Well #2

Line Location: Beginning in the west line of Manioca Road at its intersection with Yucca Lane at Line Sta. 66+81, thence east along Yucca Lane 1,431 feet, thence south across Yucca Lane 45 feet to the south line of Yucca Lane at Line Sta. 81+57.

Drawing Reference Number: 9

Street/R-O-W Name: Kent

Line Length: 60 L.F. (bore)

Street/R-O-W Conditions: Strip paved, bar ditch

Line Description: 2" fiberglass in 4" Sch. 40 PVC and 4" fiberglass in 8" Sch. 40 PVC, encased in 16" CMP bore casing

Line Location: Beginning at the south line of Kent Street approximately 40 east of east right-of-way I-27 at Line Sta. 147+51, thence north across Kent Street 60 feet to its north line at Line Sta. 148+11.

Drawing Reference Number: 10

Street/R-O-W Name: Kent Street

Line Length: 100 L.F. (bore)

Street/R-O-W Conditions: Strip paved, bar ditch

Line Description: Six 2" fiberglass (2000 psi), each in 4" Sch. 40 PVC encased in 16" CMP bore casings

Line Location: Beginning in the north line of Kent Street approximately 35 feet east of east line of the P & SF RR at Line Sta. 4+95, thence south across Kent Street 100 feet to its south line at Line Sta. 5+95.

Drawing Reference Number: 11

Street/R-O-W Name: Kent Street

Line Length: 80 L.F. (bore)

Street/R-O-W Conditions: Strip paved, no curb and gutter

Line Description: Two 2" fiberglass (2000 psi), each in 4" Sch. 40 PVC encased in 12" CMP bore casings

Line Location: Beginning in the north line of Kent Street approximately 1950 feet west of P & SF RR at Line Sta. 25+78, thence south across Kent Street 80 feet to its south line at Line Sta. 26+58.

Drawing Reference Number: 12

Street/R-O-W Name: Kent Street

Line Length: 2,392 L.F. (2,312 L.F. open cut, 80 L.F. bore)

Street/R-O-W Conditions: Strip paved

Line Description: 2" fiberglass (2000 psi) in 4" Sch. 40 PVC (at bore) encased in 12" CMP bore casing

Line Location: Beginning in the north right-of-way of Kent Street approximately 1,950 feet west of the P & SF RR at Line Sta. 0+00, thence west along Kent Street 2,312 feet, thence south across Kent Street 80 feet to the south line.

Drawing Reference Number: 13

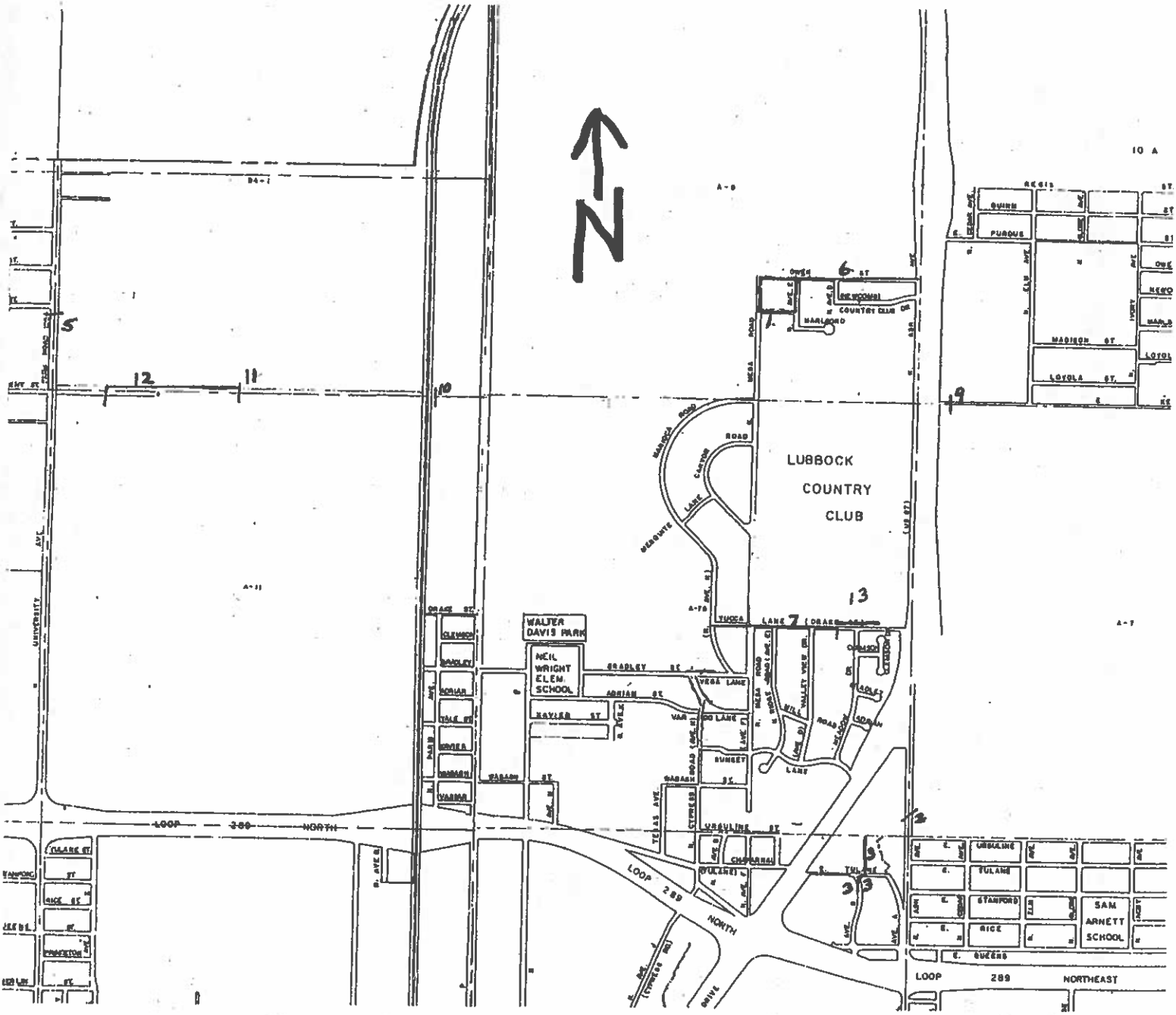
Street/ R-O-W Name: Yucca Lane

Line Length: 660 L.F. (open cut)

Street/ R-O-W Conditions: Strip Paved, no curb & gutter

Line Description: 3" low pressure production line- fiberglass (600 psi), Lubbock Country Club #3

Line Location: Beginning in the north R-O-W of Yucca Lane at line station 0+00 (sta. 81+45 O'Hair Lateral), thence east along Yucca Lane 650 feet, thence north 10 feet to the north line of


N
LUBBOCK
COUNTRY
CLUB
WALTER
DAVIS PARK
NEIL
WRIGHT
ELEM.
SCHOOL
SAM
ARNETT
SCHOOL
LOOP 289 NORTH
LOOP 289 NORTHEAST
MARLBORO ROAD
CANYON LANE
WEBSITE
VEGA LANE
VALLEY VIEW DR.
SUNSET
UTAH
QUINN
PURDUE
MADISON ST.
LOYOLA ST.
GRACE ST.
BRADLEY ST.
ARIZONA ST.
XAVIER ST.
WABASH ST.
TEXAS AVE.
UTAH AVE.
UNIVERSITY
TULANE ST.
STANFORD
RICE ST.
PRINCETON
QUEENS
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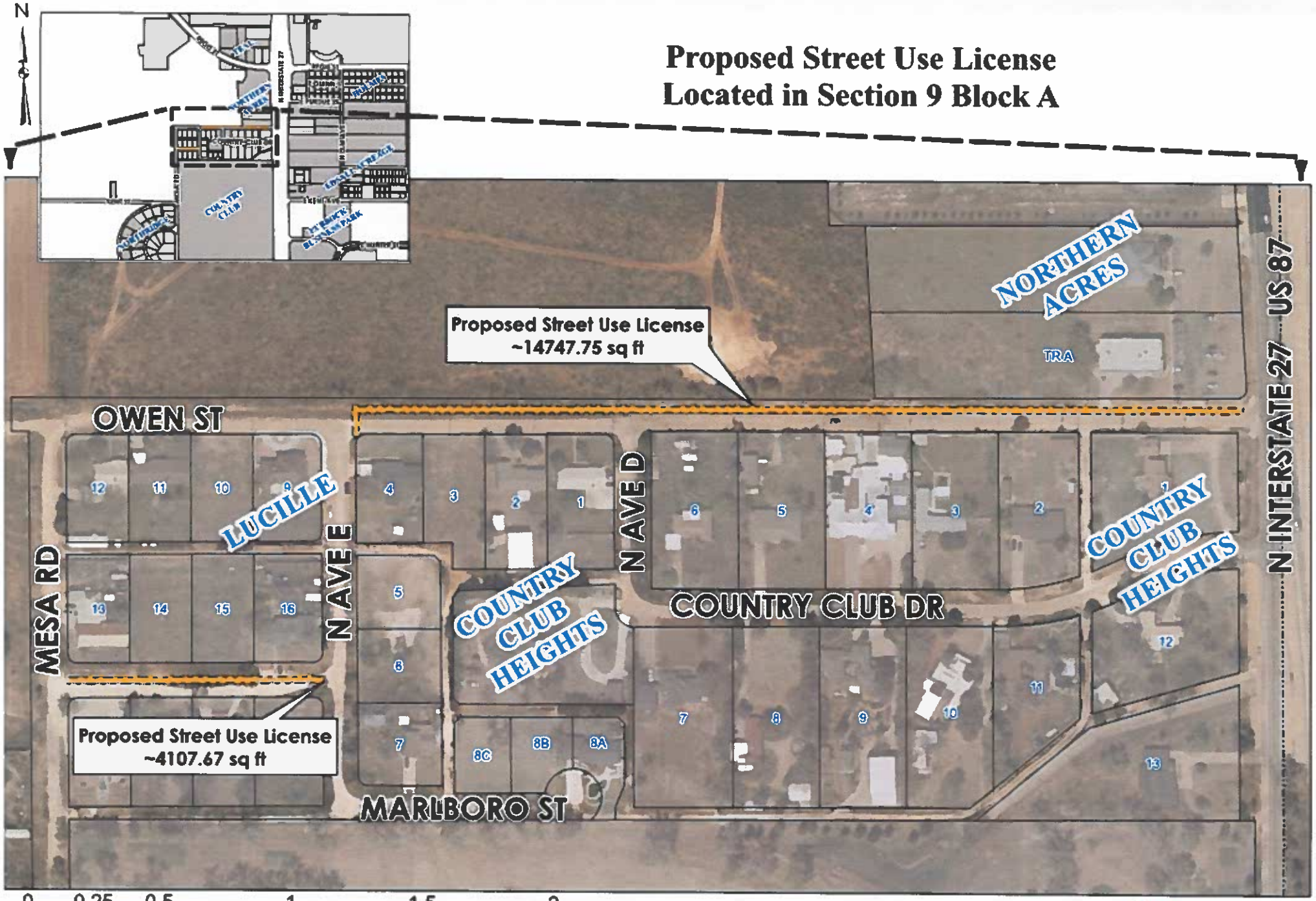
Proposed Street Use License
Located in Section 9 Block A

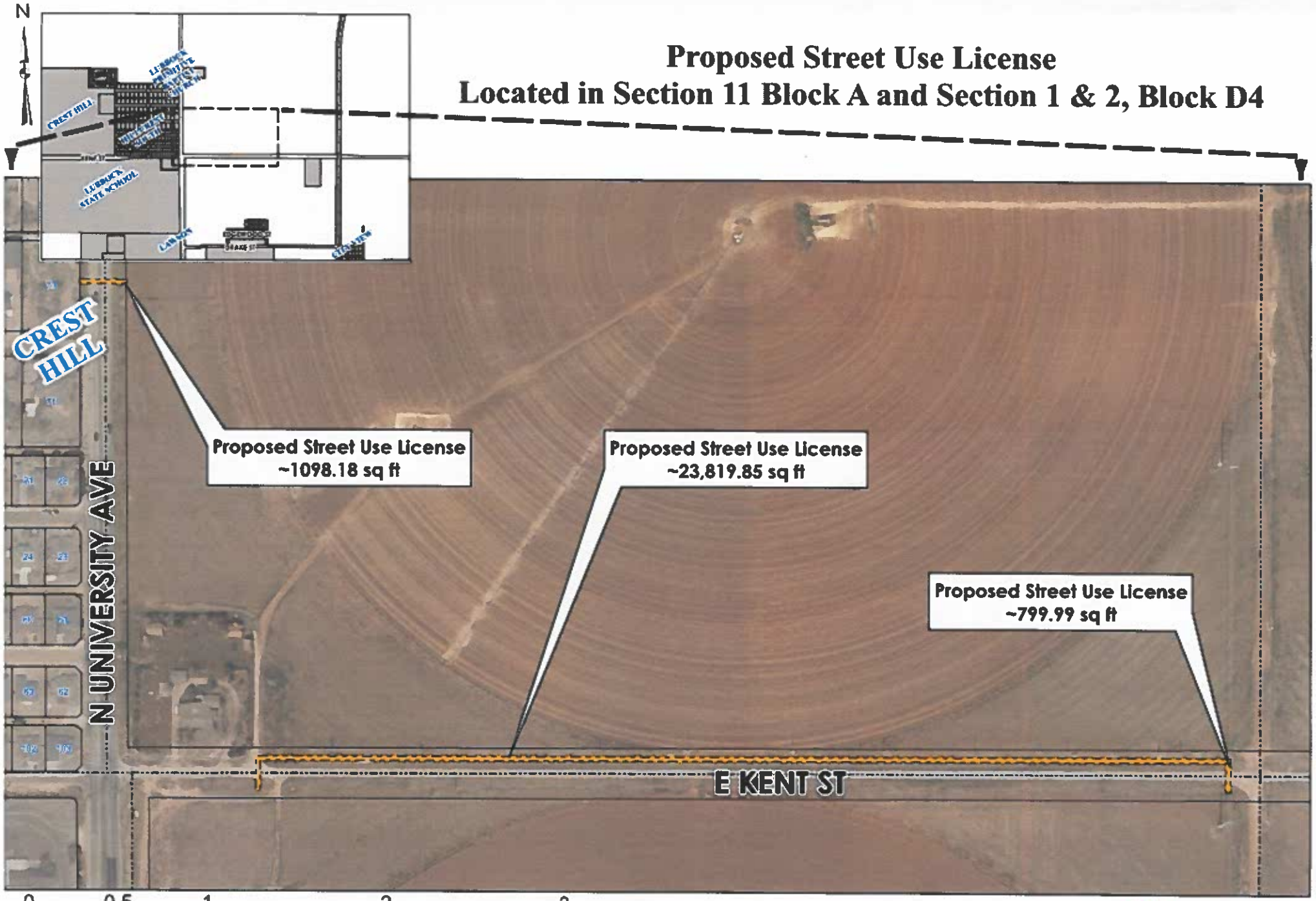


As required by Chapter 2051, Geospatial Data Products of the Government Code, this product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative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

City of Lubbock TEXAS

Digital Orthophotography - March 2024

Proposed Street Use License
Located in Section 11 Block A and Section 1 & 2, Block D4



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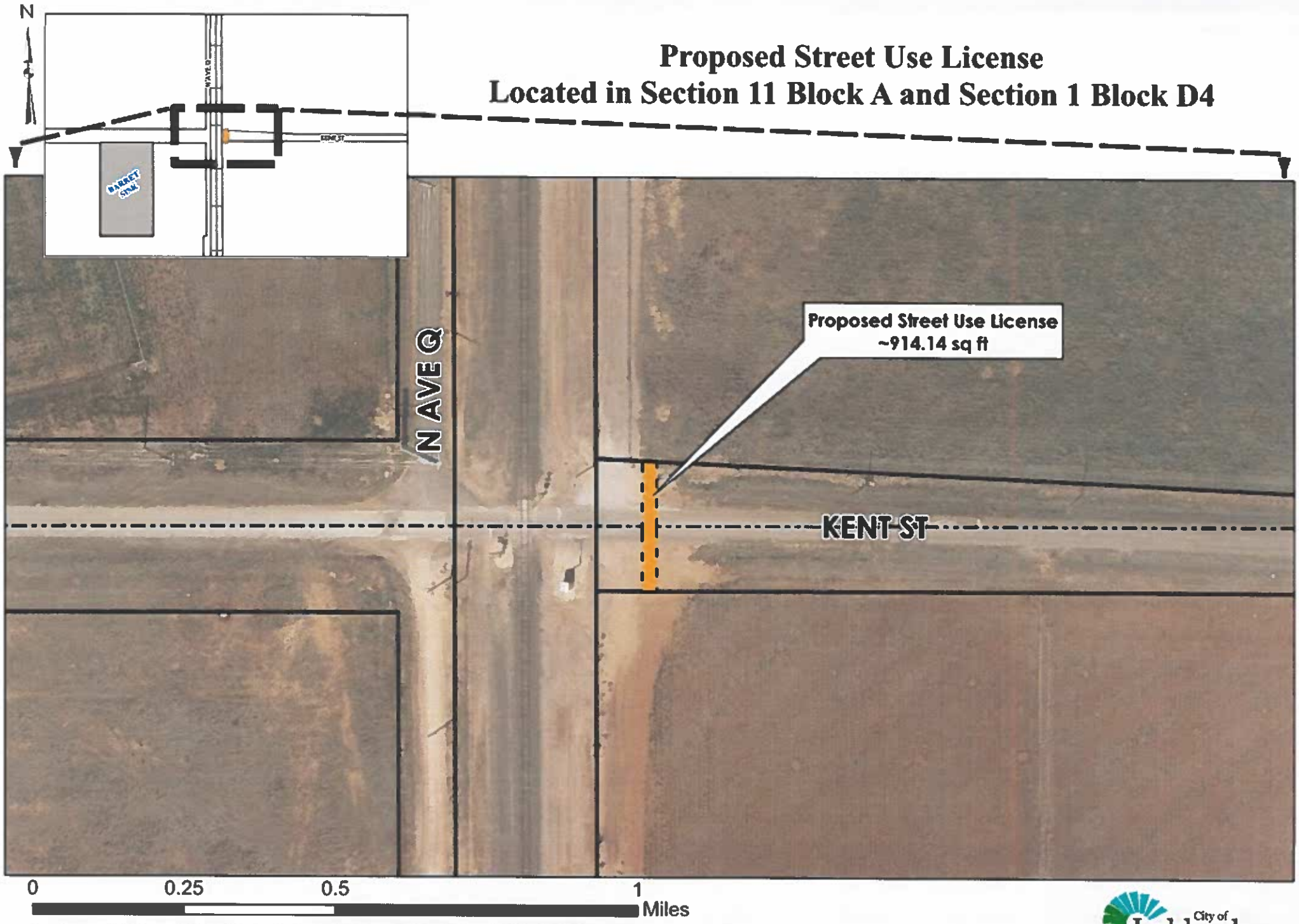
City of Lubbock TEXAS

Digital Orthophotography - March 2024

Proposed Street Use License
Located in Section 11 Block A and Section 1 Block D4



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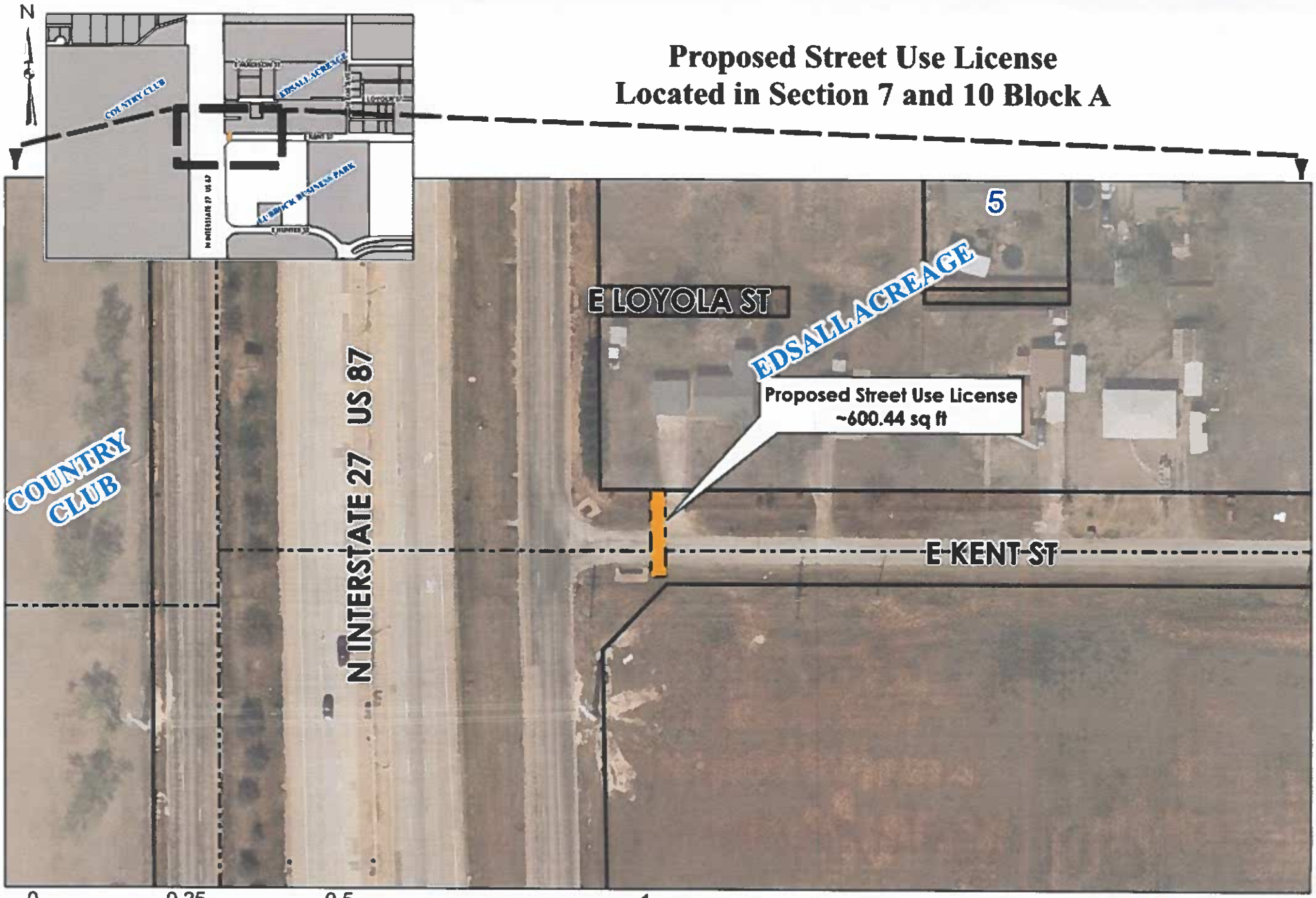
City of Lubbock TEXAS

Digital Orthophotography - March 2024

Proposed Street Use License
Located in Section 7 and 10 Block A



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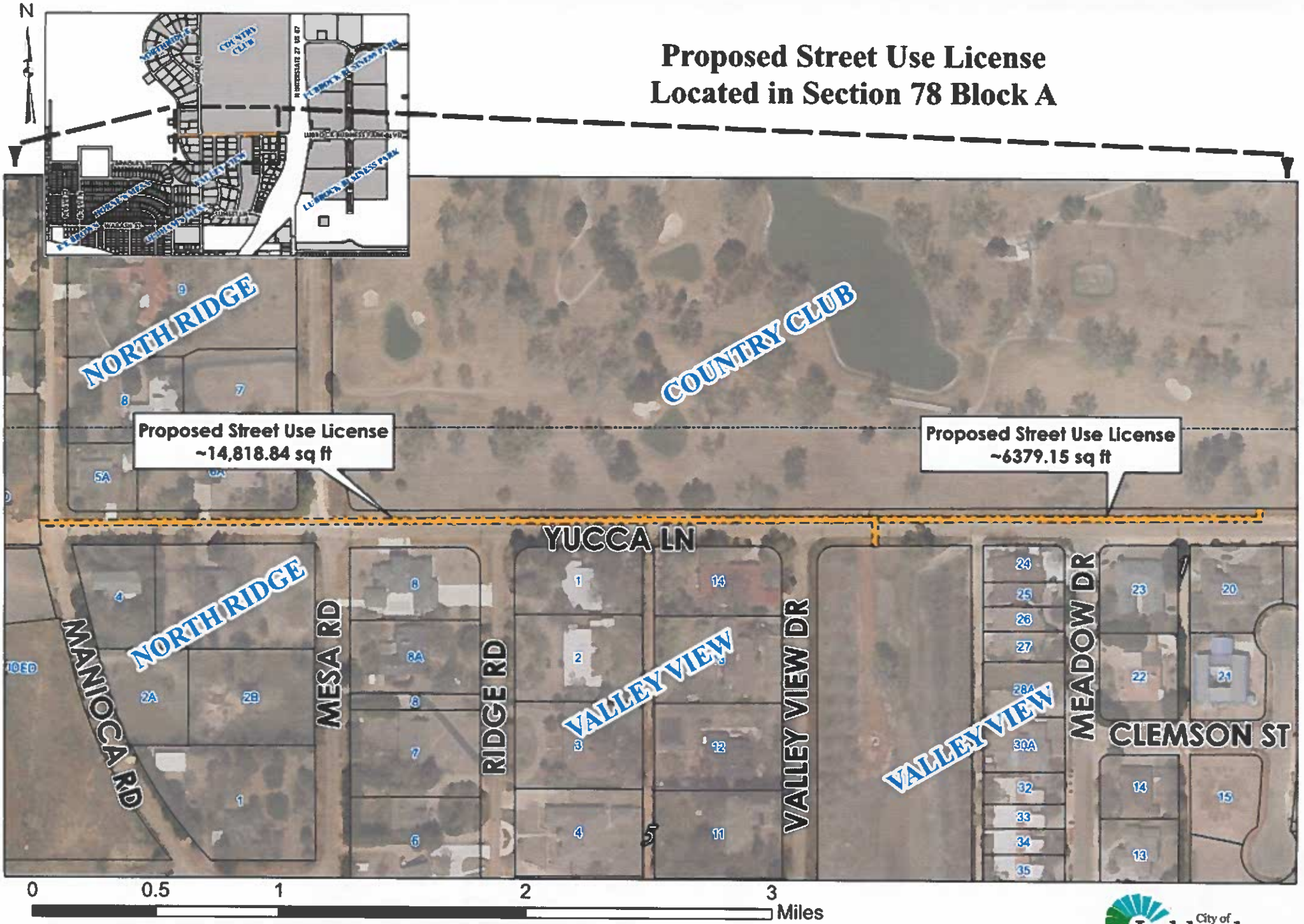
City of Lubbock TEXAS

Digital Orthophotography - March 2024

Proposed Street Use License
Located in Section 78 Block A



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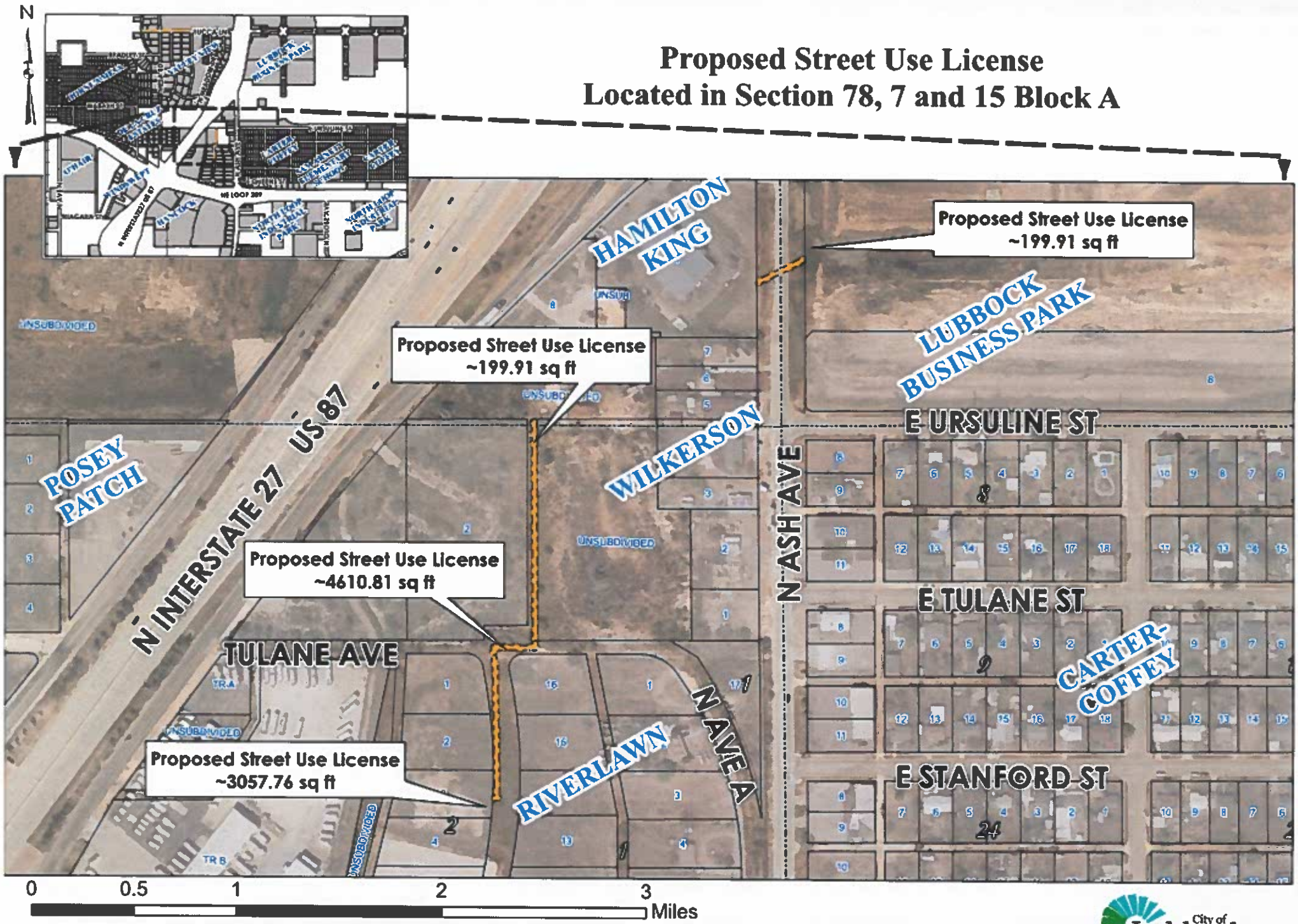
City of Lubbock TEXAS

Digital Orthophotography - March 2024

Proposed Street Use License
Located in Section 78, 7 and 15 Block A



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City of Lubbock TEXAS

Digital Orthophotography - March 2024

AI# 13290

Regular City Council Meeting **5. 18.**
03/25/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Amendment No. 1 to Design Contract 18087, and related documents, with Freese and Nichols, Inc., for water reclamation electrical replacement and monitoring at the Southeast Water Reclamation Plant.

Item Summary

The Southeast Water Reclamation Plant (SEWRP) headworks building wiring and Motor Control Center (MCC) 100, are over 30 years old. The current electrical components that run the headworks pumps, screens, grit removal, and odor control, etc., are outdated and need to be replaced. Replacement parts are no longer readily available. Monitoring is also needed to monitor electrical power to ensure that electrical power is steady, and if an anomaly is detected, the problem can be traced back to the source to prevent catastrophic failure of equipment. This project is necessary in order to keep the SEWRP in compliance with current electrical codes and meeting the Texas Commission on Environmental Quality (TCEQ) wastewater permit requirements.

Amendment No. 1 is for the extension of Contract 18087, due to long lead times for the acquisition of pre-purchased equipment, as well as retaining the current engineer up to the proposed construction phase.

Staff recommends approval of this time-only amendment, with a contract time of 12 months.

Fiscal Impact

Amendment No. 1 is for the extension of time only, so there is no fiscal impact associated with Capital Improvements Project 92843, Water Reclamation Electrical Replacement and Monitoring.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

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Attachments

Resolution - Freese and Nichols, Inc. Amendment 1
Amendment 1 Contract
Original Contract
Council Map
CIP 02843 - Budget Detail
CIP 92843 - 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. 18087 for water reclamation electrical replacement and monitoring by and between the City of Lubbock and Freese and Nichols, Inc., 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

ccdocs/RES.Amend #1 18087 water reclamation electrical
2.25.25

Amendment 1
To Agreement Between
The City of Lubbock, TX
And
Freese and Nichols, Inc.

THIS IS THE FIRST AMENDMENT TO THE AGREEMENT dated and entered into on the 11th day of June, 2024, Contract No. 18087, by and between the City of Lubbock ("City") and Freese and Nichols, Inc. ("Engineer"), collectively (the "Parties").

Engineer is providing professional services for water reclamation electrical replacement and monitoring (the "Activities").

In order to complete the Activities herein, equipment must be purchased which requires a significant amount of lead time to acquire. The Parties now agree to add time for the Engineer to complete Activities considering the time to obtain said equipment.

NOW THEREFORE, the Parties enter into this amendment and agree as follows:

An additional twelve (12) months shall be added to the term of the Agreement for the Engineer to complete the Activities herein agreed.

All other terms of the agreement remain the same and are not altered herein.

IN WITNESS HEREOF, the parties have executed this Agreement as of this ____ day of _____2025.

CITY OF LUBBOCK

_____
MARK W. MCBRAYER, MAYOR

Freese and Nichols, Inc.

Jeffrey W. Hensley
_____
Jeffrey Hensley, P.E.

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

John Turpin, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Resolution No. 2024-R0285
Item No. 5.12
June 11, 2024

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. 18087 for water reclamation electrical replacement and monitoring 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 June 11, 2024.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.PSA-No. 18087 – FNI water reclamation electrical replacement
5.21.24

Resolution No. 2024-R0285

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 18087 is entered into this 11th day of June, 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 Water Reclamation Electrical Replacement and Monitoring , (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 270 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 $234,461, 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 [insert correct value], attached hereto, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Engineer is at all times responsible to the City to perform the Services as provided in this Agreement and the Engineer is in no event relieved of any obligation under this Agreement upon retainage of any approved Sub-consultant. Any agent and/or Sub-consultant retained and/or employed by the Engineer shall be required by the Engineer to carry, for the protection and benefit of the City and the Engineer and naming said third parties as additional insureds, insurance as described above required to be carried by the Engineer in this Agreement.

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

ARTICLE X. CONFIDENTIALITY

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

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

Freese and Nichols, Inc.
Jeffrey Hensley
801 Cherry Street, Suite 2800,
Forth Worth, Texas 76102
Telephone: 817-735-7369
Email: Jeff.Hensley@freese.com

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

James Dean
City of Lubbock
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 806-775-3254
Email: 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

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

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

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Firm

Freese and Nichols, Inc.

By: Jeffrey M. Hensley

Jeffrey Hensley

Email: Jeff.Hensley@freese.com

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April 26, 2024

James Dean, P.E.
Civil Engineer, Capital Projects and Design
City of Lubbock
1314 Avenue K
Lubbock, Texas 79401

Re: MCC-100 Replacement at SEWRP Headworks

Dear Mr. Dean:

Freese and Nichols, Inc. (FNI) is pleased to submit the proposal for providing professional engineering services to the City of Lubbock for the pre-purchase of the 480V MCC-100, replacement of the 480V MCC-100, and also the replacement of miscellaneous instrumentation at the SEWRP Headworks Building.

Refer to the attachments for detailed information on the scope of work.

Professional Services Fee:
The attached scope of services are to be completed for a fee not to exceed **$234,461**.

If additional information or clarification is required, please do not hesitate to contact us. We look forward to working with you on this project.

Sincerely,

Jeffrey N. Hensley

Jeffrey N. Hensley, P.E.

Attachments:
Exhibit A, Parts 1, 2 & 3
Exhibit B, Parts 1 & 2
Project Schedule
Detailed Hours

EXHIBIT A, PART 1
SCOPE OF SERVICES FOR:
MCC-100 REPLACEMENT AT SEWRP HEADWORKS

ENGINEERING DESIGN SERVICES

ARTICLE I

PROJECT DESCRIPTION: The City of Lubbock (Owner) is proceeding with the replacement of the 480V Motor Control Center (MCC), MCC-100, and other electrical and instrumentation upgrades at the Headworks Building at the Southeast Water Reclamation Plant. The design will include the following:

1. Preparation of pre-purchase package for 480V MCC-100
2. Replacement of the 480V MCC, MCC-100 and associated cable and conduit
3. Replacement of one 480V-120/240V, dry type transformer
4. Replacement of two low voltage panelboards
5. Replacement of flow meters (total of 3)
6. Replacement of level transmitters (total of 6)
7. Replacement of lighting in the Electrical Room
8. Replacement of medium voltage fuses in primary unit substations 1TL3 and 2TL3

A. This Project includes the following services:

1. Project Management
2. Preparation of Pre-Purchase Package for 480V MCC-100
3. Final Design
4. Bid Phase Services

B. Project does not include the following services:

1. Use of collaborative project delivery (CMAR or design-build).
2. General Representation and Resident Project Representation.
3. Construction phase services including submittal reviews, site visits, answering Request For Information (RFI), and involvement of change orders or contract modifications.

BASIC SERVICES: FNI shall render the following professional services in connection with the development of the Project:

A. TASK 1 - PROJECT MANAGEMENT

Upon execution of this Agreement, FNI shall:

1. Conduct kickoff meeting to review scope, schedule, and budget; determine any special conditions

that may affect the studies; discuss administrative requirements of Owner; and to discuss and special items as part of the electrical assessment.

2. Manage efforts of internal team and sub-consultants on the Project and perform Quality Control review of all deliverables.

3. Prepare meeting agendas and minutes and attend the following meetings:

   a. Attend up to ten (10) monthly project coordination meetings with Owner virtually.

   b. Attend up to three (3) in person workshops for review of design submittals – 60%, 90% and 100%.

4. Prepare a Microsoft Project schedule and provide monthly updates including necessary revisions to bring the Project back on schedule if needed. The project schedule will not be resource loaded.

5. Prepare monthly reporting including status report, recent activities, upcoming activities, action items log, decisions made log, budget updates, schedule updates, and scope changes. Prepare monthly invoices.

6. Deliverables include the following:

   a. Agendas and minutes for all meetings

   b. Project schedule updated monthly

   c. Monthly reporting

   d. Monthly invoices

C. TASK 2 – PRE-PURHASE PACKAGE FOR 480V MCC-100

1. 100% Review: Furnish OWNER eight (8) sets of copies of drawings, specifications, and bid proposal and one PDF electronic copy. FNI will meet with the OWNER virtually to present the plans and specifications and receive comments. Upon final approval by OWNER, FNI will provide OWNER two (2) sets of copies of "Issued for Bid" plans and specifications and one PDF electronic copy.

2. At OWNER request, FNI will assist OWNER in the opening, tabulating, and analyzing the bids received. Review the qualification information provided by the apparent low bidder to determine if, based on the information available, they appear to be qualified to provide the electrical equipment. Recommend award of contracts or other actions as appropriate to be taken by OWNER.

3. Prepare Notice of Award for the OWNER to issue to the Electrical Equipment Supplier upon award of the Contract by the OWNER with instructions of execution of the Contract Documents.

4. Deliverables for the Pre-Purchase Package include:

   a. Front-end documents for the pre=purchase of the 480V MCC-100

   b. OPCC at 100%

   c. 100% submittal of Plans and Specifications

d. Final (issued for bid) Plans and Specifications

e. Recommendation of Award with tabulation of bids

D. TASK 3 - FINAL DESIGN PHASE

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. Site Visits: This task will require the following site visits:
    - One site visit by two Engineers for a maximum of three days to obtain information on the existing facilities.
3. 60% Review: Prepare drawings, specifications, and construction contract documents of improvements to be constructed. Furnish OWNER eight (8) sets of copies of drawings, specifications, and bid proposals and also one PDF electronic copy. FNI will meet with the Owner in-person to present the plans and specifications and receive comments. Review documents will include a detailed review of both model spaces and conventional 2D construction contract drawings. FNI will receive comments from OWNER and address comments in the 60% Review Workshop.
4. 100% Review: Furnish OWNER eight (8) sets of copies of drawings, specifications, and bid proposal and one PDF electronic copy. FNI will meet with the OWNER in person to present the plans and specifications and receive comments. During the review meeting, discuss Maintenance of Plant Operations (MOPO) and construction sequencing. Upon final approval by OWNER, FNI will provide OWNER two (2) sets of copies of "Issued for Bid" plans and specifications and one PDF electronic copy.
5. Deliverables for the Final Design Phase include:
    a. Front-end documents for construction
    b. OPCC at 60% and 100% submittals
    c. 60% submittal of Plans and Specifications
    d. 100% submittal of Plans and Specifications
    e. Final (issued for bid) Plans and Specifications

E. TASK 4 – BID PHASE SERVICES

Bid Phase Services assumes the project is constructed with a traditional design-bid-build process with competitive sealed proposals and is bid only once. 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. Issue a Notice to Bidders for the OWNER to distribute to prospective contractors and vendors, and to selected plan rooms, using the OWNER's standard bid process. Provide a copy of the notice to bidders for OWNER to use in notifying construction news publications and publishing appropriate legal notice. The cost for publications shall be paid by OWNER.

2. Assist OWNER by responding to questions and interpreting bid documents. Prepare and issue addenda to the bid documents to plan holders, if necessary, following the OWNER's standard bid process.

3. Assist the OWNER in conducting a pre-bid conference for the construction project and coordinate responses to questions with OWNER. Responses to the pre-bid conference questions will be in the form of addenda issued after the conference. Attend the tour of the project site after the pre-bid conference.

4. Develop an example "Construction Sequence" presentation, demonstrating to potential Contractors possible methodologies for sequencing construction events. FNI will also provide special procedures and construction constraints, clearly identified in the plans, specs and in the presentation, to define limitations for the Contractor to take any unit process or plant facility out of service for construction. Present the sample construction sequence at the pre-bid conference.

5. At OWNER request, FNI will assist OWNER in the opening, tabulating, and analyzing the bids received. Review the qualification information provided by the apparent low bidder to determine if, based on the information available, they appear to be qualified to construct the project. Recommend award of contracts or other actions as appropriate to be taken by OWNER.

6. Prepare Notice of Award for the OWNER to issue to the Contractor upon award of the Contract by the OWNER with instructions of execution of the Contract Documents.

7. Assist the OWNER in reviewing executed Contract Documents, bonds, and certificates of insurances for conformance with the requirements of the Contract Documents.

8. Forward Contract Documents to the OWNER with a recommendation of execution and distribution of documents. Up to eight (8) half-size conformed construction plans, four (4) sets of executed construction specifications, and four (4) sets of conformed construction specifications shall be provided. Conformed plans and specifications shall incorporate any changes from addendum into the Contract Documents.

9. Deliverables for the Bid Phase include:

    a. Notice to Bidders

    b. Electronic copies of plans, specifications, bidding documents, and addenda

    c. Recommendation of Award with tabulation of bids

    d. Notice of award

    e. Conformed contract documents for execution and distribution

ARTICLE II

SPECIAL SERVICES: None

ARTICLE III

TIME OF COMPLETION: 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 milestones and per the following schedule:

Notice to Proceed (NTP) Set by OWNER after Council execution of this Agreement

100% Pre-Purchase Package:	45 days after NTP
Final Plans and Spec for Pre-Purchase Package:	15 days after review workshop/OWNER comments
60% Design Submittal;	60 days after NTP
100% Design Submittal:	90 days after 60% review workshop/OWNER comments
Final Plans and Specifications:	30 days after 100% review meeting/OWNER comments
Bid Phase Services:	90 days after OWNER approval of final plans and specs

The above schedule assumes a total Project schedule of 270 calendar days. 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. 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, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and in Attachment CO.

ARTICLE IV

DESIGNATED REPRESENTATIVES: FNI and Owner designate the following representatives:

Owner's Designated Representative – **James Dean, 1314 Avenue K, Lubbock, Texas 79401; Phone: 806-775-3397; email jdean@mail.ci.lubbock.tx.us**

FNI's Designated Representative – **Ai Sexton, 801 Cherry Street, Suite 2800, Fort Worth, Texas 76102; Phone 817-666-3827; email Ai.Sexton@freese.com**

FNI's Accounting Representative – **Misty Ballard, 801 Cherry Street, Suite 2800, Fort Worth, Texas 76102; Phone 817-735-7290; email Misty.Ballard@freese.com**

EXHIBIT A, PART 2, ADDITIONAL SERVICES
MCC-100 REPLACEMENT AT SEWRP HEADWORKS

ENGINEERING DESIGN SERVICES

ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by Owner, which are not included in the above described basic services, are described as follows:

A. 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.

B. 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.

C. Upgrades to existing SCADA PLC (RTU) cabinets.

D. Lead and asbestos survey.

E. 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. Performing investigations, studies, and analysis of work proposed by construction contractors to correct defective work. Any services required as a result of default of the contractor(s) or the failure, for any reason, of the contractor(s) to complete the work within the contract time. Providing services after the completion of the construction phase not specifically listed in Article II. Visits to the site in excess of the number of trips included in Article II for periodic site visits, coordination meetings, or contract completion activities. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form. Providing services to review or evaluate construction contractor(s) claim(s), provided said claims are supported by causes not within the control of FNI. Providing value engineering studies or reviews of cost savings proposed by construction contractors after bids have been submitted. Provide follow-up professional services during Contractor's warranty period.

F. 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.

G. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.

H. 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.

I. Conducting pilot plant studies or tests.

J. 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.

K. General Project Representation during construction phase.

L. Furnishing the services of a Resident Project Representative to act as Owner's on-site representative during the Construction Phase. The Resident Project Representative will act as directed by FNI in order to provide more extensive representation at the Project site during the Construction Phase. Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative and assistants, FNI shall endeavor to provide further protection for Owner against defects and deficiencies in the work. Furnishing the services of a Resident Project Representative is subject to the provisions of Article I, F and Exhibit A, Part 4 Project Representation.

   If Owner provides personnel to support the activities of the Resident Project Representative who is FNI or FNI's agent or employee, the duties, responsibilities and limitations of authority of such personnel will be set forth in an Attachment attached to and made a part of this Agreement before the services of such personnel are begun. It is understood and agreed that such personnel will work under the direction of and be responsible to the Resident Project Representative. Owner agrees that whenever FNI informs him in writing that any such personnel provided by the Owner are, in his opinion, incompetent, unfaithful or disorderly, such personnel shall be replaced.

M. Furnishing Special Inspections required under chapter 17 of the International Building Code. These Special Inspections are often continuous, requiring an inspector dedicated to inspection of the individual work item, and they are in addition to General Representation and Resident Representation services noted elsewhere in the contract. These continuous inspection services can be provided by FNI as an Additional Service.

N. Furnishing Inspections and Commissioning Reports required by International Energy Efficiency Code (IECC).

O. 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).

P. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the drawings and specifications.

Q. 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.

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. 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.

T. Preparation of Operations and Maintenance Manuals for the proposed facilities.

U. Presence/absence surveys for federally listed threatened/endangered species.

V. Conducting cultural resources studies or surveys.

W. Phase I/II Environmental Site Assessments.

EXHIBIT A, PART 3, RESPONSIBILITIES OF THE OWNER
MCC-100 REPLACEMENT AT SEWRP HEADWORKS

ENGINEERING DESIGN SERVICES

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

A. 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.

B. De-energize equipment for FNI to open up electrical equipment to conduct field investigations.

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 AGREEEMENT.

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.

EXHIBIT B, PART 1 – BUDGET
MCC-100 REPLACEMENT AT SEWRP HEADWORKS

ENGINEERING DESIGN SERVICES

CITY and ENGINEER have established a not-to-exceed budget of **$234,461** 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 ENGINEERS Fee Schedule presented as EXHIBIT B, Part 2. Subconsultant services will be billed at cost to ENGINEER with a 10 percent handling fee. The Budget is presented for the services of ENGINEER under this AGREEMENT are provided in this Exhibit B. CITY and ENGINEER agree to allow redistribution of funds between Tasks as appropriate to allow flexibility in providing the needed services within the not-to-exceed budget.

ENGINEER agrees to complete these services as delineated above. Should there be a Change in Scope of Work or Time of Performance, then this can result in an amendment to this contract which shall be negotiated at that time.

The budget assumes that all work will be completed within 270 calendar days from the Notice to Proceed.

FNI _____
OWNER _____

City of Lubbock TEXAS

Water Reclamation
Electrical Improvements and Monitoring

Headworks Buildings

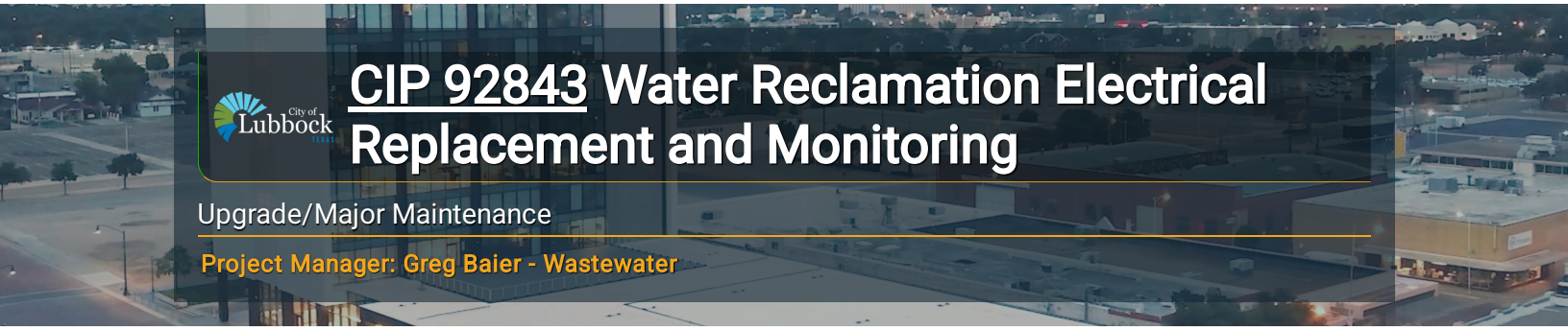
0 200 400 600 800 Feet

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

City of Lubbock, TX
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92843
Capital Project Name:	Water Reclamation Electrical Replacement and Monitoring

Encumbered/Expended	**Budget**
City of Lubbock Staff Time	$ 4,088
Contract 18087 - Design	234,461
Contract 18390 - for MCC-100 Prepurchase	329,640
Advertising	254
Agenda Items, March 25, 2025	
Amendment No. 1 to Contract No. 18087	-
Encumbered/Expended To Date	568,443
Estimated Costs for Remaining Appropriation	
MCC & Monitoring Purchase & Installation	(443)
Remaining Appropriation	(443)
Total Appropriation	$ 568,000



CIP 92843 Water Reclamation Electrical Replacement and Monitoring

Upgrade/Major Maintenance

Project Manager: Greg Baier - Wastewater

Project Scope

This project includes the design, purchase, installation, replacement, and/or rehabilitation of the existing Southeast Water Reclamation Plant (SEWRP) headworks Motor Control Center (MCC) 100 components and wiring of the existing headworks building. Purchase and installation of electrical monitoring for the SEWRP MCCs buildings.

Project Justification

The SEWRP headworks building wiring and MCC 100 is over 30 years old. The current electrical components that run the headworks pumps, screens, grit removal, and odor control, etc. are outdated and need to be replaced. Replacement parts are no longer readily available. Monitoring is also needed to monitor electrical power to ensure that electrical power is steady and if an anomaly is detected the problem can be traced back to the source to prevent catastrophic failure of equipment. This project is necessary in order to keep the SEWRP in compliance with current electrical codes and meeting the Texas Commission on Environmental Quality (TCEQ) wastewater permit requirements.

Project Highlights

Council Priorities Addressed:
Community Improvement

Project History

- FY 2023-24 $500,000 was appropriated by Ord. 2023-O0108
- FY 2024-25 $68,000 was appropriated by BCR# 2025-4

Project Dates

Start Design Replacement of MCC 100- 06/2023
End Design Replacement of MCC 100 - 12/2023
Bid Replacement of MCC 100 - 01/2025
Award Bid of MCC 100 - 03/2025
Construction of MCC -05/2025
Design of Monitoring System - 12/2025

Project Location

Southeast Water Reclamation Plant

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Design	$50,000	$0	$0	$0	$0	$0	$0
Construction	$518,000	$850,000	$0	$0	$0	$0	$0
TOTAL	**$568,000**	**$850,000**	**$0**	**$0**	**$0**	**$0**	**$0**

Project Funding

	Funding to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Water/Wastewater Fund Cash	$568,000	$850,000	$0	$0	$0	$0	$0
TOTAL	**$568,000**	**$850,000**	**$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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AI# 13310

Regular City Council Meeting **5. 19.**
03/25/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Amendment No. 3 to the Professional Services Agreement Contract No. 17130, and related documents, with Kimley-Horn and Associates, Inc., for engineering services for the reconstruction of 34th Street from Upland Avenue to Milwaukee Avenue, which is a portion of the 2022 Street Bond Project

Item Summary

On February 14, 2023, the City Council awarded Professional Services Agreement, Contract 17130, to Kimley-Horn and Associates, Inc., for providing engineering services for the 34th Street Reconstruction Project from Upland Avenue to Milwaukee Avenue.

Amendment No. 1 was authorized on June 11, 2024, for additional engineering services for final design and relocation of the drainage channel, from the south side of 34th Street to the north side, from Upland Avenue to Milwaukee Avenue.

Amendment No. 2 to this contract was authorized on October 27, 2024. It amended the scope of work to include additional engineering services for traffic signal design at the intersection of 34th Street and Upland Avenue.

Amendment No. 3 will amend the scope of work to include additional engineering services for utility relocation coordination, as well as additional drainage and roadway design.

Staff recommends the award of Amendment No. 3, in the amount of $63,100 to Kimley-Horn and Associates, Inc., for additional engineering services, with no time extension to the contract.

Fiscal Impact

Amendment No. 3 to Contract 17130, for $63,100, with Kimley-Horn and Associates, Inc., is funded in Capital Improvement Project 92813, 34th Street - Upland to Milwaukee 22B.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

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Attachments

Resolution
Amendment No. 3
Amendment No. 2
Amendment No. 1
Contract 17130
Location Exhibit
CIP 92813 - Budget Detail
CIP 92813 - 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. 3 to the Professional Services Agreement Contract No. 17130 for engineering services for the reconstruction of 34th Street from Upland Avenue to Milwaukee Avenue, by and between the City of Lubbock and Kimley-Horn and Associates, Inc., 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

ccdocs/RES.Amend #3 to PSA 17130 KH 34th Upland to Milwaukee
3.6.25

Amendment 3
To Agreement Between
The City of Lubbock, TX
and
Kimley-Horn and Associates, Inc.

THIS IS THE THIRD AMENDMENT TO THE AGREEMENT dated and entered into on the 14th day of February, 2023, Contract No. 17130, by and between the City of Lubbock ("City") and Kimley-Horn and Associates, Inc. ("Engineer").

Engineer is providing professional design services for the reconstruction of 34th Street from Upland Avenue to Milwaukee Avenue (the "Activities").

The Parties entered into a six (6) month extension for services on February 2, 2024, and agreed to earlier amendments to increase the scope of services, the first on June 11, 2024, passed by City Council as Resolution No. 2024-R0284, and the second on August 27, 2024, passed as Resolution No. 2024-R0383.

Now the Parties desire again 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 include services for project management, final design, and franchise utility coordination, details of which are set forth in Exhibit "A", attached to and incorporated herein. The cost of said services shall not exceed sixty-three thousand one hundred and NO/100 ($63,100.00). The term of this Agreement shall be extended through September 1, 2025.

All other portions of the original Agreement and prior amendments 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 _____2025.

CITY OF LUBBOCK

_____
MARK W. MCBRAYER, Mayor

Kimley-Horn and Associates, Inc.

Kai P Hoppers
_____
Kevin Hoppers, P.E., Sr. Vice President

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

John Turpin, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

EXHIBIT A – Amendment 03
Engineering Scope of Services
34th STREET RECONSTRUCTION
From Upland Avenue to Milwaukee Avenue
City of Lubbock

PROJECT UNDERSTANDING

The project consists of providing the following services to supplement the design of the 34th Street project and is related to Professional Services Contract 17130 for Engineering Services. This scope of services consists of the following:

- Project Management
- Final Design
- Franchise Utility Coordination

The Engineer shall perform the following Additional Services:

1. **Project Management**
   - 1.1. Project coordination
     - 1.1.1 Coordination for temporary construction licenses with subconsultant and adjacent property owners
     - 1.1.2 Design team meetings to discuss Milwaukee Ridge Park improvements

2. **Final Design**
   - 2.1. Milwaukee Ridge Park Drainage Improvements
     - 2.1.1 Coordination with City and Milwaukee Ridge HOA on proposed shared-use path and future fence located within a proposed pedestrian access easement.
     - 2.1.2 One (1) site visit
     - 2.1.3 Additional drainage design to Milwaukee Ridge Park
       - Culvert 16 modifications
       - Milwaukee Ridge HOA park exhibit
   - 2.2. Upland Intersection Culvert Design Changes
     - 2.2.1 Adjust culvert design at the request of AT&T to give additional clearance from duct bank vault
   - 2.3. Median Design
     - 2.3.1 Design a strip median along 34th Street approaches

3. **Franchise Utility Coordination**
   - 3.1. Coordination
     - 3.1.1 Coordination with utilities located within the corridor. The effort consists of up to ten (10) individual utility coordination meetings
     - 3.1.2 Coordination with Upland (34th to 50th) project team on adjacent ROW acquisition as it relates to overlapping utility relocations between the two projects
     - 3.1.3 Review of relocation design plans for utilities in the corridor

4. **Additional Services**
   Services not specifically identified in the Scope of Services above shall be considered additional and shall be performed on an individual basis upon authorization by the City. Such services shall include, but are not limited to, the following:
   - Design of any offsite drainage improvements beyond the improvements identified in the scope
   - Existing water or sanitary sewer relocations
   - Proposed water or sanitary sewer installations
   - Landscape design
   - Irrigation design
   - Construction Phase RPR Services
   - Design of structural retaining walls
   - Preparation for and attendance at public meetings
   - Redesign to reflect project scope changes requested by the City, required to address changed conditions or change in direction previously approved by the City, mandated by changing governmental laws, or necessitated by the City's acceptance of substitutions proposed by the contractor

SCHEDULE

The Engineer is authorized to commence work on the project upon execution of this supplemental agreement. Services will be provided through **September 1, 2025**.

Kimley»Horn

Exhibit B - Fee Schedule
City of Lubbock - 22B
34th Street Amendment #3 - Upland Ave to Milwaukee Ave
3/3/2025

Task No.	Task Name (Lump Sum)	Kimley-Horn	Hugo Reed	Rios	Atlas	Subtotal
1	Project Management	$ 10,500.00	$ -	$ -	$ -	$ 10,500.00
2	Design Survey	$ -	$ -	$ -	$ -	$ -
3	Final Design	$ 27,500.00	$ -	$ -	$ -	$ 27,500.00
4	Drainage Analysis	$ -	$ -	$ -	$ -	$ -
5	Drainge Plans	$ -	$ -	$ -	$ -	$ -
6	Water Line Relocation	$ -	$ -	$ -	$ -	$ -
7	Traffic Signal Design	$ -	$ -	$ -	$ -	$ -
8	Franchise Utility Coordination	$ 25,100.00				$ 25,100.00
Total Contract Fee		**$ 63,100.00**	**$ -**	$ -	$ -	**$ 63,100.00**

Kimley-Horn will perform the services in Tasks 1,3, and 8 for the total lump sum fee of **$63,100.00** inclusive of expenses. Individual task amounts are informational only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary. All permitting, application and similar project fees will be paid directly by the Client. Lump Sum fees will be invoiced monthly based on the overall percentage of services performed.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number

Resolution No. 2024-R0383
Item No. 6.12
August 27, 2024

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Amendment No. 2 to the Professional Services Agreement Contract No. 17130 for engineering services for the reconstruction of 34th Street from Upland Avenue to Milwaukee Avenue, by and between the City of Lubbock and Kimley-Horn and Associates, Inc., 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 August 27, 2024.

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.Amend #2 to PSA 17130 KH 34th Upland to Milwaukee
8.12.24

Resolution No. 2024-R0383

Amendment 2
To Agreement Between
The City of Lubbock, TX
and
Kimley-Horn and Associates, Inc.

THIS IS THE SECOND AMENDMENT TO THE AGREEMENT dated and entered into on the 14th day of February, 2023, Contract No. 17130, by and between the City of Lubbock ("City") and Kimley-Horn and Associates, Inc. ("Engineer").

Engineer is providing professional design services for the reconstruction of 34th Street from Upland Avenue to Milwaukee Avenue (the "Activities").

The Parties entered into a six (6) month extension for services on February 2, 2024, and agreed to an amendment to increase the scope of services on June 11, 2024, passed by City Council as Resolution No. 2024-R0284.

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 design a traffic signal for the intersection of Upland Avenue and 34th Street, details of which are set forth in Exhibit "A" and incorporated herein. The cost of said services shall not exceed thirty-nine thousand five hundred and NO/100 ($39,500.00).

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 27th day of August 2024.

CITY OF LUBBOCK

MARK W. MCBRAYER, Mayor

Kimley-Horn and Associates, Inc.

Kevin Hoppers, P.E., Sr. Vice President

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

EXHIBIT A – Amendment 02
Engineering Scope of Services
34th STREET RECONSTRUCTION
From Upland Avenue to Milwaukee Avenue
City of Lubbock

PROJECT UNDERSTANDING

The project consists of providing the following services to supplement the design of the 34th Street project to add one (1) traffic signal design for the intersection of 34th Street at Upland Avenue to the Professional Services Agreement, Contract No. 17130 for Engineering Services.

The tasks include the preparation of permanent signal design sheets, general notes, quantities, opinion of probable construction cost, technical specifications, and coordination with the City. The traffic signal design will be prepared using published City of Lubbock Standards where applicable.

This section describes the professional services to be provided by the Engineer.

Compensation shall be per Exhibit B.

Task 1 Traffic Signal Design

1.1 Project Meetings and Field Evaluation

The Engineer will organize, prepare for, and facilitate one Kick-Off meeting, with the following objectives in mind:

- Discuss the scope and roles of the Engineer
- Discuss specific project requirements and any special design or coordination needs
- Discuss deliverables
- Discuss project schedule

In the general vicinity of the project intersection, the Engineer will perform one in-field review and verify existing signage. This along with the already obtained topographic survey will form the basis of the designs. After the 60% and 90% submittals, the Engineer will prepare for and schedule one conference call with City and TxDOT staff to receive/communicate about comments, if needed.

1.2 Design Phase

The design will be prepared using base mapping from the survey and field investigation. The design will be prepared at 1" = 40' on 11" x 17" plan sheets using Microstation SS10 or Open Roads Designer. The design will be based on and include information gathered during the site visit. The traffic design package will include the following plan sheets.

- **Traffic Signal Layout Sheet**: proposed signal layout plan, overhead signs, pedestrian elements, and signal phasing diagram.
- **Signs, Markings, and Ramp Details Sheet**: with proposed signs, proposed pavement

markings, and summary charts.

- **Traffic Signalization Detail Sheet**: with tabulation of quantities, APS chart, conductor routing chart, electrical chart, detection details, and general notes.

This proposal does not include coordination with outside agencies other than the City of Lubbock.

1.3 Deliverables

All design sheets from the tasks above will be combined with the sheets identified below and inserted into the overall PS&E package.

- General Notes: including standard general notes applicable to TxDOT and City of Lubbock
- Summary of Quantities: including the summary of quantities and Opinion of Probable Construction Costs (OPCC) using TxDOT bid items
    - The Engineer has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Engineer at this time and represent only the Engineer's judgment as a design professional familiar with the construction industry. The Engineer cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.
- Standard Detail Sheets: including all standards as required by TxDOT

Deliverables: the Engineer will develop the following deliverables for this task:
Preliminary Design Submittal: the Engineer will prepare and submit an electronic version of construction drawings to and City for review. The Engineer will submit plans in accordance with a 60% submittal format.
100% (Draft) Submittal: the Engineer will address any necessary review comments and an electronic version of construction drawings will be provided to the City for review. The Engineer will submit plans and in accordance with 100% draft submittal format.
100% (Final) Submittal: the Engineer will address any necessary review comments from City and provide one full set of sealed original drawings.

2. Additional Services

Services not specifically identified in the Scope of Services above shall be considered additional and shall be performed on an individual basis upon authorization by the City. Such services shall include, but are not limited to, the following:

- Construction phase services.
- Redesign to reflect project scope changes requested by the City required to address changed conditions or change in direction previously approved by the City, mandated by

changing governmental laws, or necessitated by the City's acceptance of substitutions proposed by the contractor.

- Making significant modifications to the plans and specifications after the preliminary submittals have been approved by the City.
- Attendance at Public Meetings.
- Additional sets of bidding documents.
- Services related to disputes over bid protests, bid rejection, and re-bidding of the contract for construction.
- Additional construction contract administration responsibilities beyond those specifically included in the Scope of Services referenced above.
- Any services not listed in the Scope of Services.

SCHEDULE

Engineer is authorized to commence work on the Project upon execution of this mutually acceptable Amendment and agreed to complete the services in accordance with the schedule outlined in the Professional Services Agreement, Contract No. 17130 for Engineering Services.

Kimley»Horn

Exhibit B - Fee Schedule
City of Lubbock - 22B
34th Street Amendment #2 - Upland Ave to Milwaukee Ave
7/31/2024

Task No.	Task Name (Lump Sum)	Kimley-Horn	Hugo Reed	Rios	Atlas	Subtotal
1	Project Management	$ -	$ -	$ -	$ -	$ -
2	Design Survey	$ -	$ -	$ -	$ -	$ -
3	Final Design	$ -	$ -	$ -	$ -	$ -
4	Drainage Analysis	$ -	$ -	$ -	$ -	$ -
5	Drainge Plans	$ -	$ -	$ -	$ -	$ -
6	Water Line Relocation	$ -	$ -	$ -	$ -	$ -
7	Traffic Signal Design	$ 39,500.00	$ -	$ -	$ -	$ 39,500.00
Total Contract Fee		**$ 39,500.00**	**$ -**	$ -	$ -	**$ 39,500.00**

Kimley-Horn will perform the services in Task 7 for the total lump sum fee of **$39,500.00** inclusive of expenses. Individual task amounts are informational only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary. All permitting, application and similar project fees will be paid directly by the Client. Lump Sum fees will be invoiced monthly based on the overall percentage of services performed.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number

Resolution No. 2024-R0284
Item No. 5.11
June 11, 2024

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. 17130 for engineering services for the reconstruction of 34th Street from Upland Avenue to Milwaukee Avenue, by and between the City of Lubbock and Kimley-Horn and Associates, Inc., 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 June 11, 2024.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.Amend #1 to PSA 17130 KH 34th Upland to Milwaukee
5.21.24

Resolution No. 2024-R0284

Amendment 1
To Agreement Between
The City of Lubbock, TX
and
Kimley-Horn and Associates, Inc.

THIS IS THE FIRST AMENDMENT TO THE AGREEMENT dated and entered into on the 14th day of February, 2023, Contract No. 17130, by and between the City of Lubbock ("City") and Kimley-Horn and Associates, Inc. ("Engineer").

Engineer is providing professional design services for the reconstruction of 34th Street from Upland Avenue to Milwaukee Avenue (the "Activities").

The Parties entered into a six (6) month extension for services on February 2, 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, details of which are as set forth in Exhibit "A" and incorporated herein. The cost of said services shall not exceed one hundred fifty-eight thousand dollars and NO/100 ($158,000.00). The contract term shall be extended for, and Engineer shall complete the services in Exhibit "A" within, three hundred sixty-five (365) days.

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 11th day of June 2024.

CITY OF LUBBOCK

TRAY PAYNE, Mayor

ATTEST:

Courtney Paz, City Secretary

Kimley-Horn and Associates, Inc.

Kevin Hoppers, P.E., Sr. Vice President

APPROVED AS TO CONTENT:

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

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

EXHIBIT A – Amendment 01
Engineering Scope of Services
34th STREET RECONSTRUCTION
From Upland Avenue to Milwaukee Avenue
City of Lubbock

PROJECT UNDERSTANDING

The project consists of providing the following services to revise the design of the 34th Street project due to unforeseen utility conflicts and is related to Professional Services Contract 17130 for Engineering Services:

- Project management
  - Coordination with the City's Upland Avenue (50th to 34th) project team
  - Coordination with the City's Upland Avenue (34th to 19th) project team
- Design Survey
- Design of 5-Lane Roadway
  - Includes 10' Shared-Use Path (SUP) on the south side of the road where feasible
  - Includes 6-lane approaches at Upland Avenue Intersection
  - Includes 8-lane eastbound approach at Milwaukee Avenue Intersection
- Drainage Analysis
- Design of Drainage Channel where required
- Three cross culvert designs
  - Near the Upland intersection
  - 80-ft east of Quincy intersection
  - 550-ft east of Quincy intersection
- Design of City water line relocation
- Plan set development from 30% to Final Design (100%)
- This supplemental will consist of two design submittals (90% and Final Design) and consist of addressing one round of comments from the 90% and Final Design review meetings respectively.

Exhibit A - SCOPE

1. **34th Street – Upland Ave to Milwaukee Ave**
   - 1.1. Project Management
     - 1.1.1 Administration/Correspondence
     - 1.1.2 Prepare an updated design schedule that reflects additional time due to utility issues
     - 1.1.3 Progress Meetings
     - 1.1.4 Coordination with City's Upland project team

2. Design Survey (By Subconsultant)

2.1. Revise the 34th street existing boundary survey to include recently constructed development at the southeast corner of Upland and 34th street. Updated boundary survey shall consist of:

- 2.1.1 Property boundary
- 2.1.2 Existing pavement, curbs, sidewalks, barrier free ramps, etc.
- 2.1.3 Driveways (including material)
- 2.1.4 Parking lots within 20-ft of proposed ROW.
- 2.1.5 Existing culvert sizes, invert elevations, including cross sections approaching culvert crossings and headwalls/wingwalls
- 2.1.6 Existing driveways and swales
- 2.1.7 Visible utilizes consisting of: manholes, vaults, water valves, water meters, telephone poles, power poles, utility markers, water well features, other public utilities, and franchise utilities.
- 2.1.8 Signs (excluding temporary signs)
- 2.1.9 Buildings and permanent structures

Collect additional survey data for Temporary Construction Easements (TCEs) at three (3) driveways

3. Final Design

3.1. QA/QC

- 3.1.1 Engineer will perform an internal review prior to all submittals (90% and Final) in accordance with quality assurance standards established for this project. QA/QC comments will be collected from each internal reviewer, documented, and comments addressed prior to each plan submittal to the City.

3.2. Coordination with Subconsultants

3.3. Roadway Design (PS&E) - Roadway plans consisting of the updated design for the following:

- 3.3.1 Proposed easement locations (if any)
- 3.3.2 Proposed sidewalk and SUP locations
- 3.3.3 Proposed residential and commercial driveways
- 3.3.4 Project layout
- 3.3.5 Typical sections
- 3.3.6 Traffic control phasing plans
- 3.3.7 Horizontal alignment data
- 3.3.8 Vertical alignment data
- 3.3.9 Plan and profile sheets
- 3.3.10 Pavement marking layouts
- 3.3.11 Barrier free ramps
- 3.3.12 Intersection layouts

3.4. Revised centerline alignment and horizontal curve data

3.5. Revised centerline profile

3.6. Revised roadway linework

3.7. Reanalyze all driveways within the project and develop driveway profiles as needed. Driveways will typically be defined vertically by spot elevations.
3.8. Update Final 3D roadway model.
3.9. Updated design cross-sections
  3.9.1 Develop on 50-ft station intervals and at driveway centerlines.
  3.9.2 Show pavement and subgrade, right-of-way limits, side slopes, pavement cross slopes, curbs, and sidewalks.
  3.9.3 Cross-sections will not be provided in the bid documents but will be made available to prospective bidders
3.10. Traffic Control
  3.10.1 Develop construction sequence plan showing:
    - Travel lanes and construction area for each phase of construction.
    - Temporary signing and striping, barricades, and other channelization devices.
    - Develop TCP typical intersection staging plans for similar intersections.
    - Develop custom intersection staging layouts for special conditions.

4. Drainage Analysis

4.1. Drainage Analysis
  4.1.0 Perform hydrologic and hydraulic modeling using ICPR4 for proposed channel improvement alternatives on the north side of 34th Street.
  4.1.1 Recommend drainage improvements consisting of:
    - Roadway profile,
    - Channel cross section materials,
    - Sizing of culverts,
    - Channel outfall design recommendations.
4.2. Deliverables
  4.2.0 Updated Hydrologic and hydraulic data sheets,
  4.2.1 Stormwater routing sheets documenting proposed flow depths.

5. Drainage Plans

5.1. Revised drainage plans to consist of the following:
  5.1.1 Provide Drainage Area Map complete with time of concentration routes, curve numbers calculated as per the Drainage Criteria Manual (DCM) for each drainage area, drainage area denoted in acres, and all necessary points of interest labeled.
  5.1.2 Provide hydrologic and hydraulic data sheets showing the necessary calculations and assumptions.
  5.1.3 Provide drainage channel grading plan.
  5.1.4 Provide drainage culvert plans, profiles, and supporting details.
  5.1.5 Provide depth of flow indications for the 100-year design storm within ROW and any corresponding finished floor elevations.

6. Water Line Relocation

6.1. The Engineer will prepare engineering plans, specifications, and construction contract documents for project bidding and regulatory approval. Plans will consist of 11"x17" plan and profile sheets. The Engineer will design up to 6,270 linear feet of water line. The Engineer will provide the following information on the plan sheets:

6.1.1 General Sheets

- Location Map
- General Notes
- Water Line Site Schematic
- Horizontal/Vertical Control

6.1.2 Water Line Plan and Profile Sheets

- Plan View
  - Control data
  - Existing right-of-way and easements
  - Existing topography
  - Existing pavement
  - Existing trees
  - Existing driveway locations
  - Existing storm drain and culvert locations
  - Existing water lines and appurtenances
  - Existing sanitary sewer lines and manholes
  - Existing franchise utility locations (based upon SUE and franchise utility information)
  - Proposed roadway improvements
  - Proposed drainage improvements
  - Proposed centerline alignment
- Profile View
  - Existing ground profile
  - Proposed roadway profile
  - Proposed water line alignment
    - A profile view for the proposed water line alignment will be designed for all water lines.
  - Existing utility crossings
  - Proposed drainage crossings

6.1.3 Construction Details

- Engineer will utilize applicable City standard details.

6.2. Prepare preliminary opinion of construction costs (OPCC)

6.2.1 Because the Engineer does not control the cost of labor, materials, equipment, or services furnished by others, methods of determining prices, or competitive bidding market conditions, and opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on

the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Engineer cannot and does not guarantee that proposals, bids, or actual costs will not vary from its opinions of cost.

6.3. Preliminary design review meeting
  6.3.1 Engineer will prepare for and attend one (1) virtual meeting with the City to review preliminary design plans and OPCC.

6.4. The Engineer will prepare the final plans and OPCC by incorporating the comments received from the preliminary design review meeting (one (1) round of comments is anticipated for this effort).

6.5. Contract Documents
  6.5.1 Prepare specifications, which will consist of technical specifications for materials and installation of the proposed facilities. Specifications shall consist of City standard and non-standard technical specifications for materials and installation of the proposed facilities.

6.6. Prepare final OPCC.

6.7. Deliverables
  6.7.1 One (1) .pdf copy of the preliminary design complete plans and OPCC for review and comment.
  6.7.2 One (1) .pdf copy of final plans, specifications, contract documents and an OPCC for bidding.

7. Additional Services

Services not specifically identified in the Scope of Services above shall be considered additional and shall be performed on an individual basis upon authorization by the City. Such services shall include, but are not limited to, the following:

- Construction phase services.
- Redesign to reflect project scope changes requested by the City required to address changed conditions or change in direction previously approved by the City, mandated by changing governmental laws, or necessitated by the City's acceptance of substitutions proposed by the contractor.
- Making significant modifications to the plans and specifications after the preliminary submittals have been approved by the City.
- Attendance at Public Meetings.
- Additional sets of bidding documents.
- Services related to disputes over bid protests, bid rejection, and re-bidding of the contract for construction.
- Additional construction contract administration responsibilities beyond those specifically included in the Scope of Services referenced above.
- Any services not listed in the Scope of Services.

Kimley»Horn

Exhibit B - Fee Schedule
City of Lubbock - 22B
34th Street Amendment #1 - Upland to Milwaukee
3/29/2024

Task No.	Task Name (Lump Sum)	Kimley-Horn	Hugo Reed	Rios	Atlas	Subtotal
1	Project Management	$ 13,300.00	$ -	$ -	$ -	$ 13,300.00
2	Design Survey	$ -	$ -	$ -	$ -	$ -
3	Final Design	$ 60,900.00	$ -	$ -	$ -	$ 60,900.00
4	Drainage Analysis	$ -	$ 30,000.00	$ -	$ -	$ 30,000.00
5	Drainge Plans	$ -	$ 9,700.00	$ -	$ -	$ 9,700.00
6	Water Line Relocation	$ 44,100.00	$ -	$ -	$ -	$ 44,100.00
Total Contract Fee		**$ 118,300.00**	**$ 39,700.00**	$ -	$ -	**$ 158,000.00**

Kimley-Horn will perform the services in Tasks 1-6 for the total lump sum fee of **$158,000.00** inclusive of expenses. Individual task amounts are informational only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary. All permitting, application and similar project fees will be paid directly by the Client. Lump Sum fees will be invoiced monthly based on the overall percentage of services performed.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number

Resolution No. 2023-R0061
Item No. 5.14
February 14, 2023

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. 17130 for the reconstruction of 34th Street from Upland to Milwaukee – 22B, 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 February 14, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Assistant City Attorney

ccdocs/RES.PSA-No. 17130 – KH 34th St Upland-Milwaukee
2.1.23

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. _17130__is entered into this 14thday of____February____, 2023, 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 North Carolina corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for the reconstruction of 34th Street from Upland to Milwaukee – 22B, (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 _14_ months. If the Engineer determines that additional time is required to complete the Services, the City Engineer, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Exhibit "A", attached hereto (the "Services").

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed $1,161,600, 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 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.

Leslie Bruce, P.E.
1207 Ave F NW, Suite 1
Childress, Texas 79201
Telephone: 940-226-4218

Email: leslie.bruce@kimley-horn.com

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

Zoltan Fekete, P.E.
City of Lubbock
P.O. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Email: zfekete@mylubbock.us
Telephone: 806-775-3317

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

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

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

ARTICLE XV. MISCELLANEOUS

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

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

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

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.

E. 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.

F. 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.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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.

L. 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.

M. 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.

N. 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.

O. 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.

P. 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.

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. 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.

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EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

TRAY PAYNE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

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

APPROVED AS TO FORM:

Kelli Leisure, Assistant City Attorney

Firm

Kimley-Horn and Associates, Inc.

By: _____

Kevin Hoppers, P.E., Sr. Vice President

EXHIBIT A

Engineering Scope of Services

34th Street reconstruction – Upland Ave to Milwaukee Ave

City of Lubbock

Project Understanding

1. Existing corridor:
    a. Existing 2-lane HMAC pavement
    b. Upland intersection throat width east approach: 2 lanes
    c. Milwaukee intersection throat width west approach: 7 lanes with additional southbound right turn lane
    d. Existing curb and gutter located along the road intended for future widening to full 7-lane roadway
    e. 50-ft drainage easement (running north-south) on the north side of the road at the El Mirador apartment complex
    f. ROW easement along south side of the road on the west end of the project. Located in front of two commercial plots and future neighborhood.
2. Proposed improvements include:
    a. Develop 5-lane HMAC proposed roadway (concrete pavement as a bid alternate)
    b. Develop construction plans for the ultimate 5-lane configuration
    c. 7-lane approaches at Upland Avenue and Milwaukee Avenue intersections (concrete approach legs)
        i. Includes approach improvements for full intersection and transition to existing west of Upland
    d. Cross culverts 530-ft east of Quincy Ave located at the El Mirador apartments
        i. Drainage channel as required
    e. Utility adjustments
3. Special Considerations for this project
    a. Design will be coordinated with Upland Avenue Design being performed by others.

The professional services generally will consist of:

- Design survey
- Existing Right-of-way (ROW) survey
- ROW and easement acquisition services
- Subsurface Utility Engineering (SUE)
- Geotechnical investigation
- Franchise Utility Coordination
- Drainage study and associated design of channel and culvert improvements
- Roadway design for 5-lane configuration, including two bid alternatives for use on HMAC or concrete pavement
- Minor water and sanitary sewer adjustments

- Adjustments to Upland Avenue intersection East and West approaches
- Traffic control plans
- Bidding Phase support services

The Project will be designed in accordance with City design and construction standards throughout the project.

1. Design Survey (by Subconsultant)

1.1. Survey Data – develop an existing boundary survey and existing topographic data within the limits of this project.

1.1.1 Data Collection and Property Research – Subconsultant will collect available data to determine the boundary locations and owner information for all adjacent properties within the project limits.

- Design Survey
- The limits of the survey along 34th Street will extend from the west side of Upland Avenue (approx. 800-ft from center of the intersection) to the east side of Milwaukee Avenue (approx. 400-ft from east curb return. The survey will consist of the existing and proposed right-of-way width of 110', and where subdivisions and structures are encountered adjacent to 34th Street. Data will be collected a minimum of 20-feet beyond the right-of-way or drainage easement limits.
- The following areas shall also be surveyed:
  - Minor Cross Streets - 100-feet north and south of the proposed 34th Street centerline at every minor cross street.
  - Finished floor elevations of existing structures adjacent to the ROW as needed
- Place five (5) control monuments with aluminum caps in concrete. Establish horizontal state plane coordinates (NAD 83) using GPS. Establish vertical control coordinates on NAVD 88. Monuments will be set to accommodate the limits of construction where possible.
- Perform a field survey to identify and locate existing topographic elements within the roadway corridor consisting of the following:
  - Evidence of property boundary locations adjacent to the corridor.
  - Existing pavement, curbs, sidewalks, barrier free ramps, etc.
  - Roadway and lane striping along 34th Street and intersecting streets.
  - Driveways (including material).
  - Parking lots within 20-ft of proposed ROW.
  - Alleys (including material).
  - Existing culvert sizes and invert elevations, including cross sections approaching culvert crossings and headwalls/wingwalls.
  - Existing driveways and swales.
  - Visible utilities consisting of: manholes, vaults, water valves, water meters, telephone poles, power poles, utility markers, water well features, other public utilities, and franchise utilities.

- Traffic signal poles, cabinets, and other signal equipment, if present.
- Signs (excluding temporary signs).
- Trees (larger than 6" caliper) and tree clusters.
- Buildings and permanent structures.
- Retaining walls.
- Fence/wall limits and material types (excluding temporary fences).
- Other applicable physical features that could impact design.
- Perform field survey to collect utility location marking as marked by the SUE subconsultant.

1.2. Prepare a final topographic drawing in digital format (including contours and break lines) showing the features located in the field as well as right-of-way strip map information, an ASCII coordinate file of the points located in the field, and a hard copy of the coordinates and feature descriptions

2. Right of Way Survey and Services (by Subconsultant)

2.1. Provide Existing ROW Base Map

2.1.1 The existing right of way base map will consist of the following:

- Parcels and easements with current recording information.
- Current property owner.
- Existing platted easements and easements available in the public record including easements provided by utility companies.
- Relate ROW to Roadway center line if Section Line differs.

2.2. Perform the following ROW services in support of the City of Lubbock to acquire the needed property to construct the proposed roadway improvements.

2.2.1 Schedule and coordinate property appraisals.

2.2.2 Obtain Title Reports for each parcel to determine proper owner for negotiations.

2.2.3 Conduct appraisals on 6 parcel to determine fair market value for the purchase of right-of-way.

2.2.4 Negotiate with property owners on behalf of City of Lubbock -(up to 5 contacts) for purchase of roadway easement on 6 parcels.

2.2.5 Obtain final approval from City of Lubbock prior to making offers and prior to making final agreement in negotiations.

2.2.6 Deliver properly executed documents to the City of Lubbock.

2.3. Prepare right of way instruments (6 parcels anticipated)

2.4. Individual parcel exhibits shall be on 8 ½"x11" paper, shall be sealed, dated, and signed by a Registered Professional Land Surveyor and shall contain the following:

2.4.1 Parcel number.

2.4.2 Area required.

2.4.3 Area remaining.

2.4.4 Legal description.

2.4.5 Current owner.

2.4.6 Easements locatable in the public record.

2.4.7 All physical features.

2.4.8 Metes and bounds description of parcel to be acquired. The description shall be provided on a separate sheet from the exhibit. Each type of easement shall be described separately.

3. Subsurface Utility Engineering (SUE) (by Subconsultant)

3.1. Utility Data – Franchise Utilities

3.1.1 The scope will consist of Quality Level (QL) B Subsurface Utility Engineering (SUE) Investigation, which is inclusive of (QL) D and C. The Engineer will obtain information on existing utilities from utility owners and shall identify and evaluate known existing and proposed public and private utilities. The Engineer will identify potential conflicts and attempt to minimize the potential adverse utility impacts in the preparation of the roadway design and PS&E. The Engineer will prepare a base map depicting the utility locations.

3.1.2 Utility investigations, both subsurface and above ground, will be prepared in accordance with ASCE C-1 38-02 and according to the Utility Quality Levels as described below:

- Utility Quality Levels are defined in cumulative order (least to greatest) as follows:
- Quality Level D - Existing Records: Utilities are plotted from review of available existing records. Level D is included in this scope of work.
- Quality Level C - Surface Visible Feature Survey: Quality level "D" information from existing records is correlated with surveyed surface-visible features. Includes Quality Level D information. If there are variances in the designated work area of Level D, a new schematic or plan layout shall be necessary to identify the limits of the proposed project and the limits of the work area required for the work authorization; including highway stations, limits within existing or proposed ROW, additional areas outside the proposed ROW, and distances or areas to be included along existing intersecting roadways. Level C is included in this scope of work.
- Quality Level B - Designate: Two-dimensional horizontal mapping. This information is obtained through the application and interpretation of appropriate non-destructive surface geophysical methods. Utility indications are referenced to established survey control. Incorporates quality levels C and D information to produce Quality Level B. If there are variances in the designated work area of Level D, a new schematic or plan layout shall be necessary to identify the limits of the proposed project and the limits of the work area required for the work authorization; including highway stations, limits within existing or proposed ROW, additional areas outside the proposed ROW, and distances or areas to be included along existing intersecting roadways. Level B is included in this scope of work.
- Quality Level A – Locate (Test Hole): Three-dimensional mapping and other characterization data. This information is obtained through exposing utility facilities through test holes and measuring and

recording (to appropriate survey control) utility/environment data. Incorporates quality levels B, C and D information to produce Quality Level A. Level A is NOT included in this scope of work.

