City of Lubbock, Texas
Regular City Council Meeting
May 27, 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.

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1:30 p.m. - City Council convenes in City Council Chambers in Open Session 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. Upland Avenue Street Bond Project - 98th Street to 114th Street

1. 1. 2. 82nd Street Bond Project - Martin Luther King Jr. Boulevard - Interstate 27

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. Upland Avenue Street Bond Project - 98th Street to 114th Street

1. 2. 2. 82nd Street Bond Project - Martin Luther King Jr. Boulevard - Interstate 27

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 May 27, 2025. Citizen Comments provide an opportunity for citizens to make comments and express a position on agenda items.**

4. **Minutes**

4. 1. April 22, 2025 Regular City Council Meeting

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

5. 1. **Budget Ordinance Amendment 2nd Reading - Finance:** Consider Budget Ordinance No. 2025-O0060, Amendment 21, respecting the Airport Capital Project Fund and the Grant Fund; providing for filing; and providing for a savings clause.

5. 1. 1. **Resolution - Aviation:** Consider a resolution authorizing the Mayor to accept Federal Aviation Grant Agreement No. 3-48-0138-060-2025 for the Runway Light-Emitting Diode Light Replacement at Lubbock Preston Smith International Airport.

5. 1. 2. **Resolution - Aviation:** Consider a resolution authorizing the Mayor to execute Contract 18551, with Chambers Engineering, LLC, for Runway Light-Emitting Diode (LED) Lights Replacement at Lubbock Preston Smith International Airport.

5. 2. **Ordinance 2nd Reading - Right-of-Way:** Consider Ordinance No. 2025-O0061, abandoning and closing right-of-way, located in Section 20, Block AK, Lubbock County, Texas, at 120th Street, east of Milwaukee Avenue, and west of Iola Avenue, due to a change in the development of this property.

5. 3. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing portions of a Public Access Easement, located in Section 4, Block AK, Lubbock County, Texas, south of 142nd Street, west of Indiana Avenue, due to a change in the development of this property.

5. 4. **Ordinance 1st Reading - Right-of-Way:** Consider an ordinance abandoning and closing a portion of Alley Right-of-Way, located in Block 116, Original Town of Lubbock, Lubbock County, Texas, between Avenue L and Avenue M, south of Main Street, to create an additional parking area.

5. 5. **Resolution - Right-of-Way:** Consider a resolution authorizing the Mayor to execute a Possession and Use Agreement, and all related documents, by and between the City of Lubbock and Ignacio Lopez, related to property located on the west side of Upland Avenue, north of 19th Street and south of 17th Street, for road utility purposes with independent consideration, to be utilized for the 2022 Street Bond Project.

5. 6. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Amendment No. 1 to Professional Services Agreement Contract 17632, and related documents, by and between the City of Lubbock and Kimley-Horn and Associates, Inc., for the reconstruction of 114th Street, from Frankford Avenue to Slide Road - 22B, to be utilized for the 2022 Street Bond Project.

5. 7. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding Contract 18911, and all related documents, by and between the City of Lubbock and South Plains Electric Cooperative, Inc., for adjustment and relocation of utility poles and lines, as part of the 34th Street Upland Avenue to Milwaukee Avenue Project, to be utilized for the 2022 Street Bond Project.

5. 8. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding, Contract 18912, by and between the City of Lubbock and South Plains Electric Cooperative, Inc., for utility relocation in preparation for roadway improvements on Upland Avenue, to be utilized for the 2022 Street Bond Project.

5. 9. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement, Contract 18720, and all related documents, by and between the City of Lubbock and AT&T, for a Custom Work Agreement for design and construction of a utility duct bank on 34th Street, to be utilized for the 2022 Street Bond Project.

5. 10. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 18855, and related documents, with Hugo Reed and Associates, Inc., for on-call general surveying services.

5. 11. **Resolution - Engineering:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 18667, and related documents, with Cobb, Fendley, and Associates, Inc., for on-call subsurface utility engineering services.

5. 12. **Resolution - Stormwater Compliance:** Consider a resolution authorizing the Mayor to execute License Agreement 18915, with Ashley Benton, regarding certain designated rights-of-way, for the purpose of installation and display of artwork.

5. 13. **Resolution - Stormwater Compliance:** Consider a resolution authorizing the Mayor to execute License Agreement #18916, with Edith Sanchez, regarding certain designated rights-of-way, for the purpose of installation and display of artwork.

5. 14. **Resolution - Stormwater Compliance:** Consider a resolution authorizing the Mayor to execute License Agreement #18917, with Willis Bagley, regarding certain designated rights-of-way, for the purpose of installation and display of artwork.

5. 15. **Resolution - Stormwater Compliance:** Consider a resolution authorizing the Mayor to execute License Agreement #18914, with Michelle Guerra, regarding certain designated rights-of-way, for the purpose of installation and display of artwork.

5. 16. **Ordinance 2nd Reading - Planning:** Consider Ordinance No. 2025-O0062, for a request for annexation, from Nicolett Land Company, LLC, to annex an area of approximately 121.80 acres, adjacent to the southwestern city limits of the City of Lubbock, south of 130th Street (Loop 88) and west of Milwaukee Avenue, into Lubbock's corporate limits.

5. 17. **Resolution - Public Works Traffic Management:** Consider a resolution authorizing the Mayor to execute Amendment No. 2 to Contract 17858, with AtkinsRealis, for additional engineering services related to the City's Americans with Disabilities Act Transition Plan Sidewalk Gap Analysis Project.

5. 18. **Resolution: Public Health Services:** Consider a resolution authorizing the Mayor to execute the Department of State Health Services Grant Agreement Contract No. HHS001588400033, and all related documents, under the Regional and Local Services System/Local Public Health Services Grant Program, by and between the City of Lubbock and the State of Texas Department of State Health Services.

5. 19. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Emergency Solution Grant (ESG) Funding Agreement Contract 18865, and all related documents, by and between the City of Lubbock and Family Promise, for addressing homeless issues including homeless prevention, rapid re-housing, case management, and data collection.

5. 20. **Resolution - Community Development:** Consider a resolution authorizing the Mayor to execute Emergency Solution Grant Funding Agreement Contract 18866, and all related documents, by and between the City of Lubbock and ECHO West Texas, for the implementation, maintenance, and ongoing support of the Homeless Management Information System within the Continuum of Care framework.

5. 21. **Resolution - Business Development:** Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 18629, with Kimley-Horn and Associates, Inc., for engineering and design services related to street and pedestrian lighting in the Central Business District Tax Increment Financing Reinvestment Zone.

5. 22. **Resolution - City Manager:** Consider a resolution authorizing the Mayor to execute a *Consent to Assignment and Assumption of Leasehold Interest* consenting to the assignment of Abby Quinn's leasehold interest to Kyle Williams, regarding the Lease Agreement entered into between the City of Lubbock and Samuel Cullen Arnett III and Abby Quinn on November 5, 2024.

6. **Regular Agenda**

6. 1. **Public Hearing - Planning (District 4):** Consider a request for Zone Case 3522, a request of Wayne & Marilyn Downing, for a zone change from Low Density Single-Family District (SF-2) to Auto-Urban Commercial District (AC), at 11713 Indiana Avenue, located east of Indiana Avenue and north of 118th Street, Speedy Acres Addition, Lot 3, and consider an ordinance.

6. 2. **Resolution - Planning:** Consider a resolution approving and granting a variance from the applicable 300-feet minimum distance provision of the City of Lubbock Ordinance No. 2009-O0060, at 1905 19th Street, for an alcoholic beverage permit for Endzone Liquor Beer Wine.

AI# 13460
Regular City Council Meeting **4. 1.**
05/27/2025:

Information

Agenda Item
April 22, 2025 Regular City Council Meeting

Item Summary
April 22, 2025 Regular City Council Meeting

Fiscal Impact
None

Staff/Board Recommending
Courtney Paz, City Secretary

Attachments

4.22.2025

CITY OF LUBBOCK
REGULAR CITY COUNCIL MEETING
April 22, 2025
1:45 P. M.