3.1.3 The Engineer will compile "Record Drawing" information from plans, plats and other location data as provided by the utility owners. A color-coded composite utility facility plan with utility owner names, quality levels and line sizes shall be prepared and delivered. It is understood by the Engineer that the line sizes of designated utility facilities detailed on the deliverable are from the best available records and that an actual line size is normally determined from a test hole vacuum excavation. A note must be placed on the designate deliverable only that states "lines sizes are from best available records". Above ground appurtenance locations collected as part of the topographic survey will be included in the deliverable to the City. This information shall be provided in the latest version of Micro Station or GeoPak used by the City.

3.1.4 Deliverables:

- The electronic file will be delivered in digital format and PDF

4. Geotechnical Investigation (by Subconsultant)

4.1. Subsurface Exploration

4.1.1 Roadway

- Seven (7) soil bores between the pavement and the ROW at locations to be determined by the Engineer; to determine the quality of subgrade and whether the insitu soil will be suitable for roadway embankment (soil classification, moisture, relative density, etc.)
- Soil samples will be identified according to test boring number and depth, and a representative portion of each sample will be sealed in a plastic bag to protect against moisture loss.
- Atterberg limits will be performed to determine the engineering properties of the soil.

4.2. Laboratory Services

Samples will be transported to the Subconsultant's laboratory where they will be examined and visually classified by a Geotechnical Engineer using the AASHTO and Unified Soil Classification System (USCS) in general accordance with ASTM D 2488. To aid in classification of the soils and determination of their selected engineering characteristics, a testing program will be conducted on selected samples in general accordance with the following standards:

Laboratory Test	**Test Standard**
Moisture Content	ASTM D 2216
Atterberg Limits	ASTM D 4318
Percent Passing No. 200 Sieve	ASTM D 1140
California Bearing Ratio (CBR)	ASTM D 1883

4.3. Engineering Services

4.3.1 Laboratory test results will be used to classify the soils according to the AASHTO and Unified Soil Classification System. Subconsultant will perform CBR's on selected samples to aid in the determination of the modulus of subgrade reaction or k-value used in rigid pavement design and the subgrade resilient modulus used on flexible pavement design.

2.1.2 Pavement Design: Subconsultant will analyze the results of the field exploration to provide pavement structure recommendations along with construction guidelines based on the results from the field and laboratory testing and provided traffic data. Subconsultant will prepare two (2) pavement options: one (1) pavement design option for rigid pavement and one (1) pavement design option for flexible pavement.

5. Franchise Utility Coordination/Relocations (Engineer)

5.1. Coordination

5.1.1 At start up, send project notice to all franchise utilities via registered certified mail to provide project limits and schedule for construction.

5.1.2 Data Collection and Research

- Update and maintain database of existing franchise utility representatives, including representative contact information (email, mailing address, phone, etc.).
- Prepare exhibit that indicates franchise utility locations based upon SUE and survey.
- Coordination with Surveyor regarding topographic information to be collected on utility locations.

5.1.3 Franchise Conflicts Evaluation

- Coordinate possible conflicts due to vertical alignment of roadway and drainage facilities with SUE..
- Coordinate utility relocation assignments and schedule

5.1.4 Schedule, prepare for, attend and document up to four (4) franchise utility coordination meetings (one coordination meeting to be held at each of the following milestone submittals: project start-up, 30% (Preliminary Design), 90% and 100% design submittal). Meetings will address known potential conflicts and for immediate relocation prior to roadway construction.

5.1.5 Engineer will work with franchise utilities to develop relocation plans to be prepared by the utility companies and initiated prior to bidding.

6. Preliminary Design

6.1. Project Management

6.1.1 Conduct progress and design review meetings to monitor the development of the project. During the design phase of the project, conduct the following:

- One (1) project kickoff meeting with the City
- Two (2) progress meetings with the City regarding project status and coordination issues.
- One (1) design review meeting on the preliminary milestone (30% Design) .

- For all meetings, the Engineer will prepare the meeting agendas and minutes.

6.1.2 Coordinate with subconsultants (geotechnical, drainage, survey, and SUE).

6.1.3 Prepare and e-mail monthly progress reports to the City.

6.1.4 Maintain Project Schedule

- Develop work plan (identify tasks and subtasks).
- Develop roles and assignments.
- Develop and maintain schedule and interim milestones.

6.1.5 Prepare Design Criteria (coordinate with City at kickoff meeting)

6.1.6 QA/QC milestone review for all deliverables in the Preliminary Design Phase.

- Perform an internal review of the preliminary designs in accordance with quality assurance standards established for this project.
- QC/QA comments will be collected from each reviewer, documents, and comments addressed prior to review meeting with City.

6.1.7 Project Administration

- Prepare project correspondence, and invoicing documents.

6.2. Data Collection (City to provide hard copy and electronic format if available)

6.2.1 Roadway Data

- Electronic design files from improvements and any other plans available along the project limits.

6.2.2 Drainage Data

- Aerial and LiDAR information.
- Existing storm drainage facilities / record drawings.
- Existing hydraulic models.

6.2.3 Utility Data (Public Utilities) – Coordination with City

- Existing water line locations / record drawings.
- Water master plan requirements.
- Existing storm sewer line locations / record drawings.
- Storm sewer master plan requirements.

6.3. Preliminary Design Schematic (30%)

6.3.1 Prepare the schematic roadway design for a Principal Arterial (Modified) typical section as depicted in the 2018 City of Lubbock Master Thoroughfare Plan. This is a five (5) lane roadway section within a typical 110' right of way.

- Prepare typical sections
  - Existing and Proposed
  - Depict subgrade and pavement
- Prepare preliminary plan and profile (roll plot format), which will consist of the following items:
  - Control data
  - Existing / proposed right-of-way
  - Existing topography
  - Existing pavement
  - Proposed centerline alignment and horizontal curve data

- Proposed face of curb
- Proposed medians (if applicable)
- Proposed transition pavement tie-ins to existing pavement
- Proposed storm sewer and culvert alignments and sizes
- Existing/Proposed traffic signal poles
- Existing trees to remain (if possible)
- Existing trees to be removed
- Existing driveway locations
- Proposed commercial driveways (proposed residential driveways will be included in the final design)
- Existing culvert and/or storm drain locations
- Existing water line locations
- Existing sanitary sewer line locations
- Existing franchise utility locations (relying upon information provided by franchise utilities and the data collected as part of the SUE)
- Existing ground profile
- Proposed vertical alignment at proposed center line
- Proposed cross drainage culverts
- Superelevation data

- Prepare Preliminary 3D roadway model
- Prepare Design Cross Sections on 11" x 17" sheets

6.3.2 Drainage

- Coordination with drainage analysis subconsultant regarding:
  - Roadway profile
  - Channel cross section and materials
  - Culvert sizing
  - Playa overflow limits and pavement recommendations
- Prepare plan and profile for proposed 40-ft. wide drainage channel.
- Prepare plan for various side street cross culverts to convey drainage channel flows.
- Prepare plan and profile for 34th Street cross culvert just east of Quincy Avenue at the El Mirador apartment complex.

6.3.3 Playa Cut/Fill Plan

- Compute fill volume proposed for roadway improvements within the limits of the 100-year water surface elevation of Playa 103
- Prepare preliminary grading plan of excavation area

6.3.4 Utilities

- Existing Public Utilities
  - Graphically designate on the schematic the location of existing public utilities based upon information provided by the City .
  - Identify public utility conflicts with proposed roadway.
  - Coordinate with the City to identify the need for extending new public utilities in the ROW ahead of paving.
- Public Utilities Design

- Establish the preliminary location of proposed, relocated public utilities to avoid conflicts with proposed improvements.
- Establish the preliminary location of new public utilities to be installed in the ROW ahead of the paving project.

6.3.5 Traffic

- Traffic Signals – indicate on the schematic the intersections which could potentially warrant a future traffic signal.
- Traffic Control Plan – Engineer will develop a conceptual traffic control plan to determine how the project will be phased and constructed to provide access to adjacent properties during construction.
- Develop phased cross sections based on conceptual traffic control plan

6.4. Construction Cost Projection (Or Opinion of Probable Cost)

6.4.1 Perform quantity takeoff and develop construction cost projection.

6.4.2 Evaluate both municipal and TxDOT bid tabulations for current trends in unit prices. Because the Engineer does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Engineer cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost.

6.5. Preliminary Design Schematic Deliverables (roll plot) – The roll plot schematic will be finished to a level of detail that is equivalent to a 30% complete plan set – but in roll plot format.

6.5.1 Deliverables will consist of the following:

- Schematic Roll Plot document
- Design cross sections
- Preliminary opinion of probable construction cost
- Preliminary Traffic Control Plan and Sequence

7. Drainage Analysis (by Subconsultant)

7.1. Perform the following drainage analysis tasks in support of the roadway and drainage improvements design.

7.1.1 Data collection

- Subconsultant will collect and review approved drainage analysis studies and reports as provided by the City of Lubbock.
- Subconsultant will extract data from current City of Lubbock Master Drainage plan models as necessary.

7.1.2 Existing conditions analysis

- Develop existing conditions hydrology.
- Develop existing hydraulic cross sections and existing drainage improvement data for modeling.
- Model existing conditions in ICPR4.

7.1.3 Proposed improvements analysis

- Import sub-basin limits and hydrologic data from 2018 MDP Update models (if available).
- Update design hydrologic data as needed.
- Develop model hydraulic network from proposed roadway profile and typical sections.
- Develop proposed drainage improvements for initial modeling.
- Model proposed roadway and drainage improvements in ICPR4, iterate model to develop drainage improvement recommendations.
- Recommend drainage improvements consisting of:
  - Roadway profile
  - Channel cross section and materials
  - Culvert sizing
  - Playa overflow limits and pavement recommendations

7.1.4 Deliverables

- Drainage area map for PS&E package
- Hydrologic and hydraulic data sheets for PS&E package
- Stormwater routing sheets documenting proposed flow depths

8. Final Design

8.1. Project Management

8.1.1 Progress and Review Meetings:

- Schedule, prepare for, attend, and document three (3) progress meetings and one (1) review meeting to monitor the development of the project.
  - Progress meetings will be held to discuss design issues and progress of plan production.
  - Review meeting will be conducted at 90% Submittal.

8.1.2 Site Visits - Attend up to five (5) site visits during the final design phase to take photos, field measurements, and a plans-in-hand walk-through.

8.1.3 Coordinate with subconsultants.

8.1.4 Prepare and e-mail monthly progress reports to City.

8.1.5 QA/QC

- Engineer will perform an internal review prior to all submittals (90% and Final) in accordance with quality assurance standards established for this project. QA/QC comments will be collected from each internal reviewer, documented, and comments addressed prior to each plan submittal to the City.
- City review comments will be documented and addressed after the 90% review meeting. Engineer will create a "Comment Log" in spreadsheet format, documenting the comment and the action taken to resolve the comment.

8.1.6 Project Administration

- Prepare project correspondence and invoicing documents.

8.2. Roadway Design (PS&E)

8.2.1 Prepare plan / profile sheets on 11" x 17" plan sheets at a scale of 1" = 100' horizontal, and 1" = 10' vertical. (Start with 30% Rolls)

- In addition to the items included in the preliminary design submittal, the PS&E will consist of the following items:
  - Proposed easement locations (if any)
  - Proposed sidewalk locations
  - Proposed residential and commercial driveways
  - Horizontal alignment data
  - Traffic Control Phasing layouts
  - Pavement marking layouts
  - Erosion control plans
  - Barrier free ramps
  - Demolition plan
  - Intersection layouts
  - Small sign summary
  - Standard design details
  - TxDOT standards

8.2.2 Analyze all driveways within the project and develop driveway profiles as needed. Driveways will typically be defined vertically by spot elevations.

8.2.3 Develop Final 3D roadway model.

8.2.4 Prepare design cross-sections

- Develop on 50-ft station intervals and at driveway centerlines.
- Show pavement and subgrade, right-of-way limits, side slopes, pavement cross slopes, curbs, and sidewalks.
- Cross-sections will not be provided in the bid documents but will be made available to prospective bidders.

8.2.5 Prepare roadway details to clarify intent of design.

8.2.6 Compile applicable City standard details. Modify standard details as needed.

8.2.7 Pavement Markers and Marking Plans

- Prepare pavement markers and marking layouts in accordance with City design standards and the Texas Manual of Uniform Traffic Control Devices (TMUTCD).
- Prepare details to clarify intent of design.
- Compile applicable City standard details. Modify standard details as needed.
- Signing layout and design will not be provided.
- List the signs on the TxDOT standard summary sheets together with totals for each mount type.

8.3. Drainage Plans

8.3.1 Plan Production

- Provide Drainage Area Map complete with time of concentration routes, curve numbers calculated as per the Drainage Criteria Manual (DCM) for each drainage area, drainage area denoted in acres, and all necessary points of interest labeled.
- Provide hydrologic and hydraulic data sheets showing the necessary calculations and assumptions.
- Provide drainage channel grading plan.

- Provide drainage culvert plans, profiles, and supporting details.
- Provide erosion control plans, details, and SWPPP.
- Provide depth of flow indications for the 100-year design storm within ROW and any corresponding finished floor elevations.
- Prepare a Floodplain Development Permit.
- Provide drainage technical specifications for erosion control methods and any off-site earthwork.
- Evaluate impact of the TCP on surrounding drainage and provide interim drainage plan, if needed.

8.4. Playa Cut/Fill Plan

8.4.1 Plan Production

- Compute final fill volume proposed for roadway improvements within the limits of the 100-year water surface elevation of Playa 103.
- Grading plan for excavation area within Playa 103.
- Cross sections showing 100-YR PWSE, existing ground profile and proposed ground profile.
- Volumetric data.

8.5. Utilities - Public

8.5.1 Water and Sewer Adjustments

- Adjustments to existing water valves and manholes will be specified in the plans. Prepare special utility details to clarify intent of design (if needed).

8.5.2 Compile applicable standard details. Modify standard details as needed.

8.6. Traffic

8.6.1 Traffic Signals

- Traffic signal signal design will not be part of this scope of work. Upland intersection to remain a stop-controlled intersection.
- Adjustments to Milwaukee and 34th traffic signal to be coordinated with City of Lubbock Traffic Department.

8.7. ITS

8.7.1 Design and install conduit, cable, and ground boxes for ITS connections of traffic signals.

8.8. Traffic Control Plans

8.8.1 Develop construction sequence plan showing:

- Travel lanes and construction area for each phase of construction.
- Temporary signing and striping, barricades, and other channelization devices.
- Narrative of the sequence of work.
- Public utilities construction phasing (if needed).
- Adjacent property access during construction.

8.8.2 Develop typical TCP cross sections showing lane widths, edge conditions, channelization and proposed construction area.

8.8.3 Develop TCP typical intersection staging plans for similar intersections. Develop custom intersection staging layouts for special conditions.

8.8.4 Develop TCP typical driveway staging plans for similar driveways. Develop custom driveway staging layouts for special conditions.
8.8.5 Prepare traffic control details to clarify intent of design
8.8.6 Compile applicable TxDOT standard details. Modify standard details as needed.

8.9. Illumination
8.9.1 Design of pavement illumination systems to provide lighting levels in accordance with applicable local codes and Illuminating Engineering Society of North America (IESNA) recommended practices.
8.9.2 Prepare a photometric layout and perform one iteration of the photometric layout based on the City's review.
8.9.3 Prepare illumination construction plans as needed for inclusion in the civil construction documents. The illumination plans will include light pole location data, foundation details, conduit routing, conductor sizing, and electrical service locations.
8.9.4 Provide supporting calculations.
8.9.5 Provide technical specifications for the light poles and fixtures.
8.9.6 Coordinate with local electric service providers for electrical service locations.
8.9.7 Schedule and conduct two (2) meetings with LP&L and/or SPEC and the City to discuss design of the illumination system. Engineer will work to locate overhead utilities such that standard 30, 40' or 50' illumination poles can be installed without conflict with overhead utilities.

8.10. Interim Design Submittal (90%) Deliverables
8.10.1 Submit 90% PS&E in pdf format to the City for review and comment.
8.10.2 This submittal will provide assurance that project scope is addressing project issues, and will allow for design changes with sufficient lead time for minor revisions. Deliverables to be provided with this submittal include:

- Typical Sections (100%)
- Title Sheet (100%)
- Index of Sheets (95%)
- Construction Phasing (100%)
- Traffic Control Plan (100%)
- Plan & Profile Sheets (100%)
- Intersection Layouts (95%)
- Hydraulic Analysis (100%)
- Drainage Details (95%)
- SW3P (100%)
- EPIC Sheet (100%)
- Utility Layouts (100%)
- Signing and Striping Layouts (95%)
- Illumination and ITS Layouts (95%)
- Quantities and Summary Sheets (100%)
- Updated Estimate
- Design Cross-Sections (95%)

8.11. Final Design Submittal (Bid Set) Deliverables

8.11.1 Submit an electronic PS&E file submission as required by City consisting of sealed plan sheets and all supporting documents required for bidding.

8.12. Post Bid Submittal Deliverables

8.12.1 Submit one (1) PDF electronic copy of the plan set, specifications, and addenda after the project's bid opening.

9. Bid Phase Support

9.1. Support City during the bid phase to address and respond to questions from prospective bidders.

9.2. Prepare and submit addenda changes that are necessitated by questions during the bid phase.

9.3. Incorporate addenda changes into the Final Plan Set.

9.4. Assist the City in evaluating the bids and prepare a recommendation letter.

10. Additional Services

Services not specifically identified in the Scope of Services above shall be considered additional and shall be performed on an individual basis upon authorization by the City. Such services shall include, but are not limited to, the following:

- Design of any offsite drainage improvements beyond the improvements identified in the scope
- Existing water or sanitary sewer relocations
- Proposed water or sanitary sewer installations
- Landscape design
- Irrigation design
- Traffic signal design
- Construction Contract Administration
- Construction Phase Engineer of Record support services
- Construction Phase RPR services
- Design of structural retaining walls
- Preparation for and attendance at public meetings beyond what was identified in the scope
- Furnish additional copies of review documents and/or bid documents more than the number of the same identified above
- Assist the City as an expert witness in litigation about the project or in hearings before approving and regulatory agencies
- Redesign to reflect project scope changes requested by the City, required to address changed conditions or change in direction previously approved by the City, mandated by changing governmental laws, or necessitated by the City's acceptance of substitutions proposed by the contractor

TIME OF COMPLETION

Engineer and Subconsultants are authorized to commence work on the Project upon execution of a mutually acceptable contract and agrees to complete the services according to the following delivery schedule:

• Contract Execution/Notice to Proceed	February 15, 2023
• Design Survey, ROW Mapping, Geotechnical Investigation, SUE, Utility Coordination	June 1, 2023
• Preliminary Design Schematic (30%)	September 1, 2023
• Interim Design (90%)	February 15, 2024
• Final Design (100% complete plan set)	April 1, 2024

- End of Scope Services -

Kimley»Horn

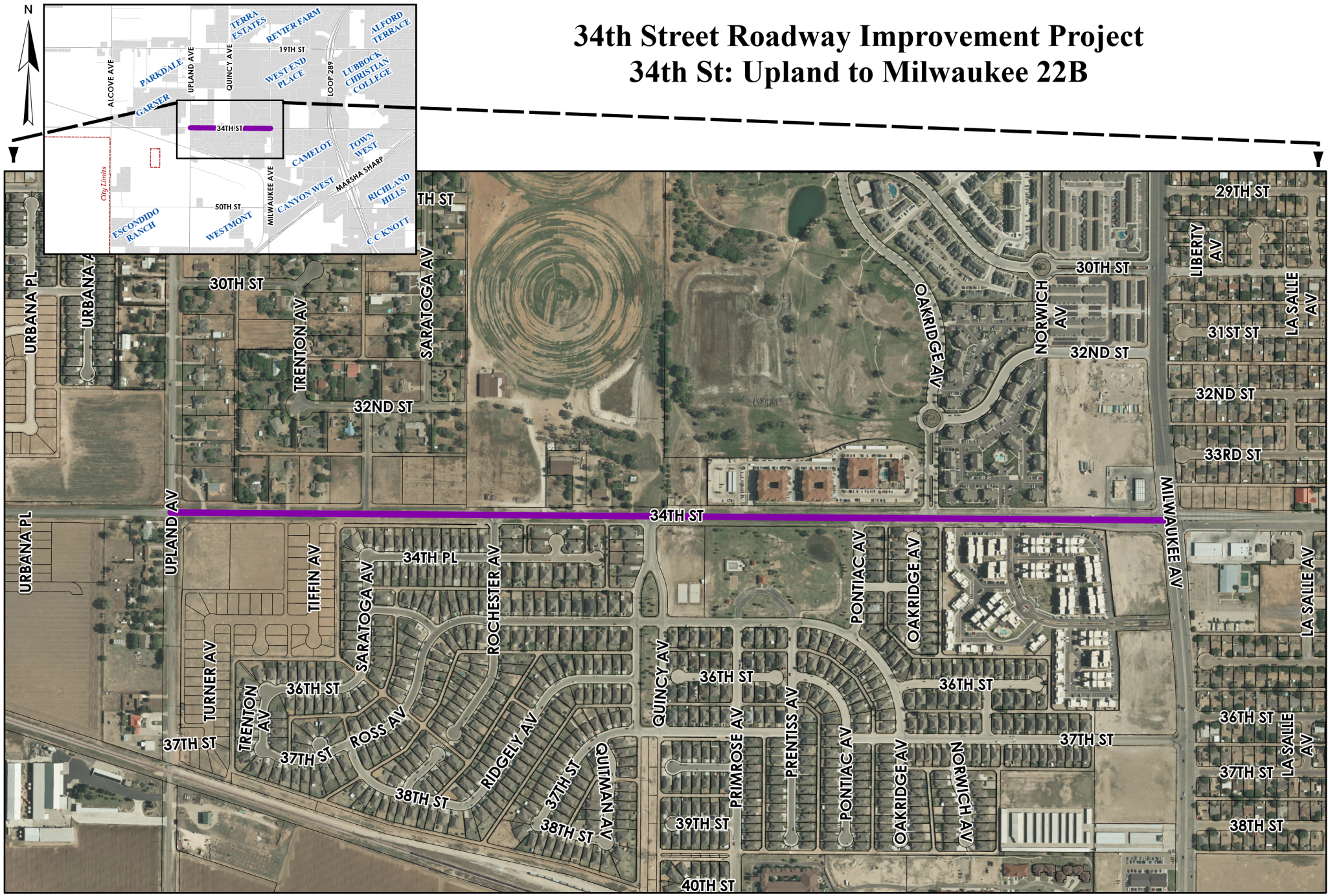
Exhibit B - Fee Schedule
City of Lubbock RFQ #
34th Street - Upland Avenue to Milwaukee Avenue
1/27/2023

Task No.	Task Name (Lump Sum)	Kimley-Horn	Hugo Reed	Rios	Atlas	Subtotal
1	Design Survey	$ 14,350.00	$ 77,605.00	$ -	$ -	$ 91,955.00
2	Right of Way Survey and Services	$ 18,650.00	$ 142,120.00	$ -	$ -	$ 160,770.00
3	Subsurface Utility Engineering (SUE)	$ 9,455.00		$ 36,500.00	$ -	$ 45,955.00
4	Geotechnical Investigation	$ 4,400.00	$ -	$ -	$ 13,500.00	$ 17,900.00
5	Franchise Utility Coord./Relocations	$ 45,100.00	$ -	$ -	$ -	$ 45,100.00
6	Preliminary Design	$ 247,655.00	$ 13,295.00	$ -	$ -	$ 260,950.00
7	Drainage Analysis	$ 35,655.00	$ 68,200.00	$ -	$ -	$ 103,855.00
8	Final Design	$ 369,355.00	$ 39,705.00	$ -	$ -	$ 409,060.00
9	Bid Phase Support	$ 23,655.00	$ 2,400.00	$ -	$ -	$ 26,055.00
Total Contract Fee		**$ 768,275.00**	**$ 343,325.00**	**$ 36,500.00**	**$ 13,500.00**	**$ 1,161,600.00**

Kimley-Horn will perform the services in Tasks 1-9 for the total lump sum fee of **$1,161,600.00** inclusive of expenses. Individual task amounts are informational only. Kimley-Horn reserves the right to reallocate amounts among tasks as necessary. All permitting, application and similar project fees will be paid directly by the Client. Lump Sum fees will be invoiced monthly based on the overall percentage of services performed.

Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number

34th Street Roadway Improvement Project
34th St: Upland to Milwaukee 22B



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

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

City of Lubbock TEXAS

Digital Orthophotography - May 2021

City of Lubbock
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92813
Capital Project Name:	34h Street: Upland to Milwaukee - 22B

Encumbered/Expended	**Budget**
Contract 17130 with KHA for Design Services	1,161,600
Amendment No. 1 to Contract 17130	158,000
Amendment No. 2 to Contract 17130	39,500
Staff Time	41,662
Surveying	4,500
3402 Upland - Land Acquisition	500,243
Parcel 2 - Land Acquisition	266,513
Parcel 11 - Land Acquisition	70,235
Parcel 12 - Land Acquisition	20,519
Parcel 14 - Land Acquisition	482,105
Parcel 15 - Land Acquisition	485,384
Removal of Improvements	25,760
Advertisement cost	254
Agenda Item March 25, 2025	
Amendment No. 3 to Contract 17130	63,100
Encumbered/Expended To Date	3,319,375
Estimated Cost for Remaining Appropriation	
34th Street: Upland to Milwaukee - 22B Construction	13,180,625
Remaining Appropriation	-
Total Appropriation	$ 16,500,000

CIP 92813 34th Street from Upland Avenue to Milwaukee Avenue - 22B

New Roadway Infrastructure

Project Manager: Bailey Ratcliffe - Engineering

Project Scope

34th Street from Upland Avenue to Milwaukee Avenue is currently a two-lane paved road and is designated in the 2018 Thoroughfare Master Plan to become a five-lane Principal Arterial (Modified). Continued growth in west Lubbock has increased traffic demands along the 34th street corridor from Upland Avenue to Milwaukee Avenue. The services will include the ultimate design of a five-lane undivided thoroughfare with curb and gutter, drainage, streetlights, sidewalk improvements, utility adjustment and right of way acquisition services.

Project Justification

On November 8, 2022, Lubbock voters approved issuance of a $200 million street improvements bond package for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Project Highlights

Council Priorities Addressed:
Public Safety
Community Improvement
Growth and Development

Project History

- FY 2022-23 $2,700,000 was appropriated by Ord. 2022-O0169
- FY 2023-24 $13,800,000 was appropriated by Ord. 2023-O0108

Project Dates

Design Start Date: 02/2023
Design Completion: 11/2024
Bid for Constuction:11/2024
Award Construction: 01/2025
Project Completion: 06/2026

Project Location

34th St - Upland Avenue to Milwaukee Avenue

Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Construction	$16,500,000	$0	$0	$0	$0	$0	$0
TOTAL	**$16,500,000**	**$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 Obligation Bonds	$16,500,000	$0	$0	$0	$0	$0	$0
TOTAL	**$16,500,000**	**$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**

AI# 13315

Regular City Council Meeting **5. 20.**

03/25/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Amendment No. 1 to Professional Services Agreement Contract No. 17625, and related documents, with Freese and Nichols, Inc., for design services for Upland Avenue from 50th Street to 66th Street, which is a portion of the 2022 Street Bond Project.

Item Summary

On October 8, 2023, the City Council awarded Professional Services Agreement, Contract 17625, to Freese and Nichols, Inc., to provide design services for the reconstruction of Upland Avenue from 50th Street to 66th Street.

Amendment No. 1 to this contract will amend the scope of work to include additional engineering services, for final design and pedestrian improvements.

Staff recommends the award of Amendment No. 1, in the amount of $63,000, to Freese and Nichols, Inc. with a 6-month extension to the contract, for additional engineering services.

Fiscal Impact

Amendment No. 1 to Contract 17625, with Freese and Nichols, Inc., for $63,000, is funded in Capital Improvement Project 92824, Upland Avenue: 50th Street to 66th Street – 22B.

Staff/Board Recommending

Erik Rejino, Assistant City Manager
John Turpin, P.E., Division Director of Engineering/City Engineer

Attachments

Resolution
Amendment 1
Contract 17625
Location Exhibit
CIP 92824 - Budget Detail
CIP 92824 - 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. 17625 for design services for Upland Avenue from 50th Street to 66th Street by and between the City of Lubbock and Freese and Nichols, Inc., and related documents. Said 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

ccdocs/RES.Amend #1 17625 FNI Upland design 50th to 66th
3.5.25

Amendment 1
To Agreement Between
The City of Lubbock, TX
And
Freese and Nichols, Inc.

THIS IS THE FIRST AMENDMENT TO THE AGREEMENT dated and entered into on the 24th day of October, 2023, Contract No. 17625, by and between the City of Lubbock ("City") and Freese and Nichols, Inc. ("Engineer"), collectively (the "Parties").

Engineer is providing professional design services for Upland Avenue from 50th Street to 66th Street (the "Activities").

On October 15, 2024 the Parties entered into a six (6) month extension for time to complete the Activities. Now the Parties agree to expand the scope of services that Engineer will provide for the Activities.

NOW THEREFORE, the Parties enter into this amendment and agree as follows:

The Parties agree to enlarge the scope of services of this Agreement to include certain redesign and new design work for the Activities, the details of which are set forth in "Exhibit A", attached hereto and incorporated herein. For the additional services herein, the City shall pay the Engineer in an amount not to exceed sixty-three thousand and NO/100 ($63,000.00), at such rates as set forth in "Exhibit C", attached hereto and incorporated herein. Further, the term of the Agreement shall be extended an additional six (6) months to complete the services set forth in "Exhibit A".

All other terms of the agreement remain the same and are not altered herein.

IN WITNESS HEREOF, the parties have executed this Agreement as of this ____ day of _____2025.

CITY OF LUBBOCK

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

Freese and Nichols, Inc.

Heather Keister

_____
Heather Keister, P.E.
Vice President/Principal

APPROVED AS TO CONTENT:

John Turpin, P.E., Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

EXHIBIT A

Scope for Engineering Design Related Services for

Upland Avenue (from 50th Street to 66th Street)

Amendment #1

The scope set forth herein defines the work to be performed by the ENGINEER in completing the project. Both the CITY and ENGINEER have attempted to clearly define the work to be performed and address the needs of the Project.

OBJECTIVE

As the design of the Upland Avenue (50th St to 66th St) Improvements project advanced towards the 90% design stage, the CITY and ENGINEER met to discuss several design changes. At CITY direction, the ENGINEER will provide engineering services as follows:

- Redesign work related to the roadway alignment and pedestrian and bicycle accommodations between 66th Street and 58th Street.
- Redesign work related to the signed and sealed vault design included in the Miscellaneous Improvements project.
- Additional work related to the design of a Pedestrian Hybrid Beacon at 58th Street and Upland Ave.

Article 1 Term of the contract will be amended and extended an additional 6 months.

WORK TO BE PERFORMED

ENGINEERING DESIGN:

TASK 1. DESIGN MANAGEMENT

ENGINEER will provide design management and QA/QC services in accordance with the original executed contract and extend these services for the additional 6 months of contract time and scope.

TASK 4. FINAL DESIGN (90% AND 100%).

ENGINEER will provide design services through final plans for the following amended project design elements:

ENGINEER will develop the Final Design of the improvements as follows:

4.8. Design for water and sewer Miscellaneous Improvements project:

- ENGINEER will revise previously signed and sealed plans, specifications, and OPCC to incorporate CITY directed value engineering changes to the vault modifications.
- Final vault modification details will be included in Miscellaneous Improvements project deliverable.

ASSUMPTIONS

- Electronic copy (PDF) of the plans, project manual, and OPCC for 100% Design.

DELIVERABLES

A. Final Design Plans (100%)

B. Final Design Specifications (100%)

C. Opinion of Probably Construction Cost (100%)

4.9. Final Design (90% & 100%) Modifications for Upland Avenue Improvements project

- ENGINEER will revise 90% and 100% plans, specifications, and OPCC to incorporate CITY directed changes to the alignment, typical sections, pedestrian and bicycle accommodations, traffic control plan, demolition plan, cross-sections and applicable standard details.

ASSUMPTIONS

- Two (2) copies of half size (11"x17") plans for 90% and 100% Design.
- One (1) set of the Specifications for 90% and 100% Design.
- Two (2) copies of opinion of probable construction cost for 90% and 100% Design.
- Electronic copy (PDF) of the plans, project manual, and OPCC for 90% and 100% Design.

DELIVERABLES

D. Final Design Plans (90% and 100%)

E. Final Design Specifications (90% and 100%)

F. Opinion of Probable Construction Cost (90% and 100%)

G. Utility Conflict Coordination Package (90% and 100%)

EXHIBIT A, PART 2, ADDITIONAL SERVICES

Upland Avenue (from 50th Street to 66th Street)

Additional Services not included in the existing Scope of Services – CITY and ENGINEER agree that the following services are beyond the Scope of Services described in the tasks above. However, ENGINEER can provide these services, if needed, upon the CITY's written request. Any additional amounts paid to the ENGINEER as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These additional services include the following:

- Traffic signal design.
- Effort exceeding those outlined in the "Assumptions" section of each task description.

EXHIBIT B

Budget for Engineering Design Related Services for
Upland Avenue (from 50th Street to 66th Street)
Amendment #1

CITY and ENGINEER have established a not-to-exceed budget of $63,000 to complete engineering design services as directed under this AGREEMENT. This amount will not be exceeded without a contract amendment. CITY will pay the ENGINEER hourly, for services identified in Exhibit A, based on ENGINEERS Fee Schedule presented as EXHIBIT C. Subconsultant services will be billed at cost to ENGINEER with a 10 percent handling fee. The Budget is presented for the services of ENGINEER under this AGREEMENT are provided in this Exhibit B. CITY and ENGINEER agree to allow redistribution of funds between Tasks as appropriate to allow flexibility in providing the needed services within the not-to-exceed budget. ENGINEER agrees to complete these services as delineated above. Should there be a Change in Scope of Work or Time of Performance, then this can result in an amendment to this contract which shall be negotiated at that time.
The budget assumes that all work will be completed in accordance with the proposed project schedule of 6 months from execution of this amendment.

EXHIBIT C

Hourly Rate Schedule Compensation for Engineering Design Related Services for Upland Avenue (from 50th Street to 66th Street)

LUBBOCK RATE SCHEDULE

Position	Rate
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

	B&W	Color
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.

Resolution No. 2023-R0519
Item No. 5.13
October 24, 2023

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Professional Services Agreement Contract No. 17625 for engineering design services for Upland Avenue from 50th Street to 66th Street, by and between the City of Lubbock and Freese and Nichols, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on October 24, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

for

Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.PSA-No. 17625 – FNI Upland Design 55th to 66th
10.04.23

Resolution No. 2023-R0519

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 17625 is entered into this 24th day of October, 2023, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Freese and Nichols, Inc., (the" Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide engineering design services for Upland Avenue from 50th Street to 66th Street, (the "Activities"); and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by the City and the Engineer to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to the Activities, and Engineer desires to provide the Services related to same.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, the City and the Engineer hereby agree as follows:

ARTICLE I. TERM

The term of this Agreement commences on the Effective Date and continues without interruption for a term of 12 months. If the Engineer determines that additional time is required to complete the Services, the City Engineer, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Exhibit "A", attached hereto (the "Services").

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed $1,208,443, as set forth in Exhibit "B".

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this Agreement, this provision shall control.

ARTICLE V. REPRESENTATIONS AND WARRANTIES

A. Existence. The Engineer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. The Engineer has the corporate power to enter into and perform this Agreement and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Agreement and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part

of the Engineer. This Agreement constitutes legal, valid, and binding obligations of the Engineer and is enforceable in accordance with the terms thereof.

D. Engineer. The Engineer maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and is familiar with all laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Activities contemplated hereby.

E. Performance. The Engineer will and shall conduct all activities contemplated by this Agreement in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional services, as contemplated hereby.

F. Use of Copyrighted Material. The Engineer warrants that any materials provided by the Engineer for use by City pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other law, statute, rule, order, regulation, ordinance or contractual obligation relating to the use or reproduction of materials. The Engineer shall be solely responsible for ensuring that any materials provided by the Engineer pursuant to this Agreement satisfy this requirement and the Engineer agrees to indemnify and hold City harmless from all liability or loss caused to City or to which City is exposed on account of the Engineer's failure to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Engineer shall accomplish the following: Professional Services related to the Services, as provided in Exhibit "A", attached hereto and made a part hereof.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Engineer and the City agree that the Engineer shall perform the duties under this Agreement as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. The Engineer has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, the Engineer and the Engineer's employees and/or sub-consultants, will not be considered, for any purpose, employees or agents of the City within the meaning or the application of any federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

The Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or sub-consultant of the Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Single Limit: $1,000,000

General Aggregate Limit: $2,000,000

Professional Liability:

Combined Single Limit: $2,000,000

Automobile Liability:

Combined Single Limit for any auto: $1,000,000 Per Occurrence

Employer's Liability:

Per Occurrence Single Limit: $1,000,000

Worker's Compensation

Per Occurrence Single Limit: $500,000

The Engineer shall further cause any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Engineer herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The City shall be listed as a primary and noncontributory additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. The Engineer shall provide a Certificate of Insurance to the City as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy shall be included in the Certificate. The Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Engineer shall maintain said coverage throughout the term of this Agreement and

shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City. If at any time during the life of the Agreement or any extension hereof, the Engineer fails to maintain the required insurance in full force and effect, the Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained at the Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this Agreement and the discovery period (possibly through tail coverage) shall be no less than 10 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

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

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

ARTICLE X. CONFIDENTIALITY

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

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING,

ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

Freese and Nichols, Inc.
Kevin Morris, P.E.
1500 Broadway Street, Suite 206
Lubbock, TX 79401
Telephone: 806-686-2700
Email: kevin.morris@freese.com

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

Sarah Davis
City of Lubbock
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 806-775-3157
Email: sdavis@mylubbock.us

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

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

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

ARTICLE XV. MISCELLANEOUS

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

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

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer.

D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

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

F. Construction and Venue.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE

AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT JURISDICTION OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

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

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

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

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

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

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

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

N. Non-Appropriation. All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the services provided under the Agreement, the City will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first (the "Non-Appropriation Date"). If at any time funds are

not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Engineer on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the Non-Appropriation Date.

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

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

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

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

S. Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

To the extent Subchapter J, Chapter 552, Government Code applies to this agreement, Contractor agrees to: (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the governmental body for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and (3) on completion of the contract, either: (A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

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

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Firm

Freese and Nichols, Inc.

By: _____

John F. Dewer, P.E.
Vice President/Principal

EXHIBIT A

Scope for Engineering Design Related Services for

Upland Avenue (from 50th Street to 66th Street)

The scope set forth herein defines the work to be performed by the ENGINEER in completing the project. Both the CITY and ENGINEER have attempted to clearly define the work to be performed and address the needs of the Project.

OBJECTIVE

Engineering Design: The objective of the Upland Avenue (50th St to 66th St) Improvements project is to improve vehicular and pedestrian mobility and safety from 50th Street to 66th Street (1.0 miles) The existing conditions within the project area are generally a two-lane undivided roadway with bar ditch drainage conveyance within variable right of way. Project limits are generally 50th Street to 66th Street; however, the intersection of 50th Street and Upland Avenue has been previously designed by the ENGINEER while the intersection of 66th Street and Upland Avenue has been designed by others. The project will include the design and construction of a five-lane undivided thoroughfare with curb and gutter, drainage, street lights, and sidewalks within a 110-foot right-of-way. The project will include up to three (3) drainage easements to accommodate cross-drainage.

The project will require active coordination with four projects adjacent to this project:

Upland Avenue 34th Street to 50th Street

Upland Avenue 66th Street to 82nd Street

66th Street Alcove Avenue to Upland Avenue

50th Street/CR 6900 from FM 179 to Upland Avenue

WORK TO BE PERFORMED

Engineering Design:

Task 1. Design Management and Quality Control/Quality Assurance

Task 2. Conceptual Design (Schematic)

Task 3. Preliminary Design (60%)

Task 4. Final Design (90% and 100%)

Task 5. Bid Phase Services

Task 6. ROW/Easement Services

Task 7. Survey and Subsurface Utility Engineering Services

Task 8. Geotechnical Investigation / Pavement Design

Task 9. Permitting

ENGINEERING DESIGN:

TASK 1. DESIGN MANAGEMENT

ENGINEER will manage the work outlined in this scope to efficiently and effectively use ENGINEER's and CITY's time and resources. ENGINEER will manage change, communicate effectively, coordinate internally and externally as needed, and proactively address issues with the CITY's Project Manager and others as necessary to make progress on the work.

ENGINEER will develop a Quality Control/ Quality Assurance Plan (QC/QA Plan) outlining the ENGINEER's method of ensuring the highest levels of design and accuracy are incorporated into the calculations, plans, specifications, and estimates.

ENGINEER is responsible for and shall coordinate all subconsultant activity to include quality and consistency of plans.

At any time during the project the CITY may request from the ENGINEER documentation relative to QC/QA for project submittals.

1.1. Managing the Team:

- Lead, manage and direct design team activities
- Perform Quality Control / Quality Assurance (QC/QA) reviews in conjunction with performance of the work.
- Communicate internally among team members
- Task and allocate team resources

1.2. Communications and Reporting:

- Attend a pre-design project kickoff meeting with CITY staff to confirm and clarify scope, understand CITY objectives, and develop economical and functional designs that meet CITY requirements
- Conduct and document *monthly* project update meetings with CITY Project Manager
- Conduct and document *biweekly* internal design team meetings
- Conduct up to three (3) site visits
- Conduct one (1) review meeting with the CITY after each of the 30%, 60%, and 90% design submittals
- Conduct QC/QA reviews and document those activities.
- Prepare invoices, and submit monthly in the format requested by the CITY. Prepare and submit monthly One Page Reports.
- Prepare and submit baseline Project Schedule initially, and monthly Project Schedule updates with a schedule narrative as updates occur.
- Coordinate with adjacent projects including:
  - Upland Avenue 34th Street to 50th Street

- Upland Avenue 66th Street to 82nd Street
- 66th Street Alcove Avenue to Upland Avenue
- 50th Street/CR 6900 from FM 179 to Upland Avenue

1.3. QC/QA of Subconsultants

- The ENGINEER's subconsultants shall perform Quality Control/ Quality Assurance on all procedures, field surveys, data, and products prior to delivery to the CITY. ENGINEER's subconsultants shall certify in writing via a letter that the information provided has undergone a Quality Control/ Quality Assurance process.

1.4. QC/QA of Design Documentation

- ENGINEER shall perform a QC/QA review of all documents being submitted for review at all stages of the design. QA should be performed by an individual within the firm who is not on the design team.
- A Comment Resolution Log will be used to document conflicting comments between reviewers and to highlight comments made by the CITY that the ENGINEER is not incorporating into the design documents along with the associated explanation.
- The documentation of a QC/QA review includes electronic copies of the color-coded, original marked-up document (or "check print") developed during the QC checking process and/or review forms which sequentially list documents and associated comments.

ASSUMPTIONS

- One (1) pre-design project kickoff meeting with CITY
- Twelve (12) monthly project update meetings during design phase with the CITY
- Three (3) plan review meetings with the CITY
- Twenty (20) bi-weekly design team meetings
- Project design phase is anticipated to take twelve (12) months.
- Twelve (12) monthly updates of One Page Reports, Project Schedule, Action Items/Decisions Made Log.
- All submittals to the CITY will be quality checked prior to submission.

DELIVERABLES

A. Meeting summaries with action items

B. Baseline design schedule and monthly updates with schedule narrative describing any current or anticipated schedule changes

C. Monthly One Page Reports

D. Monthly invoices

E. QC/QA documentation

TASK 2. CONCEPTUAL DESIGN (SCHEMATIC)

The Conceptual Design shall be submitted to CITY per the approved Project Schedule.

The purpose of the Conceptual Design is for the ENGINEER to identify, develop, communicate through the defined deliverables, and recommend the design concept that successfully addresses the design problem, and to obtain the CITY's endorsement of this concept.

ENGINEER will develop the Conceptual Design of the improvements as follows:

2.1. Data Collection

- Review Available CAD and GIS files from CITY
- Gather Aerial, GIS, LiDAR Data
- Review available CITY records development including plats and drainage studies
- Review available Franchise Utility Data
- Setup CAD files based on Available Data
- Conduct up to two (2) site visits

2.2. Conceptual Design Schematic

ENGINEER will provide design services to the CITY with the following design components. All information listed will be provided on the design schematic:

<u>GENERAL DESIGN</u>

- TYPICAL SECTIONS – Including existing and proposed typical sections showing pavement (roadway, sidewalk, curb), ROW, lane widths (with direction arrows).
- ALIGNMENT DATA
- RIGHT-OF-WAY AND EASEMENT MAP – Including parcels numbers

<u>ROADWAY DESIGN</u>

- ROADWAY PLAN AND PROFILE – Including plan and profile views (Upland Avenue) showing existing and proposed horizontal and vertical roadway alignments, existing and proposed right-of-way/easements, sidewalks, driveways, and existing utilities.

<u>CROSS SECTION DESIGN</u>

- CROSS SECTIONS – Including Upland Avenue centerline station at a 50' interval, existing top of ground line, proposed roadway section, and easement and right-of-way limits.

2.3. Conceptual Drainage Design Analysis

ENGINEER will provide design services to the CITY with the following design analysis. All information listed will be provided in the drainage design analysis:

- Hydrologic and hydraulic data sources for existing conditions.
- Project drainage area map
- Conveyance paths, slopes, time of concentration, and runoff coefficients as required to calculate design-year flows.
- Subdivided drainage areas into sub-areas and calculations of the discharge at each discharge location.
- ICPR H&H models of existing and proposed conditions
- Evaluation of adequacy of the ROW needed to accommodate the proposed roadway and drainage system.
- Identification and preliminary sizing of necessary offsite drainage easements.
- Identification and preliminary sizing of cross culvert.
- Identification and preliminary sizing of playa lake cut/fill needs.

2.4. Opinion of Probable Construction Cost

- ENGINEER will develop an opinion of probable construction cost (OPCC) based on design plans. Sources of data used in the preparation of the OPCC include construction data aggregation services, similar past project performed by ENGINEER, and professional experience and engineering judgement.

2.5. Utility Conflict Coordination

- ENGINEER will develop the design of CITY facilities to avoid or minimize conflicts with existing utilities, and where known and possible consider potential future utilities in designs. Where conflicts cannot be avoided, coordination of Utility Conflicts will begin at the Conceptual Design phase.
- In the case of a public utility conflict, the ENGINEER will design CITY facilities to avoid or minimize conflicts with existing utilities, and where known and possible consider potential future utilities in designs.
- In the case of a private Utility Conflict, the ENGINEER will provide a PDF set of plans with the utility conflicts highlighted and a Utility Conflicts Table of those conflicts to be included in a Utility Clearance Letter for coordination. The ENGINEER may need to coordinate directly with the private utility provider if that provider needs to undertake design to adjust their utility's location.
- The ENGINEER shall deliver a PDF file of the approved preliminary schematic to the City for forwarding to all utility companies which have facilities within the limits of the project. The PDF file should be created directly from the CAD files.

ASSUMPTIONS

- Digital copy of Schematic (PDF).
- Digital copy of Drainage Analysis Report.
- Digital copy of opinion of probable construction cost.

DELIVERABLES

A. Conceptual Schematic

B. Conceptual Drainage Analysis Report

C. Opinion of Probable Construction Cost

D. Utility Conflict Coordination Package

TASK 3. PRELIMINARY DESIGN (60%)

ENGINEER shall not proceed with Preliminary Design activities without written approval by the CITY of the Conceptual Design Package. Preliminary Design shall be submitted to CITY per the approved Project Schedule.

ENGINEER will develop the Preliminary Design of the improvements as follows:

3.1. Preliminary Design Plans:

- ENGINEER will progress, update, or revise the design components listed in the Conceptual Design submittal and the additional design plans:

GENERAL DESIGN

- COVER SHEET – Including project limits and location map
- INDEX OF SHEETS
- GENERAL NOTES – Including applicable City standard general notes
- DESIGN LEGEND
- QUANTITY SUMMARY – Including tables of quantities per sheet
- SURVEY CONTROL AND PROJECT LAYOUT – Including control points with X, Y, Z coordinates, identified coordinate system, vertical datum, and bearing base.
- RIGHT-OF-WAY AND EASEMENT MAP – Including parcels numbers
- EXISTING UTILITY MAP – Including collected Level A-D SUE data (Task 8).
- CONSTRUCTION PHASING NARRATIVE AND TYPICAL SECTION – Including description of the suggested construction phasing and typical sections. The construction phasing narrative includes expectation and restrictions of the construction during the multi-phase project.
- CONSTRUCTION DETOUR PLAN – Including layout of allowable/approved detour plan to be utilized but the project
- TRAFFIC CONTROL DETAILS – Including applicable CITY and TxDOT traffic control details. Assumes that the Contractor will prepare and implement a traffic control plan in accordance with the Texas Manual on Uniform Traffic Control Devices.

ROADWAY DESIGN

- REMOVAL PLAN – Including removal of above and below ground features necessary for the construction of the project improvements.
- ROADWAY PLAN AND PROFILE – Including plan and profile sheets (Upland Avenue) showing existing and proposed horizontal and vertical roadway alignments, right-of-way/easements, sidewalks, driveways, lane dimensions, drainage structures, and City and franchise-owned utilities.
- ROADWAY KEY MAP
- SIDESTREET PLAN AND PROFILE – Including plan and profile sheets showing existing and proposed horizontal and vertical roadway alignments, right-of-way/easements, sidewalks, driveways, lane dimensions, drainage structures, and City and franchise-owned utilities.
- INTERSECTION LAYOUTS – Including spot grades and dimensions for grades at radii, fillets, and valley gutters at cross-street intersections.
- DRIVEWAY DETAILS - Including key elevations, dimensions, proposed driveway section, and easement and right-of-way limits.
- ROADWAY DETAILS – Including necessary non-standard details.
- STANDARD ROADWAY DETAILS

DRAINAGE DESIGN

- OVERALL DRAINAGE AREA MAP – Delineate the watershed based on contour data and field verification and document existing street, right-of-way and drainage easement capacities for the subject site. A drainage area map will be drawn at maximum 1" = 200' scale from available 1-foot contour data with the contours labeled. Data source and year will be provided by the ENGINEER.
- STORMWATER ROUTING PLAN– Including proposed flow lines, HGL contours, lengths and slopes of outfalls.
- CHANNEL PLAN AND PROFILE - Including plan and profile sheets showing existing and proposed horizontal and vertical drainage alignments, existing and proposed flow lines, HGL, lengths, slopes, and cross-section of proposed channel improvements.
- CULVERT DESIGN – Including culvert layout sheets showing location and size of all culverts, including existing and proposed flow lines, flows, lengths and slopes of pipe, top of ground profile over pipe and connections to existing or proposed culverts.
- CUT/FILL PLAN – Including plan sheets showing limits of cut, fill, peak water surface elevation, volume calculations, and reclamation totals.
- DRAINAGE DETAILS - Including necessary non-standard details.

UTILITY DESIGN

- MINOR UTILITY ADJUSTMENT PLAN – Including plan sheets for the minor adjustment (for example, adjustment of valve or manhole to proposed finished grade) of existing water and sanitary sewer utilities within the project area.
- CITY OF LUBBOCK - SANITARY SEWER DETAILS
- CITY OF LUBBOCK - WATER DETAILS

ILLUMINATION DESIGN

- ILLUMINATION PLAN – Including plan sheets showing proposed illumination pole, conduit, and electrical service. The development of a photometric diagram will be considered an additional service. The electrical design for the project will include the electrical distribution system for the lighting system described. There will be a minimum of two (2) electrical utility service locations and a maximum of three (3) electrical service locations.
- ILLUMINATION DETAILS

TRAFFIC SIGNAL DESIGN

- SIGNAL PLAN AND SUMMARIES – CITY Traffic Engineering department will develop the signal designs required for the project in coordination with the ENGINEER. Sheets, quantities and specifications will be developed by the CITY and incorporated into deliverable packages by ENGINEER.

SIGNING AND PAVEMENT MARKING DESIGN

- SIGNING AND PAVEMENT MARKING PLAN – Including pavement markings, traffic buttons, and traffic signage (CITY and TMUTCD compliant) for the roadway improvements.
- CITY OF LUBBOCK SIGNING AND PAVEMENT MARKING DETAILS

LANDSCAPE DESIGN

- LANDSCAPE PLAN – Including proposed locations of topsoil, sod, and hydromulch in relation to the proposed improvements.

EROSION CONTROL

- EROSION CONTROL PLAN – Including proposed locations of sediment and erosion control BMPs in relation to the proposed improvements.

3.2. Preliminary Design Project Manual (Contract and Specifications)

ENGINEER will submit all deliverables needed to prepare the Project Manual (Contract and Specifications) using the CITY's front end and technical specifications. The ENGINEER shall supplement the technical specifications, as needed.

3.3. Opinion of Probable Construction Cost

ENGINEER will develop an opinion of probable construction cost (OPCC) based on design plans. Sources of data used in the preparation of the OPCC include

construction data aggregation services, similar past project performed by ENGINEER, and professional experience and engineering judgement.

3.4. Constructability Review Meeting

Prior to the Preliminary Design Review Meeting with the CITY, the ENGINEER shall schedule and attend a project site visit with the CITY Project Manager. The ENGINEER shall summarize the CITY's comments from the field visit and submit this information to the CITY in writing.

3.5. Utility Conflict Coordination

- ENGINEER will provide a digital set of plans in PDF format with the utility conflicts highlighted and a Utility Conflicts Table of those conflicts. The PDF file should be created directly from the CAD files.

ASSUMPTIONS

- Two (2) copies of half size (11"x17") plans.
- One (1) set of the Specifications.
- Two (2) copies of opinion of probable construction cost.
- Electronic copy (PDF) of the plans, specifications, and OPCC.

DELIVERABLES

A. Preliminary Design Plans

B. Preliminary Specifications

C. Opinion of Probable Construction Cost

D. Utility Conflict Coordination Package

TASK 4. FINAL DESIGN (90% AND 100%).

ENGINEER shall not proceed with Final Design activities without written approval by the CITY of the Preliminary Design Package. Final Design shall be submitted to CITY per the approved Project Schedule.

ENGINEER will develop the Final Design of the improvements as follows:

4.1. Final Design (90%) Plans:

- ENGINEER will progress, update, or revise the design plans listed in the Conceptual Design submittal and the additional design plans:

4.2. Final Design (90%) Specifications

- ENGINEER will prepare the Specifications using the CITY's front end and technical specifications. The ENGINEER shall supplement the technical specifications, as needed.

4.3. Opinion of Probable Construction Cost

- ENGINEER will develop an opinion of probable construction cost (OPCC) based on design plans. Sources of data used in the preparation of the OPCC include construction data aggregation services, similar past project performed by ENGINEER, and professional experience and engineering judgement.

4.4. Utility Conflict Coordination Package

- ENGINEER will provide a digital set of plans in PDF format with the utility conflicts highlighted and a Utility Conflicts Table of those conflicts. The PDF file should be created directly from the CAD files.

4.5. Final Design (100%) Plans:

- ENGINEER will progress, update, or revise the design plans listed in the Conceptual Design submittal and the additional design plans:

4.6. Final Design (100%) Specifications

- ENGINEER will prepare the Specificationsg using the CITY's front end and technical specifications. The ENGINEER shall supplement the technical specifications, as needed.

4.7. Opinion of Probable Construction Cost

- ENGINEER will develop an opinion of probable construction cost (OPCC) based on design plans. Sources of data used in the preparation of the OPCC include construction data aggregation services, similar past project performed by ENGINEER, and professional experience and engineering judgement.

ASSUMPTIONS

- Two (2) copies of half size (11"x17") plans for 90% and 100% Design.
- One (1) set of the Specifications for 90% and 100% Design.
- Two (2) copies of opinion of probable construction cost for 90% and 100% Design.
- Electronic copy (PDF) of the plans, project manual, and OPCC for 90% and 100% Design.

DELIVERABLES

A. Final Design Plans (90% and 100%)

B. Final Design Specifications (90% and 100%)

C. Opinion of Probable Construction Cost (90% and 100%)

D. Utility Conflict Coordination Package (90% and 100%)

TASK 5. BID PHASE SERVICES.

ENGINEER will support the bid phase of the project as follows.

5.1. Bid Support

- The ENGINEER will provide technical interpretation of the contract bid documents and will prepare proposed responses to all bidder's questions and requests in the form of addenda. Attend the pre-bid conference in support of the CITY.
- When substitution prior to award of contracts is allowed in the contract documents, the ENGINEER will advise the CITY as to the acceptability of alternate materials and equipment proposed by bidders.
- Attend the bid opening in support of the CITY.
- Tabulate and review all bids received for the construction project, assist the CITY in evaluating bids/proposals, and recommend award of the contract. A copy of the Bid Tabulation will be provided to the CITY.
- Assist the CITY in determining the qualifications and acceptability of prospective contractors, subcontractors, and suppliers.
- The ENGINEER will provide the CITY with a recommendation of award letter after the review of the provided bids.
- Incorporate all addenda into the contract documents and issue conformed sets. After the bid opening, ENGINEER will provide up to five (5) full size (22"x34") sets and up to seven (7) half size (11"x17") sets of the Conformed Plans and up to two (2) bound copies of the conformed Project Manual set incorporating all approved addenda.

ASSUMPTIONS

- The project will be bid only once and awarded to one contractor.
- Construction documents will only be made available on the City's document management system for plan holders and/or given to plan viewing rooms.
- Construction documents will *not* be printed by the CITY and made available for purchase by plan holders and/or given to plan viewing rooms.
- The project will be bid via the design, bid, and build process.

DELIVERABLES

A. Up to three (3) Addenda

B. Bid Tabulations

C. Recommendation of Award Letter

D. Conformed Plans and Project Manual

TASK 6. ROW/EASEMENT SERVICES.

ENGINEER will support and perform activities related to ROW and land as outlined below, per scoping direction and guidance from the CITY's Project Manager.

6.1. Right-of-Way/Easement Preparation and Submittal.

- The ENGINEER shall determine rights-of-way and easement needs for construction of the project. Required temporary and permanent easements will be identified based on available information and recommendations will be made for approval by the CITY.
- The ENGINEER shall prepare documents to be used to obtain right-of-way and permanent and/or temporary easements required to construct the improvements.
- The ENGINEER shall prepare a ROW and Easement parcel reference map showing and designating all land interest for project. The map shall be revised as necessary throughout the land acquisition process.
- ENGINEER shall perform appraisal services including a Market Study Report and individual appraisals for up to six (6) parcels.
- ENGINEER shall provide abstracting services for up to twelve (12) parcels with unknown ownership or potential prescriptive ROW parcels.
- Engineer shall provide title and negotiation services for twenty three (23) parcels including delivery of Initial Offer, negotiation with landowner, submitting signed conveyance documents/counteroffers to CITY, curing title issues and obtaining partial release of liens, delivery of Final Offer, recording original conveyance documents in the real property records and submitting final file to CITY.

ASSUMPTIONS

- Appraisals will be submitted to CITY for review to request approval to make offers.
- Condemnation services are considered an additional service.

DELIVERABLES

A. Up to twenty-three (23) proposed right-of-way documents

B. Up to three (3) proposed easement documents

C. ROW and Easement parcel reference map

D. Market Study Report

E. Conveyance documents

TASK 7. SURVEY AND SUBSURFACE UTILITY ENGINEERING SERVICES.

ENGINEER will provide survey support as follows.

7.1. Design Survey and Right-of-Way/Easement Research

- ENGINEER will perform field surveys to collect horizontal and vertical elevations and other information needed by ENGINEER in design and preparation of plans for the project. Information gathered during the survey shall include topographic data, elevations of all sanitary and storm sewers, rim/invert elevations, location of buried utilities, water valves, water meters, curb and gutter, asphalt, concrete, structures, sidewalks, medians, fences, driveways, tops and toes of slope, utility

poles, mailboxes, signs, telephone risers, trees (measure caliper, identify overall canopy, and have qualified arborist identify species of trees which are 6" in diameter or larger), and other visible features relevant to the final plan sheets. Existing drainage at intersections will be verified by field surveys. Spot elevations will be shown on intersection layouts with cross slope to fit intersecting grade lines.

- The minimum survey information to be provided on the plans shall include the following:
  - A Project Control Sheet, showing **ALL** Control Points, used or set while gathering data. Generally on a scale of not less than 1:400:
  - The following information about each Control Point;
    a. Identified (Existing. CITY Monument #8901, PK Nail, 5/8" Iron Rod)
    b. X, Y and Z Coordinates, in an identified coordinate system, and a referred bearing base.
    c. Descriptive Location (Ex. Set in the centerline of the inlet in the South curb line of North Side Drive at the East end of radius at the Southeast corner of North Side Drive and North Main Street).
  - Coordinates on all P.C.'s, P.T.'s, P.I.'s, Manholes, Valves, etc., in the same coordinate system, as the Control.
  - No less than two horizontal bench marks, per line or location.
  - Bearings given on all proposed centerlines, or baselines.
  - Station equations relating utilities to paving, when appropriate.
- Right-of-Way research includes review of property/right-of-way records based on current internet-based Lubbock Central Appraisal District (LCAD) information available at the start of the project and available on-ground property information (i.e. iron rods, fences, stakes, etc.). It does not include effort for chain of title research, parent track research, additional research for easements not included in the LCAD records, right-of-way takings, easement vacations and abandonments, right-of-way vacations, and street closures.

7.2. Temporary Right of Entry Preparation and Submittal

- Prior to the access of private property for the collection of existing conditions survey data, the ENGINEER shall prepare, mail, and monitor up to thirteen (13) temporary right of entry letters.

7.3. Subsurface Utility Engineering

- ENGINEER will perform the Level A-D Subsurface Utility Engineering (SUE) work required for this project in general accordance with the recommended practices and procedures described in ASCE Publication CI/ASCE 38-02 (Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data). As described in the mentioned ASCE publication, four levels have

been established to describe the quality of utility location and attribute information used on plans. The four quality levels are as follows:
Quality Level D (QL"D") – Information derived from existing utility records;
Quality Level C (QL"C") - QL"D" information supplemented with information obtained by surveying visible above-ground utility features such as valves, hydrants, meters, manhole covers.
Quality Level B (QL"B") – Two-dimensional (x,y) information obtained through the application and interpretation of non-destructive surface geophysical methods. Also known as "designating" this quality level provides the horizontal position of subsurface utilities within approximately one foot.
Quality Level A (QL"A") – Three dimensional (x,y,z) utility information obtained utilizing non-destructive vacuum excavation equipment to expose utilities at critical points which are then tied down by surveying. Also known as "locating", this quality level provides precise horizontal and vertical positioning of utilities within approximately 0.05 feet.

- Utilities to be designated include gas, telecommunications, electric, drainage, water and sanitary sewer.
- ENGINEER will designate the known subsurface utilities within the project limits utilizing geophysical equipment (electromagnetic induction, magnetic) to designate metallic/conductive utilities (e.g. steel pipe, electrical cable, telephone cable).
- ENGINEER will provide appropriate traffic control measures (barricades and signs).
- ENGINEER will utilize non-destructive vacuum excavation equipment to excavate test holes at the required locations. Due to the risk of damage, ENGINEER will not attempt to probe or excavate test holes on any AC water lines unless approval is obtained from the CITY in advance. ENGINEER will record the utility type, size, material, depth to top, and general direction. Each test hole will be assigned a unique ID number and will be marked with a nail/disk. The test-hole ID number and other pertinent utility information will be painted at each test-hole location.
- ENGINEER shall provide up to six (6) test holes (estimated to be between 8 and 12 feet in depth and within existing pavement) Subsurface Utility Engineering (SUE) to Quality Level A, as described below:
    - Expose and locate utilities at specific locations.
    - Tie horizontal and vertical location of utility to survey control.
    - Provide utility size and configuration.
    - Provide paving thickness and type, where applicable.
    - Provide general soil type and site conditions and such other pertinent information as is reasonably ascertainable from each test hole site.
    - Backfill cored holes within existing concrete pavement with temporary concrete pavement to a minimum of 9" in depth.

DELIVERABLES

A. Drawing of the project layout with Level A-D SUE (including legend and table of Level A SUE data).

TASK 8. GEOTECHNICAL INVESTIGATION / PAVEMENT DESIGN.

ENGINEER will provide geotechnical investigation services to the CITY as follows:

8.1 Field Exploration

- Select and mark up to eleven (11) boring locations and notify Texas 811, appropriate CITY Department(s) to request location and marking of existing underground utilities prior to the field exploration.

8.2 Laboratory Testing

- Perform testing on samples obtained from the borings to determine soil classification and pertinent engineering properties of the subsurface materials. ENGINEER will select samples for laboratory testing, assign tests, and review the test results. Testing will be performed by a geotechnical testing subcontractor.
- Laboratory tests will be assigned based on the specific subsurface materials encountered during exploration. Test type and quantity may vary, but are expected to include:
    - Classification tests (liquid and plastic limits and percent passing the No. 200 sieve or gradation)
    - Moisture content
    - Dry unit weight
    - Unconfined compressive strength
    - pH lime series
    - Soluble sulfate content

8.3 Engineering Analysis and Reporting

- Prepare a technical memorandum of the geotechnical investigation to include:
    - Boring locations, boring logs, laboratory test results, and a key to the symbols used.
    - Discussion of subsurface conditions and soil properties indicated by the field and laboratory work, and the implications for design.
    - Recommendations for pavement subgrade treatment
    - Pavement thickness calculations for both rigid and flexible pavement
    - Earthwork related recommendations for use during development of the plans and specifications

ASSUMPTIONS

- For core drilling, traffic control will be required, including closing a lane of traffic and providing flagmen.
- It is assumed that a truck-mounted drilling rig can access the drill locations. If drilling with a track-mounted rig is necessary, it will be considered an additional service to this contract.
- ENGINEER will coordinate with CITY to obtain the necessary permits for core drilling within the roadway.
- Soil boring locations are planned to be within the existing pavement and in locations where traffic control plans for roadway or lane closures will be necessary.
- Locations of the six (6) core borings will be adjusted for location based upon the existing utilities and ingress/egress onto Upland Avenue from the adjoining side streets.

DELIVERABLES

A. One (1) hard copy and one (1) electronic copy of geotechnical technical memorandum (including exhibits, soil boring results, summary of observations and pavement (surface and subgrade) recommendations).

TASK 9. PERMITTING.

ENGINEER will provide permitting support for the CITY to obtain any and all agreements and/or permits normally required for a project of this size and type, as follows:

9.1 Texas Department of Licensing and Regulation (TDLR)

- ENGINEER will provide permitting support for the CITY and will prepare plan layouts for Americans with Disabilities Act (ADA) and TDLR compliant sidewalks, curb ramps, pedestrian push buttons, and crosswalks.
- ENGINEER will retain the services of a TDLR Registered Accessibility Specialist (RAS) Inspector approved by the CITY.
- ENGINEER will be responsible for completing and submitting the inspection forms, paperwork, and RAS plan review during the design phase as required by the TDLR.
- During the construction phase, the CITY will coordinate one (1) RAS inspection with the ENGINEER and RAS Inspector no later than thirty (30) calendar days after construction substantial completion.
- ENGINEER will be compensated for the RAS Inspector costs by the CITY as a reimbursable expense.

9.2 Environmental Permit Evaluation

ENGINEER will evaluate the project area for regulatory permitting requirements primarily related to Section 404 of the Clean Water Act (Section 404) and other know permits. This

information will be utilized to evaluate the project improvements to minimize regulatory requirements for the project.

Desktop Evaluation

- Prior to the site visit, ENGINEER's environmental scientists will assemble and review data such as aerial photographs, topographic maps, National Wetlands Inventory (NWI) maps, and soils data.

Pedestrian Survey

- ENGINEER's environmental scientist will conduct a pedestrian survey within the project limits (including approximately 200 feet upstream and downstream of the existing culvert crossings) to document existing environmental conditions and assess potential environmental impacts. The presence and locations of waterbodies, including wetlands, potential federally-listed threatened and endangered species habitat, and vegetation cover types will be identified within the project area.

THC Coordination

- ENGINEER's environmental scientist will prepare and submit a consultation letter to the Texas Historical Commission (THC) to determine the potential for the project to impact protected cultural resources and provide results to the CITY. If follow up studies are requested by the THC, those studies can be provided as an additional service with written authorization from the CITY.

Conceptual Environmental Permitting Memorandum

- Information gathered during the pedestrian survey (and coordination with the project team and CITY) will be used to prepare a technical memorandum identifying potential environmental permitting requirements for the proposed improvements identified in the conceptual design phase.

ASSUMPTIONS

- Section 404 of the Clean Water Act (Section 404) regulates the discharge of materials within waters of the U.S. (such as streams, ponds, and wetlands), and the U.S. Army Corps of Engineers must issue a Section 404 permit prior to a regulated action. This scope assumes the intent of the future proposed project is to construct roadway improvements in accordance with the terms and conditions of Nationwide Permit (NWP) 14, Linear Transportation Projects.

DELIVERABLES

A. Conceptual Environmental Permitting Memorandum

EXHIBIT A, PART 2, ADDITIONAL SERVICES

Upland Avenue (from 50th Street to 66th Street)

Additional Services not included in the existing Scope of Services – CITY and ENGINEER agree that the following services are beyond the Scope of Services described in the tasks above. However, ENGINEER can provide these services, if needed, upon the CITY's written request. Any additional amounts paid to the ENGINEER as a result of any material change to the Scope of the Project shall be agreed upon in writing by both parties before the services are performed. These additional services include the following:

- Water and wastewater utility design.
- Traffic signal design.
- Condemnation services.
- Construction phase services of any kind, including pre-construction meetings, review of submittals, field visits, progress meetings, etc.
- Services related to development of the CITY's project financing and/or budget.
- Services related to disputes over pre-qualification, bid protests, bid rejection and re-bidding of the contract for construction.
- Construction management and inspection services
- Performance of materials testing or specialty testing services.
- Services necessary due to the default of the Contractor.
- Services related to warranty claims, enforcement and inspection after final completion.
- Services to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by the CITY.
- Performance of miscellaneous and supplemental services related to the project as requested by the CITY.
- Effort exceeding those outlined in the "Assumptions" section of each task description.
- Survey documents exceeding the number shown in the contract.
- Property appraisals exceeding the number shown in the contract.
- Level A SUE test holes exceeding the number shown in the contract.

EXHIBIT B

Budget for Engineering Design Related Services for

Upland Avenue (from 50th Street to 66th Street)

CITY and ENGINEER have established a not-to-exceed budget of $1,208,443 to complete all engineering design services as directed under this AGREEMENT. This amount will not be exceeded without a contract amendment. CITY will pay the ENGINEER hourly, for services identified in Exhibit A, based on ENGINEERS Fee Schedule presented as EXHIBIT C. Subconsultant services will be billed at cost to ENGINEER with a 10 percent handling fee. The Budget is presented for the services of ENGINEER under this AGREEMENT are provided in this Exhibit B. CITY and ENGINEER agree to allow redistribution of funds between Tasks as appropriate to allow flexibility in providing the needed services within the not-to-exceed budget.

ENGINEER agrees to complete these services as delineated above. Should there be a Change in Scope of Work or Time of Performance, then this can result in an amendment to this contract which shall be negotiated at that time.

The budget assumes that all work will be completed in accordance with the proposed project schedule of 12 months. The schedule may be extended by six months if the CITY and ENGINEER mutually agree.

EXHIBIT C

Hourly Rate Schedule Compensation for Engineering Design Related Services for Upland Avenue (from 50th Street to 66th Street)

LUBBOCK RATE SCHEDULE

Position	Rate
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

	B&W	Color
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.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2023-1079264

Date Filed:
10/04/2023

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Freese and Nichols, Inc.
Fort Worth, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
City of Lubbock

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
17625
Engineering Design Services for Upland Avenue from 50th Street to 66th Street

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Pence, Bob	Fort Worth, TX United States	X	
Coltharp, Brian	Fort Worth, TX United States	X	
Archer, Charles	Raleigh, NC United States	X	
Greer, Alan	Fort Worth, TX United States	X	
Hatley, Tricia	Oklahoma City, OK United States	X	
Johnson, Kevin	Dallas, TX United States	X	
Payne, Jeff	Fort Worth, TX United States	X	
Reedy, Mike	Houston, TX United States	X	
Wolfhope, John	Austin, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is Pam Fordtran, and my date of birth is [redacted].

My address is 800 N. Shoreline, Suite 1600N (street), Corpus Christi (city), TX (state), 78401 (zip code), USA (country).

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Nueces County, State of Texas, on the 4th day of October (month), 2023 (year).

Pam Fordtran

Signature of authorized agent of contracting business entity
(Declarant)

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2023-1079264

Date Filed:
10/04/2023

Date Acknowledged:
10/05/2023

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Freese and Nichols, Inc.
Fort Worth, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Lubbock

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

17625
Engineering Design Services for Upland Avenue from 50th Street to 66th Street

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Pence, Bob	Fort Worth, TX United States	X	
Coltharp, Brian	Fort Worth, TX United States	X	
Archer, Charles	Raleigh, NC United States	X	
Greer, Alan	Fort Worth, TX United States	X	
Hatley, Tricia	Oklahoma City, OK United States	X	
Johnson, Kevin	Dallas, TX United States	X	
Payne, Jeff	Fort Worth, TX United States	X	
Reedy, Mike	Houston, TX United States	X	
Wolfhope, John	Austin, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

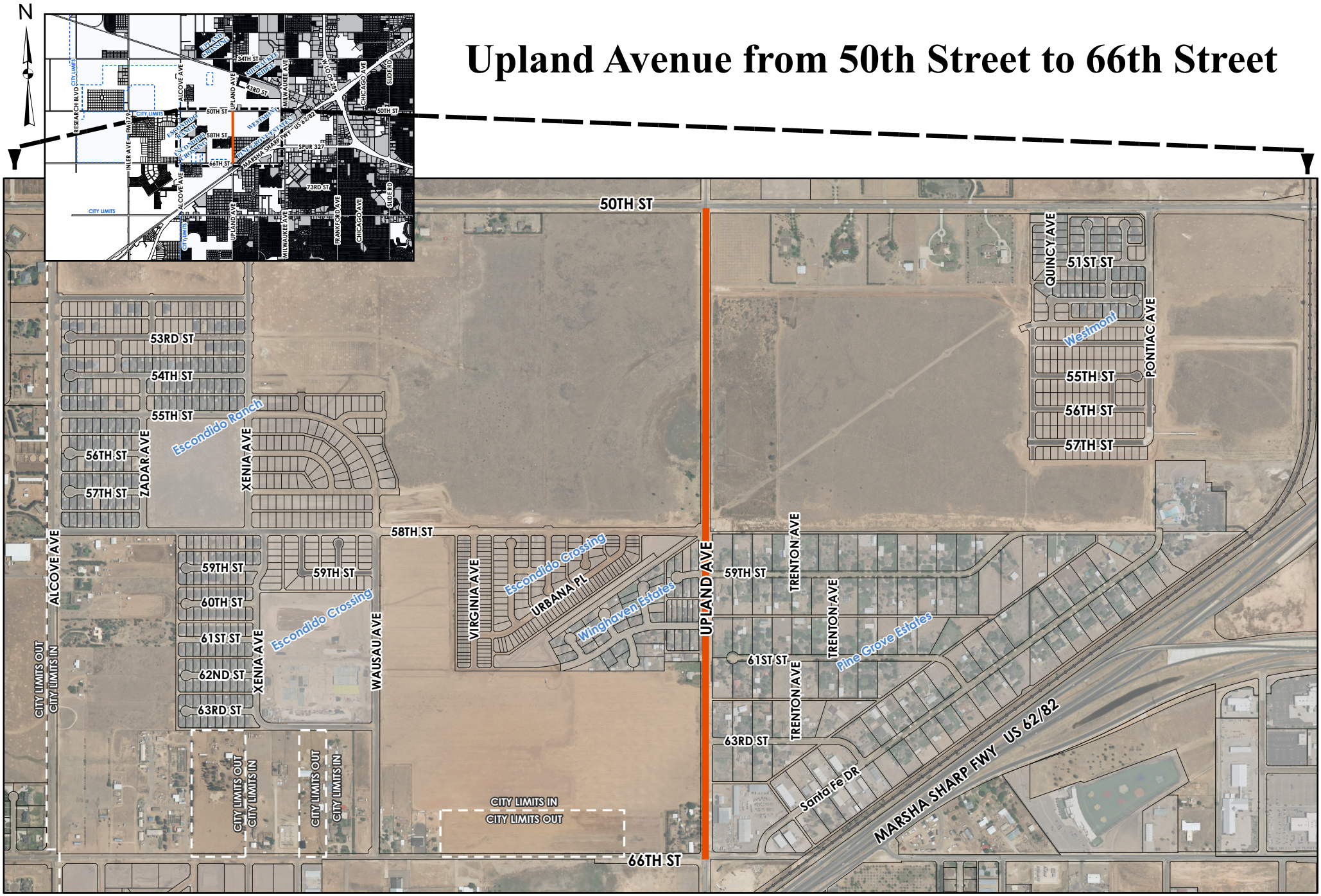
My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20_____.
(month) (year)

_____
Signature of authorized agent of contracting business entity
(Declarant)

Upland Avenue from 50th Street to 66th Street



0 500 1,000 2,000 3,000 4,000 5,000 Feet

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

City of Lubbock TEXAS

Digital Orthophotography - May 2022

City of Lubbock
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92824
Capital Project Name:	Upland Avenue: 50th St to 66th St - 22B

Encumbered/Expended	**Budget**
Contract 17625 with Freese and Nichols for Design Services	1,208,443
Agenda Item March 25, 2025	
Amendment 1 - Contract 17625	63,000
Staff Time	4,841
Encumbered/Expended To Date	1,271,443
Estimated Cost for Remaining Appropriation	
Upland Avenue: 50th St to 66th St - 22B Construction	1,928,557
Remaining Appropriation	-
Total Appropriation	$ 3,200,000

CIP 92824 Upland Ave from 50th Street to 66th Street - 22B

New Roadway Infrastructure

Project Manager: Bailey Ratcliffe - Engineering

Project Scope

Upland Avenue from 50th Street to 66th Street is currently a two-lane paved road and is designated in the 2018 Thoroughfare Master Plan to become a five-lane Principal Arterial (Modified). Continued growth in west Lubbock has increased traffic demands along the Upland Avenue corridor from 50th Street to 66th Street. This thoroughfare will include the ultimate design of a five-lane undivided thoroughfare with curb and gutter, drainage, streetlights, sidewalk improvements, utility adjustment and right of way acquisition services.

Project Justification

On November 8, 2022, Lubbock voters approved issuance of a $200 million street improvements bond package for the purpose of providing permanent public improvements. The funding will acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocations and traffic signalization, necessary and related storm drainage facilities, and the acquisition of land and rights-of-way for the full width dedication.

Project Highlights

Council Priorities Addressed:
Public Safety
Community Improvement
Growth and Development

Project History

- FY 2023-24 $3,200,000 was appropriated by Ord. 2023-O0108

Project Dates

Design Start Date: 10/2023
Design Completion: 09/2025
Bid for Constuction:09/2025
Award Construction: 11/2025
Project Completion: 05/2027

Project Location

Upland Ave - 50th to 66th St

Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Design	$3,200,000	$0	$0	$0	$0	$0	$0
Construction	$0	$0	$13,800,000	$0	$0	$0	$0
TOTAL	**$3,200,000**	**$0**	**$13,800,000**	**$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 Obligation Bonds	$3,200,000	$0	$13,800,000	$0	$0	$0	$0
TOTAL	**$3,200,000**	**$0**	**$13,800,000**	**$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**

AI# 13245
Regular City Council Meeting 5. 21.
03/25/2025:

Information

Agenda Item

Ordinance 2nd Reading - Planning: Consider Ordinance No. 2025-O0042, for a request for annexation, from Thomas L. Cooke and Deidra DeAnn Williams Martin, to annex an area of approximately 407.28 acres, adjacent to the eastern city limits of the City of Lubbock, north of East Bluefield Street and east of North Guava Avenue, into Lubbock's corporate limits.

Item Summary

On February 11, 2025, the City Council approved a resolution adopting the Municipal Service Plan for the request, which was agreed upon by the City of Lubbock and the property owners.

The next step in the voluntary annexation process is to hold a public hearing. Following the public hearing, the City Council may consider an ordinance annexing approximately 407.28 acres, adjacent to the eastern city limits of the City of Lubbock, north of East Bluefield Street and east of North Guava Avenue, into Lubbock's corporate limits, along with the adjacent right-of-way.

Fiscal Impact

None

Staff/Board Recommending

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

Attachments

Ordinance - East Bluefield & North Guava
Municipal Services Plan - East Bluefield & North Guava
Annexation Map - East Bluefield & North Guava

Petition - East Bluefield & North Guava

ORDINANCE NO. _____

AN ORDINANCE: ANNEXING INTO THE CITY OF LUBBOCK, TEXAS OF AN AREA GENERALLY DESCRIBED AS APPROXIMATELY 407.28 ACRES IN THE CITY OF LUBBOCK'S EXTRATERRITORIAL JURISDICTION, LUBBOCK COUNTY, TEXAS, WITH SUCH AREA BEING CONTIGUOUS TO THE EXISTING CITY LIMITS; PROVIDING FOR THE CORRECTION OF THE CITY MAP TO INCLUDE THE AREA ANNEXED THROUGH THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council of the City of Lubbock (the "City Council"), received from the property owners (the "Petitioners") of an area of land generally described as approximately 407.28 acres in the City of Lubbock's extraterritorial jurisdiction, Lubbock County, Texas contiguous to the city limits (the "Area"), a written petition requesting the annexation of the Area into the boundaries of the City of Lubbock; and

WHEREAS, in accordance with Sec. 43.0672 of the Texas Local Government Code, the City Council entered into a Municipal Services Agreement (the "Agreement") attached hereto and incorporated herein as "Exhibit A", by and between the City of Lubbock and the Petitioners at the City Council's regularly scheduled meeting on February 11, 2005; and

WHEREAS, the City Council deems it to be in the best interest of the citizens of the City of Lubbock to annex the Area into the City of Lubbock through this Ordinance; **NOW THEREFORE,**

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

SECTION 1. THAT the Area is hereby annexed into, and included within, the corporate limits of the City of Lubbock, Texas. Such Area is depicted and described in the attached "Exhibit B", and is incorporated herein for all intents and purposes. Such Area is contiguous to the existing corporate limits of the City of Lubbock, Texas.

SECTON 2. THAT the City Council hereby declares it to be its purpose to annex into the City of Lubbock every part of the Area. Should this Ordinance for any reason be ineffective as to any part or parts of the Area hereby annexed into the City of Lubbock for full purposes, the ineffectiveness of this Ordinance as to any such part or parts shall not affect the effectiveness of this Ordinance as to the remainder of the Area.

SECTION 3. THAT the City Engineer, or his designee, is hereby authorized and directed to correct the map of the City of Lubbock by adding thereto the Area annexed by this Ordinance, indicating on the map the date of annexation and the number of this Ordinance. The City Secretary and the City Engineer shall each keep in their respective offices an official map of the City of Lubbock showing the boundaries of the municipal corporation, including this annexation.

SECTION 4. THAT upon the effective date of this Ordinance, any current or future inhabitant of the Area shall be entitled to the rights and privileges of other citizens of the City of Lubbock, Texas and shall be bound by the acts and ordinances adopted by the City of Lubbock, Texas.

SECTION 5. THAT should any paragraph, section, sentence, phrase, clause or word of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 6. THAT the City Secretary is hereby authorized and directed to cause publication of the descriptive caption of this Ordinance as an alternative method of publication provided by law.

AND IT IS SO ORDERED.

Passed by the City Council on first reading on _____.

Passed by the City Council on second reading on _____.

_____
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

Ord. Annexation Cooke and Martin
2.17.25

Resolution No. 2025-R0077
Item No. 6.8
February 11, 2025

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 Municipal Services Agreement, by and between the City of Lubbock, Thomas L. Cooke, and Deidra DeAnn Williams Martin, 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 February 11, 2025.

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.Municipal services agrmt – Cooke and Martin
1.29.25

MUNICIPAL SERVICES AGREEMENT

BETWEEN THE CITY OF LUBBOCK, TEXAS

AND THOMAS L. COOKE AND DEIDRA DEANN WILLIAMS MARTIN

This Municipal Services Agreement ("Agreement") is entered into on 11th day of February, 2025 by and between the City of Lubbock, Texas, a home-rule municipality of the State of Texas, ("City") and Thomas L. Cooke and Deidra DeAnn Williams Martin ("Owners"), collectively referred to as ("Parties").

RECITALS

The Parties agree that the following recitals are true and correct and form the basis upon which the Parties have entered into this Agreement.

WHEREAS, the City is currently classified as a Tier 2 municipality for purposes of annexation under the Texas Local Government Code ("LGC");

WHEREAS, Section 43.0671 of the LGC permits the City to annex an area when each owner of land in an area requests the annexation;

WHEREAS, the Owners owns a certain parcel of land situated in Lubbock County, Texas which consists of approximately 407.28 acres of land in the City's extraterritorial jurisdiction, such property being more particularly described and set forth in "Exhibit A", attached to and incorporated herein ("Property");

WHEREAS, where the City elects to annex such an area, the City is required to enter into a written agreement with the property owner(s) that sets forth the City services to be provided for the Property;

WHEREAS, Owners have filed a written request with the City for full-purpose annexation of the Property, and said petition for annexation is set forth in "Exhibit B", attached to and incorporated herein ("Petition");

WHEREAS, the City and the Owners desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, the annexation and execution of this Agreement are subject to approval by the Lubbock City Council; and

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, the City and the Owners agree as follows:

1. **PROPERTY**. This Agreement is only applicable to the Property, which is the subject of the annexation.

2. **INTENT**. It is the intent of the City that this Agreement provide for the delivery of full, available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.

3. **MUNICIPAL SERVICES PLAN**

A. Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, "providing services" includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with the applicable city ordinances, rules, regulations, and policies.

i. Fire Services

a. *Existing Services*: None

b. *Services to be Provided:* Fire suppression will be available to the area upon annexation. Primary fire response will be provided by Fire Station No. 2, located at 1515 E. Ursuline Avenue, Fire Station No. 4, located at 2504 Cornell Street, and Station No. 5, located at 1104 Zenith Avenue. Station No. 2 is approximately 3.3 miles from the proposed annexation with an approximate response time of 4 minutes. Station No. 4 is approximately 4.9 miles from the proposed annexation with an approximate response time of 7 minutes. Station 5 is approximately 6.1 miles from the proposed annexation with an approximate response time of 9 minutes. Fire suppression activities can be afforded to the annexed area within current appropriation and within response standards described in NFPA 1710. Fire prevention activities will be provided by the Fire Marshal's office as needed.

ii. First Responder Emergency Medical Services

a. *Existing Services*: None

b. *Services to be Provided*: Lubbock Fire Rescue is a Basic Life Support (BLS and ALS) First Responder (non-transport) Organization. BLS and ALS First Responder emergency medical response will be provided by Fire Station No. 2, located at 1515 E. Ursuline Avenue, Fire Station No. 4, located at 2504 Cornell Street, and Station No. 5, located at 1104 Zenith Avenue.