The City Council of the City of Lubbock, Texas met in regular session on the 22nd of April, 2025, in City Council Chambers, Citizens Tower, 1314 Avenue K, Lubbock, Texas at 1:45 p.m.

1:46 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:
- *1.1.1; 3.1-3.2; Citizen Comments 4; 5.1; 6.1-6.4.1; 6.6-6.35; 6.5; and 7.1-7.6.*
- *There was no item 2 on this agenda.*

1. Work Session

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

1. 1. 1. Final Year 2024/25 Sales Tax Collections and Projections

Jarrett Atkinson, city manager, gave a presentation and answered questions from City Council. Topics discussed included: City of Lubbock Sales Tax through February 2025 and City of Lubbock Sales Tax.

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

City Council concluded work session and began regular session at 2:03 p.m.

3. Ceremonial Items

3. 1. Invocation

Preaching Minister Dale Mannon, Green Lawn Church of Christ, led the invocation.

3. 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 2:06 p.m.

4. Citizen Comments - According to Lubbock City Council Rules, any citizen wishing to appear in-person before a regular meeting of the City Council, regarding any matter posted on the City Council Agenda below, shall complete the sign-up form provided at the meeting, no later than 2:00 p.m. on April 22, 2025. Citizen Comments provide an opportunity for citizens to make comments and express a position on agenda items.

No one appeared to speak.

5. Minutes

5. 1. March 25, 2025 Regular City Council Meeting

Motion by Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member Tim Collins, to approve the March 25, 2025 Regular City Council Meeting minutes.

Vote: 7 - 0 Motion Carried

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

Motion by Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member Brayden Rose, to approve items 6.1-6.4.1 and 6.6-6.35.

Vote: 7 - 0 Motion carried

6. 1. Budget Ordinance Amendment 2nd Reading - Finance: Ordinance No. 2025-O0047, Amendment 16, respecting the Hazard Mitigation Generators Capital Improvement Project in the Water/Wastewater Capital Project Fund and the Grant Fund; providing for filing; and providing for a savings clause.

6. 1. 1. Resolution - Emergency Management: Resolution No. 2025-R0177 ratifying the actions of the City Manager in accepting an award from the Federal Emergency Management Agency under the DR-4485 Texas Covid-19 Pandemic Hazard Mitigation Grant Program, for the acquisition of emergency power generators to be located at the Southeast Water Reclamation Plant.

6. 2. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2025-O0050, Amendment 17, amending the FY 2024-25 Fire Rescue Job Grade Summary, respecting the General Fund; providing for filing; and providing for a savings clause.

6. 3. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2025-O0051, Amendment 18, respecting the General Fund, Impact Fee Streets Zone E Fund, and the Quaker Avenue:146th Street to Woodrow Road Project, in the Streets Capital Project Fund; providing for filing; and providing for a savings clause.

6. 4. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2025-O0052, Amendment 19, respecting the General Fund and the Godeke Branch Library Building Purchase Capital Improvement Project in the General Capital Project Fund; providing for filing; and providing for a savings clause.

6. 4. 1. **Resolution - City Manager:** Resolution No. 2025-R0178 authorizing the Mayor to execute a Purchase and Sale Agreement, by and between the City of Lubbock and Luskey Brothers Investments, LLC, for the purchase of real property located at 5034 Frankford Avenue (Godeke Branch Library).

6. 5. **Budget Ordinance Amendment 1st Reading - Finance:** Ordinance No. 2025-O0054, Amendment 20, amending the FY 2024-25 Budget for municipal purposes, respecting the Information Technology Fund for the purchase of police laptops; providing for filing; and providing for a savings clause.

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

Motion by Council Member Dr. Jennifer Wilson, seconded by Mayor Pro Tem Christy Martinez-Garcia, to approve Ordinance No. 2025-O0054.

Vote: 7 - 0 Motion carried

6. 6. **Ordinance 2nd Reading - Right-of-Way:** Ordinance No. 2025-O0048, abandoning and closing alley right-of-way located in Section 77, Block A, recorded in Vol. 1843, Pg. 285, City of Lubbock, Lubbock County, Texas, near the North Loop Industrial Park, north of East Lehigh Street, and east of Ash Avenue.

6. 7. **Ordinance 2nd Reading - Right-of-Way:** Ordinance No. 2025-O0049, abandoning and closing portions of streets located in Section 77, Block A, recorded in Vol. 474, Pg. 183, City of Lubbock, Lubbock County, Texas, north of the North Loop Industrial Park, and south of Northeast Loop 289.

6. 8. **Resolution - Right-of-Way:** Resolution No. 2025-R0179 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 Lot 20, Block 21 of the Marti-Ameen Addition, Lubbock County, Texas (Parcel 5), at the northwest corner of 82nd Street and Avenue B, to be utilized for the 2022 Street Bond Project.

6. 9. **Resolution - Right-of-Way:** Resolution No. 2025-R0180 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 24, Block E-2, Lubbock County, Texas (Parcel 54), on the south side of 114th Street between Elkhart Avenue and Chicago Avenue, to be utilized for the 2022 Street Bond Project.

6. 10. **Resolution - Right-of-Way:** Resolution No. 2025-R0181 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 15), on the southwest corner of 82nd Street and Avenue F, to be utilized for the 2022 Street Bond Project.

6. 11. **Resolution - Right-of-Way:** Resolution No. 2025-R0182 authorizing the Mayor to execute two (2) Street Use Licenses, and related documents, by and between the City of Lubbock and CFC-LSH, LLC, for the purpose of drainage located on Queens Street, west of North Quaker Avenue.

6. 12. **Ordinance 1st Reading - Engineering:** Ordinance No. 2025-O0053 adopting a revised City of Lubbock Master Thoroughfare Plan Map.

6. 13. **Resolution - Engineering:** Resolution No. 2025-R0183 authorizing the Mayor to execute Amendment No. 3 to Professional Services Agreement Contract 15208, and related documents, with Freese and Nichols, Inc., for services related to the Southeast Water Reclamation Plant Effluent Pump Station No. 2 Improvements Project.

6. 14. **Resolution - Engineering:** Resolution No. 2025-R0184 authorizing the Mayor to execute Development Agreement Contract 18779, with Betenbough Homes, LLC, Starlight Development, LLC, and WTLG Hidden Oaks, LLC, for the construction of a portion of the Southwest Lubbock Sanitary Sewer Expansion Project.

6. 15. **Resolution - Engineering:** Resolution No. 2025-R0185 authorizing the Mayor to execute Amendment No. 2 to the Professional Services Agreement Contract 17265, and related documents, with Plummer Associates, Inc., for the Reese Water Line Extension.

6. 16. **Resolution - Engineering:** Resolution No. 2025-R0186 authorizing the Mayor to execute Contract 18419, with Archer Western Construction, LLC, for construction services associated with the West Lubbock Water Expansion Project, Pump Station No. 17 and Ground Storage Tank.

6. 17. **Resolution - Engineering:** Resolution No. 2025-R0187 authorizing the Mayor to execute a Memorandum of Understanding, Contract 18176, by and between the City of Lubbock and South Plains Electric Cooperative, Inc., to move and relocate utility poles in preparation for reconstruction of Milwaukee Avenue, from 4th Street to the north city limits, as a portion of the 2022 Street Bond Project.

6. 18. **Resolution - Engineering:** Resolution No. 2025-R0188 authorizing the Mayor to execute a Memorandum of Understanding, Contract 18813, and related documents, by and between the City of Lubbock and the South Plains Electric Cooperative, Inc., for adjustment and relocation of utility poles and lines, as part of the 66th Street Drainage Channel Improvements Project.

6. 19. **Resolution - Engineering:** Resolution No. 2025-R0189 authorizing the Mayor to execute Change Order No. 1 to Contract 18185, by and between the City of Lubbock and Rink's Lease Service, for the water line relocation ahead of Loop 88, Section 3D.

6. 20. **Resolution - Planning:** Resolution No. 2025-R0190 prescribing the type of notice to be given for a joint meeting of the City Council and the Planning and Zoning Commission, for a public hearing to consider amendments to the Unified Development Code, as provided under Section 211.007(d) of the Texas Local Government Code.

6. 21. **Resolution - Public Works Water Treatment:** Resolution No. 2025-R0191 authorizing the Mayor to execute Purchase Order 22105419,, with Mantech (USA), Inc., for the purchase of laboratory equipment for water treatment lab services.

6. 22. **Resolution - Public Works:** Resolution No. 2025-R0192 authorizing the Mayor to execute Service Contract 18100 with Ceres Environmental Services, Inc., for debris management during Federal Emergency Management Agency-activated/qualifying reimbursement events.

6. 23. **Resolution - Public Works:** Resolution No. 2025-R0193 authorizing the Mayor to execute Service Contract 18693, with CrowderGulf Disaster Recovery & Debris Management LLC, for debris management during Federal Emergency Management Agency-activated/qualifying reimbursement events.

6. 24. **Resolution - Aviation:** Resolution No. 2025-R0194 authorizing the Mayor to execute Contract 18604, with Veoci, Inc., for Part 139 Inspection, Work Order System, Safety Management System Reporting Software, and Maintenance at Lubbock Preston Smith International Airport.

6. 25. **Resolution - Business Development:** Resolution No. 2025-R0195 authorizing the Mayor to execute License Amendment 1 – City of Lubbock and Lubbock Experience, Inc., for the Downtown Lubbock Civic Park.

6. 26. **Resolution - Business Development:** Resolution No. 2025-R0196 authorizing the Mayor to execute Amendment No. 4 to Professional Services Agreement Contract 17764, with West Texas Services, Inc. dba Tom's Tree Place, for services related to right-of-way improvements in the North Overton Tax Increment Financing District boundary.

6. 27. **Resolution - Business Development:** Resolution No. 2025-R0197 authorizing the Mayor to execute Professional Services Agreement Contract 18619, with Hugo Reed and Associates, Inc., for the redesign of a retaining wall and surrounding area at the Playa Lake Park Playground in the Bell Farms Public Improvement District.

6. 28. **Resolution - Business Development:** Resolution No. 2025-R0198 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 Ella Apartments, located at 1102 58th Street in Lubbock, Texas.

6. 29. **Resolution - Information Technology:** Resolution No. 2025-R0199 authorizing the Mayor to execute Purchase Order 10028429, with PPE Software, LLC, for the Fire Service Asset Management System Software for Lubbock Fire Rescue.

6. 30. **Resolution - Telecommunications:** Resolution No. 2025-R0200 authorizing the Mayor to execute Purchase Order 33001973, with AT&T Enterprises, LLC, for Engage Call Recording maintenance and support.

6. 31. **Resolutions - Fleet Services:** Resolution No.'s 2025-R0201 and 2025-R0202 authorizing the Mayor to execute Contract 18603, with Safety-Kleen Systems, and Contract 18822, with AEG Petroleum LLC, for the purchase of engine oils and lubricants for City of Lubbock vehicles and equipment.

6. 32. **Resolutions - Fleet Services:** Resolution No.'s 2025-R0203 and 2025-R0204 authorizing the Mayor to execute Contract 18573, with the Arnold Oil Company, and Contract 18810, with Interstate Batteries of the South Plains, for the purchase of automotive batteries for City of Lubbock vehicles.

6. 33. **Resolution - Police:** Resolution No. 2025-R0205 authorizing the Mayor to execute Purchase Order 10028377, with Aero Precision LLC, for the purchase of Law Enforcement M4E1-T Complete Short Barrel Rifles for the Lubbock Police Department.

6. 34. **Resolution - Lubbock Power & Light:** Resolution No. 2025-R0206 authorizing the Mayor to authorize the Chief Administrative Officer of Lubbock Power & Light (LP&L), to execute a Ninth Amendment to the Professional Services Agreement, dated May 29, 2018, by and between the City of Lubbock, acting by and through LP&L, and TMG Utility Advisory Services, Inc., to expand the scope of services to include work required to integrate with Smart Meter Texas.

6. 35. **Resolution - City Manager:** Resolution No. 2025-R0207 approving Atmos Energy's specific rates and tariffs included in Exhibit A to the negotiated Settlement Agreement, with such rates becoming effective beginning on whichever date is later, May 20, 2025, or the date the Railroad Commission of Texas (RRC) issues its final written order in RRC Case No. OS-24-00018879, for service rendered on and after that date.

7. Regular Agenda

7. 1. **Public Hearing - Planning (District 1):** Ordinance No. 2025-O0055, for Zone Case 3520, a request of Hugo Reed and Associates, Inc. for D & T Farms, for a zone change from Low Density Single-Family District (SF-2) to Light Industrial District (LI), generally located north of East Bluefield Street and east of North Guava Avenue, on 404.5 acres of unplatted land out of Block A, Section 43.

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

Mayor McBrayer opened the public hearing at 2:24 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 2:26 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Mayor Pro Tem Christy Martinez-Garcia, to approve Ordinance No. 2025-O0055.

Vote: 7 - 0 Motion carried

7. 2. **Public Hearing - Planning (District 3):** Ordinance No. 2025-O0056, for Zone Case 1901-A, a request of 7B Building and Development, LLC for Buslon, Inc., for a zone change from Medium Density Residential District (MDR) and Neighborhood Commercial District (NC) to Auto-Urban Commercial District (AC), at 5106 Slide Road, located west of Slide Road and south of 51st Street, Buster Long Addition, the west 95.16 feet of Lot 103, and the west 95.16 feet of the north 7 feet of Lot 102.

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

Mayor McBrayer opened the public hearing at 2:24 p.m.

No one appeared to speak in favor or opposition.

Mayor McBrayer closed the public hearing at 2:26 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Mayor Pro Tem Christy Martinez-Garcia, to approve Ordinance No. 2025-O0056.

Vote: 7 - 0 Motion carried

7. 3. **Public Hearing - Planning (District 4):** Ordinance No. 2025-O0057, for Zone Case 3519, a request of AMD Engineering, LLC for Red Canyon Development, LLC, for a zone change from Low Density Single-Family District (SF-2) to Auto-Urban Commercial District (AC), at 16002 Quaker Avenue, located west of Quaker Avenue and north of Woodrow Road, on 14.123 acres of unplatted land out of Block AK, Section 6.

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

Mayor McBrayer opened the public hearing at 2:24 p.m.

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

No one appeared to speak in opposition.

Mayor McBrayer closed the public hearing at 2:26 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Mayor Pro Tem Christy Martinez-Garcia, to approve Ordinance No. 2025-O0057.

Vote: 7 - 0 Motion carried

7. 4. **Public Hearing - Planning (District 5):** Ordinance No. 2025-O0058, for Zone Case 3518, a request of AMD Engineering, LLC for Redeemer Church of Lubbock, for a zone change from Low Density Single-Family District (SF-2) to Heavy Commercial District (HC), at 6303 and 6305 130th Street, located south of 130th Street and east of Milwaukee Avenue, on 3.486 acres of unplatted land out of Block AK, Section 9.

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

Mayor McBrayer opened the public hearing at 2:24 p.m.

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

No one appeared to speak in opposition.

Mayor McBrayer closed the public hearing at 2:26 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Mayor Pro Tem Christy Martinez-Garcia, to approve Ordinance No. 2025-O0058.

Vote: 7 - 0 Motion carried

7. 5. **Public Hearing - Planning (District 5):** Ordinance No. 2025-O0059, for Zone Case 3521, a request of AMD Engineering, LLC for Barbara Beck, for a zone change from Low Density Single-Family District (SF-2) to Neighborhood Commercial District (NC), at 6602 104th Street, located west of Milwaukee Avenue and north of 104th Street, on 15 acres of unplatted land out of Block AK, Section 22.

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

Mayor McBrayer opened the public hearing at 2:24 p.m.

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

No one appeared to speak in opposition.

Mayor McBrayer closed the public hearing at 2:26 p.m.