Station No. 2 is approximately 3.3 miles from the proposed annexation with an approximate response time of 4 minutes. Station No. 4 is approximately 4.9 miles from the proposed annexation with an approximate response time of 7 minutes. Station 5 is approximately 6.1 miles from the proposed annexation with an approximate response time of 9 minutes. Emergency medical transport is provided by the Lubbock County Hospital District through UMC EMS.

iii. Police Services

a. *Existing Services*: None

b. *Services to be Provided*: The Lubbock Police Department has jurisdictional law enforcement responsibility and first responder designation. Calls for police services will be provided by the North Patrol Division, with secondary services provided by the South Patrol Division and tertiary services provided by the East Patrol Division. Law enforcement services can be provided to the annexed area within current appropriation, however with the increase in land mass and population, an appreciable yet modest increase in call response times, crimes rate, crimes per thousand population, and traffic related calls should be expected and anticipated. Expansions of authorized police staffing and support services need to be considered for this and future annexations, including an analysis of the ratio of officers per population.

iv. Building Safety Services

a. *Existing Services*: None

b. *Services to be Provided*: The Building Safety Department will provide construction code enforcement services upon annexation. This includes construction plan review and field inspection services and the issuance of building, electrical, and plumbing/mechanical permits for any new construction and remodeling, as well as enforcement of all other applicable laws and codes that regulate building construction within the City of Lubbock. As land is developed, the need for additional personnel and budget appropriations will be dependent upon the type, intensity and rate of development within the annexed area as well as areas that compete for those resources.

v. Planning and Zoning Services

a. *Existing Services*: Subdivisions of land within the five-mile extraterritorial jurisdiction (ETJ) of the city are required to have a plat of the subdivision prepared in accordance with the City of Lubbock subdivision regulations. Currently, plats and subdivisions in the ETJ are approved by the Planning and Zoning Commission, as well as the County Commissioner's Court, as may be dictated by applicable state statutes and City ordinances. Similarly, signs and billboards are regulated within the ETJ pursuant to the City's sign ordinance, as authorized by State law. No other Planning department services are authorized or offered outside of the City limits, including zoning.

b. *Services to be Provided*: The Planning and Zoning Department's responsibility for regulating development and land use through the administration of the City of Lubbock Unified Development Code will extend to this area on the effective date of the annexation. The annexed areas will also continue to be regulated under the requirements of the City of Lubbock Subdivision Ordinance. These services can be provided within the department's current budget.

vi. GIS and Data Services

a. *Existing Services*: None

b. *Services to be Provided*: GIS and Data Services will update all city-wide GIS data sets to include the newly annexed areas. This will include support to the Office of City Secretary for elections requirements, to Building Inspection, Streets and Traffic Engineering for addresses, street names and street signs, and to Planning for transitional zoning. GIS will facilitate a meeting with Lubbock Emergency Communication District, Police and Fire for determination of updated information for 911 Dispatch. Updated GIS information that is public will also be reflected on the GIS mapping website for citizens.

vii. Publicly Owned Parks, Facilities, and Buildings

a. Existing Services: City of Lubbock Library's materials, services, and programs are currently available to anyone who lives in Lubbock County.

b. Services to be Provided: Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities (including community service facilities, libraries, swimming pools, etc.) and buildings throughout the City. Upon the effective date of annexation, staff will study areas to be included in future versions of the Parks Master Plan. Any

addition of parkland will create additional expenses to the Parks and Recreation operating budget. The Library will continue to provide services to all of Lubbock County, including the area to be annexed. These services are provided within the department's current budget.

viii. Code Administration Services

a. *Existing Services*: None

b. *Services to be Provided*: The City of Lubbock's Code Administration department will implement the enforcement of local ordinances and regulations on the effective date of the annexation. Such services can be provided with current Code Administration Personnel and within the current budget appropriation. As land is developed, increases in personnel and budget will be needed in order to provide the same level of customer service.

ix. Environmental Health Department Services

a. *Existing Services*: None

b. *Services to be Provided*: The City of Lubbock's Environmental Health Departments will implement the enforcement of local, state, and federal rules, regulations, and ordinances on the effective date of the annexation. Such services can be provided with current Environmental Health Department Personnel and within the current budget appropriation. As land is developed, increases in personnel and budget will be needed in order to provide the same level of customer service.

x. Animal Services

a. *Existing Services*: None. Currently, the area is under the jurisdiction of the Lubbock County Sheriff's Office.

b. *Services to be Provided*: Animal control services will be provided to the area as needed. The City of Lubbock Animal Services Department will implement the enforcement of the City of Lubbock's animal control ordinances and regulations upon the effective date of the annexation. It is anticipated that such services can be provided with current personnel and budget appropriation, but response times may increase.

xi. Street Services

a. *Existing Services:* City of Lubbock Public Works currently maintains any roads that are within the City of Lubbock City Limits adjacent to these plats.

b. *Services to be Provided:* The Developer will be required to improve east Bluefield Street from MLK Boulevard to Olive Avenue to a two-lane section. The Developer will be required to improve Guava Avenue from Bluefield Street to at least a two-lane section to the entrance of the facility and then transition back to the existing pavement section. East Bluefield Street and Guava Avenue are classified as collectors on the Master Thoroughfare Plan. Improvements made to Bluefield Street and Guava Avenue will not be eligible for Impact Fee Offsets.

The Developer will be required to provide right-of-way for a two-lane section from the southeast corner to the northeast corner of the Property (currently designated as Olive Avenue on the Master Thoroughfare Plan), including a transition back to the existing section. Olive Avenue is classified as a minor arterial in the Master Thoroughfare Plan.

The pavement structure for Olive Avenue will require an appropriate pavement design meeting a minimum design standard for the street as classified (collector, arterial, etc.) and for the traffic load expected. These roadways may be built in phases, but will be required to be built once any connection including streets or alleyways is made to the road by the voluntary annexation area.

Additional all-weather access may be required for ingress and egress by the Fire Marshall at the time of building permit in addition to what is required in this section.

xii. Storm Water Management Services

a. *Existing Services:* City maintains jurisdiction of playa lakes within the ETJ. TCEQ (Texas Commission on Environmental Quality) has jurisdiction of enforcement and compliance with stormwater related permits outside the City limits.

b. *Services to be Provided*: As land is developed, developers will provide plans for addressing the conveyance of storm water drainage. The Development Engineering staff will review the drainage plans for compliance with the current drainage regulations and policies. Any major improvements for conveyance will be inspected for compliance by the city staff at time of

completion. Additionally, as land is developed and building permits are requested, Storm Water staff reviews each permit request for compliance with Chapter 22 (City's Stormwater permit) and Chapter 39 (Unified Development Code) of the City Code. After permit issuance, inspections of the construction sites are to ensure compliance with the City Code and state regulations. TCEQ Stormwater permit holders will be transitioned from TCEQ oversight to City of Lubbock oversight, i.e. inspection and compliance of these existing facilities will now be the responsibility of the City of Lubbock Storm Water Staff.

xiii. Street Lighting

a. *Existing Services*: None

b. *Services to be Provided*: The City of Lubbock will coordinate any request for improved street lighting with the local electric provider in accordance with standard policy.

xiv. Traffic Engineering Services

a. *Existing Services*: None

b. *Services to be Provided*: Upon annexation and in conjunction with the platting process, Traffic Engineering will identify and install required traffic signs to be installed at the developer's expense. Other regulatory traffic control devices will be provided after appropriate studies indicate the data meets the minimum requirements as set forth in the Texas Manual on Uniform Traffic Control Devices (TMUTCD) and as budget permits.

xv. Water and Sanitary Sewer Services

a. *Existing Services*: None

b. *Services to be Provided*: Availability of water and sewer is at the request and expense of the user, and shall be provided within current policies and ordinances of the City. Water and sewer for domestic and commercial use, when installed, will be available at approved City rates. Water for fire protection will be available through lines only after service lines are installed by the Developer.

c. Water and Sewer studies may be required in order to assure services to the voluntary annexation. Nearly all the voluntary annexation area is outside

of our current Water and Sewer Models and Master Plan for potential Capital Projects.

d. Water will need to be looped appropriately to ensure appropriate fire flows as well as assuring no dead-end water mains are left within the system once developed. The water loop will be required within three (3) years of installation of a dead-end water main.

There are existing water lines in Bluefield Street and Guava Avenue that will be required to be extended appropriately to serve the site. All water extensions will be at the sole expense of the Developer.

e. The annexation area will require a private lift station(s) in order to receive sewer services. The gravity sanitary sewer lines internal to the site and the lift station(s) will remain private. All maintenance and operations of the gravity sewer lines, and lift station(s) will be the responsibility of the Developer, and said responsibility shall run with the land. The force main will be turned over to the City of Lubbock and the design must conform to current policies and ordinances. The nearest gravity sewer line available to take the force main discharge is south of Regis Street and east of Guava Avenue. All sewer extensions will be at the sole expense of the Developer.

xvi. Solid Waste Services

a. *Existing Services*: None

b. *Services to be Provided:* Solid Waste Collection shall be provided to the area of annexation in accordance with the present ordinance. Service shall comply with existing City policies, beginning with occupancy of structures. Since there is potential residential growth within this area of annexation, impact to services has been determined to be gradual. Additional driver and equipment can be projected when 1,000 residential unit structures are occupied, and an increase in staffing and equipment will be needed as development continues within this proposed annexation area and exceeds route collection averages. The landfill will be able to handle this request. The only impact would be that the City could anticipate landfilling additional solid waste tonnage and ultimately developing the next landfill cell sooner than currently projected. However, the Developer may be asked to assist with infrastructure for residential waste collection, i.e. carts or dumpsters.

c. *Service Route:* Until such time as adjacent unpaved roadways are built all City Solid Waste services will be routed through and upon Paved Arterial

Roadways only. Solid Waste will not route trucks down unpaved roadways to service alleyways in any case.

B. It is understood and agreed that the City is not required to provide a service that is not included in this agreement.

C. Owners understand and acknowledge that the City departments listed above may change name or be-reorganized by the City Manager. Any reference to a specific department also includes any subsequent department that will provide the same or similar services.

4. **AUTHORITY**. City and Owners represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owners acknowledge that approval of the annexation is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.

5. **SEVERABILITY**. If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the Parties will be construed as if the part, term, or provision was never part of the Agreement.

6. **INTERPRETATION**. The Parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The Parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.

7. **GOVERNING LAW AND VENUE**. Venue shall be in the state courts located in Lubbock County, Texas and construed in conformity with the provisions of Texas Local Government Code Chapter 43.

8. **NO WAIVER**. The failure to either party to insist upon the performance of any term or provision of this Agreement or to exercise any right grated hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

9. **GOVERNMENTAL POWERS**. It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

10. **COUNTERPARTS**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

11. **CAPTIONS**. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the term and conditions of this Agreement.
12. **AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND**. This Agreement is binding on and inures to the benefit of the Parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owner.

13. **CH. 43 DISCLOSURE IN COMPLIANCE WITH THE TEXAS LOCAL GOVERNMENT CODE SEC. 43.004**

    a. The City discloses that the Landowner is not required to enter into this agreement, however if the Landowner desires to have their property annexed, the Texas Local Government Code Sec. 43.0672 requires a written agreement for the provision of municipal services;

    b. The City may, in compliance with and under the authority of the Texas Local Government Code Subchapter C-3, annex the Landowner's property upon the Landowner's request;

    c. The procedural mechanisms in order to annex the Landowners property shall be as follows:

        1. The Landowner of the property must petition the City requesting the annexation of Landowner's property;

        2. If the City desires to annex Landowner's property, a written agreement shall be made with each Landowner requesting property to be annexed and said agreement shall include:

            a. All of the services the City will provide to the property once annexed; and

            b. A schedule of any services the City will provide at a later time, if not at the time of annexation.

    d. The above procedures shall require the consent and signature of the City and the Landowner; and

    e. The City waives immunity from suit for the purpose of adjudicating a claim for breach of the agreement.

14. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written agreements between said Parties. This Agreement shall not be amended unless executed in writing by both Parties.

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

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

OWNER

Thomas L Cooke
Signature

Thomas L Cooke
Printed Name

SUBSCRIBED AND SWORN TO BEFORE ME on the day of 4 day of Feb, 2025, to certify which witness my hand and official seal.

ANGIE K MCKAY
Notary ID # 133647023
My Commission Expires
January 19, 2026

[Seal]

[Signature] Angie McKay

[Printed name] Angie K. McKay

Notary Public in and for
the State of Texas

OWNER

Signature

14. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written agreements between said Parties. This Agreement shall not be amended unless executed in writing by both Parties.

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

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

OWNER

Signature

Printed Name

SUBSCRIBED AND SWORN TO BEFORE ME on the day of_day of_, 20___, to certify which witness my hand and official seal.

[*Seal*]

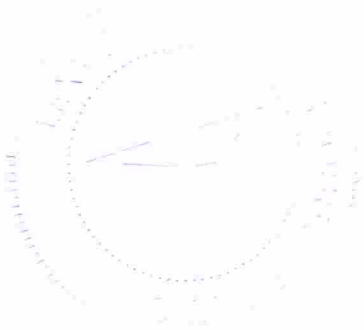
[*Signature*] _____

[*Printed name*] _____

Notary Public in and for the State of Texas

OWNER

Signature



Deidra Deann Williams Martin
Printed Name

SUBSCRIBED AND SWORN TO BEFORE ME on the 3rd day of day of February, 2025, to certify which witness my hand and official seal.

[Seal]

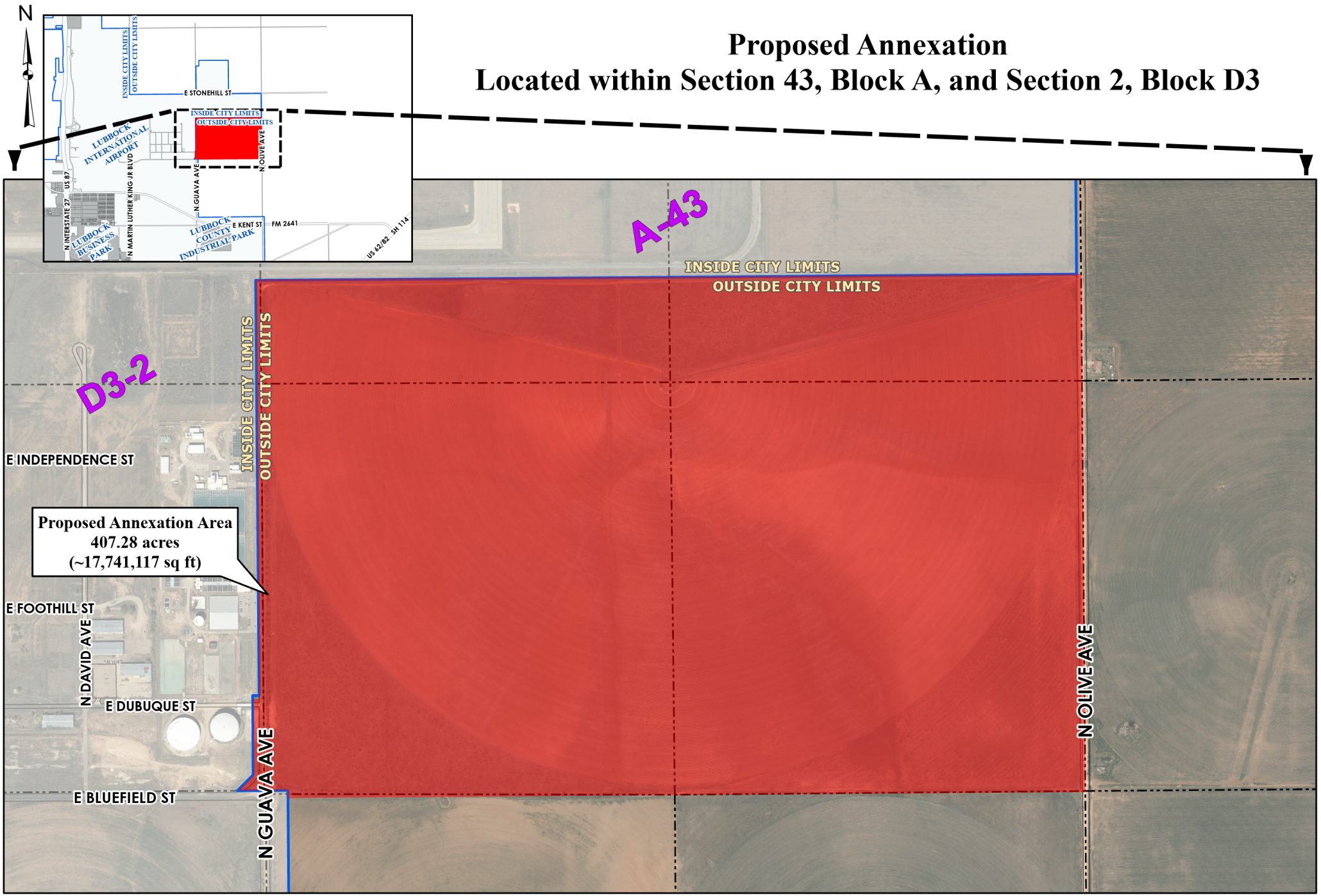
[Signature]

[Printed name] Roman Wojtkowiak Notary Public

Notary Public in and for
the State of ~~Texas~~ Nevada
Clark
County of Clark

ROMAN WOJTKOWIAK
NOTARY PUBLIC
STATE OF NEVADA
My Commission Expires: 07-11-26
Certificate No: 18-2291-1

Proposed Annexation
Located within Section 43, Block A, and Section 2, Block D3



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

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

Lubbock City Limits

Proposed Annexation

City of Lubbock TEXAS

Digital Orthophotography - March 2024

City of Lubbock TEXAS

VOLUNTARY ANNEXATION APPLICATION

APPLICATION IS NOT VALID WITHOUT COMPLETION OF ALL PAGES AND SIGNATURES

MINIMUM SUBMITTAL REQUIREMENTS:

- ☑ Application provided by City of Lubbock completed in full. This application must be used and may not be adjusted or altered. Please attach pages if additional information is provided.
- ☑ Annexation petition provided by City of Lubbock with notarized signature(s).
- ☑ Map of the subject property.
- ☑ A legal description of the property (including a survey, field notes or legal description with subdivision, lot and block) labeled as Exhibit A.
- ☑ Ownership Documents. A clean copy of recorded warranty deed or other document(s) verifying ownership of all property to be annexed. If the property is owned by a partnership, corporation, trust, or other entity, documents demonstrating signatory's authority to sign petition on behalf of entity must be included.
- ☑ One digital copy of all of the above.
- ☑ If designating a representative, the affidavit designating representative with notarized signature(s).

Property Owner(s): Thomas L. Cooke and Deidra DeAnn Williams Martin

Address: P.O. Box 1367, Idalou, TX 79329

Address: _____

Telephone: (____)_____ Email: cookethomasl@yahoo.com

Telephone: (____)_____ Email: _____

Acreage of property: 407.28 Number of lots and proposed use: >1 lots, LI uses

Check one:

- ☐ I will represent my application and petition before city staff and the City Council.
- ☑ I hereby authorize the person named in the attached affidavit to act as my representative in this application before city staff and the City Council.

Thomas L Cooke

Owner of record signature

Please note: The signature of owner authorizes the City of Lubbock staff to visit and inspect the property that is subject to this application. The representative is the official contact person for this project and the single point of contact. All correspondence and communication – and responsibility for responding to same – will be conducted with the representative.

City of Lubbock TEXAS

PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF LUBBOCK, TEXAS:

The undersigned owners of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby waive any requirement to be offered a development agreement pursuant to the Texas Local Government Code Section 43.016, and petition your Honorable Body to extend the present city limits so as to include as part of the City of Lubbock, Texas, the territory described in the attached Exhibit A, including a survey, field notes or legal description with subdivision, lot and block.

We certify that the above described tract of land is contiguous and adjacent to the City of Lubbock, Texas, falls within Lubbock County, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Signed: Thomas L Cooke

Signed: Deidra DeAnn Williams Martin

Signed: _____

THE STATE OF TEXAS

COUNTY OF Lubbock

BEFORE ME, the undersigned authority, on this day personally appeared Thomas L. Cooke, Deidra DeAnn Williams Martin, and _____, known to me to be the persons whose names are subscribed to the foregoing instrument and each acknowledged to me that he or she executed the same for the purposes and consideration therein expressed.

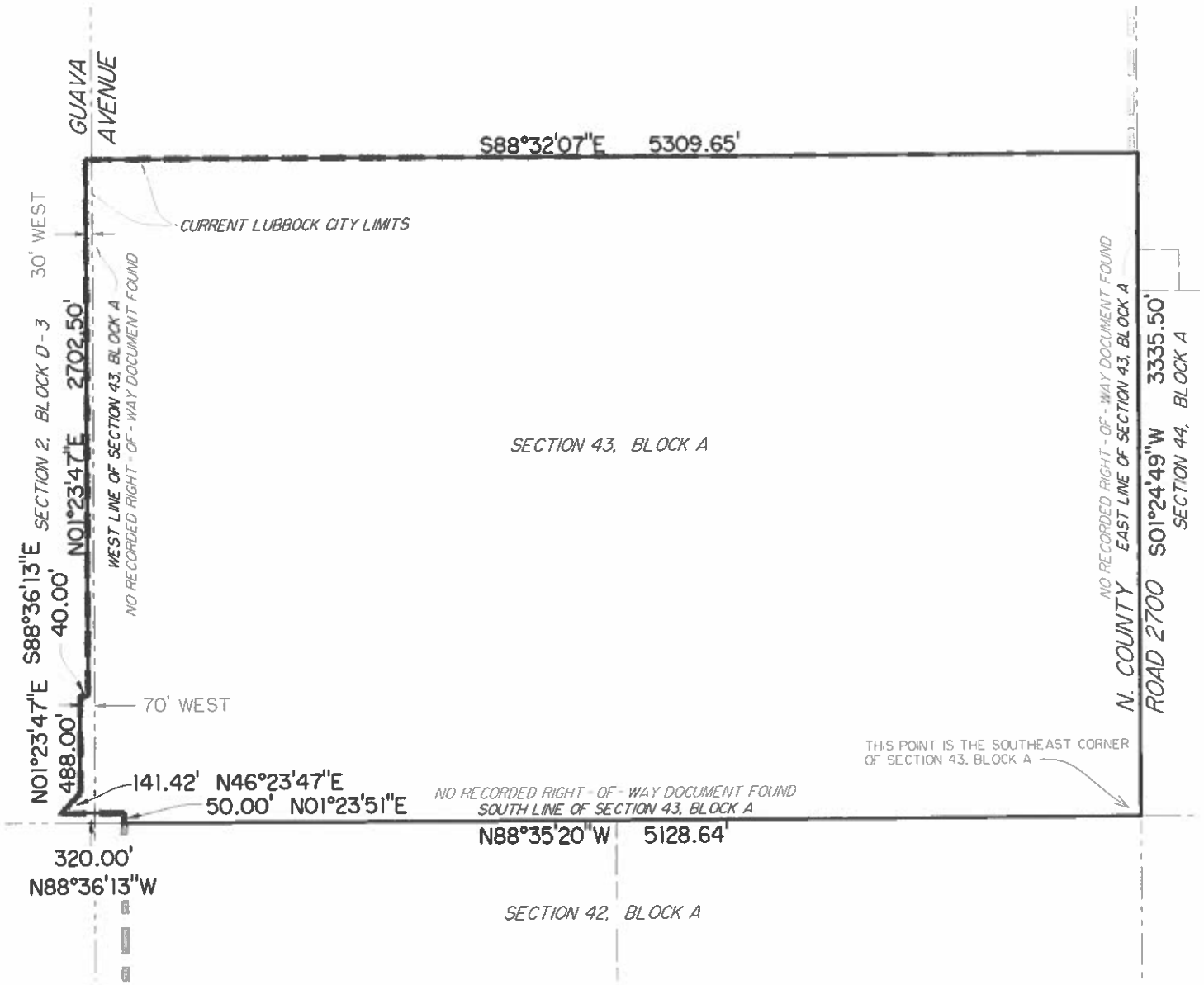
Given under my hand and seal of office, this 2nd day of December, 2024.

REBECCA CHEYENNE LUJAN
Notary Public, State of Texas
Comm. Expires 01-07-2027
Notary ID 131845208

R. Cheyenne Lujan

Notary Public in and for Lubbock County, Texas.

EXHIBIT "A"
Sketch Illustrating Proposed Annexation



NORTH

SCALE: 1"=800'
DATE: 11-06-2024

HUGO REED AND ASSOCIATES, INC.
LAND SURVEYORS • CIVIL ENGINEERS • LAND PLANNERS

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

LAND SURVEYORS
CIVIL ENGINEERS

EXHIBIT "A"

METES AND BOUNDS DESCRIPTION of a 407.28-acre tract located in Section 43, Block A and Section 2, Block D-3, Lubbock County, Texas, being further described as follows:

BEGINNING at a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the Southeast corner of Section 43, Block A, said point also being the Northeast corner of a 160 acre tract recorded in Volume 4514, Page 321 of the Official Real Property Records of Lubbock County, Texas, and the Southeast corner of this tract;

THENCE N. 88°35'20" W., along the South line of said Section 43 and the Northern boundary of said 160 acre tract, at 2639.31 feet pass a 1/2" iron rod with cap marked "HUGO REED & ASSOC." found at the Northwest corner of said 160 acre tract and the Northeast corner of a 160 acre tract described under County Clerk File Number 2015007570 of the Official Public Records of Lubbock County, Texas, continuing along the Northern boundary of said 160 acre tract for a total distance of 5128.64 feet to a point in the East line of the present city limits as established by City of Lubbock Ordinance Number 6201, for the most Southerly Southwest corner of this tract, whence a 5/8" iron rod found at the Southwest corner of said Section 43 and the Northwest corner of said 150.9 acre tract bears N. 88°35'20" W. a distance of 150.00 feet;

THENCE N. 01°23'51" E., along the East line of said present city limits, a distance of 50.00 feet to a point for an "ell" corner of this tract;

THENCE N. 88°36'13" W., along the East line of said present city limits, at 150.00 feet pass the West line of said Section 43 and the East line of Section 2, Block D-3, continuing along said present city limits, for a total distance of 320.00 feet to a point in the East line of the present city limits as established by City of Lubbock Ordinance Number 2018-O0051, for the most Westerly Southwest corner of this tract;

THENCE N. 46°23'47" E., along the East line of said present city limits, a distance of 141.42 feet to a point 70.00 feet West of the East line of said Section 2;

THENCE N. 01°23'47" E., continuing along the East line of said present city limits and along a line 70.00 feet West of and parallel to the East line of said Section 2, a distance of 488.00 feet to a point in the East line of the present city limits as established by City of Lubbock Ordinance Number 8647;

THENCE S. 88°36'13" E., along the East line of said present city limits, a distance of 40.00 feet to a point for an "ell" corner of this tract, said point being 30.00 feet West of the East line of said Section 2;

THENCE N. 01°23'47" E., along a line 30.00 feet West of the East line of said Section 2, a distance of 2702.50 feet to a point for the Northwest corner of this tract;

THENCE S. 88°32'07" E., at 30.00 feet pass a railroad spike found in the East line of said Section 2, the West line of said Section 43 and the Southwest corner of a 195.2 acre tract recorded in Volume 1778, Page 95 of the Deed Records of Lubbock County, Texas, continuing along the Southern boundary of said 195.2 acre tract, at 5279.65 feet pass an "ell" corner of said present city limits, continuing for a total distance of 5309.65 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set in the East line of said Section 43, for the Southeast corner of said 195.2 acre tract and the Northeast corner of this tract;

This document was prepared under 22 TAC §138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

City of Lubbock TEXAS

AFFIDAVIT DESIGNATING REPRESENTATIVE

AFFIDAVIT IS NOT VALID WITHOUT COMPLETION OF ALL PAGES AND SIGNATURES – FOR MULTIPLE PROPERTY OWNERS, SUBMIT ONE AFFIDAVIT PER OWNER

I, Thomas L Cooke, make this affidavit and hereby on oath state that:

I, being the ☐ sole ☐ partial owner of the following property:

No Address assigned

Property Address | City | State | Zip

Phone | Email

Legal description of property (can be found on property tax statement or at **www.lubbockcad.org**:

see legal description attached

give my permission to below named representative, to apply for approval of an application (attach to application) to the City of Lubbock on the above-described property.

Mont McClendon

Representative's organization or entity (printed)

Signed this _____ day of _____, 20_____.

Thomas L Cooke

Signature of Property Owner

Notary Public Information:

THE STATE OF TEXAS, COUNTY OF Lubbock

BEFORE ME, the undersigned authority, this day personally appeared Thomas L Cooke and on oath stated that the facts hereinabove are true to the best of their knowledge or belief. SWORN TO AND SUBSCRIBED before me on this the 2nd day of December, 20 24.

REBECCA CHEYENNE LUJAN
Notary Public, State of Texas
Comm. Expires 01-07-2027
Notary ID 131845208

R. Cheyenne Lujan

Notary Public, State of Texas

LAND SURVEYORS
CIVIL ENGINEERS

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

THENCE S. 01°24'49" W., along the East line of said Section 43, a distance of 3335.50 feet to the Point of Beginning.

Contains: 407.28 acres
Bearings relative to Grid North, Texas Coordinate System of 1983, North-Central Zone, 2011.

Prepared: November 6, 2024

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

This document was prepared under 22 TAC §138.95, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

TITLE ONE
titleonetexas.com

6102 82nd Street, #11
Lubbock, Texas 79424
Telephone: (806) 771-7770
Fax: (806) 771-0663

STATE OF TEXAS §
§ **CERTIFICATE OF OWNERSHIP**
CITY OF LUBBOCK §

Title One Digital Title Services, LLC has searched the Real Property, Abstract of Judgment, Federal Tax Lien, State Tax Lien, and Bankruptcy Records January 1, 1979, through October 24, 2024, as presently recorded in Lubbock County, Texas and find the following:

Record Owner: Thomas L. Cooke (9/14th) and Deidre DeAnn Williams Martin (5/14th)

By virtue of Special Warranty Deed/ Mineral Deed/ Bill of Sale recorded in/under Clerk's File No. 2011034459, Official Public Records of Lubbock County, Texas; and
By virtue of Special Warranty Deed recorded in/under Clerk's File No. 2020045741, Official Public Records of Lubbock County, Texas; and
By virtue of General Warranty Deed recorded in/under Clerk's File No. 2020047306, Official Public Records of Lubbock County, Texas.

Re: See attached Exhibit "A".

Liens: *None found of record.

Judgment Liens: *None found of record.

State Tax Liens: *None found of record.

Federal Tax Liens: *None found of record.

Easements: Right-of-Way Easement recorded in Volume 1154, Page 579, of the Official Public Records of Lubbock County, Texas.

Right-of-Way Easement recorded in Volume 1164, Page 267, of the Official Public Records of Lubbock County, Texas.

Right-of-Way Easement recorded in Volume 1164, Page 526, of the Official Public Records of Lubbock County, Texas.

Right-of-Way Easement recorded in Volume 1431, Page 512, of the Official Public Records of Lubbock County, Texas.

Right-of-Way Easement recorded in Volume 1431, Page 518, of the Official Public Records of Lubbock County, Texas.

Otherwise, to be filed by separate instrument.

Taxes: Not Certificated.

This report contains information from public real property records and is not to be construed as an abstract of title, opinion of title, title insurance commitment, title insurance policy or guarantee. It is expressly understood and agreed this report is furnished for informational purposes only and that no financial liability is assumed by the Title One, Digital Title Services, LLC. It is further understood and agreed that this has not been furnished as title evidence for the basis of any title insurance policy and the issuance thereof is strictly prohibited without the written consent of Title One, Digital Title Services, LLC. Individuals, business entities and/or companies relying on this report do so at their own risk and Title One, Digital Title Services, LLC, its employees and/or agents are not liable for any mistakes or errors in this report.

Executed this 1st day of November 2024.

Title One, Digital Title Services, LLC

_____

Thomas Hearron
Title Examiner

EXHIBIT "A"

All of Section 43, Block A, H.E &W.T. Ry. Co. Survey, Lubbock County, Texas;

Save and Except that portion of the above captioned property having been condemned by the City of Lubbock as evidenced by that Certified Copy of Judgment recorded in Volume 1288, Page 397, Deed Records, Lubbock County, Texas, being further described by metes and bounds as follows:

BEING a tract of land out of Section 43, Block A, H.E. & W. T. R.R. Co. Survey, Lubbock County, Texas, and being more particularly described as follows:

BEGINNING at a point in the West line of Section 43, for the Northwest and beginning corner of this tract, whence the Northwest corner of Section 43, bears North 120.19 feet;

THENCE South along the West line of Section 43, a distance of 1754.52 feet to a point for the Southwest corner of this tract;

THENCE East 30.0 feet to a point for a corner of this tract;

THENCE Northeasterly around the arc of a curve to the right, whose radius is 199.7 feet, a distance of 156.84 feet to the end of said curve;

THENCE North 45° 00' East 404.53 feet to a point for a corner of this tract;

THENCE East 1458.46 feet to a point for the Southeast corner of this tract;

THENCE North 900.0 feet to a point for the Northeast corner of this tract;

THENCE West 1458.46 feet to a point for a corner of this tract;

THENCE North 45° 00' West 404.53 feet to the P. C. of a curve to the right;

THENCE Northwesterly around the arc of a curve to the right, whose radius is 199.7 feet, a distance of 156.84 feet to the end of said curve;

THENCE West 30.0 feet to the PLACE OP BEGINNING.

Containing 41.224 Acres

And further Save and Except that portion of the above captioned property having been condemned by the City of Lubbock as evidenced by that Certified Copy of Judgment recorded in Volume 1778, Page 95, Deed Records, Lubbock County, Texas, being further described by metes and bounds as follows:

BEGINNING at a found 3/8" iron rod, the Northwest corner of Section 43, Block A, Lubbock County, Texas, for the Northwest and beginning corner of this tract;

THENCE South along the West line of Section 43, Block A, 120.19 feet to a point, for a corner of this tract;

THENCE East, 30.0 feet to a point, the P.C. of a curve to the left and a corner of this tract;

THENCE Southeasterly along the arc of a curve to the left, an arc distance of 156.84 feet to the P.T. of said curve, and a corner of this tract; said curve having a radius of 199.7 feet, a central angle of 45°00'00" and a chord that bears South 22°30'00" East, 152.84 feet;

THENCE South 45'00" East, 404.53 feet to a point, for a corner of this tract;

THENCE East, 1458.46 feet to a point, for a corner of this tract;

THENCE South, 900.00 feet to a point, for a corner of this tract;

THENCE West, 1458.46 feet to a point, for a corner of this tract;

THENCE South 45°00'00" West, 404.53 feet to the P.C. of a curve to the left, and a corner of this tract;

THENCE Southwesterly along the arc of a curve to the left, an arc distance of 156.84 feet to the P.T. of said curve and a corner of this tract, said curve has a radius of 199.7 feet, a central angle of 45°00'00" and a chord that bears South 22°30'00" West, 152.84 feet;

THENCE West, 30.0 feet to a point in the West line of Section 43, Block A, for a corner of this tract;

THENCE South along the West line of Section 43, 72.74 feet to a railroad spike set for the Southwest corner of this tract;

THENCE South 89°56'00" East at 5240.00 feet pass a 3/8" iron rod, continuing for a total distance of 5280.0 feet to a 3/8" iron rod set in the East line of Section 43, Block A, for the Southeast corner of this tract;

THENCE North along the East line of Section 43, Block A, 1953.6 feet to a 1/2" iron pipe, found for the Northeast corner of Section 43, and the Northeast corner of this tract;

THENCE West along the North line of Section 43, Block A, 5280.0 feet to the PLACE OF BEGINNING.

* The Company is prohibited from insuring the area or quantity of the land. Any statement in the legal description contained above as to the area or quantity of land is not a representation that such area or quantity is correct but is for informal identification purposes only.

THE FOLLOWING COMMITMENT FOR TITLE INSURANCE IS NOT VALID UNLESS YOUR NAME AND THE POLICY AMOUNT ARE SHOWN IN **SCHEDULE A**, AND OUR AUTHORIZED REPRESENTATIVE HAS COUNTERSIGNED BELOW.

COMMITMENT FOR TITLE INSURANCE

Issued By

FIDELITY NATIONAL TITLE INSURANCE COMPANY

We (Fidelity National Title Insurance Company) will issue our title insurance policy or policies (the Policy) to You (the proposed insured) upon payment of the premium and other charges due, and compliance with the requirements in Schedule C. Our policy will be in the form approved by the Texas Department of Insurance at the date of issuance, and will insure your interest in the land described in Schedule A. The estimated premium for our Policy and applicable endorsements is shown on Schedule D. There may be additional charges such as recording fees, and expedited delivery expenses.

This Commitment ends ninety (90) days from the effective date, unless the Policy is issued sooner, or failure to issue the Policy is our fault. Our liability and obligations to you are under the express terms of this Commitment and end when this Commitment expires.

Authorized Signatory
Title One Digital Title Services
6102 82nd St. #11
Lubbock, TX 79424

Fidelity National Title Insurance Company

SEAL

By: Michael J. Nolan
President

ATTEST Marjorie Nemzura
Marjorie Nemzura
Corporate Secretary

CONDITIONS AND STIPULATIONS

1. If you have actual knowledge of any matter which may affect the title or mortgage covered by this Commitment, that is not shown in Schedule B, you must notify us in writing. If you do not notify us in writing, our liability to you is ended or reduced to the extent that your failure to notify us affects our liability. If you do notify us, or we learn of such matter, we may amend Schedule B, but we will not be relieved of liability already incurred.

2. Our liability is only to you, and others who are included in the definition of Insured in the Policy to be issued. Our liability is only for actual loss incurred in your reliance on this Commitment to comply with its requirements, or to acquire the interest in the land. Our liability is limited to the amount shown in Schedule A of this Commitment and will be subject to the following terms of the Policy: Insuring Provisions, Conditions and Stipulations, and Exclusions.

TEXAS TITLE INSURANCE INFORMATION

Title insurance insures you against loss resulting from certain risks to your title.

The commitment for Title Insurance is the title insurance company's promise to issue the title insurance policy. The commitment is a legal document. You should review it carefully to completely understand it before your closing date.

El seguro de título le asegura en relación a perdidas resultantes de ciertos riesgos que pueden afectar el título de su propiedad. El Compromiso para Seguro de Título es la promesa de la compañía aseguradora de títulos de emitir la póliza de seguro de tíitulo. El Compromiso es un documento legal. Usted debe leerlo cuidadosamente y entenderlo complemente antes de la fecha para finalizar su transacción.

Your Commitment for Title Insurance is a legal contract between you and us. The Commitment is not an opinion or report of your title. It is a contract to issue you a policy subject to the Commitment's terms and requirements.

Before issuing a Commitment for Title Insurance (the Commitment) or a Title Insurance Policy (the Policy), the title Insurance Company (the Company) determines whether the title is insurable. This determination has already been made. Part of that determination involves the Company's decision to insure the title except for certain risks that will not be covered by the Policy. Some of these risks are listed in Schedule B of the attached Commitment as Exceptions. Other risks are stated in the Policy as Exclusions. These risks will not be covered by the Policy. The Policy is not an abstract of title nor does a Company have an obligation to determine the ownership of any mineral interest.

MINERALS AND MINERAL RIGHTS may not be covered by the Policy. The Company may be unwilling to insure title unless there is an exclusion or an exception as to Minerals and Mineral Rights in the Policy. Optional endorsements insuring certain risks involving minerals, and the use of improvements (excluding laws, shrubbery and trees) and permanent buildings may be available for purchase. If the title insurer issues the title policy with an exclusion or exception to the minerals and mineral rights, neither this Policy, nor the optional endorsements, ensure that the purchaser has title to the mineral rights related to the surface estate.

Another part of the determination involves whether the promise to insure is conditioned upon certain requirements being met. Schedule C of the Commitment lists these requirements that must be satisfied or the Company will refuse to cover them. You may want to discuss any matters shown in Schedules B and C of the Commitment with an attorney. These matters will affect your title and your use of the land.

When your Policy is issued, the coverage will be limited by the Policy's Exception, Exclusions and Conditions, defined below.

EXCEPTIONS are title risks that a Policy generally covers but does not cover in a particular instance. Exceptions are shown on Schedule B or discussed in Schedule C of the Commitment. They can also be added if you do not comply with the Conditions section of the Commitment. When the Policy is issued, all Exceptions will be on Schedule B of the Policy.

EXCLUSIONS are title risks that a Policy generally does not cover. Exclusions are contained in the Policy but not shown or discussed in the Commitment.

CONDITIONS are additional provisions that qualify or limit your coverage. Conditions include your responsibilities and those of the Company. They are contained in the Policy but not shown or discussed in the Commitment. The Policy Conditions are not the same as the Commitment Conditions.

You can get a copy of the policy form approved by the Texas Department of Insurance by calling the Title Insurance Company at (800)442-7067 or by calling the title insurance agent that issued the Commitment. The Texas Department of Insurance may revise the policy form from time to time.

TEXAS TITLE INSURANCE INFORMATION
(Continued)

You can also get a brochure that explains the policy from the Texas Department of Insurance by calling (800)252-3439.

Before the Policy is issued, you may request changes in the policy. Some of the changes to consider are:

Request amendment of the "area and boundary" exception (Schedule B, paragraph 2). To get this amendment, you must furnish a survey and comply with other requirements of the Company. On the Owner's Policy, you must pay an additional premium for the amendment. If the survey is acceptable to the Company and if the Company's other requirements are met, your Policy will insure you against loss because of discrepancies or conflicts in boundary lines, encroachments or protrusions, or overlapping of improvements. The Company may then decide not to insure against specific boundary or survey problems by making special exceptions in the Policy. Whether or not you request amendment of the "area and boundary" exception, you should determine whether you want to purchase and review a survey if a survey is not being provided to you.

Allow the Company to add an exception to "rights of parties in possession". If you refuse this exception, the Company or the title insurance agent may inspect the property. The Company may except to and not insure you against the rights of specific persons, such as renters, adverse owners or easement holders who occupy the land. The company may charge you for the inspection. If you want to make your own inspection, you must sign a Waiver of Inspection form and allow the Company to add this exception to your Policy.

The entire premium for a Policy must be paid when the Policy is issued. You will not owe any additional premiums unless you want to increase your coverage at a later date and the Company agrees to add an Increased Value Endorsement.

IMPORTANT NOTICE

FOR INFORMATION, OR TO MAKE A COMPLAINT CALL OUR TOLL-FREE TELEPHONE NUMBER

(800)442-7067

ALSO YOU MAY CONTACT THE TEXAS DEPARTMENT OF INSURANCE AT

(800)252-3439

to obtain information on:

1. filing a complaint against an insurance company or agent,
2. whether an insurance company or agent is licensed,
3. complaints received against an insurance company or agent,
4. policyholder rights, and
5. a list of consumer publications and services available through the Department.

YOU MAY ALSO WRITE TO THE TEXAS DEPARTMENT OF INSURANCE
P.O. BOX 149104
AUSTIN, TEXAS 78714-9104
FAX NO. (512)490-1007

AVISO IMPORTANTE

PARA INFORMACIÓN, O PARA SOMETER UNA QUEJA LLAME AL NUMERO GRATIS

(800)442-7067

TAMBIEN PUEDE COMUNICARSE CON EL DEPARTAMENTO DE SEGUROS DE TEXAS AL

(800)252-3439

para obtener información sobre:

1. como someter una queja en contra de una compañía de seguros o agente de seguros,
2. si una compañía de seguros o agente de seguros tiene licencia,
3. quejas recibidas en contra de una compañía de seguros o agente de seguros,
4. los derechos del asegurado, y
5. una lista de publicaciones y servicios para consumidores disponibles a través del Departamento.

TAMBIEN PUEDE ESCRIBIR AL DEPARTAMENTO DE SEGUROS DE TEXAS
P.O. BOX 149104
AUSTIN, TEXAS 78714-9104
FAX NO. (512)490-1007

COMMITMENT FOR TITLE INSURANCE (FORM T-7)
SCHEDULE A

Issued By

FIDELITY NATIONAL TITLE INSURANCE COMPANY

Effective Date: October 29, 2024 GF No.: 241011

Commitment No. 241011, issued November 7, 2024, 12:00 AM

1. The policy or policies to be issued are:

   a. OWNER'S POLICY OF TITLE INSURANCE (Form T-1)
   (Not applicable for improved one-to-four family residential real estate)

   Policy Amount: [redacted]
   PROPOSED INSURED: MM Holdsworth I, LLC, a Texas limited liability company and/or assigns

   b. TEXAS RESIDENTIAL OWNER'S POLICY OF TITLE INSURANCE
   ONE-TO-FOUR FAMILY RESIDENCES (Form T-1R)

   Policy Amount:
   PROPOSED INSURED:

   c. LOAN POLICY OF TITLE INSURANCE (Form T-2)

   Policy Amount:
   PROPOSED INSURED:
   Proposed Borrower:

   d. TEXAS SHORT FORM RESIDENTIAL LOAN POLICY OF TITLE INSURANCE (Form T-2R)

   Policy Amount:
   PROPOSED INSURED:
   Proposed Borrower:

   e. LOAN TITLE POLICY BINDER ON INTERIM CONSTRUCTION LOAN (Form T-13)

   Binder Amount:
   PROPOSED INSURED:
   Proposed Borrower:

   f. OTHER

   Policy Amount:
   PROPOSED INSURED:

2. The interest in the land covered by this Commitment is:

   Fee Simple

3. Record title to the land on the Effective Date appears to be vested in:

   Thomas L. Cooke and Deidra DeAnn Williams Martin

SCHEDULE A
(Continued)

4. Legal description of land:

METES AND BOUNDS DESCRIPTION of a 404.5 acre tract, being that same tract described under County Clerk File No. 2020045741 of the Official Public Records of Lubbock County, Texas, located in Section 43, Block A, H. E. & W. T. Railroad Company Survey, Lubbock County, Texas, said 404.5 acre tract being further described as follows:

BEGINNING at a 1/2" iron rod with cap marked "HRA" set for the Southeast corner of said Section 43, Block A, H. E. & W. T. Railroad Company Survey, Lubbock County, Texas, same being the Southeast corner of this tract, from whence a railroad spike found at the Southeast corner of Section 42, Block A, Lubbock County, Texas, bears S. 01°25'25" W. a distance of 5289.54 feet;

THENCE N. 88°35'20" W., along the South line of said Section 43, at 2639.31 feet pass a found 1/2" iron rod with cap marked "HRA", continuing for a total distance of 5278.64 feet to a 5/8" iron rod found at the Southwest corner of said Section 43 and this tract, from whence a 1/2" iron pipe found at the Southwest corner of said Section 42, bears S. 01°23'51" W. a distance of 5292.35 feet;

THENCE N. 01°23'47" E. along the West line of said Section 43, at 46.47 feet pass a found 1/2" iron rod, at 2390.34 pass a found railroad spike, continuing for a total distance of 3340.43 feet to a railroad spike found at the Southwest corner of a 195.2 acre tract, described in Volume 1778, Page 95 of the Deed Records of Lubbock County, Texas and the Northwest corner of this tract, from whence a 1" iron pipe found at the Northwest corner of said Section 43, bears N. 01°23'47" E. a distance of 1952.25 feet;

THENCE S. 88°32'07" E. along the Southern boundary of said 195.2 acre tract, a distance of 5279.65 feet to a 1/2" iron rod with cap marked "HRA" set in the East line of said Section 43, for the Southeast corner of said 195.2 acre tract and the Northeast corner of this tract, from whence a railroad spike found at the Northeast corner of said Section 43, bears N. 01°24'49" E. a distance of 1953.61 feet;

THENCE S. 01°24'49" W., along the East line of said Section 43, a distance of 3335.50 feet to the Point of Beginning

* The Company is prohibited from insuring the area or quantity of the land. Any statement in the legal description contained in Schedule A as to the area or quantity of land is not a representation that such area or quantity is correct but is for informal identification purposes and does not override Schedule B, Item 2 herein.

Authorized Signatory
Title One Digital Title Services
6102 82nd St. #11
Lubbock, TX 79424

Fidelity National Title Insurance Company

SEAL

By: Michael J. Nolan
President

ATTEST Marjorie Nemzura
Marjorie Nemzura
Corporate Secretary

SCHEDULE B

Commitment No.: 241011 GF No.: 241011

EXCEPTIONS FROM COVERAGE

In addition to the Exclusions and Conditions and Stipulations, your Policy will not cover loss, costs, attorney's fees, and expenses resulting from:

1. ~~The following restrictive covenants of record itemized below:~~

2. Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.

3. Homestead or community property or survivorship rights, if any of any spouse of any insured. (Applies to the Owner's Policy only.)

4. Any titles or rights asserted by anyone, including, but not limited to, persons, the public, corporations, governments or other entities,

   a. to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or

   b. to lands beyond the line of the harbor or bulkhead lines as established or changed by any government, or

   c. to filled-in lands, or artificial islands, or

   d. to statutory water rights, including riparian rights, or

   e. to the area extending from the line of mean low tide to the line of vegetation, or the rights of access to that area or easement along and across that area.

   (Applies to the Owner's Policy only.)

5. Standby fees, taxes and assessments by any taxing authority for the year 2025, and subsequent years; and subsequent taxes and assessments by any taxing authority for prior years due to change in land usage or ownership, but not those taxes or assessments for prior years because of an exemption granted to a previous owner of the property under Section 11.13, Texas Tax Code, or because of improvements not assessed for a previous tax year. (If Texas Short form Residential Loan Policy (T-2R) is issued, that policy will substitute "which become due and payable subsequent to Date of Policy" in lieu of "for the year 2025, and subsequent years.")

6. The terms and conditions of the documents creating your interest in the land.

7. Materials furnished or labor performed in connection with planned construction before signing and delivering the lien document described in Schedule A, if the land is part of the homestead of the owner. (Applies to the Loan Title Policy Binder on Interim Construction Loan only, and may be deleted if satisfactory evidence is furnished to us before a binder is issued.)

8. Liens and leases that affect the title to the land, but that are subordinate to the lien of the insured mortgage. (Applies to Loan Policy (T-2) only.)

SCHEDULE B
(Continued)

9. The Exceptions from Coverage and Express Insurance in Schedule B of the Texas Short Form Residential Loan Policy of Title Insurance (T-2R). (Applies to Texas Short Form Residential Loan Policy of Title Insurance (T-2R) only.) Separate exceptions 1 through 8 of this Schedule B do not apply to the Texas Short Form Residential Loan Policy of Title Insurance (T-2R).

10. The following matters and all terms of the documents creating or offering evidence of the matters:

a. An oil, gas, and mineral lease recorded in/under Volume 29, Page 579, Oil and Gas Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

b. An oil, gas, and mineral lease recorded in/under Volume 29, Page 581, Oil and Gas Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

c. An oil, gas, and mineral lease recorded in/under Volume 29, Page 633, Oil and Gas Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

d. An oil, gas, and mineral lease recorded in/under Volume 29, Page 634, Oil and Gas Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

e. An oil, gas, and mineral lease recorded in/under Volume 29, Page 665, Oil and Gas Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

f. An oil, gas, and mineral lease recorded in/under Volume 35, Page 135, Oil and Gas Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

g. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument recorded in Volume 719, Page 585, Deed Records of Lubbock County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership of holder of such interest(s).

h. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument recorded in Volume 719, Page 587, Deed Records of Lubbock County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership of holder of such interest(s).

i. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument recorded in Volume 719, Page 699, Deed Records of Lubbock County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership of holder of such interest(s).

SCHEDULE B
(Continued)

j. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument recorded in Volume 720, Page 19, Deed Records of Lubbock County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership of holder of such interest(s).

k. Interest in and to all coal, lignite, oil, gas and other minerals, and all rights incident thereto, contained in instrument recorded in Volume 1502, Page 904, Deed Records of Lubbock County, Texas. Reference to which instrument is here made for particulars. No further search of title has been made as to the interest(s) evidenced by this instrument, and the Company makes no representation as to the ownership of holder of such interest(s).

l. An oil, gas, and mineral lease recorded in/under Volume 5220, Page 305, Real Property Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

m. An oil, gas, and mineral lease recorded in/under Clerk's File No. 2011038107, Official Public Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

n. An oil, gas, and mineral lease recorded in/under Clerk's File No. 2011038114, Official Public Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

o. An oil, gas, and mineral lease recorded in/under Clerk's File No. 2011038115, Official Public Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

p. An oil, gas, and mineral lease recorded in/under Clerk's File No. 2011038121, Official Public Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

q. An oil, gas, and mineral lease recorded in/under Clerk's File No. 2011040464, Official Public Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

r. An oil, gas, and mineral lease recorded in/under Clerk's File No. 2012004614, Official Public Records, Lubbock County, Texas. (Title to said lease has not been examined subsequent to the date of its execution.)

s. All leases, grants, exceptions or reservation 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.

t. All leases, grants, exceptions or reservations of the geothermal energy and associated resources below the surface of the Land, 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 the geothermal energy and associated resources below the surface of the Land that are not listed.

SCHEDULE B
(Continued)

u. Right-of-Way Easement recorded in Volume 1154, Page 579, Deed Records of Lubbock County, Texas.

v. Right-of-Way Easement recorded in Volume 1164, Page 267, Deed Records of Lubbock County, Texas.

w. Right-of-Way Easement recorded in Volume 1164, Page 526, Deed Records of Lubbock County, Texas.

x. Right-of-Way Easement recorded in Volume 1431, Page 512, Deed Records of Lubbock County, Texas.

y. Right-of-Way Easement recorded in Volume 1431, Page 518, Deed Records of Lubbock County, Texas.

z. Any and all fences, easements and/or encroachments as shown on survey dated October 30, 2024, by Cyril H. Turner, Registered Professional Land Surveyor.

aa. Easements or claims of easements not recorded in the public records.

ab. Subject to the rights and claims of tenants and parties in possession.

SCHEDULE C

Commitment No.: 241011 GF No.: 241011

Your Policy will not cover loss, costs, attorney's fees, and expenses resulting from the following requirements that will appear as Exceptions in Schedule B of the Policy, unless you dispose of these matters to our satisfaction, before the date the Policy is issued:

1. Documents creating your title or interest must be approved by us and must be signed, notarized and filed for record.

2. Satisfactory evidence must be provided that:

   a. no person occupying the land claims any interest in that land against the persons named in paragraph 3 of Schedule A,

   b. all standby fees, taxes, assessments and charges against the property have been paid,

   c. all improvements or repairs to the property are completed and accepted by the owner, and that all contractors, sub-contractors, laborers and suppliers have been fully paid, and that no mechanic's, laborer's or materialmen's liens have attached to the property,

   d. there is legal right of access to and from the land,

   e. (on a Loan Policy only) restrictions have not been and will not be violated that affect the validity and priority of the insured mortgage.

3. You must pay the seller or borrower the agreed amount for your property or interest.

4. Any defect, lien or other matter that may affect title to the land or interest insured, that arises or is filed after the effective date of this Commitment.

5. Note: We find no outstanding liens of record affecting the subject property. Inquiry should be made concerning the existence of any unrecorded lien or other indebtedness which could give rise to any security interest claim in the subject property.

6. We must be furnished the marital status of the record owner, from the date of acquisition to the present time. If the record owner is married, we require either (i) the joinder of the spouse; or (ii) an affidavit from the spouse of the owner disclaiming the property as part of any homestead and stating that the property is under the sole management and control of the record owner.

7. We must be furnished for examination a copy of the limited liability company agreement established MM Holdsworth I, LLC, a Texas limited liability company, which names the managers who operate the limited liability company and the members who are owners of interest in the limited liability company.

SCHEDULE D

Commitment No.: 241011 GF No.: 241011

Pursuant to the requirements of Rule P-21, Basic Manual of Rules, Rates and Forms for the writing of Title Insurance in the State of Texas, the following disclosures are made:

1. The following individuals are directors and/or officers of FIDELITY NATIONAL TITLE INSURANCE COMPANY:

   Shareholders: Fidelity National Title Group, Inc. which is owned 100% by FNTG Holdings, LLC which is owned 100% by Fidelity National Financial, Inc.
   Directors: Raymond Randall Quirk, Anthony John Park, Michael Louis Gravelle, Michael J. Nolan
   Officers: President, Raymond Randall Quirk; Executive Vice President, Anthony John Park; Secretary, Michael Louis Gravelle; Treasurer, Daniel Kennedy Murphy

2. The following disclosures are made by the Title Insurance Agent issuing this commitment:

   (a) A listing of each shareholder, owner, partner, or other person having, owning or controlling one percent (1%) or more of the Title Insurance Agent that will receive a portion of the premium:

   McClendon Holdings, LLC; McREI II, LLC; Marc McDougal Investments, LLC; McDougal Family Partnership, Ltd; Shag Holdings, LLC; TYDY Investments, LLC; Haldus T1 Holdings, LLC, David Frisbie

   (b) A listing of each shareholder, owner, partner, or other person having, owning or controlling 10 percent (10%) or more of an entity that has, owns or controls one percent (1%) or more of the Title Insurance Agent that will receive a portion of the premium are as follows:

   Mont McClendon, Christy McClendon, D. Marc McDougal, Keith McNeese, Melanie McNeese, Darin Yates, Haldus Holdings, LLC, Dustin Brooks, Haley Brooks

   (c) If the Agent is a corporation: (i) the name of each director of the Title Insurance Agent, and (ii) the names of the President, the Executive or Senior Vice-President, the Secretary and the Treasurer of the Title Insurance Agent.

   Directors/Officers: David Frisbie, President; Dustin Brooks, Executive Vice President, Treasurer, Secretary

   (d) The name of any person who is not a full-time employee of the Title Insurance Agent and who receives any portion of the title insurance premium for services performed on behalf of the Title Insurance Agent in connection with the issuance of a title insurance form; and, the amount of premium that any such person shall receive.

   None

   (e) For purposes of this paragraph 2, "having, owning or controlling" includes the right to receipt of a percentage of net income, gross income, or cash flow of the Agent or entity in the percentage stated in subparagraphs (a) or (b).

3. You are entitled to receive advance disclosure of settlement charges in connection with the proposed transaction to which this commitment relates. Upon your request, such disclosure will be made to you. Additionally, the name of any person, firm or corporation receiving any sum from the settlement of this transaction will be disclosed on the closing or settlement statement.

SCHEDULE D
(Continued)

You are further advised that the estimated title premium* is:

Owner's Policy	**$**	**15,225.00**
Total	**$**	**15,225.00**

Of this total amount: 15% will be paid to the policy issuing Title Insurance Company; 85% will be retained by the issuing Title Insurance Agent; and the remainder of the estimated premium will be paid to other parties as follows:

Amount	To Whom	For Services
%		

*The estimated premium is based upon information furnished to us as of the date of this Commitment for Title Insurance. Final determination of the amount of the premium will be made at closing in accordance with the Rules and Regulations adopted by the Commissioner of Insurance.

This commitment is invalid unless the insuring provisions and Schedules A, B, and C are attached.

DELETION OF ARBITRATION PROVISION

(Not applicable to the Texas Residential Owner's Policy)

Commitment No.: 241011 GF No.: 241011

ARBITRATION is a common form of alternative dispute resolution. It can be a quicker and cheaper means to settle a dispute with your Title Insurance Company. However, if you agree to arbitrate, you give up your right to take the Title Insurance Company to court and your rights to discovery of evidence may be limited in the arbitration process. In addition, you cannot usually appeal an arbitrator's award.

Your policy contains an arbitration provision (shown below). It allows you or the Company to require arbitration if the amount of insurance is $2,000,000 or less. If you want to retain your right to sue the Company in case of a dispute over a claim, you must request deletion of the arbitration provision before the policy is issued. You can do this by signing this form and returning it to the Company at or before the closing of your real estate transaction or by writing to the Company.

The arbitration provision in the Policy is as follows:

> "Either the Company or the Insured may demand that the claim or controversy shall be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association ("Rules"). Except as provided in the Rules, there shall be no joinder or consolidation with claims or controversies of other persons. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Insured arising out of or relating to this policy, any service in connection with its issuance or the breach of a policy provision, or to any other controversy or claim arising out of the transaction giving rise to this policy. All arbitrable matters when the Amount of Insurance is **$2,000,000** or less shall be arbitrated at the option of either the Company or the Insured, unless the Insured is an individual person (as distinguished from an Entity). All arbitrable matters when the Amount of Insurance is in excess of **$2,000,000** shall be arbitrated only when agreed to by both the Company and the Insured. Arbitration pursuant to this policy and under the Rules shall be binding upon the parties. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court of competent jurisdiction."

_____ _____

SIGNATURE DATE

AI# 13299

Regular City Council Meeting **5. 22.**

03/25/2025:

Information

Agenda Item

Resolution - Public Works Water Utilities: Consider a resolution authorizing the Mayor to execute Purchase Order 23105965, with Essential Equipment, Texas, LLC, in accordance with Sourcewell Contract No. 120721-RVL, for the purchase of sewer line camera inspection equipment to verify sewer tap locations and pipe condition.

Item Summary

This camera equipment will be used to televise sewer lines in order to verify sewer tap locations and to verify the condition of sewer lines, per Texas Commission on Environmental Quality requirements. This informatoin will be used to prioritize maintenance and capital projects related to the City of Lubbock sewer system.

This purchase from Essential Equipment TX, LLC, is made through the cooperative purchasing organization, Sourcewell, Contract No. 120721-RVL in the amount of $187,737.50.

Fiscal Impact

$186,737.50 for the purchase of camera and equipment is funded in Capital Improvement Project 92701 Major Sewer Line Condition Assessment and Repair.

Staff/Board Recommending

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

Attachments

Resolution
Purchase Order
Budget Detail

CIP 92701 - 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, Purchase Order No. 23105965 in accordance with Sourcewell Contract No. 120721-RVL for the purchase of sewer line inspection equipment, by and between the City of Lubbock and Essential Equipment TX, LLC of Conroe, 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.PurchaseOrd 23105965 Sourcewell for sewer line equip
3.5.25

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 3/4/2025
Order Number 23105965 000 OP
Branch/Plant 6413

TO: ESSENTIAL EQUIPMENT TX, LLC
PO BOX 7057
CONROE TX 77387

SHIP TO: WASTEWATER COLLECTION DEPARTMENT
402 MUNICIPAL DRIVE
LUBBOCK TX 79403

INVOICE TO: **CITY OF LUBBOCK**
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 3/4/2025 Freight .
Requested 6/30/2025 Taken By A ESPARZA
Delivery PER L ALEMAN REQ. 62913 SOURCEWELL CONTRACT 120721-RVL

If you have any questions about this order, please contact Lupe Aleman at 806-775-2628 or via email at LAlema@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
VZP000111	1.000	12,753.0000	EA	12,753.00	6/30/2025
MEPD 6.3KW 120VAC for ford					
VZM000100	3.000	648.0000	EA	1,944.00	6/30/2025
Monitor, 17" 4:3					
VZM000104	1.000	325.0000	EA	325.00	6/30/2025
Monitor Mount - Double					
VZ0000312	1.000	3,051.2500	EA	3,051.25	6/30/2025
KW Reel Cabinet (Standard)					
V000021	1.000	900.0000	EA	900.00	6/30/2025
Fiberglass Guide Poles					
VZ3POLEBRACKET	1.000	300.0000	EA	300.00	6/30/2025
POLEBRACKET					
901601040	1.000	508.0000	EA	508.00	6/30/2025
Pressure Test Set					
V9044001	1.000	22,870.0000	EA	22,870.00	6/30/2025
T76 TRACTOR					

City of Lubbock TEXAS

PURCHASE ORDER

Date - 3/4/2025

Order Number 23105965 000 OP

Branch/Plant 6413

TO: ESSENTIAL EQUIPMENT TX, LLC
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SHIP TO: WASTEWATER COLLECTION DEPARTMENT
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Delivery PER L ALEMAN REQ. 62913 SOURCEWELL CONTRACT 120721-RVL

If you have any questions about this order, please contact Lupe Aleman at 806-775-2628 or via email at LAlema@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
V9040012	1.000	5,105.0000	EA	5,105.00	6/30/2025
Camera Base CB 3.2S Module					
904116031	1.000	7,499.0000	EA	7,499.00	6/30/2025
Remote Elevator T76/86					
900410391	1.000	1,227.0000	EA	1,227.00	6/30/2025
T76 Treaded Wheelset for 8"					
904401491	1.000	1,345.0000	EA	1,345.00	6/30/2025
Tungsten Carbide Wheel 6"+					
900406691	1.000	1,479.0000	EA	1,479.00	6/30/2025
Tungsten Carbide Wheels 8"+					
900406690	1.000	1,381.0000	EA	1,381.00	6/30/2025
Pneumatic Tires for KRA75					
904100890	1.000	2,036.0000	EA	2,036.00	6/30/2025
X-Lrg Pneum Tires					
V1974018	1.000	21,123.2500	EA	21,123.25	6/30/2025
Vehicle Mounted Control					

City of Lubbock TEXAS

PURCHASE ORDER

Date - 3/4/2025

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BY: _____
Marta Alvarez, Director of Purchasing & Contract Management

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If you have any questions about this order, please contact Lupe Aleman at 806-775-2628 or via email at LAlema@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
RAM-2461U	1.000	38.2500	EA	38.25	6/30/2025
VESA 75 Mounting Plate					
RAM-201U-B	1.000	44.9000	EA	44.90	6/30/2025
Double SocketArm					
RAM-TRACK-EXA-9BU	1.000	35.2500	EA	35.25	6/30/2025
RAP-354U-TRA1	1.000	33.1000	EA	33.10	6/30/2025
Track Ball					
10TS7M	1.000	615.2500	EA	615.25	6/30/2025
10" Touch Sctreen					
GV-N710D3-2GL	1.000	85.0000	EA	85.00	6/30/2025
Graphics Card with HDMI					
802975001	1.000	484.0000	EA	484.00	6/30/2025
Cable Cleaning Brush					
V8026004	1.000	31,724.0000	EA	31,724.00	6/30/2025
Synchronized Power Cable Reel					
80017040	1.000	5,626.0000	EA	5,626.00	6/30/2025

City of Lubbock TEXAS

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Date - 3/4/2025

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Delivery PER L ALEMAN REQ. 62913 SOURCEWELL CONTRACT 120721-RVL

If you have any questions about this order, please contact Lupe Aleman at 806-775-2628 or via email at LAlema@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Camera Cable Type 524/11					
904350020	1.000	725.0000	EA	725.00	6/30/2025
Cable Deflection Pully KUV 2.7					
802617031	1.000	1,105.0000	EA	1,105.00	6/30/2025
Cable Deflection Pulley KW305/					
900300130	1.000	1,347.0000	EA	1,347.00	6/30/2025
Cable Deflection KUV3					
800500841	1.000	1,037.0000	EA	1,037.00	6/30/2025
KW Reel foot-operated w switch					
V0001017	1.000	7,447.5000	EA	7,447.50	6/30/2025
19" Industrial PC					
V0001018	1.000	593.7500	EA	593.75	6/30/2025
Sensoray Non HD Video					
CCTV Operator Training	1.000		EA		6/30/2025
MISC	1.000		EA		6/30/2025
Contract#120721-RVL					
MISC	1.000	26,920.0000	EA	26,920.00	6/30/2025

City of Lubbock TEXAS

PURCHASE ORDER

Page - 5
Date - 3/4/2025
Order Number 23105965 000 OP
Branch/Plant 6413

TO: ESSENTIAL EQUIPMENT TX, LLC
PO BOX 7057
CONROE TX 77387

SHIP TO: WASTEWATER COLLECTION DEPARTMENT
402 MUNICIPAL DRIVE
LUBBOCK TX 79403

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 3/4/2025 Freight .
Requested 6/30/2025 Taken By A ESPARZA
Delivery PER L ALEMAN REQ. 62913 SOURCEWELL CONTRACT 120721-RVL

If you have any questions about this order, please contact Lupe Aleman at 806-775-2628 or via email at LAlema@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Build out Inside if Ford Trans					
V4019001	1.000	20,030.0000	EA	20,030.00	6/30/2025
ORION Zoom PAN & TILT					
Shipping			EA	5,000.00	6/30/2025

Terms NET 30 Total Order 186,737.50

This purchase order encumbers funds in the amount of $186,737.50 awarded to Essential Equipment TX, LLC. of Conroe, TX, on _____. The following is incorporated into and made part of this purchase order by reference: Quote dated February 6, 2025, from Essential Equipment TX, LLC of Conroe, TX, and Sourcewell Contract #120721-RVL.

Resolution #_____

CITY OF LUBBOCK: ATTEST:

_____ _____
Mark McBrayer, Mayor Courtney Paz, City Secretary

Rev. 3/2022

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. S e l l e r 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 viciation 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/departmental-websites/departments/purchasing/vendor-information

30. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

31. No Boycott of Energy Companies. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott Energy Companies and will not boycott Energy Companies during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

32. No Boycott of a Firearm Entity or Firearm Trade Association. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott a Firearm Entity or Firearm Trade Association and will not boycott a Firearm Entity or Firearm Trade Association during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

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

34. TEXAS PUBLIC INFORMATION ACT. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

35. Pursuant to Section 552.301(c) of the Texas Government Code, the City of Lubbock has designated the following email address for which public information requests may be made by an emailed request: orr@mylubbock.us. Please send this request to this email address for it to be processed

Essential Equipment TX, LLC

PO Box 7057
Spring, TX 77387 USA
+17138290802
anne@essentialequipment.com
www.essentialequipment.com

ESSENTIAL EQUIPMENT

Estimate

ADDRESS
City of Lubbock
402 Municiple Drive
Lubbock, TX 79403 USA

SHIP TO
City of Lubbock
402 Municiple Drive
Lubbock, TX 79403 USA

ESTIMATE	3645
DATE	02/06/2025
EXPIRATION DATE	07/08/2025

P.O. NUMBER
PO NEEDED

SALES REP
MATTHEW.G

PROJECT NAME
Retro Ford Trans -

SKU		DESCRIPTION	QTY	RATE	AMOUNT
misc	Misc Item	Build out Inside of Ford Transit • Standard office area - Overhead computer cabinet - Possible under desk electronics cabinet along drivers wall if not enough space in work area to house electrical components - Coin flooring - Standard Lighting • Rear work area will be modified to accommodate the shortened wheelbase. - Tool box and cabinet will be removed to allow more space to access the walk through/pass though door because of wheel well location - Water tank in cabinet/closet location with storage - Overhead cabinets if space is available - Electronics cabinet to be removable to gain access to electrical components or if enough space is not	1	26,920.00	26,920.00

		available will be relocated to under desk along driver side wall. - Diamond plate flooring - Standard Lighting - Safety Lighting - Standard safety lighting - Roof top Strobe - Rear Arrow Board - 2 side strobes - Roof top A/C			
VZP000111	VZP000111 MEPS 6.3Kw, 120VAC for Ford Transit	VZP000111 MEPS 6.3Kw, 120VAC for Ford Transit	1	12,753.00	12,753.00
VZM000100	VZM000100 Monitor 17inch 4;3	VZM000100 Monitor, 17" 4:3	3	648.00	1,944.00
VZM000104	VZM000104 Monitor Mount - Double	VZM000104 Monitor Mount - Double	1	325.00	325.00
VZ000312	VZ000312 KW Reel Cabinet (Standard) with 3 sliding/locking aluminum drawers. (no LISY drum platform)	VZ000312 KW Reel Cabinet (Standard) with 3 sliding/locking aluminum drawers. (no LISY drum platform)	1	3,051.25	3,051.25
V000021	V000021 Guide Poles for tractor retrieval /manhole adapter	Fiberglass Guide Poles for tractor retrieval or manhole adapter	1	900.00	900.00
VZ3POLEBRACKET	VZ3POLEBRACKET Fiberglass Pole Bracket * Lower support arm and 1 horizontal support,3 Poles	VZ3POLEBRACKET Fiberglass Pole Bracket * Lower support arm and 1 horizontal support, Holds 3 Poles	1	300.00	300.00
V4019001	V4019001 ORION Zoom PAN & TILT CAMERA	ORION Zoom PAN & TILT CAMERA Pan and Tilt and Zoom (3x digital) camera for 4" and up pipelines. May be used on tractor or pushrod. Auto-focus, Auto-uprighting, LED Lighting and 33 kHz Transmitter for locate. Laser diameter, deformation, defect and object measurement (third-party software required - not included)	1	20,030.00	20,030.00
901601040	901601040 Pressure Test Set	Pressure Test Set	1	508.00	508.00
V9044001	V9044001 T76 TRACTOR	Mainline tractor for use in pipelines 5" and up Zero turn radius, full	1	22,870.00	22,870.00

		steering with ATC (Auto Tilt Compensation) Includes lowering claw, toolset and 5"/6"/8"/10" wheelsets If using as a mainline crawler - requires CB3 or CB3.2S below T76 can be used as the chassis for the LISY 3.1/3.2 Extension Add the elevator to help in larger pipelines.			
V9040012	V9040012 Camera Base CB 3.2S Module	CB 3.2S - T76/86 Camera Base Module (Required for Mainline Operation) Includes transmitter (33kHz) AND (512Hz)	1	5,105.00	5,105.00
904116031	904116031 Remote Elevator T76/86	Remote Elevator T76/86	1	7,499.00	7,499.00
900410391	900410391 T76 Treaded Wheelset for 8" and up	T76 Treaded Wheelset for 8" and up (Brown/Hard)	1	1,227.00	1,227.00
904401491	904401491 Tungston Carbide Wheels 6"+	High-Traction Tungsten Carbide Wheels for 6" and up * For use with T76 / T86 / PANO2 Tractors * Large Grit * Uses Wheel Bolt 6002104	1	1,345.00	1,345.00
900406691	900406691 Tungsten Carbide Wheels 8"+	High-Traction Tungsten Carbide Wheels for 8" and up * For use with T76 / T86 / PANO2 Tractors * Large Grit * Uses Wheel Bolt 60000291	1	1,479.00	1,479.00
900406690	900406690 Pneumatic Tires for KRA75 and LISY 150 (Grey)	Pneumatic Tires T76/86/Pano/LIS	1	1,381.00	1,381.00
904100890	904100890 X-Lrg Pneum Tires T76/86/Pano/L	X-Lrg Pneum Tires T76/86/Pano/L	1	2,036.00	2,036.00
V1974018	V1974018 BS3.5-10X Vehicle Mounted Control	V1974018 BS3.5-10X Vehicle Mounted Control - For operation of all camera and the tractor functions - For permanent installation in a vehicle in 19" technology - Separate keyboard surround with 2 joysticks, emergency	1	21,123.25	21,123.25

		stop, microphone for intercom - Includes V0000189 on/off switch - Requires control monitor panel and monitor mount. - Requires PC for operation - SD controller for use with KW305.			
RAM-2461U	RAM-2461U VESA 75 Mounting Plate	VESA 75 Mounting Plate With Ball - C Size	1	38.25	38.25
RAM-201U-B	RAM-201U-B Double Socket Arm	Double Socket Arm - C Size Short	1	44.90	44.90
RAM-TRACK-EXA-9BU	RAM-TRACK-EXA-9BU RAM-TRACK-EXA-9BU	RAM-TRACK-EXA-9BU	1	35.25	35.25
RAP-354U-TRA1	RAP-354U-TRA1 Track Ball With T-Bolt Attachment	Track Ball With T-Bolt Attachment - C Size	1	33.10	33.10
10TS7M	10TS7M 10 Inch Touch Screen	10 Inch Touch Screen	1	615.25	615.25
GV-N710D3-2GL	GV-N710D3-2GL Graphics Card With HDMI Output	Graphics Card With HDMI Output	1	85.00	85.00
802975001	802975001 Cable Cleaning Brush for KW305/310/505	802975001 Cable Cleaning Brush for KW305/310/505	1	484.00	484.00
V8026004	V8026004 KW305.2 S Synchronized Power Cable Reel	V8026004 KW305.2 S Synchronized Power Cable Reel KW305.2 S Synchronized Power Cable Reel * For operation of BS3.5-10X * Synchronized cable payout and retraction * Automatic level wind * Requires vehicle installation * Includes remote control pendant and LED Boom Light * Distance counter and rear display * Holds up to 1000' of mainline cable * Includes integrated tractor lowering winch and control	1	31,724.00	31,724.00
80017040	80017040 CAMERA CABLE TYPE 524/11 - 1000	CAMERA CABLE TYPE 524/11 - 1000 FEET	1	5,626.00	5,626.00

904350020	904350020 Cable Deflection Pully KUV 2.7	Cable Deflection Pully KUV 2.7	1	725.00	725.00
802617031	802617031 Cable Deflect Pulley KW305/505	Cable Deflect Pulley KW305/505	1	1,105.00	1,105.00
900300130	900300130 Cable Deflection KUV3	Cable Deflection KUV3	1	1,347.00	1,347.00
800500841	800500841 KW Reel foot-operated winch switch	KW Reel foot-operated winch switch	1	1,037.00	1,037.00
v0001017	V0001017 19" Industrial PC	19" Industrial PC These specifications or greater: * Ruggedized Rack Mount Cabinet * Intel Quad Core Processor * 16 GB RAM * 256 GB Solid State Drive for Applications / OS * 2 TB Hard Drive for Data * DVD-R/CD-RW drive * Keyboard and Optical Mouse * Operating system Windows 10 Professional * 17" VGA LCD Monitor when purchased with vehicle conversion *** NO Video Capture Device Included (to be supplied by software vendor)	1	7,447.50	7,447.50
V0001018	V0001018 Sensoray Non-HD Video Capture Device	Sensoray Non-HD Video Capture Device	1	593.75	593.75
	CCTV Operator Training	CCTV Operator Training	1	0.00	0.00
	MISC NOTES	Sourcewell contract # 120721-RVL	1	0.00	0.00

SUBTOTAL	181,737.50
TAX	0.00
SHIPPING	5,000.00
TOTAL	**$186,737.50**

Accepted By

Accepted Date

City of Lubbock
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92701
Capital Project Name:	Major Sewer Line Condition Assessment and Repair

	92701
Encumbered/Expended	
Staff time	$ 39,084
Professional Services	1,631,342
Amendment 2 to Contract 15282	949,704
Amendment 3 to Contract 15282	552,011
Construction Contract to Contract 17076	4,436,040
Amendment 4 to Contract 15282	614,999
Agenda Item March 25, 2025	
Purchase Order 23105965	186,738
Encumbered/Expended to Date	8,409,918
Estimated Costs for Remaining Appropriation	
Sanitary Sewer System Improvements	2,889,632
Remaining Appropriation	2,889,632
Total Appropriation To Date	$ 11,299,550

CIP 92701 Major Sewer Line Condition Assessment and Repair

Upgrade/Major Maintenance

Project Manager: Bailey Ratcliffe - Engineering

Project Scope

As a companion project to 92657, this project will provide inspection, cleaning, and point repairs as needed for the existing Downtown Sanitary Sewer Interceptor. A portion of the existing flow in the Downtown interceptor will be routed into a new interceptor (92657), while the remaining flow will continue in the existing interceptor. Once the new interceptor has been completed and flow in the existing interceptors is reduced, the existing lines will be cleaned, inspected, and any point repairs necessary will be made. This project will help ensure the downtown area has adaquate sewer capacity for existing users and potential new develoment.

Project Justification

This project was recommended by the Wastewater Collection System Master Plan. The downtown area continues to redevelop and grow, which ultimately leads to a greater sewer flow within the sewer shed area. This project increases the reliability and capacity of the sewer shed, and will ensure the downtown area can be served with sanitary sewer for many years to come.

Project Highlights

Council Priorities Addressed:
Redevelopment, Community Improvement, Growth and Development, Fiscal Discipline

Project History

- FY 2020-21 $1,000,000 was appropriated by Ord. 2020-O0123
- FY 2021-22 $3,000,000 was appropriated by Ord. 2021-O0126
- FY 2022-23 $1,500,000 was appropriated by Ord. 2022-O0136
- FY 2022-23 $162,116 was appropriated by BCR# 2023-14
- FY 2022-23 $637,434 was appropriated by BCR# 2023-17
- FY 2023-24 $5,000,000 was appropriated by Ord. 2023-O0108

Project Dates

Award Date for Bid - Design: 05/2020
Project Start Date Design: 05/2020
Project End Date Design: 01/2023
Bid Date Construction: 01/2023
Award Date for Construction: 03/2023
Project Start Date for Construction:05/2023
Project End Date for Construction: 06/2025

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	$1,000,000	$0	$0	$0	$0	$0	$0
Construction	$10,299,550	$0	$0	$0	$0	$0	$0
TOTAL	**$11,299,550**	**$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
Water/Wastewater Fund Cash	$6,299,550	$0	$0	$0	$0	$0	$0
ARPA Funding	$5,000,000	$0	$0	$0	$0	$0	$0
TOTAL	**$11,299,550**	**$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**

AI# 13301
Regular City Council Meeting 5. 23.
03/25/2025:

Information

Agenda Item

Resolution - Public Works Wastewater: Consider a resolution authorizing the mayor to execute Purchase Order 23105947, with James, Cook, Hobson, to purchase two submersible pumps for use at Lift Station 48 at the Southeast Water Reclamation Plant.

Item Summary

All wastewater entering the Southeast Water Reclamation Plant first passes through a lift station to begin the treatment process. Within the lift station, there are four large submersible pumps that pump water to the headworks area to begin screening the wastewater. Operation of these four pumps is critical for the continuous delivery of wastewater to the Plant for initial treatment.

The design of the lift station requires pumps that are manufactured by Flygt, which have proven their reliability in the wastewater system. As a proactive approach to prevent wastewater spilling into the adjacent creek, it is important that the City purchase these pumps to restore full pumping capacity and provide one spare pump upon failure of an in-service pump.

As shown on the supporting price quote from the sole source vendor, James, Cook, Hobson (JCH), the approximate lead time to purchase this pump is 12-16 weeks after receipt of the order. In the event of an in-service failure, it is imperative to have a replacement pump on standby for immediate exchange, which is easily accomplished by City staff.

These pumps are an exact replacement that fits the existing piping precisely, and are available from only one source, JCH. Staff recommends approval of this Purchase Order for the total cost of $147,370 for these pumps.

Fiscal Impact

Purchase Order 23105947 for $147,370, is funded in Capital Improvements Project 92803, Water Reclamation Plant Replacement.

Staff/Board Recommending

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

Attachments

Resolution
Purchase Order
CIP 92803 - Budget Detail
CIP 92803 - Project Detail
Sole Source Memo
Sole Source Letter

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. 23105947, for two (2) Flygt Pumps for Lift Station 48, by and between the City of Lubbock and James, Cooke, and Hobson, 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 MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

_____
Mitchell Satterwhite, First Assistant City Attorney

ccdocs II/RES.James, Cooke, and Hobson, Inc.-PurchaseOrd
February 24, 2025

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 2/19/2025
Order Number 23105947 000 OP
Branch/Plant 231

TO: JAMES, COOKE AND HOBSON, INC.
4210 HAWKINS ST NE
ALBUQUERQUE NM 87109-4510

SHIP TO: CITY OF LUBBOCK
WATER RECLAMATION PLANT
3603 GUAVA AVENUE
LUBBOCK TX 79403

INVOICE TO: **CITY OF LUBBOCK**
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 3/11/2025 Freight .
Requested 7/1/2025 Taken By A ESPARZA
Delivery PER A ROSALES REQ. 62828 PUR-2025-18671 SOLE SOURCE

If you have any questions about this order, please contact Angelica Rosales at 806-775-3221 or via email at AngelicaRosales@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
60hp Flygt Np3202.185-1516	2.000	73,685.0000	EA	147,370.00	7/1/2025

Terms NET 30 Total Order 147,370.00

This purchase order encumbers funds in the amount of $147,370.00 awarded to James, Cooke and Hobson, Inc. of Albuquerque, NM, on _____. The following is incorporated into and made part of this purchase order by reference: Quote dated January 28, 2025, from James, Cooke and Hobson, Inc. of Albuquerque, NM, and Sole Source.

Resolution #_____

CITY OF LUBBOCK: ATTEST:

_____ _____
Mark McBrayer, Mayor Courtney Paz, City Secretary

Rev. 3/2022

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 viciation 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/departmental-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: open.my!ubbock.us. Please send this request to this email address for it to be processed.

JCH
JAMES • COOKE • HOBSON
Address: 102 Nena Amarillo, TX 79119
Phone: (806) 676-0017 Web: jchinc.com

1/28/25

Attention: Steve Baldwin

Subject: Quote for (2) new 60hp Flygt NP3202.185-1516 12" pumps for Lift station 48

Steve,

Please use $73,685.00 as you cost for (1) new 60hp Flygt NP3202.185-1516 pump for lift station 48. This pump will come with 65' of shielded cable, 12" discharge, FLS (Float leakage sensor), FV (Flush valve port). This is identical to the last two you guys bought.

If you would like to order (2) two pumps, then the total would be $147,370.00.

-Allow 12-16 weeks (via Ocean freight) delivery upon receipt of order.

Price is FOB job site (no freight charges)

Terms are Net 30. The quote is valid for 90 days.

Please review the above carefully and feel free to call with any questions.
Thank you!

Mike Neill
Sales Engineer
JCH James, Cooke & Hobson, Inc
Cell : 806-336-5913
Office : 806-641-8750
Email : Mike.neill@jchinc.com
www.jchinc.com

City of Lubbock
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92803
Capital Project Name:	Water Reclamation Plant Replacement FY 2022-23

Encumbered/Expended	**Budget**
Sewer System Improvements	$ 2,553,443
Contract 18013 - Reroof	48,258
Contract 17422 - Pump Replacement	43,847
Contract 17034 - Pit Cleaning Services	5,427
Agenda Item March 25, 2025	
PO - JCH - 2 Submersible Pumps	446,686
Encumbered/Expended To Date	3,097,661
Estimated Cost for Remaining Appropriation	
Construction	2,339
Remaining Appropriation	2,339
Total Appropriation	$ 3,100,000

CIP 92803 Water Reclamation Plant Replacement FY 2022-23

Upgrade/Major Maintenance

Project Manager: Greg Baier - Wastewater Treatment

Project Scope

This project is for the purchase and installation of new equipment, modifying and/or rehabilitating existing equipment and piping systems. The project also includes other major maintenance activities at the Southeast (SEWRP) and Northwest Water Reclamation Plants (NWWRP). FY 2024-25 Continue to replace aging submersible pumps at intermediate lift station, headworks, and lift station 48, new multistage blower and electrical equipment, and new cameras at the SEWRP. FY 2023-24 Replace aging submersible pumps at intermediate lift station, headworks, and lift station 48. Replace single stage blower and new multistage blower for Plant #4, Replace chopper pumps at digester 8 and 9, Replace Pump Station #2 MCC roof, Replace equalization valve for equalization basin at NWWRP. FY 2022-23 – Southeast Water Reclamation Plant - Replace one blower on Plant #3. Replace check valves at Lift Station 48. Primary worm gear replacement.

Project Justification

Replacing aging infrastructure reduces emergency maintenance expenditures and system failures.