Motion by Council Member Dr. Jennifer Wilson, seconded by Mayor Pro Tem Christy Martinez-Garcia, to approve Ordinance No. 2025-O0059.

Vote: 7 - 0 Motion carried

7. 6. **Resolution - Planning:** Resolution No. 2025-R0208 authorizing the Mayor to execute a Municipal Services Agreement with Nicolett Land Company, LLC, for the requested annexation of an area of land generally described as 121.80 acres, adjacent to and south of 130th Street (Loop 88) and west of Milwaukee Avenue, into the City of Lubbock corporate limits, along with the adjacent right-of-way.

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

Motion by Mayor Pro Tem Christy Martinez-Garcia, seconded by Council Member Dr. Jennifer Wilson, to approve Resolution No. 2025-R0208.

Vote: 7 - 0 Motion carried

2:28 P.M. CITY COUNCIL ADJOURNED

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

The April 22, 2025 Regular City Council Meeting minutes were approved by the City Council on the 27th day of May, 2025.

_____
MARK W. McBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

AI# 13413
Regular City Council Meeting 5. 1.
05/27/2025:

Information

Agenda Item

Budget Ordinance Amendment 2nd Reading - Finance: Consider Budget Ordinance No. 2025-O0060, Amendment 21, respecting the Airport Capital Project Fund and the Grant Fund; providing for filing; and providing for a savings clause.

Item Summary

On May 13, 2025, the City Council approved the first reading of the ordinance.

In September 2024, the Lubbock Preston Smith International Airport (LBB) was selected to receive a grant up to $1,000,000 through the Fiscal Year 2023 Airport Improvement Program Supplemental Discretionary Grant competition, for the Runway Light Replacement (LED) project. The grant award is still pending a formal offer from the Federal Aviation Administration. The budget amendment moves the $1,000,000 grant offer from the FY 2025-26 Budget to the FY 2024-25 Budget, and will allow the airport to proceed with grant acceptance and contract award immediately, upon grant receipt.

In accordance with the grant program requirements, the LBB solicited bids for the project and submitted a final grant application. In anticipation of potential delays in receipt of the grant offer, the LBB solicited bids with an extended bid period of 120 days. Bids opened February 6th and are good through the end of May. The timeliness of the budget amendment will allow for contract award during this period and avoid the potential of a re-bidding process.

Fiscal Impact

Will be applied at a later date.

Staff/Board Recommending

Joe Jimenez, Chief Financial Officer

Attachments

Budget Amendment 21

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FY 2024-25 BUDGET FOR MUNICIPAL PURPOSES RESPECTING THE AIRPORT 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 #21) for municipal purposes, as follows:

I. Amend Capital Improvement Project 92884, Replace Airfield Lighting/LED Conversion by increasing the appropriation and funding by $1,000,000, from $200,000 to $1,200,000. Funding will be Airport Improvement Program (AIP) Grant funds awarded by the Federal Aviation Administration.

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.Amend21.ord
May 5, 2025

AI# 13258
Regular City Council Meeting **5. 1. 1.**
05/27/2025:

Information

Agenda Item

Resolution - Aviation: Consider a resolution authorizing the Mayor to accept Federal Aviation Grant Agreement No. 3-48-0138-060-2025 for the Runway Light-Emitting Diode Light Replacement at Lubbock Preston Smith International Airport.

Item Summary

Lubbock Preston Smith International Airport is eligible to receive funds from the Federal Aviation Administration (FAA) under the Fiscal Year 2023 Airport Improvement Program (AIP). This grant funds the design and construction to replace existing incandescent lighting with energy-efficient light-emitting diode (LED) systems and replace the airfield lighting regulators to support the conversion.

Fiscal Impact

The grant award is $999,474 and funds 90% of the total project cost.

Staff/Board Recommending

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

Attachments

Resolution - FAA Airport Improvement Program Grant Agmt for LPSIA
FAA Grant Offer

RESOLUTION

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

THAT the City Manager of the City of Lubbock, or his designee, is hereby authorized and directed to execute for and on behalf of the City of Lubbock, an FY2023 FAA Airport Improvement Program Grant Agreement, No. 3-48-0138-060-2025 by and between the City of Lubbock and the United States of America acting through the Federal Aviation Administration in connection with the Lubbock Preston Smith International Airport, and related documents. Said Grant 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 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/RES.Grant Agrmt #3-48-0138-060-2025-FAA
May 21, 2025

U.S. Department of Transportation Federal Aviation Administration

Airports Division Southwest Region Texas

Texas Airports District Office: 10101 Hillwood Pkwy Fort Worth, TX 76177-1524

May 23, 2025

Honorable Mark McBrayer
Mayor of Lubbock
1314 Avenue K
Lubbock, TX 79457

Dear Mark McBrayer:

The Grant Offer for the Airport Improvement Program (AIP) Project No. 3-48-0138-060-2025 at Lubbock Preston Smith International Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

***Steps You Must Take to Enter Into Agreement*.**

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **May 29, 2025**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

***Payment*.** Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

***Project Timing*.** The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution date). We will be monitoring your progress to ensure proper stewardship of these Federal

funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in "inactive" status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

Reporting. Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
  1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
  2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit FAA Form 5100-140, Performance Report within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit FAA Form 5370-1, Construction Progress and Inspection Report, within 30 days of the end of each Federal fiscal quarter.

Audit Requirements. As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR Part 200. Subpart F requires non-Federal entities that expend $1,000,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

Closeout. Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

FAA Contact Information. Sara "Katie" Fields-Pack, (817) 222-4101, sara.k.fields-pack@faa.gov is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

Rodney Clark
Rodney Clark (May 23, 2025 06:05 CDT)

Rodney Clark
Texas Airports District Office Manager

U.S. Department of Transportation Federal Aviation Administration

FEDERAL AVIATION ADMINISTRATION AIRPORT IMPROVEMENT PROGRAM (AIP)
FY 2023 SUPPLEMENTAL GRANT AGREEMENT
Part I - Offer

Federal Award Offer Date	May 23, 2025
Airport/Planning Area	Lubbock Preston Smith International Airport
Airport Terminal Program Grant Number	3-48-0138-060-2025
Unique Entity Identifier	LXDNEKWRVKJ6

TO: City of Lubbock

(herein called the "Sponsor") (For Co-Sponsors, list all Co-Sponsor names. The word "Sponsor" in this Grant Agreement also applies to a Co-Sponsor.)

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated February 11, 2025, for a grant of Federal funds for a project at or associated with the Lubbock Preston Smith International Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Lubbock Preston Smith International Airport (herein called the "Project") consisting of the following:

Reconstruct Runway Lighting 8/26; Reconstruct Runway Lighting 17R/35L

which is more fully described in the Project Application.

NOW THEREFORE,

Pursuant to and for the purpose of carrying out the Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq.; FAA Reauthorization Act of 2018 (Public Law Number (P.L.) 115-254); the Department of Transportation Appropriations Act, 2021 (P.L. 116-260, Division L); the Consolidated Appropriations Act, 2022 (P.L. 117-103); Consolidated Appropriations Act, 2023 (P.L. 117-328); Consolidated Appropriations Act 2024 (P.L. 118-42); FAA Reauthorization Act of 2024 (P.L. 118-63);

and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the attached Grant Assurances dated April 2025, interpreted and applied consistent with the FAA Reauthorization Act of 2024; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay (90)% of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is $999,474.

   The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):
   $0 for planning
   $999,474 for airport development; and,
   $0 for land acquisition.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:

   a. Period of Performance:

      1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.

      2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1) except as noted in 49 U.S.C § 47142(b).

   b. Budget Period:

      1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in paragraph (2)(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period and as stated in 49 U.S.C § 47142(b).