Project Highlights

Council Priorities Addressed:
Community Improvement

Project History

- FY 2022-23 $1,000,000 was appropriated by Ord. 2022-O0136
- FY 2022-23 $100,000 reduced appropriation by BCR# 2023-7
- FY 2023-24 $1,300,000 was appropriated by Ord. 2023-O0108
- FY 2024-25 $900,000 was appropriated by Ord. 2024-O0128

Project Dates

Ongoing Maintenance

Project Location

Southeast and Northwest Water Reclamation Plants

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Construction	$3,100,000	$750,000	$750,000	$750,000	$750,000	$750,000	$0
TOTAL	**$3,100,000**	**$750,000**	**$750,000**	**$750,000**	**$750,000**	**$750,000**	**$0**

Project Funding

	Funding to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Water/Wastewater Fund Cash	$1,800,000	$750,000	$750,000	$750,000	$750,000	$750,000	$0
ARPA Funding	$1,300,000	$0	$0	$0	$0	$0	$0
TOTAL	**$3,100,000**	**$750,000**	**$750,000**	**$750,000**	**$750,000**	**$750,000**	**$0**

Operating Budget Impacts

Description	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	Total
No Impact Anticipated	$0	$0	$0	$0	$0	$0	$0
TOTAL	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Powered by OpenGov

DATE January 30, 2025

TO Marta Alvarez,
Director of Purchasing and Contract Management

FROM Curtis McDole, Water Operations Maintenance Superintendent

SUBJECT Sole Source Justification

INFORMATION:

This Sole Source request is for the purchase of Flygt submersible pumps manufactured by Xylem Water Solutions for Flygt. These pumps are manufactured using proprietary methods that are not available from other sources. James, Cooke, and Hobson, (JCH) is the exclusive authorized distributor for Flygt pumps used by the City of Lubbock Water Utilities for pump wastewater from sewer lift stations and into City sewer pipes.

Water Utilities

Grant Stayberg
Western Regional Territory Manager
4109 NE 107th St., Vancouver WA, 98686
Tel +1.503.706.0601

September 27, 2024

Re: Flygt, a Xylem Water Solutions company

Steven Baldwin
City of Lubbock WWTP
3603 Guava Ave
Lubbock TX

Dear Mr. Baldwin,

Xylem Water Solutions, Flygt brand (Flygt) is the manufacturer of Flygt pumps and parts for your wastewater process. All equipment, components and parts associated with your Flygt equipment should originate from Flygt's Factories.

Flygt, A Xylem brand solely uses James, Cooke and Hobson as its only authorized representation/direct distributor in New Mexico, Arizona and parts of Nevada (Clark County) and Texas territories including Lubbock and Lubbock County. All inquiries regarding Flygt equipment and parts as well as service should be routed through James, Cooke and Hobson. Below is their contact information.

This letter is in effect through an indefinite period as per their contract. If there are any changes to James, Cooke and Hobson's contract; Flygt a Xylem brand will provide written notice.

James, Cooke & Hobson Inc
102 Nena
Amarillo, TX 79119
806/641-8750

If there are any questions concerning the above statement please feel free to contact me

Sincerely,

Grant Stayberg

Grant Stayberg
Western Regional Territory Manager - Water Utilities

AI# 13317

Regular City Council Meeting **5. 24.**
03/25/2025:

Information

Agenda Item

Resolution - Public Health Services: Consider a resolution authorizing the Mayor to execute Amendment No. 2 to the Department of State Health Services Contract No. HHS001331300015, and all related documents, by and between the City of Lubbock and the State of Texas Department of State Health Services, under the Immunization Local Grant Program, to prevent and control the transmission of vaccine-preventable diseases in children and adults.

Item Summary

This is an existing grant. The purpose of this contract is to prevent and control the transmission of vaccine-preventable diseases in children and adults, with emphasis on accelerating strategic interventions to improve their vaccine coverage levels. Amendment No. 2 increases the contract by $232,115, for the state fiscal year (SFY) 2026, increasing the contract to $696,345.

The state fiscal year 2026 begins on September 1, 2025, and ends on August 31, 2026.

Fiscal Impact

Amendment No. 2 for $232,115 for SFY 2026, increases the amount of this contract to $696,345. No local match is required for this contract.

Staff/Board Recommending

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

Attachments

Resolution
Contract

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Amendment No. 2 to the Department of State Health Services Contract No. HHS001331300015 under the Immunization Locals Grant Program, by and between the City of Lubbock and the State of Texas' Department of State Health Services (DSHS), and all related documents. Said Amendment is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

_____
Rachael Foster, Assistant City Attorney

ccdocsII/RES.DSHS-HHS001331300015 Amendment No. 2
3.6.25

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TEXAS
Health and Human Services

Texas Department of State Health Services

Jennifer A. Shuford, M.D., M.P.H.
Commissioner

The Honorable Mark McBrayer, Mayor
City of Lubbock
PO Box 2000
Lubbock, Texas 79457

Subject: IMM/LOCALS
Contract Number: HHS001331300015, Amendment No. 2
Contract Amount: $696,345.00
Contract Term: September 1, 2023, through August 31, 2026

Dear Mayor McBrayer:

Enclosed is Amendment No. 2 to the IMM/LOCALS contract between the Department of State Health Services and City of Lubbock.

The purpose of this contract is to prevent and control the transmission of vaccine-preventable diseases in children and adults, with emphasis on accelerating strategic interventions to improve their vaccine coverage levels.

This amendment increases the contract by $232,115.00, extends the end of the contract term to August 31, 2026, and revises certain attachments to the contract.

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

Sincerely,

Rachel McBride, CTCM
Contract Manager
(512) 776-2999
rachel.mcbride@dshs.texas.gov

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DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS001331300015
AMENDMENT NO. 2

The **DEPARTMENT OF STATE HEALTH SERVICES** ("DSHS" or "System Agency") and **CITY OF LUBBOCK** ("Grantee"), Parties to that certain Immunization/Locals Grant Program Contract, effective September 1, 2023, and denominated DSHS Contract No. HHS001331300015 (the "Contract"), now desire to further amend the Contract.

WHEREAS, DSHS desires to exercise the second of four (4) one year renewal options available under the Contract;

WHEREAS, DSHS desires to add funds to the Contract associated with the SFY 2026 extension period;

WHEREAS, DSHS desires to amend the Contract to incorporate Attachment A, Statement of Work, which was inadvertently deleted in a prior amendment; and

WHEREAS, the Parties desire to add certain terms for compliance with applicable law and DSHS policy.

NOW, THEREFORE, the Parties hereby amend and modify the Contract as follows:

1. **SECTION III** of the Contract, **DURATION,** is hereby amended to reflect a revised termination date of August 31, 2026.

2. **SECTION IV** of the Contract, **STATEMENT OF WORK,** is deleted in its entirety and replaced with the following:

   The Scope of Grant Project to which Grantee is bound is incorporated into and made a part of this Grant Agreement for all purposes and included as **ATTACHMENT A, STATEMENT OF WORK, ATTACHMENT A-1, FY 2025 STATEMENT OF WORK** and **ATTACHMENT A-2, FY 2026 STATEMENT OF WORK.**

3. **SECTION V** of the Contract, **BUDGET AND INDIRECT COST RATE,** is amended to increase funding in the amount of $232,115.00 for SFY 2026. The total not to exceed amount of this Contract is increased to $696,345.00. All expenditures under the Contract shall be in accordance with **ATTACHMENT B-2, REVISED BUDGET.**

   Grantee is not required to provide matching funds. The total not-to-exceed amount includes the following:

Increase in Federal Funds: $103,276.00	Total Federal Funds: $309,828.00
Increase in State Funds: $128,839.00	Total State Funds: $386,517.00

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4. The Contract is amended to add **ATTACHMENT A, STATEMENT OF WORK,** which is incorporated by reference into the Contract for all purposes.

5. The Contract is amended to add **ATTACHMENT A-2, FY 2026 STATEMENT OF WORK,** which is attached to this Amendment and incorporated into the Contract for all purposes.

6. **ATTACHMENT B, BUDGET,** and **ATTACHMENT B-1, FY 2025 BUDGET,** are deleted in their entirety and replaced with **ATTACHMENT B-2, REVISED BUDGET,** which is attached to this Amendment and incorporated into the Contract for all purposes.

7. The Contract is amended to add **ATTACHMENT J-2, FISCAL FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) CERTIFICATION FORM,** which is attached to this Amendment and incorporated into the Contract for all purposes.

8. This Amendment is effective immediately upon execution by the last party to sign below. Operations and funding for Fiscal Year 2026 begins on September 1, 2025. Except as modified by this Amendment, all existing terms of the Contract, including the current Statement of Work, shall remain in full force and effect until and unless modified by written agreement of the Parties.

9. Except as modified by this Amendment, all terms and conditions of the Contract, as amended, shall remain in full force and effect.

10. Any further revisions to the Contract shall be by written agreement of the Parties.

11. Each Party represents and warrants that the person executing this Amendment No. 2 on its behalf has full power and authority to enter into this Amendment.

SIGNATURE PAGE FOLLOWS

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SIGNATURE PAGE FOR AMENDMENT NO. 2
DSHS CONTRACT NO. HHS001331300015

DEPARTMENT OF STATE HEALTH SERVICES	**CITY OF LUBBOCK**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date of Signature: _____	Date of Signature_____

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ATTACHMENT A-2
FY 2026 STATEMENT OF WORK

I. GRANTEE RESPONSIBILITIES

Grantee shall:

A. Implement and operate an immunization program for children, adolescents, and adults, with special emphasis on accelerating interventions to improve the immunization coverage of children under five years of age (birth to 59 months of age). Grantee shall incorporate traditional and non-traditional systematic approaches designed to eliminate barriers, expand immunization capacity, and establish uniform operating policies, as described herein.

B. Be enrolled as a provider in the Texas Vaccines for Children (TVFC) and the Adult Safety Net (ASN) programs by the effective date of this Contract. This includes a signed *Deputization Addendum Form*.

C. Maintain staffing levels to meet required activities of the Contract and ensure staff funded by this Contract attend required training.

D. Report all notifiable conditions as specified in Chapter 97, Title 25 Texas Administrative Code, as amended, and as otherwise required by law.

E. Report all vaccine adverse events in accordance with the 1986 National Childhood Vaccine Injury Act 42 U.S.C. § 300aa-25, located at vaers.hhs.gov or 800-822-7967, as amended.

F. Sustain a network of TVFC and ASN providers to administer vaccines to program-eligible populations through the following activities:

1. Ensuring New Provider Checklist is completed;
2. Conducting quality assurance reviews;
3. Ensuring annual influenza pre-book survey is completed;
4. Conducting compliance site visits;
5. Conducting unannounced storage and handling visits; and
6. Ensuring providers adhere to the vaccine borrowing procedure.

G. Participate in audits and assessments through the following activities:

1. Completing and submitting through Child Health Reporting System all audits and assessments conducted on childcare facilities and Head Start Centers;
2. Completing audits, assessments, and retrospective surveys of public and private schools;
3. Reviewing monthly reports to ensure data quality;
4. Reviewing monthly Provider Activity Reports;

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5. Reviewing quarterly Consent Accepted Rate Evaluations; and
6. Conducting ImmTrac2 Support Reviews of Texas Immunization Registry organizations.

H. Provide education and outreach activities regarding vaccines and vaccine-preventable diseases, Texas Immunization Registry, and TVFC and ASN Programs to the following:

1. American Indian Tribes;
2. Schools and childcare facilities;
3. Healthcare workers; and
4. Community and general public.

I. Not deny vaccinations to recipients because they do not reside within Grantee's jurisdiction, because of an inability to pay an administration fee, or because of denial to consent to Texas Immunization Registry.

J. Be responsible for identification and case management of infants born to hepatitis B surface antigen-positive pregnant women and pregnant women of unknown hepatitis B status through ensuring the following activities:

1. Newborn post-exposure prophylaxis with hepatitis B vaccine and hepatitis B immune globulin administered to infants within 12 hours of birth;
2. Timely administration of doses two and three of hepatitis B vaccine according to Advisory Committee on Immunization Practices recommendations for the infant;
3. Timely completion of post-vaccination serologic testing according to Centers for Disease Control and Prevention recommendations for the infant; and
4. Immediately documenting mother and infant information in database and completing all "In Progress" or "Not Started" tasks.

K. Be responsible for assessing and auditing vaccination rates and compliance with vaccine requirements at assigned schools and childcare facilities in accordance with the Population Assessment Manual, which is distributed annually by DSHS.

L. Transfer overstocked vaccines and vaccines approaching expiration within the next ninety (90) days to alternate providers for immediate use when instructed to do so by the DSHS Public Health Region Immunizations Program Manager or designee to avoid vaccine waste.

M. Comply with the following DSHS guides and manuals:

1. DSHS Immunizations Contractor's Guide for Local Health Departments and Public Health Regions located at: dshs.texas.gov/immunizations/health-departments/contracts

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2. TVFC and ASN Operations Manual located at: dshs.texas.gov/immunizations/health-departments/materials
3. TVFC and ASN Provider Manual located at: dshs.texas.gov/sites/default/files/LIDS-Immunizations/pdf/pdf_stock/11-13602.pdf
4. Immunization Quality Improvement for Provider Manual and Resources located at: dshs.texas.gov/immunizations/health-departments/materials
5. Population Assessment Manual located at: dshs.texas.gov/sites/default/files/LIDS-Immunizations/pdf/pdf_stock/11-12550.pdf
6. Texas Perinatal Hepatitis B Prevention Program Manual located at: dshs.texas.gov/immunizations/health-departments/materials
7. Guidelines for Increasing the Use of the Texas Immunization Registry located at: https://dshs.texas.gov/sites/default/files/LIDS-Immunizations/pdf/FY25-GIUTIR.pdf

N. Receive written approval from DSHS before varying from applicable policies, procedures, protocols, or work plans outlined above. Update and disseminate implementation documentation to staff involved in activities under this Contract within forty-eight (48) hours of making approved changes.

O. Review monthly Contract funding expenditures and salary savings from any Contract-paid staff vacancies. Revise spending plan to ensure that all funds under this Contract will be expended in alignment with approved budgets before the end of the Contract term.

P. DSHS-approved budget may be revised by Grantee in accordance with the following requirements:

1. For any transfer between budget categories, Grantee shall submit a revised Categorical Budget using the Budget Template to the DSHS Contract Representative, highlighting the areas affected by the budget transfer and written justification for the transfer request. After DSHS review, the designated DSHS Contract Representative will provide notification of acceptance, rejection, or the need for a Contract Amendment to the Grantee by email.
2. For transfer of funds between direct budget categories, other than the 'Equipment' and 'Indirect Cost' categories, for less than or equal to a cumulative twenty-five (25) percent of the total value of the respective Contract budget period, Grantee shall submit timely written notification to DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If a budget revision for less than or equal to the cumulative twenty-five (25) percent is approved for transfer of funds between direct budget categories, DSHS Contract Representative will provide notification of acceptance to Grantee by email, upon receipt of which, the funds can be utilized by the Grantee.

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3. For transfer of funds between direct budget categories, other than the 'Equipment' and 'Indirect Cost' categories, that cumulatively exceeds twenty-five (25) percent of the total value of the respective Contract budget period, Grantee shall submit timely written notification to DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized until an amendment is executed by the Parties.
4. Any transfer between budget categories that includes 'Equipment' and/or 'Indirect Cost' categories must approved by amendment to the Contract. Grantee shall submit timely written notification to DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized until an amendment is executed by the Parties.

Q. Grantee shall not use funds allocated under this Contract to purchase buildings or real property without prior written approval from DSHS. Also, any costs related to the acquisition of buildings or real property are not allowable without DSHS written pre-approval.

R. At the expiration or termination of this Contract for any reason, title to any remaining equipment and supplies purchased with funds under this Contract will revert to DSHS. Title may be transferred to another party as designated in writing by DSHS. DSHS may, at its option and to the extent allowed by law, transfer the reversionary interest to such property to Grantee. For any real property, Grantee shall dispose of the property in accordance with written instructions provided by DSHS.

II. REPORTING REQUIREMENTS

Grantee shall:

A. Report the number of doses administered to underinsured children monthly, as directed by DSHS.

B. Report the number of unduplicated underinsured clients served, as directed by DSHS.

C. Complete and submit the Immunizations Interlocal Agreement Quarterly Report by the report due date, utilizing the format provided by DSHS and available at dshs.texas.gov/immunizations/health-departments/contracts. If the due date falls on a weekend or state approved holiday, the report is due the next business day.

Report Type	Reporting Period	Report Due Date
Programmatic	09/01/2025 to 11/30/2025	12/31/2025
Programmatic	12/01/2025 to 02/28/2026	03/31/2026
Programmatic	03/01/2026 to 05/31/2026	06/30/2026
Programmatic	06/01/2026 to 08/31/2026	09/30/2026

D. Submit quarterly reports electronically through an online tool according to the timeframes stated above. Supplemental report documents must be sent to dshsimmunizationcontracts@dshs.texas.gov. If there are any changes to the reporting process, DSHS will provide updated instructions by either email or phone call.

E. Submit the Financial Status Report (FSR-269A) biannually as outlined below. Grantee shall email the FSR-269A to the following email address: FSRgrants@dshs.texas.gov.

Period Covered	Due Date
September 1, 2025 – February 28, 2026	March 31, 2026
March 1, 2026 – August 31, 2026	September 30, 2026

F. Maintain an inventory of equipment, supplies, and real property. Grantee shall submit an annual cumulative report on DSHS Grantee's Property Inventory Report to the DSHS Contract Representative and FSOequip@dshs.texas.gov by email not later than October 15 of each year.

1. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of $500.00 or more, but less than $10,000.00: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets do not include a capitalized asset, real property, an improvement to real property, or infrastructure. Controlled Assets are considered Supplies.
2. Equipment includes items with an acquisition cost $10,000.00 or more.

G. Submit out-of-state travel requests to the DSHS Contract Management Section (CMS) for approval when utilizing Contract funds or program income.

III. PERFORMANCE MEASURES

DSHS will monitor the Grantee's performance of the requirements in this **ATTACHMENT A-2** and compliance with the Contract's terms and conditions.

IV. INVOICE AND PAYMENT

Grantee shall request monthly payments by the 30th day following the service month using the State of Texas Purchase Voucher (Form B-13) located at http://www.dshs.texas.gov/grants/forms.shtm. DSHS will issue reimbursement payments to Grantees on a monthly basis for reported actual cash disbursements which are supported by adequate documentation. Invoices must be submitted monthly to prevent delays in subsequent months. Grantees that do not incur expenses within a month are required to

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submit a "zero dollar" invoice on a monthly basis. Grantee must submit a final close-out invoice and final financial status report no later than thirty (30) days following the end of the Contract term. Invoices received more than thirty (30) days after the end of the Contract term are subject to denial of payment. Grantee shall electronically submit all invoices with supporting documentation to: invoices@dshs.texas.gov and CMSinvoices@dshs.texas.gov with a copy to the assigned DSHS Contract Representative identified in the Signature Document.

At a minimum, voucher must include:

1. Grantee name, address, email address, vendor identification number, and telephone number;
2. DSHS Contract or Purchase Order number;
3. Dates services were completed and/or products were delivered;
4. The total invoice amount; and
5. Any additional supporting documentation which is required by the Statement of Work or as requested by DSHS.

DSHS will pay Grantee monthly on a cost reimbursement basis and in accordance with **ATTACHMENT B-2, REVISED BUDGET**, of this Contract. DSHS will reimburse Grantee only for allowable and reported expenses incurred within the grant term.

Failure to submit required information may result in delay of payment or return of invoice. Billing invoices must be legible. Illegible or incomplete invoices which cannot be verified will be disallowed for payment.

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ATTACHMENT B-2

REVISED BUDGET

Budget Categories	Budget for FY 2024 September 1, 2023 - August 31, 2024	Budget for FY 2025 September 1, 2024 - August 31, 2025	Budget for FY 2026 September 1,2025 - August 31, 2026	Category Totals
Personnel	$150,412.00	$150,036.00	$152,689.00	$453,137.00
Fringe	$63,173.00	$63,015.00	$79,398.00	$205,586.00
Travel	$0.00	$0.00	$0.00	$0.00
Equipment	$0.00	$0.00	$0.00	$0.00
Supplies	$1,726.00	$2,000.00	$28.00	$3,754.00
Contractual	$12,804.00	$12,804.00	$0.00	$25,608.00
Other	$4,000.00	$4,260.00	$0.00	$8,260.00
Total Direct	$232,115.00	$232,115.00	$232,115.00	$696,345.00
Indirect	$0.00	$0.00		$0.00
Total	**$232,115.00**	**$232,115.00**	**$232,115.00**	**$696,345.00**

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Fiscal Federal Funding Accountability and Transparency Act (FFATA)

The certifications enumerated below represent material facts upon which DSHS relies when reporting information to the federal government required under federal law. If the Department later determines that the Contractor knowingly rendered an erroneous certification, DSHS may pursue all available remedies in accordance with Texas and U.S. law. Signor further agrees that it will provide immediate written notice to DSHS if at any time Signor learns that any of the certifications provided for below were erroneous when submitted or have since become erroneous by reason of changed circumstances. ***If the Signor cannot certify all of the statements contained in this section, Signor must provide written notice to DSHS detailing which of the below statements it cannot certify and why.***

Legal Name of Contractor:	**FFATA Contact: (Name, Email and Phone Number):**
Primary Address of Contractor:	**Zip Code: 9-digits required www.usps.com**
Unique Entity ID (UEI): This number replaces the DUNS www.sam.gov	**State of Texas Comptroller Vendor Identification Number (VIN) – 14 digits:**

Printed Name of Authorized Representative:	**Signature of Authorized Representative**
Title of Authorized Representative	**Date Signed**

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Fiscal Federal Funding Accountability and Transparency Act (FFATA) CERTIFICATION

As the duly authorized representative (Signor) of the Contractor, I hereby certify that the statements made by me in this certification form are true, complete, and correct to the best of my knowledge.

Did your organization have a gross income, from all sources, of less than $300,000 in your previous tax year? Yes ☐ No ☐

If your answer is "Yes", skip questions "A", "B", and "C" and finish the certification. If your answer is "No", answer questions "A" and "B".

A. Certification Regarding % of Annual Gross from Federal Awards.
Did your organization receive 80% or more of its annual gross revenue from federal awards during the preceding fiscal year? Yes ☐ No ☐

B. Certification Regarding Amount of Annual Gross from Federal Awards.
Did your organization receive $25 million or more in annual gross revenues from federal awards in the preceding fiscal year? Yes ☐ No ☐

If your answer is "Yes" to both question "A" and "B", you must answer question "C".
If your answer is "No" to either question "A" or "B", skip question "C" and finish the certification.

C. Certification Regarding Public Access to Compensation Information.
Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? Yes ☐ No ☐

If your answer is "Yes" to this question, where can this information be accessed?

If your answer is "No" to this question, you must provide the names and total compensation of the top five highly compensated officers below.

Provide compensation information here:

AI# 13295

Regular City Council Meeting **5. 25.**

03/25/2025:

Information

Agenda Item

Resolution - Public Health Services: Consider a resolution authorizing the Mayor to execute a Professional Services Agreement, and all related documents, by and between the City of Lubbock Health and Texas Tech University Health Sciences Center, to provide certain infectious disease healthcare services to the City of Lubbock Health Department Intermediary Care Clinic.

Item Summary

This agreement allows for Texas Tech University Health Sciences Center (TTUHSC), through its physicians, to provide infectious disease services for the City of Lubbock Health Department Intermediary Care Clinic (COLHD). Services will include direct patient care for patients with an infectious disease, orpatients who are in need of an infectious disease consultation. The agreement further provides physicians to work at the COLHD Intermediary Care Clinic on scheduled days.

COLHD agrees to pay TTUHSC $180 per hour for clinical services. A log of time spent with a description of the services provided will be kept and maintained for each time period.

This agreement is effective from February 15, 2025, through February 14, 2026, and may be renewed on an annual basis by mutual agreement by both parties from year to year, for a maximum of 4 additional one-year terms.

Fiscal Impact

$180 per hour will be funded by the American Rescue Plan Act (ARPA) Grant Funds which are allocated to the Intermediary Care Clinic Project.

Staff/Board Recommending

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

Attachments

Resolution
Professional Services Agreement

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, a Professional Services Agreement, between the City of Lubbock and Texas Tech University Health Sciences Center to provide certain infectious disease health care services to the City of Lubbock Health Department Intermediary Care Clinic, 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:

_____
Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

_____
Rachael Foster, Assistant City Attorney

ccdocsII/RES.TTUHSC Infectious Disease Intermediary Care Clinic Services
2.24.25

PROFESSIONAL SERVICES AGREEMENT
HEALTH CARE (PATIENT) SERVICES PROVIDED BY UNIVERSITY (GOVERNMENT ENTITY)

This Professional Services Agreement ("Agreement") is made and entered into by and between Texas Tech University Health Sciences Center, a public institution of higher education located in the State of Texas ("University"), on behalf of its School of Medicine, Department of Internal Medicine on the Lubbock, TX campus, and City of Lubbock, acting by and through its Health Department ("hereafter referred to as COLHD"). University and COLHD may be referred to herein individually each as a "Party" or collectively as the "Parties."

Background

- COLHD desires to obtain certain professional health care services to be provided at its facilities located at 806 18th Street, Lubbock, TX 79401 and 2015 50th Street, Lubbock, TX 79412.
- University represents that it employs health care professionals with the necessary qualifications and knowledge who will be assigned to perform the services.

Agreement

Now, therefore, for the consideration herein expressed, University and COLHD hereby agree as follows:

Article 1
Responsibilities

1.1 **University Responsibilities**. University, through its physicians, will (Sections 1.1.1, 1.1.2, and 1.1.3 hereinafter referred to as "Services"):

1.1.1 Provide infectious disease services for COLHD Intermediary Care Clinic.
1.1.2 Direct patient care for patients with an infectious disease or in need of an infectious disease consultation.
1.1.3 Provide physicians to work at the COLHD Intermediary Care Clinic on scheduled days and notify deputy medical director of changes in availability.

1.2 **COLHD Responsibilities.** COLHD will:

1.2.1 Make available and maintain appropriate and necessary space, equipment, and supplies which meet current standards of care and provide support staff who hold current licenses or certification.
1.2.2 Set clinic schedule 30 days in advance.
1.2.3 Make requests for clinic staffing under this Agreement through the deputy medical director.

Article 2
Compensation and Payment

2.1 **Fee for Services.** COLHD agrees to pay University $180 per hour for clinical Services described above. A log of time spent with a description of the services provided shall be kept and maintained for each time period.

2.2 **Payment.** University will invoice COLHD. Payment shall be remitted within thirty (30) days of invoice date.

2.3 **Medical Judgment.** Each Party represents and warrants that all decisions regarding the medical care of patients shall be based solely upon the professional medical judgment of a patient's attending physician(s) and shall be made in the best interests of patients, that the aggregate benefit given or received under this Agreement, whether in cash or in kind, has been determined in advance through a process of arms-length negotiations that were intended to achieve an exchange of goods and/or services consistent with fair market value in the circumstances, and that any benefit given or received under this Agreement is not intended to induce, does not require, and is not contingent upon, the admission, recommendation or referral of any patient, directly or indirectly, to the other Party.

2.4 Both Parties intend that the terms and conditions of this Agreement, and the manner in which the Services are to be performed hereunder comply with applicable federal and state laws and regulations, including but not limited to, 42 CFR Part 411 (Stark) and 42 CFR 1001 et seq. (Anti-kickback).

[***CON3675513 *23 *460008778217015095248375713841523303920628815541*1*6***] Powered by ASC

Article 3
Term and Termination

3.1 **Term.** The term of this Agreement shall commence on February 15, 2025 and will continue in full force and effect through February 14, 2026 and may be renewed on an annual basis by mutual agreement of both Parties from year to year for a maximum of four additional one-year terms.

3.2 **Right to Terminate**. Either Party may terminate this Agreement at any time, with or without cause, by giving the other Party thirty (30) days written notice. This Agreement may be terminated immediately by University upon written notice to COLHD for nonpayment.

3.3 **Force Majeure**. "Event of Force Majeure" means an event beyond the control of COLHD or University which prevents or makes a Party's compliance with any of its obligations under this Agreement illegal or impracticable, including but not limited to: act of God (including, without limitation, fire, explosion, earthquake, tornado, drought, and flood); war, act or threats of terrorism, hostilities (whether or not war be declared), invasion, act of enemies, mobilization, requisition, or embargo; rebellion, insurrection, military or usurped power, or civil war; contamination or destruction from any nuclear, chemical, or biological event; riot, commotion, strikes, go slows, lock outs, or disorder; epidemic, pandemic, viral outbreak, or health crisis; or directive of governmental authority. No Party will be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented or made illegal or impracticable by an Event of Force Majeure that arises during the term (or after execution of the Agreement but prior to the beginning of the term). A Party asserting an Event of Force Majeure hereunder ("Affected Party") will give reasonable notice to the other Party of an Event of Force Majeure upon it being foreseen by, or becoming known to, Affected Party. In the event of an Event of Force Majeure, Affected Party will endeavor to continue to perform its obligations under the Agreement only so far as reasonably practicable.

3.4 Notwithstanding anything else in this Agreement to the contrary, if either Party terminates this Agreement during the initial twelve (12) months of the Agreement for any reason, the Parties agree that they shall not enter into an agreement with each other for the same or substantially the same services during the initial twelve (12) months of this Agreement.

3.5 **Payment Upon Termination**. In the event this Agreement is terminated in accordance with this Article, then within thirty (30) days after the effective date of such termination, University shall submit University's termination statement for Services rendered to the date of termination, and COLHD shall pay University for such Services within thirty (30) days of receipt of University's termination statement.

3.6 **Effect of Termination.** The termination or expiration of this Agreement shall not relieve either Party of any obligation pursuant to this Agreement which arose on or before the date of termination.

Article 4
Insurance

4.1 The Texas Tech University System maintains a Medical Liability Self-Insurance Plan that provides medical malpractice liability insurance to its employed physicians in amounts of $400,000 per claim/$1.2 million annual aggregate, unless lower liability limits are set by law, in which case the lower liability limits set by law shall apply.

4.2 University state employees are subject to Texas Civil Practice and Remedies Code, Chapter 104, State Liability for Conduct of Public Servants, under which state employees acting and the course and scope of their employment are entitled to protection from the state with limits as set forth in §104.003.

4.3 The City of Lubbock maintains Medical Professional Liability coverage on a claims made and reported basis with a limit of $1,000,000 per claim/$3 million annual aggregate, sub-limits may apply.

4.4 University and COLHD acknowledge that, as governmental entities, neither party may indemnify the other against claims, demands, actions, liabilities, or expenses (including reasonable attorney's fees) arising out of the actions or omissions of the other party. To the extent authorized by applicable law, University and COLHD agree that they will be responsible for the actions or omissions of their own employees and agents acting within the scope of their employment, in connection with this Agreement. This provision shall survive any termination or expiration of this Agreement.

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Article 5
Licensure

5.1 University represents and warrants that University or its employees and agents providing Services: (i) hold and maintain unrestricted, independent, active licenses to practice in Texas, if applicable; (ii) hold and maintain unrestricted Medicare and Medicaid provider numbers, if applicable; (iii) are credentialed without restriction or limitation on the University medical staff in their applicable specialty; (iv) never have had any privileges or license to practice suspended, revoked or terminated; (v) never have been convicted of a felony, health care related crime, or of any other crime involving moral turpitude or immoral conduct or been sanctioned by any state or federal governmental authority for civil or criminal health care related misconduct; and (vi) have a current narcotics license and registration number issued by the appropriate governmental agency, if applicable. University shall notify COLHD immediately if it becomes aware of any circumstances which will change the representations in this section.

5.2 University represents and warrants that its employees and agents shall provide Services hereunder in accordance with: (i) their license to provide professional services, as issued by the State of Texas; (ii) any applicable professional associations; (iii) the criteria and standards set by any applicable specialty boards; (iv) The Joint Commission; and (v) all currently accepted and approved methods of practice as established by other applicable societies, associations, or regulatory agencies.

5.3 University shall require that its employees and agents providing Services pursuant to this Agreement devote approximately the hours per week set forth in this Agreement to fulfill the obligations described in this Agreement. Otherwise, the University's employees and agents shall be free to dispose of such portion of their time, energy and skill as they are not obligated to devote under this Agreement in such manner as they see fit and to such persons, patients, institutions, firms or corporations as they deem advisable, provided such outside activities do not interfere with the performance of their duties under this Agreement.

5.4 University shall promptly prepare or cause to be prepared, and University shall require that University's employees and agents providing Services prepare or cause to be prepared, reports and records of all examinations, procedures and other services performed in accordance with generally accepted medical practices, regulatory and accrediting requirements and those policies and procedures established by COLHD in order to properly document all Services provided, monitor the care of patients, and to bill and receive payment for Services rendered. The ownership and right of control of all patient reports, records and supporting documents prepared hereunder in connection with the Services shall belong exclusively to COLHD.

Article 6
HIPAA

6.1 **HIPAA.** It is the intent of the Parties to comply with all provisions of the Health Insurance Portability and Accountability Act of 1996, now codified at Title XI, Part C of the Social Security Act and as it may be amended and all regulations promulgated thereunder ("HIPAA"), as these may change from time to time. University shall not, and shall require that its employees and agents, shall not, disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by COLHD in writing, any individually identifiable patient or medical record information regarding COLHD patients, and the University shall comply, and shall ensure that each of its employees and agents providing Services under this Agreement complies, with all federal and state laws and regulations, and all HIPAA rules, regulations and policies of COLHD regarding the confidentiality of such information.

Article 7
Compliance

7.1 **Compliance with Applicable Laws and Policies.** The Parties enter into this Agreement with the intent of conducting their relationship in full compliance with the federal physician anti-referral law, the Medicare and Medicaid Anti-Fraud and Abuse law and the Texas Occupations Code patient non-solicitation law. Notwithstanding any unanticipated effect of any of the provisions herein, neither Party will intentionally conduct itself under the terms of this Agreement in a manner to constitute a violation of the Medicare and Medicaid Anti-Fraud and Abuse law or Texas Occupations Code patient non-solicitation law. The Parties acknowledge that each is subject to applicable federal and state laws and regulations, and policies and requirements of various accrediting organizations. Accordingly, each Party will enforce compliance with all applicable laws, regulations, and requirements, and will make available such information and records as may be reasonably requested in writing by the other Party to facilitate its compliance, except for records which are confidential and privileged by law. Each Party shall have or designate a Compliance Officer with whom compliance issues shall be coordinated.

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7.2 COLHD represents and warrants that neither COLHD or any employees or agents who provide items or Services under this Agreement are excluded, suspended, or debarred from participation in any federal or state health care program or federally funded contracts. University may conduct searches of COLHD's name against various federal and state sanction and exclusion databases, including, but not limited to the HHS OIG List of Excluded Individuals/Entities (LEIE), the GSA Excluded Parties List System (EPLS) and the Texas HHSC Exclusion List. COLHD agrees to immediately inform University as soon as it is aware that it or any of its employees, agents or contractors providing items or services under the Agreement are subject to the imposition of any such sanctions or exclusion. This Agreement shall be subject to immediate termination by University in the event COLHD or any of its employees, agents, or contractors, is listed on any federal or state sanction/exclusion list as being subject to sanctions or exclusion.

Article 8
Medical Records and Billing

8.1 **Medical Records.** University shall have access to the complete medical records of all patients to whom health care is, or has been, provided in whole or in part, by any University physician or other University health care provider. Access to or copies of such records shall be made available to University upon request within a reasonable period of time, not to exceed 48 hours from the time of the request.

8.2 **Billing**. COLHD will bill third-party payors for the services performed by University.

COLHD shall bill all payors and/or patients directly for the professional and technical components for all medical services rendered by University and its providers pursuant to this Agreement. Accordingly, University hereby reassigns its right to bill patients and third party private insurers, payors, and health plans to the City of Lubbock for the Services provided by University and its providers pursuant to this Agreement. The foregoing reassignment right only applies to Services provided by University and its providers pursuant to this Agreement, and all other clinical activities of University and its providers shall be billed, collected and retained by the University in accordance with University policy and procedure. COLHD represents and warrants that all billing and collection activities under this Agreement shall comply with all applicable laws and regulations.

Article 9
Audit

9.1 **Access to Documents**. At any time during the term of this Agreement and for a period of four (4) years thereafter, the State of Texas, Texas Tech University System, University and/or other federal, state and local agencies which may have jurisdiction over this Agreement, at reasonable times and at its expense reserves the right to audit COLHD's records and books that relate only to this Agreement. In the event such an audit by University reveals any errors/underpayments to University, COLHD shall pay University the full amount of such underpayments within thirty (30) days of such audit findings. If needed for audit, original or independently certified copies of off-site records will be provided to auditors at COLHD's expense within two (2) weeks of written request. This Section shall survive termination of this Agreement.

Article 10
Access to Books and Records

10.1 The Parties agree that until the expiration of four years after the furnishing of services under this Agreement, the Parties will make available to the Secretary of the United States Department of Health and Human Services ("the Secretary") and the United States Comptroller General, and their duly authorized representatives, this contract and all books, documents, and records necessary to certify the nature and extent of the costs of those services.

10.2 If a Party carries out the duties of this Agreement through a subcontract worth $10,000 or more over a twelve month period with another individual or entity, the subcontract will also contain a clause requiring the individual or entity to make available, upon written request of the Secretary, the United States Comptroller General and its duly authorized representatives, the subcontract and books, documents, and records necessary to verify the nature and extent of the costs of the services provided under this Agreement. (42 USC 1395x(v)(1)(I) and 42 CFR 420.302.)

Article 11
General Provisions

11.1 **Independent Contractor**. The Parties agree and acknowledge that any health care professional employed by University and providing services pursuant to this Agreement is an independent contractor and shall not be an employee of the City of Lubbock

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or the COLHD, and that any such health care professional shall have no power to bind the City of Lubbock or the COLHD in any legal contract or in any other way without prior written consent of the City. This Agreement is not intended to, and shall not be construed to, create any joint venture between or among the Parties.

11.2 **Notices.** All notices, consents, approvals, demands, requests, or other communications provided for or permitted to be given under any of the provisions of the Agreement shall be in writing and sent via registered or certified mail, overnight courier, or email, and notice will be deemed given (i) if mailed, when deposited, postage prepaid, in United States mail, (ii) if sent by overnight courier, one (1) business day after delivery to the courier, and (iii) if sent by email, when received:

COLHD ATTN: Katherine Wells City of Lubbock PO Box 2000 Lubbock, TX 79457 kwells@mylubbock.us	Texas Tech University Health Sciences Center ATTN: Contracting Office 3601 4th Street STOP 6217 Lubbock, Texas 79430 contracting@ttuhsc.edu

Notice of a change in address of one of the Parties shall be given in writing to the other Party as provided above, but shall be effective only upon actual receipt.

11.3 **Amendment.** This Agreement and each of its provisions shall be binding upon the Parties and may not be waived, modified, amended, or altered except by in writing signed by the Parties.

11.4 **Assignment.** Neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party.

11.5 **Human Trafficking Certification.** Pursuant to Texas Government Code § 2155.0061, COLHD certifies that the individual or business entity named in this Agreement is not ineligible to receive the Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

11.6 **Publicity and Marks.** COLHD agrees that it will not use University's name or protected marks without University's prior written approval.

11.7 **Venue; Governing Law.** This Agreement is governed by and construed and enforced in accordance with the laws of the State of Texas. The state or federal courts of Lubbock County, Texas, shall be the sole proper place of venue for any legal action or proceeding arising out of this Agreement or the enforcement of any provision of this Agreement.

11.8 **Severability.** If one or more provisions of this Agreement, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of this Agreement and the application to other parties or circumstances will remain valid and in full force and effect.

11.9 **Sovereign Immunity Acknowledged and Retained. THE PARTIES EXPRESSLY AGREE THAT NO PROVISION OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER BY EITHER PARTY OF ANY IMMUNITIES FROM SUIT OR LIABILITY THAT EITHER PARTY MAY HAVE BY OPERATION OF LAW. THE PARTIES RETAIN ALL GOVERNMENTAL IMMUNITIES.**

11.10 **No Third Party Beneficiaries.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors and permitted assigns. Nothing in this Agreement is intended, nor shall be deemed, to confer any benefits on any third party, including, without limitation, any patients of the COLHD nor shall such person or entity have any right to seek, enforce or recover any right or remedy with respect hereto.

11.11 **Warranty of Authority.** The person(s) executing this Agreement on behalf of the Parties, or representing themselves as executing this Agreement on behalf of a Party, warrant and guarantee that each has been duly authorized by the appropriate Party to execute this Agreement on behalf of the Party and to validly and legally bind the Party to all of its terms, performances, and provisions.

11.12 **Entire Agreement.** This Agreement contains the entire agreement of the Parties concerning the subject matter described herein and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter described herein. This Agreement supersedes any prior written or oral agreements between the Parties concerning the subject matter described herein.

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11.13 **E-Signatures.** This Agreement may be executed in two or more counterparts, each of which are deemed to be an original as against any Party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" (".pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, have the same effect as physical delivery of the paper document bearing the original signature.

Texas Tech University Health Sciences Center:

Penny Harkey (Feb 19, 2025 11:09 CST)
Signature

Penny Harkey
Name

Executive Vice President
Title

02/19/2025
Date

City of Lubbock:

Signature

Mark W. McBrayer
Name

Mayor
Title

Date

ATTEST:

Courtney Paz
City Secretary

APPROVED AS TO CONTENT:

Katherine Wells
City of Lubbock Health Director

APPROVED AS TO FORM:

Rachael Foster
Assistant City Attorney

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Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing the Mayor to execute Community Development Block Grant Funding Agreement 18708, and all related documents, by and between the City of Lubbock, Community Development and Lubbock Children's Health Clinic.

Item Summary

Grantee: Lubbock Children's Health Clinic

Program: Community Development Block Grant (CDBG) Public Facility Improvement

Funding Source: Community Development Block Grant (CDBG)
U.S. Department of Housing & Urban Development (HUD)
Grant funding

Use of Funds: This funding is administered by HUD, and will be used for the renovation of the North Clinic located at 302 North University, to increase capacity for patient care, improve service efficiency, and expand the onsite laboratory, exam rooms, and support services.

The Community Development & Services Board (CDSB), at their regular board meeting on April 10, 2024, made a recommendation to the City Council to approve the 2024 – 2025 Annual Action Plan. The City Council approved the CDSB recommendation on April 23, 2024.

CDSB, at their regular board meeting on November 20, 2024, approved allocation to the Lubbock Children's Health Clinic, for the above-mentioned use of funds.

Fiscal Impact

There is no fiscal impact to the General Fund. The funds used originate from HUD, and the maximum allocation to LCHC is $400,000.

Staff/Board Recommending

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

Attachments

Resolution

Agreement

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Community Development Block Grant Funding Agreement 18708, and all related documents, between the City of Lubbock and Lubbock Children's Health Clinic, for funding for renovations at the North Clinic at 302 N. University Avenue. 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:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES. CDBG Contract 18708 Lbk Children's Health Clinic
3.7.25

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
FUNDING AGREEMENT
Between
THE CITY OF LUBBOCK
AND
LUBBOCK CHILDREN'S HEALTH CLINIC

This Community Development Block Grant Funding Agreement (the "Agreement"), Contract No.**18708** is made by and between the City of Lubbock, a State of Texas home rule municipal corporation (the "City") and Lubbock Children's Health Clinic (the "Subrecipient"), (each a "Party," and collectively the "Parties") acting by and through the Parties' representative officers and officials, and is hereby entered into by the Parties on this _____ day of _____, 2025 (the "Effective Date").

RECITALS

WHEREAS, the Subrecipient is obligated to do and perform certain services in its undertaking of a Community Development Block Grant (CDBG) Project pursuant to the Housing and Development Act of 1975, as amended; and

WHEREAS, the Subrecipient operates a non-profit center offering services to families and individuals throughout the City of Lubbock.

WHEREAS, the Subrecipient and the services it provides have been found to meet the criteria for funding under provision 24 CFR 570.200(a) and 24 CFR 570.201; and

WHEREAS, the Subrecipient proposes to use the funds for renovation of the North Clinic located at 302 N. University in Lubbock, which will increase capacity for patient care, improve service efficiency, and expand onsite laboratory, exam room facilities, and support services (the "Project"); and

WHEREAS, the Subrecipient's services benefit residents in and around Lubbock, Texas and constitute a valuable public service, and the City of Lubbock City Council (the "City Council") has declared the services provided by the Subrecipient to be a public purpose; and

WHEREAS, the accomplishment of the above public purpose is the predominate purpose of this Agreement; and

WHEREAS, the continuing supervision by the City with statutory and contractual requirements provide sufficient assurance that the public purpose of this Agreement will be accomplished; and

WHEREAS, the City Council has found that the Subrecipient has the special expertise, knowledge, and experience necessary for the operation of the Project; and, that the City will receive adequate consideration in the form of substantial public benefit; and **NOW, THEREFORE:**

THE PARTIES, FOR GOOD AND VALUABLE CONSIDERATION, AGREE AS FOLLOWS:

AGREEMENT

I. TERMS OF THE AGREEMENT

A. It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed the sum of **Four Hundred Thousand Dollars ($400,000.00)** to carry out a Public Facility Improvement Project set forth in this Agreement as consideration of said funds to renovate the north location of the Lubbock Children's Health Clinic.

B. The Terms of this Agreement shall **commence on the Effective Date and end on September 30, 2025**, to which all funds must be expended under this Agreement. The Project is considered complete when all construction has been completed and the Subrecipient is able to commence operations of a public service activity.

C. The City's awarding of the Funding under this Agreement is contingent upon the City's receipt of adequate funds to meet the City's liabilities under this Agreement. If adequate funds are not made available to the City so that it cannot award the Funding, then the City shall notify the Subrecipient in writing within a reasonable time after such fact is determined, the City shall terminate this Agreement, and the City will not be directly or indirectly liable for failure to award the Funding to the Subrecipient under this Agreement.

D. The expenditure of CDBG funds is subject to Federal deadlines and could result in the loss of the Federal funds. By the acceptance and execution of this Agreement, it is understood and agreed by the Subrecipient that **the Project will be completed by September 30, 2025** and the Subrecipient will make every effort to ensure that the Project will not be delayed. Failure to meet deadlines can result in cancellation of this agreement and the revocation of CDBG funds. The Subrecipient may request an extension of this deadline in writing, by submitting information about the status of the project, steps being taken to overcome any obstacles to completion, proof of adequate funding to complete the project, and a schedule with milestones for completion of the project.

E. This Project is subject to ongoing monitoring of the Subrecipient by the City for one year after project completion. During this period, the Subrecipient will ensure continued adherence with CDBG requirements in carrying out a CDBG eligible Public Service activity.

F. Since it is mutually agreed that time is of the essence in regard to this Agreement, the Subrecipient shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this Agreement, in order to ensure that the project will be completed according to the timetable set forth. It is intended that such provisions inserted in any subcontracts be, to the fullest extent permitted by law and equity, binding for the benefit of the City and enforceable by the City against the Subrecipient and its successors and assigns to the Project or any part thereof or any interest therein.

G. In the event the Subrecipient is unable to meet the above schedule or complete the above services because of delays resulting from natural or man-made emergencies and disasters untimely review and approval by the City and other governmental authorities having jurisdiction over the project, or other delays that are not caused by the Subrecipient, the City shall grant a reasonable extension

of time for completion of the Work. It shall be the responsibility of the Subrecipient to notify the City promptly in writing whenever a delay is anticipated or experienced, and to inform the City of all facts and details related to the delay.

H. For purpose of complying with this Agreement, completion shall mean that all necessary construction work has been completed and the project has been determined to be complete and ready for activities to resume.

II. SCOPE OF WORK

The Subrecipient, in close coordination with the City, shall perform all professional services (the "Work") necessary to complete the construction of the Project in full compliance with the Terms of the Agreement.

A. Project Description

Funding under this Agreement will be used to renovate the Lubbock Children's Health Clinic located at 302 N. University in Lubbock. The Project will increase capacity for patient care, improve service efficiency, and expand onsite laboratory, exam room facilities, and support services through rehab and modifications made to the building's exterior and interior.

B. Contact Information

City
Community Development
Karen Murfee, Director
PO Box 2000
Lubbock, TX 79457
(806) 775-2296
kmurfee@mylubbock.us

Subrecipient
Lubbock Children's Health Clinic
Nedra Hotchkins, Executive Director
302 N. University
Lubbock, TX 79424
(806) 749-3803
nedra@lchclubbock.org

C. The City's Responsibilities

1. The City shall not be liable to the Subrecipient for any cost incurred by the Subrecipient which has been paid to the Subrecipient, which is subject to be paid to the Subrecipient, which has been reimbursed to the Subrecipient, or which is subject to reimbursement to the Subrecipient by any source other than the CDBG Funding under this Agreement.
2. The City shall not be liable for any cost incurred by the Subrecipient which is not an allowable cost as set forth in this Agreement or under 24 CFR 570.207.
3. The City shall not be liable to the Subrecipient for any cost incurred by the Subrecipient or for any performance rendered by the Subrecipient which is not strictly in accordance with the terms of this Agreement.
4. The City shall not be liable to the Subrecipient for any cost incurred by the Subrecipient in the performance of this Agreement which has not been billed to the City by the Subrecipient within sixty (60) days following the termination of this Agreement.

5. The City shall not be liable for any cost incurred or performance rendered by the Subrecipient before the commencement or after termination of this Agreement.

6. The City may, at its sole discretion and convenience, review any work specifications prior to the beginning of a procurement process under this Agreement, and the City may inspect any construction for compliance with work specifications prior to the release of the Funding.

7. In accordance with 24 CFR 570.508, notwithstanding 2 CFR 200.337, the City shall provide citizens with reasonable access to records regarding the past use of CDBG funds, consistent with applicable State and local laws regarding privacy and obligations of confidentiality.

D. The Subrecipient's Responsibilities

1. The Subrecipient will be responsible for administering the Project in a manner satisfactory to the City and in compliance with this Agreement and with any and all statutory standards related to the Funding.

2. The Subrecipient certifies that all of its activities carried out for the Project through the Funding will satisfy 24 CFR Part 570, including, but not limited to: CDBG eligible activities under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. The Subrecipient agrees to repay any and all of the Funding that does not satisfy the regulations required under this provision.

3. The Subrecipient shall perform all activities related to the Project in accordance with its budget; all applicable laws and regulations; and, with the assurance, certifications, and all other terms, provisions, and requirements set forth in this Agreement.

4. Upon the City's request while this Agreement is in effect, the Subrecipient shall submit to the City any and all reports, documents, or information on the Subrecipient's performance of the Funding or the Project under this Agreement.

5. In addition to the limitations on liability otherwise specified in this Agreement, it is expressly understood and agreed to by the Parties that if the Subrecipient fails to submit to the City in a timely and satisfactory manner any reports, documents, or information requested by the City under this Agreement, the City may, at its sole discretion, withhold all, or any part of, the Funding. If the City withholds all, or any part of, the Funding, it shall notify the Subrecipient in writing of its decision and the reasons therefor. Any Funding withheld pursuant to this paragraph may be held by the City until such time as the obligations for which the Funding is being withheld is fulfilled by the Subrecipient to the satisfaction of the City.

6. The Subrecipient shall refund to the City any Funding that has been paid to the Subrecipient by the City for which the City determines is a result of overpayment of the Funding to the Subrecipient, or for which the City determines any of the Funding has not been spent by the Subrecipient strictly in accordance with the terms of this Agreement. Such refund shall be made by the Subrecipient to the City within thirty (30) working days after such refund is requested by the City.

7. The Subrecipient shall submit to the City a request for an environmental assessment to be prepared and approved on individual construction sites prior to the beginning of any project if applicable.

8. The Subrecipient shall submit to the City a request for a review of all work specifications prior to the beginning of the procurement process.

9. The Subrecipient will have Match funds ready and available prior to the start of any project, if applicable. Failure to have Match funds ready and available may delay or cancel such project.

10. The Subrecipient agrees that any interests or assets obtained with the Funding shall revert back to the City in the event that the Subrecipient dissolves, files for bankruptcy, or goes out of business for any reason.

E. Subrecipient's Match

The Subrecipient must provide Match for 25% or more of the total CDBG Funding under this agreement from non-federal sources. Matching funds may include cash or in-kind donations, donated voluntary labor, donated professional services, donated supplies or materials, or other non-federal grant funds.

F. National Objective

The Subrecipient agrees that all activities funded with CDBG and carried out under this Agreement will benefit low and moderate income persons, meeting a national objective as defined in 24 CFR 570.208(a).

G. Monitoring

In accordance with 24 CFR 570.501(b), the City will monitor the Subrecipient's performance under this Agreement **for one-year after project completion,** in order to ensure that the Subrecipient complies with the terms of this Agreement and all other applicable laws and regulations related to this Agreement and the Funding provided through this Agreement. The Subrecipient will be required to submit monthly reports to the City for Performance and Accomplishments of program services. Expenditures for one year after Project completion. Reports are due on the tenth of each month.

Construction projects will be monitored by a Construction Inspection Specialist (the "Inspector") with Community Development (CD) department of the City of Lubbock to ensure: 1.) The project is progressing at an acceptable rate; 2.) An on-site supervisor or project manager is present; 3.) The project is in compliance with all building codes and safety regulations; and 4.) The workers are present and have submitted Section 3 worker certification forms. Weekly Davis Bacon wage reports with original signatures must be submitted to the City.

III. TIME OF PERFORMANCE

Services and performance by the Subrecipient for the Project will **commence on the Effective Date and end on September 30, 2025** (the "Term"). The Term and the provisions of this Agreement shall be extended to cover any additional time period during which the City remains in control of the CDBG funding period or other CDBG assets, including program income.

IV. BUDGET

The Funding made available to the Subrecipient under this Agreement shall be specifically drawn from the source listed in this section (the "Budget"). In the budget listed below, the program year of the HUD allocation to the City is listed to the left of the Funding Source for the amount allocated and made available to the Subrecipient for the Project under this Agreement. The Funding made available to the Subrecipient under this Agreement shall be directly linked to the specific funding and amount stated in Section I.A. Any amendments to the budget must be approved in writing by both the City and the Subrecipient.

Program Year	Funding Source	Project Allocation
2024	CDBG	$400,000.00

V. PAYMENT

All payments to the Subrecipient will be based on the recipient of a reimbursement request for costs incurred and paid by the subrecipient.

A. Payment requests must be submitted with back-up documentation including invoices or billing statements and documentation that payment was made for the expense. Additional documentation must be submitted for CDBG program compliance including, but not limited to, inspections, photos, and Davis Bacon wage reports for Section 3 reporting.

B. For Construction projects, payments to the Subrecipient will be reimbursed as the Project progresses and may be paid based on the percent of project completion (25%, 25%, 25%, 15%, and 10% completed) or as costs are incurred by the Subrecipient.

C. The Subrecipient may request reimbursement for eligible expenses, which shall be made against the budget specified in Section II.D.8 herein and in accordance with the Uniform Administration Requirements at 2 CFR Part 200.

VI. SPECIAL CONDITIONS: None.

VII. GENERAL CONDITIONS

A. General Compliance

1. The Subrecipient agrees to comply with the requirements of 24 CFR Part 570 (the HUD regulations concerning Community Development Block Grants (CDBG)), including subpart K of these regulations; except that: (1) the Subrecipient does not assume the City's environmental responsibilities described in 24 CFR 570.604; and, (2) the Subrecipient does not assume the City's responsibility for initiating the review process under the provisions of 24 CFR Part 52.

2. The Subrecipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the CDBG Funding provided under this Agreement. The Subrecipient further agrees to utilize the CDBG Funding under this agreement to supplement, rather than supplant, funds otherwise available.

3. The Subrecipient shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to CDBG:

   - 24 CFR Part 570;
   - 2 CFR Part 200;
   - The Davis-Bacon Fair Labor Standards Act;
   - The Contract Work Hours and Safety Standards Act of 1962;
   - Copeland "Anti-Kickback" act of 1934;
   - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
   - Title VI of the Civil Rights Act of 1964, (Public Law 88-352 implemented in 24 CFR Part 1);
   - Fair Housing Act,
   - Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
   - Section 104(b) and 109 of the HCD Act of 1974;
   - 24 CFR Part 75, Section 3 of the Housing and Urban Development Act of 1968;
   - Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
   - Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086);
   - Section 504 of the Rehabilitation Act of 1973 Uniform Federal Accessibility Standards; The Architectural Barriers Act of 1968;
   - The Americans With Disabilities Act (ADA) of 1990;
   - The Age Discrimination Act of 1975, as amended;
   - National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended;
   - Lead Based paint regulations established in 24 CFR Part 35, 570.608, and 24 CFR 982.401;
   - Asbestos guidelines established in CPD Notice 90-44;
   - HUD Environmental Criteria and Standards (24CFR Part 51);
   - The Energy Policy and Conservation Act (Public Law 94-163) and 24 CFR Part 39; Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
   - Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.); and,
   - Flood Disaster protection Act of 1973.

B. "Independent Contractor"

Nothing contained in this Agreement is intended, or shall be construed in any manner, to create or establish the relationship of employer and employee between the Parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life, medical insurance, and Workers' Compensation insurance as the Subrecipient is an independent contractor.

C. Indemnity and Release

1. THE SUBRECIPIENT SHALL INDEMNIFY AND HOLD HARMLESS, TO THE FULLEST EXTENT PERMITTED BY LAW, THE CITY, AND THE CITY'S RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS, AND AGENTS, FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, CLAIMS, OR LIABILITIES, OF ANY KIND OR NATURE, WHICH ARISE DIRECTLY OR INDIRECTLY, OR ARE RELATED, IN ANY WAY, MANNER, OR FORM, TO THE ACTIVITIES CONTEMPLATED HEREUNDER.
2. THE SUBRECIPIENT SHALL PAY TO THE CITY, THE CITY'S RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS, AND OR AGENTS, AS APPLICABLE, ALL ATTORNEYS' FEES INCURRED BY ENFORCING THE SUBRECIPIENT'S INDEMNITY HEREIN.
3. THE SUBRECIPIENT, AND ITS RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS, AND AGENTS SHALL NOT BE LIABLE, AND THE CITY HEREBY RELEASES THE CITY, AND ITS RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS, AND AGENTS, FOR, FROM, AND AGAINST ANY LOSSES, DAMAGES, CLAIMS, OR LIABILITIES TO THE SUBRECIPIENT.
4. THE INDEMNITY AND RELEASE PROVIDED HEREIN SHALL SURVIVE THIS AGREEMENT.

D. Right to Exercise

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, the former shall control.

E. Workers' Compensation

If applicable, the Subrecipient shall provide Workers' Compensation insurance coverage for all of its employees involved in the performance of this Agreement.

F. Insurance and Bonding

The Subrecipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud, and/or or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City. The Subrecipient shall comply with the bonding and insurance requirements of 2 CFR 200, Bonding and Insurance.

G. Subrecipient Recognition

The City shall insure recognition of the role of the Subrecipient in providing services through this Agreement. All activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to the Funding source. In addition, the Subrecipient will include a reference to the Funding in all publications made possible under this Agreement.

H. Amendments

1. The City or the Subrecipient may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both Parties, and approved by the City Council. Such amendments shall neither invalidate this Agreement nor relieve or release the City or the Subrecipient from its obligations under this Agreement.

2. The City may, in its discretion, amend this Agreement to conform with Federal, State, or local governmental guidelines, policies, and available funding amounts, or for any other reason. If such amendments result in a change in the Funding, the scope of services, or the schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Parties.

I. Suspension or Termination

1. In accordance with 2 CFR Part 200 either Party may terminate this Agreement for convenience by giving written notice to the other Party of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. Partial termination of this Agreement may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports, or other materials prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City, and the Subrecipient shall be entitled to receive just and equitable compensation for any work completed on such documents or materials prior to the termination.

2. The City may terminate this agreement if the Subrecipient fails to comply with any terms of this Agreement, whole or in part which include (but are not limited to) the following:

   a. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders and HUD guidelines, policies or directives as may become applicable at any time;

   b. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;

   c. Ineffective or improper use of CDBG funds provided under this agreement; or

   d. Submission by the Subrecipient to the City of reports that are incorrect or incomplete in any material respect.

3. The City may suspend or terminate this Agreement if the City reasonably believes that the Subrecipient is in noncompliance with any requirement of this Agreement, then the City may withhold up to fifteen percent (15%) of the Funding until such time as the Subrecipient is found to be, or is otherwise adjudicated, to be in compliance.

4. The City may terminate this Agreement in the event of an emergency or disaster, whether, an act of God, natural or manmade, by giving twenty-four (24) hour notice. The City may give said notice verbally to the Subrecipient. Any expenditure incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by the Subrecipient.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. *Accounting Standards.* The Subrecipient agrees to comply with 2 CFR Part 200, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and to maintain necessary source documentation for all costs incurred under this Agreement.

2. *Cost Principles.* The Subrecipient shall administer its Project in conformance with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards", which shall be applied to all direct or indirect costs incurred by the Subrecipient under this Agreement.

B. Documentation and Record-Keeping

1. *Records to be Maintained.* The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

   a. Records demonstrating that each activity meets one of the National Objectives of CDBG under 24 CFR 570.208, benefiting low to moderate income (LMI) persons or, low to moderate income area (LMA) by census tracts;

   b. Records required to determine the eligibility category under 24 CFR 570.201;

   c. Financial records as required by 24 CFR Part 570.502 and 2 CFR Part 200;

   d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

   e. Records documenting compliance with the fair housing and equal opportunity components of CDBG;

   f. Other records necessary to document compliance with Subpart K or 24 CFR Part 570.

2. *Retention.* The Subrecipient shall retain all financial records, supporting documents and all records pertinent to the Agreement, including but not limited to client data of no less than five (5) years. The retention period begins on the date of the submission of the City's Consolidated Annual Performance and Evaluation Report (CAPER) to HUD in which activities assisted under this Agreement are reported, shall be retained for a period no less than five (5) years after the date of submission. Under this Agreement, Financial records documenting expenditures under this Agreement shall be retained for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with the Funding shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after the displaced person has received final payment. Notwithstanding the above, if there is any litigation, claim, audit, negotiation or other action that involves any of the records cited herein and that has started before the expiration of the five (5) year period, then such records must be retained until the completion of the actions and resolution of all issues, or the expiration of the five (5) year period, whichever occurs later.

3. *Client Data.* The Subrecipient shall maintain client data that demonstrates its client eligibility for the Funding and services provided under this Agreement for five years after the date of submission of the CAPER to HUD by the City. Such data shall include, but not be limited to: client name or identifier; client address; client income level, race, ethnicity or other determination of client eligibility; and, a description of the service provided to the client related to this Agreement. Such information shall be made available to the City or it's designees for review upon request.

4. *Disclosure.* The Subrecipient understands that client information collected under this Agreement is private, and the use or disclosure of such information, when not directly connected with the administration of the City or Subrecipient's responsibilities related to this Agreement, is prohibited unless written consent is obtained from such client receiving service(s) and in the case of a minor, that of a responsible parent or guardian, unless otherwise required by law.

5. *Property Records.* The Subrecipient shall maintain a real property inventory that clearly identifies any property purchased, improved, or sold under this Agreement or that is related to the Funding. Any such property shall throughout the Term remain in compliance with all eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Part 570.503(b)(7).

6. *Close-Outs.* The Subrecipient's obligation to the City under this Agreement shall not end until all close-out requirements under this Agreement are completed pursuant to applicable Federal regulations and law. Activities during this close-out period shall include, but are not limited to: making final payments; disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City); final close-out reports; and, determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control of the CDBG funds, including program income.

7. *Audits & Inspections.* All of the Subrecipient's records related to this Agreement shall be made available at any time during normal business hours as often as the City or its designee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives deems necessary to monitor, audit (if required), examine, or make excerpts or transcripts of any data relevant to this Agreement in order for the City to produce an audit report. Any deficiencies noted in an audit report must be fully cleared by the Subrecipient within thirty (30) days after receipt by the City. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of Funding. The Subrecipient hereby agrees to have an annual internal audit conducted in accordance with current City policy concerning Subrecipient audits and, if required, a regular audit under Title 2 CFR Part 200 "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards".

C. Reporting and Payment Procedures

1. *Payment Procedures.* The City will pay to the Subrecipient Funds based upon information submitted by the Subrecipient and consistent with any approved budget and City policy concerning the Payments. Payment will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by

the City in accordance with advance fund and program income balances available in the Subrecipient's accounts. In addition, the City reserves the right to liquidate any part of the Funding for costs incurred by the City on behalf of the Subrecipient.

2. *Performance and Financial Reports.* Upon completion of all construction, the Subrecipient will submit to the City, monthly reports and narratives detailing performance, accomplishments, and demographics for each month as they pertain to the Public Service Activity supported by completion of the Project by the tenth (10th) day of each month. Monthly reporting will be required for one year after project completion.

3. *Program Income.* The Subrecipient shall report quarterly all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to the City at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

D. Procurement

Compliance. The Subrecipient shall comply with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and the City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property procured with CDBG funds. All assets purchased with Funding under this Agreement, including unexpended program income, property, or equipment, shall revert to the City upon the termination of this Agreement.

1. *CFR Standards.* Unless specified otherwise within this Agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 2 CFR Part 200.

2. *Travel.* The Subrecipient shall obtain written approval from the City for any travel outside the metropolitan area that is financed in any way through the Funding under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR Part 200 and 24 CFR Part 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Subrecipient shall transfer to the City all CDBG funds on hand and any accounts receivable attributable to the use of the Funding under this Agreement at the time of expiration, cancellation, or termination of this Agreement.

2. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with the Funding in excess of twenty-five thousand dollars ($25,000) shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR Part 570.208 until five (5) years after the expiration of this Agreement, or such longer period of time as the City deems

appropriate. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, then the Subrecipient shall pay to the City an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the City. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five (5) year period, or such longer period of time as the City deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with the Funding under this Agreement is sold, the proceeds shall be program income to reflect the extent to that funds received under this Agreement were used to acquire the equipment. Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the City for the CDBG program, or (b) retained after compensating the City for an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and, the requirements in 570.606(d) governing optional relocation policies. The City may preempt the optional policies. The Subrecipient shall provide relocation assistance to persons, families, individuals, businesses, nonprofit organizations, and farms that are displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with all applicable City ordinances, resolutions, and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. *Compliance.* The Subrecipient agrees to comply, and to require its subcontractors to comply, with Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11063; and, with Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, 12086.

2. *Nondiscrimination.* The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations and executive orders referenced in 24 CFR Part 570.607, as revised by Executive Order 13279. The applicable non-discrimination provision in Section 109 of the HCDA are still applicable. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability, or other handicap, age, marital

or familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. *Land Covenants.* This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. l. 88-352) and 24 CFR 570.601-602. In regard to the sale, lease, or other transfer of land acquired, cleared, or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the Project assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. *Section 504.* The Subrecipient agrees to comply with any Federal regulations issued pursuant in compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The City shall provide the Subrecipient with any guidelines necessary for compliance with the regulations in force during the term of this Agreement.

5. *Reports.* The Subrecipient shall maintain a report that documents the race and ethnicity of its employees. The Subrecipient shall provide the City a copy with said report upon execution of this Agreement.

6. *Policies.* The Subrecipient shall maintain current copies of its fair housing and equal opportunity policies. The Subrecipient shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

Approved Plan. The Subrecipient agrees they shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. If the Subrecipient receives Federal funds through the City, then the Subrecipient shall be required to develop a written Affirmative Action Program to ensure that equal opportunity is provided in all aspects of its employment.

1. *Women- and Minority-Owned Business (W/MBE).* The Subrecipient will use its best efforts to afford small businesses, minority- and women-owned business enterprises and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. The terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C 632), and "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of the term "minority

group members" means Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority- and women-owned business enterprises in lieu of an independent investigation.

2. *Access to Records.* The Subrecipient shall furnish and cause any subcontractor to furnish all information and reports required hereunder and will permit access to its books, records, and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.

3. *Notifications.* The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. *Subcontract Provisions.* The Subrecipient will include the provisions of the Civil Rights and Affirmative Action sections of this Agreement, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each Subrecipient or subcontractor.

C. Employment Restrictions

1. *Prohibited Activity.* The Subrecipient is prohibited from using the Funding provided herein or personnel employed in the administration of the Project for political activities, inherently religious activities; sectarian activity, religious activity, lobbying, political patronage, or nepotism.

2. *Labor Standards.*

   a. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.), the Copeland "Anti-Kickback" Act (18 U.S.C. 874 *et seq.*) and all other applicable Federal, State, and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and it's implementing regulations of the U.S. Department of Labor Act at 29 CFR Part 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

   b. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of two thousand dollars ($2,000) for construction, renovation, or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by State or local law, nothing hereunder is intended to relieve

the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

D. Fraud, Waste, and Abuse Reporting Requirements

1. Pursuant to 2 CFR 200.113, the Subrecipient must disclose, in writing, any violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Such disclosures must be made to the Federal awarding agency or the [insert city/county] in a timely manner. The Subrecipient acknowledges that failure to make required disclosures may result in remedies described under 2 CFR 200.339, including suspension and debarment.

2. The Subrecipient shall ensure that all relevant staff and contractors are aware of and comply with this reporting requirement.

E. "Section 3" Clause

1. *Compliance.* Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended and as implemented by the regulations set forth in 24 CFR 75, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement, and binding upon the City, the Subrecipient, any of Subrecipient, and subcontractor. The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

2. *"Section 3" Paragraph.* The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> *"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 (of the Housing and Urban Development Act of 1968), as amended, (12 U.S.C. 1701). Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."*

3. *Training & Employment.* The Subrecipient will ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the Project is located. Where feasible, the Subrecipient agrees that priority should be given to low- and very low-income persons within the service area of the Project or the neighborhood in which the Project is located, and to low- and very low-income participants in other HUD programs.

4. *Award of Contracts.* The Subrecipient agrees to award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons

residing within the metropolitan area in which the Project is located. Where feasible, the Subrecipient agrees that priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the Project is located, and to low- and very low-income participants in other HUD programs.

5. *Notifications.* The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

6. *Subcontracts.* The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 75 and will not allow any subcontract unless the entity provides a preliminary statement of ability to comply with the requirements of this Agreement and all other applicable law.

F. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City. Claims for money due or to become due to the City from the Subrecipient under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

G. Subcontracts

1. *Approvals.* The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the City prior to the execution of such subcontract.

2. *Monitoring.* The Subrecipient will monitor the performance of all subcontracted services on a regular basis. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance. Substandard performance as determined by the Subrecipient or the City will constitute noncompliance with this agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable time after being notified, Agreement suspension or termination will take place.

3. *Content.* The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

4. *Selection Process.* The Subrecipient shall insure that all subcontracts entered into in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

5. *Suspension and Disbarment.* The Subrecipient shall not enter into any subcontracts with an agency, business, or individual that has been suspended, disbarred, or otherwise excluded from Federal grants. The Subrecipient shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any of the Funding to a subcontract.

H. Hatch Act

The Subrecipient agrees that no Funding or personnel employed under this Agreement shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

I. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 2 CFR Part 200 and 570.611, which include but are not limited to:

1. The Subrecipient shall maintain a written code of conduct to govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

2. No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

3. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (l) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, the Subrecipient, or any designated public agency.

J. Lobbying

The Subrecipient hereby certifies that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of

Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. It will require that the language of Article 10.D.2 of this Agreement be included in the award documents for all subawards at all tiers, including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements, and that all Subrecipients shall certify and disclose accordingly.

K. Lobbying Certification

Any person who fails to file the required certification imposed by section 1352, Title 31, U.S.C. shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than one hundred thousand dollars ($100,000) for each such failure. Submission of such certification is a prerequisite for making or entering into this Agreement, and the certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

L. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, the work or materials for government purposes.

M. Religious Organization

The Subrecipient agrees that the Funding provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- National Environmental Policy Act, 42 U.S.C. Part 55.
- Clean Air Act, 42 U.S.C., 7401, et seq;
- Federal Water Pollution Control Act, as amended; 33 U.S.C. 1251, et seq., as amended; 1318 relating to inspection, monitoring, entry, reports, and information; other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder; and, Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that, for activities located in an area identified by Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes, including rehabilitation.

C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint.

Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Asbestos

The Subrecipient agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61.

E. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, State, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Subrecipient's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Subrecipient to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. Chapter 2270, Subtitle F, Title 10, Texas Government Code

The City warrants that it is in compliance with Chapter 2270, Subtitle F, Title 10 of the Texas Government Code by verifying that it does not boycott Israel, and that it will not boycott Israel during the term of this Agreement.

XVI. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient, and any Subrecipient, with respect to this Agreement.

IN WITNESS HEREOF, THE PARTIES HAVE EXECUTED AND ENTER INTO THIS AGREEMENT ON THE EFFECTIVE DATE

[Signature Page to Follow]

SIGNATURES

FOR: THE CITY OF LUBBOCK

Mark W. McBrayer, Mayor

FOR: LUBBOCK CHILDREN'S HEALTH CLINIC

Nedra Hotchkins, Executive Director

Matthew Stroud, Board President

Federal ID: 75-0968315

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, Community Development Director

APPROVED AS TO FORM:

Kelly Leisure, Senior Assistant City Attorney

AI# 13271

Regular City Council Meeting **5. 27.**

03/25/2025:

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing the Mayor to execute a Community Development Funding Contract 18723, and all related documents, with Lutheran Social Services of the South, Inc., to provide utility assistance to qualified low-income persons and families through the Comprehensive Energy Assistance Program, administered by Texas Department of Housing and Community Affairs.

Item Summary

Grantee:Lutheran Social Services of the South, Inc. (LSSS), aka Neighborhood House

Funding source: 2025 Comprehensive Energy Assistance Program (CEAP) from the Texas Department of Housing and Community Affairs (TDHCA)

Use of funds: 1) Provide an application process and approve qualified individuals and households for energy assistance. 2) Report the funding amount that is eligible for payment to Community Development, to give approval for payment of energy bills only, as well as repair or replacement of existing heating and cooling units for citizens of Lubbock County.

Allocation: $180,000

Terms: January 1, 2025 – December 31, 2025, with the option to extend time up to 6 months, as determined by TDHCA.

Fiscal Impact

There is no fiscal impact to the General Fund for this contract. The funds used originate from TDHCA. The grant funding amount allocated to LSSS for the CEAP program is $180,000.

Staff/Board Recommending

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

Attachments

Resolution
Agreement

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Community Development Funding Contract 18723, and all related documents, between the City of Lubbock and Lutheran Social Services of the South, Inc., a State of Texas non-profit organization, for funding allocation from the Comprehensive Energy Assistance Program (CEAP) to provide utility assistance to qualified low-income persons and families. 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:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES. Contract 18723 – Lutheran Social Services of the South –CEAP Allocation
2.27.25

2025 COMPREHENSIVE ENERGY ASSISTANCE PROGRAM
BETWEEN
CITY OF LUBBOCK
AND
LUTHERAN SOCIAL SERVICES OF THE SOUTH, INC.

This Comprehensive Energy Assistance Program (CEAP) Agreement (the "Agreement"), **Contract No. 18723** is made by and between the City of Lubbock, a State of Texas home rule municipal corporation (the "City") and **Lutheran Social Services of the South, Inc.**, a State of Texas non-profit enter (the "Contractor"), (each a "Party," and collectively the "Parties") acting by and through the Parties' representative officers and officials, and is hereby entered into by the Parties on this _____ day of March, 2025 (the "Effective Date").

RECITALS

WHEREAS, the City is obligated to do and perform certain services in its administration of the Comprehensive Energy Assistance Program (the "CEAP"); and

WHEREAS, the Contractor operates a non-profit center offering services to low-income individuals in Lubbock County, Texas (the "Services"); and

WHEREAS, the City finds that the Services benefit citizens of Lubbock County and constitute a valuable public service; and

WHEREAS, the City finds that the Services are the predominate purpose of this Agreement; and

WHEREAS, the Contractor and the Services have been found to meet the criteria for funding under a request for proposals issued by the City; and

WHEREAS, the continuing supervision by the City and State together with statutory and contractual requirements provide sufficient assurance that the public purpose is accomplished and an audit provides sufficient protection of the handling of public money; and

WHEREAS, the City finds that the Contractor has the special expertise, knowledge, and experience necessary for the performance of this Agreement and that the City will receive adequate consideration in the form of substantial public benefit; and

WHEREAS, the City desires to enter into this Agreement with the Contractor to make available assistance for low-income individuals and families with utility (electricity, gas and propane) cost and repair or replacement of existing equipment for heating and cooling, CEAP Program (the "Program"); and

NOW, THEREFORE,

THE PARTIES, FOR GOOD AND VALUABLE CONSIDERATION, AGREE AS FOLLOWS:

AGREEMENT

Article 1. SCOPE OF SERVICE

A. The City's Responsibilities

The City agrees to award the Contractor funding from the CEAP in an amount not to exceed **one hundred eighty thousand dollars ($180,000)** in return for Contractor performing the Services of the Program (the "Funding").

1. The City's awarding of the Funding under this Agreement is contingent upon the City's receipt of adequate funds to meet the City's liabilities under this Agreement. If adequate funds are not made available to the City so that it cannot award the Funding, then the City shall notify the Contractor in writing within a reasonable time after such fact is determined, the City shall terminate this Agreement, and the City will not be directly or indirectly liable for failure to award the Funding to the Contractor under this Agreement.

2. The Funding shall be disbursed in the amounts and at the time the funds are disbursed to the City by the State of Texas. The City is not responsible for any amounts not distributed by the State of Texas. Any Comprehensive Energy Assistance Program (the "CEAP") funds applicable to this Agreement shall be disbursed in the amount and at the time such funds are disbursed to the City by the State of Texas.

3. The City shall not be liable to the Contractor for any costs incurred by the Contractor which have been paid to the Contractor, which are subject to be paid to the Contractor, which have been reimbursed to the Contractor, or which are subject to reimbursement to the Contractor by any source other than the City or the Contractor.

4. The City shall not be liable to the Contractor for any costs incurred by the Contractor or for any performances rendered by the Contractor which are not strictly in accordance with the terms of this Agreement.

5. The City shall not be liable to the Contractor for any costs incurred by the Contractor in the performance of this Agreement which have not been billed to the City by the Contractor within sixty (60) days following the termination of this Agreement.

6. The City shall not be liable for any costs incurred or performances rendered by the Contractor before the commencement or after termination of this Agreement.

7. The Funding will be limited to the following:

   a. For the sole purpose of the Contractor's Services for the Program;

   b. For the satisfaction of expenses incurred by the Contractor in its provision of Services for the Program; and

   c. For the benefit of lower-income families that reside in Lubbock County, Texas, and whose gross household income does not exceed one hundred and fifty percent (150%) of the most recent Poverty Income Guidelines issued by the U.S. Department of Health and Human Services.

B. Contractor's Responsibilities

1. The Contractor agrees to the Funding solely for the purpose of the Program as it is performed at Neighborhood House, 6501 University Ave., Suite 504, Lubbock, Texas 79413 (also known as Lutheran Social Services of the South, Inc.)

2. The Contractor agrees to comply with all applicable uniform administrative requirements as described in the Lutheran Social Services Policy Manual; all generally accepted administrative requirements for the Texas State Government located at 1TAC5.141, et seq.; and, all federal administrative requirements located at 45CFR Part 96.

3. The Contractor agrees to carry out the Services contemplated under this Agreement in compliance with all State and Local laws and regulations.

4. The Contractor shall retain in its clients' files only those documents that are required to validate its clients' eligibility for the Program. Such documents may include forms of documentation of disability such as Social Security or a Supplemental Security Income statement. The Contractor shall not include documentation from a medical professional, such as a doctor's letter, in its clients' files.

Article 2. TIME OF PERFORMANCE

This Agreement shall commence January 1, 2025 and shall terminate December 31, 2025 (the "Term"), with the option to extend time up to six (6) months as determined by the Texas Department of Housing and Community Affairs, with the understanding that the Grantee will expend 100 percent of the funds to assist low-income eligible persons during the contract term, providing that the Contractor meets its obligations during the Term, subject to the approval of the City Council of the City.

Article 3. BUDGET

The Contractor will use the CEAP funds awarded under this Agreement to administer the Program in the following manner:

CEAP Program Services Cost/Admin	$180,000
Total CEAP funds awarded under this Agreement	$180,000

Article 4. PAYMENT

The City will pay up to one hundred eighty thousand dollars ($180,000) to the Contractor based upon the receipt of a request for funds and project expense summary for the Contractor's Services under the Project. The Funding shall be disbursed in the amounts and at the time the funds are disbursed to the City by the State of Texas. The City is not responsible for any amounts not distributed by the State of Texas. Any Comprehensive Energy Assistance Program (the "CEAP") funds applicable to this Agreement shall be disbursed in the amount and at the time such funds are disbursed to the City by the State of Texas. The Contractor shall submit to the City invoices for items purchased in the Contractor's performance of the Services under the Project. The City shall determine the reasonableness of each purchase and shall not make a disbursement of any such payment until the City has reviewed and approved each purchase. The City may release up to ten percent (10%) of the funds to be used as start-up funding for the Contractor's Services under the Project. The Contractor will then bill the City monthly for expenses incurred by the Contractor

during the prior month of Services performed under the Project. By January 10, 2026, unless extension of time up to six (6) months as determined by the Texas Department of Housing and Community Affairs, with the understanding that 100 percent of the funds to assist low-income eligible persons during the contract term. The Contractor will provide the City with the proper documentation to show how all funds were expended by the Contractor in its performance of Services under the Program, including the start-up costs.

Article 5. NOTICES

All communication required under this Agreement shall be directed to the following Party representatives:

***For the City*:**
Karen Murfee
City of Lubbock
P. O. Box 2000
Lubbock, TX 79457

***For the Contractor*:**
Joy Loper
Lutheran Social Services of the South, Inc.
6501 University Ave., Suite 504
Lubbock, TX 79413

Article 6. SPECIAL CONDITIONS

A. The Contractor will keep adequate documentation of the design of the Program, the implementation of the Program, and evaluation of Program design.

B. The Contractor will keep documentation of its efforts to leverage CEAP funds with other programs to enhance the Services provided to its clients.

C. The Contractor will keep documentation of its efforts to cooperate and collaborate with other service providers.

Article 7. GENERAL CONDITIONS

A. General Compliance

1. Contractor agrees to comply with all applicable federal, state, and local laws and regulations governing the Funding provided under this Agreement which were made available under the City's CEAP.
2. The Contractor shall administer the CEAP to eligible clients in accordance with TDHCA CEAP regulations, as out lined in Texas Administrative Code (TAC 10) regulations; the Low-Income Home Energy Assistance Act of 1981, as amended; 42 U.S.C. Sec. 8621 et seq.; the LIHEAP Act Public Law 97-35; the LIHEAP State Plan; and, sections 103 & 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Agency of labor regulations (29 CFR, Part 5).

B. Labor Standards

The Contractor agrees to comply with the requirements of the Secretary of Labor in accordance with the Copeland "Anti-Kickback" Act (40 U.S.C 276a-276a-5; 40 USC 327 and 40 USC 26c) and all other applicable Federal, state and local laws and regulations pertaining to the labor standards insofar as those acts apply to the performance of this Agreement.

C. Right to Exercise

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, the former shall control.

D. Independent Contractor

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer and employee between the Parties. The Contractor shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life, medical insurance, and Worker's Compensation insurance as the Contractor is an independent contractor.

E. Indemnity and Release

1. The Contractor shall indemnify and hold harmless, to the fullest extent permitted by law, the City, and the City's respective officers, employees, elected officials, and agents, from and against any and all losses, damages, claims, or liabilities, of any kind or nature, which arise directly or indirectly, or are related to, in any way, manner, or form, the activities contemplated hereunder, including, but not limited to, losses, damages, claims, or liabilities arising from or related to, in any way, manner, or form, the act or omission of third parties or the negligence or fault of the City, its respective officers, employees, elected officials, or agents.

   The Contractor further covenants and agrees to defend any suits or administrative proceedings brought against the City or the City's respective officers, employees, elected officials, or agents on account of any such claim, and to pay or discharge the full amount or obligation of any such claim incurred by, accruing to, or imposed on the City, or the City's respective officers, employees, elected officials, or agents, as applicable, resulting from such suits, claims, or administrative proceedings or any matter resulting from the settlement or resolution of said suits, claims, or administrative proceedings. Additionally, the Contractor shall pay to the City, all attorney's fees incurred by the Parties in enforcing the Contractor's indemnity in this section.

2. The City, and its respective officers, employees, elected officials, and agents shall not be liable, and the Contractor hereby releases the City, and its respective officers, employees, elected officials, and agents, for, from, and against any losses, damages, claims, or liabilities to the Contractor, on any theory of legal liability, including, but not limited to the negligence, of any type of degree or fault, of the City, arising from or related to, in any way, manner, or form, the unenforceability or voidance, for any reason, of all or part of this Agreement.

3. The indemnity and release provided herein shall survive the termination or voidance of this Agreement.

F. Worker's Compensation

The Contractor shall provide Worker's Compensation insurance coverage or other approved coverage for all employees involved in the performance of this Agreement.

G. Insurance and Bonding

Throughout the Term, the Contractor shall maintain liability insurance in the following minimum amounts:

Type of Insurance	***Minimum Liability***
Commercial General Liability	**$1,000,000 Limit**
Property Damage Liability	**$100,000 Each Occurrence**

H. City Recognition

The Contractor shall insure the recognition of the role of the City's CEAP in providing funding through this Agreement. All activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to a funding source. In addition, the Contractor will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

I. Amendments

1. The City or the Contractor may amend this Agreement at any time, provided that such amendment makes specific reference to this Agreement, is executed in writing, signed by a duly-authorized representative of both Parties, and approved by the City. Any such amendment shall not invalidate this Agreement, and shall neither relieve nor release the City or the Contractor from its obligations under this Agreement.

2. The City may, in its sole discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies, and available funding amounts, or for other reasons. If any such amendment results in a change to the Funding, the scope of services, or the activities to be undertaken as part of this Agreement, then such amendment will be incorporated into this Agreement only by written amendment signed by both the City and the Contractor.

J. Suspension or Termination

1. Either Party may terminate this Agreement at any time by giving written notice to the other Party of such termination, and by specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Partial termination of any portion of this Agreement may only be undertaken with the prior approval of the City. In the event of any termination of this Agreement for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports, or other materials prepared by the Contractor under this Agreement shall, at the option of City, become the property of the City, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

2. The City may also suspend or terminate this Agreement, in whole or in part, if the Contractor materially fails to comply with any term of this Agreement, or with any of the rules, regulations, or provisions referred to herein. In such a circumstance, the City may declare the Contractor ineligible for any further participation in future City contracts, in

addition to other remedies as provided by law. In the event there is probable cause to believe the Contractor is in noncompliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of the Funding until such time as the Contractor is found to be in compliance by the City or is otherwise adjudicated to be in compliance.

3. The City may also terminate this Agreement in the event of an emergency or disaster, whether an act of God, natural, or manmade, by giving twenty four (24) hour verbal notice to the Contractor. Any expenditure incurred prior to receiving such notice will be reimbursed; however, in no event shall the City pay for any expenses incurred after such notice of termination is given by the City.

K. Prevention of Waste, Fraud, and Abuse

1. The Contractor shall establish, maintain, and utilize systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under this Agreement. The systems and procedures shall address possible waste, fraud, and abuse by the Contractor, its employees, recipients, vendors, and administrating agencies. The Contractor's internal control systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for monitoring by the City.