      2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.

   c. Close Out and Termination:

Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the Period of Performance end date with the information available at the end of 120 days. (2 CFR § 200.344). The FAA may terminate this agreement and all of its obligations under this agreement if any of the following occurs:

(a)(1) The Sponsor fails to obtain or provide any Sponsor grant contribution as required by the agreement;

(2) A completion date for the Project or a component of the Project is listed in the agreement and the Recipient fails to meet that milestone by six months after the date listed in the agreement;

(3) The Sponsor fails to comply with the terms and conditions of this agreement, including a material failure to comply with the Project Schedule even if it is beyond the reasonable control of the Sponsor;

(4) Circumstances cause changes to the Project that the FAA determines are inconsistent with the FAA's basis for selecting the Project to receive a grant; or

(5) The FAA determines that termination of this agreement is in the public interest.

(b) In terminating this agreement under this section, the FAA may elect to consider only the interests of the FAA.

(c) The Sponsor may request that the FAA terminate the agreement under this section.

3. **Ineligible or Unallowable Costs.** In accordance with 49 U.S.C. § 47110, the Sponsor is prohibited from including any costs in the project that the FAA has determined to be ineligible or unallowable, including costs incurred to carry out airport development implementing policies and initiatives repealed by Executive Order 14148, provided such costs are not otherwise permitted by statute.

4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.

5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.

6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, 49 U.S.C. Chapters 471 and 475, the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.

7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.

8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before May 29, 2025, or such subsequent date as may be prescribed in writing by the FAA.

9. **Improper Use of Federal Funds and Mandatory Disclosure.**

   a. The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

   b. The Sponsor, a recipient, and a subrecipient under this Federal grant must promptly comply with the mandatory disclosure requirements as established under 2 CFR § 200.113, including reporting requirements related to recipient integrity and performance in accordance with Appendix XII to 2 CFR Part 200.

10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.

11. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**

    a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at http://www.sam.gov).

    b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at https://sam.gov/content/entity-registration.

12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. **Informal Letter Amendment of Supplemental Appropriation Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by $25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

    The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

    The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

    An informal letter amendment has the same force and effect as a formal grant amendment.

14. **Environmental Standards.** The Sponsor is required to comply with all applicable environmental standards, as further defined in the Grant Assurances, for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.

15. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

16. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.

17. **Build America, Buy American.** The Sponsor must comply with the requirements under the Build America, Buy America Act (P.L. 117-58).

18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(2), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant:

    a. May not be increased for a planning project;

    b. May be increased by not more than 15 percent for development projects, if funds are available;

    c. May be increased by not more than the greater of the following for a land project, if funds are available:

        1. 15 percent; or

2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the Sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in in 49 U.S.C. § 47110, or other superseding legislation if applicable. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

19. **Audits for Sponsors.**

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at http://harvester.census.gov/facweb/. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than $1,000,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

20. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

a. Verify the non-Federal entity is eligible to participate in this Federal program by:

1. Checking the Responsibility/Qualification records in the Federal Awardee Performance and Integrity Information System (FAPIIS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or

2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or

3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.

b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.

c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns it has entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debars a contractor, person, or entity.

21. **Ban on Texting While Driving.**

a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:

1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.

2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:

    i. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

    ii. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

22. **Trafficking in Persons.**

1. Posting of contact information.

a. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.

2. *Provisions applicable to a recipient that is a private entity.*

a. Under this Grant, the recipient, its employees, subrecipients under this Grant, and subrecipients employees must not engage in:

    i. Severe forms of trafficking in persons;

    ii. The procurement of commercial sex act during the period of time that the grant or cooperative agreement is in effect;

    iii. The use of forced labor in the performance of this grant; or any subaward; or

    iv. Acts that directly support or advance trafficking in person, including the following acts;

        a) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;

        b) Failing to provide return transportation of pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:

            1. Exempted from the requirement to provide or pay for such return transportation by the federal department or agency providing or entering into the grant; or

            2. The employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or witness in a human trafficking enforcement action;

c) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;

d) Charging recruited employees a placement or recruitment fee; or

e) Providing or arranging housing that fails to meet the host country's housing and safety standards.

b. The FAA, may unilaterally terminate this Grant, or take any remedial actions authorized by 22 U.S.C 7104b(c), without penalty, if any private entity under this condition;

i. Is determined to have violated a prohibition in paragraph (2)(a) of this Grant;

ii. Has an employee that is determined to have violated a prohibition in paragraph (2)(a) of this Grant through conduct that is either:

. Associated with performance under this Grant; or

. Imputed to the recipient or subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.

3. *Provision applicable to a recipient other than a private entity.*

a. The FAA may unilaterally terminate this award or take any remedial actions authorized by 22 U.S.C 7104b(c), without penalty, if subrecipient than is a private entity under this Grant;

i. Is determined to have violated a prohibition in paragraph (b)(1) of this Grant or

ii. Has an employee that is determined to have violated a prohibition in paragraph (b)(1) of this Grant through conduct that is either:

a) Associated with performance under this Grant; or

b) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 1200.

4. *Provisions applicable to any recipient.*

a. The recipient must inform the FAA and the DOT Inspector General, immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (b)(1) of this Grant.

b. The FAA's right to unilaterally terminate this Grant as described in paragraph (2)(a) or (3)(a) of this Grant, implements the requirements of 22 U.S.C. chapter 78 and is

addition to all other remedies for noncompliance that are available to the FAA under this Grant:

c. The recipient must include the requirements of paragraph (2)(a) of this Grant award term in any subaward it makes to a private entity.

d. If applicable, the recipient must also comply with the compliance plan and certification requirements in 2 CFR 175.105(b).

5. *Definitions.* For purposes of this Grant award, term:

   a. "Employee" means either:

      i. An individual employed by the recipient or a subrecipient who is engaged in the performance of the project or program under this Grant; or

      ii. Another person engaged in the performance of the project or program under this Grant and not compensated by the recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or requirements.

   b. "Private entity" means:

      i. Any entity, including for profit organizations, nonprofit organizations, institutions of higher education, and hospitals. The term does not include foreign public entities, Indian Tribes, local governments, or states as defined in 2 CFR 200.1.

      ii. The terms "severe forms of trafficking in persons," "commercial sex act," "sex trafficking," "Abuse or threatened abuse of law or legal process," "coercion," "debt bondage," and "involuntary servitude" have the meaning given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

23. **Grant Funded Work Included in a PFC Application.** Within 120 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.

24. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated 12/21/2017, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.

25. **Employee Protection from Reprisal.** In accordance with 2 CFR § 200.217 and 41 U.S.C. § 4701, an employee of a grantee, subgrantee contractor, recipient or subrecipient must not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (a)(2) of 41 U.S.C. 4712 information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant. The grantee, subgrantee, contractor, recipient, or subrecipient must inform their employees in writing of employee whistleblower rights

and protections under 41 U.S.C. § 4712. See statutory requirements for whistleblower protections at 10 U.S.C. § 4701, 41 U.S.C. § 4712, 41 U.S.C. § 4304, and 10 U.S.C. § 4310

26. **Prohibited Telecommunications and Video Surveillance Services and Equipment.** The Sponsor agrees 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)] and 2 CFR § 200.216.

27. **Critical Infrastructure Security and Resilience.** The Sponsor acknowledges that it has considered and addressed physical and cybersecurity and resilience in their project planning, design, and oversight, as determined by the DOT and the Department of Homeland Security (DHS). For airports that do not have specific DOT or DHS cybersecurity requirements, the FAA encourages the voluntary adoption of the cybersecurity requirements from the Transportation Security Administration and Federal Security Director identified for security risk Category X airports.

28. **Title VI of the Civil Rights Act.** As a condition of a grant award, the Sponsor shall demonstrate that it complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq) and implementing regulations (49 CFR part 21), the Airport and Airway Improvement Act of 1982 (49 U.S.C. 47123), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), U.S. Department of Transportation and Federal Aviation Administration (FAA) Assurances, and other relevant civil rights statutes, regulations, or authorities, including any amendments or updates thereto. This may include, as applicable, providing a current Title VI Program Plan to the FAA for approval, in the format and according to the timeline required by the FAA, and other information about the communities that will be benefited and impacted by the project. A completed FAA Title VI Pre-Grant Award Checklist is required for every grant application, unless excused by the FAA. The Sponsor shall affirmatively ensure that when carrying out any project supported by this grant that it complies with all federal nondiscrimination and civil rights laws based on race, color, national origin, sex, creed, age, disability, genetic information, in consideration for federal financial assistance. The Department's and FAA's Office of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements. Failure to comply with civil rights requirements will be considered a violation of the agreement or contract and be subject to any enforcement action as authorized by law.

29. **FAA Reauthorization Act of 2024**. This grant agreement is subject to the terms and conditions contained herein including the terms known as the Grant Assurances as they were published in the Federal Register on April 2025. On May 16, 2024, the FAA Reauthorization Act of 2024 made certain amendments to 49 U.S.C. chapter 471. The Reauthorization Act will require the FAA to make certain amendments to the assurances in order to best achieve consistency with the statute. Federal law requires that the FAA publish any amendments to the assurances in the Federal Register along with an opportunity to comment. In order not to delay the offer of this grant, the existing assurances are attached herein; however, the FAA shall interpret and apply these assurances consistent with the Reauthorization Act. To the extent there is a conflict between the assurances and Federal statutes, the statutes shall apply. The full text of the FAA Reauthorization Act of 2024 is at

https://www.congress.gov/bill/118th-congress/house-bill/3935/text

30. **Applicable Federal Anti-Discrimination Laws**. Pursuant to Section (3)(b)(iv), Executive Order 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, the sponsor:

    a. Agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of 31 U.S.C. 3729(b)(4); and
    b. certifies that it does not operate any programs promoting diversity, equity, and inclusion (DEI) initiatives that violate any applicable Federal anti-discrimination laws. .

31. **Federal Law and Public Policy Requirements.** The Sponsor shall ensure that Federal funding is expended in full accordance with the United States Constitution, Federal law, and statutory and public policy requirements: including but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination; and the Sponsor will cooperate with Federal officials in the enforcement of Federal law, including cooperating with and not impeding U.S. Immigration and Customs Enforcement (ICE) and other Federal offices and components of the Department of Homeland Security in and the enforcement of Federal immigration law.

32. **National Airspace System Requirements.**
    a. The Sponsor shall cooperate with FAA activities installing, maintaining, replacing, improving, or operating equipment and facilities in or supporting the National Airspace System, including waiving permitting requirements and other restrictions affecting those activities to the maximum extent possible, and assisting the FAA in securing waivers of permitting or other restrictions from other authorities. The Sponsor shall not take actions that frustrate or prevent the FAA from installing, maintaining, replacing, improving, or operating equipment and facilities in or supporting the National Airspace System.
    b. If the FAA determines that the Sponsor has violated subsection (a), the FAA may impose a remedy, including:
        1. additional conditions on the award;
        2. consistent with 49 U.S.C. chapter 471, any remedy permitted under 2 CFR 200.339–200.340, including withholding of payments; disallowance of previously reimbursed costs; requiring refunds from the Recipient to the DOT; suspension or termination of the award; or suspension and debarment under 2 CFR part 180; or
        3. any other remedy legally available.
    c. In imposing a remedy under this condition, the FAA may elect to consider the interests of only the FAA.
    d. The Sponsor acknowledges that amounts that the FAA requires the Sponsor to refund to the FAA due to a remedy under this condition constitute a debt to the Federal Government that the FAA may collect under 2 CFR 200.346 and the Federal Claims Collection Standards (31 CFR parts 900–904).

33. **Signage Costs for Construction Projects.** The Sponsor agrees that it will require the prime contractor of a Federally assisted airport improvement project to post signs consistent with a DOT/FAA-prescribed format, as may be requested by the DOT/FAA, and further agrees to remove any signs posted in response to requests received prior to February 1, 2025.

34. **Title 8 - U.S.C., Chapter 12, Subchapter II - Immigration**. The sponsor will follow applicable federal laws pertaining to Subchapter 12 and be subject to the penalties set forth in 8 U.S.C. § 1324, Bringing in and harboring certain aliens, and 8 U.S.C. § 1327, Aiding or assisting certain aliens to enter.

SPECIAL CONDITIONS

35. **Lighting.** The Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.

36. **Mothers' Rooms.** As a small, medium, or large hub airport, the sponsor certifies it is in compliance with 49 U.S.C. § 47107(w).

37. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.[1]

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

Rodney Clark
Rodney Clark (May 23, 2025 06:05 CDT)

(Signature)

Rodney Clark

(Typed Name)

Texas Airports District Office Manage

(Title of FAA Official)

[1] Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.[2]

Dated May 23, 2025

City of Lubbock

(Name of Sponsor)

Bill Howerton, Jr. (May 23, 2025 06:19 CDT)

(Signature of Sponsor's Authorized Official)

By: Bill Howerton, Jr.

(Typed Name of Sponsor's Authorized Official)

Title: Bill Howerton

(Title of Sponsor's Authorized Official)

[2] Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of __Texas__. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58) of 2021; and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.[3]

Dated at _____

By: _____

(Signature of Sponsor's Attorney)

[3] Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. Airport Development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.

The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, 37, and 40 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

The Sponsor will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant. Performance under this agreement shall be governed by and in compliance with the following requirements, as applicable, to the type of organization of the Sponsor and any applicable sub-recipients. The applicable provisions to this agreement include, but are not limited to, the following:

FEDERAL LEGISLATION

a. 49 U.S.C. subtitle VII, as amended.
b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.[1]
c. Federal Fair Labor Standards Act – 29 U.S.C. § 201, et seq.
d. Hatch Act – 5 U.S.C. § 1501, et seq.[2]
e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601, et seq.[1, 2]
f. National Historic Preservation Act of 1966 – Section 106 – 54 U.S.C. § 306108.[1]
g. Archeological and Historic Preservation Act of 1974 – 54 U.S.C. § 312501, et seq.[1]
h. Native Americans Grave Repatriation Act – 25 U.S.C. § 3001, et seq.
i. Clean Air Act, P.L. 90-148, as amended – 42 U.S.C. § 7401, et seq.
j. Coastal Zone Management Act, P.L. 92-583, as amended – 16 U.S.C. § 1451, et seq.
k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.[1]
l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
m. Rehabilitation Act of 1973 – 29 U.S.C. § 794.
n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) (prohibits discrimination on the basis of race, color, national origin).
o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
p. Age Discrimination Act of 1975 – 42 U.S.C. § 6101, et seq.
q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
r. Architectural Barriers Act of 1968, as amended – 42 U.S.C. § 4151, et seq.[1]
s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 – 42 U.S.C. § 8373.[1]
t. Contract Work Hours and Safety Standards Act – 40 U.S.C. § 3701, et seq.[1]
u. Copeland Anti-kickback Act – 18 U.S.C. § 874.[1]
v. National Environmental Policy Act of 1969 – 42 U.S.C. § 4321, et seq.[1]

w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.

x. Single Audit Act of 1984 – 31 U.S.C. § 7501, et seq.[2]

y. Drug-Free Workplace Act of 1988 – 41 U.S.C. §§ 8101 through 8105.

z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).

aa. Civil Rights Restoration Act of 1987, P.L. 100-259.

bb. Infrastructure Investment and Jobs Act, P.L. 117-58, Title VIII.

cc. Build America, Buy America Act, P.L. 117-58, Title IX.

dd. Endangered Species Act – 16 U.S.C. 1531, et seq.

ee. Title IX of the Education Amendments of 1972, as amended – 20 U.S.C. 1681–1683 and 1685–1687.

ff. Drug Abuse Office and Treatment Act of 1972, as amended – 21 U.S.C. 1101, et seq.

gg. Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. § 4541, et seq.

hh. Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, P.L. 91-616, as amended – 42 U.S.C. § 4541, et seq.

ii. Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions – 31 U.S.C. § 1352.