2. The Contractor shall give the City complete access to all of its records, employees, and agents for the purposes of any investigation of the funded programs. The Contractor shall immediately notify the City of any discovery of waste, fraud, or abuse. The Contractor shall fully cooperate with the City's efforts to detect, investigate, and prevent waste, fraud, and abuse in the Program.

3. The Contractor may not discriminate against any employee or other person who reports a violation of the terms of this Agreement or of any law or regulation to the City or to any appropriate law enforcement authority, if the report is made in good faith.

L. Legal Remedies

In any instance where the Contractor violates or breaches this Agreement, the City may apply administrative, contractual, or legal remedies. The City may suspend all activities under this Agreement temporarily pending either corrective action by the Contractor or a decision by the City to terminate this Agreement.

M. Legal Authority

1. The Contractor represents that it possesses the practical ability and legal authority to enter into this Agreement, receive and manage funds authorized by this Agreement, and to perform the services the Contractor has obligated itself to perform under this Agreement.
2. The Contractor's signatory hereby warrants that he/she has been authorized by the Contractor to execute this Agreement on behalf of the Contractor and to bind the Contractor to this Agreement.

Article 8. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards: The Contractor agrees to comply with Attachment F of OMB Circular A-110 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles: The Contractor shall administer the Program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations", or 2 CFR Part 200 Cost Principles for Educational Institutions", as applicable, for all costs incurred whether charged on a direct or indirect basis.

B. Documentation and Record-Keeping

1. Record Keeping Requirements: The Contractor shall maintain fiscal and programmatic records and supporting documentation for all expenditures made under this Agreement in accordance with the UGMS and Section III, Common rule: State Uniform Administrative Requirements for Grants and Cooperative Agreements, Subpart C: Post Award Requirements, 18.42. For purposes of compliance, all associated documentation must be readily available, whether stored electronically or hard copy to justify compliance with program rules and regulations.

2. The Contractor agrees to work with the City to ensure compliance with TDHCA and City Policies and Procedures, including but not limited to the use of required web-based software system procured by the City, to collect and manage client data in real-time, to conduct prioritization for Utility Assistance (UA) and Household Crisis (HHC) components.

3. Open Records: The Contractor acknowledges that all information collected, assembled, or maintained by the Contractor pertaining to this Agreement is subject to the Texas Public Information Act, Chapter 552 of Texas Government Code and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to the Agreement subject to the Texas Public Information Act.

4. The Contractor shall give the HHS, the U.S. General Accounting Office, the Texas Comptroller, the State Auditor's Office, and the City, or any of their duly authorized representatives, access to and the right to examine and copy, on or off the premises of the Contractor, all records pertaining to this Agreement. Such right to access shall continue as long as the records are retained by the Contractor. The Contractor agrees to maintain such records in an accessible location for the greater of: (a) four (4) years; (b) if notified by the City in writing, the date that the final audit is accepted with all audit issues resolved to the City's satisfaction; (c) if any litigation claim, negotiation, inspection, or other action has started before the expiration of the required retention period records must be retained until completion of the action and resolution of all issues which arise under it; or (d) a date consistent with any other period required by federal or state law or regulation. The Contractor agrees to cooperate with any examination conducted under this Agreement.

Upon the termination of this Agreement, all of the Contractor's records shall become property of the City.

C. Retention

The Contractor shall retain all record pertinent to expenditures incurred under this Agreement for a period of five (5) years after the termination of all activities funded under this Agreement, or after the resolution of all State audit findings, whichever occurs later.

D. Client Data

The Contractor shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to: total number of information and referral calls received and broken down into subject categories for every call; specific information obtained through random screening of calls such as income level, gender, race, ethnicity, age, education-level, and household size. Such information shall be made available to the City for review by the tenth (10th) day of every month.

E. Audits and Inspections

All Contractor records with respect to any matters covered by this Contract shall be made available to City, their designees or the State Government, at any time during normal business hours, as often as City or State deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data, both financial and programmatic. Any deficiencies noted in audit reports must be fully cleared by Contractor within thirty (30) days after receipt by the Contractor. Failure to comply with the above audit requirements will constitute a violation of this Contract and may result in the withholding of future payments.

F. Operation and Financial Reports

1. Financial Record Reports: The Contractor agrees to submit to the City invoices for the services and approved costs of the Program by the tenth (10th) day of each month.
2. Operation Reports: The Contractor agrees to submit to the City a monthly activity report in accordance with instructions provided by the State.

Article 9. PERSONNEL AND PARTICIPANT CONDITIONS

A. Civil Rights

1. The Contractor agrees to comply and to require all subcontractors to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 and the regulations issued under the order at 41 CFR Chapter 60.
2. No person shall on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Agreement.

B. Conduct

1. *Prohibit Political Activity and Lobbying*.
The Contractor hereby certifies that:

   a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

   b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

   c. It will require that the language of this certification be included in the award documents for all sub-awards at all tiers (including any subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly:

> "None of the funds provided under this contract shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Contractor from furnishing to any member of its governing body upon request, or to any other local or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment"

   d. No funds provided under this Agreement may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Contractor, the State of Texas, or the government of the United States; and

   e. None of the funds provided under this Agreement shall be paid to any official or employee who violates any of the provisions of this section.

2. *Conflict of Interest and Nepotism*.

   a. The Contractor covenants that neither it nor any member of its governing body presently has any interest or shall acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. The Contractor further covenants that in the performance of this Agreement no person having such interest shall be employed or appointed by the Contactor.

   b. No person: (1) Who is an employee, agent, consultant, officer, or official of the Contractor, and who exercises or has exercised any functions or responsibilities with

respect to assisted contract activities; or, (2) Who is in a position to participate in a decision making process or gains inside information with regard to such activities, may obtain a personal or financial interest or benefit, direct or indirect, in any contract, subcontract, or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom they have familiar or business ties, during their tenure.

c. The Contractor's employees, officers, and agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors, or potential subcontractors.

C. Air & Water

The Contractor agrees to comply with the following requirements insofar as they apply to the performance of this Agreement: Clean Air Act, 42 U.S.C., 7401, et seq., Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

D. Chapter 2270, Subtitle F, Title 10, Texas Government Code

The Contractor warrants that it is in compliance with Chapter 2270, Subtitle F, Title 10 of the Texas Government Code by verifying that it does not boycott Israel, and that it will not boycott Israel during the term of this Agreement.

IN WITNESS HEREOF, THE PARTIES HAVE EXECUTED AND ENTER INTO THIS AGREEMENT ON THE EFFECTIVE DATE

[Signature Page to Follow]

SIGNATURES

THE CITY OF LUBBOCK:

MARK W. MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, Community Development Director

APPROVED AS TO FORM:

Kelli Leisure, Senior City Attorney

LUTHERAN SOCIAL SERVICES OF THE SOUTH, INC.

MICHAEL LOO, CEO

FED.I.D. # 74-1109745

AI# 13303

Regular City Council Meeting **5. 28.**

03/25/2025:

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing the Mayor to execute a Community Development Block Grant Funding Agreement 18709, and all related documents, by and between the City of Lubbock, Community Development and Children's Advocacy Center, for funding to replace the parking garage roof at 720 Texas Avenue.

Item Summary

Grantee: Children's Advocacy Center (CAC)

Program: Community Development Block Grant (CDBG) Public Facility Improvement

Funding Source: (CDBG), which is administered by the U.S. Department of Housing & Urban Development (HUD)

Use of Funds: Funding to replace the roof on the Child Advocacy Center (CAC) primary parking garage, which provides a private and handicapped entrance or exit from the building and back entrance for staff, clients, and professional services

The Community Development & Services Board (CDSB), at their regular board meeting on April 10, 2024, made a recommendation to the City Council to approve the 2024 – 2025 Annual Action Plan. The City Council approved the CDSB recommendation on April 23, 2024.

The CDSB, at their regular board meeting on November 20, 2024, approved allocation to the CAC for the above-mentioned Use of Funds.

Fiscal Impact

There is no fiscal impact to the General Fund. The funds used originate from HUD, and the maximum allocation to CAC is $70,000.

Staff/Board Recommending

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

Attachments

Resolution
Agreement

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Community Development Block Grant Funding Agreement 18709, and all related documents, between the City of Lubbock and Children's Advocacy Center of the South Plains, Inc., for funding to replace parking garage roof at 720 Texas Avenue. 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:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES. CDBG Contract 18709 Children's Advoc Cntr
3.7.25

COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
FUNDING AGREEMENT
Between
THE CITY OF LUBBOCK
AND
CHILDREN'S ADVOCACY CENTER OF THE SOUTH PLAINS, INC

This Community Development Block Grant Funding Agreement (the "Agreement"), Contract No.**18709** is made by and between the City of Lubbock, a State of Texas home rule municipal corporation (the "City") and Children's Advocacy Center of the South Plains, Inc (the "Subrecipient"), (each a "Party," and collectively the "Parties") acting by and through the Parties' representative officers and officials, and is hereby entered into by the Parties on this _____ day of _____, 2025 (the "Effective Date").

RECITALS

WHEREAS, the Subrecipient is obligated to do and perform certain services in its undertaking of a Community Development Block Grant (CDBG) Project pursuant to the Housing and Development Act of 1975, as amended; and

WHEREAS, the Subrecipient operates a non-profit center offering services to families and individuals throughout the City of Lubbock.

WHEREAS, the Subrecipient and the services it provides have been found to meet the criteria for funding under provision 24 CFR 570.200(a) and 24 CFR 570.201; and

WHEREAS, the Subrecipient proposes to use the funds to replace the roof on the primary parking garage located at 720 Texas Ave. in Lubbock, which is handicap accessible and used by staff and clients when entering or exiting the building, often times in the evening (the "Project"); and

WHEREAS, the Subrecipient's services benefit residents in and around Lubbock, Texas and constitute a valuable public service, and the City of Lubbock City Council (the "City Council") has declared the services provided by the Subrecipient to be a public purpose; and

WHEREAS, the accomplishment of the above public purpose is the predominate purpose of this Agreement; and

WHEREAS, the continuing supervision by the City with statutory and contractual requirements provide sufficient assurance that the public purpose of this Agreement will be accomplished; and

WHEREAS, the City Council has found that the Subrecipient has the special expertise, knowledge, and experience necessary for the operation of the Project; and, that the City will receive adequate consideration in the form of substantial public benefit; and **NOW, THEREFORE:**

THE PARTIES, FOR GOOD AND VALUABLE CONSIDERATION, AGREE AS FOLLOWS:

AGREEMENT

I. TERMS OF THE AGREEMENT

A. It is expressly agreed and understood that the total amount to be paid by the City under this Agreement shall not exceed the sum of **Seventy Thousand Dollars ($70,000.00)** to carry out a Public Facility Improvement Project set forth in this Agreement as consideration of said funds to replace the roof of the parking garage utilized by the Subrecipient's staff and clients.

B. The Terms of this Agreement shall **commence on the Effective Date and end on September 30, 2025**, to which all funds must be expended under this Agreement. The Project is considered complete when all construction has been completed and the Subrecipient is able to commence operations of a public service activity.

C. The City's awarding of the Funding under this Agreement is contingent upon the City's receipt of adequate funds to meet the City's liabilities under this Agreement. If adequate funds are not made available to the City so that it cannot award the Funding, then the City shall notify the Subrecipient in writing within a reasonable time after such fact is determined, the City shall terminate this Agreement, and the City will not be directly or indirectly liable for failure to award the Funding to the Subrecipient under this Agreement.

D. The expenditure of CDBG funds is subject to Federal deadlines and could result in the loss of the Federal funds. By the acceptance and execution of this Agreement, it is understood and agreed by the Subrecipient that **the Project will be completed by September 30, 2025** and the Subrecipient will make every effort to ensure that the Project will not be delayed. Failure to meet deadlines can result in cancellation of this agreement and the revocation of CDBG funds. The Subrecipient may request an extension of this deadline in writing, by submitting information about the status of the project, steps being taken to overcome any obstacles to completion, proof of adequate funding to complete the project, and a schedule with milestones for completion of the project.

E. This Project is subject to ongoing monitoring of the Subrecipient by the City for one year after project completion. During this period, the Subrecipient will ensure continued adherence with CDBG requirements in carrying out a CDBG eligible Public Service activity.

F. Since it is mutually agreed that time is of the essence in regard to this Agreement, the Subrecipient shall cause appropriate provisions to be inserted in all contracts or subcontracts relative to the work tasks required by this Agreement, in order to ensure that the project will be completed according to the timetable set forth. It is intended that such provisions inserted in any subcontracts be, to the fullest extent permitted by law and equity, binding for the benefit of the City and enforceable by the City against the Subrecipient and its successors and assigns to the Project or any part thereof or any interest therein.

G. In the event the Subrecipient is unable to meet the above schedule or complete the above services because of delays resulting from natural or man-made emergencies and disasters untimely review and approval by the City and other governmental authorities having jurisdiction over the project, or other delays that are not caused by the Subrecipient, the City shall grant a reasonable extension

of time for completion of the Work. It shall be the responsibility of the Subrecipient to notify the City promptly in writing whenever a delay is anticipated or experienced, and to inform the City of all facts and details related to the delay.

H. For purpose of complying with this Agreement, completion shall mean that all necessary construction work has been completed and the project has been determined to be complete and ready for activities to resume.

II. SCOPE OF WORK

The Subrecipient, in close coordination with the City, shall perform all professional services (the "Work") necessary to complete the construction of the Project in full compliance with the Terms of the Agreement.

A. Project Description

Funding under this Agreement will be used to replace the roof on the Children's Advocacy Center's parking garage located at 720 Texas Ave. in Lubbock. The new roof is necessary to maintain a safe and usable area for disabled persons or those requiring assistance, and for staff and clients entering and leaving the building,often in the dark.

B. Contact Information

For the City	*Subrecipient*
Community Development	Children's Advocacy Center of the South Plains, Inc
Karen Murfee, Director	Derek Danner, Executive Director
PO Box 2000	720 Texas Ave.
Lubbock, TX 79457	Lubbock, TX 79401
(806) 775-2296	(806) 740-0251
kmurfee@mylubbock.us	ddanner@safeplace4kids.org

C. The City's Responsibilities

1. The City shall not be liable to the Subrecipient for any cost incurred by the Subrecipient which has been paid to the Subrecipient, which is subject to be paid to the Subrecipient, which has been reimbursed to the Subrecipient, or which is subject to reimbursement to the Subrecipient by any source other than the CDBG Funding under this Agreement.
2. The City shall not be liable for any cost incurred by the Subrecipient which is not an allowable cost as set forth in this Agreement or under 24 CFR 570.207.
3. The City shall not be liable to the Subrecipient for any cost incurred by the Subrecipient or for any performance rendered by the Subrecipient which is not strictly in accordance with the terms of this Agreement.
4. The City shall not be liable to the Subrecipient for any cost incurred by the Subrecipient in the performance of this Agreement which has not been billed to the City by the Subrecipient within sixty (60) days following the termination of this Agreement.

5. The City shall not be liable for any cost incurred or performance rendered by the Subrecipient before the commencement or after termination of this Agreement.

6. The City may, at its sole discretion and convenience, review any work specifications prior to the beginning of a procurement process under this Agreement, and the City may inspect any construction for compliance with work specifications prior to the release of the Funding.

7. In accordance with 24 CFR 570.508, notwithstanding 2 CFR 200.337, the City shall provide citizens with reasonable access to records regarding the past use of CDBG funds, consistent with applicable State and local laws regarding privacy and obligations of confidentiality.

D. The Subrecipient's Responsibilities

1. The Subrecipient will be responsible for administering the Project in a manner satisfactory to the City and in compliance with this Agreement and with any and all statutory standards related to the Funding.

2. The Subrecipient certifies that all of its activities carried out for the Project through the Funding will satisfy 24 CFR Part 570, including, but not limited to: CDBG eligible activities under 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. The Subrecipient agrees to repay any and all of the Funding that does not satisfy the regulations required under this provision.

3. The Subrecipient shall perform all activities related to the Project in accordance with its budget; all applicable laws and regulations; and, with the assurance, certifications, and all other terms, provisions, and requirements set forth in this Agreement.

4. Upon the City's request while this Agreement is in effect, the Subrecipient shall submit to the City any and all reports, documents, or information on the Subrecipient's performance of the Funding or the Project under this Agreement.

5. In addition to the limitations on liability otherwise specified in this Agreement, it is expressly understood and agreed to by the Parties that if the Subrecipient fails to submit to the City in a timely and satisfactory manner any reports, documents, or information requested by the City under this Agreement, the City may, at its sole discretion, withhold all, or any part of, the Funding. If the City withholds all, or any part of, the Funding, it shall notify the Subrecipient in writing of its decision and the reasons therefor. Any Funding withheld pursuant to this paragraph may be held by the City until such time as the obligations for which the Funding is being withheld is fulfilled by the Subrecipient to the satisfaction of the City.

6. The Subrecipient shall refund to the City any Funding that has been paid to the Subrecipient by the City for which the City determines is a result of overpayment of the Funding to the Subrecipient, or for which the City determines any of the Funding has not been spent by the Subrecipient strictly in accordance with the terms of this Agreement. Such refund shall be made by the Subrecipient to the City within thirty (30) working days after such refund is requested by the City.

7. The Subrecipient shall submit to the City a request for an environmental assessment to be prepared and approved on individual construction sites prior to the beginning of any project if applicable.

8. The Subrecipient shall submit to the City a request for a review of all work specifications prior to the beginning of the procurement process.

9. The Subrecipient will have Match funds ready and available prior to the start of any project, if applicable. Failure to have Match funds ready and available may delay or cancel such project.

10. The Subrecipient agrees that any interests or assets obtained with the Funding shall revert back to the City in the event that the Subrecipient dissolves, files for bankruptcy, or goes out of business for any reason.

E. Subrecipient's Match

The Subrecipient must provide Match for 25% or more of the total CDBG Funding under this agreement from non-federal sources. Matching funds may include cash or in-kind donations, donated voluntary labor, donated professional services, donated supplies or materials, or other non-federal grant funds.

F. National Objective

The Subrecipient agrees that all activities funded with CDBG and carried out under this Agreement will benefit low and moderate income persons, meeting a national objective as defined in 24 CFR 570.208(a).

G. Monitoring

In accordance with 24 CFR 570.501(b), the City will monitor the Subrecipient's performance under this Agreement **for one-year after project completion,** in order to ensure that the Subrecipient complies with the terms of this Agreement and all other applicable laws and regulations related to this Agreement and the Funding provided through this Agreement. The Subrecipient will be required to submit monthly reports to the City for Performance and Accomplishments of program services for one year after Project completion. Reports are due on the tenth of each month.

Construction projects will be monitored by a Construction Inspection Specialist (the "Inspector") with Community Development (CD) department of the City of Lubbock to ensure: 1.) The project is progressing at an acceptable rate; 2.) An on-site supervisor or project manager is present; 3.) The project is in compliance with all building codes and safety regulations; and 4.) The workers are present and have submitted Section 3 worker certification forms. Weekly Davis Bacon wage reports with original signatures must be submitted to the City.

III. TIME OF PERFORMANCE

Services and performance by the Subrecipient for the Project will **commence on the Effective date and end on September 30, 2025** (the "Term"). The Term and the provisions of this Agreement shall be extended to cover any additional time period during which the City remains in control of the CDBG funding period or other CDBG assets, including program income.

IV. BUDGET

The Funding made available to the Subrecipient under this Agreement shall be specifically drawn from the source listed in this section (the "Budget"). In the budget listed below, the program year of the HUD allocation to the City is listed to the left of the Funding Source for the amount allocated and made available to the Subrecipient for the Project under this Agreement. The Funding made available to the Subrecipient under this Agreement shall be directly linked to the specific funding and amount stated in Section I.A and below. Any amendments to the budget must be approved in writing by both the City and the Subrecipient.

Program Year	Funding Source	Project Allocation
2024	CDBG	$70,000.00

V. PAYMENT

All payments to the Subrecipient will be based on the receipt of a reimbursement request for costs incurred and paid by the Subrecipient.

A. Payment requests must be submitted with back-up documentation including invoices or billing statements and documentation that payment was made for the expense. Additional documentation must be submitted for CDBG program compliance including, but not limited to, inspections, photos, and Davis Bacon wage reports for Section 3 reporting.

B. For Construction projects, payments to the Subrecipient will be reimbursed as the Project progresses and may be paid based on the percent of project completion (25%, 25%, 25%, 15%, and 10% completed) or as costs are incurred by the Subrecipient.

C. The Subrecipient may request reimbursement for eligible expenses, which shall be made against the budget specified in Section II.D.8 herein and in accordance with the Uniform Administration Requirements at 2 CFR Part 200.

VI. SPECIAL CONDITIONS: None.

VII. GENERAL CONDITIONS

A. General Compliance

1. The Subrecipient agrees to comply with the requirements of 24 CFR Part 570 (the HUD regulations concerning Community Development Block Grants (CDBG)), including subpart K of these regulations; except that: (1) the Subrecipient does not assume the City's environmental responsibilities described in 24 CFR 570.604; and, (2) the Subrecipient does not assume the City's responsibility for initiating the review process under the provisions of 24 CFR Part 52.

2. The Subrecipient also agrees to comply with all other applicable Federal, State and local laws, regulations, and policies governing the CDBG Funding provided under this Agreement. The Subrecipient further agrees to utilize the CDBG Funding under this agreement to supplement, rather than supplant, funds otherwise available.

3. The Subrecipient shall comply with all applicable Federal laws, regulations, and requirements and all provisions of this Agreement, which include compliance with the provisions of the HCD Act and all rules, regulations, guidelines, and circulars promulgated by the various Federal departments, agencies, administrations, and commissions relating to CDBG:

   - 24 CFR Part 570;
   - 2 CFR Part 200;
   - The Davis-Bacon Fair Labor Standards Act;
   - The Contract Work Hours and Safety Standards Act of 1962;
   - Copeland "Anti-Kickback" act of 1934;
   - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA);
   - Title VI of the Civil Rights Act of 1964, (Public Law 88-352 implemented in 24 CFR Part 1);
   - Fair Housing Act,
   - Title VIII of the Civil Rights Act of 1968 (Public Law 90-234 and Executive Order 11063 as amended by Executive Order 12259 (implemented in 24 CFR Part 107);
   - Section 104(b) and 109 of the HCD Act of 1974;
   - 24 CFR Part 75, Section 3 of the Housing and Urban Development Act of 1968;
   - Equal employment opportunity and minority business enterprise regulations established in 24 CFR Part 570.904;
   - Non-discrimination in employment, established by Executive Order 11246 (as amended by Executive Orders 11375 and 12086);
   - Section 504 of the Rehabilitation Act of 1973 Uniform Federal Accessibility Standards; The Architectural Barriers Act of 1968;
   - The Americans With Disabilities Act (ADA) of 1990;
   - The Age Discrimination Act of 1975, as amended;
   - National Environmental Policy of 1969 (42 USC 4321 et seq.), as amended;
   - Lead Based paint regulations established in 24 CFR Part 35, 570.608, and 24 CFR 982.401;
   - Asbestos guidelines established in CPD Notice 90-44;
   - HUD Environmental Criteria and Standards (24CFR Part 51);
   - The Energy Policy and Conservation Act (Public Law 94-163) and 24 CFR Part 39; Historic Preservation Act of 1966, as amended, and related laws and Executive Orders;
   - Executive Order 11988, floodplain management, 1977 (42 FR 26951 et seq.); and,
   - Flood Disaster protection Act of 1973.

B. <u>"Independent Contractor"</u>

Nothing contained in this Agreement is intended, or shall be construed in any manner, to create or establish the relationship of employer and employee between the Parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The City shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life, medical insurance, and Workers' Compensation insurance as the Subrecipient is an independent contractor.

C. Indemnity and Release

1. THE SUBRECIPIENT SHALL INDEMNIFY AND HOLD HARMLESS, TO THE FULLEST EXTENT PERMITTED BY LAW, THE CITY, AND THE CITY'S RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS, AND AGENTS, FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, CLAIMS, OR LIABILITIES, OF ANY KIND OR NATURE, WHICH ARISE DIRECTLY OR INDIRECTLY, OR ARE RELATED, IN ANY WAY, MANNER, OR FORM, TO THE ACTIVITIES CONTEMPLATED HEREUNDER.
2. THE SUBRECIPIENT SHALL PAY TO THE CITY, THE CITY'S RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS, AND OR AGENTS, AS APPLICABLE, ALL ATTORNEYS' FEES INCURRED BY ENFORCING THE SUBRECIPIENT'S INDEMNITY HEREIN.
3. THE SUBRECIPIENT, AND ITS RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS, AND AGENTS SHALL NOT BE LIABLE, AND THE CITY HEREBY RELEASES THE CITY, AND ITS RESPECTIVE OFFICERS, EMPLOYEES, ELECTED OFFICIALS, AND AGENTS, FOR, FROM, AND AGAINST ANY LOSSES, DAMAGES, CLAIMS, OR LIABILITIES TO THE SUBRECIPIENT.
4. THE INDEMNITY AND RELEASE PROVIDED HEREIN SHALL SURVIVE THIS AGREEMENT.

D. Right to Exercise

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, the former shall control.

E. Workers' Compensation

If applicable, the Subrecipient shall provide Workers' Compensation insurance coverage for all of its employees involved in the performance of this Agreement.

F. Insurance and Bonding

The Subrecipient shall carry sufficient insurance coverage to protect Agreement assets from loss due to theft, fraud, and/or or undue physical damage, and as a minimum, shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the City. The Subrecipient shall comply with the bonding and insurance requirements of 2 CFR 200, Bonding and Insurance.

G. Subrecipient Recognition

The City shall insure recognition of the role of the Subrecipient in providing services through this Agreement. All activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to the Funding source. In addition, the Subrecipient will include a reference to the Funding in all publications made possible under this Agreement.

H. Amendments

1. The City or the Subrecipient may amend this Agreement at any time, provided that such amendments make specific reference to this Agreement and are executed in writing, signed by a duly authorized representative of both Parties, and approved by the City Council. Such amendments shall neither invalidate this Agreement nor relieve or release the City or the Subrecipient from its obligations under this Agreement.

2. The City may, in its discretion, amend this Agreement to conform with Federal, State, or local governmental guidelines, policies, and available funding amounts, or for any other reason. If such amendments result in a change in the Funding, the scope of services, or the schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both Parties.

I. Suspension or Termination

1. In accordance with 2 CFR Part 200 either Party may terminate this Agreement for convenience by giving written notice to the other Party of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination. Partial termination of this Agreement may only be undertaken with the prior approval of the City. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports, or other materials prepared by the Subrecipient under this Agreement shall, at the option of the City, become the property of the City, and the Subrecipient shall be entitled to receive just and equitable compensation for any work completed on such documents or materials prior to the termination.

2. The City may terminate this agreement if the Subrecipient fails to comply with any terms of this Agreement, whole or in part which include (but are not limited to) the following:
   a. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders and HUD guidelines, policies or directives as may become applicable at any time;

   b. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;

   c. Ineffective or improper use of CDBG funds provided under this agreement; or

   d. Submission by the Subrecipient to the City of reports that are incorrect or incomplete in any material respect.

3. The City may suspend or terminate this Agreement if the City reasonably believes that the Subrecipient is in noncompliance with any requirement of this Agreement, then the City may withhold up to fifteen percent (15%) of the Funding until such time as the Subrecipient is found to be, or is otherwise adjudicated, to be in compliance.

4. The City may terminate this Agreement in the event of an emergency or disaster, whether, an act of God, natural or manmade, by giving twenty-four (24) hour notice. The City may give said notice verbally to the Subrecipient. Any expenditure incurred prior to receiving notice will be reimbursed; however, in no event shall the City pay any expenses incurred after notice of termination is received by the Subrecipient.

VIII. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. *Accounting Standards.* The Subrecipient agrees to comply with 2 CFR Part 200, and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and to maintain necessary source documentation for all costs incurred under this Agreement.

2. *Cost Principles.* The Subrecipient shall administer its Project in conformance with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards", which shall be applied to all direct or indirect costs incurred by the Subrecipient under this Agreement.

B. Documentation and Record-Keeping

1. *Records to be Maintained.* The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

   a. Records demonstrating that each activity meets one of the National Objectives of CDBG under 24 CFR 570.208, benefiting low to moderate income (LMI) persons or, low to moderate income area (LMA) by census tracts;

   b. Records required to determine the eligibility category under 24 CFR 570.201;

   c. Financial records as required by 24 CFR Part 570.502 and 2 CFR Part 200;

   d. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

   e. Records documenting compliance with the fair housing and equal opportunity components of CDBG;

   f. Other records necessary to document compliance with Subpart K or 24 CFR Part 570.

2. *Retention.* The Subrecipient shall retain all financial records, supporting documents and all records pertinent to the Agreement, including but not limited to client data of no less than five (5) years. The retention period begins on the date of the submission of the City's Consolidated Annual Performance and Evaluation Report (CAPER) to HUD in which activities assisted under this Agreement are reported, shall be retained for a period no less than five (5) years after the date of submission. Under this Agreement, Financial records documenting expenditures under this Agreement shall be retained for a period of five (5) years after the termination of all activities funded under this Agreement. Records for non-expendable property acquired with the Funding shall be retained for five (5) years after final disposition of such property. Records for any displaced person must be kept for five (5) years after the displaced person has received final payment. Notwithstanding the above, if there is any litigation, claim, audit, negotiation or other action that involves any of the records cited herein and that has started before the expiration of the five (5) year period, then such records must be retained until the completion of the actions and resolution of all issues, or the expiration of the five (5) year period, whichever occurs later.

3. *Client Data.* The Subrecipient shall maintain client data that demonstrates its client eligibility for the Funding and services provided under this Agreement for five years after the date of submission of the CAPER to HUD by the City. Such data shall include, but not be limited to: client name or identifier; client address; client income level, race, ethnicity or other determination of client eligibility; and, a description of the service provided to the client related to this Agreement. Such information shall be made available to the City or it's designees for review upon request.

4. *Disclosure.* The Subrecipient understands that client information collected under this Agreement is private, and the use or disclosure of such information, when not directly connected with the administration of the City or Subrecipient's responsibilities related to this Agreement, is prohibited unless written consent is obtained from such client receiving service(s) and in the case of a minor, that of a responsible parent or guardian, unless otherwise required by law.

5. *Property Records.* The Subrecipient shall maintain a real property inventory that clearly identifies any property purchased, improved, or sold under this Agreement or that is related to the Funding. Any such property shall throughout the Term remain in compliance with all eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Part 570.503(b)(7).

6. *Close-Outs.* The Subrecipient's obligation to the City under this Agreement shall not end until all close-out requirements under this Agreement are completed pursuant to applicable Federal regulations and law. Activities during this close-out period shall include, but are not limited to: making final payments; disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City); final close-out reports; and, determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Subrecipient has control of the CDBG funds, including program income.

7. *Audits & Inspections.* All of the Subrecipient's records related to this Agreement shall be made available at any time during normal business hours as often as the City or its designee, grantor agency, and the Comptroller General of the United States or any of their authorized representatives deems necessary to monitor, audit (if required), examine, or make excerpts or transcripts of any data relevant to this Agreement in order for the City to produce an audit report. Any deficiencies noted in an audit report must be fully cleared by the Subrecipient within thirty (30) days after receipt by the City. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of Funding. The Subrecipient hereby agrees to have an annual internal audit conducted in accordance with current City policy concerning Subrecipient audits and, if required, a regular audit under Title 2 CFR Part 200 "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards".

C. Reporting and Payment Procedures

1. *Payment Procedures.* The City will pay to the Subrecipient Funds based upon information submitted by the Subrecipient and consistent with any approved budget and City policy concerning the Payments. Payment will be made for eligible expenses actually incurred by the Subrecipient, and not to exceed actual cash requirements. Payments will be adjusted by

the City in accordance with advance fund and program income balances available in the Subrecipient's accounts. In addition, the City reserves the right to liquidate any part of the Funding for costs incurred by the City on behalf of the Subrecipient.

2. *Performance and Financial Reports.* Upon completion of all construction, the Subrecipient will submit to the City, monthly reports and narratives detailing performance, accomplishments, and demographics for each month as they pertain to the Public Service Activity supported by completion of the Project by the tenth (10th) day of each month. Monthly reporting will be required for one year after project completion.

3. *Program Income.* The Subrecipient shall report quarterly all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this contract. The use of program income by the Subrecipient shall comply with the requirements set forth at 24 CFR 570.504. By way of further limitations, the Subrecipient may use such income during the contract period for activities permitted under this contract and shall reduce requests for additional funds by the amount of any such program income balances on hand. All unexpended program income shall be returned to the City at the end of the contract period. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not program income and shall be remitted promptly to the City.

D. Procurement

Compliance. The Subrecipient shall comply with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and the City policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property procured with CDBG funds. All assets purchased with Funding under this Agreement, including unexpended program income, property, or equipment, shall revert to the City upon the termination of this Agreement.

1. *CFR Standards.* Unless specified otherwise within this Agreement, the Subrecipient shall procure all materials, property, or services in accordance with the requirements of 2 CFR Part 200.

2. *Travel.* The Subrecipient shall obtain written approval from the City for any travel outside the metropolitan area that is financed in any way through the Funding under this Agreement.

E. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR Part 200 and 24 CFR Part 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Subrecipient shall transfer to the City all CDBG funds on hand and any accounts receivable attributable to the use of the Funding under this Agreement at the time of expiration, cancellation, or termination of this Agreement.

2. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with the Funding in excess of twenty-five thousand dollars ($25,000) shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR Part 570.208 until five (5) years after the expiration of this Agreement, or such longer period of time as the City deems

appropriate. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, then the Subrecipient shall pay to the City an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. Such payment shall constitute program income to the City. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the five (5) year period, or such longer period of time as the City deems appropriate.

3. In all cases in which equipment acquired, in whole or in part, with the Funding under this Agreement is sold, the proceeds shall be program income to reflect the extent to that funds received under this Agreement were used to acquire the equipment. Equipment not needed by the Subrecipient for activities under this Agreement shall be (a) transferred to the City for the CDBG program, or (b) retained after compensating the City for an amount equal to the current fair market value of the equipment less the percentage of non-CDBG funds used to acquire the equipment.

IX. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under Section 104(d) of the HCD Act; and, the requirements in 570.606(d) governing optional relocation policies. The City may preempt the optional policies. The Subrecipient shall provide relocation assistance to persons, families, individuals, businesses, nonprofit organizations, and farms that are displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with all applicable City ordinances, resolutions, and policies concerning the displacement of persons from their residences.

X. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

1. *Compliance.* The Subrecipient agrees to comply, and to require its subcontractors to comply, with Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11063; and, with Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, 12086.

2. *Nondiscrimination.* The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations and executive orders referenced in 24 CFR Part 570.607, as revised by Executive Order 13279. The applicable non-discrimination provision in Section 109 of the HCDA are still applicable. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability, or other handicap, age, marital

or familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

3. *Land Covenants.* This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. l. 88-352) and 24 CFR 570.601-602. In regard to the sale, lease, or other transfer of land acquired, cleared, or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the Project assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

4. *Section 504.* The Subrecipient agrees to comply with any Federal regulations issued pursuant in compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program. The City shall provide the Subrecipient with any guidelines necessary for compliance with the regulations in force during the term of this Agreement.

5. *Reports.* The Subrecipient shall maintain a report that documents the race and ethnicity of its employees. The Subrecipient shall provide the City a copy with said report upon execution of this Agreement.

6. *Policies.* The Subrecipient shall maintain current copies of its fair housing and equal opportunity policies. The Subrecipient shall provide a copy of said policies to the City immediately upon request.

B. Affirmative Action

Approved Plan. The Subrecipient agrees they shall be committed to carry out pursuant to the City's specifications an Affirmative Action Program in keeping with the principles as provided in the President's Executive Order 11246 of September 24, 1965. If the Subrecipient receives Federal funds through the City, then the Subrecipient shall be required to develop a written Affirmative Action Program to ensure that equal opportunity is provided in all aspects of its employment.

1. *Women- and Minority-Owned Business (W/MBE).* The Subrecipient will use its best efforts to afford small businesses, minority- and women-owned business enterprises and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. The terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C 632), and "minority and female business enterprise" means a business at least fifty-one percent (51%) owned and controlled by minority group members or women. For the purpose of the term "minority

group members" means Afro-Americans, Spanish-speaking, Spanish-surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority- and women-owned business enterprises in lieu of an independent investigation.

2. *Access to Records.* The Subrecipient shall furnish and cause any subcontractor to furnish all information and reports required hereunder and will permit access to its books, records, and accounts by the City, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations, and provisions stated herein.

3. *Notifications.* The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. *Subcontract Provisions.* The Subrecipient will include the provisions of the Civil Rights and Affirmative Action sections of this Agreement, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each Subrecipient or subcontractor.

C. Employment Restrictions

1. *Prohibited Activity.* The Subrecipient is prohibited from using the Funding provided herein or personnel employed in the administration of the Project for political activities, inherently religious activities; sectarian activity, religious activity, lobbying, political patronage, or nepotism.

2. *Labor Standards.*

   a) The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.), the Copeland "Anti-Kickback" Act (18 U.S.C. 874 *et seq.*) and all other applicable Federal, State, and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. The Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and it's implementing regulations of the U.S. Department of Labor Act at 29 CFR Part 5. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

   b) The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of two thousand dollars ($2,000) for construction, renovation, or repair work financed in whole or in part with assistance provided under this Agreement, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by State or local law, nothing hereunder is intended to relieve

the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

D. Fraud, Waste, and Abuse Reporting Requirements

1. Pursuant to 2 CFR 200.113, the Subrecipient must disclose, in writing, any violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Such disclosures must be made to the Federal awarding agency or the [insert city/county] in a timely manner. The Subrecipient acknowledges that failure to make required disclosures may result in remedies described under 2 CFR 200.339, including suspension and debarment.

2. The Subrecipient shall ensure that all relevant staff and contractors are aware of and comply with this reporting requirement.

E. "Section 3" Clause

1. *Compliance.* Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended and as implemented by the regulations set forth in 24 CFR 75, and all applicable rules and orders issued hereunder prior to the execution of this Agreement, shall be a condition of the Federal financial assistance provided under this Agreement, and binding upon the City, the Subrecipient, any of Subrecipient, and subcontractor. The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

2. *"Section 3" Paragraph.* The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this Agreement:

> *"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 (of the Housing and Urban Development Act of 1968), as amended, (12 U.S.C. 1701). Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low- and very low-income residents of the project area, and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located."*

3. *Training & Employment.* The Subrecipient will ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the Project is located. Where feasible, the Subrecipient agrees that priority should be given to low- and very low-income persons within the service area of the Project or the neighborhood in which the Project is located, and to low- and very low-income participants in other HUD programs.

4. *Award of Contracts.* The Subrecipient agrees to award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons

residing within the metropolitan area in which the Project is located. Where feasible, the Subrecipient agrees that priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the Project is located, and to low- and very low-income participants in other HUD programs.

5. *Notifications.* The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

6. *Subcontracts.* The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 75 and will not allow any subcontract unless the entity provides a preliminary statement of ability to comply with the requirements of this Agreement and all other applicable law.

F. Assignability

The Subrecipient shall not assign or transfer any interest in this Agreement without the prior written consent of the City. Claims for money due or to become due to the City from the Subrecipient under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the City.

G. Subcontracts

1. *Approvals.* The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this Agreement without the written consent of the City prior to the execution of such subcontract.

2. *Monitoring.* The Subrecipient will monitor the performance of all subcontracted services on a regular basis. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance. Substandard performance as determined by the Subrecipient or the City will constitute noncompliance with this agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable time after being notified, Agreement suspension or termination will take place.

3. *Content.* The Subrecipient shall cause all of the provisions of this Agreement in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

4. *Selection Process.* The Subrecipient shall insure that all subcontracts entered into in the performance of this Agreement shall be awarded on a fair and open competition basis. Executed copies of all subcontracts shall be forwarded to the City along with documentation concerning the selection process.

5. *Suspension and Disbarment.* The Subrecipient shall not enter into any subcontracts with an agency, business, or individual that has been suspended, disbarred, or otherwise excluded from Federal grants. The Subrecipient shall maintain records demonstrating that it has reviewed potential subcontractors against the debarred and excluded list prior to committing any of the Funding to a subcontract.

H. Hatch Act

The Subrecipient agrees that no Funding or personnel employed under this Agreement shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

I. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 2 CFR Part 200 and 570.611, which include but are not limited to:

1. The Subrecipient shall maintain a written code of conduct to govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

2. No employee, officer, or agent of the Subrecipient shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

3. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (l) year thereafter. For purposes of this paragraph, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the City, the Subrecipient, or any designated public agency.

J. Lobbying

The Subrecipient hereby certifies that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of

Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. It will require that the language of Article 10.D.2 of this Agreement be included in the award documents for all subawards at all tiers, including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements, and that all Subrecipients shall certify and disclose accordingly.

K. Lobbying Certification

Any person who fails to file the required certification imposed by section 1352, Title 31, U.S.C. shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than one hundred thousand dollars ($100,000) for each such failure. Submission of such certification is a prerequisite for making or entering into this Agreement, and the certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

L. Copyright

If this Agreement results in any copyrightable material or inventions, the City reserves the right to royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, the work or materials for government purposes.

M. Religious Organization

The Subrecipient agrees that the Funding provided under this Agreement will not be utilized for religious activities, to promote religious interests, or for the benefit of a religious organization prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

XI. ENVIRONMENTAL CONDITIONS

A. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Agreement:

- National Environmental Policy Act, 42 U.S.C. Part 55.
- Clean Air Act, 42 U.S.C., 7401, et seq;
- Federal Water Pollution Control Act, as amended; 33 U.S.C. 1251, et seq., as amended; 1318 relating to inspection, monitoring, entry, reports, and information; other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder; and, Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

B. Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Subrecipient shall assure that, for activities located in an area identified by Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes, including rehabilitation.

C. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint.

Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Asbestos

The Subrecipient agrees to comply with the Texas Asbestos Health Protection Act set forth at Article 4477-3a Section 12 of the Texas Civil Statutes and the National Emission Standard for Asbestos Regulations set forth at 40 CFR Part 61.

E. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, State, or local historic property list.

XII. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby, and all other parts of this Agreement shall nevertheless be in full force and effect.

XIII. SECTION HEADINGS AND SUBHEADINGS

The section headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

XIV. WAIVER

The Subrecipient's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the Subrecipient to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

XV. Chapter 2270, Subtitle F, Title 10, Texas Government Code

The City warrants that it is in compliance with Chapter 2270, Subtitle F, Title 10 of the Texas Government Code by verifying that it does not boycott Israel, and that it will not boycott Israel during the term of this Agreement.

XVI. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient, and any Subrecipient, with respect to this Agreement.

IN WITNESS HEREOF, THE PARTIES HAVE EXECUTED AND ENTER INTO THIS AGREEMENT ON THE EFFECTIVE DATE

[Signature Page to Follow]

SIGNATURES

FOR: THE CITY OF LUBBOCK

Mark W. McBrayer, Mayor

FOR: CHILDREN'S ADVOCACY CENTER OF THE SOUTH PLAINS, INC.

Derek Danner, Executive Director

Federal ID: 75-2660920

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, Community Development Director

APPROVED AS TO FORM:

Kelly Leisure, Senior Assistant City Attorney

Information

Agenda Item

Resolution - Aviation: Consider a resolution authorizing the Mayor to execute Contract 18761, with RS&H, Inc., and Contract 18543, with Parkhill, for Architectural/Engineering Services at Lubbock Preston Smith International Airport.

Item Summary

Lubbock Preston Smith International Airport issued a Request for Qualifications (RFQ) seeking professional architectural/engineering (A/E) services from multi-discipline A/E firms for the design and preparation of plans, and specifications, and support services for various airport improvement projects.

These projects include, but are not limited to, preliminary design, engineering phase activities, final design, bidding, and construction administration services, for airport capital projects expected or anticipated during the next 5 years. The RFQ includes projects identified in the 5-year Airport Capital Improvement Plan.

The majority of the airport construction and development projects are subject to Federal Aviation Administration (FAA) funding and approval. The selected firm(s) will assist in the grant application process, prepare project budgets and estimates of probable costs, provide contractor pay estimates, hold progress meetings, and other requested services.

Four contractors responded to RFQ 25-18543-TF. An evaluation committee reviewed the qualifications based on the following criteria:

- Project Team Organization and Qualifications - 30%;
- Experience on Similar Projects - 30%;
- Project Approach - 30%; and,
- Overall Responsiveness to the RFQ - 10%.

Qualifications were ranked as follows.

Contractor	Points
RS&H, Inc., Dallas, Texas	90.33
Parkhill, Lubbock, Texas	88.33
Garver, Little Rock, Arkansas	83.33
Amtech Solutions, Inc., Plano, Texas	25.67

The evaluation committee recommends contract awards to the two highest ranked firms, RS&H, Inc. of Dallas, Texas, and Parkhill of Lubbock, Texas. Projects will be assigned as follows:

Parkhill and RS&H, Inc. Team:

- Extend Taxiway L and Cargo Apron Expansion. (Construction phase services only. Design services completed under previous contract)
- Rehabilitate Taxiway M
- Reconstruct, rehabilitate, realign, and /or strengthen other taxiway(s)

RS&H, Inc.:

- Replace/Rehabilitate West Side General Aviation (GA) Ramp. Analyze and recommend alternatives for rehabilitating West Side GA Ramp
- Replace Terminal Building Boilers
- Parking Facility Improvements, (to include parking garage maintenance, parking booth repair/replacement, joint seal repair/replacement, and potential design of new facility)

Parkhill:

- Replace Passenger Boarding Bridges (construction phase services only)
- Rehabilitate/Reconstruct Perimeter Road (construction phase services only)
- Taxiway N Pump Station. Analyze and recommend alternatives for water retention mitigation
- East Side General Aviation Ramp Improvements

While the City anticipates the projects will be undertaken within the next 5 years, the City reserves the right to withdraw any or all projects from the list at any time, at its sole discretion, or substitute other projects not previously anticipated. The contract term will be for 5 years. Project scope and fees will be negotiated and presented as each project is programmed, and as funding becomes available.

Fiscal Impact

These contracts have no current fiscal impact. Individual project scope and fee proposals will be considered as each project is initiated.

Staff/Board Recommending

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

Attachments

Resolution - RS&H, Inc. Contract 18761

Contract 18761 - RS&H, Inc.

Resolution Parkhill Contract 18543

Contract 18543 - Parkhill

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 Professional Services Agreement per RFP 25-18543-TF, for the design and preparation of plans, specifications and support services for various airport improvement projects at the Lubbock Preston Smith International Airport, by and between the City of Lubbock and RS&H, Inc., 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:

_____
Kelly Campbell, Director of Aviation

APPROVED AS TO FORM:

_____
Mitchell Satterwhite, First Assistant City Attorney

ccdocs II/RES.Agrmt-RS&H 25-18543
March 10, 2025

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. _____is entered into this ___ day of _____, 2025, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and RS&H, Inc., (the" Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for the design and preparation of plans and specifications and support services for various airport improvement projects including but not limited to bidding services, construction administration services, project administration, project observation, and coordination for airport capital projects and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services to various airport improvement projects; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to various airport improvement projects, 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 five (5) years. **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, 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 reasonably 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 to 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 minus -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, 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 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, AGENTSAND 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 exercise the standard of care to 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. Engineer shall exercise the standard of care to comply with federal requirements attached hereto and incorporated herein as Exhibit "C".

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:

RS&H, Inc.
ATTN: Legal Team
10748 Deerwood Park Boulevard South
Jacksonville, FL 32256
Telephone: (469) 857-7727
Email: legal@rsandh.com

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

Mrs. Kelly Campbell, A.A.E.
Executive Director of Aviation
Lubbock Preston Smith International Airport
5401 N MLK BLVD, Unit 389
1314 Avenue K
Lubbock, Texas 79403
Telephone: (806) 775-3131
Email: kcampbell@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 "C" attached hereto, contains the entire agreement between the City and the Engineer, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

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

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

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

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

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

O. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code, prohibits the City

from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization

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

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

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

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

the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

MARK MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Kelly Campbell AAE, Executive Director of Aviation

APPROVED AS TO FORM:

Mitch Satterwhite, First Assistant City Attorney

Firm

RS&H, Inc.

By: _____
Rodney L. Bishop, Jr., Exec. Vice President

Email: rodney.bishop@rsandh.com

Exhibit A-Scope of Services
City of Lubbock
Architectural/Engineering Services for
Lubbock Preston Smith International Airport

A. BACKGROUND

Lubbock Preston Smith International Airport is a Federal Aviation Administration (FAA) certificated commercial service airport situated in a small hub local market whose enplanements in 2023 totaled 543,363. Major airline service is provided by Southwest Airlines, American Airlines, and United Airlines. The major cargo carriers are FedEx and UPS. There are approximately 20 scheduled daily passenger airline flights. Commercial aviation, general aviation, business aircraft, and military activity account for approximately 80,000 operations annually.

B. PROJECT SCOPE OF WORK

Lubbock Preston Smith International Airport is seeking professional architectural/engineering services from multi-discipline A/E firms for the design and preparation of plans and specifications and support services for various airport improvement projects including but not limited to preliminary design, engineering phase activities, final design, and construction services for airport construction projects expected or anticipated during the next five (5) years.

The preliminary design phase is intended to identify and evaluate alternatives to assure cost effective and practical solutions for the work items identified. Preliminary design activities include:

1. Coordinate with airport operations, FAA tower, and the airlines to minimize impacts in day-to-day operations of the airlines and air cargo airlines.

2. Prepare preliminary estimate of probable construction costs and schematic design for each element.

3. Provide all geotechnical investigation and analysis and pavement and other nondestructive testing and analysis required.

4. Coordinate with the airport's project manager for required survey information.

5. Prepare overall construction phasing plan in consideration of other airport construction projects and airport operations.

6. Conduct and submit all necessary FAA airspace studies.

Engineering Phase activities include:

1. Evaluate local conditions such as local material suppliers, sources, and capabilities as well as drainage alternatives.

2. Review and evaluate project layout.

3. Complete a soils investigation, soils report, and recommendations including field exploration and laboratory testing.

4. Complete necessary topography and site surveying.

5. Complete pavement section alternatives and analysis and provide recommendations including:

    a. Conduct an initial cost analysis, life-cycle cost analysis, and analysis of locally available resources for each alternative.

    b. Strategize bidding procedures and alternatives for competitive bidding.

6. Provide recommendations for construction phasing.

7. Complete estimates of probable construction costs for recommended alternatives.

8. Complete preliminary design report and solicit comments on preliminary design from airport personnel and the FAA.

Final Design: In the final design phase, the consultant will provide well-defined construction requirements with selected bid alternatives as appropriate to provide a basis for competitive construction bids. Assist the airport with the advertisement, notification of local airport users, and generally complete the final construction contract documents for the project(s). Efforts include:

1. Incorporate preliminary design comments and respond as necessary to requests for additional information.

2. Provide final design drawings, specifications, and final estimate of probable construction costs and schedule for the project.

3. Provide Engineering Report.

4. Develop specifications using Advisory Circular 150/5370-10, Standards for Specifying Construction of Airports, as amended, and utilize standard provisions supplied by the Sponsor.

5. Develop a safety plan in accordance with AC 150/5370-2, Operational Safety on Airports during construction.

6. Design all improvements in accordance with FAA standards and guidelines and in accordance with the Airport Certification Manual.

7. Solicit Sponsor and FAA review and approval.

8. Assist airport with advertising and interpretations of project requirements.

9. Assist airport with preparation of the FAA grant application.

10. Provide review of all submittal and shop drawings during construction.

11. Provide technical assistance and recommendations to the Sponsor during construction.

Construction Services: The consultant will assist the Sponsor to monitor and document progress for quality and cost. Review contractor payment requests, complete necessary quality control testing, establish necessary survey control, continually inform the Sponsor on project progress and problems, conduct the final project inspection, and complete the associated certification. Activities in this phase include:

1. Facilitate and manage pre-bid conference and bid opening. Issue addenda, prepare an abstract of bids, and make recommendation for award.

2. Assist in award notification to successful bidder; notify and return bid bonds to the unsuccessful bidders.

3. Solicit and review bonds, insurance certificates, construction schedules, etc

4. Conduct preconstruction meeting.

5. Provide horizontal and vertical control.

6. Provide resident project representative to monitor and document construction progress, confirm conformance with schedules, plans and specifications, measure and document construction pay quantities, document significant conversations or situations, document input or visits by local authorities, etc.

7. Prepare change orders and supplemental agreement, if required.

8. Prepare and submit inspection reports.

9. Prepare and confirm monthly payment requests.

10. Conduct necessary quality control testing.

11. Conduct and document periodic wage rate interviews.

12. Conduct a final project inspection with airport personnel, FAA, and the consultant.

13. Assist with DBE reporting

14. Prepare as-constructed drawings and the final project report from information furnished by the consultant.

Other services the consultant may be expected to provide will include visits with FAA officials, making presentations and reports to the Airport Board, City Council, and FAA, and other similar services as may be required or requested.

Projects contained in this RFQ have been identified in the 2015 Airport Layout Plan Update and are expected to be eligible for either AIP and/or PFC funding or are identified on the current airport capital improvement program and funded with airport revenues.

Airport construction and development projects are subject to FAA funding and approval and all projects referred to in this RFQ are subject to this process and will not be started until the approval steps have been completed. The engineer is expected to be knowledgeable in the FAA Airport Improvement Program (AIP) and Passenger Facility Charge (PFC) process and will assist the airport in seeking funding and project approval through grants and PFCs to implement any one or more of the projects.

The following projects are planned for the period covered by this agreement. While the City anticipates the projects will be undertaken within the next 5 years, **the City reserves the right to withdraw any or all projects from the list at any time at its sole discretion or substitute other projects not previously anticipated.**

- Extend Taxiway L and Cargo Apron Expansion. (Construction phase services only. Design services completed under previous contract.)
- Replace/Rehabilitate West Side Ramp. Analysis and recommended alternatives for rehabilitating west side ramp.
- Rehabilitate Taxiway M
- Reconstruct, rehabilitate, realign, and/or strengthen other Taxiway(s)

Other projects identified in the Airport Capital Improvement Plan.

- Replace Terminal Building Boilers
- Parking Facility Improvements (to include parking garage maintenance, parking booth repair/replacement, joint seal repair/replacement, and potential design of new facilities)
- Replace Airfield Maintenance Facility Roof
- Replace Snow Removal and ARFF Equipment

Exhibit B - Rate Schedule
City of Lubbock
Architectural/Engineering Services for
Lubbock Preston Smith International Airport

Category	Rate
Admin Assistant II	$ 82.00
Admin Assistant III	$ 107.00
Admin Assistant IV	$ 127.00
Admin Assistant V	$ 140.00
Project Controller V	$ 179.00
Project Officer / Principal	$ 393.00
Vice President	$ 373.00
Project Manager	$ 285.00
Sr. Project Manager	$ 363.00
Architect I	$ 161.00
Architect II	$ 197.00
Architect III	$ 231.00
Architect IV	$ 277.00
Architect V	$ 363.00
Consultant/Prac Spec I	$ 109.00
Consultant/Prac Spec II	$ 120.00
Consultant/Prac Spec III	$ 165.00
Consultant/Prac Spec IV	$ 216.00
Consultant/Prac Spec V	$ 286.00
Engineer in Training I	$ 118.00
Engineer in Training II	$ 138.00
Professional Engineer I	$ 161.00
Professional Engineer II	$ 197.00
Professional Engineer III	$ 231.00
Professional Engineer IV	$ 277.00
Professional Engineer V	$ 363.00
Environmental Spec I	$ 120.00
Environmental Spec II	$ 166.00
Environmental Spec III	$ 206.00
Environmental Spec IV	$ 253.00
Environmental Spec V	$ 551.00

Category	Rate
Field Representative II	$ 114.00
Field Representative III	$ 131.00
Field Representative IV	$ 180.00
Field Representative V	$ 215.00
Technician/Designer I	$ 122.00
Technician/Designer II	$ 154.00
Technician/Designer III	$ 167.00
Technician/Designer IV	$ 191.00
Planner I	$ 117.00
Planner II	$ 159.00
Planner III	$ 231.00
Planner IV	$ 277.00
Planner V	$ 363.00
Interior Designer I	$ 101.00
Interior Designer II	$ 125.00
Interior Designer III	$ 145.00
Interior Designer IV	$ 285.00
Construction Manager V	$ 294.00

* The above rates are a summary of the Engineer's Calendar Year 2025 hourly billing rates by labor category associated with the Engineer's team. The hourly rates will be used for projects during Calendar Year 2025. Overhead and profit are included in these hourly rates for the Engineer. Hourly billing rates are subject to annual increases each Calendar Year on January 1 as reflected in the Employment Cost Index, as published by the U.S. Bureau of Labor Statistics.

FEDERAL CONTRACT PROVISIONS FOR PROFESSIONAL A/E SERVICES PROCUREMENT AND CONTRACTING UNDER AIRPORT IMPROVEMENT PROGRAM (AIP)

(Based on Federal Contract Provisions Issued by FAA on May 24, 2023)

1. ACCESS TO RECORDS AND REPORTS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 2 CFR § 200.334, 2 CRF § 200.337, FAA Order 5100.38

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

2. AFFIRMATIVE ACTION REQUIREMENT

This provision is mandatory in any professional service agreement if the professional services agreement includes tasks that meet the definition of construction work [as defined by the U.S. Department of Labor (DOL)] and exceeds $10,000. Examples include installation of monitoring systems (e.g., noise, environmental, etc.).

Reference: 41 CFR Part 60-4, Executive Order 11246

The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein. 2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade: 3.15%
Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform

throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

3. **BREACH OF CONTRACT TERMS**

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), and the contract exceeds the simplified acquisition threshold as stated in 2 CFR Part 200, Appendix II (A). This threshold is occasionally adjusted for inflation and is $250,000.

Reference: 2 CFR § 200 Appendix II (A)

Any violation or breach of terms of this contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractor must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Contractor must correct the breach. Owner may proceed with termination of the contract if the Contractor fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

4. **BUY AMERICAN PREFERENCE**

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and includes providing a manufactured good as a deliverable.

Reference: 49 USC § 50101, Executive Order 14005, and BABA

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,[1] U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA's Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA's Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

5. CIVIL RIGHTS- GENERAL

This provision is mandatory and hereby included in all contracts and subcontracts.

Reference: 49 USC §47123

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

6. CIVIL RIGHTS- TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

This provision is mandatory and hereby included in all contracts and subcontracts.

Reference: 49 USC §47123, FAA Order 1400.11

[1] Per Executive Order 14005 "Made in America Laws" means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

7. CIVIL RIGHTS- NONDISCRIMINATION REQUIREMENTS/TITLE VI CLAUSES FOR COMPLIANCE

<u>This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).</u>

Reference: 49 USC §47123, FAA Order 1400.11

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

i. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

ii. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

iii. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

iv. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

v. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

   a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

   b. Cancelling, terminating, or suspending a contract, in whole or in part.

vi. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the

Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

8. CLEAN AIR AND WATER POLLUTION CONTROL

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds $150,000.

Reference: 2 CFR Part 200, Appendix II(G); 42 USC § 7401, et seq; 33 USC § 1251, et seq

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceed $150,000.

9. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), the contract exceeds $100,000, and the Project employs laborers, mechanics, watchmen, and guards (his includes members of survey crews and exploratory drilling operations).

Reference: 2 CFR Part 200, Appendix II(E); 2 CFR § 5.5(b); 40 USC § 3702; 40 USC § 3704

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of $29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

10. COPELAND "ANTI-KICKBACK" ACT

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), the Project includes tasks that meet the definition of construction, alteration, or repair (as defined in 29 CFR Part 5), and it exceeds $2,000.

Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Parts 3 and 5

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

11. DAVIS-BACON REQUIREMENTS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), the Project includes tasks that meet the definition of construction, alteration, or repair (as defined in 29 CFR Part 5), and it exceeds $2,000.

Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Part 5; 49 USC § 47112(b); 40 USC §§ 3141-3144, and 3147

1. Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part

hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of

receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is

financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship

Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.

12. DEBARMENT AND SUSPENSION (NON-PROCUREMENT)

This provision is mandatory and hereby included in all contracts and subcontracts if they involve a covered transaction (as defined in 2 CFF Part 180 subpart B), including AIP funded Projects if the contract is $25,000 or more.

Reference: 2 CFR Part 180 (Subpart B); 2 CFR Part 200, Appendix II(H); 2 CFR Part 1200; DOT Order 4200.5; Executive Orders 12549 and 12689

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

The successful bidder, by administering each lower tier subcontract that exceeds $25,000 as a "covered transaction", must confirm each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

13. DISADVANTAGED BUSINESS ENTERPRISES

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the Project/Client has a DBE program on file with the FAA. **The language below must be included in any subcontracts and must not be modified.**
Reference: 49 CFR Part 26

Contract Assurance (49 CFR § 26.13; mandatory text provided) –

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (49 CFR § 26.29; acceptable/sample text provided) –
The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Client. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Client. This clause applies to both DBE and non-DBE subcontractors.

Termination of DBE Subcontracts (49 CFR § 26.53(f); acceptable/sample text provided) –
The prime contractor must not terminate a DBE subcontractor listed in response to the Solicitation paragraph number where paragraph 12.3.1, Solicitation Language appears (or an approved substitute DBE firm) without prior written consent of Client. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent Client. Unless Client

consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

Client may provide such written consent only if Client agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.

Before transmitting to Client its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to Client, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise Client and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why Client should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), Client may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

14. DISTRACTED DRIVING

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds the micro-purchase threshold of 2 CFR § 200.320 (currently set at $10,000).

Reference: Executive Order 13513; DOT Order 3902.10

TEXTING WHEN DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding $10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

15. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 2 CFR § 200, Appendix II(K); 2 CFR § 200.216

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

16. EQUAL OPPORTUNITY CLAUSE AND SPECIFICATIONS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds $10,000.

Reference: 2 CFR Part 200, Appendix II(C); 41 CFR § 60-1.4; 41 CFR § 60-4.3; Executive Order 11246

EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided,* however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

d. "Minority" includes:

(1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring,

assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor

association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form;

however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

17. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 29 USC § 201, et seq; 2 CFR § 200.430

All contracts and subcontracts incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The *Contractor* has full responsibility to monitor compliance to the referenced statute or regulation. The *Contractor* must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

18. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds $100,000.

Reference: 31 USC § 1352 – Byrd Anti-Lobbying Amendment; 2 CFR Part 200, Appendix II(I); 49 CFR Part 20, Appendix A

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

19. PROHIBITION OF SEGREGATED FACILITIES

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract includes a task that qualifies as a construction work as defined by 41 CFR Part 60-1.

Reference: 2 CFR Part 200, Appendix II(C); 41 CFR § 60-1

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

20. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 29 CFR Part 1910

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address

any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

21. PROCUREMENT OF RECOVERED MATERIALS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract includes procurement of a product that exceeds $10,000.

Reference: 2 CFR § 200.323; 2 CFR Part 200, Appendix II(J); 40 CFR Part 247; 42 USC § 6901, et seq [Resource Conservation and Recovery Act (RCRA)]

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1) The contract requires procurement of $10,000 or more of a designated item during the fiscal year; or
2) The contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
b) Fails to meet reasonable contract performance requirements; or
c) Is only available at an unreasonable price.

22. RIGHTS TO INVENTIONS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and includes experimental, developmental, or research work.

Reference: 2 CFR Part 200, Appendix II(F); 37 CFR Part 401

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

23. SEISMIC SAFETY

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and includes is involved in the construction of new buildings or structural addition to existing buildings.

Reference: 49 CFR Part 41

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

24. TAX DELINQUENCY AND FELONY CONVICTIONS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded, in whole or in part, (or otherwise federally funded).

Reference: Section 8113 of the Consolidated Appropriations Act, 2022 (Public Law 117-103) and similar provisions in subsequent appropriations acts; DOT Order 4200.6 – Appropriations Act Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

1) The applicant represents that it is not (X) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

2) The applicant represents that it is not (X) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the

agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

conviction: Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an **Felony** offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

25. TERMINATION OF CONTRACT

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract is in excess to $10,000.
Reference: 2 CFR Part 200, Appendix II(B); FAA Advisory Circular 150/5370-10, Section 80-09

TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

1. Completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
2. Documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
3. Reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and

4. Reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

TERMINATION FOR CAUSE (CONSTRUCTION)

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for conditions, rights, and remedies associated with Owner termination of this contract for cause due to default of the Contractor.

TERMINATION FOR CAUSE (EQUIPMENT)

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract for cause if the Contractor:

1. Fails to begin the Work under the Contract within the time specified in the Notice- to-Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CAUSE (PROFESSIONAL SERVICES)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner**: The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:
   1. Perform the services within the time specified in this contract or by Owner approved extension;
   2. Make adequate progress so as to endanger satisfactory performance of the Project; or
   3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps,

photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant**: The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
3. Suspends the project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Consultant is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

26. TRADE RESTRICTION CERTIFICATION

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).
Reference: 49 USC § 50104; 49 CFR Part 30

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);

2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and

3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

27. VETERAN'S PREFERENCE

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and involves labor to carry out the Project.
Reference: 49USC § 47112(c)

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business

concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

28. DOMESTIC PREFERENCES FOR PROCUREMENTS

This provision is mandatory in all subawards, including all contracts and purchase orders for work or products under the grant.

Reference: 2 CFR § 200.322, 2 CFR Part 200, Appendix II(L)

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

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 Professional Services Agreement per RFP 25-18543-TF, for the design and preparation of plans, specifications and support services for various airport improvement projects at the Lubbock Preston Smith International Airport, by and between the City of Lubbock and Parkhill, 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:

_____
Kelly Campbell, Director of Aviation

APPROVED AS TO FORM:

_____
Mitchell Satterwhite, First Assistant City Attorney

ccdocs II/RES.Agrmt-Parkhill 25-18543
March 7, 2025

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. _____is entered into this ___ day of _____, 2025, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Parkhill (the" Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for the design and preparation of plans and specifications and support services for various airport improvement projects including but not limited to bidding services, project administration, supervision, and coordination for airport capital projects and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services to various airport improvement projects; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to various airport improvement projects, 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 five (5) years.

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, 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 ACKNOWLEDGEMENTS

A. Existence. The Engineer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. The Engineer has the corporate power to enter into and perform this Agreement and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Agreement and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part of the Engineer. This Agreement constitutes legal, valid, and binding obligations of the Engineer and is enforceable in accordance with the terms thereof.

D. Engineer. The Engineer maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and is familiar with 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 acknowledges that any materials provided by the Engineer for use by City pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other law, statute, rule, order, regulation, ordinance or contractual obligation relating to the use or reproduction of materials. The Engineer shall be solely responsible for ensuring that any materials provided by the Engineer pursuant to this Agreement satisfy this requirement and the Engineer agrees to indemnify and hold City harmless from all liability or loss caused to City or to which City is exposed on account of the Engineer's failure to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Engineer shall accomplish the following: Professional Services related to the Services, as provided in Exhibit "A", attached hereto and made a part hereof.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Engineer and the City agree that the Engineer shall perform the duties under this Agreement as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. The Engineer has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, the Engineer and the Engineer's employees and/or sub-consultants, will not be considered, for any purpose, employees or agents of the City within the meaning or the application of any federal, state or local law or regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

The Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or sub-consultant of the Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and

hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Single Limit: $1,000,000

General Aggregate Limit: $2,000,000

Professional Liability:

Combined Single Limit: $2,000,000

Automobile Liability:

Combined Single Limit for any auto: $1,000,000 Per Occurrence

Employer's Liability:

Per Occurrence Single Limit: $1,000,000

Worker's Compensation

Per Occurrence Single Limit: $500,000

The Engineer shall further cause any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Engineer herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The City shall be listed as a primary and noncontributory additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. The Engineer shall provide a Certificate of Insurance to the City as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy shall be included in the Certificate. The Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Engineer shall maintain said coverage throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City. If at any time during the life of the Agreement or any extension hereof, the Engineer fails to maintain the required insurance in full force and effect, the Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained at the Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this Agreement and the discovery period (possibly through tail

coverage) shall be no less than 10 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

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

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

ARTICLE X. CONFIDENTIALITY

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

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, LOSSES, DAMAGES, CLAIMS, OR LIABILITY OF ANY KIND, CHARACTER, TYPE, OR DESCRIPTION, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT ARISING OUT OF, RELATED TO OR OCCASIONED BY, THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto. Engineer shall comply with federal requirements attached hereto and incorporated herein as Exhibit "C"

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

Parkhill
Mark Haberer, PE, CM4222 85th St
Lubbock, TX 79423
Telephone: (806-473-3600)
Email:

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

Mrs. Kelly Campbell, A.A.E.
Executive Director of Aviation
Lubbock Preston Smith International Airport
5401 N MLK BLVD, Unit 389
1314 Avenue K
Lubbock, Texas 79403
Telephone: (806) 775-3131
Email: kcampbell@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 "C" attached hereto, contains the entire agreement between the City and the Engineer, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

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

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

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

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

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

O. Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code, prohibits the City

from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization

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

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

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

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

the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

MARK MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Kelly Campbell AAE, Executive Director of Aviation

APPROVED AS TO FORM:

Mitch Satterwhite, First Assistant City Attorney

Firm

PARKHILL

By: _____
[Firm Signature]

Email: birlbeck@parkhill.com

Exhibit A-Scope of Services
City of Lubbock
Architectural/Engineering Services for
Lubbock Preston Smith International Airport

A. BACKGROUND

Lubbock Preston Smith International Airport is a Federal Aviation Administration (FAA) certificated commercial service airport situated in a small hub local market whose enplanements in 2023 totaled 543,363. Major airline service is provided by Southwest Airlines, American Airlines, and United Airlines. The major cargo carriers are FedEx and UPS. There are approximately 20 scheduled daily passenger airline flights. Commercial aviation, general aviation, business aircraft, and military activity account for approximately 80,000 operations annually.

B. PROJECT SCOPE OF WORK

Lubbock Preston Smith International Airport is seeking professional architectural/engineering services from multi-discipline A/E firms for the design and preparation of plans and specifications and support services for various airport improvement projects including but not limited to preliminary design, engineering phase activities, final design, and construction services for airport construction projects expected or anticipated during the next five (5) years.

The preliminary design phase is intended to identify and evaluate alternatives to assure cost effective and practical solutions for the work items identified. Preliminary design activities include:

1. Coordinate with airport operations, FAA tower, and the airlines to minimize impacts in day-to-day operations of the airlines and air cargo airlines.

2. Prepare preliminary estimate of probable construction costs and schematic design for each element.

3. Provide all geotechnical investigation and analysis and pavement and other nondestructive testing and analysis required.

4. Coordinate with the airport's project manager for required survey information.

5. Prepare overall construction phasing plan in consideration of other airport construction projects and airport operations.

6. Conduct and submit all necessary FAA airspace studies.

Engineering Phase activities include:

1. Evaluate local conditions such as local material suppliers, sources, and capabilities as well as drainage alternatives.

2. Review and evaluate project layout.

3. Complete a soils investigation, soils report, and recommendations including field exploration and laboratory testing.

4. Complete necessary topography and site surveying.

5. Complete pavement section alternatives and analysis and provide recommendations including:

    a. Conduct an initial cost analysis, life-cycle cost analysis, and analysis of locally available resources for each alternative.

    b. Strategize bidding procedures and alternatives for competitive bidding.

6. Provide recommendations for construction phasing.

7. Complete estimates of probable construction costs for recommended alternatives.

8. Complete preliminary design report and solicit comments on preliminary design from airport personnel and the FAA.

Final Design: In the final design phase, the consultant will provide well-defined construction requirements with selected bid alternatives as appropriate to provide a basis for competitive construction bids. Assist the airport with the advertisement, notification of local airport users, and generally complete the final construction contract documents for the project(s). Efforts include:

1. Incorporate preliminary design comments and respond as necessary to requests for additional information.

2. Provide final design drawings, specifications, and final estimate of probable construction costs and schedule for the project.

3. Provide Engineering Report.

4. Develop specifications using Advisory Circular 150/5370-10, Standards for Specifying Construction of Airports, as amended, and utilize standard provisions supplied by the Sponsor.

5. Develop a safety plan in accordance with AC 150/5370-2 Operational Safety on Airports during construction.

6. Design all improvements in accordance with FAA standards and guidelines and in accordance with the Airport Certification Manual.

7. Solicit Sponsor and FAA review and approval.

8. Assist airport with advertising and interpretations of project requirements.

9. Assist airport with preparation of the FAA grant application.

10. Provide review of all submittal and shop drawings during construction.

11. Provide technical assistance and recommendations to the Sponsor during construction.

Construction Services: The consultant will assist the Sponsor to monitor and document progress for quality and cost. Review contractor payment requests, complete necessary quality control testing, establish necessary survey control, continually inform the Sponsor on project progress and problems, conduct the final project inspection, and complete the associated certification. Activities in this phase include:

1. Facilitate and manage pre-bid conference and bid opening. Issue addenda, prepare an abstract of bids, and make recommendation for award.

2. Assist in award notification to successful bidder; notify and return bid bonds to the unsuccessful bidders.

3. Solicit and review bonds, insurance certificates, construction schedules, etc

4. Conduct preconstruction meeting.

5. Provide horizontal and vertical control.

6. Provide resident project representative to monitor and document construction progress, confirm conformance with schedules, plans and specifications, measure and document construction pay quantities, document significant conversations or situations, document input or visits by local authorities, etc.

7. Prepare change orders and supplemental agreement, if required.

8. Prepare and submit inspection reports.

9. Prepare and confirm monthly payment requests.

10. Conduct necessary quality control testing.

11. Conduct and document periodic wage rate interviews.

12. Conduct a final project inspection with airport personnel, FAA, and the consultant.

13. Assist with DBE reporting

14. Prepare as-constructed drawings and the final project report from information furnished by the consultant.

Other services the consultant may be expected to provide will include visits with FAA officials, making presentations and reports to the Airport Board, City Council, and FAA, and other similar services as may be required or requested.

Projects contained in this RFQ have been identified in the 2015 Airport Layout Plan Update and are expected to be eligible for either AIP and/or PFC funding or are identified on the current airport capital improvement program and funded with airport revenues.

Airport construction and development projects are subject to FAA funding and approval and all projects referred to in this RFQ are subject to this process and will not be started until the approval steps have been completed. The engineer is expected to be knowledgeable in the FAA Airport Improvement Program (AIP) and Passenger Facility Charge (PFC) process and will assist the airport in seeking funding and project approval through grants and PFCs to implement any one or more of the projects.

The following projects are planned for the period covered by this agreement. While the City anticipates the projects will be undertaken within the next 5 years, **the City reserves the right to withdraw any or all projects from the list at any time at its sole discretion or substitute other projects not previously anticipated.**

- Extend Taxiway L and Cargo Apron Expansion. (Construction phase services only. Design services completed under previous contract.)
- Taxiway N Pump Station. Analysis and recommended alternatives for water retention mitigation.
- Rehabilitate Taxiway M
- Reconstruct, rehabilitate, realign, and/or strengthen other Taxiway(s)

Other projects identified in the Airport Capital Improvement Plan.

- East Side General Aviation Ramp Improvements
- Replace Passenger Boarding Bridges (Construction phase services only)
- Rehabilitate/Reconstruct Perimeter Road (Construction phase services only)

EXHIBIT B
Parkhill
Hourly Rate Schedule
January 1, 2025 through December 31, 2025

Client: City of Lubbock **Project:** LBB A/E Services 2025-2029

Agreement Date: March 7, 2025 **Location:** Lubbock, Texas

CLASSIFICATION	HOURLY RATE
SUPPORT STAFF I	$67.00
SUPPORT STAFF II	$78.00
SUPPORT STAFF III	$108.00
SUPPORT STAFF IV	$115.00
SUPPORT STAFF V	$127.00
SUPPORT STAFF VI	$138.00
PROFESSIONAL LEVEL I	
Architect	$135.00
Civil Engineer	$147.00
Electrical Engineer	$150.00
Interior Designer	$128.00
Landscape Architect	$128.00
Mechanical Engineer	$141.00
Structural Engineer	$141.00
Survey Tech	$120.00
Other Professional	$126.00
PROFESSIONAL LEVEL II	
Architect	$146.00
Civil Engineer	$165.00
Electrical Engineer	$170.00
Interior Designer	$135.00
Landscape Architect	$135.00
Mechanical Engineer	$162.00
Structural Engineer	$160.00
Survey Tech	$130.00
Other Professional	$133.00

CLASSIFICATION	HOURLY RATE
PROFESSIONAL LEVEL III	
Architect	$166.00
Civil Engineer	$203.00
Electrical Engineer	$198.00
Interior Designer	$148.00
Landscape Architect	$160.00
Mechanical Engineer	$189.00
Structural Engineer	$196.00
Survey Tech	$152.00
Other Professional	$146.00
PROFESSIONAL LEVEL IV	
Architect	$202.00
Civil Engineer	$237.00
Electrical Engineer	$232.00
Interior Designer	$162.00
Landscape Architect	$173.00
Mechanical Engineer	$222.00
Structural Engineer	$226.00
Survey Tech	$185.00
Other Professional	$172.00
PROFESSIONAL LEVEL V	
Architect	$246.00
Civil Engineer	$281.00
Electrical Engineer	$279.00
Interior Designer	$195.00
Landscape Architect	$211.00
Mechanical Engineer	$266.00
Structural Engineer	$250.00
Professional Land Surveyor	$210.00
Other Professional	$192.00

CLASSIFICATION	HOURLY RATE
PROFESSIONAL LEVEL VI	
Architect	$259.00
Civil Engineer	$282.00
Electrical Engineer	$281.00
Interior Designer	$211.00
Landscape Architect	$226.00
Mechanical Engineer	$268.00
Structural Engineer	$252.00
Professional Land Surveyor	$235.00
Other Professional	$219.00
PROFESSIONAL LEVEL VII	
Architect	$330.00
Civil Engineer	$340.00
Electrical Engineer	$334.00
Interior Designer	$241.00
Landscape Architect	$290.00
Mechanical Engineer	$317.00
Structural Engineer	$334.00
Professional Land Surveyor	$285.00
Other Professional	$277.00

FEDERAL CONTRACT PROVISIONS FOR PROFESSIONAL A/E SERVICES PROCUREMENT AND CONTRACTING UNDER AIRPORT IMPROVEMENT PROGRAM (AIP)

(Based on Federal Contract Provisions Issued by FAA on May 24, 2023)

1. ACCESS TO RECORDS AND REPORTS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 2 CFR § 200.334, 2 CRF § 200.337, FAA Order 5100.38

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

2. AFFIRMATIVE ACTION REQUIREMENT

This provision is mandatory in any professional service agreement if the professional services agreement includes tasks that meet the definition of construction work [as defined by the U.S. Department of Labor (DOL)] and exceeds $10,000. Examples include installation of monitoring systems (e.g., noise, environmental, etc.).

Reference: 41 CFR Part 60-4, Executive Order 11246

The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein. 2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade: 3.15%
Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform

throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

3. BREACH OF CONTRACT TERMS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), and the contract exceeds the simplified acquisition threshold as stated in 2 CFR Part 200, Appendix II (A). This threshold is occasionally adjusted for inflation and is $250,000.

Reference: 2 CFR § 200 Appendix II (A)

Any violation or breach of terms of this contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractor must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Contractor must correct the breach. Owner may proceed with termination of the contract if the Contractor fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

4. BUY AMERICAN PREFERENCE

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and includes providing a manufactured good as a deliverable.

Reference: 49 USC § 50101, Executive Order 14005, and BABA

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,[1] U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA's Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA's Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

5. CIVIL RIGHTS- GENERAL

This provision is mandatory and hereby included in all contracts and subcontracts.
Reference: 49 USC §47123

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

6. CIVIL RIGHTS- TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

This provision is mandatory and hereby included in all contracts and subcontracts.
Reference: 49 USC §47123, FAA Order 1400.11

[1] Per Executive Order 14005 "Made in America Laws" means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

7. CIVIL RIGHTS- NONDISCRIMINATION REQUIREMENTS/TITLE VI CLAUSES FOR COMPLIANCE

<u>This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).</u>

Reference: 49 USC §47123, FAA Order 1400.11

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

i. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

ii. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

iii. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

iv. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

v. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

   a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

   b. Cancelling, terminating, or suspending a contract, in whole or in part.

vi. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the

Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

8. CLEAN AIR AND WATER POLLUTION CONTROL

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds $150,000.

Reference: 2 CFR Part 200, Appendix II(G); 42 USC § 7401, et seq; 33 USC § 1251, et seq

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceed $150,000.

9. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), the contract exceeds $100,000, and the Project employs laborers, mechanics, watchmen, and guards (his includes members of survey crews and exploratory drilling operations).

Reference: 2 CFR Part 200, Appendix II(E); 2 CFR § 5.5(b); 40 USC § 3702; 40 USC § 3704

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of $29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

10. COPELAND "ANTI-KICKBACK" ACT

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), the Project includes tasks that meet the definition of construction, alteration, or repair (as defined in 29 CFR Part 5), and it exceeds $2,000.
Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Parts 3 and 5

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

11. DAVIS-BACON REQUIREMENTS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), the Project includes tasks that meet the definition of construction, alteration, or repair (as defined in 29 CFR Part 5), and it exceeds $2,000.
Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Part 5; 49 USC § 47112(b); 40 USC §§ 3141-3144, and 3147

1. Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part

hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of

receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is

financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship

Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.

12. DEBARMENT AND SUSPENSION (NON-PROCUREMENT)

This provision is mandatory and hereby included in all contracts and subcontracts if they involve a covered transaction (as defined in 2 CFF Part 180 subpart B), including AIP funded Projects if the contract is $25,000 or more.

Reference: 2 CFR Part 180 (Subpart B); 2 CFR Part 200, Appendix II(H); 2 CFR Part 1200; DOT Order 4200.5; Executive Orders 12549 and 12689

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

The successful bidder, by administering each lower tier subcontract that exceeds $25,000 as a "covered transaction", must confirm each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

13. DISADVANTAGED BUSINESS ENTERPRISES

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the Project/Client has a DBE program on file with the FAA. **The language below must be included in any subcontracts and must not be modified.**
Reference: 49 CFR Part 26

Contract Assurance (49 CFR § 26.13; mandatory text provided) –

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (49 CFR § 26.29; acceptable/sample text provided) –
The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Client. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Client. This clause applies to both DBE and non-DBE subcontractors.

Termination of DBE Subcontracts (49 CFR § 26.53(f); acceptable/sample text provided) –
The prime contractor must not terminate a DBE subcontractor listed in response to the Solicitation paragraph number where paragraph 12.3.1, Solicitation Language appears (or an approved substitute DBE firm) without prior written consent of Client. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent Client. Unless Client

consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

Client may provide such written consent only if Client agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.

Before transmitting to Client its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to Client, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise Client and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why Client should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), Client may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

14. DISTRACTED DRIVING

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds the micro-purchase threshold of 2 CFR § 200.320 (currently set at $10,000).

Reference: Executive Order 13513; DOT Order 3902.10

TEXTING WHEN DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding $10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

15. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 2 CFR § 200, Appendix II(K); 2 CFR § 200.216

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

16. EQUAL OPPORTUNITY CLAUSE AND SPECIFICATIONS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds $10,000.

Reference: 2 CFR Part 200, Appendix II(C); 41 CFR § 60-1.4; 41 CFR § 60-4.3; Executive Order 11246

EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided,* however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:

   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

   b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

   c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

   d. "Minority" includes:

      (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

      (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

      (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring,

assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor

association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form;

however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

17. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).
Reference: 29 USC § 201, et seq; 2 CFR § 200.430

All contracts and subcontracts incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The *Contractor* has full responsibility to monitor compliance to the referenced statute or regulation. The *Contractor* must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

18. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds $100,000.
Reference: 31 USC § 1352 – Byrd Anti-Lobbying Amendment; 2 CFR Part 200, Appendix II(I); 49 CFR Part 20, Appendix A

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

19. PROHIBITION OF SEGREGATED FACILITIES

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract includes a task that qualifies as a construction work as defined by 41 CFR Part 60-1.

Reference: 2 CFR Part 200, Appendix II(C); 41 CFR § 60-1

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

20. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 29 CFR Part 1910

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address

any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

21. PROCUREMENT OF RECOVERED MATERIALS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract includes procurement of a product that exceeds $10,000.

Reference: 2 CFR § 200.323; 2 CFR Part 200, Appendix II(J); 40 CFR Part 247; 42 USC § 6901, et seq [Resource Conservation and Recovery Act (RCRA)]

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1) The contract requires procurement of $10,000 or more of a designated item during the fiscal year; or
2) The contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
b) Fails to meet reasonable contract performance requirements; or
c) Is only available at an unreasonable price.

22. RIGHTS TO INVENTIONS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and includes experimental, developmental, or research work.

Reference: 2 CFR Part 200, Appendix II(F); 37 CFR Part 401

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

23. SEISMIC SAFETY

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and includes is involved in the construction of new buildings or structural addition to existing buildings.
Reference: 49 CFR Part 41

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

24. TAX DELINQUENCY AND FELONY CONVICTIONS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded, in whole or in part, (or otherwise federally funded).
Reference: Section 8113 of the Consolidated Appropriations Act, 2022 (Public Law 117-103) and similar provisions in subsequent appropriations acts; DOT Order 4200.6 – Appropriations Act Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

1) The applicant represents that it is not (X) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

2) The applicant represents that it is not (X) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the

agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

conviction: Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an **Felony** offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

25. TERMINATION OF CONTRACT

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract is in excess to $10,000.
Reference: 2 CFR Part 200, Appendix II(B); FAA Advisory Circular 150/5370-10, Section 80-09

TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

1. Completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
2. Documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
3. Reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and

4. Reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

TERMINATION FOR CAUSE (CONSTRUCTION)

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for conditions, rights, and remedies associated with Owner termination of this contract for cause due to default of the Contractor.

TERMINATION FOR CAUSE (EQUIPMENT)

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract for cause if the Contractor:

1. Fails to begin the Work under the Contract within the time specified in the Notice- to-Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CAUSE (PROFESSIONAL SERVICES)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner**: The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:
   1. Perform the services within the time specified in this contract or by Owner approved extension;
   2. Make adequate progress so as to endanger satisfactory performance of the Project; or
   3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

   Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps,

photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant**: The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:
   1. Defaults on its obligations under this Agreement;
   2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
   3. Suspends the project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Consultant is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

26. TRADE RESTRICTION CERTIFICATION

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).
Reference: 49 USC § 50104; 49 CFR Part 30

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);

2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and

3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

27. VETERAN'S PREFERENCE

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and involves labor to carry out the Project.
Reference: 49USC § 47112(c)

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business

concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

28. DOMESTIC PREFERENCES FOR PROCUREMENTS

This provision is mandatory in all subawards, including all contracts and purchase orders for work or products under the grant.

Reference: 2 CFR § 200.322, 2 CFR Part 200, Appendix II(L)

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

AI# 13316

Regular City Council Meeting **5. 30.**

03/25/2025:

Information

Agenda Item

Resolution - Aviation: Consider a resolution authorizing the Mayor to execute Contract 18651, with FMG Construction Group, LLC, for Second Floor Renovations at Lubbock Preston Smith International Airport.

Item Summary

Due to funding restrictions, the second floor of the Airport was not included in the recent terminal building remodel. This project focuses on technological improvements to the meeting rooms, as well as aesthetic improvements to the entire second floor. An Invitation to Bid (ITB) was issued for the renovations.

The base bid scope of work for the project is as follows:

- Selective Demolition;
- Interior Paint;
- Tile Carpeting;
- Acoustical Tile Ceilings;
- Resilient Base and Accessories;
- IT, Network and Video Conferencing Upgrades; and
- Replacement of Select Light Fixtures.

In response to ITB 25-18651-AE, bids were received from the following companies.

Contractor	Amount
FMG Construction Group, LLC, Houston, Texas	$754,300
WR Construction, Inc., Lubbock, Texas	$827,000
Henthorn Commercial Construction, Lubbock, Texas	$849,000
Tommy Klein Construction, Inc., Lubbock, Texas	$857,919
Tegrity Contractors, Inc., Allen, Texas	$1,115,777

Airport staff and the Airport Advisory Board recommend the contract award to the lowest responsible bidder, FMG Construction Group, LLC of Houston, Texas, for $754,300.

The Second Floor Renovations will take 150 calendar days to complete. The amount of liquidated damages for each additional calendar day is $1,500.

Fiscal Impact

Contract 18651, with FMG Construction Group, LLC, for $754,300, is funded in Capital Improvement Project 92859 - Terminal Building Second Floor Renovations.

Staff/Board Recommending

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

Attachments

Resolution - FMG Construction Group, LLC

Contract FMG Construction Group, LLC

CIP 92859 - Budget Detail

CIP 92859 - Project Detail

Project Summary - ITB 25-18651-AE

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract No. 18651, for Second Floor Renovation, consistent with the terms in the bid submittal form attached hereto, by and between the City of Lubbock and FMG Construction Group, LLC, and related documents. Said bid submittal form 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:

_____
Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

_____
Mitchell Satterwhite, First Assistant City Attorney

ccdocs II/RES.Contract-FMG Construction
March 10, 2025

BID SUBMITTAL FORM
UNIT PRICE BID CONTRACT

DATE: 2/20/25

PROJECT NUMBER: **ITB 25-18651-AE, Second Floor Renovation**

Bid of FMG Construction Group, LLC (hereinafter called Bidder)

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

Ladies and Gentlemen:

The Bidder, in compliance with your Invitation to Bid for the construction of the referenced project, having carefully examined the plans, specifications, instructions to bidders, notice to bidders and all other related contract documents and the site of the intended work, and being familiar with all of the conditions surrounding the construction of the intended project including the availability of materials and labor, hereby intends to furnish all labor, materials, and supplies; and to construct the project in accordance with the plans, specifications and contract documents, within the time set forth therein and at the price stated.

The bidder binds himself on acceptance of his bid to execute a contract and any required bonds, according to the accompanying forms, for performing and completing the said work within the time stated and for the prices stated.

Bidder hereby agrees to commence the work on the above project on a date to be specified in a written "Notice to Proceed" of the Owner and to **substantially complete** the project within **120 consecutive calendar days** with **final completion** of the project within **150 consecutive calendar days** as stipulated in the specification and other contract documents. Bidder hereby further agrees to pay to Owner as liquidated damages in the sum of **$1,500** for each consecutive calendar day after **substantial completion** and liquidated damages in the sum of **$1,500** for each consecutive calendar day after **final completion** set forth herein above for completion of this project, all as more fully set forth in the General Conditions of the Agreement.

Bidder understands and agrees that this bid submittal shall be completed and submitted in accordance with instruction number 29 of the General Instructions to Bidders.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any formality in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of **60** calendar days after the scheduled closing time for receiving bids.

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

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

City of Lubbock, TX
Airport
ITB 25-18651-AE
Second Floor Renovation

FMG Construction Group, LLC of Houston, TX

#	Items	QTY +/-	U/M	Unit Price	Extended Cost
Base Bid					
#1-1	Lump Sum Bid: To include entire project - Demolition, construction, installation, concrete work, etc.	1	LS	$754,300.00	754,300.00
				Total (Items 1-1):	$754,300.00

Enclosed with this bid is a Cashier's Check or Certified Check for _____ **Dollars ($**_____**) or a Bid Bond in the sum of** 5% of Total Amount Bid **Dollars ($**_____**), which it is agreed shall be collected and retained by the Owner as liquidated damages in the event the bid is accepted by the Owner and the undersigned fails to execute the necessary contract documents, insurance certificates, and the required bond (if any) with the Owner within 10 business days after the date of receipt of written notification of acceptance of said bid; otherwise, said check or bond shall be returned to the undersigned upon demand.**

Bidder understands and agrees that the contract to be executed by Bidder shall be bound and include all contract documents made available to him for his inspection in accordance with the Notice to Bidders.

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

Date: 2/20/25

Authorized Signature

David Ferez
(Printed or Typed Name)

FMG Construction Group, LLC
Company

2917 Louisiana Street
Address

Houston, Harris
City, County

Texas, 77006
State Zip Code

Telephone: 713 - 485-4641

Fax: _____ - _____

(Seal if Bidder is a Corporation)

ATTEST:

Secretary

Bidder acknowledges receipt of the following addenda:

Addenda No. _____ Date_____
Addenda No. _____ Date_____
Addenda No. _____ Date_____
Addenda No. _____ Date_____

FEDERAL TAX ID or SOCIAL SECURITY No.

82-3264944

EMAIL: dferez@fmgtx.com

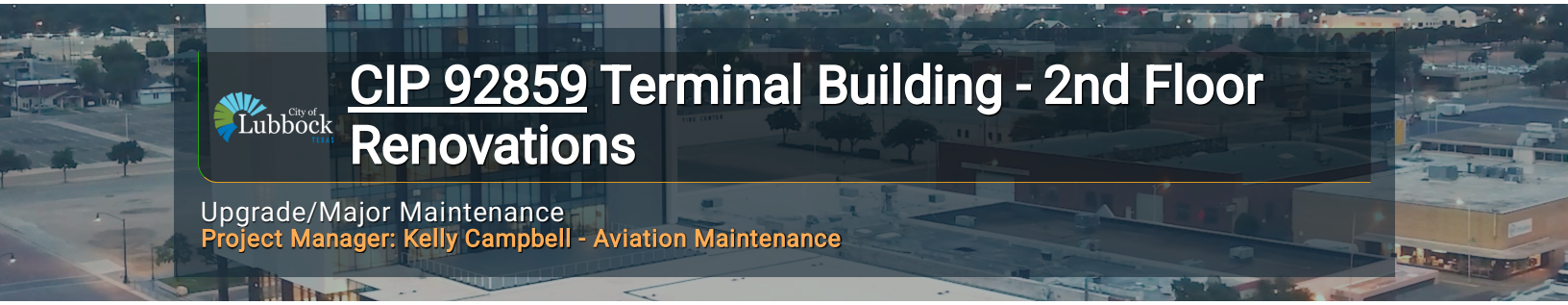
M/WBE Firm:

	Woman	X	Black American		Native American
	Hispanic American		Asian Pacific American		Other (Specify)

City of Lubbock, TX
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92859
Capital Project Name:	Terminal Building - 2nd Floor Renovations

	Budget
Encumbered/Expended	
Agenda Item March 25, 2025	
FMG Construction Group,LLC Contract 18651	754,300
RS&H, Inc. Amendment 17 - Contract 15200	148,566
Encumbered/Expended To Date	902,866
Estimated Costs for Remaining Appropriation	194,602
Remaining Appropriation	194,602
Total Appropriation	$ 1,097,468



CIP 92859 Terminal Building - 2nd Floor Renovations

Upgrade/Major Maintenance
Project Manager: Kelly Campbell - Aviation Maintenance

Project Scope

The project encompasses technology upgrades to enable remote work and meetings for airport personnel (Administration, Police, and Operations), as well as tenants, patrons, and the airport advisory board. Additionally, the project includes aesthetic enhancements such as paint, ceiling upgrades, and carpeting to improve the overall ambiance and functionality of the second-floor space.

Project Justification

By focusing on technology improvements, the project aims to modernize the workspace and enhance productivity by facilitating remote work and meetings, aligning with evolving work practices. Furthermore, investing in aesthetic enhancements such as painting, ceiling upgrades, and carpeting will not only improve the visual appeal of the space but also contribute to creating a more conducive and comfortable environment for occupants, ultimately enhancing overall efficiency and satisfaction.

Project Highlights

Council Priorities Addressed:
Growth & Development

Project History

- FY 2023-24 $1,097,468 was appropriated by 2024-O0060

Project Dates

Second Floor (upper level) improvements - to include upgrades to meeting room IT capabilities as well as overall aesthetic improvements (paint, flooring, restroom, fixtures, etc.)
RS&H Selected through 5-year master architecture and engineering contract.
Design Negotiation: April-May 2024
Design Contract Award: June 2024
Bid: December 2024
Award Date - Construction: March 2025
Project Start Date - Construction: April 2025
Project End Date - Construction: September 2026

Project Location

5401 N. Martin Luther King Boulevard, Lubbock, TX 79403

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Construction	$1,097,468	$0	$0	$0	$0	$0	$0
TOTAL	**$1,097,468**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Project Funding

	Funding to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Airport Fund Cash	$1,097,468	$0	$0	$0	$0	$0	$0
TOTAL	**$1,097,468**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Operating Budget Impacts

Description	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	Total
No Impact Anticipated	$0	$0	$0	$0	$0	$0	$0
TOTAL	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

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Purchasing and Contract Management

Project Summary

ITB 25-18651-AE
Second Floor Renovation

Notice was published in the Lubbock Avalanche Journal on February 2 & February 9, 2025.
Notice was published on the Purchasing Web Site under Bid Opportunities.
Notice was published on the State of Texas Electronic State Business Daily.
Notice was published on Bonfire.com from February 2 to February 20, 2025.
9 individuals attended the pre-bid meeting.
43 vendors downloaded the documents using Bonfire.com.
17 vendors were notified separately.
5 vendors submitted bid(s).

Information

Agenda Item

Resolution - Business Development: Consider a resolution confirming that the City of Lubbock has no objection to the proposed 4% Non-Competitive Housing Tax Credit application to be submitted to the Texas Department of Housing and Community Affairs, for the Hillcrest Manor Apartments, located at 1102 North Memphis Avenue in Lubbock, Texas.

Item Summary

The Non-Competitive Housing Tax Credit (HTC) Program is funded by the U.S. Treasury Department and is overseen by the Internal Revenue Service. Federal regulations guiding the program can be found in Internal Revenue Code Section 42. The Texas Department of Housing and Community Affairs (TDHCA) administers the program for the State of Texas.

The HTC Program was designed to provide a source of equity financing for the development and preservation of affordable multifamily housing. The goal is to maximize the number of affordable units in the state's housing supply and ensure the supply is well maintained and operated. With the 4% HTC funding, the applicant plans to invest $45,000 per unit to rehabilitate the 220 units within the property.

Tenants earning up to 60% of the Area Median Family Income (AMFI) for the area for their household size, and who meet the screening and eligibility restrictions of the property, may qualify for a reduced rent unit. HTC units offer income-qualified tenants a unit at a reduced rate that is restricted by annually publishing rent guidelines, which may increase or decrease annually, based on published units.

Fiscal Impact

None

Staff/Board Recommending

Bill Howerton, Deputy City Manager
Brianna Brown, Business Development Director

Attachments

Resolution

RESOLUTION

WHEREAS, the Texas Department of Housing and Community Affairs has established a Low Income Housing Tax Credit Program (the "Program") under the Texas Government Code Chapter 2306, Subchapter DD (the "Code"); and

WHEREAS, the purpose of the Code is to govern the administration of the Program in order to, among other things, encourage development of affordable rental housing; and

WHEREAS, EC Hillcrest Manor, LLC (the "Applicant") has informed the City of Lubbock (the "City") of its intent to file an application for the Program in accordance with Section 2306.67071(a)(1) of the Code for its developments to be named Hillcrest Manor Apartments at 1102 N. Memphis Avenue, Lubbock, TX; and

WHEREAS, the City is required to hold a public hearing at which public comment may be made on the application, in accordance with Section 2306.67071(b); and **NOW, THEREFORE**

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

Section 1. THAT notice has been provided to the City Council of the City of Lubbock (the "Council") as required by 2306.67071(a)(1).

Section 2. THAT the Council has had sufficient opportunity to obtain a response from the Applicant regarding any questions or concerns about the proposed developments.

Section 3. THAT the Council has held a hearing required under Section 2306.67071(b).

Section 4. THAT after due consideration of the information provided by the Applicant and public comment, the Council does not object to the proposed application.

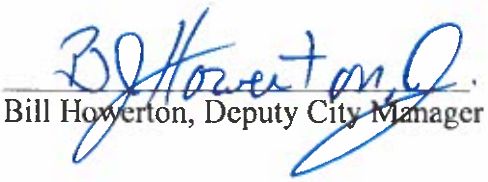
Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:



Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES No objection – Texas Dept Housing & Comm Affairs – housing credit app Hillcrest Manor 3.18.25

Information

Agenda Item

Resolution - Human Resources: Consider a resolution authorizing the Mayor to execute the Plan Document for the existing Health Reimbursement Arrangement, for the purpose of allowing retirees to obtain reimbursement of eligible medical expenses incurred by the retiree and their family members.

Item Summary

Compared to the 2018 Health Reimbursement Arrangement Plan Document, the 2025 Plan Document has been updated to remove reference to a specific third-party administrator. It defines "Provider," which had not been defined in the 2018 Plan Document.

The Plan is intended to qualify as a Health Reimbursement Arrangement (HRA), as that term is defined under IRS Notice 2002-45, and a medical reimbursement plan under Sections 105 and 106 of the Internal Revenue Code of 1986, as amended. The Plan will be interpreted at all times in a manner consistent with such intent. The Plan will reimburse Participants for, or pay on a Participant's behalf, Health Care Expenses, up to the balance in the Participant's HRA Account.

Participants are City of Lubbock retirees who have reached age 65 and are no longer eligible to participate in the City's retiree medical benefits program. The City allocates a monthly stipend of $150.00 to each Participant's Health Reimbursement Arrangement account. A Participant will be entitled to reimbursement/payment under this Plan, only for Health Care Expenses incurred after he or she becomes a Participant in the Plan and before his or her Participation has ceased. In no event will any benefits under this Plan be provided in the form of cash or any other taxable or nontaxable benefit, other than reimbursement/payment for Health Care Expenses.

Fiscal Impact

None

Staff/Board Recommending

Bill Howerton, Deputy City Manager
Elizabeth Lara, Director of Human Resources

Attachments

Resolution - Plan Document for Health Reimbursement Arrangement
Plan Document for Health Reimbursement Arrangement

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 Health Reimbursement Arrangement Plan, and related documents. Said Health Reimbursement Arrangement Plan 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:

_____
Elizabeth Lara, Director of Human Resources

APPROVED AS TO FORM:

_____
Mitchell Satterwhite, First Assistant City Attorney

HEALTH REIMBURSEMENT ARRANGEMENT (HRA)

PLAN DOCUMENT

City of Lubbock, Texas

January 1, 2025

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HEALTH REIMBURSEMENT ARRANGEMENT

INTRODUCTION

The City of Lubbock, Texas hereby adopts this Health Reimbursement Arrangement (the "Plan") for the purpose of allowing certain former employees to obtain reimbursement of eligible medical expenses incurred by such former employees and their family members. The City of Lubbock intends the Plan to qualify as a Health Reimbursement arrangement as that term is defined under IRS Notice 2002-45 and a medical reimbursement plan under Sections 105 and 106 of the Internal Revenue Code of 1986, as amended, and the Plan will be interpreted at all times in a manner consistent with such intent.

ARTICLE I – ADOPTION AGREEMENT

1.1. Name of Plan

City of Lubbock Health Reimbursement Plan

1.2. Plan Sponsor

City of Lubbock
Human Resources Director
1314 Avenue K, 6th Floor
Lubbock, TX 79401
Telephone Number: (806) 775-2303
Tax Identification Number: 75-6000590

1.3. Insurance Committee

The Insurance Committee
City of Lubbock
1314 Avenue K, 6th Floor
Lubbock, TX 79401
Telephone Number: (806) 775-2303

1.4. Effective Date

January 1, 2018

1.5. Eligible Retiree

A retiree who is Medicare eligible and enrolled in Medicare Part A and Part B, who is eligible for a City medical subsidy, and was enrolled in the City's medical plan immediately prior to retirement and making an irrevocable decision regarding the continuation of City of Lubbock sponsored Benefits.

1.6. Benefit Credit

i. A Subsidy in an amount equal to $150.00 shall be credited on behalf of each Participant who is an Eligible Retiree.

ii. A Subsidy in an amount equal to $150.00 shall be credited on behalf of each Participant who is an Eligible Spouse or Surviving Spouse of an Eligible Retiree.

1.7. Account

One HRA Account will be established per Participant.

1.8. Timing of Credit

Benefit Credit specified in Section 1.6 will be credited to HRA Accounts on the first day of each calendar month.

1.9. Carryover of Accounts

Credits remaining in an HRA Account (after the expiration of the claims run-out period) at the end of a Plan Year shall be carried over to the following Plan Year to reimburse Participants for Health Care Expenses incurred during subsequent Plan Years.

1.10. Death

Surviving Spouse of retiree will continue to receive the credit until his/her death.

ARTICLE II – DEFINITION OF TERMS

2.1. Definitions

Whenever used in this Plan, the following terms shall have the meanings set forth below.

i. "HRA Account" means the account established for a Participant to hold his or her Benefit Credits.

ii. Benefit Credit" means the amount credited to a Participant's HRA Account for the provision of benefits under the Plan.

iii. "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

iv. "Code" means the Internal Revenue Code of 1986, as amended.

v. "City" means the City of Lubbock.

vi. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

vii. "Health Care Expense" means an expense incurred by a Participant or by a Participant's Spouse for medical care as defined in Code Section 213(d) and the rules, regulations and Internal Revenue Service interpretations, including premiums for health care insurance coverage, or other eligible expenses approved by the City. Health Care Expenses shall not include expenses reimbursed or reimbursable under any private, employer-provided, or public health care reimbursement or insurance arrangement or any amount claimed as a deduction on the federal income tax return of the Participant or the Participant's Spouse Health Care Expenses are incurred when the medical care is provided, not when the Participant is formally billed, charged for, or pays the expenses.

viii. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.

ix. "Participant" a person who participates in this Plan as specified under Section 3.1.

x. "Plan" means this plan, The City of Lubbock Health Reimbursement Plan named in Section 1.1 and set forth herein, as may be amended.

xi. "Plan Year" means, with respect to the initial Plan Year, the period from the Effective Date through the next following December 31. Thereafter, "Plan Year" means the twelve (12)-month period commencing on each January 1.

xii. "PHI" means protected health information as described in 45 C.F.R § 164.103, and generally includes individually identifiable health information held by or on behalf of the Plan.

xiii. "Provider" means a person or entity that provides medical care or treatment.

xiv. "Spouse" means the husband or wife of an Eligible Retiree from the City.

xv. "Third Party Administrator" means the entity contracted by the City to administer the Plan, including any subcontractors or successors as designated by the City.

ARTICLE III – PARTICIPATION

3.1. Agreement to Participate

To participate, an Eligible Retired (or Eligible Retiree's Spouse, as the case may be) must have:

i. become eligible for coverage under Subchapter XVIII of Chapter 7 of Title 42 of the United States Code (Medicare); and

ii. timely and fully completed enrollment forms made available by the City for that purpose.

3.2. Cessation of Participation

An Eligible Retiree shall cease to be a Participant on the earliest of the following to apply to the Eligible Retiree, and an Eligible Retiree's Spouse shall cease to be a Participant on the earliest of the following to apply to the Spouse:

i. Death;

ii. As to the Spouse, termination of the marriage;

iii. With respect to an Eligible Dependent, the date he or she ceases to be eligible for coverage under Subchapter XVIII of Chapter 7 of Title 42 of the United States Code (Medicare):

iv. Termination of this Plan with respect to an Eligible Dependent Spouse, the date he or she divorces the Eligible Retiree;

v. With respect to an Eligible Retiree, the date he or she is rehired as an active benefit eligible employee of the City;

vi. The effective date of any Plan amendment that renders him or her ineligible to participate;

vii. The effective date of request for opt-out by the Eligible Retiree or Eligible Dependent Spouse; or

viii. The termination of the Plan.

Reimbursement from the Participant's HRA Account after termination of participation shall be governed by Section 5.2.

ARTICLE IV – FUNDING

4.1. Funding

i. In no event may any benefits under the Plan be funded with Participant contributions.

ii. The HRA Account balance does not accrue interest at any time.

ARTICLE V – BENEFITS

5.1. Provision of Benefits

The Plan will reimburse Participants for, or pay on a Participant's behalf, Health Care Expenses, up to the balance in the Participant's HRA Account. A Participant shall be entitled to reimbursement/payment under this Plan only for Health Care Expenses incurred after he or she becomes a Participant in the Plan and before his or her participation has ceased. In no event shall any benefits under this Plan be provided in the form of cash or any other taxable or nontaxable benefit other than reimbursement/payment for Health Care Expenses.

5.2. Amount of Reimbursement

At all times during the Plan Year, a Participant shall be entitled to benefits under this Plan for payment of Health Care Expenses in an amount that does not exceed the balance of his or her HRA Account. Each reimbursement or payment made hereunder shall be a charge to such HRA Account available to pay Health Care Expenses under the Plan.

5.3. Expense Reimbursement/Payment Procedures

A. Reimbursement for Health Care Expenses shall be made in accordance with this Section 5.3.

i. **Timing:** Reimbursement shall only be permitted by written application to the Third-Party Administrator for eligible Health Care Expense incurred during Participation. The Participant may submit claims for reimbursement for Health Care Expenses incurred prior to his or her loss of eligibility, provided the Participant files such claims within one hundred eighty (180) days of such loss of eligibility.

Claims Substantiation: The Insurance Committee shall require the Participant to furnish a bill, receipt, cancelled check, or other written evidence or certification of payment or of obligation to pay Health Care Expenses. The Insurance Committee reserves the right to verify to its satisfaction all claimed Health Care Expenses prior to reimbursement. Unless otherwise permitted by the Third-Party Administrator, each request for reimbursement shall include the following information:

a. The amount of the Health Care Expense for which reimbursement is

requested;

b. The date the Health Care Expense was incurred;

c. A brief description and the purpose of the Health Care Expense;

d. The name of the person for whom the Health Care Expense was incurred and, if such person is not the Participant requesting reimbursement, the relationship of the person to such Participant;

e. The name of the person, organization or other provider to whom the Health Care Expense was or is to be paid;

f. A statement that the Participant has not been and will not be reimbursed for the Health Care Expense by insurance or otherwise, and has not been allowed a deduction in a prior year (and will not claim a tax deduction) for such Health Care Expense under Code Section 213; AND

g. A written bill from an independent third party stating that the Health Care Expense has been incurred and the amount of such expense and, at the discretion of the Insurance Committee, a receipt showing payment has been made.

Expenses eligible for coverage under any medical, HMO, prescription, dental, or vision care plans in which the Participant is enrolled must be submitted first to all appropriate claims administrators for such plans before submitting the expenses to the Provider for reimbursement under the Plan. A Participant who is entitled to payment or reimbursement under a health care reimbursement account in a cafeteria plan under Code Section 125 must receive his or her maximum annual reimbursement under the health care reimbursement account in the cafeteria plan before he or she is entitled to any reimbursement under this Plan.

ii. **Decision by Insurance Committee:** The Third-Party Administrator shall review such claim and respond within thirty (30) days after receiving the claim. If the Third-Party Administrator determines that an extension is necessary due to matters beyond the control of the Plan, the Provider will notify the claimant within the initial thirty (30)-day period that the Provider needs up to an additional fifteen (15) days to review the claim. If such an extension is necessary because the claimant failed to provide the information necessary to evaluate the claim, the notice of extension will describe the information that the claimant will need to provide to the Provider. The claimant will have no less than forty-five (45) days from the date he or she receives the notice to provide the requested information. The Provider shall provide to every claimant who is denied a claim for benefits (in whole or in part) written or electronic notice setting forth in a manner calculated to be understood by the claimant:

a. The specific reason or reasons for the denial;

b. Specific reference to pertinent plan provisions on which denial is based;

c. A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary;

d. A copy of any internal rule, guideline, protocol, or other similar criterion relied upon in making the initial determination or a statement that such a rule, guideline, protocol, or other criterion was relied upon in making the appeal determination and that a copy of such rule will be provided to claimant free of charge upon request; and

e. A description of the Plan's appeal procedures.

iii. **Rights to Appeal:** Claims that are partially or wholly denied may be appealed to the Insurance Committee as provided in Section 6.4.

B. Direct payment to providers for Health Care Expenses shall be made in accordance with this Section 5.3.

i. Payment for certain eligible expenses for, or related to, goods and/or services received directly by the Participant from an approved Provider may be paid electronically from a Participant's HRA Account through the use of a debit type card issued to the Participant by the Third-Party Administrator. Payment shall be made in accordance with agreement(s) between the City and the Third-Party Administrator, and may be subject to review.

ii. Lost or stolen cards should be immediately reported to the Third-Party Administrator. Third-Party Administrator may charge a nominal fee to Participant for a replacement card(s).

iii. City nor Third-Party Administrator assume liability for transactions not approved due to insufficient funds in the Participant's HRA Account.

iv. Rights to Appeal. Payments that are partially or wholly denied may be appealed to the Insurance Committee as provided in Section 6.4.

5.4. Carryover of Accounts

To the extent a Participant has a balance in his or her HRA Account at the end of a Plan Year, the balance shall be carried over to following Plan Years to the extent elected by the Plan Sponsor in Section 1.9.

5.5. Death

In the event the Plan Sponsor elects a combined account structure in Section 1.7, and the Eligible Retiree dies without a spouse who is a Participant, his or her HRA Account shall be forfeited; provided, however, that his or her estate or representatives may submit claims for Health Care Expenses incurred by the Eligible Retiree prior to the Eligible Retiree's death, as long as such claims are submitted no later than one- hundred eighty (180) days after the Eligible Retiree's death.

5.6. ERISA Legal Provisions

i. The Plan may not restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than forty-eight (48) hours following a normal vaginal delivery, or less than ninety-six (96) hours following a cesarean section, or require that a provider obtain authorization from the Plan or the insurance issuer for prescribing a length of stay not in excess of the above periods.

ii. To the extent the Plan provides benefits with respect to mastectomy, it will provide, in the case of an individual who is receiving benefits in connection with a mastectomy and who elects reconstruction in connection with such mastectomy, coverage for all stages of reconstruction of the breast on which a mastectomy was performed, surgery and reconstruction of the other breast to provide a symmetrical appearance, prostheses, and coverage of physical complications at all stages of the mastectomy, including lymphedemas.

ARTICLE VI – ADMINISTRATION

6.1. Insurance Committee

The Insurance Committee is responsible for the performance of all reporting and disclosure obligations required to be performed by the Insurance Committee under the Code. The Insurance Committee shall be the designated agent for service of legal process with respect to the Plan.

6.2. Duties of the Insurance Committee

The Insurance Committee shall have the sole discretion and authority to control and manage the operation and administration of the Plan.

i. The Insurance Committee shall have complete discretion to interpret the provisions of the Plan, make findings of fact, correct errors, supply omissions, and determine the benefits payable under this Plan. All decisions and interpretations of the Insurance Committee made in good faith pursuant to the Plan shall be final, conclusive and binding on all persons, subject only to the claims procedure, and may not be overturned unless found by a court to be arbitrary and capricious.

ii. The Insurance Committee shall have all other powers necessary or desirable to administer the Plan, including, but not limited to, the following:

   a. To prescribe procedures to be followed by Participants in making elections under the Plan and in filing claims under the Plan;

   b. To prepare and distribute information explaining the Plan to Participants;

   c. To receive from Participants such information as shall be necessary for the proper administration of the Plan;

   d. To keep records of elections, claims, and disbursements for claims under the Plan, and any other information as appropriate;

   e. To appoint individuals or committees to assist in the administration of the Plan and to engage any other agents, including a Third-Party Administrator as he/she deems advisable;

   f. To accept, modify or reject Participant elections under the Plan;

   g. To promulgate election forms and claims forms to be used by Participants, which may be electronic in nature;

   h. To correct errors and make equitable adjustments for mistakes made in

the administration of the Plan, specifically, and without limitation, to recover erroneous overpayments made by the Plan to a Participant or Dependent, in whatever manner the Insurance Committee deems appropriate, including suspensions or recoupment of, or offsets against, future payments due that Participant or Dependent.

6.3. Allocation and Delegation of Duties

The Insurance Committee shall not be liable for any acts or omissions of such employee, officer, member, or to any others to whom duties have been delegated.

6.4. Claims Procedure

i. Within one hundred and eighty (180) days of receipt by a claimant of a notice under Section 5.3 denying a claim in whole or in part, the claimant or his or her duly authorized representative may request in writing a full and fair review of the claim by the Insurance Committee. In connection with such review, the claimant or his or her duly authorized representative may, upon request and free of charge, have reasonable access to, and copies of, all documents, records and other information relevant to the claim for benefits, and may submit issues and comments in writing. The insurance Committee shall decide promptly, but not later than sixty (60) days after the receipt of a request for review. The decision on review shall be in writing, in a manner calculated to be understood by the claimant, and shall include:

   a. Specific reasons for the decision;

   b. Specific references to the pertinent plan provisions on which the decision is based;

   c. A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim for benefits:

   d. A copy of any internal rule, guideline, protocol, or other similar criterion relied upon in making the initial determination or a statement that such a rule, guideline, protocol, or other criterion was relied upon in making the appeal determination and that a copy of such rule will be provided to claimant free of charge upon request; and

ii. The decision of the Insurance Committee shall be final and conclusive on all persons claiming benefits under the Plan, subject to applicable law. If claimant challenges the decision of the Insurance Committee within one year after the date of the decision, a review by a court of law will be limited to the facts, evidence and issues presented during the claims procedure set forth above. The appeal process described herein must be exhausted before a claimant can pursue the claim in a court of competent jurisdiction. Facts and evidence that become known after having exhausted the appeals procedure may be submitted for reconsideration of the appeal in accordance with the time limits established above. Issues not raised during the appeal will be deemed waived.

6.5. Nondiscriminatory Operation

All rules, decisions, interpretations and designations by the Insurance Committee under the Plan shall be made in a nondiscriminatory manner, and persons similarly situated shall be treated alike.

ARTICLE VII – HIPPA

7.1. Purpose

This Article permits the Plan to disclose PHI to the Plan Sponsor to the extent that such PHI is necessary for the Plan Sponsor to carry out its administrative functions related to the Plan. This Article reflects the requirements set forth in 45 C.F.R. § 164.504(f) of HIPAA and the related regulations promulgated by the U.S. Department of Health and Human Services. Any term used in this Article VII shall have the meaning set forth in HIPAA and guidance issued thereunder.

7.2. HIPAA Privacy Compliance

i. **Disclosures to Plan Sponsor:** In accordance with HIPAA, the Plan may disclose summary health information to the Plan Sponsor as requested by the Plan Sponsor to allow it to modify, amend or terminate the Plan, or obtain premium bids from insurers to provide health insurance coverage under the Plan. The Plan may disclose to the Plan Sponsor information on whether an individual is participating or enrolled in the Plan. In addition, the Plan may disclose protected health information to the Plan Sponsor as necessary to allow the Plan Sponsor to perform plan administration functions, as used within the meaning of the HIPAA privacy regulations, including the following functions:

   a. Collection of individual premiums or contributions;

   b. Conducting quality assessment and improvement activities, population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives, and related functions;

   c. Reviewing health plan performance;

   d. Activities relating to obtaining or renewing health insurance or determining premium pricing for such benefits, or placing a contract for reinsurance of risk relating to such claims;

   e. Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

   f. Business planning and development of the Plan, such as conducting cost-management and planning-related analyses, including formulary development and administration, development or improvement of methods of payment or coverage policies;

   g. Business management and general administrative activities of the Plan;

   h. Determination of eligibility or coverage (including coordination of

benefits or the determination of cost sharing amounts), and adjudication or subrogation of benefit claims;

i. Billing, claims management, collection activities, obtaining payment under a stop-loss contract, and related health care data processing;

j. Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care or justification of charges;

k. Utilization review activities;

l. Disclosure to consumer reporting agencies of any of the following protected health information relating to collection of premiums or reimbursement:

- Name and address;
- Date of birth;
- Social security number;
- Payment history;
- Account number;
- Name and address of the health care provider and/or health plan; and

m. Risk adjusting amounts due to enrollee health status and demographic characteristics.

ii. **Access to Medical Information:** The following employees or individuals under the control of the Plan Sponsor shall have access to the Plan's protected health information to be used solely for the purposes described above:

a. Insurance Committee; and

b. Such other classes of individuals identified by the Plan's Privacy Officer as necessary for the Plan's administration.

iii. **Insurance Committee and Privacy Officer Agreement to Restrictions:** The Plan will not disclose protected health information to the Insurance Committee and Privacy Officer until the Plan Sponsor has certified to the Plan that it agrees to:

a. Not use or disclose protected health information other than as permitted or required by law or as specified above;

b. Not use or disclose the protected health information in any employment-related decisions or in connection with any other benefit or employee benefit plan;

c. Report to the Plan any use or disclosure of protected health information that is inconsistent with the uses and disclosures permitted by law or specified above of which City becomes aware;

d. Make protected health information accessible to the subject individual in accordance with 45 CFR § 164.524;

e. Allow the subject individuals to amend or correct their protected health information in accordance with 45 CFR § 164.526;

f. Make available the information to provide an accounting of its disclosures of protected health information in accordance with 45 CFR § 164.528;

g. Make its internal practices, books and records available to the Secretary of Health and Human Services for determining compliance;

h. Return or destroy the protected health information received, if feasible, after it is no longer needed for the original purpose and retain no copies of such information or if not feasible, restrict access and uses as required by 45 CFR § 164.504(f)(2)(ii)(I);

i. Ensure that any agents, including a subcontractor, of the Plan Sponsor to whom the Plan Sponsor provides protected health information shall also agree to these same restrictions;

j. Restrict access to protected health information to those classes of employees or individuals identified above; and

k. Restrict the use of protected health information by those employees identified above for plan administration functions within the meaning at 45 CFR § 164.504(a).

iv. **Noncompliance Resolution:** If there is noncompliance with the above restrictions by a designated employee or other individual receiving protected health information on behalf of the Plan Sponsor, the employee or other individual shall be subject to appropriate discipline in accordance with the City's disciplinary procedures. Complaints or issues of noncompliance by such persons shall be filed with the Plan's Privacy Official.

7.3. HIPAA Security Compliance

i. **Insurance Committee Obligations:** The Insurance Committee shall do the following:

a. Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Plan;

b. Ensure that the adequate separation required by 45 CFR § 164.504(f)(2)(iii) is supported by reasonable and appropriate security measures;

c. Ensure that any agent, including a subcontractor, to whom it provides electronic PHI agrees to implement reasonable and appropriate security measures to protect the information;

d. Report to the Plan any security incident of which it becomes aware;

e. Make the Plan Sponsor's internal practices, books, and records relating to security of electronic PHI received from the Plan available to the Secretary of Health and Human Services (or any other officer or employee or the U.S. Department of Health and Human Services to whom the authority involved has been delegated) for purposes of determining compliance by the Plan with the HIPAA security standards.

Exclusions: The provisions of (a) apply to all disclosures of electronic PHI by the Plan to the Insurance Committee except:

a. Disclosures of summary health information to the Plan Sponsor as reasonably requested by the Plan Sponsor to allow it to modify, amend or terminate the Plan, or to obtain premium bids from insurers to provide health insurance coverage under the Plan;

b. Disclosures of information on whether an individual is participating or enrolled in the Plan; and Disclosures of information authorized by an individual in accordance with 45 CFR §l 64.508.

ARTICLE VIII – GENERAL PROVISIONS

8.1. Amendment and Termination

Although the City intends to maintain the Plan for an indefinite period, the City reserves the right to amend, modify, or terminate this Plan at any time, including but not limited to the right to modify eligibility for participation, benefits paid by the Plan, and the right to reduce or eliminate existing HRA Accounts. Notwithstanding anything to the contrary contained in this Section 8.1 or elsewhere in the Plan, the Insurance Committee shall have the authority to approve all technical, administrative, regulatory and compliance amendments to the Plan, and any other amendments that will not increase the cost of the Plan to the City, as the Insurance Committee shall deem necessary or appropriate.

8.2. City Liability

Benefits under the Plan are paid by the City out of their general assets. Specifically, and notwithstanding anything herein to the contrary, the City who employs the Participant as of the date of the Participant's qualifying retirement shall be solely responsible for the payment of benefits to such Participant and his or her family members under this Plan. The City shall have no liability with respect to the payment of any benefits hereunder to any Participant last employed by any other Company prior to eligibility under the Plan or his or her family members.

8.3. QMCSO

In the event the Insurance Committee receives a medical child support order (within the meaning of ERISA Section 609(a)(2)(B)), the Insurance Committee shall notify the affected Participant and any alternate recipient identified in the order of the receipt of the order and the Plan's procedures for determining whether such an order is a qualified medical child support order (within the meaning of ERISA Section 609(a)(2)(A)).

Within a reasonable period, the Insurance Committee shall determine whether the order is a qualified medical child support order and shall notify the Participant and alternate recipient of such determination.

8.4. Facility of Payment

If the Insurance Committee deems any person incapable of receiving benefits to which he or she is entitled by reason of minority, illness, infirmity, or other incapacity, it may direct that payment be made directly for the benefit of such person or to any person selected by the Insurance Committee to disburse it. Such payments shall, to the extent thereof, discharge all liability of the Insurance Committee, Plan Sponsor and the City.

8.5. Lost Distributees

Any benefit shall be deemed forfeited if, after reasonable efforts, the Insurance Committee is unable to locate the Participant to whom payment is due.

8.6. Status of Benefits

Neither the City nor the Insurance Committee makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under this Plan will be excludable from the Participant's gross income for federal, state, or local income tax purposes. It shall be the obligation of each Participant to determine whether each payment under this Plan is excludable from the Participant's gross income for federal, state, and local income tax purposes and to notify the Insurance Committee or City if the Participant has any reason to believe that such payment is not so excludable. Any Participant, by accepting a benefit under this Plan, agrees to be liable for any tax that may be imposed with respect to those benefits, plus any interest as may be imposed.

8.7. Applicable Law

The Plan shall be construed and enforced according to the laws of the State of Texas, to the extent not preempted by and Federal law.

8.8. Capitalized Terms

Capitalized terms shall have the meaning set forth in Article II.

8.9. Severability

If any provision of this Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision, and this Plan shall be construed and enforced as if such provision had not been included.

IN WITNESS WHEREOF, we have executed this Plan Document the date and year first written above.

City of Lubbock

BY: _____

TITLE: Mark McBrayor, Mayor

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Elizabeth Lara, Director of Human Resources

APPROVED AS TO CONTENT:

Mitchell Satterwhite, First Assistant City Attorney

Information

Agenda Item

Resolution - Parks and Recreation: Consider a resolution authorizing the Mayor to execute Professional Services Agreement, Contract 18678, with Parkhill, to provide Engineering and Design Services for a new pump station and irrigation system at the Lubbock Cemetery.

Item Summary

The City of Lubbock Parks and Recreation Department recommends entering into a professional services agreement with Parkhill for the design and engineering of a new pump station and irrigation system at the Lubbock Cemetery. This agreement will span 24 months and include project and construction administration services.

The need for this project stems from the poor condition of the current irrigation. Aging infrastructure can, and has, led to inefficiencies, increased maintenance costs, and potential failures that could compromise the cemetery's appearance and functionality.

Staff recommends execution of this professional service agreement based upon fair and reasonable fees agreed to, for a total not to exceed amount of $285,000, and a contract time of 24 months.

Fiscal Impact

Contract 18678 in the amount of $285,000, is funded in Capital Improvements Project 92889, Cemetery Irrigation System.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager
Colby VanGundy, Director of Parks and Recreation

Attachments

Resolution
Contract
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, a Professional Services Agreement, Contract No. 18678, for Design and Engineering Services for a Pump Station and Irrigation System at the City of Lubbock Cemetery, by and between the City of Lubbock and Parkhill, 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:

_____
Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:

_____
Rachael Foster, Assistant City Attorney

ccdocsII/RES.PSA-No. 18678 Parkhill-Cemetery Pump Station and Irrigation
3.4.25

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 18678 is entered into this ___ day of _____, 2025, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Parkhill, (the" Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for the architectural design and engineering of a pump station and irrigation system at the City of Lubbock Cemetery, (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 twenty four (24) 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 $285,000.00, as set forth in Exhibit "A".

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

The City reserves the right to exercise any right or remedy available to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this Agreement, this provision shall control.

ARTICLE V. 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:

Parkhill

Brent Clifford, Principal
4222 85th street
Lubbock, TX 79423
Telephone: 806-559-1757
Email: bclifford@parkhill.com

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

Colby VanGundy
City of Lubbock
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 806-775-2671
Email: cvangundy@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 Exhibit "A" 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

Mark McBrayer, Mayor

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Colby VanGundy, Director of Parks and Recreation

Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:

Rachael Foster, City Attorney

Firm

Parkhill

By: Brent Clifford, Principal

Email: bclifford@parkhill.com

Exhibit A

AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Thirteenth day of March in the year Two Thousand Twenty-Five
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Lubbock
1314 Avenue K
Lubbock, Texas 79401
806.775.3000 Phone

and the Architect:
(Name, legal status, address and other information)

Parkhill
4222 85th Street
Lubbock, Texas 79423
806.473.2200 Phone
806.473.3500 Fax

for the following Project:
(Name, location and detailed description)

Lubbock Cemetery Irrigation and Pump Station
2011 E 31st Street
Lubbock, Texas 79404

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Provide design, specifications and construction administration of components for the proposed cemetery pump station, including the metal building/foundation, pump, motor, filter, skid, concrete wet well, valve/piping layout, headwall, pump station inlet and all appurtenances including the full design of a permanent automated irrigation system for approximately 30 acres within the Cemetery Site.

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The project site is approximately 132-acre Cemetery owned by the City of Lubbock. The site slopes from Teak Ave on its west to Canyon Lake Drive on its east. Pyco Industries, Inc train tracks run the entire length of the property on the South side. Residential homes border the property to the North.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

Approximately $2,000,000.00.

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§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Unknown

.2 Construction commencement date:

Unknown

.3 Substantial Completion date or dates:

Unknown

.4 Other milestone dates:

None

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Competitive Sealed Proposal.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

None.

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Colby VanGundy
Director of Parks and Recreation
1314 Ave K , 3rd Floor
Lubbock, Texas 79401
806.775.2673 Phone

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

None.

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

(Paragraphs deleted)

.1 Other, if any:

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(List any other consultants and contractors retained by the Owner.)

None.

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

Brent Clifford, PLA
4222 85th Street
Lubbock, Texas 79423
806.473.2200 Phone

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Environmental and Permitting:
Integrated Environmental Solutions
Kevin Stone
972.562.7672 Phone

*(Paragraphs deleted)*kstone@intenvsol.com

§ 1.1.11.2 Consultants retained under Supplemental Services:

None.

(Paragraphs deleted)
§ 1.1.13 Other Initial Information on which the Agreement is based:

None.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change, and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.3.1 DELETED

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

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§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the insurance listed in Exhibit A. If the Owner requires any other insurance types, coverage or limits from those, the Owner shall pay the Architect as set forth in Section 11.9.
§ 2.5.1 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.2 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

(Paragraphs deleted)

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services.

Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.
§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. Governmental authorities may issue and/or revised interpretations of applicable codes, statues and ordinances and other applicable governmental agency requirements during the term of this agreement. The timing of which are beyond the control of the Architect and which may cause Owner to incur additional unforeseen project costs and/or delays. Architect shall be not responsible for such unforeseen costs and/or delays.

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§ 3.2 Not Used

(Paragraphs deleted)

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the Opinion of Probable Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the Opinion of Probable Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project that are in effect at time of completion of the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in determining procurement information that describes the time, place, and conditions of receiving bids or proposals. The Architect shall also compile a Project Manual that includes the Owner's Conditions of the Contract for Construction, the Owner's form of agreement between the Owner and Contractor and Specifications and may include bidding or proposal requirements and sample forms. The Architect shall coordinate any Owner provided construction, procurement, and contractual requirements (usually referred to as "front-end" documents) for inclusion into the Project Manual.

§ 3.4.4 The Architect shall update the Opinion of Probable Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the Opinion of Probable Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) negotiated proposals; (2) confirming responsiveness of proposals; (3) determining the successful proposal.

§ 3.5.2 DELETED

(Paragraphs deleted)

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

(Paragraphs deleted)

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.1 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda.

§ 3.5.3.3 If the Proposal Documents permit substitutions, the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. Work as used herein shall mean those elements of the Project within Architect's scope of service. However, the Architect shall not be required to make exhaustive or continuous on-site observations to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect will recommend to the Owner to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will recommend to the Owner to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither a recommendation of the Architect nor a decision made in good faith either to exercise or not to exercise such recommendation shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, or shall not be liable for results of interpretations rendered in good faith. The Architect's interpretations on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

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§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial interpretations on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site observations to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold review of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect shall not be required to review submittals that are not requested by the Contract Documents.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If

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appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.5.3 The Owner recognizes and expects that certain Change Orders may be required to be issued as the result, in whole or in part, of the imprecision, incompleteness, errors, omissions, ambiguities, or inconsistencies in the Contract Documents or in other services performed by Architect under this Agreement.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

.1 conduct site observations to determine the date or dates of Substantial Completion and the date of final completion;

.2 issue Certificates of Substantial Completion;

.3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,

.4 issue a final Certificate for Payment based upon a final observation indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's observations shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service.

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Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility *(Architect, Owner, or not provided)*
§ 4.1.1.1 Programming	Owner
§ 4.1.1.2 Multiple preliminary designs	Not Provided
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Basic Services
§ 4.1.1.9 Landscape design	Basic Services
§ 4.1.1.10 Architectural interior design	Not Provided
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Basic Services
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.21 Telecommunications/data design	Not Provided
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Land Survey	Basic Services
§ 4.1.1.31 Geotechnical Engineering	Not Provided
§ 4.1.1.32 Hazardous Materials	Not Provided
§ 4.1.1.33 Building Acoustical Design	Not Provided
§ 4.1.1.34 Food Service Equipment and Kitchen Design	Not Provided
§ 4.1.1.35 Input of Existing Facilities for Building Information Model	Not Provided
§ 4.1.1.36 Presentation Materials, Renderings and Animation	Not Provided

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Supplemental Services	Responsibility *(Architect, Owner, or not provided)*
§ 4.1.1.37 Public Address Systems, Sound Reinforcement System, Video Systems, Theatrical Lighting	Not Provided
§ 4.1.1.38 Site Entitlement Services	Not Provided
§ 4.1.1.39 Site Feasibility Study	Not Provided
§ 4.1.1.40 Other Supplemental Services	Not Provided

(Row deleted)

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 in the table below.)

None.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

None.

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- **.1** Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- **.2** Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- **.3** Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- **.4** Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- **.5** Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- **.6** Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- **.7** Preparation for, and attendance at, a public presentation, meeting or hearing;
- **.8** Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- **.9** Evaluation of the qualifications of entities providing bids or proposals;

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.10 Failure of the Contractor to perform his work in accordance with his initial time schedule (with adjustments due to weather delays) which causes the Architect to provide Contract Administration Services beyond the initial time schedule prepared by the Contractor;

.11 Failure of the Contractor to complete or correct the Work on the list of items attached to the Certificate of Substantial Completion within the Time indicated on the Certificate of Substantial Completion, causing the Architect to extend his service beyond such Time;

.12 Project phasing during the construction period which causes an extended construction time schedule that was not known at the time the Agreement was negotiated;

.13 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,

.14 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

.1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;

.2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;

.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,

.5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or

.6 Additional site visits and review made necessary by the fault of the Contractor, or by defects and deficiencies in the Work.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

.1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

.2 Twenty (20) visits to the site by the Architect during construction.

.3 Two (2) site observations for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

.4 Two (2) site observations for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within Twenty-Four (24) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

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§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 DELETED

§ 5.5 DELETED

§ 5.6 DELETED

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional or Supplemental Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner and Architect must agree to the reasonableness of these services. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents including Special Instructions and Inspections mandated by building codes, such as structural, mechanical, and chemical tests, tests for air and water pollution, tests for hazardous materials and flood elevation certificates required for building permits.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of, observes or otherwise acquires knowledge of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. However, Owner shall have no obligation or duty to investigate whether such faults or defects exist.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

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§5.16 The Owner shall provide to the Architect any Owner required (1) procurement information and forms; (2) form of agreement between the Owner and Contractor; (3) Conditions of the Contract for Construction (General, Supplementary, and other Conditions); (4) sample forms; and (5) contractual, procurement and construction requirements (usually referred to as "front end" documents) for inclusion into the Project Manual.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, surveys, geotechnical reports, construction material testing, mechanical testing and balancing, financing, or unused contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary Opinion of Probable Cost of the Work and updated Opinion of Probable. Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any Opinion of Probable Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing the Opinion of Probable Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the Opinion of Probable Cost of the Work to meet the Owner's budget. The Architect's Opinion of Probable Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's Opinion of Probable Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- **.1** give written approval of an increase in the budget for the Cost of the Work;
- **.2** authorize rebidding or renegotiating of the Project within a reasonable time;
- **.3** terminate in accordance with Section 9.5;
- **.4** in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- **.5** implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the

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Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, occupying, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

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§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, using a mutually agreed upon mediator. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. Mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be
(Paragraphs deleted)
litigation in a court of competent jurisdiction
(Paragraphs deleted)

§ 8.3 DELETED

(Paragraphs deleted)

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

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§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination and Reimbursable Expenses incurred prior to termination.

§ 9.7
(Paragraphs deleted)
Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7.

(Paragraph deleted)

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. In the event the Architect, the Architect's consultants, or any other party encounters any hazardous toxic materials, or should it become known to the Architect that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the Architect's services, the Architect may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the Owner retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations. The Owner agrees, notwithstanding any other provisions of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Architect, its officers, partners, employees and consultants (collectively, Architect) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract of warranty, tort including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of the Architect.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's

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confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.10 The Owner and the Architect understand, acknowledge and agree that the Architect shall be acting as in independent contractor at all times during the performance of this Agreement and no provisions or obligation expressed or implied in this Agreement shall create an employment, agency, or fiduciary relationship.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Paragraphs deleted)

Lump Sum of Two Hundred Eighty Five Thousand Dollars with Zero Cents ($285,000.00).

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Not Applicable.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Hourly per Exhibit "Parkhill Hourly Rate Schedule" attached hereto.

§ 11.4

(Paragraphs deleted)

DELETED

§ 11.5 When compensation for Basic Services is based on a lump sum, the proportion of compensation for each phase of services shall be as follows:

(Row deleted)

Design Development Phase	Thirty	percent (	30	%)
Construction Documents Phase	Fourty	percent (	40	%)
Procurement Phase	Ten	percent (	10	%)
Construction Phase	Twenty	percent (	20	%)

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User Notes: (1433744496)

Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 DELETED

§ 11.6.1 DELETED.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See attached Exhibit
(Table deleted)
§ 11.8 Not Used

(Paragraphs deleted)
§ 11.8.2 Not Used

§ 11.9 Architect's Insurance. If the Owner requires additional types and limits of insurance coverage provided by Exhibit A in Section 2.5 the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the Owner's requirements, and for which the Owner shall reimburse the Architect.)

None

§ 11.10 Payments to the Architect
§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero dollars ($ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 DELETED

§ 11.10.2 Progress Payments

§ 11.10.2.1
(Paragraphs deleted)
Payments are due and payable pursuant to Texas Prompt Payment Act, Texas Government Code, 2251.

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Not Used

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)
§12.1.1 Accessibility – Texas Accessibility Standard (TAS)
The Owner acknowledges that the requirements of the Americans with Disabilities Act (ADA), Texas Accessibility Standards (TAS) for projects in the State of Texas, and other federal, state and local accessibility laws, rules, codes, ordinances, and regulations will be subject to various and possibly contradictory interpretations. The Owner further acknowledges that the ADA is a Civil Rights law and not a building code, and does not have prescriptive language. The Architect, therefore, will use its reasonable professional efforts and judgment to interpret applicable accessibility requirements in effect as of the date of the execution of this Agreement, and as they apply to the Project. The Architect, however, cannot and does not warrant or guarantee that the Owner's Project will comply with all interpretations of the

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User Notes:
(1433744496)

accessibility requirements and/or the requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project.

§12.2.1 Delivery of Electronic Files
In accepting and utilizing any form of electronic media generated and furnished by the Architect, the Owner agrees that all such electronic files are Instruments of Service of the Architect. The Owner is aware that differences may exist between the electronic files delivered and the printed hard-copy Contract Documents. In the event of a conflict between the original signed Contract Documents prepared by the Architect and electronic files, the original signed and sealed hard-copy Contract Documents shall govern.

§12.2.2 Electronic files created by the Architect through the application of software licensed for the sole and exclusive use by the Architect will be furnished to the Owner in read-only format. The Owner is responsible to obtain and maintain software licenses as appropriate for the use of electronic files provided by the Architect.

§12.2.3 Under no circumstances shall delivery of electronic files for use by the Owner be deemed a sale by the Architect, and the Architect makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the Architect be liable for indirect or consequential damages as a result of the Owner's use or reuse of the electronic files.

§12.3 Delays
§12.3.1 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war or other emergencies; failure of any government agency to act in timely manner; failure of performance by the Owner or the Owner's contractors or consultants; or discovery of any hazardous substances or differing site conditions.

§12.3.2 In addition, if the delays resulting from any such causes increase the cost or time required by the Architect to perform its services in an orderly and efficient manner, the Architect shall be entitled to a reasonable adjustment in schedule and compensation.

§12.4 Merger: Waiver. This Agreement constitutes the entire and integrated Agreement between the parties hereto and supersedes all prior negotiations, representations and/or agreements, written or oral. One or more waiver of any term, condition or other provision of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provisions.

§12.5 Third Party Beneficiaries. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or the Architect. The Architect's services under this Agreement are being performed solely for the Owner's benefit, and no other party or entity shall have any claim against the Architect because of this Agreement or the performance or nonperformance of services hereunder. The Owner and Architect agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

§12.6 Maintenance/Wear and Tear. Both the Owner and Architect acknowledge that the Owner, and only the Owner, is responsible for maintenance, wear and tear on the project upon substantial completion. The Owner is responsible for providing routine inspections and maintenance of the project to maintain a safe and weather-tight facility. Should the Owner fail to provide routine inspections and maintenance, and damage occur to the project, the Architect is not responsible for any such resultant damage.

§12.7 Betterment. If, due to an omission by the Architect, any required item or component of the project is omitted from the Construction Documents, the Architect shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the project or otherwise add value or betterment to the project.

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ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect

.2

(Paragraphs deleted)

Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[] Building Information Modeling Exhibit, if completed:

None

[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

None

[X] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

Exhibit A – Architect's Insurance Certificates
– Parkhill Hourly Rate Schedule

. Other documents:
(List other documents, if any, forming part of the Agreement.)

This Agreement entered into as of the day and year first written above.

CITY OF LUBBOCK	**PARKHILL**
OWNER *(Signature)*	**ARCHITECT** *(Signature)*
	Brent Clifford, Principal
(Printed name and title)	*(Printed name, title, and license number, if required)*

"The Texas Board of Architectural Examiners, P.O. Box 12337, Austin, Texas 78711-2337, (512) 305-9000, has jurisdiction over complaints regarding the professional practices of persons registered as architects and landscape architects in Texas."

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 3/12/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Risk Strategies 12801 North Central Expy. Suite 1725 Dallas, TX 75243	CONTACT NAME: Joe Bryant PHONE (A/C, No, Ext): (214) 323-4602 FAX (A/C, No): (214) 503-8899 E-MAIL ADDRESS: RSCcertrequest@risk-strategies.com		
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Travelers Casualty and Surety Co of Amer		31194
INSURED Parkhill 4222 85th St. Lubbock TX 79423	INSURER B :		
	INSURER C :		
	INSURER D :		
	INSURER E :		
	INSURER F :		

COVERAGES **CERTIFICATE NUMBER:** 84328409 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ (Mandatory in NH)	N / A					E L EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E L DISEASE - EA EMPLOYEE	$
							E L DISEASE - POLICY LIMIT	$
A	Professional & Pollution Liability		✓	106653747	1/10/2025	1/10/2026	Per Claim	$2,000,000
							Annual Aggregate	$4,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Lubbock Cemetery Irrigation and Pump Station 43432.24
Waiver of subrogation applies in accordance with policy terms and conditions. The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible. Thirty (30) day notice of cancellation in favor of certificate holder on all policies.

CERTIFICATE HOLDER

City of Lubbock
1314 Ave K
Lubbock TX 79401

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Joe A. Bryant

Joe Bryant

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Parkhill
Hourly Rate Schedule
January 1, 2025 through December 31, 2025

Client: City of Lubbock

Project: Lubbock Cemetery Irrigation and Pump Station

Agreement Date:

Location: Lubbock, TX

CLASSIFICATION	HOURLY RATE
SUPPORT STAFF I	$67.00
SUPPORT STAFF II	$78.00
SUPPORT STAFF III	$108.00
SUPPORT STAFF IV	$115.00
SUPPORT STAFF V	$127.00
SUPPORT STAFF VI	$138.00
PROFESSIONAL LEVEL I	
Architect	$135.00
Civil Engineer	$147.00
Electrical Engineer	$150.00
Interior Designer	$128.00
Landscape Architect	$128.00
Mechanical Engineer	$141.00
Structural Engineer	$141.00
Survey Tech	$120.00
Other Professional	$126.00
PROFESSIONAL LEVEL II	
Architect	$146.00
Civil Engineer	$165.00
Electrical Engineer	$170.00
Interior Designer	$135.00
Landscape Architect	$135.00
Mechanical Engineer	$162.00
Structural Engineer	$160.00
Survey Tech	$130.00
Other Professional	$133.00

CLASSIFICATION	HOURLY RATE
PROFESSIONAL LEVEL III	
Architect	$166.00
Civil Engineer	$203.00
Electrical Engineer	$198.00
Interior Designer	$148.00
Landscape Architect	$160.00
Mechanical Engineer	$189.00
Structural Engineer	$196.00
Survey Tech	$152.00
Other Professional	$146.00
PROFESSIONAL LEVEL IV	
Architect	$202.00
Civil Engineer	$237.00
Electrical Engineer	$232.00
Interior Designer	$162.00
Landscape Architect	$173.00
Mechanical Engineer	$222.00
Structural Engineer	$226.00
Survey Tech	$185.00
Other Professional	$172.00
PROFESSIONAL LEVEL V	
Architect	$246.00
Civil Engineer	$281.00
Electrical Engineer	$279.00
Interior Designer	$195.00
Landscape Architect	$211.00
Mechanical Engineer	$266.00
Structural Engineer	$250.00
Professional Land Surveyor	$198.00
Other Professional	$192.00

CLASSIFICATION	HOURLY RATE
PROFESSIONAL LEVEL VI	
Architect	$259.00
Civil Engineer	$282.00
Electrical Engineer	$281.00
Interior Designer	$211.00
Landscape Architect	$226.00
Mechanical Engineer	$268.00
Structural Engineer	$252.00
Professional Land Surveyor	$202.00
Other Professional	$219.00
PROFESSIONAL LEVEL VII	
Architect	$330.00
Civil Engineer	$340.00
Electrical Engineer	$334.00
Interior Designer	$241.00
Landscape Architect	$290.00
Mechanical Engineer	$317.00
Structural Engineer	$334.00
Professional Land Surveyor	$202.00
Other Professional	$277.00

City of Lubbock, TX
Capital Project
Project Cost Detail
March 25, 2025

Capital Project Number:	92889
Capital Project Name:	Cemetery Irrigation System

Encumbered/Expended	**Budget**
	$ -
Agenda Item March 25, 2025	
Parkhill, Contract 18678	285,000
Encumbered/Expended To Date	285,000
Estimated Costs for Remaining Appropriation	
Engineering and Design	1,715,000
Remaining Appropriation	1,715,000
Total Appropriation	$ 2,000,000

CIP 92889 Cemetery Irrigation System

Upgrades/Major Maintenance

Project Manager: Ben Perry - Parks and Recreation

Project Scope

Design, procurement, and install of a new irrigation system, including a high-efficiency pump and a weather-resistant pump house, to supply water from Dunbar Lake to the City of Lubbock Cemetery. This project includes trenching, laying underground piping, obtaining necessary permits, and conducting performance testing, along with training Cemetery staff on operation and maintenance.

Project Justification

The irrigation system at the City of Lubbock Cemetery was installed in the 1970s and has been repeatedly repaired and retrofitted over the years. It is now beyond repair and no longer functions reliably. Installing a new irrigation system, including an updated pump and pump house to draw water from Dunbar Lake, is essential. This will ensure a dependable water supply and that the cemetery grounds are maintained efficiently.

Project Highlights

Council Priorities Addressed:
Community Improvement - This project will upgrade the Cemetery's infrastructure and allow for the Cemetery grounds to receive adequate water throughout the year.

Project History

- FY 2024-25 $2,000,000 was appropriated by Ord. 2024-O0128

Project Dates

Bid Date for Design: TBD
Construction Completion: TBD

Project Location

City of Lubbock Cemetery

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Construction	$2,000,000	$0	$0	$0	$0	$0	$0
TOTAL	**$2,000,000**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Project Funding

	Funding to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
General Fund Tax Notes	$2,000,000	$0	$0	$0	$0	$0	$0
TOTAL	**$2,000,000**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Operating Budget Impacts

Description	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	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 - Parks and Recreation: Consider a resolution authorizing the Mayor to execute Contract 18669, with SRH Landscapes LLC, for landscape maintenance services for the City of Lubbock facilities.

Item Summary

Staff issued a Request for Proposals (RFP) for landscape maintenance services for City Facilities, which include mowing, edging, trimming, fertilization, pesticide application, and tree maintenance.

In response to RFP 25-18669 -YB, proposals were received from eight contractors. The proposals were evaluated using the following criteria: Price - 20 points, Staffing Plan - 15 points, Equipment Inventory - 30 points, and Maintenance Guideline Plan - 35 points. The maximum point value is 100 points.

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

Contractor	Points
SRH Landscapes LLC, Lubbock, Texas	89.00
Green World Care, Inc., Dallas, Texas	74.86
Fando Landscaping and Lawncare LLC, Flower Mound, Texas	74.06
Green Plains Design, Wolfforth, Texas	73.89
Reeder Landscape, Inc., Amarillo, Texas	73.66
Eco-Blade LLC, Houston Texas	69.01
M3 Landscape Maintenance & Irrigation LLC, Midland, Texas	53.91
Powerhouse Lawn and Landscape, Wolfforth, Texas	40.66

Staff recommends awarding the contract to the highest ranked proposal, SRH Landscapes LLC of Lubbock, Texas, for an annual contract amount of $362,185.20. The contract is for a term of one year, with the option of 4, one-year extensions.

Fiscal Impact

Contract 18669 for up to $362,185.20, with SRH Landscapes LLC, is funded in the Parks and Recreation Department Operating Budget, as approved by the City Council.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager
Colby VanGundy, Director of Parks and Recreation

Attachments

Resolution

Contract

Project Summary Sheet

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract No. 18669 for Mowing Services for City of Lubbock Properties, as per RFP 25-18669-YB, by and between the City of Lubbock and SRH Landscapes LLC, 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:

_____
Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:

_____
Rachael Foster, Assistant City Attorney

sj-ccdocsII/RES.ServiceContract 18669- SRH Landscapes LLC
March 19, 2025

Contract 18669

City of Lubbock, TX
Mowing Services for
City of Lubbock Properties
Agreement

This Service Agreement (this "Agreement") is entered into as of the ___day of _____**2025** ("Effective Date") by and between SRH Landscapes LLC **(**the Contractor), and the City of Lubbock (the "City").

RECITALS

WHEREAS, the City has issued a Request for Proposals 25-18669-YB, Mowing Services for City of Lubbock Properties and

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

WHEREAS, Contractor desires to perform as an independent contractor to provide Mowing Services for City of Lubbock Properties, upon terms and conditions maintained in this Agreement; and

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

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

1. This Agreement
2. Exhibit A – General Requirements
3. Exhibit B – Price Proposal Sheet
4. Exhibit C – Insurance Requirements

Scope of Work

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

Article 1

1.1 The contract shall be for a term of one (1) year, with the option of four (4), one (1) year extensions, said date of term beginning upon formal approval. This Contract will renew automatically for the additional terms, unless either Party gives 90-day written notice to terminate the Contract. Actual usage may be more or less. Order quantities will be determined by actual need. The City of Lubbock does not guarantee any specific amount of compensation, volume, minimum, or maximum amount of services under this bid and resulting contract. The Contractor must maintain the insurance coverage required during the term of this contract including any extensions. It is the responsibility of the Contractor to ensure that valid insurance is on file with the Purchasing and Contract Management Department as required by contract or contract may be terminated for non-compliance.

1.2 Prices quoted shall be guaranteed for a period for six (6) months upon City approval. The rate may be adjusted at the City's discretion for the effective change in Consumer Price Index

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

1.3 The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement, whatsoever, without prior consent of the City.

1.4 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 goods or 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 goods or services covered by this Agreement is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the contractor on 30 days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the date of termination.

1.5 This contract shall remain in effect until the first of the following occurs: (1) the expiration date, (2) performance of services ordered, or (3) termination of by either party with a 30 day written notice. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

Article 2 Miscellaneous.

2.1 This Agreement is made in the State of Texas and shall for all purposes be construed in accordance with the laws of said State, without reference to choice of law provisions.

2.2 This Agreement is performable in, and venue of any action related or pertaining to this Agreement shall lie in, Lubbock, Texas.

2.3 This Agreement and its Exhibits contains the entire agreement between the City and Contractor and supersedes any and all previous agreements, written or oral, between the parties relating to the subject matter hereof. No amendment or modification of the terms of this Agreement shall be binding upon the parties unless reduced to writing and signed by both parties.

2.4 This Agreement may be executed in counterparts, each of which shall be deemed an original.

2.5 In the event any provision of this Agreement is held illegal or invalid, the remaining provisions of this Agreement shall not be affected thereby.

2.6 The waiver of a breach of any provision of this Agreement by any parties or the failure of any parties otherwise to insist upon strict performance of any provision hereof shall not constitute a waiver of any subsequent breach or of any subsequent failure to perform.

2.7 This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives and successors and may be assigned by Contractor or the City to any successor only on the written approval of the other party.

2.8 All claims, disputes, and other matters in question between the Parties arising out of or relating to this Agreement or the breach thereof, shall be formally discussed and negotiated between the Parties for resolution. In the event that the Parties are unable to resolve the claims, disputes, or other matters in question within 30 days of written notification from the aggrieved Party to the other Party, the aggrieved Party shall be free to pursue all remedies available at law or in equity.

2.9 At any time during the term of the contract, or thereafter, the City, or a duly authorized audit representative of the City or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided to the City under this Contract. In the event such an audit by the City reveals any errors or overpayments by the City, Contractor shall refund the City the full amount of such overpayments within 30 days of such audit findings, or the City, at its option, reserves the right to deduct such amounts owing the City from any payments due Contractor.

2.10 The City reserves the right to exercise any right or remedy to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this do.

2.11 The contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Purchasing and Contract Management. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof of insurance from the Subcontractor that complies with all contract Insurance requirements document, this provision shall control.

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

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

2.14 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code,

prohibits the City from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization.

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

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

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

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

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

2.20 Indemnify. The Contractor shall indemnify and save harmless the City of Lubbock and its elected officials, officers, agents, and employees from all suits, actions, losses, damages, claims, or liability of any kind, character, type, or description, including without limiting the generality of the foregoing, all expenses of litigation, court costs, and attorney's fees, for injury or death to any person, or injury to any property, received or sustained by any person or persons or property, to the extent arising out of, related to or occasioned by, the negligent acts of the Contractor, its agents, employees, and/or subcontractors, related to the performance, operations or omissions under this agreement and/or the use or occupation of city owned property. The indemnity obligation provided herein shall survive the expiration or termination of this agreement.

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

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

CITY OF LUBBOCK

_____
Mark McBrayer, Mayor

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Colby VanGundy, Director of Parks and Recreation

APPROVED AS TO FORM

_____
Rachael Foster, Assistant City Attorney

CONTRACTOR

BY: _____
Authorized Representative

Alan Ibarra
Print Name

6313 Homestead Ave Suite 4
Address

Lubbock TX 79424
City, State, Zip Code

City of Lubbock, TX
RFP 25-18669-YB
Mowing Services for
City of Lubbock Properties

GENERAL REQUIREMENTS

INTENT

The Contractor shall provide the services that are specified in the specifications. The Contractor shall comply with all the applicable requirements set forth herein.

GENERAL PROVISIONS

1. **DEFINITIONS**

1.1. Agent – An employee of the City of Lubbock, who is appointed by the City to monitor the work and actions of the Contractor.

1.2. City – The City of Lubbock, Texas, municipal corporation in Lubbock County, Texas.

1.3. City Council – City Council of the City of Lubbock, Texas.

1.4. Contract – The contract consists of the following: Notice to bidders; General Provisions; Specifications; Plans; Addenda; Bid; Agreement; Insurance; Encumbrance; Notice to Proceed; and Change Orders. These form the agreement whereby the Contractor shall furnish all labor, equipment, tools, materials, and perform all work necessary to satisfactorily accomplish the proposed plan, sponsored by the City.

1.5. Contract Time – The number of allowable days to complete the contract.

1.6. Contractor – The individual, firm, partnership, joint venture, or corporation contracting with the City to perform work.

1.7. Cycle – The period in which each service is completed.

1.8. Director of Parks and Recreation – The individual who shall act on the City's behalf and appoint an Agent to ensure compliance with the contract requirements, such as but not limited to, acceptance, inspection and delivery.

1.9. Excluded Damage – Damage caused by vandalism, pedestrians, vehicles, animals (except insects and/or rodents), or other unusual factors. It does not include damage caused by the Contractor's actions, lack of reasonable care, pest damage (such as insects), diseases or plant loss due to lack of water caused by an irrigation system programming error, irrigation system breakage or irrigation malfunction.

1.10. Extra Work – Work over and above that is called for in the contract.

1.11. Mayor – The duly appointed official of the City of Lubbock, Texas, who is empowered by the City Charter to enter into a contract on behalf of the City.

1.12. Notice to Proceed – Written notice to the Contractor issued and signed by the authorized Agent stating the date on which the Contractor should proceed with work as stated in the contract.

1.13. Review Committee – A committee chosen by the City of Lubbock, to analyze and recommend to City Council the best Contractor(s) to perform the tasks governed by the contract.

1.14. Specifications – The directions, provisions, and requirements pertaining to the method and manner of performing the work or to the quality of the materials and equipment to be furnished under the contract.

1.15. Subcontractor – Any individual, firm, partnership, or corporation licensed or otherwise authorized by law to do business in Texas, to whom the Contractor, with written consent of the City, sublets a part of the work.

1.16. Surety – The corporation, partnership or individual, duly authorized and admitted to do business in Texas and licensed by the State of Texas to issue surety bonds, who is bound with and for the Contractor to assume legal liability for the faithful performance of the contract.

1.17. Unit Price – Payment to the Contractor based on a unit or portion of the work performed.

1.18. Work – All work, including the furnishing of staff, equipment, materials, and other incidentals necessary for the performance of the contract. All work will be in the public right-of-way per attached.

1.19. Properties – May be added or deleted as needed.

2. TERMS AND CONDITIONS

2.1. Work: It is the intent for the Contractor to provide for completion in every detail the work described herein. The Contractor shall provide all labor, tools, transportation, materials, and equipment necessary to complete the work in accordance with specifications provided and terms of the contract. **The attached "City Facilities" indicates the completed landscaped areas. Bidders are to provide unit pricing that will be applied to landscaped areas completed and accepted for maintenance. Unit pricing should be separated out by description.**

2.2. **Specification Change**: During the term of the Contract, the City may change maintenance frequencies, thereby increasing or decreasing maintenance frequencies. Unit pricing will be used to determine cost adjustments. All changes shall be in writing.

2.3 **Changed Condition**: If the Contractor finds latent conditions which differ from those outlined in the contract or specifications which differ from customary work, and which the Contractor could not have discovered during the investigation of the site prior to the bid, and in which such condition increased the expense to the Contractor, immediate written notice shall be promptly mailed to the Director of Parks and Recreation or their Agent. The Contractor shall afford the City the opportunity to inspect the same. After inspection by the City, the Contractor shall not delay work pending a decision to be made by the City regarding the claim. Failure of the Contractor to give prompt written notice and afford the City the opportunity to inspect the condition, before it is disturbed, shall be deemed a waiver by the Contractor of all claims and extra compensation arising out of the alleged condition.

If the Director of Parks and Recreation or the Agent determine that the Contractor is entitled to extra compensation by reason of increased expense to the Contractor and caused by the condition, and find that the condition requires work not covered in the contract, a change order may be executed for additional compensation which shall be agreed upon by all parties involved and approved by the Director of Parks and Recreation or their Agent. Additional time may be granted if the City deems additional time is necessary to accomplish the job. No change order or combination of change orders shall exceed twenty-five percent (25%) of the total contract.

2.4. Clean-up: As specified in the specifications, all work shall be cleaned up and waste materials removed from the site. No equipment shall be left at maintenance sites and all material removed from the job shall be at the Contractor's expense. If materials or waste are not removed from the site, written notification from the Agent shall be delivered to the Contractor. The Contractor shall have forty-eight (48) hours to remove the material in question. If the material in question is not removed in the forty-eight (48) hour period, the City shall remove the material, and the Contractor shall be charged for the expense. Payment to the City for said expenses shall be deducted for the Contractor's payment. If such conditions continue, the contract may be terminated due to breach of contract.

2.5. Preservation and Restoration of Property: The Contractor is responsible for the preservation of all City owned and adjacent property owner lands of which the Contractor may come into contact with. The Contractor shall use every precaution necessary to prevent damage to trees, shrubs, above and below ground structures, utilities and any other form of property. Should damage occur, it is the Contractor's responsibility to report the damage to the Director of Parks and Recreation or their Agent as soon as possible but not exceeding twenty-four (24) hours from the time damage occurred. If damage occurs as a result of Contractor's actions, the Contractor shall be held responsible to repair or replace the damaged property at their own expense. Time required to repair damaged property shall be expedient and to the approval of the Director of Parks and Recreation or their Agent. If the damage is not repaired in the agreed upon time period, the City may after forty-eight (48) hour notice from the Director of Parks and Recreation or their Agent, proceed to repair the damage. The Contractor shall be held financially responsible for the repair work and the cost shall be deducted from the Contractor's payment.

2.6. Equipment: The Contractor shall provide everything necessary to fulfill the requirements of this contract. All equipment shall meet all applicable federal, state and local laws and regulations. Contractors' equipment is subject to inspection and approval

of the Director of Parks and Recreation or their Agent. All manufacturers' safety features must be operational, in good repair and in proper positions during operation. All equipment shall be professional grounds maintenance quality and in good condition throughout the course of the contract. If the Director of Parks and Recreation or their Agent deems the equipment faulty or if the equipment is damaging the turf or other surfacing materials in any way, the Contractor shall remove the equipment from the premises. Contractor shall not impede other grounds maintenance operations during the course of those maintenance operations.

2.7. Service Boundaries: The service area may be bounded by hard surfacing materials, sidewalks, or non-curbed turf areas. The Contractor shall be responsible for all areas defined by turf or hard surfacing. However, the Contractor is not responsible for edging of un-curbed turf. Although the mowing Contractors are required to operate mowing equipment in a manner that directs the clippings away from plant beds, the nature of mowing equipment will at times allow some clipping debris to drop into planting areas.

2.8. Termination of Contract: This contract shall remain in effect until the expiration date for performance of services ordered. Termination of either party requires a thirty (30) day written notice prior to any cancellation. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next best bidder as it deems to be in the best interest of the City.

3. CONTROL OF WORK

3.1. Authority of the Director of Parks and Recreation: It is understood by all parties that the work is to be done to the satisfaction of the Director of Parks and Recreation or their authorized Agent(s). The Director of Parks and Recreation or their Agent shall interpret all specifications and shall determine the acceptability of all work. The Director of Parks and Recreation or their Agent shall decide the classification, quality, amount of all work done under the contract, shall be the sole administrator of payments, and his or her decision shall be final, conclusive and binding on all parties.

3.2. Authority of the Agent: The Director of Parks and Recreation may appoint an Agent or Agents to serve as an inspector. The Agent(s) shall be allowed to inspect all work at any time. The Agent shall not be allowed to alter, revise, add, or delete anything from the contract or specifications. An Agent's duties shall include keeping the Director of Parks and Recreation notified as to the progress of the job and the procedures involved in completing the job. The Agent shall call to the attention of the Director of Parks and Recreation and the Contractor any deviation of contract or specifications, but failure of the Agent or of the Director of Parks and Recreation to call to the attention of the Contractor any deviation of the contract or specifications shall not constitute acceptance of said work. The Agent shall have the authority to suspend any work pending a decision by the Director of Parks and Recreation.

3.3. Extra Work: Extra work being done by the Contractor without authorization through change orders, or work which is not shown on the contract or specifications, shall be considered as unauthorized work; and if performed shall be at the risk of the Contractor. The Director of Parks and Recreation reserves all rights to refuse payment for such work.

3.4. **Unauthorized Work**: All work and/or materials which do not conform to the contract and specifications, and work done contrary to written instructions of the Agent or Director of Parks and Recreation shall be done at the expense of the Contractor. The Contractor may be ordered to remove or remedy such work at its own expense. If Contractor damages adjacent property, the Contractor shall remedy such property at its own expense.

3.5 **Final Inspection**: Final inspection of the site shall take place by the Director of Parks and Recreation or their appointed Agent as soon as possible after the completion of the project. If the project is completed in cycles, the project shall be inspected after each cycle by the Agent. The Contractor shall be allowed to be present at the examination. If the inspection reveals any defective work, the Director of Parks and Recreation or their Agent may require the work to be remedied before final acceptance is granted. All said remedies shall be at the expense of the Contractor.

3.6. **Laws and Regulations**: The Contractor and any Subcontractor(s) shall at all times comply with all local, county, state and federal laws. The Contractor and any Subcontractor shall abide by all Labor Laws observed by the State of Texas. The Contractor shall comply with all federal, state and local Environmental Protection Laws, and regulations. The Contractor shall comply with all applicable federal, state and local laws and regulations regarding pollution of rivers, lakes, streams and other waters. The Contractor shall store, handle, use and dispose of chemicals, fuels, oils, greases and other materials in a manner that prevents them from entering surface or ground waters. Upon receipt of notice of noncompliance of environmental protection provisions, the Contractor shall take immediate corrective action at the Contractor's expense. If the Contractor fails or refuses to immediately take corrective action, the City may issue an order stopping all or part of the work until satisfactory corrective action has been taken.

A. Prior to any application of chemicals, the Contractor shall request, in writing, approval from the Director of Parks and Recreation or his Agent. The request shall include the target pest and the type of chemical(s) to be used. If permission is granted, all applications shall be performed through a Licensed Applicator, licensed by the Texas Structural Pest Control Board and/or the Texas Department of Agriculture. Upon completion of the operation, the Contractor shall provide to the Director of Parks and Recreation or their Agent, a copy of the Pesticide Application Documentation that the Contractor records pursuant to the requirements of the Structural Pest Control Board.

3.7. **Advertising**: Contractor shall not advertise or publish, without City's prior consent, the fact that the City has entered into this contract, except to the extent necessary to comply with proper request for information from an authorized representative or the federal, state or local government.

3.8. **Citizen Contact**: The Contractor is granted the privilege of doing work on Park property but does not have exclusive use of the property and must respect the activities of patrons while doing work on Park property. The Contractor shall take all precautions necessary to insure that adjacent property owners are not disturbed.

3.9. **Identification and Character**: Contractor's vehicles shall be marked with the Contractor's company name, on both sides and in lettering that is a minimum of two

inches tall and of an easily read typeface. In lieu of lettering, Contractors may submit easily recognizable Company Logos for approval by the Director of Parks and Recreation. All employees of the Contractor shall have a name badge for identification, either clip on or incorporated with a uniform. This identification shall be worn at all times that the employee is at the job site. The Contractor shall provide uniforms of a different color than City employee uniforms. Uniforms may not be torn or ragged and shall present a professional appearance. Additionally, the Contractor will at all times require employees to remain fully dressed and will not allow employees to wear unbuttoned clothing while on City property.

A. The Contractor shall prohibit the use of intoxicating substances by its drivers and crewmembers while on duty or in the course of performing their duties under this Contract.

B. Employees driving the Contractor's vehicles shall at all times possess and carry a valid State of Texas Driver's License appropriate for the weight and type of vehicle being driven. Contractors are specifically required to ensure that a Texas Commercial Driver's License is obtained where applicable for the type(s) of vehicles in use.

C. The Contractor's employees, officers, Agents and Subcontractors shall, at no time, be allowed to identify themselves or in any way represent themselves as being employees of the City of Lubbock.

3.10. Safety: The Contractor is responsible for maintaining a safety program that insures compliance with all current requirements of the Federal Occupational Safety and Health Act of 1970. The Contractor is responsible for safety on the project site and the City shall take no action to interfere with the Contractor's safety program. Failure to maintain compliant with this act shall be grounds for termination of the contract.

4. PROSECUTION AND PROGRESS OF WORK

A. Notice to Proceed: Notice to proceed shall be mailed to the Contractor by certified letter. The Contractor shall have ten (10) working days from the day he receives the letter to actively proceed with the work.

B. Contract Time: All work is schedule driven, therefore, the Contractor's work force and equipment needs shall vary throughout the contract's time period. The normal work schedule shall fall within the time frame of Monday through Friday 6:00 a.m. to 6:00 p.m.

C. Weekends, Holidays and Nights: Work on weekends, holidays, and nights shall be at the discretion of the Contractor.

D. Weather: Weather will affect the progress of grounds maintenance at times and Contractor shall recognize this and have a plan of action and/or resources available to proceed in an expedient manner. Should weather conditions alter schedules, the Contractor shall notify the Agent at the beginning of the next workday. It is the Contractor's responsibility to provide quality workmanship. If weather conditions prevent such quality, the Contractor shall suspend work and resume work as soon as weather allows. If the Agent or Director of Parks and Recreation finds

that weather conditions are inappropriate for maintaining high quality work, they may notify the Contractor and suspend work. The suspension of work by the Agent or Director of Parks and Recreation shall not in any way allow the Contractor to find grounds for adjustments in contract time or provide for extra compensation.

E. Character of Work: All workers, supervisors, managers, and Subcontractor(s) employed by the Contractor shall be competent and careful workers skilled in their respective trades. The Director of Parks and Recreation or their Agent may remove from the work site any person employed by the Contractor who does not represent the City in a professional manner or does not follow the instructions given to him. If any person misconducts themselves, is incompetent, or negligent in the performance of their duties, they may be removed from the work site and shall not return until the Contractor receives written consent from the City's Representative. Should the Contractor continue to employ such individual to continue work under this contract, the City reserves the right to withhold payment and/or nullify the contract.

F. Assigning or Subletting the Contract: The Contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Parks and Recreation or his Agent. The City's permission to sublet any contract shall not be construed as making the City a party of such subcontract. No Subcontractor shall release the Contractor of its surety or its liability and obligation to fulfill all transactions made under the contract. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof of insurance from the Subcontractor that complies with all Insurance requirements contained in paragraphs, 1.0-1.7, Indemnity Insurance.

G. Payment: The Contractor shall receive compensation for services provided for in the contract on a monthly basis. Upon the end of each month, during the contract period, the Contractor shall submit an invoice to the Parks and Recreation Director for services provided during the month. Any Extra Work shall be shown on the same monthly invoice and identified as "Extra Work." Extra Work billing should designate turf maintenance, planting maintenance, woody plant bed maintenance cost and a description of the work performed. Payment shall be determined by the form included in this package on Bid Table and approved by the Parks and Recreation Director.

5. SCOPE OF WORK

The RFP is to provide ground maintenance services as defined below. Please note that not all properties will require all the services listed. For detailed information, please refer to Attachment A as attached. The City reserves the right to add or delete properties. Any addition or deletion of properties that results in an increase or decrease in the scope of work will cause an adjustment to the unit price, which will be used to modify the contract accordingly. The contractor must use the pay request from to request payment.

5.1. Turf Maintenance:

A. Mowing of all turf areas, bagging of any grass clippings; edging of all turf areas along walkways and parking areas, removal of all edging debris from hardscape areas. All collected materials to be properly disposed to approved landfills. This activity is to be completed once in a seven (7) day cycle, 32 cycles March through October.

5.2. Overseeding:

A. Fall Rye Seeding: Overseed in September with perennial rye grass seed at 10lbs/1,000sqft for all designated turf areas. This is to be followed by an increase in watering schedule until germination.

B. Mowing should occur once on a fourteen (14) day cycle while waiting for grass to germinate.

5.3. Trash/Litter Removal:

A. Trash/litter collection and removal from all turf areas, flower and shrub beds, tree wells and canopies, trash receptacles, walkways and parking areas. All trash/litter to be removed from the property before any mowing/trimming activities take place. This activity is to be completed once in a seven (7) day cycle, 52 cycles total. All collected materials to be properly disposed of.

5.4. Planting Bed Maintenance:

A. Maintenance schedule for November through February – Remove litter/tree leaves; remove failed plants; schedule necessary replantings; monitor plants for disease control/fertilizer needs; this activity is to be completed once in a fifteen (15) day cycle, 10 cycles total.

B. Maintenance schedule for March through October – Remove litter/debris; remove failed plants; schedule necessary replantings; remove grasses/weeds/noxious plants/woody plants; ensure proper watering schedule; monitor plants for disease control/fertilizer needs; this activity is to be completed once in a seven (7) day cycle, 32 cycles total.

5.5. Woody Plant Maintenance:

A. Maintenance schedule for November through February – Remove damaged limbs/branches; inspect/replace failed tree wrapping; inspect/reset plant staking; remove dead trees; schedule necessary replantings; ensure proper watering schedule; monitor plants for disease control/fertilizer needs; this activity is to be completed once in a thirty (30) day cycle, 4 cycles total.

B. Maintenance schedule for March through October – Remove damaged limbs/branches; ensure proper watering schedule; monitor plants for disease control/fertilizer needs; this activity is to be completed once in a thirty (30) day cycle, 8 cycles total.

5.6. Irrigation Maintenance:

A. Maintenance schedule for November through February – Conduct system audit/evaluation, replace damaged heads, repair/replace failed heads/valves; reset program for winter watering schedule; this activity is to be completed once in a thirty (30) day cycle, 4 cycles total.