EXECUTIVE ORDERS

a. Executive Order 11990 – Protection of Wetlands

b. Executive Order 11988 – Floodplain Management

c. Executive Order 12372 – Intergovernmental Review of Federal Programs

d. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction[1]

e. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America's Workers

f. Executive Order 14149 – Restoring Freedom of Speech and Ending Federal Censorship

g. Executive Order 14151 – Ending Radical and Wasteful Government DEI Programs and Preferencing

h. Executive Order 14154 – Unleashing American Energy

i. Executive Order 14168 – Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government

j. Executive Order 14173 – Ending Illegal Discrimination and Restoring Merit-Based Opportunity

FEDERAL REGULATIONS

a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).

b. 2 CFR Part 200 and 1201 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [3, 4, 5]

c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.

d. 14 CFR Part 13 – Investigative and Enforcement Procedures.

e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.

f. 14 CFR Part 150 – Airport Noise Compatibility Planning.

g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.

h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.

i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.[1]

j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.[1]

k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).[1]

l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).[1]

m. 49 CFR Part 20 – New Restrictions on Lobbying.

n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.

o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.

p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.[1, 2]

q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.[1]

s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.

t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.

u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).

v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).

w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.

x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

[1] These laws do not apply to airport planning sponsors.
[2] These laws do not apply to private sponsors.
[3] 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
[4] Cost principles established in 2 CFR Part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
[5] Audit requirements established in 2 CFR Part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

1. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. Subject to the 49 U.S.C. § 47107(a)(16) and (x), it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance-Management.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program, and it assures that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of $2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement.

Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.

b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.

c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.

d. It will make such material available for examination by the public and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.

g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.

h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state, and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal

to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:

1. Operating the airport's aeronautical facilities whenever required;
2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
3. Promptly notifying aviators of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:

1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and

2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.

d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.

e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.

f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.

g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and

b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based

operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:

   1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

   2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor’s acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.

   3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. 47102), if the FAA

determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.

b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. 47107.

26. Reports and Inspections.

It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

   1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

   2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or

b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, The airport owner or operator maintain a current airport layout plan of the airport showing:

1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;

2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;

3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and

4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

b. Subject to subsection 49 U.S.C. § 47107(x), the Secretary will review and each amendment, approve or disapprove the plan and any revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. plan before the plan, revision, or modification takes effect.

c. The owner or operator will not make or allow any alteration in the airport or any of its facilities unless the alteration—

1. is outside the scope of the Secretary's review and approval authority as set forth in subsection (x); or

2. complies with the portions of the plan approved by the Secretary

d. When the airport owner or operator makes a change or alteration in the airport or the facilities which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity

with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:

1. eliminate such adverse effect in a manner approved by the Secretary; or
2. bear all costs of relocating such property or its replacement to a site acceptable to the Secretary and of restoring the property or its replacement to the level of safety, utility, efficiency, and cost of operation that existed before the alteration was made, except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4); creed and sex per 49 U.S.C. 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

a. Using the definitions of activity, facility, and program as found and defined in 49 CFR 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.

b. Applicability

   1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
   2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

      Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property

c. Duration.

   The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

   1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
   2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The (**City of Lubbock**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, all businesses will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex , age, or disability in consideration for an award."

e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.

2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.

3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.

4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex, age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

    a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and

    b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2)

transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. 47114, 47115, or 47117;
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

   1. Reinvestment in an approved noise compatibility project;
   2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. 47117(e);
   3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. 47114, 47115, or 47117;
   4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
   5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (https://www.faa.gov/sites/faa.gov/files/aip-pfc-checklist_0.pdf) for AIP projects as of [Selection Criteria: Project Application Date].

35. Relocation and Real Property Acquisition.

a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.

b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.

c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take

all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:

   1. Describes the requests;
   2. Provides an explanation as to why the requests could not be accommodated; and
   3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.

b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

40. Access to Leaded Aviation Gasoline.

a. An airport owner or operator that made any 100-octane low lead aviation gasoline (100LL) available at such airport, at any time during calendar year 2022, may not restrict or prohibit the sale of, or self-fueling with, 100-octane low lead aviation gasoline.

b. This requirement remains until the earlier of December 31, 2030, or the date on which the airport or any retail fuel seller at the airport makes available an unleaded aviation gasoline that has been authorized for use by the Administrator of the Federal Aviation Administration as a replacement for 100-octane low lead aviation gasoline for use in nearly all piston-engine aircraft and engine models; and meets either an industry consensus standard or other standard that facilitates the safe use, production, and distribution of such unleaded aviation gasoline, as determined appropriate by the Administrator.

c. An airport owner or operator understands and agrees, that any violation of this grant assurance is subject to civil penalties as provided for in 49 U.S.C. § 46301(a).

AI# 13327
Regular City Council Meeting
05/27/2025:

5. 1. 2.

Information

Agenda Item

Resolution - Aviation: Consider a resolution authorizing the Mayor to execute Contract 18551, with Chambers Engineering, LLC, for Runway Light-Emitting Diode (LED) Lights Replacement at Lubbock Preston Smith International Airport.

Item Summary

Lubbock Preston Smith International Airport issued an Invitation to Bid (ITB) for Runway Light-Emitting Diode (LED) Light Replacement. The purpose of the project is to convert existing incandescent runway lights to LED. All taxiway lights have already been converted.

This project scope effectively has three components of work:

- Replacement of primary Runway 17R-35L incandescent airfield lighting with LED lighting.
- Replacement of Runway 8-26 incandescent airfield lighting with LED lighting.
- Replacement of Airfield Lighting Regulators.

In response to ITB 25-18551-AE, bids were received from the following contractors.

Contractor	Base Bid	Alternate 1	Alternate 2	Grand Total
Chambers Engineering, LLC Roanoke, Texas	$619,057	$253,864	$59,548	$932,469
F&W Electrical Contractors, Inc. Floresville, Texas	$596,200	$295,250	$65,000	$956,450
Kobo Utility Electrical Contractors Corp. Sandwich, Massachusetts	$617,100	$343,700	$99,500	$1,060,300
ACME Engineering Lubbock, Texas	$695,900	$270,900	$103,500	$1,070,300

Airport staff and the Airport Advisory Board recommend awarding this contract to the lowest bidder, Chambers Engineering, LLC, of Roanoke, Texas, for the Base Bid, plus Alternate 1 and Alternate 2, for a total of $932,469.

The electrical improvements include the removal of existing high-intensity runway edge lights and threshold end lights along Runway 17R-35L and Runway 8-26, and replacement with new high-intensity LED light fixtures. Additionally, the project will replace existing regulators that are beyond their useful life and require increased maintenance (4 regulator replacements have been assumed). No vault modifications are anticipated, other than replacing the existing regulators and associated cables/conduits. Existing conduit and circuitry powering each runway are anticipated to remain in use.

The Runway LED Light Replacement will take 150 calendar days to complete. The liquidated damages for each additional calendar day will be $1,500.

Fiscal Impact

Contract 18551, with Chambers Engineering, LLC, for $932,469 is funded in Capital Improvement Project 92884, Replace Airfield Lighting/LED Conversion.

Staff/Board Recommending

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

Attachments

Resolution - Chambers Engineering, LLC

Public Works Bid Form 18551 Chambers Engineering, LLC

Project Summary 18551

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. 18551, for Runway LED Light Replacement, consistent with the terms in the bid submittal form attached hereto, by and between the City of Lubbock and Chambers Engineering, 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-Chambers Engineering, LLC
March 10, 2025

REVISED

BID SUBMITTAL FORM
UNIT PRICE BID CONTRACT

DATE: February 4, 2025

PROJECT NUMBER: **ITB 25-18551-AE, Runway LED Light Replacement**

Bid of Chambers Engineering, LLC (hereinafter called Bidder)

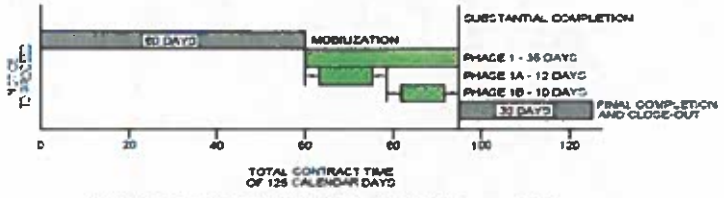
To the Honorable Mayor and City Council City of Lubbock, Texas (hereinafter called Owner)

Ladies and Gentlemen:

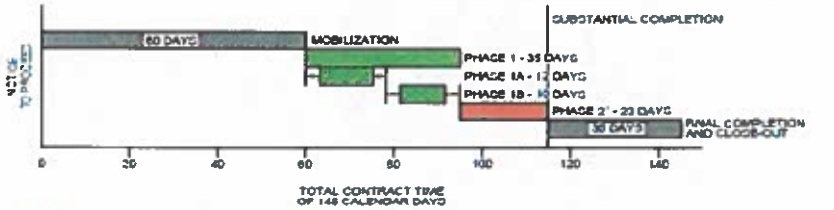
The Bidder, in compliance with your Invitation to Bid for the construction of the referenced project, having carefully examined the plans, specifications, instructions to bidders, notice to bidders and all other related contract documents and the site of the intended work, and being familiar with all 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.