B. Maintenance schedule for March through October – Adjust watering schedule for growing season; inspect irrigation system for proper operation, schedule

necessary repairs; this activity is to be completed once in a thirty (30) day cycle, 8 cycles total.

5.7. Hardscape Maintenance:

A. Removal of all debris/trash/litter from walks and hardscapes; clean/scrub any tire marks; remove/patch any equipment scrapes or damage; this activity is to be completed once in a thirty (30) day cycle, 12 cycles total.

5.8 Chemical Controls:

A. **Herbicide:** Chemical application schedule will consist of three (3) applications per year, as follows:

January 15 / February 15 – Prodiamine 4L, 0.64oz per gal; 24D 1oz/gal; Roundup 2oz/gal

May 15 / June 15 – 24D 1oz/gal; MSM Turf .25oz/acre

September 1 / September 30 – Prodiamine 4L, 0.64oz per gal; 24D 1oz/gal

All chemicals must be applied by a TDA licensed pesticide applicator.

8.9. Fertilizer:

A. Fertilizer application schedule will consist of three (3) applications per year, as follows:

March 15 / April 15 – 15-5-10 at 15lbs/1,000 sqft

June 15 / July 15 – 15-5-10 at 15lbs/1,000 sqft

November 1 / November 30 – 15-5-10 at 15lbs/1,000 sqft

All fertilizers must be applied by a TDA licensed pesticide applicator.

8.10. Fountain Maintenance:

A. Maintenance schedule for 7 day cycle- Remove trash/litter from fountain surfaces and intakes; remove any graffiti; clean out filter baskets, check chlorinator, pumps and controls for proper operation; this activity will be completed on a seven (7) day cycle basis, 52 cycles.

B. Maintenance schedule for 10 day cycle- Backwash filtration system, replenish chlorine tablets, clean light fixture surfaces; this activity will be completed on a ten (10) day cycle basis, 20 cycles.

C. Maintenance schedule for 30 day cycle- Remove filter grates, remove all debris from grates, vacuum under grate areas, vacuum all troughs, skim water grates; this activity will be completed on a thirty (30) day cycle basis, 8 cycles.

D. Maintenance schedule for 90-day cycle- Power wash entire fountain at sufficient pressure to clean surfaces, ensure surfaces are not damaged from excessive pressure; this activity will be completed on a ninety (90) day cycle basis, 3 cycles.

8.11. Lighting Maintenance:

A. Monitor all bed lighting, fountain lighting, display lighting and area lighting for failed lamps, damaged fixtures, and repair needs; this activity will be completed on a thirty (30) day cycle basis.

8.12. Preventative Maintenance:

A. Ensure all personnel are trained/oriented to reduce unnecessary vehicle/equipment operation on all hardscapes to reduce tire/equipment marks on all hardscapes.

City of Lubbock
RFP 25-18669-YB
Mowing Services for
City of Lubbock Properties
Price Proposal Sheet

Exhibit B

				SRH Landscapes LLC	
			Location Total Cost	**Lubbock, TX $362,185.20**	
		Quantity Required (+/-)	UOM	Unit Price	Total Cost
1					
#1-1	Mowing/Edging/Trimming and debris removal per section 5.1.A.	32	Cycle	3,650.70	116,822.40
2					
#2-1	Fall Rye Seeding at 10lbs/1,000sqft for All Turf Areas per section 5.2.A.	1	Yearly	2,668.80	2,668.80
3					
#3-1	Trash/Litter Collection and Removal as specified per section 5.3.A.	52	Cycle	957.00	49,764.00
4					
#4-1	Litter/Tree Debris Removal; Replantings; Control/Fertilize as Specified for November - February per section 5.4.A.	10	Cycle	1,400.00	14,000.00
#4-2	Control/Fertilize needs as specified for March - October per 5.4.B.	32	Cycle	1,400.00	44,800.00
5					
#5-1	Damaged Limbs/Branch Removal; Replantings; Watering; Control/Fertilize as specified for November - February per section 5.5.A.	4	Cycle	3,720.00	14,880.00
#5-2	Damaged Limbs/Branch Removal; Replantings; Watering; Control/Fertilize as specified for March - October per section 5.5.B.	4	Cycle	3,720.00	14,880.00
6					
#6-1	System Audit, Replace Damaged Heads, Make Repairs, Reset Programming as specified for November - February per section 5.6.A..	4	Cycle	4,625.00	18,500.00
#6-2	Inspect System Routinely as specified for March - October per section 5.6.B.	8	Cycle	4,625.00	37,000.00
7					
#7-1	Remove Debris/Trash Litter, Clean/Scrub Tire Marks, Patch Scrapes or Damage as specified per section 5.7.A.	12	Cycle	1,750.00	21,000.00

City of Lubbock
RFP 25-18669-YB
Mowing Services for
City of Lubbock Properties
Price Proposal Sheet

8					
#8-1	January 15th/February 15th - Prodiamine 4L, 0.64oz per Gal; 24D 1oz/Gal; Roundup 2oz/Gal. per section 5.8.A	1	Yearly	2,400.00	2,400.00
#8-2	May 15th/June 15th - 24D 1oz/Gal; MSM Turf .25oz/Acre per section 5.8.A.	1	Yearly	2,400.00	2,400.00
#8-3	September 1st/September 30th - Prodiamine 4L, 0.64oz per Gal; 24D 1oz/Gal. per section 5.8.A.	1	Yearly	2,400.00	2,400.00
9					
#9-1	March 15th/April 15th - 15-5-10 at 15lbs/1,000sqft per section 8.9.A.	1	Yearly	2,550.00	2,550.00
#9-2	June 15th/July 15th - 15-5-10 at 15lbs/1,000sqft per section 8.9.A.	1	Yearly	2,550.00	2,550.00
#9-3	November 1st/November 30th - 15-5-10 at 15lbs/1,000sqft per section 8.9.A.	1	Yearly	2,550.00	2,550.00
10					
#10-1	from fountain surfaces and intakes; remove any graffiti; clean out filter baskets, check chlorinator, pumps and controls for proper operation per section 8.10.A.	52	Cycle	105.00	5,460.00
#10-2	Maintenance schedule for 10 day cycle- Backwash filtration system, replenish chlorine tablets, clean light fixture surfaces; this activity will be completed on a ten (10) day cycle basis per section 8.10.B.	20	Cycle	105.00	2,100.00
#10-3	1 occurrence per 30 day cycle; remove filter grates, remove all debris from grates, vacuum under grate areas, vacuum all troughs, skim water grates per section 8.10.C.	8	Cycle	210.00	1,680.00
#10-4	Maintenance schedule for 90-day cycle- Power wash entire fountain at sufficient pressure to clean surfaces, ensure surfaces are not damaged from excessive pressure; this activity will be completed on a ninety (90) day cycle basis per section 8.10.D.	3	Cycle	420.00	1,260.00
11					
#11-1	Monitor All Lighting as Specified and Repair as Needed per section 8.11.A.	12	Cycle	210.00	2,520.00

VENDOR ACKNOWLEDGEMENT

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

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

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

Robert Roberts
Authorized Signature

Lubbock Branch Manger
Title

Robert Roberts
Print/Type Name

2/25/2025
Date

SRH Landscapes, LLC.
Company Name

6313 Homestead Ave. Suite B4
Address

Lubbock, Texas 79416
City, State Zip Code

Contact for questions, clarifications, etc.	
Name and Title:	Robert Roberts, Lubbock Branch Manger
Mailing Address:	6313 Homestead Ave. Suite B4
City, State, Zip:	Lubbock, Texas 79416
Telephone No:	806-809-3453
Fax No:	
E-Mail:	rroberts@srhtrees.com

Exhibit C

INSURANCE REQUIREMENTS

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

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

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

Commercial General Liability Requirements: $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).

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

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

Pollution Liability Requirements: $500K occurrence/ $1M aggregate.

- The City of Lubbock (including its officials, employees and volunteers) shall be afforded additional insured status on a primary and non-contributory basis on all liability policies except professional liabilities and workers' comp.
- Waivers of Subrogation are required for CGL, AL, and WC.
- To Include Products of Completed Operations endorsement.

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

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

- Subcontractors must carry same limits as listed above.

IMPORTANT: POLICY ENDORSEMENTS

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

REQUIRED PROVISIONS

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

a. Name the City of Lubbock and its officers, employees, and elected representatives as additional insureds, (as the interest of each insured may appear) as to all applicable coverage;

b. Provide for 30 days notice to the City for cancellation, nonrenewal, or material change;

c. Provide for notice to the City at the address shown below by registered mail;

d. The Contractor agrees to waive subrogation against the City of Lubbock, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance;

e. Provide that all provisions of this contract concerning liability, duty, and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

NOTICES

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

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

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

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

Purchasing and Contract Management

Project Summary

RFP 25-18669-YB
Mowing Services for City of Lubbock Properties

Notice was published in the Lubbock Avalanche Journal on February 9 & February 16, 2025.
Notice was published on the Purchasing Web Site under Bid Opportunities.
Notice was published on Bonfire.com from February 7 to March 05, 2025.
8 individuals attended the pre-proposal meeting.
45 vendors downloaded the documents using Bonfire.com.
18 vendors were notified separately.
8 vendors submitted proposals.

AI# 13268
Regular City Council Meeting 5. 35.
03/25/2025:

Information

Agenda Item

Resolution - Parks and Recreation: Consider a resolution authorizing the Mayor to execute Contract 18399, with Reeder Landscape, for landscape maintenance services for the City of Lubbock Streetscapes, Medians, Turnarounds, and Rights-of-Way.

Item Summary

Staff issued a Request for Proposals (RFP) for landscape maintenance services for the City of Lubbock streetscapes, medians, turnarounds, and rights-of-way, which include mowing, edging, trimming, fertilization, pesticide application, and tree maintenance.

In response to RFP 24-18399-YB, five proposals were received. The proposals were evaluated using the following criteria: Price (20 points), Staffing Plan (15 points), Equipment Inventory (30 points) and Maintenance Guideline/Plan (35 points). The maximum point value is 100 points. After the proposals were evaluated, the following ranking was obtained.

Vendor	Points
Reeder Landscape, Amarillo, Texas	93.00
SRH Landscapes LLC, Lubbock, Texas	84.09
PowerHouse Lawn and Landscape, Wolfforth, Texas	57.47
Triming Time, Houston, Texas	52.37
Turf Raider Lawn & Landscape, Lubbock, Texas	41.63

Staff recommends awarding the contract to the highest ranked proposal, Reeder Landscape of Amarillo, Texas, for an annual contract amount of $123,290.

The contract is for a term of one year, with the option of 4, one-year extensions.

Fiscal Impact

Contract 18399 for up to $123,290, with Reeder Landscape, is funded through the Parks and Recreation Department Operating Budget, as approved by the City Council.

Staff/Board Recommending

Brooke Witcher, Assistant City Manager
Colby VanGundy, Director of Parks and Recreation

Attachments

Resolution

Contract

Project Summary Sheet

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Contract No. 18399 for Mowing and Maintenance of Streetscapes, Medians, and Rights-of-way, as per RFP 25-18399-LV, by and between the City of Lubbock and Reeder Industries, Inc., of Amarillo, Texas and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Brooke Witcher, Assistant City Manager

APPROVED AS TO FORM:

_____
Rachael Foster, Assistant City Attorney

ccdocsII/RES.ServiceContract 18399 Reeder Industries, Inc.
3.6.25

Contract 18399

City of Lubbock, TX
Mowing & Maintenance of Streetscapes, Medians,
and Right of Ways
Agreement

This Service Agreement (this "Agreement") is entered into as of the ___day of _____**2025** ("Effective Date") by and between Reeder Industries, Inc. **(**the Contractor), and the City of Lubbock (the "City").

RECITALS

WHEREAS, the City has issued a Request for Proposals 25-18399-LV, Mowing & Maintenance of Streetscapes, Medians, and Right of Ways and

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

WHEREAS, Contractor desires to perform as an independent contractor to provide Mowing & Maintenance of Streetscapes, Medians, and Right of Ways, upon terms and conditions maintained in this Agreement; and

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

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

1. This Agreement
2. Attachment A – General Provisions
3. Attachment B – Price Proposal Sheet
4. Attachment C – Insurance Requirements

Scope of Work

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

Article 1

1.1 The contract shall be for a term of one (1) year, with the option of four (4), one (1) year extensions, said date of term beginning upon formal approval. This Contract will renew automatically for the additional terms, unless either Party gives 90-day written notice to terminate the Contract. Actual usage may be more or less. Order quantities will be determined by actual need. The City of Lubbock does not guarantee any specific amount of compensation, volume, minimum, or maximum amount of services under this bid and resulting contract. The Contractor must maintain the insurance coverage required during the term of this contract including any extensions. It is the responsibility of the Contractor to ensure that valid insurance is on file with the Purchasing and Contract Management Department as required by contract or contract may be terminated for non-compliance.

1.2 Prices quoted shall be guaranteed for a period for six (6) months upon City approval. The rate may be adjusted at the City's discretion for the effective change in Consumer Price Index (CPI) or Product Price Index (PPI) as appropriate. Further, if the Contractor can provide documentation for actual charges for material, labor, etc. that demonstrates that the change in CPI or PPI is not sufficient, the Contractor shall provide such documentation to the City, and at the City's sole discretion, the contractual rate may be further adjusted. If agreement regarding a new rate cannot be reached, the City shall terminate at the end of the current contract period. If an adjustment to pricing is granted under this section, the Contractor must provide the Director of Purchasing and Contract Management written, quarterly documentation to justify the ongoing adjustment. If no such documentation is timely received, the rate will automatically revert to the initial, awarded rate.

1.3 The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement, whatsoever, without prior consent of the City.

1.4 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 goods or 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 goods or services covered by this Agreement is spent, whichever event occurs first. If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the contractor on 30 days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the date of termination.

1.5 This contract shall remain in effect until the first of the following occurs: (1) the expiration date, (2) performance of services ordered, or (3) termination of by either party with a 30 day written notice. The City of Lubbock reserves the right to award the canceled contract to the next lowest and best bidder as it deems to be in the best interest of the city.

Article 2 Miscellaneous.

2.1 This Agreement is made in the State of Texas and shall for all purposes be construed in accordance with the laws of said State, without reference to choice of law provisions.

2.2 This Agreement is performable in, and venue of any action related or pertaining to this Agreement shall lie in, Lubbock, Texas.

2.3 This Agreement and its Exhibits contains the entire agreement between the City and Contractor and supersedes any and all previous agreements, written or oral, between the parties relating to the subject matter hereof. No amendment or modification of the terms of this Agreement shall be binding upon the parties unless reduced to writing and signed by both parties.

2.4 This Agreement may be executed in counterparts, each of which shall be deemed an original.

2.5 In the event any provision of this Agreement is held illegal or invalid, the remaining provisions of this Agreement shall not be affected thereby.

2.6 The waiver of a breach of any provision of this Agreement by any parties or the failure of any parties otherwise to insist upon strict performance of any provision hereof shall not constitute a waiver of any subsequent breach or of any subsequent failure to perform.

2.7 This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, representatives and successors and may be assigned by Contractor or the City to any successor only on the written approval of the other party.

2.8 All claims, disputes, and other matters in question between the Parties arising out of or relating to this Agreement or the breach thereof, shall be formally discussed and negotiated between the Parties for resolution. In the event that the Parties are unable to resolve the claims, disputes, or other matters in question within 30 days of written notification from the aggrieved Party to the other Party, the aggrieved Party shall be free to pursue all remedies available at law or in equity.

2.9 At any time during the term of the contract, or thereafter, the City, or a duly authorized audit representative of the City or the State of Texas, at its expense and at reasonable times, reserves the right to audit Contractor's records and books relevant to all services provided to the City under this Contract. In the event such an audit by the City reveals any errors or overpayments by the City, Contractor shall refund the City the full amount of such overpayments within 30 days of such audit findings, or the City, at its option, reserves the right to deduct such amounts owing the City from any payments due Contractor.

2.10 The City reserves the right to exercise any right or remedy to it by law, contract, equity, or otherwise, including without limitation, the right to seek any and all forms of relief in a court of competent jurisdiction. Further, the City shall not be subject to any arbitration process prior to exercising its unrestricted right to seek judicial remedy. The remedies set forth herein are cumulative and not exclusive, and may be exercised concurrently. To the extent of any conflict between this provision and another provision in, or related to, this do.

2.11 The contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Purchasing and Contract Management. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof of insurance from the Subcontractor that complies with all contract Insurance requirements document, this provision shall control.

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

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

2.14 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited. Pursuant to Section 2252.152 of the Texas Government Code,

prohibits the City from entering into a contract with a vendor that is identified by The Comptroller as a company known to have contracts with or provide supplies or service with Iran, Sudan or a foreign terrorist organization.

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

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

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

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

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

2.20 Indemnify. The Contractor shall indemnify and save harmless the City of Lubbock and its elected officials, officers, agents, and employees from all suits, actions, losses, damages, claims, or liability of any kind, character, type, or description, including without limiting the generality of the foregoing, all expenses of litigation, court costs, and attorney's fees, for injury or death to any person, or injury to any property, received or sustained by any person or persons or property, to the extent arising out of, related to or occasioned by, the negligent acts of the Contractor, its agents, employees, and/or subcontractors, related to the performance, operations or omissions under this agreement and/or the use or occupation of city owned property. The indemnity obligation provided herein shall survive the expiration or termination of this agreement.

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

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

CITY OF LUBBOCK

Mark McBrayer, Mayor

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Colby VanGundy, Director of Parks and Recreation

APPROVED AS TO FORM

Rachael Foster, Assistant City Attorney

CONTRACTOR

BY: _____

Authorized Representative

Blake Reeder

Print Name

11902 IH-27

Address

Amarillo, TX 79119

City, State, Zip Code

CITY OF LUBBOCK SPECIFICATIONS FOR THE CITY PARKS AND SPACES

GENERAL PROVISIONS

4. DEFINITIONS

4.1. **Agent** – An employee of the City of Lubbock, who is appointed by the City to monitor the work and actions of the Contractor.

4.2. **City** – The City of Lubbock, Texas, municipal corporation in Lubbock County, Texas.

4.3. **City Council** – City Council of the City of Lubbock, Texas.

4.4. **Contract** – The contract consists of the following: Notice to bidders; General Provisions; Specifications; Plans; Addenda; Bid; Agreement; Insurance; Encumbrance; Notice to Proceed; and Change Orders. These form the agreement whereby the Contractor shall furnish all labor, equipment, tools, materials, and perform all work necessary to satisfactorily accomplish the proposed plan, sponsored by the City.

4.5. **Contract Time** – The number of allowable days to complete the contract.

4.6. **Contractor** – The individual, firm, partnership, joint venture, or corporation contracting with the City to perform work.

4.7. **Cycle** – The period in which each service is completed.

4.8. **Director of Parks and Recreation** – The individual who shall act on the City's behalf and appoint an Agent to ensure compliance with the contract requirements, such as but not limited to, acceptance, inspection and delivery.

4.9. **Excluded Damage** – Damage caused by vandalism, pedestrians, vehicles, animals (except insects and/or rodents), or other unusual factors. It does not include damage caused by the Contractor's actions, lack of reasonable care, pest damage (such as insects), diseases or plant loss due to lack of water caused by an irrigation system programming error, irrigation system breakage or irrigation malfunction.

4.10. **Extra Work** – Work over and above that is called for in the contract.

4.11. **Mayor** – The duly appointed official of the City of Lubbock, Texas, who is empowered by the City Charter to enter into a contract on behalf of the City.

4.12. **Notice to Proceed** – Written notice to the Contractor issued and signed by the authorized Agent stating the date on which the Contractor should proceed with work as stated in the contract.

4.13. **Review Committee** – A committee chosen by the City of Lubbock, to analyze and recommend to City Council the best Contractor(s) to perform the tasks governed by the contract.

4.14. **Specifications** – The directions, provisions, and requirements pertaining to the method and manner of performing the work or to the quality of the materials and equipment to be furnished under the contract.

4.15. **Subcontractor** – Any individual, firm, partnership, or corporation licensed or otherwise authorized by law to do business in Texas, to whom the Contractor, with written consent of the City, sublets a part of the work.

4.16. **Surety** – The corporation, partnership or individual, duly authorized and admitted to do business in Texas and licensed by the State of Texas to issue surety bonds, who is bound with and for the Contractor to assume legal liability for the faithful performance of the contract.

4.17. **Unit Price** – Payment to the Contractor based on a unit or portion of the work performed.

4.18. **Work** – All work, including the furnishing of staff, equipment, materials, and other incidentals necessary for the performance of the contract. All work will be in the public right-of-way per attached exhibit.

5. TERMS AND CONDITIONS

5.1. Work: It is the intent for the Contractor to provide for completion in every detail the work described herein. The Contractor shall provide all labor, tools, transportation, materials, and equipment necessary to complete the work in accordance with specifications provided and terms of the contract. **The attached "Medians, Turnarounds, ROW's" indicates the completed landscaped areas. Bidders are to provide unit pricing that will be applied to landscaped areas completed and accepted for maintenance. Unit pricing should be separated out by description in Exhibit B.**

5.2. **Specification Change**: During the term of the Contract, the City may change maintenance frequencies, thereby increasing or decreasing maintenance frequencies. Unit pricing will be used to determine cost adjustments. All changes shall be in writing.

5.3. **Changed Condition**: If the Contractor finds latent conditions which differ from those outlined in the contract or specifications which differ from customary work, and which the Contractor could not have discovered during the investigation of the site prior to the bid, and in which such condition increased the expense to the Contractor, immediate written notice shall be promptly mailed to the Director of Parks and Recreation or their Agent. The Contractor shall afford the City the opportunity to inspect the same. After inspection by the City, the Contractor shall not delay work pending a decision to be made by the City regarding the claim. Failure of the Contractor to give prompt written notice and afford the City the opportunity to inspect the condition, before it is disturbed, shall be deemed a waiver by the Contractor of all claims and extra compensation arising out of the alleged condition.

If the Director of Parks and Recreation or the Agent determine that the Contractor is entitled to extra compensation by reason of increased expense to the Contractor and caused by the condition, and find that the condition requires work not covered in the contract, a change order may be executed for additional compensation which shall be agreed upon by all parties involved and approved by the Director of Parks and Recreation or their Agent. Additional time may be granted if the City deems additional time is necessary to accomplish the job. No change order or combination of change orders shall exceed twenty-five percent (25%) of the total contract.

5.4. **Clean-up**: As specified in Exhibit A, all work shall be cleaned up and waste materials removed from the site. No equipment shall be left at maintenance sites and all material removed from the job shall be at the Contractor's expense. If materials or waste are not removed from the site, written notification from the Agent shall be delivered to the Contractor. The Contractor shall have forty-eight (48) hours to remove the material in question. If the material in question is not removed in the forty-eight (48) hour period, the City shall remove the material, and the Contractor shall be charged for the expense. Payment to the City for said expenses shall be deducted for the Contractor's payment. If such conditions continue, the contract may be terminated due to breach of contract.

5.5. **Preservation and Restoration of Property**: The Contractor is responsible for the preservation of all City owned and adjacent property owner lands of which the Contractor may come into contact with. The Contractor shall use every precaution necessary to prevent damage to trees, shrubs, above and below ground structures, utilities and any other form of property. Should damage occur, it is the Contractor's responsibility to report the damage to the Director of Parks and Recreation or their Agent as soon as possible but not exceeding twenty-four (24) hours from the time damage occurred. If damage occurs as a result of Contractor's actions, the Contractor shall be held responsible to repair or replace the damaged property at their own expense. Time required to repair damaged property shall be expedient and to the approval of the Director of Parks and Recreation or their Agent. If the damage is not repaired in the agreed upon time period, the City may after forty-eight (48) hours notice from the Director of Parks and Recreation or their Agent, proceed to repair the damage. The Contractor shall be held financially responsible for the repair work and the cost shall be deducted from the Contractor's payment.

5.6. **Equipment**: The Contractor shall provide everything necessary to fulfill the requirements of this contract. All equipment shall meet all applicable federal, state and local laws and regulations. Contractors' equipment is subject to inspection and approval of the Director of Parks and Recreation or their Agent. All manufacturers' safety features must be operational, in good repair and in proper positions during operation. All equipment shall be professional grounds maintenance quality and in good condition throughout the course of the contract. If the Director of Parks and Recreation or their Agent deems the equipment faulty or if the equipment is damaging the turf or other surfacing materials in any way, the Contractor shall remove the equipment from the premises. Contractor shall not impede other grounds maintenance operations during the course of those maintenance operations.

5.7. **Service Boundaries**: The service area may be bounded by hard surfacing materials, sidewalks, or non-curbed turf areas. The Contractor shall be responsible for all areas defined by turf or hard surfacing. However, the Contractor is not responsible for edging of un-curbed turf. Although the mowing Contractors are required to operate mowing equipment in a manner that directs the clippings away from plant beds, the nature of mowing equipment will at times allow some clipping debris to drop into planting areas.

5.8. **Termination of Contract**: This contract shall remain in effect until the expiration date for performance of services ordered. Termination of either party requires a thirty (30) day written notice prior to any cancellation. Such written notice must state the reason for cancellation. The City of Lubbock reserves the right to award the canceled contract to the next best bidder as it deems to be in the best interest of the City.

6. CONTROL OF WORK

6.1. **Authority of the Director of Parks and Recreation**: It is understood by all parties that the work is to be done to the satisfaction of the Director of Parks and Recreation or their authorized Agent(s). The Director of Parks and Recreation or their Agent shall interpret all specifications and shall determine the acceptability of all work. The Director of Parks and Recreation or their Agent shall decide the classification, quality, amount of all work done under the contract, shall be the sole administrator of payments, and his or her decision shall be final, conclusive and binding on all parties.

6.2. **Authority of the Agent**: The Director of Parks and Recreation may appoint an Agent or Agents to serve as an inspector. The Agent(s) shall be allowed to inspect all work at any time. The Agent shall not be allowed to alter, revise, add, or delete anything from the contract or specifications. An Agent's duties shall include keeping the Director of Parks and Recreation notified as to the progress of the job and the procedures involved in completing the job. The Agent shall call to the attention of the Director of Parks and Recreation and the Contractor any deviation of contract or specifications, but failure of the Agent or of the Director of Parks and Recreation to call to the attention of the Contractor any deviation of the contract or specifications shall not constitute acceptance of said work. The Agent shall have the authority to suspend any work pending a decision by the Director of Parks and Recreation.

6.3. **Extra Work**: Extra work being done by the Contractor without authorization through change orders, or work which is not shown on the contract or specifications, shall be considered as unauthorized work; and if performed shall be at the risk of the Contractor. The Director of Parks and Recreation reserves all rights to refuse payment for such work.

6.4. **Unauthorized Work**: All work and/or materials which do not conform to the contract and specifications, and work done contrary to written instructions of the Agent or Director of Parks and Recreation shall be done at the expense of the Contractor. The Contractor may be ordered to remove or remedy such work at its own expense. If Contractor damages adjacent property, the Contractor shall remedy such property at its own expense.

6.5. **Final Inspection**: Final inspection of the site shall take place by the Director of Parks and Recreation or their appointed Agent as soon as possible after the completion of the project. If the project is completed in cycles, the project shall be inspected after each cycle by the Agent. The Contractor shall be allowed to be present at the examination. If the inspection reveals any defective work, the Director of Parks and Recreation or their Agent may require the work to be remedied before final acceptance is granted. All said remedies shall be at the expense of the Contractor.

6.6. **Laws and Regulations**: The Contractor and any Subcontractor(s) shall at all times comply with all local, county, state and federal laws. The Contractor and any Subcontractor shall abide by all Labor Laws observed by the State of Texas. The Contractor shall comply with all federal, state and local Environmental Protection Laws, and regulations. The Contractor shall comply with all applicable federal, state and local laws and regulations regarding pollution of rivers, lakes, streams and other waters. The Contractor shall store, handle, use and dispose of chemicals, fuels, oils, greases and other materials in a manner that prevents them from entering surface or ground waters. Upon receipt of notice of noncompliance of environmental protection provisions, the Contractor shall take immediate corrective action at the Contractor's expense. If the Contractor fails or refuses to immediately take corrective action, the City may issue an order stopping all or part of the work until satisfactory corrective action has been taken.

6.6.1. Prior to any application of chemicals, the Contractor shall request, in writing, approval from the Director of Parks and Recreation or his Agent. The request shall include the target pest and the type of chemical(s) to be used. If permission is granted, all applications shall be performed through a Licensed Applicator, licensed by the Texas Structural Pest Control Board and/or the Texas Department of Agriculture. Upon completion of the operation, the Contractor shall provide to the Director of Parks and Recreation or their Agent, a copy of the Pesticide Application Documentation that the Contractor records pursuant to the requirements of the Structural Pest Control Board.

6.7. **Advertising**: Contractor shall not advertise or publish, without City's prior consent, the fact that the City has entered into this contract, except to the extent necessary to comply with proper request for information from an authorized representative or the federal, state or local government.

6.8. **Citizen Contact**: The Contractor is granted the privilege of doing work on Park property but does not have exclusive use of the property and must respect the activities of patrons while doing work on Park property. The Contractor shall take all precautions necessary to insure that adjacent property owners are not disturbed.

6.9. **Identification and Character**: Contractor's vehicles shall be marked with the Contractor's company name, on both sides and in lettering that is a minimum of two inches tall and of an easily read typeface. In lieu of lettering, Contractors may submit easily recognizable Company Logos for approval by the Director of Parks and Recreation. All employees of the Contractor shall have a name badge for identification, either clip on or incorporated with a uniform. This identification shall be worn at all times that the employee is at the job site. The Contractor shall provide uniforms of a different color than City employee uniforms. Uniforms may not be torn or ragged and shall present a professional appearance. Additionally, the Contractor will at all times require employees to remain fully dressed and will not allow employees to wear unbuttoned clothing while on City property.

6.9.1. The Contractor shall prohibit the use of intoxicating substances by its drivers and crewmembers while on duty or in the course of performing their duties under this Contract.

6.9.2. Employees driving the Contractor's vehicles shall at all times possess and carry a valid State of Texas Driver's License appropriate for the weight and type of vehicle being driven. Contractors are specifically required to ensure that a Texas Commercial Driver's License is obtained where applicable for the type(s) of vehicles in use.

6.9.3. The Contractor's employees, officers, Agents and Subcontractors shall, at no time, be allowed to identify themselves or in any way represent themselves as being employees of the City of Lubbock.

6.10. **Safety**: The Contractor is responsible for maintaining a safety program that insures compliance with all current requirements of the Federal Occupational Safety and Health Act of 1970. The Contractor is responsible for safety on the project site and the City shall take no action to interfere with the Contractor's safety program. Failure to maintain compliant with this act shall be grounds for termination of the contract.

7. PROSECUTION AND PROGRESS OF WORK

7.1. **Notice to Proceed**: Notice to proceed shall be mailed to the Contractor by certified letter. The Contractor shall have ten (10) working days from the day he receives the letter to actively proceed with the work.

7.2. **Contract Time**: All work is schedule driven, therefore, the Contractor's work force and equipment needs shall vary throughout the contract's time period. The normal work schedule shall fall within the time frame of Monday through Friday 6:00 a.m. to 6:00 p.m.

7.3. **Weekends, Holidays and Nights**: Work on weekends, holidays, and nights shall be at the discretion of the Contractor.

7.4. **Weather**: Weather will affect the progress of grounds maintenance at times and Contractor shall recognize this and have a plan of action and/or resources available to proceed in an expedient manner. Should weather conditions alter schedules, the Contractor shall notify the Agent at the beginning of the next workday. It is the Contractor's responsibility to provide quality workmanship. If weather conditions prevent such quality, the Contractor shall suspend work and resume work as soon as weather allows. If the Agent or Director of Parks and Recreation finds that weather conditions are inappropriate for maintaining high quality work, they may notify the Contractor and suspend work. The suspension of work by the Agent or Director of Parks and Recreation shall not in any way allow the Contractor to find grounds for adjustments in contract time or provide for extra compensation.

7.5. **Character of Work**: All workers, supervisors, managers, and Subcontractor(s) employed by the Contractor shall be competent and careful workers skilled in their respective trades. The Director of Parks and Recreation or their Agent may remove from the work site any person employed by the Contractor who does not represent the City in a professional manner or does not follow the instructions given to him. If any person misconducts themselves, is incompetent, or negligent in the performance of their duties, they may be removed from the work site and shall not return until the Contractor receives written consent from the City's Representative. Should the Contractor continue to employ such individual to continue work under this contract, the City reserves the right to withhold payment and/or nullify the contract.

7.6. **Assigning or Subletting the Contract**: The Contractor shall not assign or sublet the contract, or any portion of the contract, without written consent from the Director of Parks and Recreation or his Agent. The City's permission to sublet any contract shall not be construed as making the City a party of such subcontract. No Subcontractor shall release the Contractor of its surety or its liability and obligation to fulfill all transactions made under the contract. Should consent be given, the Contractor shall insure the Subcontractor or shall provide proof of insurance from the Subcontractor that complies with all Insurance requirements contained in paragraphs, 4.0-4.7, Indemnity Insurance.

7.7. **Payment**: The Contractor shall receive compensation for services provided for in the contract on a monthly basis. Upon the end of each month, during the contract period, the Contractor shall submit an invoice to the Parks and Recreation Director for services provided during the month. Any Extra Work shall be shown on the same monthly invoice and identified as "Extra Work." Extra Work billing should designate turf maintenance, planting maintenance, woody plant bed maintenance cost and a description of the work performed. Payment shall be determined by the form included in this package as Exhibit B and approved by the Parks and Recreation Director.

EXHIBIT A

Scope of Work for City Medians, Turnarounds, ROW's

Specifications of Work

Intent: To provide grounds maintenance, litter control, plant/tree maintenance, structural and site cleanliness at City of Lubbock Medians, Turnarounds, ROW's and similar spaces

General: Successful Contractor shall actively proceed with the work as agreed and stated on the notice to proceed. Work shall not start until the notice to proceed is issued by the Purchasing and Contract Management department. The decision to end or suspend temporarily the maintenance season shall be made by the Owner's Representative Agent.

i. The areas to be serviced for each site include all right of ways adjoining the site and to the centerline of all alleys adjoining the site, and extending street-ward including the curb and ending six (6) inches beyond lip of gutter. Contractor is responsible for safe and careful operation of mowing equipment around plant material and structures to prevent damage and to prevent clippings from contaminating shrub or color beds, hard surfaces, streets, playgrounds and handicap ramps. If conditions are not conducive to blowing, sweeping and picking up of maintenance debris shall be required for these areas. Blowing of grass clippings or debris out to the street is prohibited

ii. Contractor shall provide a maintenance schedule to the Parks Department within two days from Notice to Proceed and will notify the Owner's Representative or Agent(s) of any changes in the schedule prior to the schedule change.

1) Turf Maintenance:

a. **Mowing:** Mowing commencement and conclusion shall be at the discretion of the Owner's Representative or Agent(s). Mowing frequency and height shall be 2 ½" to 3" and occur up to once every Seven (7) calendar days evenly spaced between Cycles for all Whisperwood, Broadway Streetscapes, 98th St Medians, Quincy. Mowing frequency and height shall be 2 ½" to 3" and occur up to once every twenty (20) calendar days evenly spaced between Cycles for all Loop Turnarounds, Quadrants, ROWS (Right of Way's). Clippings shall not be bagged and all hard surfaces, play areas, sidewalks and streets shall be cleared of all clippings after each service. The mowers shall leave no clumps or windrows of grass. All clippings windrows or clumps will be removed.

b. **Equipment:** Mowing equipment shall be determined by site conditions and equipped with all turf tires and shall be approved by the Owner's Representative or Agent(s). All required unit work which includes mowing, edging, trim mowing, string trimming shall be 100% complete before commencing to another mowing site. Alternate mowing patterns are required every cycle to avoid turf damage.

TENTATIVE MOWING FREQUENCIES 7 DAY SCHEDULE:

January	0	July	4
February	0	August	4
March	1	September	4
April	4	October	4
May	4	November	2
June	4	December	0

TENTATIVE MOWING FREQUENCIES 20 DAY SCHEDULE:

January	0	July	2
February	0	August	2
March	2	September	2
April	2	October	2
May	2	November	2
June	2	December	0

c. **Edging:** All sidewalks, curbed plant material beds, and game courts shall be edged to a depth of one inch and all non-curbed plant beds shall be edged to a depth necessary to achieve appropriate results. All edging shall be performed concurrently with mowing at each site. String trimmers or curb dressers may not be used for edging.

d. **Trimming:** All string trimming must be done to achieve a height uniform with the mowing height. Maintenance of drains and exposed playa lake shorelines due to evaporation or receding of the lake and mowable areas that retain water shall be the Contractor's responsibility. Trimming must be performed around trees, plant beds, buildings, playground equipment, signs, fences, and any other plants or structures. All play surfaces, hard surfaces, sidewalks, streets, street medians, parking areas, parking lots and drainage channels must be kept free of grass, weeds and debris. This task must be completed the same day the mowing is performed. Optional spraying of six (6) inches away from the tree(s) main trunk is also permitted to eliminate tree bark damage. Four (4) to six (6) inch wide. Optional chemical edging only on chain link fence lines with Turf on either side of the fence is permitted.

2) Planting Bed Maintenance:

a. Maintenance schedule for November through February – Remove litter/tree leaves; remove failed plants; schedule necessary replantings; monitor plants for disease

control/fertilizer needs; this activity is to be completed once in a fifteen (15) day cycle, 10 cycles total.

b. Maintenance schedule for March through October – Remove litter/debris; remove failed plants; schedule necessary replantings; remove grasses/weeds/noxious plants/woody plants; ensure proper watering schedule; monitor plants for disease control/fertilizer needs; this activity is to be completed once in a seven (7) day cycle, 32 cycles total.

3) Woody Plant Maintenance:

a. Maintenance schedule for November through February – Remove damaged limbs/branches; inspect/replace failed tree wrapping; inspect/reset plant staking; remove dead trees; schedule necessary replantings; ensure proper watering schedule; monitor plants for disease control/fertilizer needs; this activity is to be completed once in a thirty (30) day cycle, 4 cycles total.

b. Maintenance schedule for March through October – Remove damaged limbs/branches; ensure proper watering schedule; monitor plants for disease control/fertilizer needs; this activity is to be completed once in a thirty (30) day cycle, 8 cycles total.

EXHIBIT B
City of Lubbock, Tx
RFP 25-18399-LV
Mowing & Maintenance – Streetscapes, Medians, Right of Ways

Turf Maintenance as per Section 1.0:

Mowing/Edging/Trimming

TENTATIVE MOWING FREQUENCIES SCHEDULE:

7 Day Schedule: $_____

20 Day Schedule $_____

Planting Bed Maintenance as per Section 2.0

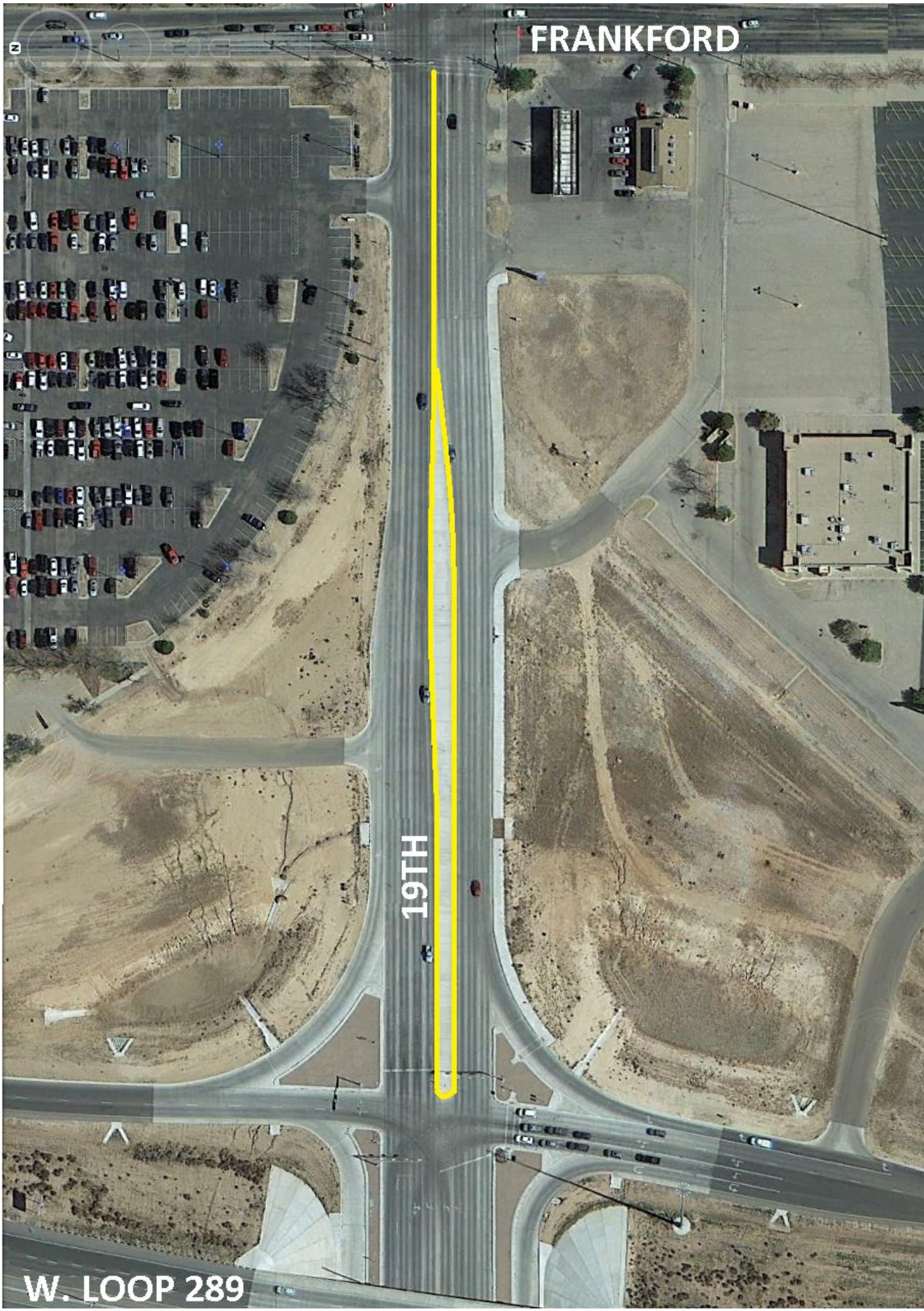
a. 32 Cycles: $_____

b. 9 Cycles: $_____

Woody Plant Maintenance as per Section 3.0:

a. 4 Cycles: $_____

b. 8 Cycles: $_____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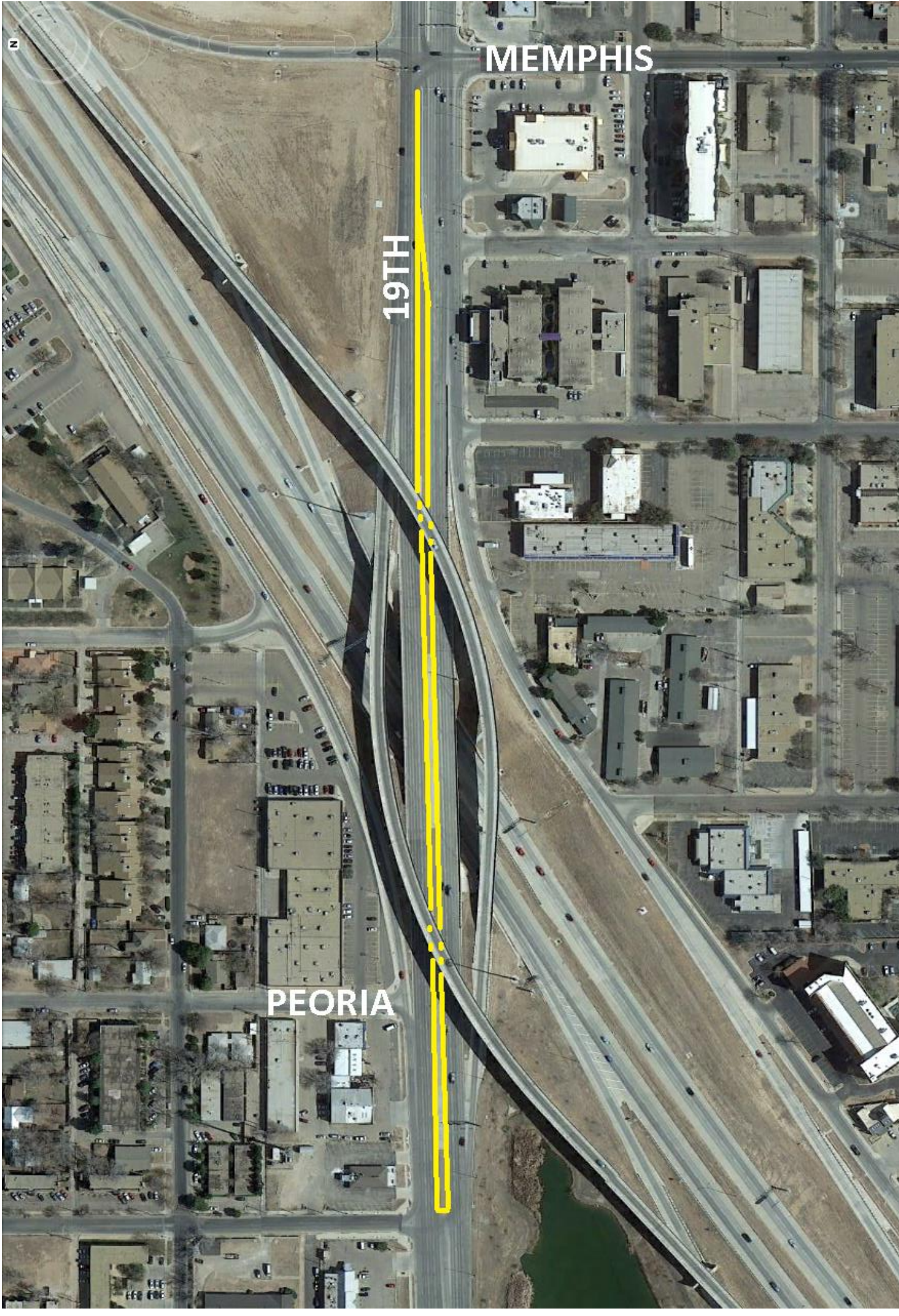
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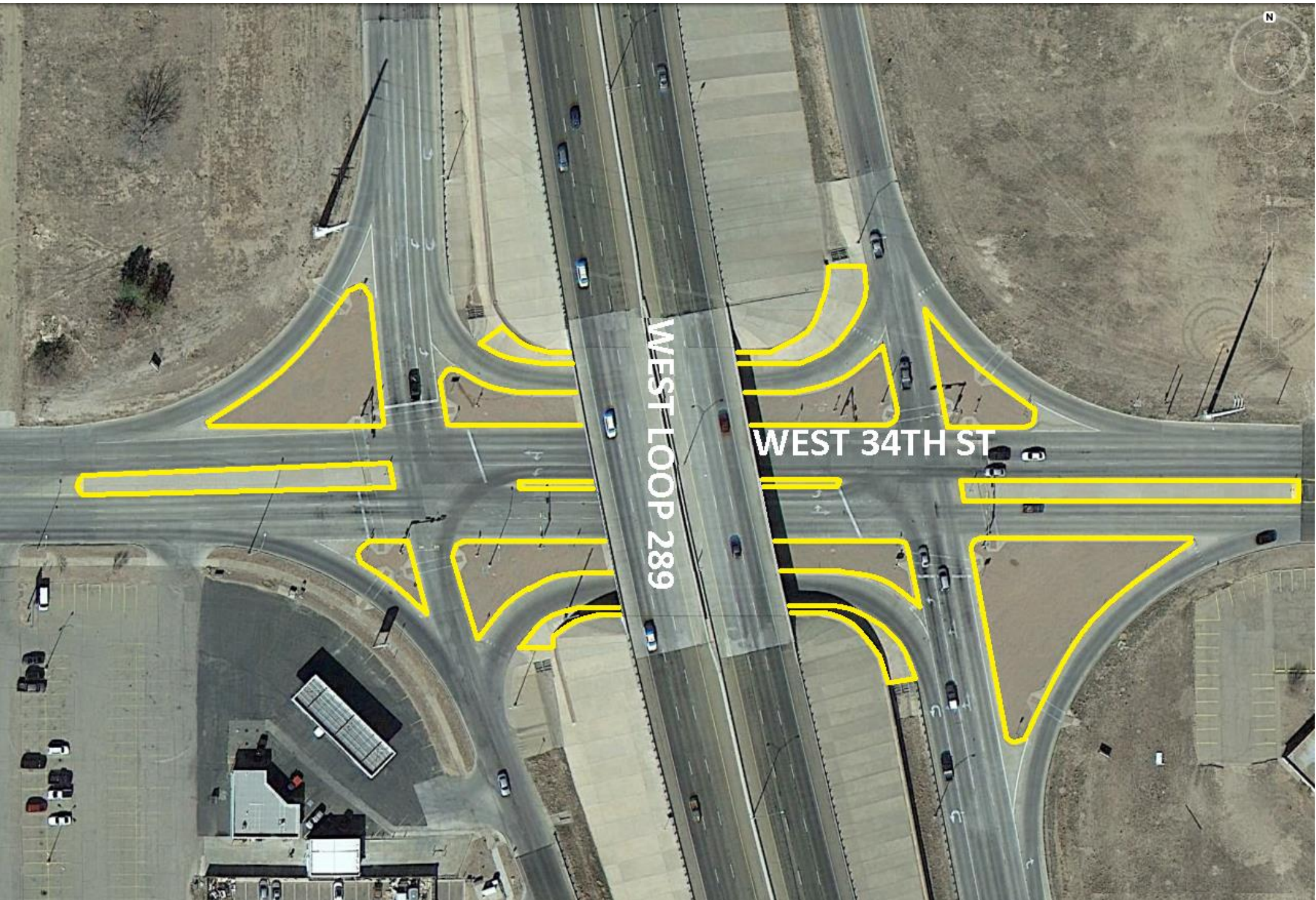
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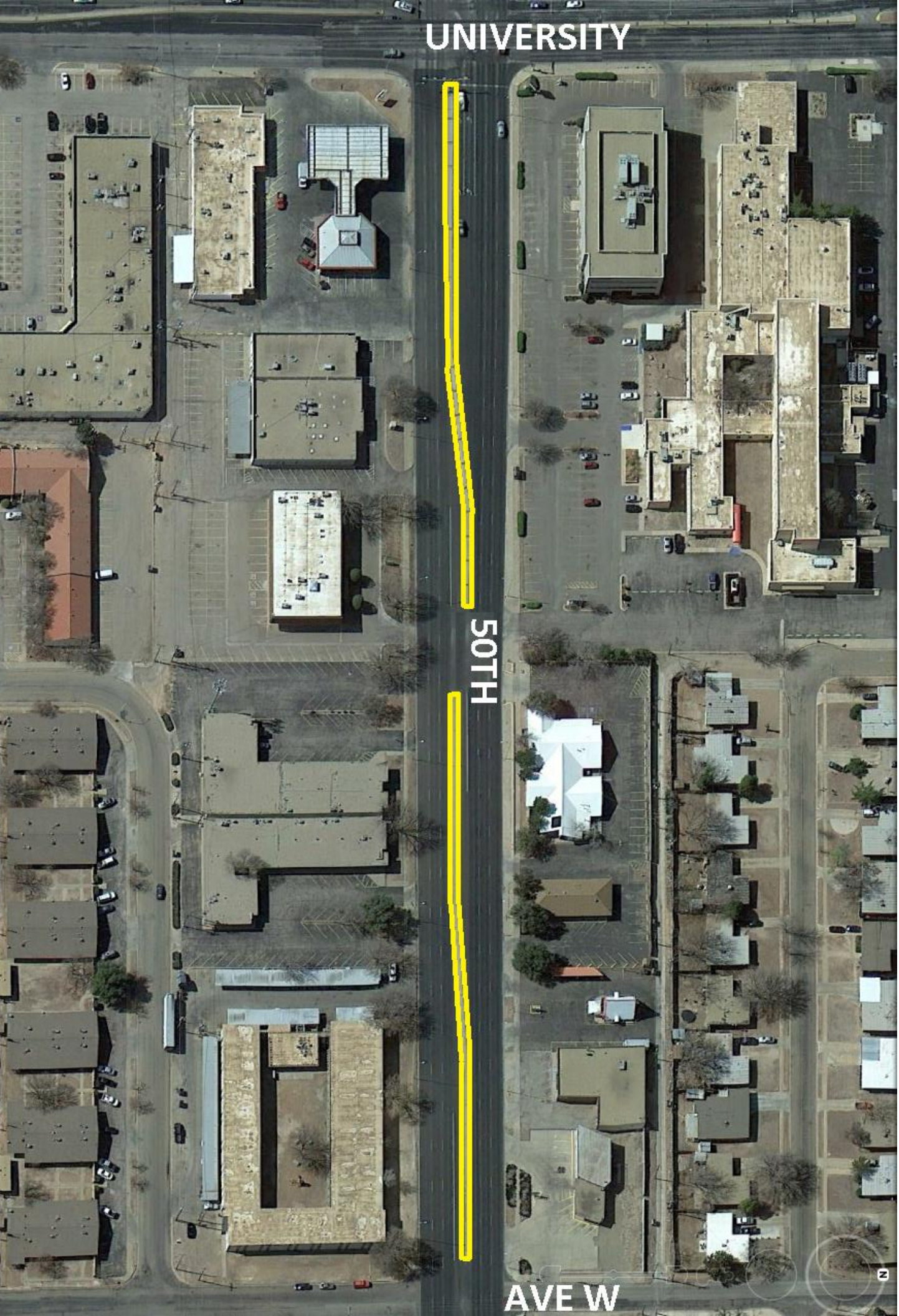
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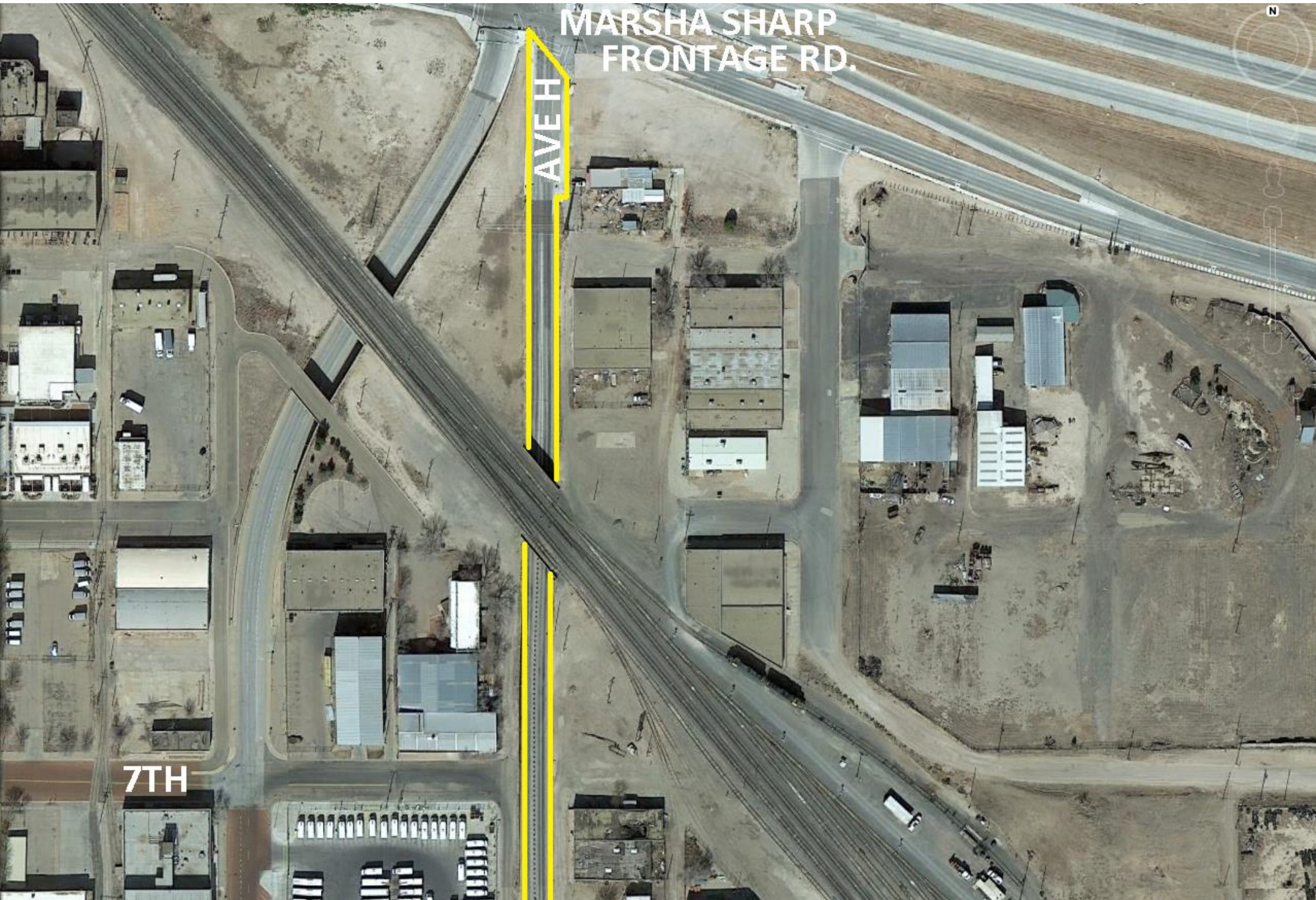
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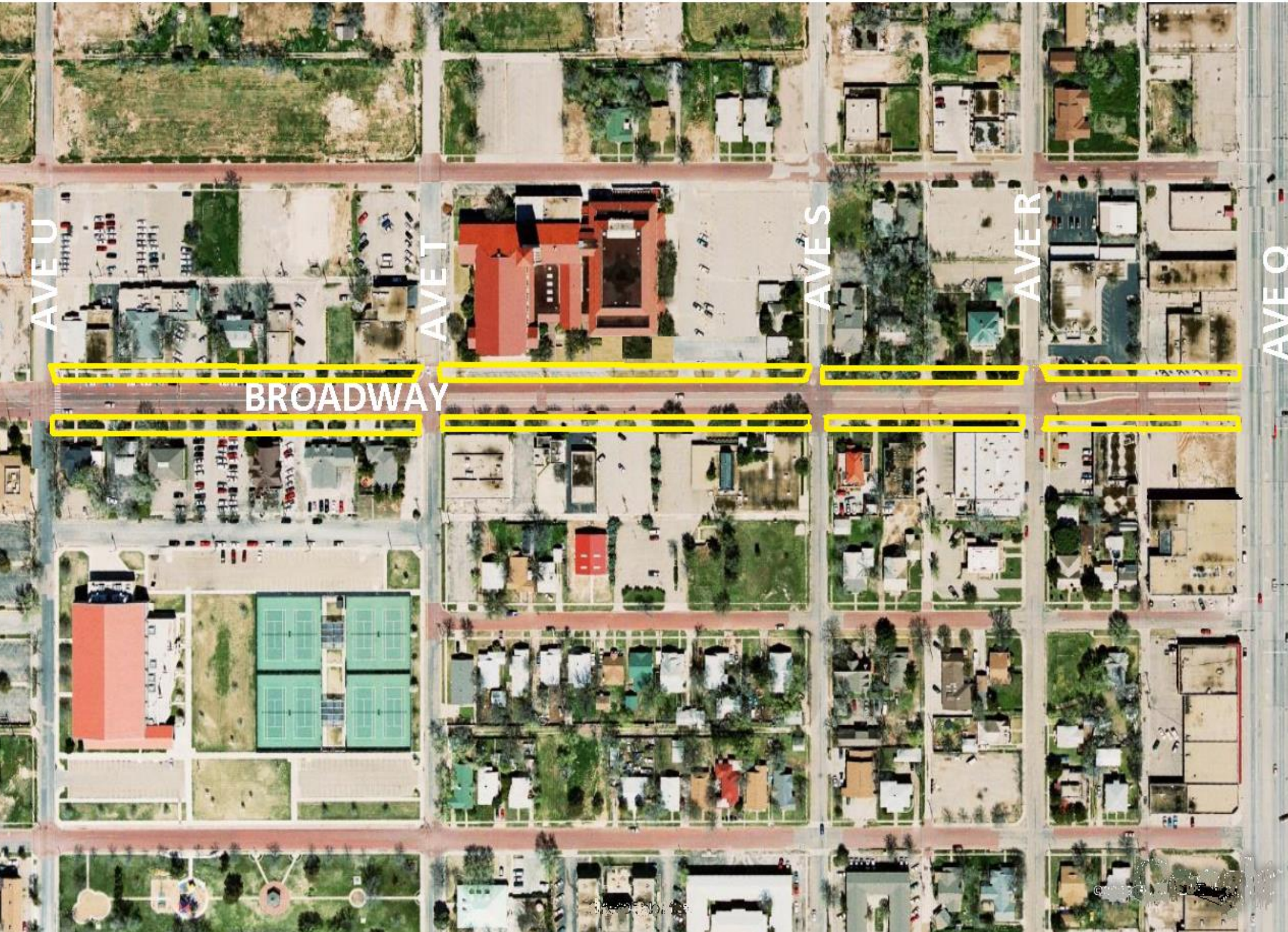
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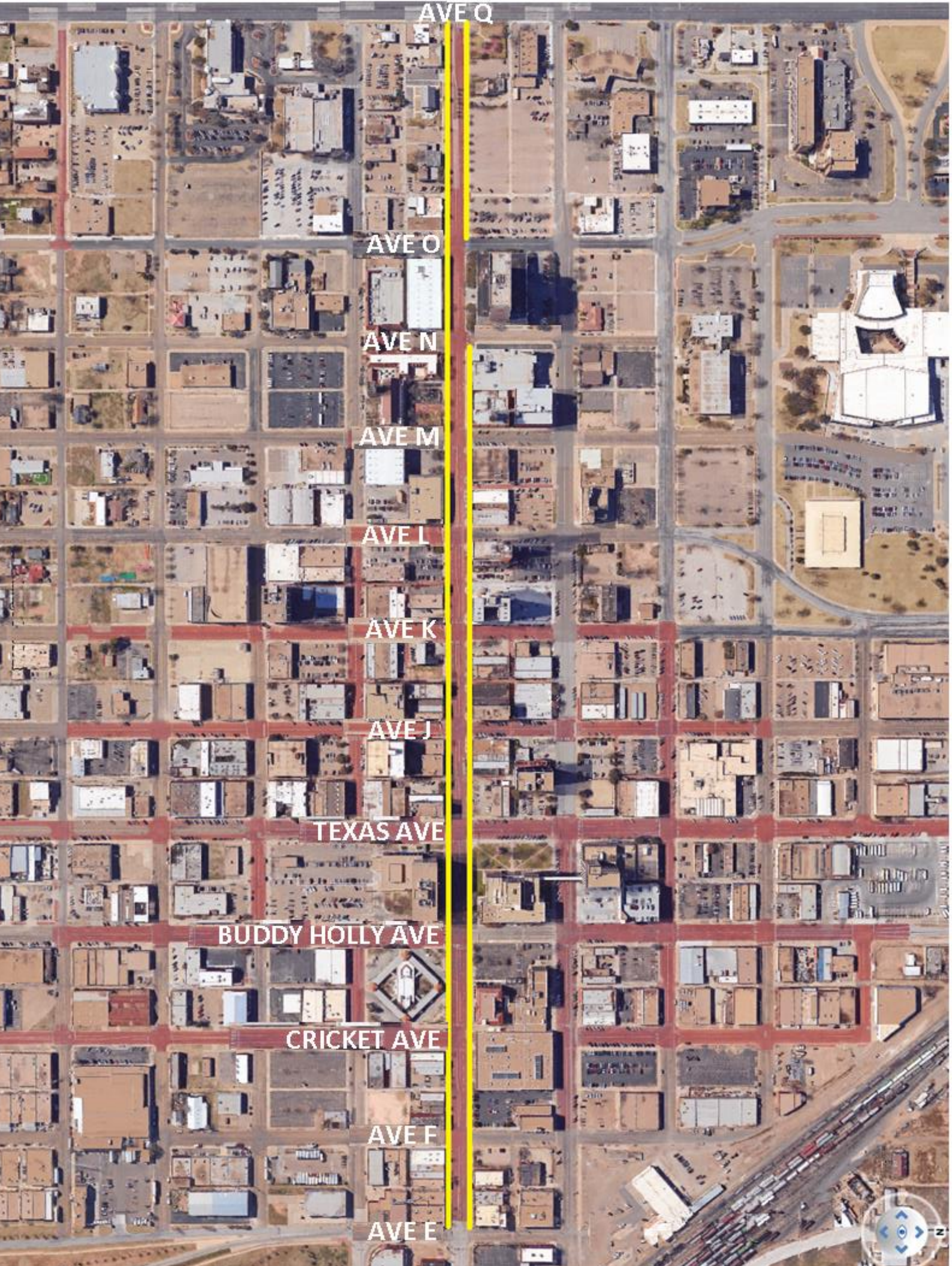
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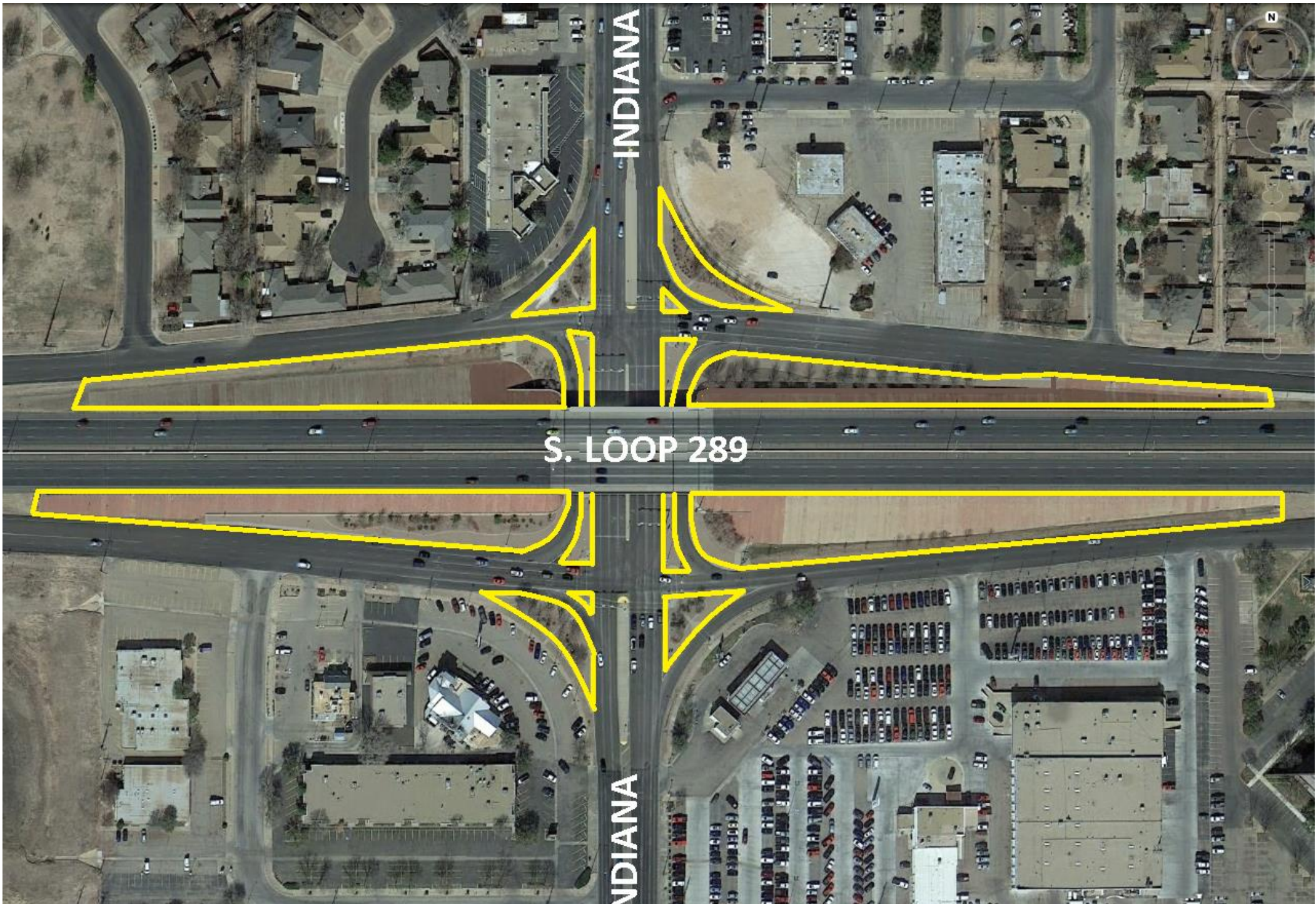
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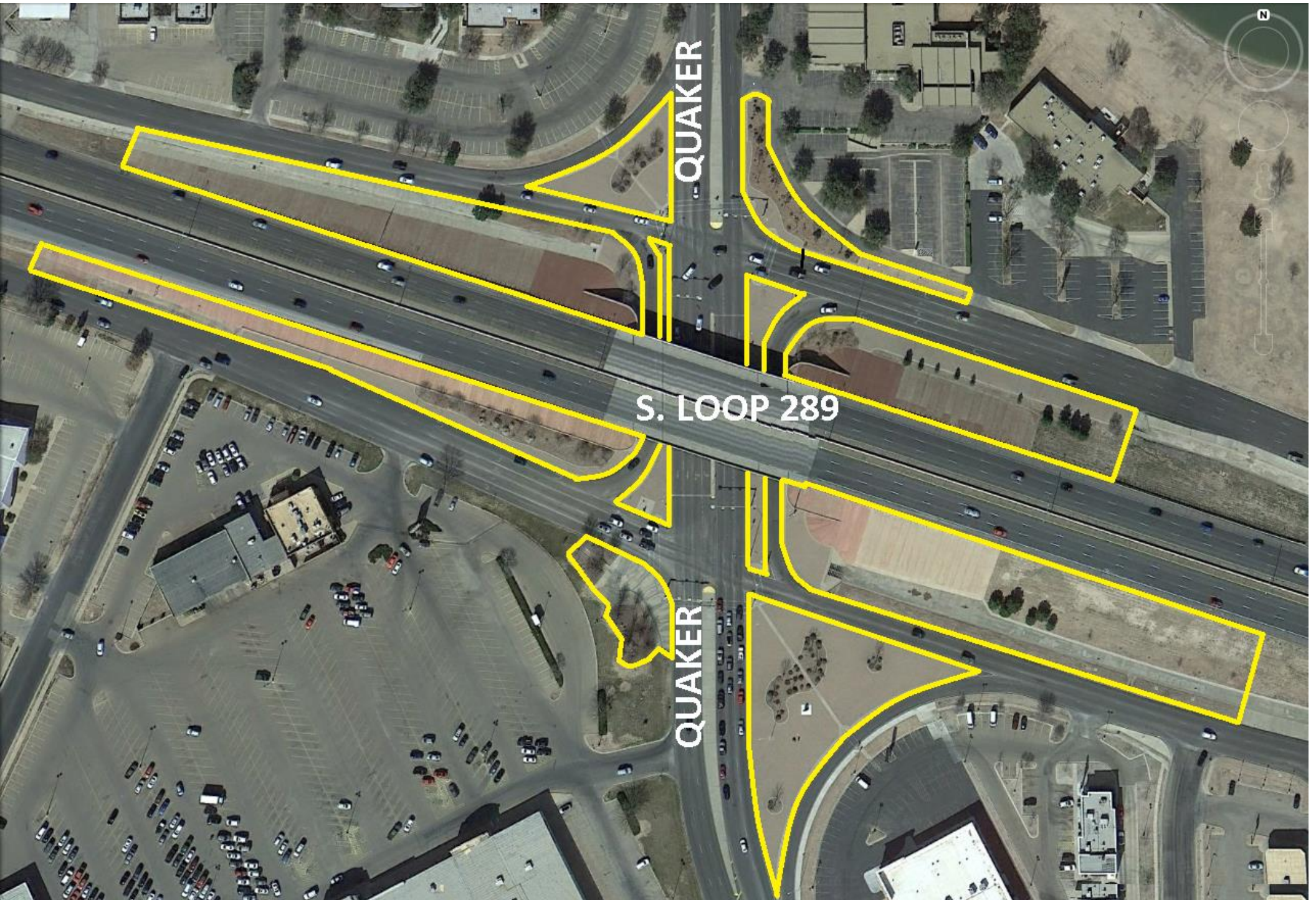
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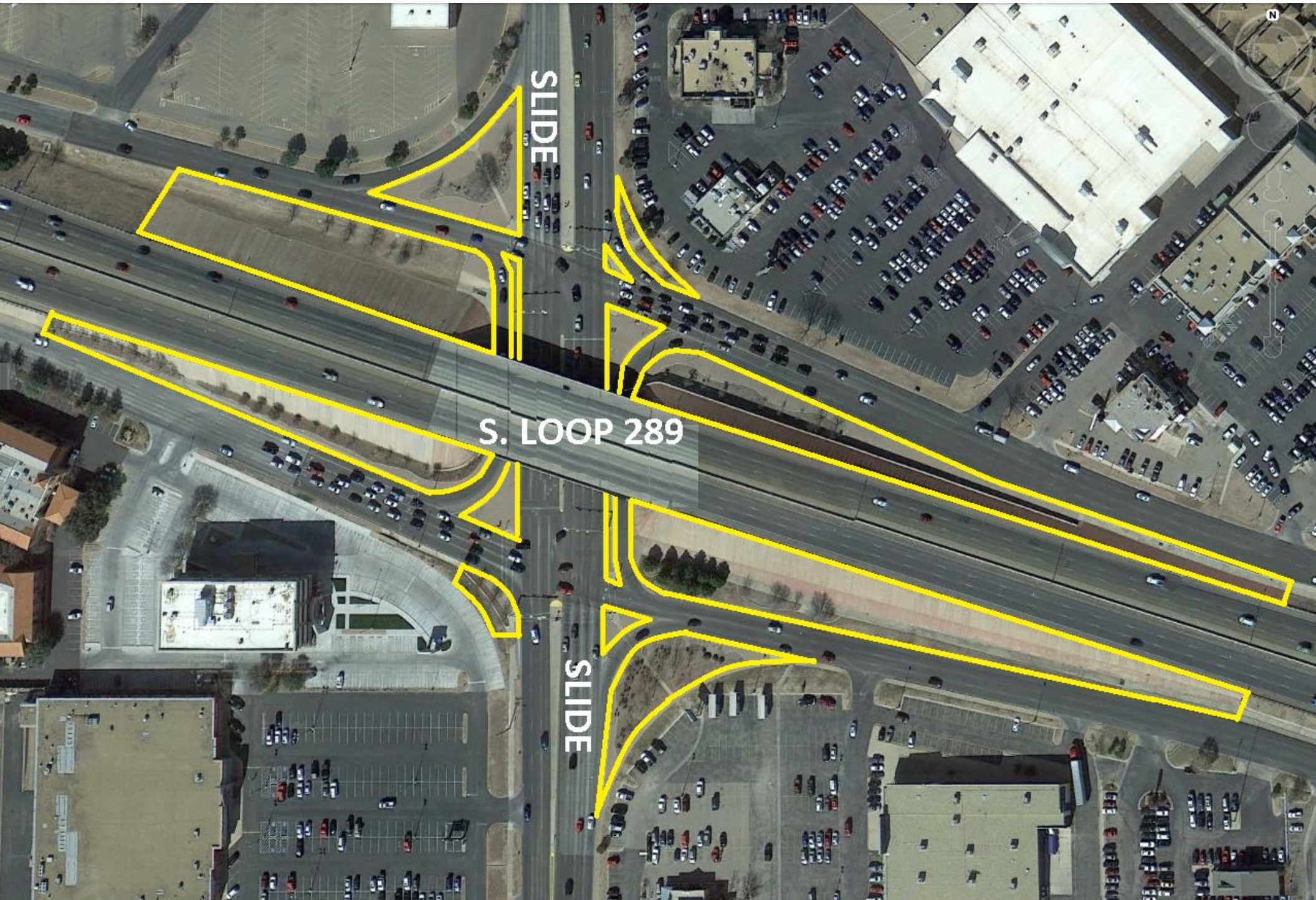
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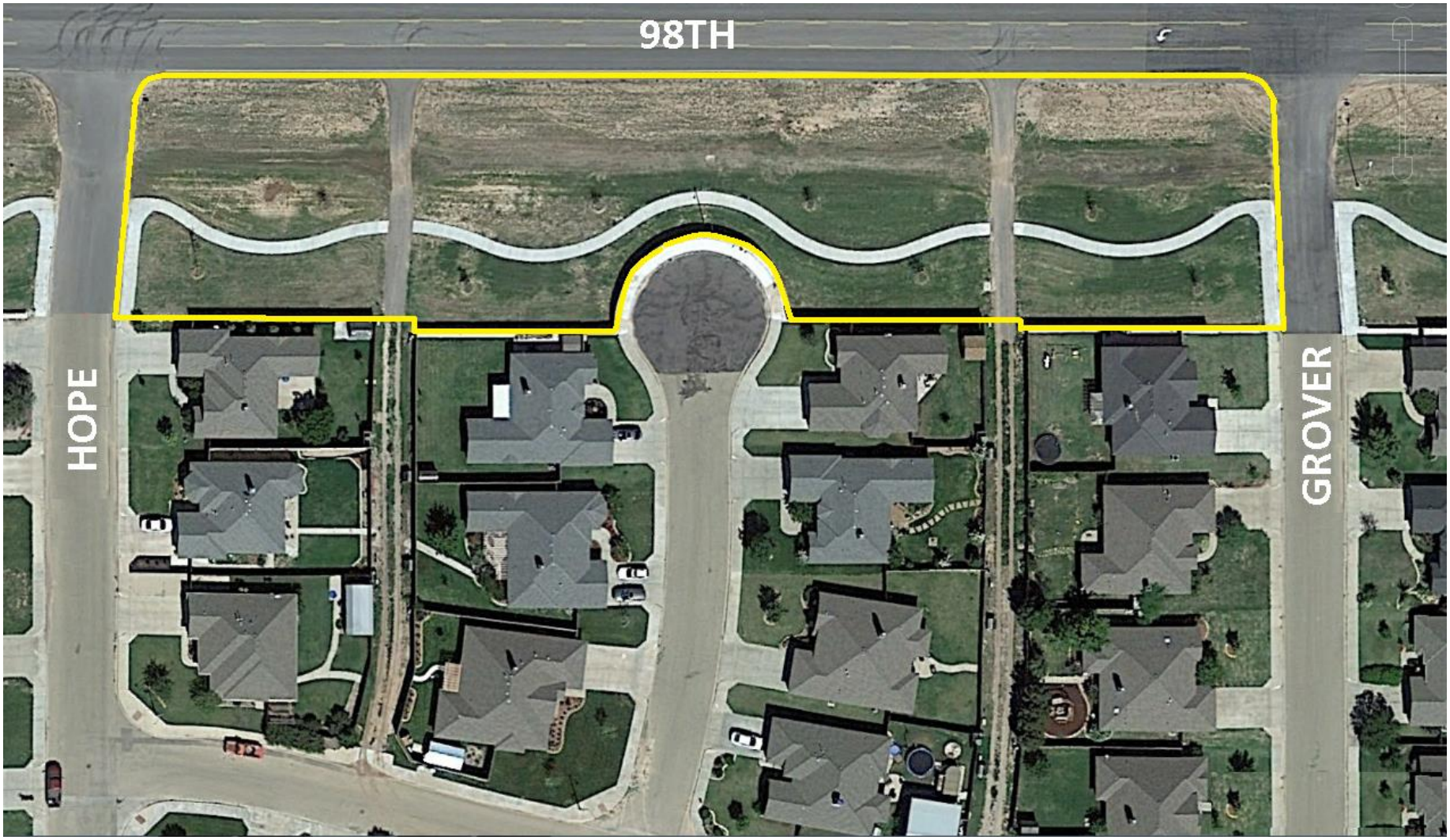
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City of Lubbock
RFP 25-18399-LV
Mowing Maintenance of Streetscapes, Medians, and Right of Ways
Price Proposal Sheet

Attachment B

			Reeder Landscape	
		Location	Amarillo, TX	
		Total Cost	**$123,290.00**	
		Quantity Required	Unit Price	Total Cost
1				
#1-1	Mowing/ Edging/ Trimming	32	1,495.00	47,840.00
#1-2	Mowing/ Edging/ Trimming	9	4,100.00	36,900.00
2				
#2-1	Planting Bed Maintenance as per Section	32	750.00	24,000.00
#2-2	Planting Bed Maintenance as per Section	9	750.00	6,750.00
3				
#3-1	Woody Plant Maintenance as per Sectio	4	650.00	2,600.00
#3-2	Woody Plant Maintenance as per Sectio	8	650.00	5,200.00

VENDOR ACKNOWLEDGEMENT

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

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

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

Authorized Signature

President

Title

Blake Reeder

Print/Type Name

1.25.25

Date

Reeder Industries Inc

Company Name

11902 I 27

Address

Amarillo TX 79119

City, State Zip Code

Contact for questions, clarifications, etc.	
Name and Title:	Blake Reeder
Mailing Address:	11902 I 27
City, State, Zip:	Amarillo TX
Telephone No:	806.356-6163
Fax No:	
E-Mail:	blake@reederlandscape.com

INSURANCE REQUIREMENTS

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

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

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

Commercial General Liability Requirements: $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).

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

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

Pollution Liability Requirements: $500K occurrence / $1M aggregate.

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

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

* To Include Products of Completed Operations endorsement.
* Carrier will provide a 30-day written notice of cancellation, 10-day written notice for non-payment.

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

* Subcontractors must carry same limits as listed above.

IMPORTANT: POLICY ENDORSEMENTS

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

REQUIRED PROVISIONS

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

a. Name the City of Lubbock and its officers, employees, and elected representatives as additional insureds, (as the interest of each insured may appear) as to all applicable coverage;

b. Provide for 30 days notice to the City for cancellation, nonrenewal, or material change;

c. Provide for notice to the City at the address shown below by registered mail;

d. The Contractor agrees to waive subrogation against the City of Lubbock, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance;

e. Provide that all provisions of this contract concerning liability, duty, and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

NOTICES

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

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

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

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

Purchasing and Contract Management

Project Summary

RFP 25-18399-LV
Mowing & Maintenance of Streetscapes,
Medians, and Right of Ways

Notice was published in the Lubbock Avalanche Journal on January 12 & January 19, 2025.
Notice was published on the Purchasing Web Site under Bid Opportunities.
Notice was published on the State of Texas Electronic State Business Daily.
Notice was published on Bonfire.com from January 13 to January 29, 2025.
41 vendors downloaded the documents using Bonfire.com.
20 vendors were notified separately.
5 vendors submitted proposals.

AI# 13294
Regular City Council Meeting 5. 36.
03/25/2025:

Information

Agenda Item

Resolution - Police: Consider a resolution authorizing the Mayor to execute Purchase Order 10028284, with Angel Armor, LLC, for the purchase of ballistic vests with load-bearing carriers for the Lubbock Police Department.

Item Summary

The vests are being purchased through Buy Board Contract #698-23. This purchase will be for 38 Level III Ballistic Vests with corresponding rifle-resistant plates and load-bearing carriers for these vests. These vests will be dispersed among the Lubbock Police Department Officers that are due for new vests.

Fiscal Impact

The $118,103.84 for the vests is budgeted in the Adopted FY 2025-2026 Police Operating Budget.

Staff/Board Recommending

Seth Herman, Chief of Police

Attachments

Resolution- Angel Armor
Purchase Order- Angel Armor

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. 10028284, for law enforcement vests, per BuyBoard Contract No. 698-23, by and between the City of Lubbock and Angel Armor, LLC, 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 MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Seth Herman, Chief of Police

APPROVED AS TO FORM:

_____
Mitchell Satterwhite, First Assistant City Attorney

ccdocs II/RES.Angel Armor LLC-PurchaseOrd
February 28, 2025

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 2/26/2025
Order Number 10028284 000 OP
Branch/Plant 5735

TO: ANGEL ARMOR LLC
4557 DENROSE CT
FORT COLLINS CO 80524

SHIP TO: CITY OF LUBBOCK
POLICE DEPARTMENT
1401 15TH ST
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 2/26/2025 Freight .
Requested 4/30/2025 Taken By A ESPARZA
Delivery PER L PEDERSON REQ. 62893 BUYBOARD CONTRACT #698-23

If you have any questions about this order, please contact Lisa Pederson at 806-775-2765 or via email LPederson@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Rise Stealth Carrier Black III 01-00632-01	26.000	1,096.5000	EA	28,509.00	4/30/2025
Rise Stealth Carrier Black III 01-00650-01 2xl or Larger	12.000	1,147.5000	EA	13,770.00	4/30/2025
Rise Flex Carrier Dark Navy 01-00488-02 Load Bearing Carrier Only	38.000	468.1800	EA	17,790.84	4/30/2025
Truth SNAP 308 Ultra AAU301 01-00554 8x10 SC	2.000	561.0000	EA	1,122.00	4/30/2025
Truth SNAP 308 Ultra AAU301 01-00553 8x10 FC	1.000	561.0000	EA	561.00	4/30/2025
Truth SNAP 308 Ultra AAU301 01-00552 9x11 SC	4.000	663.0000	EA	2,652.00	4/30/2025
Truth SNAP 308 Ultra AAU301 01-00551 9x11 FC	8.000	663.0000	EA	5,304.00	4/30/2025
Truth SNAP 308 Ultra AAU301 01-00550 10x12 SC	32.000	765.0000	EA	24,480.00	4/30/2025
Truth SNAP 308 Ultra AAU301	29.000	765.0000	EA	22,185.00	4/30/2025

City of Lubbock TEXAS

PURCHASE ORDER

Date - 2/26/2025

Order Number 10028284 000 OP

Branch/Plant 5735

TO: ANGEL ARMOR LLC
4557 DENROSE CT
FORT COLLINS CO 80524

SHIP TO: CITY OF LUBBOCK
POLICE DEPARTMENT
1401 15TH ST
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 2/26/2025 Freight .

Requested 4/30/2025 Taken By A ESPARZA

Delivery PER L PEDERSON REQ. 62893 BUYBOARD CONTRACT #698-23

If you have any questions about this order, please contact Lisa Pederson at 806-775-2765 or via email LPederson@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
01-00549 10x12 FC					
Shipping	1.000	1,730.0000	EA	1,730.00	4/30/2025

Terms NET 30 Total Order 118,103.84

This purchase order encumbers funds in the amount of $118,103.84 awarded to Angel Armor, LLC. of Fort Collins, CO, on _____. The following is incorporated into and made part of this purchase order by reference: Quote dated February 18, 2025, from Angel Armor, LLC. of Fort Collins, CO, and BuyBoard Contract #698-23.

Resolution #_____

CITY OF LUBBOCK: ATTEST:

_____ _____

Mark McBrayer, Mayor Courtney Paz, City Secretary

Rev. 3/2022

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. S e l l e r 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 viciation 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/departmental-websites/departments/purchasing/vendor-information

30. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

31. No Boycott of Energy Companies. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott Energy Companies and will not boycott Energy Companies during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

32. No Boycott of a Firearm Entity or Firearm Trade Association. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott a Firearm Entity or Firearm Trade Association and will not boycott a Firearm Entity or Firearm Trade Association during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

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

34. TEXAS PUBLIC INFORMATION ACT. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

35. Pursuant to Section 552.301(c) of the Texas Government Code, the City of Lubbock has designated the following email address for which public information requests may be made by an emailed request: orr@mylubbock.us. Please send this request to this email address for it to be processed

Customer Quote

ANGEL ARMOR™
4557 DENROSE CT
FORT COLLINS, CO 80524
ANGELARMOR.COM

Quote #	QUO80584-BB
Quote Date	2/18/2025
Expires:	3/16/2025

99CMS - Cruz Martin Melchor Sanchez

698-23

Bill To	Ship To
City of Lubbock Accounts Payable PO Box 2000 Lubbock TX 79457 United States	Lubbock Police Department 1205 15th Street Lubbock TX 79401 United States

Part Number	Description	Qty	Unit Price	Amount
01-00632-01	RISE, Stealth Carrier, Black, Elite IIIA Name: John Geeslin Serial: JMC209813 Front: 2213 Back: 2014 G-Hook Belt: S Belly Band:S Name: Daniel Morales Serial: JMC209817 Front: 2517 Back: 2518 G-Hook Belt: M Belly Band:M Name: William Davis Serial: JMC209818 Front: 2516 Back: 2518 G-Hook Belt: M Belly Band:M Name: Joshua Gafford Serial: JMC209819 Front: 2215 Back: 2214 G-Hook Belt: S Belly Band:S Name: Kolton Pirkle Serial: JMC209820 Front: 2216 Back: 2016 G-Hook Belt: S Belly Band:S Name: Juston Wood Serial: JMC209821 Front: 2518 Back: 2519 G-Hook Belt: M Belly Band:M Name: Rusty Arp Serial: JMC209823 Front: 2216 Back: 2216 G-Hook Belt: S Belly Band:S Name: Kevin Cranfill Serial: JMC209824 Front: 2218 Back: 2217 G-Hook Belt: S Belly Band:S Name: Timothy Moore Serial: JMC209827 Front: 2517 Back: 2518	26	1,096.50	28,509.00

Email:_____

Phone Number:_____

I authorize the purchase above and acknowledge that I have read and accepted the Angel Armor, LLC Terms and Conditions of Sale and the Angel Armor, LLC Product Sample Disclaimer located at angelarmor.com/terms-and-conditions/

Signature:_____ Date:_____

Customer Quote

ANGEL ARMOR™
4557 DENROSE CT

Quote #	QUO80584-BB

Part Number	Description	Qty	Unit Price	Amount
	G-Hook Belt: M Belly Band:M Name: Aaron Gast Serial: JMC209829 Front: 2517 Back: 2516 G-Hook Belt: M Belly Band:M Name: Spencer Hillard Serial: JMC209830 Front: 2216 Back: 2016 G-Hook Belt: S Belly Band:S Name: Jason Cruce Serial: JMC209831 Front: 2514 Back: 2516 G-Hook Belt: M Belly Band:M Name: Carlton Peterson Serial: JMC209832 Front: 2015 Back: 2015 G-Hook Belt: XS Belly Band:S Name: Shane Barnes Serial: JMC209833 Front: 2515 Back: 2216 G-Hook Belt: M Belly Band:S Name: Mark Ellison Serial: JMC209834 Front: 2515 Back: 2516 G-Hook Belt: M Belly Band:M Name: Ross Wuarles Serial: JMC209835 Front: 2215 Back: 2016 G-Hook Belt: S Belly Band:S Name: Luke Master Serial: JMC209837 Front: 2516 Back: 2517 G-Hook Belt: M Belly Band:M Name: Steven Fulgham Serial: JMC209838 Front: 2215 Back: 2216 G-Hook Belt: S Belly Band:S Name: Luke Backus Serial: JMC209839 Front: 2515 Back: 2217 G-Hook Belt: M Belly Band:S Name: Ernie Garcia Serial: JMC209841 Front: 2515 Back: 2215 G-Hook Belt: M Belly Band:S Name: Thomas Young Serial: JMC209842 Front: 2516 Back: 2516 G-Hook Belt: M Belly Band:M Name: Chad Taska Serial: JMC209843 Front: 2214 Back: 2014 G-Hook Belt: S Belly Band:S			

Email:_____

Phone Number:_____

I authorize the purchase above and acknowledge that I have read and accepted the Angel Armor, LLC Terms and Conditions of Sale and the Angel Armor, LLC Product Sample Disclaimer located at angelarmor.com/terms-and-conditions/

Signature:_____ Date:_____

Customer Quote

ANGEL ARMOR™
4557 DENROSE CT

Quote #	QUO80584-BB

Part Number	Description	Qty	Unit Price	Amount
	Name: Charlene Jennings Serial: JMC209844 Front: 2213 Back: 2213 G-Hook Belt: S Belly Band:S Name: Morgan Newbold Serial: JMC209846 Front: 2215 Back: 2216 G-Hook Belt: S Belly Band:S Name: Christopher Kiss Serial: JMC209847 Front: 2215 Back: 2016 G-Hook Belt: S Belly Band:S Name: Jeremy Perez Serial: JMC209850 Front: 2515 Back: 2216 G-Hook Belt: M Belly Band:S			
01-00650-01	RISE, Stealth Carrier, Black, 2XL & Larger, Elite IIIA Name: Ryan Brumley Serial: JMC209814 Front: 2818 Back: 2518 G-Hook Belt: L Belly Band:M Name: Michael Everette Serial: JMC209815 Front: 2817 Back: 2518 G-Hook Belt: L Belly Band:M Name: Derick Smith Serial: JMC209816 Front: 2816 Back: 2517 G-Hook Belt: L Belly Band:M Name: Mykel Luera Serial: JMC209822 Front: 2815 Back: 2516 G-Hook Belt: L Belly Band:M Name: Steve Thurman Serial: JMC209825 Front: 2817 Back: 2517 G-Hook Belt: L Belly Band:M Name: Joe Randolph Cook Serial: JMC209826 Front: 2815 Back: 2516 G-Hook Belt: L Belly Band:M Name: Trey Mayer Serial: JMC209828 Front: 2816 Back: 2516 G-Hook Belt: L Belly Band:M Name: Doak Funk Serial: JMC209836 Front: 2817 Back: 2517 G-Hook Belt: L Belly Band:M Name: Anthony Ortiz Serial: JMC209840 Front: 2817 Back: 2517 G-Hook Belt: L Belly Band:M	12	1,147.50	13,770.00

Email:_____

Phone Number:_____

I authorize the purchase above and acknowledge that I have read and accepted the Angel Armor, LLC Terms and Conditions of Sale and the Angel Armor, LLC Product Sample Disclaimer located at angelarmor.com/terms-and-conditions/

Signature:_____ Date:_____

Customer Quote

ANGEL ARMOR™
4557 DENROSE CT

Quote #	QUO80584-BB

Part Number	Description	Qty	Unit Price	Amount
	Name: Sean Dickerson Serial: JMC209845 Front: 2816 Back: 2516 G-Hook Belt: L Belly Band:M Name: Jeremy Doney Serial: JMC209848 Front: 2816 Back: 2517 G-Hook Belt: L Belly Band:M Name: Christopher Mitchell Serial: JMC209849 Front: 2817 Back: 2518 G-Hook Belt: L Belly Band:M			
01-00488-02	RISE, Flex Carrier, Dark Navy, Load Bearing, Carrier Only Name: John Geeslin Serial: JMC209962 Front: 2213 Back: 2014 QRLB360: MN Belly Band:S Name: Ryan Brumley Serial: JMC209963 Front: 2818 Back: 2518 QRLB360: XLN Belly Band:M Name: Michael Everette Serial: JMC209964 Front: 2817 Back: 2518 QRLB360: XLN Belly Band:M Name: Derick Smith Serial: JMC209965 Front: 2816 Back: 2517 QRLB360: XLN Belly Band:M Name: Daniel Morales Serial: JMC209966 Front: 2517 Back: 2518 QRLB360: LR Belly Band:M Name: William Davis Serial: JMC209967 Front: 2516 Back: 2518 QRLB360: LR Belly Band:M Name: Joshua Gafford Serial: JMC209968 Front: 2215 Back: 2214 QRLB360: MN Belly Band:S Name: Kolton Pirkle Serial: JMC209969 Front: 2216 Back: 2016 QRLB360: MN Belly Band:S Name: Juston Wood Serial: JMC209970 Front: 2518 Back: 2519 QRLB360: LR Belly Band:M Name: Mykel Luera Serial: JMC209971 Front: 2815 Back: 2516	38	468.18	17,790.84

Email:_____

Phone Number:_____

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Signature:_____ Date:_____

Customer Quote

ANGEL ARMOR™
4557 DENROSE CT

Quote #	QUO80584-BB

Part Number	Description	Qty	Unit Price	Amount
	QRLB360: XLN Belly Band:M Name: Rusty Arp Serial: JMC209972 Front: 2216 Back: 2216 QRLB360: MR Belly Band:S Name: Kevin Cranfil Serial: JMC209973 Front: 2218 Back: 2217 QRLB360: MN Belly Band:S Name: Steve Thurman Serial: JMC209974 Front: 2817 Back: 2517 QRLB360: XLN Belly Band:M Name: Joe Randolph Cook Serial: JMC209975 Front: 2815 Back: 2516 QRLB360: XLN Belly Band:M Name: Timothy Moore Serial: JMC209976 Front: 2517 Back: 2518 QRLB360: LR Belly Band:M Name: Trey Mayer Serial: JMC209977 Front: 2816 Back: 2516 QRLB360: XLN Belly Band:M Name: Aaron Gast Serial: JMC209978 Front: 2517 Back: 2516 QRLB360: LN Belly Band:M Name: Spencer Hillard Serial: JMC209979 Front: 2216 Back: 2016 QRLB360: MN Belly Band:S Name: Jason Cruce Serial: JMC209980 Front: 2514 Back: 2516 QRLB360: LR Belly Band:M Name: Carlton Peterson Serial: JMC209981 Front: 2015 Back: 2015 QRLB360: SR Belly Band:S Name: Shane Barnes Serial: JMC209982 Front: 2515 Back: 2216 QRLB360: LN Belly Band:S Name: Mark Ellison Serial: JMC209983 Front: 2515 Back: 2516 QRLB360: LR Belly Band:M Name: Ross Quarles Serial: JMC209984 Front: 2215 Back: 2016 QRLB360: MN Belly Band:S			

Email:_____

Phone Number:_____

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Signature:_____ Date:_____

Customer Quote

ANGEL ARMOR™
4557 DENROSE CT

Quote #	QUO80584-BB

Part Number	Description	Qty	Unit Price	Amount
	Name: Doak Funk Serial: JMC209985 Front: 2817 Back: 2517 QRLB360: XLN Belly Band:M Name: Luke Master Serial: JMC209986 Front: 2516 Back: 2517 QRLB360: LR Belly Band:M Name: Steven Fulgham Serial: JMC209987 Front: 2215 Back: 2216 QRLB360: MR Belly Band:S Name: Luke Backus Serial: JMC209988 Front: 2515 Back: 2217 QRLB360: LN Belly Band:S Name: Anthony Ortiz Serial: JMC209989 Front: 2817 Back: 2517 QRLB360: XLN Belly Band:M Name: Ernie Garcia Serial: JMC209990 Front: 2515 Back: 2215 QRLB360: LN Belly Band:S Name: Thomas Young Serial: JMC209991 Front: 2516 Back: 2516 QRLB360: LR Belly Band:M Name: Chad Taska Serial: JMC209992 Front: 2214 Back: 2014 QRLB360: MN Belly Band:S Name: Charlene Jennings Serial: JMC209993 Front: 2213 Back: 2213 QRLB360: MR Belly Band:S Name: Sean Dickerson Serial: JMC209994 Front: 2816 Back: 2516 QRLB360: XLN Belly Band:M Name: Morgan Newbold Serial: JMC209995 Front: 2215 Back: 2216 QRLB360: MR Belly Band:S Name: Christopher Kiss Serial: JMC209996 Front: 2215 Back: 2016 QRLB360: MN Belly Band:S Name: Jeremy Doney Serial: JMC209997 Front: 2816 Back: 2517 QRLB360: XLN Belly Band:M Name: Christopher Mitchell Serial: JMC209998 Front: 2817 Back: 2518 QRLB360: XLN Belly Band:M			

Email:_____

Phone Number:_____

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Signature:_____ Date:_____

Customer Quote

ANGEL ARMOR™
4557 DENROSE CT

Quote #	QUO80584-BB

Part Number	Description	Qty	Unit Price	Amount
	Name: Jeremy Perez Serial: JMC209999 Front: 2515 Back: 2216 QRLB360: LN Belly Band:S			
01-00554	Truth SNAP, 308 Ultra, AAU301, 8x10“, SC, III Charlene Jennings John Geeslin	2	561.00	1,122.00
01-00553	Truth SNAP, 308 Ultra, AAU301, 8x10”, FC, III Charlene Jennings	1	561.00	561.00
01-00552	Truth SNAP, 308 Ultra, AAU301, 9x11“, SC, III Kevin Cranfill Jason Cruce Carlton Peterson Chad Taska	4	663.00	2,652.00
01-00551	Truth SNAP, 308 Ultra, AAU301 9x11”, FC, III Christopher Kiss Chad Taska Ross Wuarles Carlton Peterson Kolton Pirkle Joshua Gafford John Geeslin Spencer Hillard	8	663.00	5,304.00
01-00550	Truth SNAP, 308 Ultra, AAU301,10x12“, SC, III	32	765.00	24,480.00
01-00549	Truth SNAP, 308 Ultra, AAU301, 10x12”, FC, III	29	765.00	22,185.00

Subtotal	**116,373.84**
Shipping Cost (UPS® Ground)	**1,730.00**
Total	**$118,103.84**

Accounts Payable

Email:_____

Phone Number:_____

I authorize the purchase above and acknowledge that I have read and accepted the Angel Armor, LLC Terms and Conditions of Sale and the Angel Armor, LLC Product Sample Disclaimer located at angelarmor.com/terms-and-conditions/

Signature:_____ Date:_____

AI# 13296
Regular City Council Meeting 5. 37.
03/25/2025:

Information

Agenda Item

Resolution - Police: Consider a resolution authorizing the Mayor to execute Purchase Order 10028285, with GT Distributors, Inc., for the purchase of Glock service pistols for the Lubbock Police Department.

Item Summary

This purchase will be for 335 Glock G45 MOS7 9mm ACRO AG service pistols. The Police Department will be exchanging 335 used service pistols for a discount with the new purchase. The new service pistols will be distributed to the Lubbock Police Department Officers.

The Glock pistols are being purchased through Buy Board Contract #698-23.

Fiscal Impact

Purchase Order 10028285, with GT Distributors, Inc. of Pflugerville, Texas for $196,880.40, is budgeted in the Adopted FY 2025-2026 Police Operating Budget, Seized Funds.

Staff/Board Recommending

Seth Herman, Chief of Police

Attachments

Resolution - GT Distributors Inc.

Purchase Order- GT Distributors Inc.

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Purchase Order No. 10028285, for law enforcement service weapons, per BuyBoard Contract No. 698-23, by and between the City of Lubbock and GT Distributors, 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 MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Seth Herman, Chief of Police

APPROVED AS TO FORM:

_____
Mitchell Satterwhite, First Assistant City Attorney

ccdocs II/RES.GT Distributors, Inc.-PurchaseOrd
February 28, 2025

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 2/26/2025
Order Number 10028285 000 OP
Branch/Plant 5713

TO: GT DISTRIBUTORS, INC.
1124 NEW MEISTER LN. STE 100
PFLUGERVILLE TX 78660

SHIP TO: CITY OF LUBBOCK
POLICE ACADEMY
REESE CENTER
508 DAVIS DRIVE
LUBBOCK TX 79416

INVOICE TO: CITY OF LUBBOCK
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 2/26/2025 Freight .
Requested 4/30/2025 Taken By A ESPARZA
Delivery PER L PEDERSON REQ. #62904 BUYBOARD CONTRACT #698-23

If you have any questions about this order, please contact Lisa Pederson at 806-775-2765 or via email at LPederson@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
GLOCK G45 MOS7 9mm ACRO P2 GLOCK-PA455S302MO AG NTF	335.000	580.2400	EA	194,380.40	4/30/2025
FREIGHT	1.000	2,500.0000	EA	2,500.00	4/30/2025

Terms NET 30 Total Order 196,880.40

This purchase order encumbers funds in the amount of $196,880.40 awarded to GT Distributors, Inc. of Pflugerville, TX, on _____. The following is incorporated into and made part of this purchase order by reference: Quote dated February 19, 2025, from GT Distributors, Inc. of Pflugerville, TX, and BuyBoard Contract #698-23.

Resolution #_____

CITY OF LUBBOCK:

_____
Mark McBrayer, Mayor

ATTEST:

_____
Courtney Paz, City Secretary

Rev. 3/2022

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. S e l l e r 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 viciation 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/departmental-websites/departments/purchasing/vendor-information

30. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

31. No Boycott of Energy Companies. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott Energy Companies and will not boycott Energy Companies during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

32. No Boycott of a Firearm Entity or Firearm Trade Association. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott a Firearm Entity or Firearm Trade Association and will not boycott a Firearm Entity or Firearm Trade Association during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

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

34. TEXAS PUBLIC INFORMATION ACT. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

35. Pursuant to Section 552.301(c) of the Texas Government Code, the City of Lubbock has designated the following email address for which public information requests may be made by an emailed request: orr@mylubbock.us. Please send this request to this email address for it to be processed

Quote	QTE0200104
Date	2/19/2025
Page:	1

GT Distributors - Austin
1124 New Meister Ln., Ste 100
Pflugerville TX 78660
(512) 451-8298 Ext. 0000

Bill To:

Lubbock, City of (TX)
Attn: Accounts Payable
PO Box 2000
Lubbock TX 79457

Ship To:

Lubbock, City of
916 Texas Avenue
Lubbock TX 79401

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
250219 GLOCK 45MC	000383	CH		NET 15	0/0/0000	2,987,601

Quantity	Item Number	Description	UOM	Unit Price	Ext. Price
335	UG-GLOCK45MOS	Used Gun Glock 45 MOS Gen 5	EA	($311.00)	($104,185.00)
1	NOTES:	Notes: Trade assumes box and 3 magazines. *Subtract $5.00 for missing gun box *Subtract $18.00 per missing magazine	EA	$0.00	$0.00
1	NOTES:	Notes: All guns must be fully functional to receive full trade value.	EA	$0.00	$0.00
1	NOTES:	Notes: The agency is responsible for packaging and all freight charges on trades to G T Distributors.	EA	$0.00	$0.00
1	NOTES:	Notes: Trade ins must be received within 60 days after receipt of new guns.	EA	$0.00	$0.00
335	GLOCK-PA455S302MO	Glock G45 MOS7 9mm ACRO P2 AG NTF/NTF	EA	$891.24	$298,565.40
1	NOTES:	Notes: Quotation reflects BuyBoard Contract 698-23. Contract period 4/1/23-3/31/25. Email BuyBoard PO's to info@buyboard.com	EA	$0.00	$0.00

QUOTE IS GOOD FOR 30 DAYS. IN ORDER TO RECEIVE QUOTED PRICE PLEASE PRESENT A COPY OF QUOTE AT POINT OF SALE IN STORES OR REFERENCE QUOTE NUMBER ON PO OR REQUISITION

Subtotal	$194,380.40
Misc	$0.00
Tax	$0.00
Freight	$2,500.00
Total	$196,880.40

Your salesperson is Octavio Montalvo. Thank You.
Jared Flood 806-507-0325
JFlood@mylubbock.us

AI# 13297
Regular City Council Meeting 5. 38.
03/25/2025:

Information

Agenda Item

Resolution - Police: Consider a resolution authorizing the Mayor to execute Purchase Order 10028288, with SSD International Inc., for the purchase of ammunition for the Lubbock Police Department.

Item Summary

The ammunition is necessary to equip, train and maintain officers' proficiency with their firearms. The department's duty pistols and rifles are calibrated to this specific ammunition. SSD International is the only distributor of this ammunition in Texas.

Fiscal Impact

Purchase Order 10028288, for $294.739 for the ammunition, is budgeted in the Adopted FY 2025-2026 Police Operating Budget, Abandoned Vehicle Fund.

Staff/Board Recommending

Seth Herman, Chief of Police

Attachments

Resolution-SSD International

Purchase Order- SSD International

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. 10028288, for police duty ammunition, by and between the City of Lubbock and SSD International, 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 MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Seth Herman, Chief of Police

APPROVED AS TO FORM:

_____
Mitchell Satterwhite, First Assistant City Attorney

ccdocs II/RES.SSD International, Inc.-PurchaseOrd
February 28, 2025

City of Lubbock TEXAS

PURCHASE ORDER

Page - 1
Date - 2/27/2025
Order Number 10028288 000 OP
Branch/Plant 5713

TO: SSD INTERNATIONAL INC
1349 S ORANGE BLOSSOM TRAIL
APOPKA FL 32703

SHIP TO: CITY OF LUBBOCK
POLICE ACADEMY
REESE CENTER
508 DAVIS DRIVE
LUBBOCK TX 79416

INVOICE TO: **CITY OF LUBBOCK**
ACCOUNTS PAYABLE
P.O. BOX 2000
LUBBOCK, TX 79457

BY: _____
Marta Alvarez, Director of Purchasing & Contract Management

Ordered 2/27/2025 Freight .
Requested 6/30/2025 Taken By A ESPARZA
Delivery PER L PEDERSON REQ. 62892 PUR-2025-18707 SOLE SOURCE

If you have any questions about this order, please contact Lisa Pederson at 806-775-2765 or via email at LPederson@mylubbock.us.

Description/Supplier Item	Ordered	Unit Cost	UM	Extension	Request Date
Hornaday 223 REM 53 GR TAP 80295 PATROL 200RD CS	1,000.000	218.7800	EA	218,780.00	6/30/2025
Hornaday 9MM LUGER+P 135 GR 90225 CRITICAL DUTY LE 500 RD CS	50.000	269.1800	EA	13,459.00	6/30/2025
Magtec 9MM 124 FMJ 1000 RD CS MT9B	250.000	250.0000	EA	62,500.00	6/30/2025

Terms NET 30 Total Order 294,739.00

This purchase order encumbers funds in the amount of $294,739.00 awarded to SSD International, Inc. of Apopka, FL, on _____. The following is incorporated into and made part of this purchase order by reference: Quote dated February 26, 2025, from SSD International, Inc. of Apopka, FL, and Sole Source.

Resolution #_____

CITY OF LUBBOCK:

_____
Mark McBrayer, Mayor

ATTEST:

_____
Courtney Paz, City Secretary

Rev. 3/2022

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. S e l l e r 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 viciation 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/departmental-websites/departments/purchasing/vendor-information

30. No Boycott of Israel. Pursuant to Section 2271.002 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

31. No Boycott of Energy Companies. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott Energy Companies and will not boycott Energy Companies during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

32. No Boycott of a Firearm Entity or Firearm Trade Association. Pursuant to Section 2274 of the Texas Government Code, Respondent certifies that either (i) it meets an exemption criteria under Section 2274.002; or (ii) it does not boycott a Firearm Entity or Firearm Trade Association and will not boycott a Firearm Entity or Firearm Trade Association during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

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

34. TEXAS PUBLIC INFORMATION ACT. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

35. Pursuant to Section 552.301(c) of the Texas Government Code, the City of Lubbock has designated the following email address for which public information requests may be made by an emailed request: orr@mylubbock.us. Please send this request to this email address for it to be processed

MILITARY & LAW ENFORCEMENT SERVICES

1349 South Orange Blossom Trail, Apopka, FL 32703 Tel. 407.410.6914

SALES QUOTATION

QUOTED BY:
Austin Weber
Law Enforcement Account Manager
SSD International Inc.

DATE: 02/26/2025
QUOTE: LUBBOCKPDAW-16

SELL TO:
Rangemaster Tim Vaden
Lubbock Police Department
1205 15th St Lubbock, TX, 79401

SHIP TO:
Rangemaster Tim Vaden
Lubbock Police Department
508 Davis Drive Lubbock, TX, 79416

ITEM #	DESCRIPTION	QTY	PRICE	TOTAL
80295	HORNADY 223 REM 53 GR TAP PATROL® 200 RD CS	1000	$218.78	$218,780.00
90225	HORNADY 9MM LUGER+P 135 GR CRITICAL DUTY® LE 500 RD CS	50	$269.18	$13,459.00
MT9B	MAGTECH 9MM 124 FMJ 1000 RD CS	250	$250.00	$62,500.00
SHIP	SHIPPING	1	$0.00	$0.00
			TOTAL	**$294,739.00**

TERMS AND CONDITIONS

Prices are in US Dollars.
Quotes are valid for 30 days. Prices are subject to change after 30 days.
Payment Terms: Purchase Order, payable within 30 days of delivery.
Returns: All returned and cancelled orders are subject to a 25% restocking fee. Return shipments require an RA number before products can be shipped back to the manufacturer or SSD.
Shipment Terms: Delivery to agency. Freight paid on orders over $10,000 in value.
Estimated time to shipping: 120-180 days after receipt of signed purchase order.

Information

Agenda Item

Resolution - City Manager: Consider a resolution authorizing the Mayor to execute, for and on behalf of the City of Lubbock, Amendment No. 2 to American Rescue Plan Act (ARPA) Funding Agreement No. 16514, to alter the payout agreement for the previously approved funding.

Item Summary

On April 26, 2022, the City Council approved an American Rescue Plan Act (ARPA) Funding Agreement with MB3, LLC, for construction of infrastructure to serve an affordable housing development. On April 23, 2023, Amendment #1 changed the participating bank from Happy State Bank to Peoples Bank. No other terms were changed through the amendment.

Mr. Lal Williams is the owner/representative for the endeavor. The proposed development was to be located directly to the north of Estacado High School. The boundaries for the development were as follows:

- On the North: East Municipal Drive;
- On the South: East Erskine Street
- On the East: North Magnolia Drive; and
- On the West: North Ivory Avenue.

The newly constructed infrastructure would serve sixty-six (66) newly constructed affordable housing units. The original payout of the ARPA grant funds would be disbursements as follows:

1. The first $625,000 of the funds would be disbursed once the planned infrastructure had been constructed, inspected by the City, and dedicated to the City for public use (all but a small portion of the electic installation has been completed);
2. The next payout would be made to MB3, LLC, in the amount of $9,470, following the issuance of building permits by the City for each of the

first thirty-three (33) homes.
3. The final payout of $312,500 would be disbursed upon the completed construction of the final thirty-three (33) homes.

Mr. Williams has completed four (4) homes to date. Unfortunately, market conditions, including inflation and high interest rates, have been a barrier to finding qualified home buyers. Because of these conditions, Mr. Williams stated that he would not be able to start construction on any of the remaining homes without an infusion of cash.

The proposed Amendment No. 2 suggests an alternative payout, which is explained below:

1. Upon completion of the first four (4) single-family residences, the City will disburse $450,806.86. The construction has been completed on all four (4) houses, and all inspections have been performed;
2. The final balance of $112,701.71 will be disbursed in payouts of $9,391.81. This amount will be disbursed when Mr. Williams obtains the building permits for each of the next twelve (12) homes.

To date, the City has paid out a total of $686,491.43, leaving a total balance of $563,580.57. Following the disbursements outlined above for Amendment #2, the ARPA funding of $1,250,000 will have been fully expended, allowing the City to reach the ARPA spending deadline well in advance of the statutorily imposed date of December 31, 2026.

Fiscal Impact

This amendment has no fiscal impact other than to change the timing of the disbursement of the previously allocated amount.

Staff/Board Recommending

Bill Howerton, Deputy City Manager

Attachments

Resolution - Amendment #2

Amendment #2 - MB3,LLC

Original Agreement - MB3, LLC

Resolution and Amendment No.1

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Amendment No. 2 to the ARPA funding agreement Contract No. 16514 for infrastructure to support an affordable housing development by and between the City of Lubbock and MBE 3, LLC, and related documents. Said Amendment is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.Amend #2 ARPA MBE 3
3.12.25

Amendment 2
To Agreement Between
The City of Lubbock, TX
And
MBE 3, LLC

THIS IS THE SECOND AMENDMENT TO THE AGREEMENT dated and entered into on the 26th day of April, 2022, Contract No. 16514, by and between the City of Lubbock (the "City") and MBE 3, LLC (the "Subrecipient"), collectively (the "Parties").

The Subrecipient is building infrastructure that will support a new affordable housing development for populations disproportionately impacted by the COVID-19 Pandemic to be located within a qualified census tract (the "Project").

In order to assist Subrecipient expedite the construction process, and in turn make readily available the housing to be supported by the Project, the City and Subrecipient now enter into this Amendment.

NOW THEREFORE, the Parties enter into this amendment and agree as follows:

Article III "Conveyance of ARPA Grant Funds", Sections 2 & 3 of the Agreement are hereby Amended to read:

2. Once the Subrecipient has completed construction of four (4) of the affordable housing units and each unit has passed final city building inspection, the City shall disburse four hundred fifty thousand eight hundred six and 86/100 Dollars ($450,806.86) to the Subrecipient for the completion of the Project.

3. The final balance of one hundred twelve thousand seven hundred one and 71/100 Dollars ($112,701.71) shall be disbursed to the Subrecipient in increments of nine thousand three hundred ninety-one and 81/100 Dollars ($9,391.81) as Subreceipient obtains each individual building permit to begin construction on the next twelve (12) affordable housing units in the development.

All other terms of the Agreement and prior Amendment remain the same and are not altered herein.

IN WITNESS HEREOF, the parties have executed this Agreement as of this ____ day of _____2025.

CITY OF LUBBOCK

_____
MARK W. MCBRAYER, MAYOR

MBE 3, LLC

_____
Lal Williams, Owner

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Bill Howerton, Deputy City Attorney

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Resolution No. 2022-R0210
Item No. 7.36
April 26, 2022

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, ARPA Funding Agreement No. 16514 for the construction of infrastructure to serve an affordable housing development in a qualified census tract, by and between the City of Lubbock and MB3, LLC, of Lubbock, Texas, and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on April 26, 2022.

DANIEL M. POPE, MAYOR

ATTEST:

Rebecca Garza, City Secretary

APPROVED AS TO CONTENT:

Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

Kelli Leisure, Assistant City Attorney

ccdocs/RES.Contract 16514 ARPA funding agreement MB3 LLC
4.21.22

THE STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

AMERICAN RESCUE PLAN ACT (ARPA) FUNDING AGREEMENT FOR THE CONSTRUCTION OF INFRASTRUCTURE TO SERVE AN AFFORDABLE HOUSING DEVELOPMENT IN A QUALIFIED CENSUS TRACT

This ARPA Funding Agreement for Infrastructure Construction (the "Agreement") Contract No. 16514 is entered into this 26th day of April 2022, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and MBE 3, LLC, (the "Subrecipient").

WHEREAS, the Coronavirus Disease 2019 ("COVID-19") pandemic caused numerous public health and economic issues throughout the United States, including in the City of Lubbock; and

WHEREAS, on March 27, 2020, the President signed into federal law the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), which established the Coronavirus Relief Fund; and

WHEREAS, on March 11, 2021, the President signed into federal law the American Rescue Plan Act ("ARPA"), which established the Coronavirus State Fiscal Recovery Fund and Coronavirus Local Fiscal Recovery Funds ("CLFRF Fund"), which together make up the Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") program. The SLFRF builds on and expands the support provided to the City, including through the Coronavirus Relief Fund; and

WHEREAS, pursuant to the SLFRF program, the United States Department of Treasury has provided the City with a direct payment from the CLFRF Fund to cover certain costs, which includes the requirement of the obligation of funds by December 31, 2024 for following uses:

(1) To respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(2) To respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the metropolitan city, non-entitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;

(3) For the provision of government services to the extent of the reduction in revenue of such metropolitan city, non-entitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full

fiscal year of the metropolitan city, non-entitlement unit of local government, or county prior to the emergency; and

(4) To make necessary investments in water, sewer, or broadband infrastructure; and

WHEREAS, the City is a metropolitan city as defined by section 5302(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. § 5302(a)(4)); and

WHEREAS, the City is allocating the costs for the assistance provided under this Agreement prior to December 31, 2024; and

WHEREAS, the primary goal of this Agreement is for the City to provide to the Subrecipient certain funds received from the CLFRF Funds so that the Subrecipient may cause the construction and installation of infrastructure that will support a new affordable housing development for disproportionately impacted populations and communities living in a qualified census tract ("QCT") (*See* 31 CFR Part 35.6(b)(12)); and

WHEREAS, the Subrecipient shall develop and construct an affordable housing community of approximately 15 acres within a QCT which shall include construction of all necessary water, sewer, paving, and electric utility infrastructure (the "Project") to support the new affordable housing development of approximately sixty-six (66) three and four-bedroom single-family residences; and

WHEREAS, Subrecipient has an experienced staff and is qualified to provide oversight and management of the Project related to a new affordable housing development; and

WHEREAS, the City has determined the funds the City is providing to Subrecipient under this Agreement are reasonable and necessary expenditures to address the COVID-19 public health emergency to respond to and assist those who have experienced economic harm in the form of inadequate or poor-quality housing due to the COVID-19 pandemic; and

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, the City and the Subrecipient hereby agree as follows:

ARTICLE I. TERM

The term of this Agreement commences on the Effective Date and continues without interruption through December 31, 2026 or upon completion of the Project herein. 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. SCOPE OF SERVICES

The Subrecipient shall be responsible for the construction and installation of all water, sewer, paving, and electric utility infrastructure which shall support the affordable housing development Subrecipient shall construct in a QCT in the area as described on the plat map named "Exhibit A", attached hereto and incorporated herein, and generally located in an area of the City of Lubbock and shall be bound by the following:

On the North: East Municipal Drive;

On the South: East Erskine Street;

On the East: North Magnolia Drive; and

One the West: North Ivory Avenue.

The Subrecipients affordable housing development shall be comprised of a minimum of sixty-six (66) three or four-bedroom single-family residences. Such affordable housing shall be constructed in a good and workmanlike manner and shall be utilized to increase the inventory of affordable housing units in the City of Lubbock. Further, the construction of the Project and new single-family residences shall be in conformance with the City of Lubbock Code of Ordinances, state, and federal laws, including but not limited to 2 C.F.R. Part 200.

ARTICLE III. CONVEYANCE OF ARPA GRANT FUNDS

The City agrees to convey ARPA grant funds to the Subrecipient for the installation of water, sewer, paving, and electric utility infrastructure that shall service the Subrecipient's new affordable housing development as stated herein, in an amount not to exceed the lesser of actual Project costs or one million two hundred fifty thousand and NO/100 dollars ($1,250,00.00) as estimated as the probable cost of construction of the infrastructure as set forth in "Exhibit B", attached hereto and incorporated herein.

The transfer of ARPA grant funds to the Subrecipient shall occur in disbursements as follows:

1. The first six hundred twenty-five thousand dollars and NO/100 ($625,000.00) of the funds shall be disbursed to the Subrecipient after all the infrastructure described in "Exhibit B" has been constructed, inspected by the City, and dedicated to the City for public use;

2. As Subrecipient obtains building permits from the City for the construction of the first thirty-three (33) single-family residences to be sold as affordable housing in the area described herein, the City shall disburse nine thousand four hundred seventy dollars and NO/100 ($9,470.00) per permit as the permits are obtained by the Subrecipient; and

3. The final payment of three hundred twelve thousand five hundred dollars and NO/100 ($312,500.00) shall be disbursed to the Subrecipient upon the completed construction of the first thirty-three (33) single-family residences described herein.

ARTICLE IV. TERMINATION

A. General. The City may terminate this Agreement, for cause, upon thirty (30) days written notice to the Subrecipient, and Subrecipient does not cure its default within the time stated in the written notice. In the event this Agreement is so terminated, the City shall only provide ARPA grant funds to the Subrecipient for the infrastructure contemplated here which is constructed up to the date the Subrecipient is deemed to have received notice of termination, as provided herein. Further, any excess ARPA grant funds in the Subrecipient's possession shall be refunded to the City immediately upon termination.

B. Termination and Remedies. In the event the Subrecipient 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 V. 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 VI. REPRESENTATIONS AND WARRANTIES

A. Existence. The Subrecipient is a limited liability 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 Subrecipient 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 Subrecipient. This Agreement constitutes legal, valid,

and binding obligations of the Subrecipient and is enforceable in accordance with the terms thereof.

D. Subrecipient. The Subrecipient maintains a commercially proficient staff and employs, as needed, other qualified specialists experienced in completing the Project, and is familiar with all laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Project contemplated hereby.

E. Performance. The Subrecipient 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 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 Subrecipient warrants that any materials provided by the Subrecipient 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 Subrecipient shall be solely responsible for ensuring that any materials provided by the Subrecipient pursuant to this Agreement satisfy this requirement and the Subrecipient 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 Subrecipient's failure to perform this duty.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Subrecipient and the City agree that the Subrecipient 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 Subrecipient 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 Subrecipient and the Subrecipient'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. PERFORMANCE AND PAYMENT BONDS

Upon execution of this Agreement, and prior to any work on the Project, the Subrecipient shall present to the City performance and payment bonds in compliance with the Texas Government Code § 2253.021.

ARTICLE IX. INSURANCE

The Subrecipient 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 Subrecipient shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved sub-contractor or sub-consultant of the Subrecipient 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 Subrecipient shall further cause any approved sub-contractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Subrecipient herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved sub-contractor 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 Subrecipient 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 Subrecipient shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Subrecipient 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 Subrecipient maintains said coverage. The Subrecipient 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 Subrecipient fails to maintain the required insurance in full force and effect, the Subrecipient 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 Subrecipient'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 IX shall survive the termination or expiration of this Agreement.

ARTICLE X. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

The Subrecipient may employ or retain consultants, sub-contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Subrecipient, as set forth in "Exhibit B", attached hereto, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Subrecipient is at all times responsible to the City to perform the Services as provided in this Agreement and the Subrecipient 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 Subrecipient shall be required by the Subrecipient to carry, for the protection and benefit of the City and the Subrecipient and naming said third parties as additional insureds, insurance as described above required to be carried by the Subrecipient in this Agreement.

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

ARTICLE XI. CONFIDENTIALITY

The Subrecipient 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 XII. INDEMNITY

THE SUBRECIPIENT 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 SUBRECIPIENT, 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 XIII. COMPLIANCE WITH APPLICABLE LAWS

The Subrecipient 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 XIV. NOTICE

A. General. Whenever notice from the Subrecipient to the City or the City to the Subrecipient 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. Subrecipient's Address. The Subrecipient's address and numbers for the purposes of notice are:

MBE 3, LLC
Lal Williams
4701 22nd Street
Lubbock, Texas 79407
Telephone: 806-283-0339
Email: lalbwilliams@gmail.com

FOR NOTIFICATION OF DEFAULT UNDER ARTICLE IV OF THIS AGREEMENT, NOTICE SHALL BE PROVIDED TO THE FOLLOWING:

Happy State Bank
Attn: Jay House
4411 98th Street
Lubbock, Texas 79424
Telephone: 806-794-2265

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

Bill Howerton, Deputy City Manager
City of Lubbock
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Email: bhowerton@mylubbock.us
Telephone: 806-775-2300

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 XV. CITY-PROVIDED DATA AND RESPONSIBILITIES

Provision of Data. The City shall furnish the Subrecipient non-confidential studies, reports and other available data in the possession of the City pertinent to the Subrecipient's Services. The Subrecipient shall be entitled to use and rely, so long as such reliance is reasonable, upon all such provided data.

ARTICLE XVI. 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 Subrecipient 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 Subrecipient's books and records with respect to this Agreement between the Subrecipient and the City.

C. Records. The Subrecipient shall maintain records that are necessary to substantiate the services provided by the Subrecipient.

D. Assignability. The Subrecipient may not assign this Agreement without the prior written approval of the City, which approval shall not be unreasonably withheld. Additionally, if the Subrecipient is unable to complete the project for any reason, Happy State Bank may assume the responsibilities for the Project herein upon written approval of the City, which approval shall not be unreasonably withheld.

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

representatives, and assigns, and in the case of the Subrecipient, 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 Subrecipient and the City.

I. Entire Agreement. This Agreement, including Exhibits "A" through "B" attached hereto, contains the entire agreement between the City and the Subrecipient, 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 Subrecipient and the City.

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

L. Notice of Waiver. A waiver by either the City or the Subrecipient 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 Subrecipient.

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 Subrecipient 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, the City is prohibited 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, Subrecipient 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 Subrecipient is a company with 10 or more full-time employees and if this Agreement has a value of at least $100,000 or more, Subrecipient 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. Subrecipient 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 Subrecipient is a company with 10 or more full-time employees and if this Agreement has a value of at least $100,000 or more, Subrecipient 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 Subrecipient or vendor agrees that the contract can be terminated if the Subrecipient 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, Subrecipient 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.

ARTICLE XVII. AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS TERMS AND CONDITIONS

1. Use of Funds.

   a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.

   b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such Project.

2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.

4. Maintenance of and Access to Records

a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.

c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.

8. Conflicts of Interest. The City of Lubbock understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipients and Subrecipients must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.

9. Compliance with Applicable Law and Regulations.

a. Subrecipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury.

Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Government Wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and sub-contractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Government Wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000(d) et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C.

§ 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. Remedial Actions. In the event of Subrecipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act and any additional payments may be subject to withholding as provided in section 603(e) of the Act, as applicable.

11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C.§§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. Copeland Anti-kickback Act. Subrecipient agrees to comply with the requirements of the Copland Anti-kickback Act (40 U.S.C. § 3145), prohibiting a federal funds grantee engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government from inducing an employee into giving up any part of the compensation that he or she is entitled to under the terms of his or her employment contract.

13. Contract Work Hours and Safety Standards Act. Subrecipient agrees to comply, as applicable, with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), regarding contracts for public works involving the employment of laborers or mechanics.

14. Rights to Inventions Made Under a Contract or Agreement. Subrecipient agrees to comply, as applicable, with the Rights to Inventions Made Under a Contract or Agreement (37 C.F.R. Part 401). For any federally assisted contract, awarded to a

small business firm or nonprofit organization as defined in 37 CFR 401.2 for the performance of experimental, developmental, or research work, the Subrecipient. Subrecipient agrees to all of the terms in 37 CFR 401.14(a).

15. Clean Air and Water Pollution Control Acts. Subrecipient agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

16. Byrd Anti-Lobbying Amendment. Subrecipient agrees to comply with the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352), prohibiting the use of funds appropriated by any Act to be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with certain Federal actions.

17. Procurement of Recovered Materials. Subrecipient agrees to comply, as applicable, with 2 C.F.R. § 200.323 pursuant to section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

18. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment. Subrecipient agrees to comply with 2 C.F.R. § 200.216 regarding the prohibition of the utilization of grant funds for certain telecommunications and video surveillance services or equipment.

19. Domestic Preferences for Procurements. Subrecipient agrees to comply with 2 C.F.R. § 200.322 to provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

20. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

21. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number SLFRP2653 awarded to the City of Lubbock by the U.S. Department of the Treasury."

22. Debts Owed the Federal Government.

    a. Any funds paid to the Subrecipient:

i. in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award;

ii. that are determined by the Treasury Office of Inspector General to have been misused; or

iii. that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.

b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

23. Disclaimer.

a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or sub-contractor under this award.

b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.

24. Protections for Whistleblowers.

a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.

b. The list of persons and entities referenced in the paragraph above includes the following:

i. A member of Congress or a representative of a committee of Congress;

ii. An Inspector General;

iii. The Government Accountability Office;

iv. A Treasury employee responsible for Agreement or grant oversight or management;

v. An authorized official of the Department of Justice or other law enforcement agency;

vi. A court or grand jury; or

vii. A management official or other employee of Subrecipient, Subrecipient, or Sub-contractor who has the responsibility to investigate, discover, or address misconduct.

c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

25. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Subrecipients to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

26. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees and contractors to adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ARTICLE XVIII. ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.

2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.

3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit http://www.lep.gov.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.

5. Subrecipient acknowledges and agrees that it must require any sub-grantees,

Subrecipients, sub-contractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Subrecipients, sub-contractors, successors, transferees, and assignees:

> *The sub-grantee, Subrecipient, sub-contractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.*

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.

7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.

8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.

9. Subrecipient must provide documentation of an administrative agency's or

court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-contractor.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

DANIEL M. POPE, MAYOR

MBE 3, LLC

Lal Williams, Owner

ATTEST:

Rebecca Garza, City Secretary

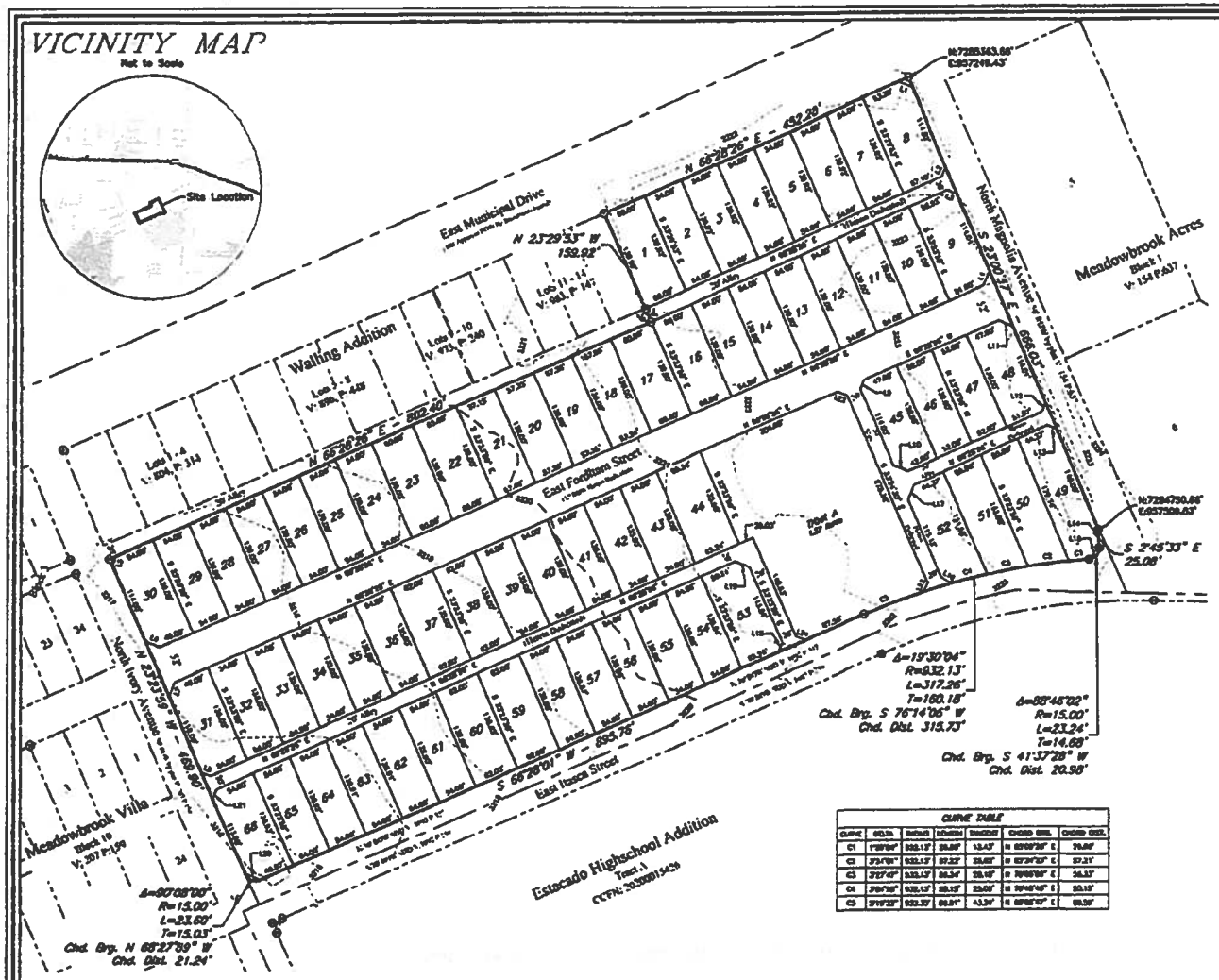
APPROVED AS TO CONTENT:

Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

Kelli Leisure, Assistant City Attorney

TRACT A, Lots 1 thru 66
Meadowbrook Estates
an addition to the City of Lubbock, Lubbock County, Texas



LEGEND

- ⊕ – Found 1/2" Iron Rod
- ● – Found 3/8" Iron Rod
- ⊙ – Found 1/2" Iron Pipe
- ● – Found 3/4" Iron Pipe
- ——— – Plat Limits
- ——— – Lot Line
- ——— – Adjoiner Lot Line
- ——·—— – Right-of-Way Line
- - - - - - – Easement Line – As Described
- ROW – Right-of-Way
- SDD – Street Dedication Deed
- CCFN – County Clerk File Number
- V/P – Volume/Page

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD BRG.	CHORD DIST.
C1	1°55'09"	932.13'	31.20'	15.60'	N 22°05'28" E	31.20'
C2	3°31'09"	932.13'	57.27'	28.65'	N 67°24'33" E	57.27'
C3	3°27'47"	932.13'	56.34'	28.18'	N 70°55'56" E	56.33'
C4	3°01'58"	932.13'	49.35'	24.68'	N 74°47'49" E	49.35'
C5	2°19'23"	932.13'	69.81'	43.24'	N 78°55'10" E	69.80'

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 65°28'26" W	21.15'
L2	S 23°03'37" E	14.20'
L3	N 65°28'26" W	14.00'
L4	N 23°03'37" W	21.31'
L5	S 23°33'59" W	14.20'
L6	S 65°27'46" E	21.19'
L7	S 23°33'59" W	21.20'
L8	S 65°27'46" E	14.15'
L9	S 23°33'59" W	14.19'
L10	S 65°27'46" E	21.19'
L11	N 65°28'26" W	21.15'
L12	N 23°03'37" W	14.20'

LINE TABLE

LINE	BEARING	DISTANCE
L13	N 65°28'26" W	14.00'
L14	S 2°45'33" W	23.08'
L15	N 87°27'26" E	23.00'
L16	S 89°14'31" E	19.49'
L17	S 23°33'59" W	21.24'
L18	N 23°33'59" E	14.19'
L19	N 65°27'46" W	21.19'
L20	S 65°27'46" E	21.24'
L21	S 23°33'59" W	14.19'
L22	N 65°27'46" W	14.15'
L23	S 23°03'37" E	13.39'
L24	S 65°27'26" E	14.13'

SCALE: 1" = 100'

0' 100' 200'

PRELIMINARY PLAT

for examination purposes only and not to be used or recorded for conveyance purposes

Tract A, Lots 1 - 66
Meadowbrooks Estates Addition
Section 77, Block A, Abstract 179, EL&RR RR CO Survey,
Lubbock, Lubbock County, Texas
Total ±15.75 Acres
March 1, 2022

OWNER
WILLIAMS AT CANYON LUBBOCK LLC
DBA MISSION HOMES AT 2ND STREET
LUBBOCK, TX 79407

CONSULTANT
CONSULTANT ENGINEERING & CONSULTING, LLC

CENTERLINE ENGINEERING & CONSULTING, LLC

Meadowbrook Estates, Lubbock TX Lots 1-67

PRELIMINARY Engineer's Estimate of Probable Construction Costs
September 9, 2021

Item No.	Description	Units	Est. Qty.	Unit Price	Amount
	Meadowbrook Estates Construction				
1	Mobilization	EA	1	$ 50,000.00	$ 50,000.00
2	Subgrade Prep	SY	12,131	$ 1.25	$ 15,163.75
3	6" Crushed Limestone Base	SY	12,131	$ 5.00	$ 60,655.00
4	2" Type D HMAC Paving	SY	12,131	$ 25.00	$ 303,275.00
5	24" Curb & Gutter	LF	1,544	$ 40.00	$ 61,760.00
6	Site Grading Allowance	CY	3,000	$ 20.00	$ 60,000.00
7	8" Gravel Paving (Alleys)	SY	6,431	$ 7.00	$ 45,017.00
9	6" Water Line	LF	2,572	$ 40.00	$ 102,880.00
10	6" Sewer Line	LF	2,348	$ 40.00	$ 93,920.00
11	Electrical OverheadUtility Installation	LF	2,348	$ 15.00	$ 35,220.00
12	Light Poles, Conduit, Etc	EA	2	$ 10,000.00	$ 20,000.00
13	Engineering & Platting Design Fees	EA	1	$ 118,000.00	$ 118,000.00
14	Construction Administration	EA	1	$ 90,000.00	$ 90,000.00
15	20% Contingency	EA	1		$ 193,178.15
				Preliminary Construction Total	$ 1,249,068.90

The above construction estimate is based on the engineer's opinion of probable construction costs and preliminary site layout. This estimate constitutes our best judgment at this time. Please note that the engineer does not have any control over contractor or supplier workloads and the degree to which inflation may affect project costs between now and the bid date. During construction, additional features may become apparent as the work progresses, which will result in an increase or decrease in cost. Design decisions may be made during detailed roadway design that impact the above quantities. This EOPC is not based upon sealed Engineering Drawings.

Prepared by: _____

Travis Barnett, P.E.
Centerline Engineering & Consulting, LLC.

Resolution No. 2023-R0197
Item No. 6.37
April 11, 2023

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 ARPA Funding Agreement Contract No. 16514 for the construction and installation of infrastructure that will support a new affordable housing development for disproportionately impacted populations and communities living in a qualified census tract ("QCT"), by and between the City of Lubbock and MBE 3, LLC and related documents. Said Amendment is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on April 11, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, Interim City Secretary

APPROVED AS TO CONTENT:

Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.Amend #1 to ARPA Agrmnt MBE 3
3.6.23

Resolution No. 2023-R0197

Amendment 1
To ARPA Funding Agreement Between
The City of Lubbock, TX
and
MBE 3, LLC

THIS IS THE FIRST AMENDMENT TO THE ARPA FUNDING AGREEMENT No. 16514 dated and entered into on the 26th day of April 2022, by and between the City of Lubbock ("City") and MBE 3, LLC, of Lubbock, Texas ("Subrecipient"), collectively (the "Parties").

The Parties agree to amend the default notice provisions of "Article XIV. Notice", subsection B. of the Agreement to remove Happy State Bank, and replace the lender for notice to Peoples Bank.

NOW THEREFORE, the Parties enter into this amendment and agree as follows:

B. Subrecipient's Address. The Subrecipient's address and numbers for the purposes of notice are:

MBE 3, LLC
Lal Williams
4701 22nd Street
Lubbock, Texas 79407
Telephone: 806-283-0339
Email: lalbwilliams@gmail.com

FOR NOTIFICATION OF DEFAULT UNDER ARTICLE IV OF THIS AGREEMENT, NOTICE SHALL BE PROVIDED TO THE FOLLOWING:

Peoples Bank
5820 82nd Street
Lubbock, TX 79424
Brett Villarreal

IN WITNESS HEREOF, the parties have executed this Agreement as of this 11th day of April 2023.

CITY OF LUBBOCK

TRAY PAYNE, Mayor

MBE 3, LLC

Lal Williams, Owner

ATTEST:

Courtney Paz, Interim City Secretary

APPROVED AS TO CONTENT:

Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

AI# 13292
Regular City Council Meeting 6. 1.
03/25/2025:

Information

Agenda Item

Public Hearing - Planning (District 2): Consider a request for Zone Case 1112-G, a request of Presto Hail Lifters for Lon Miller, for a zone change from Neighborhood Commercial District (NC) to Auto-Urban Commercial (AC), at 2110 and 2112 50th Street, located north of 50th Street and west of Avenue U, Felix Addition, Lot 10 and the west 37.5 feet of Lot 9, and consider an ordinance.

Item Summary

For detailed information on this request, please refer to the Planning Department Staff Report attached hereto. As noted in the report, staff has no objection to the request. The Planning and Zoning Commission heard this case on March 6, 2025, and recommended approval of the request by a unanimous vote of 5-0-0.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance 1112-G
Staff Report 1112-G
Documentation 1112-G

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. 1112-G; A ZONING CHANGE FROM NC TO AC ZONING DISTRICT AT 2110 AND 2112 50TH STREET, LOCATED NORTH OF 50TH STREET AND WEST OF AVENUE U, FELIX ADDITION, LOT 10 AND THE WEST 37.5 FEET OF LOT 9, 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. 1112-G

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 **2110 and 2112 50TH Street, located north of 50th Street and west of Avenue U, Felix Addition, Lot 10 and the west 37.5 feet of Lot 9,** 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/ZC1112-G
March 6, 2025

Planning Department
City of Lubbock

Staff Report	Zone Case 1112-G
City Council Meeting	March 25, 2025

Applicant Presto Hail Lifters

Property Owner Lon Miller

Council District 2

Prior Board or Council Action

- December 15, 1949, Ordinance No. 0948: The subject properties were annexed into city limits and zoned Single-Family District (R-1).
- August 28, 1952, Zone Case 0363, Ordinance No. 1265: The subject properties were rezoned from R-1 to Two-Family District (R-2).
- June 22, 1961, Zone Case 0919, Ordinance No. 3480: The subject properties were rezoned from R-2 to Multi Family District (R-3).
- December 20, 1962, Zone Case 1045, Ordinance No. 3965: The subject properties were rezoned from R-3 to Restricted Local Retail District (C-2A).
- May 9, 2023, Ordinance No. 2023-O0054 (effective October 1, 2023): The subject properties were rezoned from C-2A to Neighborhood Commercial District (NC) with the adoption of the Unified Development Code.
- March 6, 2025, Zone Case 1112-G: The Planning and Zoning Commission recommended approval of a zone change from NC to Auto-Urban Commercial District (AC) by a vote of 5-0-0.

Notification Summary

- Notifications Sent: 46
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The subject properties were platted August 8, 1963 as Felix Addition, Lot 10 and the west 37.5 feet of Lot 9, and are currently developed with a commercial retail center.

Adjacent Property Development

Properties to the north are zoned Medium Density Residential District (MDR) and High Density Residential District (HDR) and are developed with a mixture of single family residences and a duplex. To the east, south and west, the properties are zoned Neighborhood Commercial District (NC), and are developed with a variety of commercial uses.

Zoning Request and Analysis

Item Summary

The subject properties are addressed as 2110 and 2112 50th Street, and are located north of 50th Street and west of Avenue U. 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 District (NC) zoning 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 District (AC) zoning 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 50th Street and west of Avenue U. The Master Thoroughfare Plan, 2018, designates 50th Street as a Principal Arterial and Avenue U as a Collector Street. Arterial streets are continuous routes whose function is to serve the high-volume needs of local traffic and regional traffic. Collectors are designed for medium volumes of vehicles operating at lower speeds (i.e., 30-35 mph).

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 land 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 along 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.

Conclusion
Staff has no objection to the request.

Attachments
A. Case Information
B. Thoroughfare Plan Map
C. Aerial Map
D. Zoning Map
E. Future Land Use Map
F. Photos
G. Application and Supporting Documentation

Staff Contacts

Cassie Bermea
Planner
Planning Department
806-775-2096
cassiebermea@mylubbock.us

Greg Hernandez
Planning and Zoning Manager
Planning Department
806-775-3147
ghernandez@mylubbock.us

Case Information: Zone Case 1112-G

Allowable Uses: Auto Urban Commercial District (AC)

Transportation: The proposed development has a point of access from 50th Street.

Thoroughfare	Existing	Per Thoroughfare Development Plan
50th Street, *Principal Arterial Complete*	R.O.W. 110 feet, seven-lane, undivided, paved	R.O.W. 110 feet, seven-lane, undivided, paved

Engineering Comments: No comments.

Public Works Comments: No comments.

Building Safety Comments: No comments.

Fire Marshal Comments: No comments.

Draft Planning and Zoning Commission Minutes

District 2

3.1 **Zone Case 1112-G:** Presto Hail Lifters for Lon Miller, request for a zone change from Neighborhood Commercial District (NC) to Auto-Urban Commercial (AC), at:

- 2110 and 2112 50th Street, located north of 50th Street and west of Avenue U, Felix Addition, Lot 10 and the west 37.5 feet of Lot 9.

PLANNING MANAGER GREG HERNANDEZ gave a presentation and answered questions from the Commission. Staff has no objection to the request.

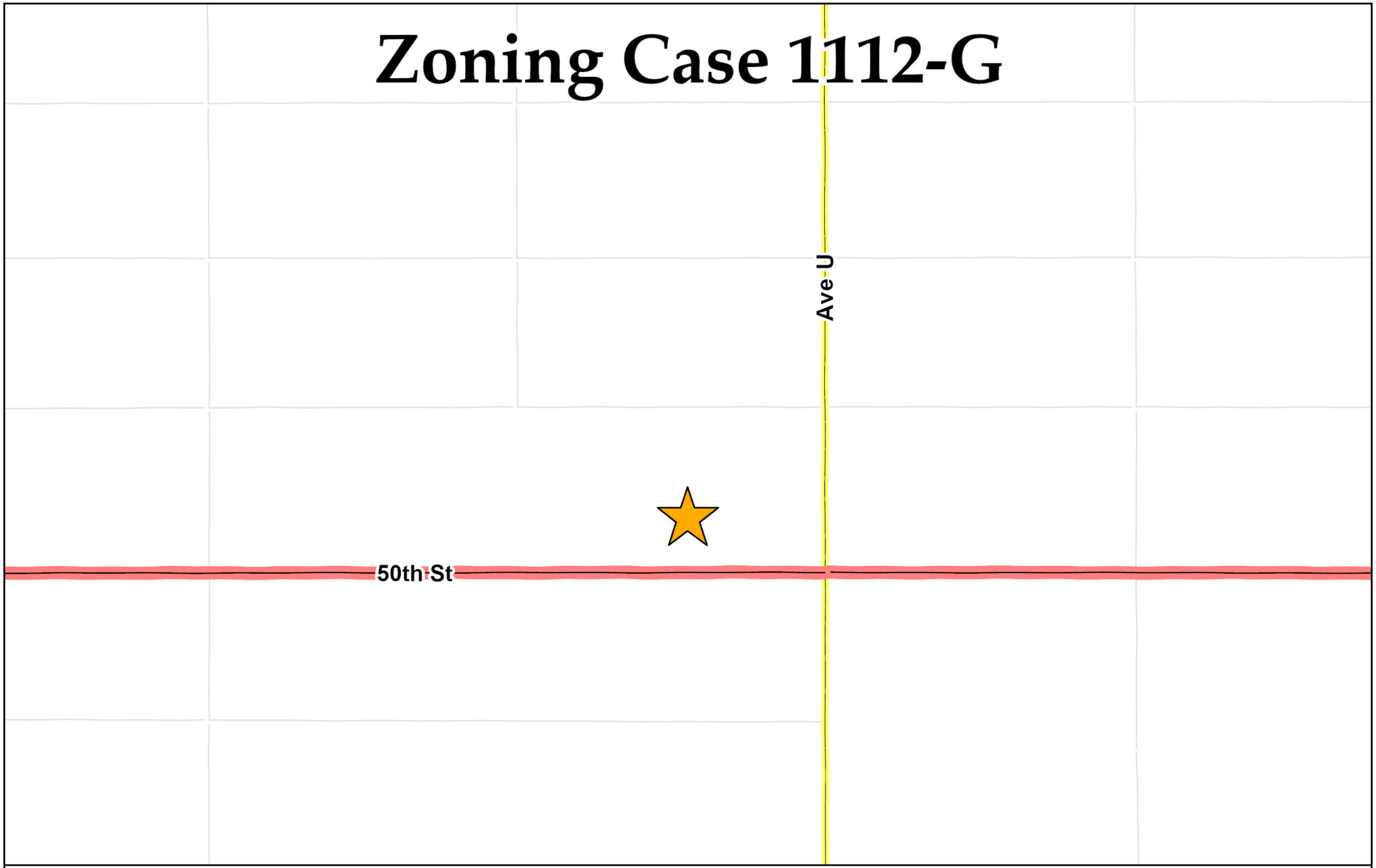
APPLICANT KATHY CANTU, 2106 50th Street, gave comments about the request and answered questions from the Commission.

IN FAVOR MIKE MALDONADO, 1105 81st Street, further explained the request, explaining it should attract more business, and therefore he is in favor of the proposed zone change.

No one appeared to speak in opposition.

In the matter of **Zone Case 1112-G**, a motion was made by **ROBERT WOOD** and seconded by **TAREK REDWAN** to approve the request as presented. The Commission voted 5 (in favor) to 0 (in opposition) to approve the motion. The case will be forwarded to City Council for consideration.

Zoning Case 1112-G

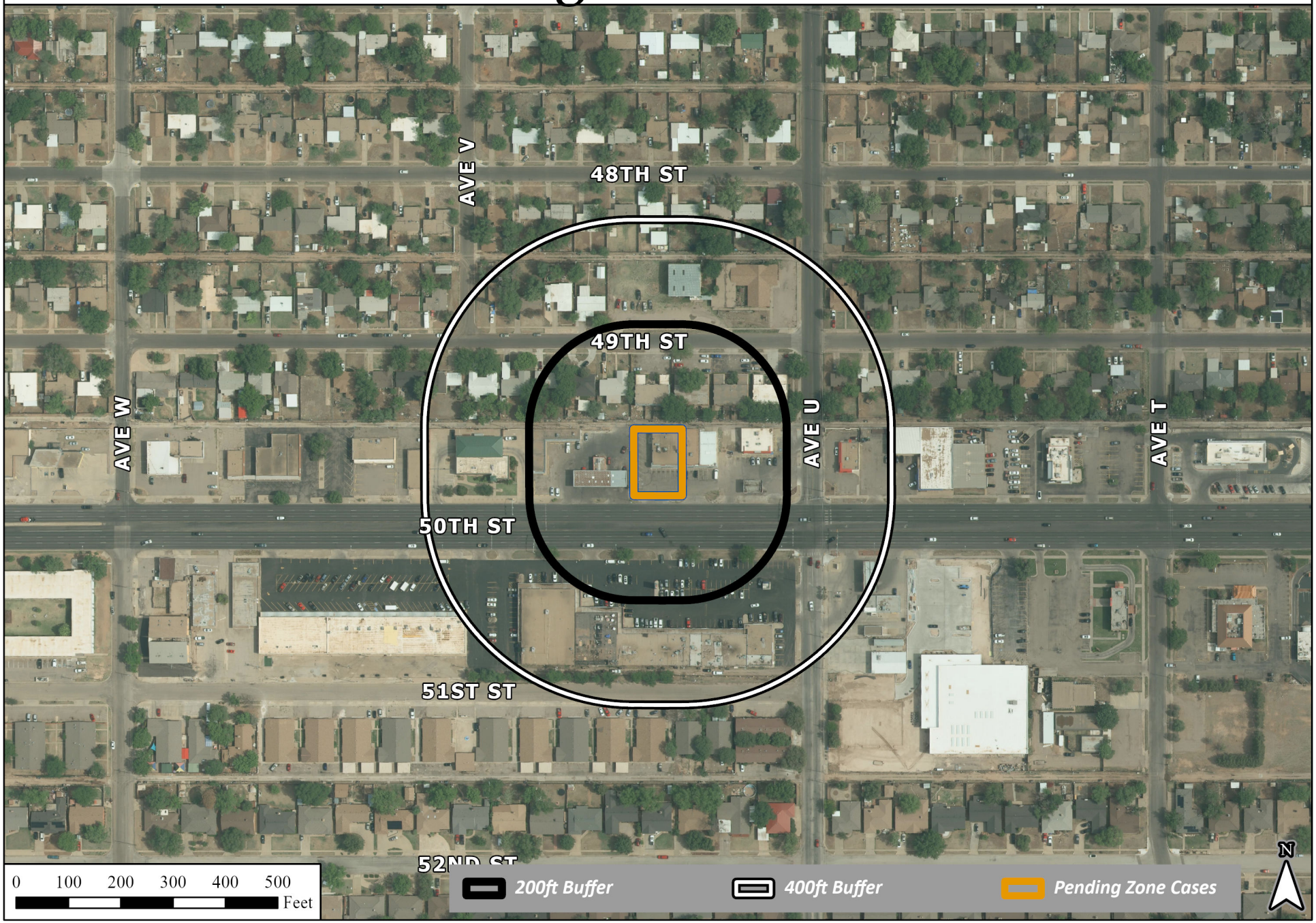


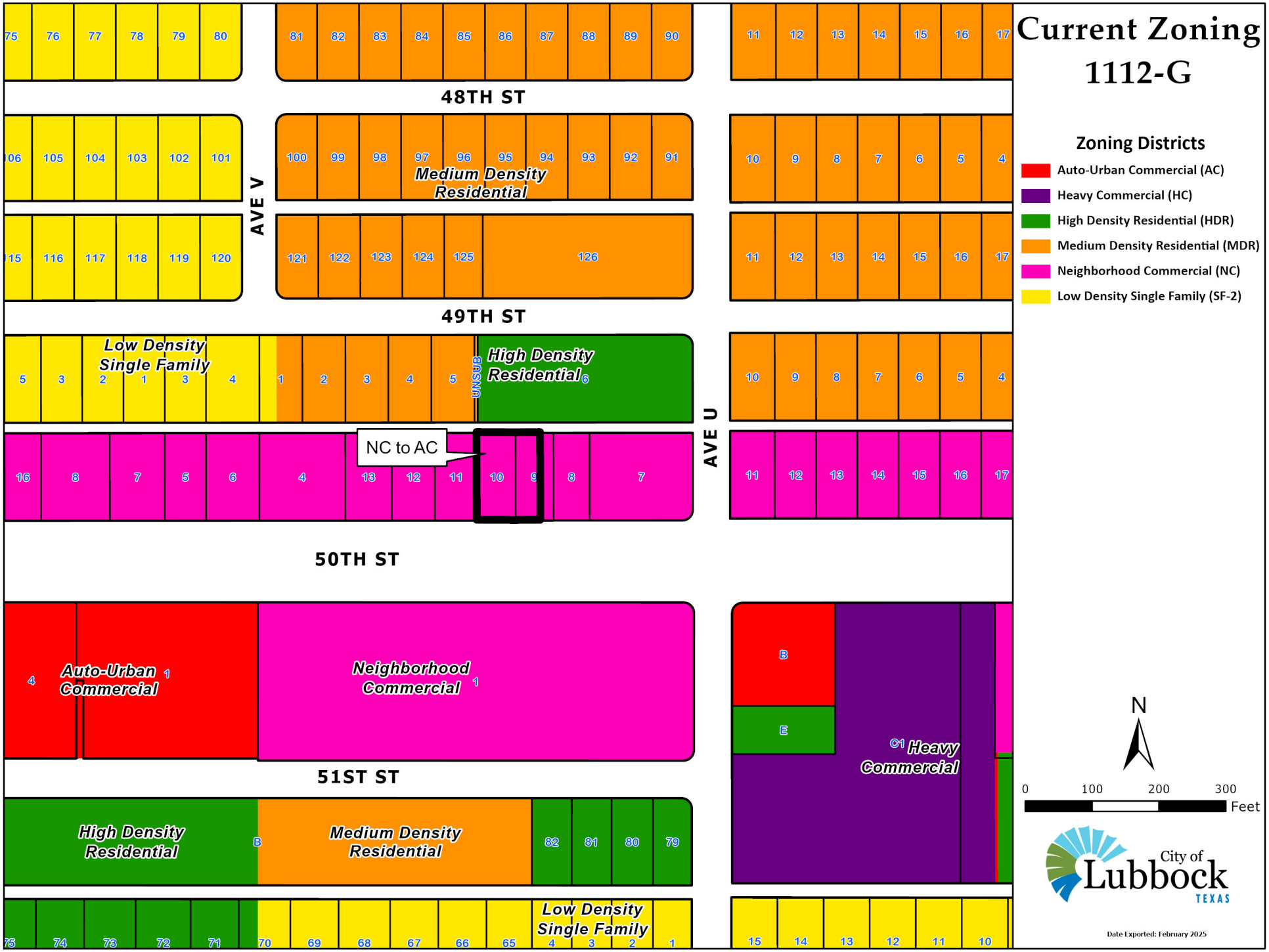
Collector	Minor Arterial	Modified Arterial	Principal Arterial	Freeway
Completed	Completed	Partial	Completed	Completed
Partial	Partial	Future	Partial	Partial
Future	Future		Future	Proposed Outer Loop

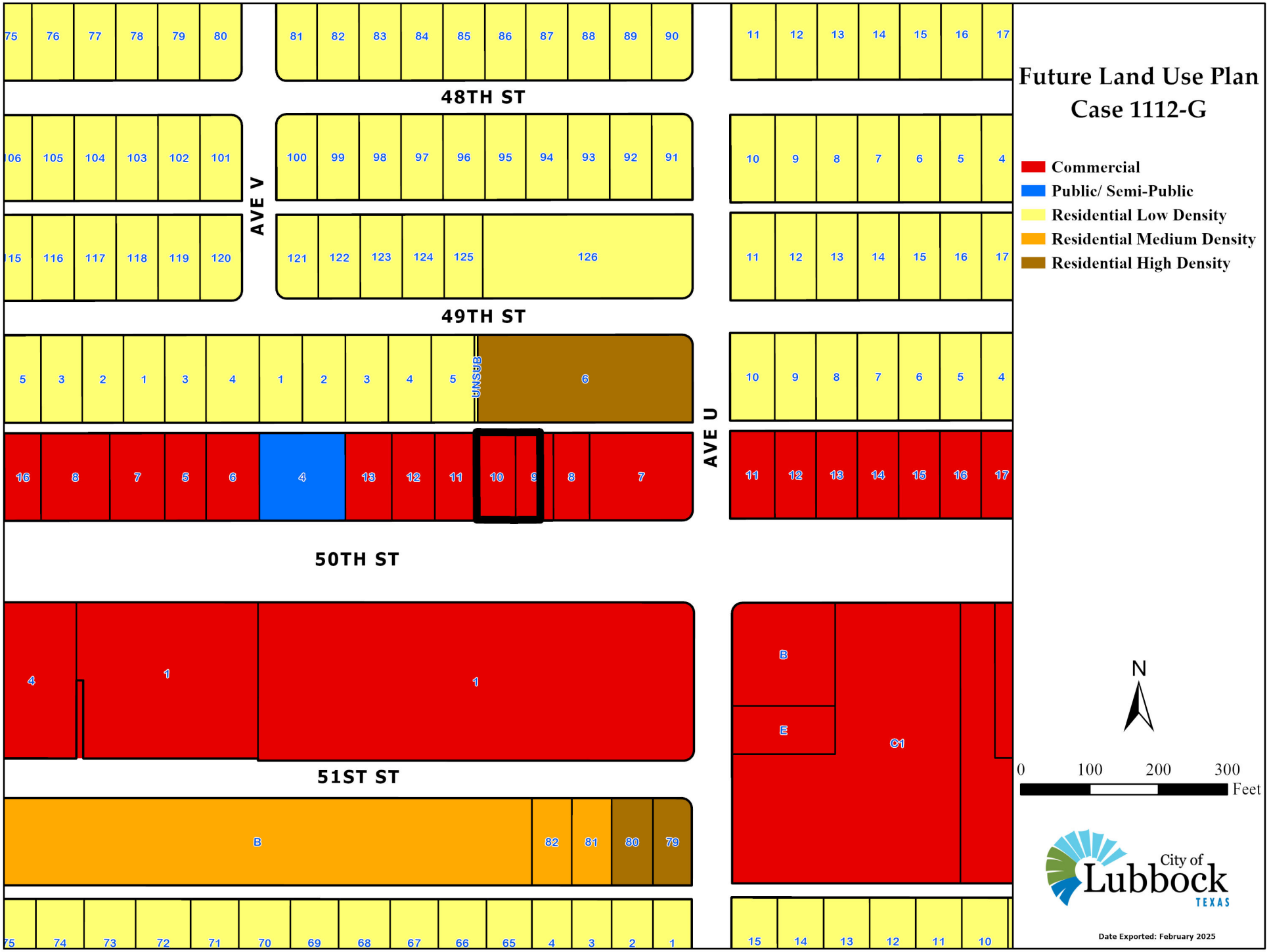
N
W E
S

Date Exported: February 2025

Zoning Case 1112-G




Current Zoning
1112-G
Zoning Districts
Auto-Urban Commercial (AC)
Heavy Commercial (HC)
High Density Residential (HDR)
Medium Density Residential (MDR)
Neighborhood Commercial (NC)
Low Density Single Family (SF-2)
48TH ST
49TH ST
50TH ST
51ST ST
AVE V
AVE U
Medium Density Residential
Low Density Single Family
High Density Residential
UNSUB
NC to AC
Auto-Urban Commercial
Neighborhood Commercial
Heavy Commercial
N
0 100 200 300
Feet
City of Lubbock TEXAS
Date Exported: February 2025


48TH ST
49TH ST
50TH ST
51ST ST
AVE V
AVE U
Future Land Use Plan
Case 1112-G
Commercial
Public/ Semi-Public
Residential Low Density
Residential Medium Density
Residential High Density
N
0
100
200
300
Feet
City of Lubbock
TEXAS
Date Exported: February 2025

East View.

South View.

West View.

North View—Subject Property

City of Lubbock TEXAS
PLANNING

Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457

APPLICATION FOR ZONING CHANGE

Project Information

Location or Address: 2610 5112 - 50th St

Lots/Tracts: Felix lot 10 + West 37½ Lot 9

Survey & Abstract:

Metes and Bounds Attached: Yes ☐ No ☑ Total Acreage of Request:

Existing Land Use: Commercial Existing Zoning: Neighborhood Commercial

Requested Zoning: Auto urban Commercial

If property is not subdivided, will a preliminary plat be submitted? Yes ☐ No ☐

Representative/Agent Information (if different from owner)

Firm Name: Presto Hail Lifters

Name: Kathy Cantu

Address: 2106 - 50th St City: Lubbock State: TX

ZIP Code: 79412 Telephone: 806-239-2763 Email: LBKTEX@Yahoo.Com

Applicant's Signature: Kathy Cantu

Date: Printed Name: Kathy Cantu

Owner Information

Firm Name: Lon Miller

Owner: Lon Miller

Address: P.O. Box 11234 City: Lubbock State: TX

ZIP Code: 79408 Telephone: 806-795-0730 Email:

Property Owner's Signature: Lon Miller LON MILLER

Date: Printed Name:

Preparer Information

Preparer's Signature:

Date: Printed Name:

For City Use Only

Zone Case No: Planning and Zoning Commission Date:

Request for zoning change from: To:

Lots: Blocks:

Addition:

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.

AI# 13319

Regular City Council Meeting **6. 2.**

03/25/2025:

Information

Agenda Item

Ordinance (Single Reading) - Finance: Consider approval of an ordinance providing for the issuance of City of Lubbock, Texas, General Obligation Bonds, in one or more series, in a principal amount not to exceed $54,000,000, for the purpose of paying the costs of acquiring, constructing and reconstructing street improvements, including but not limited to sidewalks, utility line relocation and traffic signalization, necessary and related storm damage facilities and the acquisition of land and rights-of-way therefor, 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. Street bond projects funded by the 2022 voter authorization include Upland Avenue: 4th Street to 19th Street, 114th Street from Frankford Avenue to Slide Road, 114th Street from Indiana Avenue to University Avenue, and Residential Unpaved Roadways East of I-27. Street bond projects funded by the 2024 voter authorization include Broadway from Avenue Q to Avenue E, University Avenue from 50th Street to Loop 289, Avenue P from 130th Street to 146th Street, 146th Street from University Avenue to Avenue P, and 146th Street from Slide Road to Quaker Avenue.

Item Summary

The General Obligation (GO) Bonds issued out of the voter-authorized $200 million bond referendum that passed in November 2022 are for the following projects:

1. Upland Avenue - 4th Street to 19th Street
2. 114th Street - Frankford Avenue to Slide Road
3. 114th Street - Indiana Avenue to University Avenue
4. Residential Unpaved Roadways - East of I-27

The GO Bonds issued out of the voter-authorized $103.4 million bond referendum that passed in November 2024 are for the following projects:

1. Broadway - Avenue Q to Avenue E
2. University Avenue - 50th Street to Loop 289
3. Avenue P - 130th Street to 146th Street
4. 146th Street - University Avenue to Avenue P
5. 146th Street - Slide Road to Quaker Avenue

Fiscal Impact

The total amount of the Project costs financed with the Revenue Bonds will not exceed the $54,000,000 total principal amount of one or more series of General Obligation 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.

Staff/Board Recommending

Joe Jimenez, Chief Financial Officer

Attachments

Ordinance

Ordinance No. 2025-O[____]

ORDINANCE

relating to

CITY OF LUBBOCK, TEXAS
GENERAL OBLIGATION BONDS

Adopted: March 25, 2025

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AN ORDINANCE PROVIDING FOR THE ISSUANCE OF CITY OF LUBBOCK, TEXAS, GENERAL OBLIGATION 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, the City Council of the City of Lubbock, Texas (the "City") hereby finds and determines that it is in the best interests of the City to issue bonds to pay the costs of making permanent public improvements authorized by the voters of the City at bond elections held on November 8, 2022 and November 5, 2024 (collectively, the "Elections") in accordance with the provisions of Chapter 1331, Texas Government Code, as amended;

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 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;

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:

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 1331" means Chapter 1331, 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.

"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.

"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.

"Gross Proceeds" has the meaning stated in Section 1.148-1(b) of the Regulations.

"Initial Bond" means the initial bond or bonds 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

"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.

"Record Date" means the date specified 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).

"Tax-Exempt Bonds" shall mean Bonds, the interest on which is excludable from gross income for federal income tax purposes, as determined and set forth in the Pricing Certificate therefor.

"Taxable Bonds" shall mean Bonds the interest on which is not excludable from gross income for federal income tax purposes, 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.

"Yield" means the yield computed under Section 1.148-4 of the Regulations for a Bond or issue of Bonds, and yield computed under Section 1.148-5 of the Regulations for an investment.

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 City's bonds (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 1331, 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) acquiring, constructing and reconstructing street improvements, including but not limited to sidewalks, utility line relocation and traffic signalization, necessary and related storm drainage facilities and the acquisition of land and rights-of-way therefor and (ii) paying the costs of issuing the Bonds. The aggregate principal amount of all Bonds issued pursuant to this Ordinance shall not exceed $54,000,000.

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 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) 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) 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 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 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, 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 number and title or designation for the Bonds of each series to be issued, (vii) whether particular Bonds will be issued as Tax-Exempt Bonds or Taxable Bonds (viii) the form in which the Bonds shall be issued, (ix) 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, (x) 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 (xi) all other terms and provisions of the Bonds and all other matters relating to the issuance, sale and delivery thereof, 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 one-year anniversary following 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 the Preliminary Official Statement and any addenda, supplement or amendment thereto, are hereby in all respects approved and adopted for use in connection with the public offering and sale of each series of Bonds, with such appropriate variations as shall be approved by the Authorized Officer, and the 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.

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 Federal Income Tax Exclusion for Tax-Exempt Bonds.

(a) Not to Cause Interest on Tax-Exempt Bonds to Become Taxable. The City shall not use, permit the use of or omit to use Gross Proceeds of any Tax-Exempt Bonds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which, if made or omitted, respectively, would cause the interest on such Tax-Exempt Bonds to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City shall have received a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Tax-Exempt Bonds, the City shall comply with each of the specific covenants in this Section.

(b) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall, at all times after the Issue Date of any Tax-Exempt Bond and prior to the last stated maturity of the Tax-Exempt Bonds

(i) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed directly or indirectly with Gross Proceeds of such Tax-Exempt Bonds and not use or permit the use of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity other than a state or local government, unless such use is solely as a member of the general public, or

(ii) not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds of such Tax-Exempt Bonds or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with such Gross Proceeds other than taxes of general application and interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(c) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of such Tax-Exempt Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, Gross Proceeds are considered to be "loaned" to a person or entity if (1) property acquired, constructed or improved with Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes, (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement, or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or such property are otherwise transferred in a transaction which is the economic equivalent of a loan.

(d) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the final stated maturity or final payment of such Tax-Exempt Bonds, directly or indirectly invest Gross Proceeds of such Tax-Exempt Bonds in any Investment (or use such Gross Proceeds to replace money so invested), if as a result of such investment the Yield of all Investments allocated to such Gross Proceeds whether then held or previously disposed of, exceeds the Yield on the Tax-Exempt Bonds.

(e) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Tax-Exempt Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(f) Information Report. The City shall timely file with the Secretary of the Treasury the information required by Section 149(e) of the Code with respect to the Tax-Exempt Bonds on such forms and in such place as such Secretary may prescribe.

(g) Payment of Rebate Amount. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder, the City shall:

(i) account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of such

accounting for at least six years after the final Computation Date. The City may, however, to the extent permitted by law, commingle Gross Proceeds of the Tax-Exempt Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of such Gross Proceeds and the obligations acquired therewith,

(ii) calculate the Rebate Amount with respect to the Tax-Exempt Bonds not less frequently than each Computation Date, in accordance with rules set forth in Section 148(f) of the Code, Section 1.148-3 of the Regulations, and the rulings thereunder. The City shall maintain a copy of such calculations for at least six years after the final Computation Date,

(iii) as additional consideration for the purchase of the Tax-Exempt Bonds by the initial purchaser thereof and the loan of the money represented thereby, and in order to induce such purchase by measures designed to ensure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, pay to the United States the amount described in paragraph (ii) above at the times, in the installments, to the place, in the manner and accompanied by such forms or other information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and

(iv) exercise reasonable diligence to assure that no errors are made in the calculations required by paragraph (ii) and, if such error is made, to discover and promptly to correct such error within a reasonable amount of time thereafter, including payment to the United States of any interest and any penalty required by the Regulations.

(h) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Tax-Exempt Bonds, not been relevant to either party.

Section 9.04 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 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
EFFECTIVE IMMEDIATELY

Section 14.01 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 25th day of March, 2025, 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:

JOE JIMENEZ, Chief Financial Officer

APPROVED AS TO FORM:

JERRY V. KYLE, JR., Bond Counsel

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 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 twenty-one (21) years after the date of its delivery;

(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 of this Ordinance; and

(e) 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 BOND
[TAXABLE] SERIES 20__

INTEREST RATE:	MATURITY DATE:	BOND DATE:	CUSIP NUMBER:
_____%	_____	_____[1]	_____

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 _____[1] 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 _____[2]. All capitalized terms used herein but not defined shall have the meaning assigned to them in the Ordinance (defined below).

[1] Information to be inserted from Pricing Certificate.
[2] 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 _____[3], 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 $_____[4] (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 acquire, construct and reconstruct street improvements, including but not limited to sidewalks, utility line relocation and traffic signalization, necessary and related storm drainage facilities and the acquisition of land and rights-of-way therefor, 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

[3] Information to be inserted from Pricing Certificate.
[4] Information to be inserted from Pricing Certificate.

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 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____

Redemption Date	Principal Amount
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.[5]

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

[5] Insert mandatory sinking fund redemption provisions, if any, and revise as necessary to conform to the Pricing Certificate.

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.][6]

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.

[6] 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 an opinion 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.

[BANK]

_____
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)