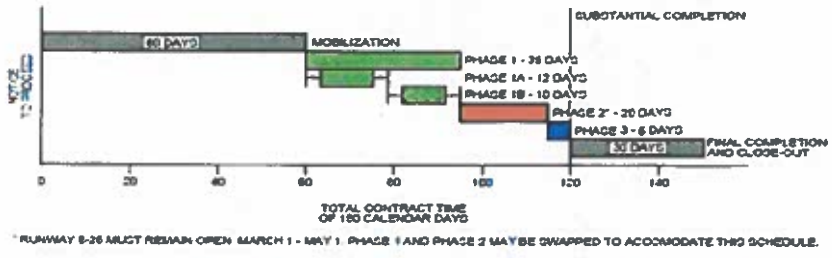
Bidder hereby agrees to commence the work on the above project on a date to be specified in a written "Notice to Proceed" of the Owner and to **substantially complete** the project within the number of days stipulated in the specifications, other contract documents and the information below with **final completion** of the project within the number of days stipulated in the specifications, other contract documents and the information below.



CONSTRUCTION SEQUENCING - BASE BID AWARDED



CONSTRUCTION SEQUENCING - BASE BID AND BID ALTERNATE 1 AWARDED



CONSTRUCTION SEQUENCING - BASE BID AND BID ALTERNATES 1 AND 2 AWARDED

City of Lubbock, TX
Public Works
ITB 25-18551-AE
Runway LED Light Replacement

Chambers Engineering, LLC of Roanoke, TX

#	Items	QTY +/-	U/M	Unit Price	Extended Cost
Base Bid					
#1-1	Mobilization	1	UM	60,555.00	60,555.00
#1-2	Safety and Security	1	UM	30,356.00	30,356.00
#1-3	Temporary Construction Items	1	UM	157,400.00	157,400.00
#1-4	No. 8 AWG, 5 kV, L-824, Type C Cable, Installed in Conduit	6,000	UM	4.50	27,000.00
#1-5	2" PVC Schedule 40, Repair by Replacement, Concrete Encased	600	UM	34.00	20,400.00
#1-6	Replace L-862 Elevated RWY Edge Light on Existing Base	96	UM	1,693.00	162,528.00
#1-7	Replace L-862E Elevated RWY Threshold Edge Light on Existing Base	16	UM	1,707.00	27,312.00
#1-8	Replace L-850C In-pavement RWY Edge Light, Core Drilled, Heater Kit, Snow Plow Ring	18	UM	7,417.00	133,506.00
Alternate - 1					
#2-1	Mobilization	1	UM	24,036.00	24,036.00
#2-2	Safety and Security	1	UM	10,191.00	10,191.00
#2-3	Temporary Construction Items	1	UM	23,818.00	23,818.00
#2-4	No. 8 AWG, 5 kV, L-824, Type C Cable, Installed in Conduit	1,200	UM	4.50	5,400.00
#2-5	2" PVC Schedule 40, Repair by Replacement, Concrete Encased	240	UM	34.00	8,160.00
#2-6	Relocate L-862 Elevated RWY Edge Light (RWY 8-26)	1	UM	4,028.00	4,028.00
#2-7	Replace L-862 Elevated RWY Edge Light on Existing Base	76	UM	1,693.00	128,668.00
#2-8	Replace L-862E Elevated RWY Threshold Edge Light on Existing Base	16	UM	1,707.00	27,312.00
#2-9	Replace L-850C In-pavement RWY Edge Light, Core Drilled, Heater Kit, Snow Plow Ring	3	UM	7,417.00	22,251.00

City of Lubbock, TX
Public Works
ITB 25-18551-AE
Runway LED Light Replacement

Alternate - 2

#3-1	CCR #1, L-828, 7.5 KW, 5-Step	1	UM	15,727.00	15,727.00
#3-2	CCR #9, L-828, 7.5 KW, 5-Step	1	UM	15,625.00	15,625.00
#3-3	CCR #10, L-828, 5 KW, 5-Step	1	UM	14,357.00	14,357.00
#3-4	Spare Runway CCR, L-828, 7.5 KW, 5-Step	1	UM	13,839.00	13,839.00

Total (Items 1-1 through 1-8):	619,057.00
Total (Items 2-1 through 2-9):	253,864.00
Total (Items 3-1 through 3-4):	59,548.00
Total (Items 1-1 through 3-4):	932,469.00

Bidder hereby further agrees to pay to Owner as liquidated damages in the sum of **$1,500.00** for each consecutive calendar day after **substantial completion** and liquidated damages in the sum of **$1,500.00** 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 **120** 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.

Enclosed with this bid is a Cashier's Check or Certified Check for _____ Dollars ($_____) or a Bid Bond in the sum of 5% Dollars ($932,469.00), which it is agreed shall be collected and retained by the Owner as liquidated damages in the event the bid is accepted by the Owner and the undersigned fails to execute the necessary contract documents, insurance certificates, and the required bond (if any) with the Owner within 10 business days after the date of receipt of written notification of acceptance of said bid; otherwise, said check or bond shall be returned to the undersigned upon demand.

Bidder understands and agrees that the contract to be executed by Bidder shall be bound and include all contract documents made available to him for his inspection in accordance with the Notice to Bidders.

Pursuant to Texas Local Government Code 252.043(g), a competitive sealed bid that has been opened may not be changed for the purpose of correcting an error in the bid price. THEREFORE, ANY CORRECTIONS TO THE BID PRICE MUST BE MADE ON THE BID SUBMITTAL FORM PRIOR TO BID OPENING.

Date: 2/4/2026

Authorized Signature

Gary Chambers
(Printed or Typed Name)

Chambers Engineering, LLC
Company

14686 Day Road, Suite 100
Address

Roanoke, Denton
City, County

Texas, 76262
State Zip Code

Telephone: 817 - 332-7730

Fax: 817 - 332-7732

(Seal if Bidder is a Corporation)

ATTEST:

_____
Secretary

Bidder acknowledges receipt of the following addenda:

Addenda No. 1 Date 1/24/2025
Addenda No. 2 Date 2/3/2025
Addenda No. 3 Date 2/3/2025
Addenda No. ____ Date ____

FEDERAL TAX ID or SOCIAL SECURITY No.

75-3062457

EMAIL: garyc@chambersengineering.net

M/WBE Firm:

	Woman	X	Black American		Native American
	Hispanic American		Asian Pacific American		Other (Specify)

Purchasing and Contract Management

Project Summary

ITB 25-18551-AE
Runway LED Light Replacement

Notice was published in the Lubbock Avalanche Journal on January 19 & January 26, 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 19 to February 6, 2025.
5 individuals attended the pre-bid meeting.
32 vendors downloaded the documents using Bonfire.com.
10 vendors were notified separately.
4 vendors submitted bid(s).

AI# 13424
Regular City Council Meeting 5. 2.
05/27/2025:

Information

Agenda Item

Ordinance 2nd Reading - Right-of-Way: Consider Ordinance No. 2025-O0061, abandoning and closing right-of-way, located in Section 20, Block AK, Lubbock County, Texas, at 120th Street, east of Milwaukee Avenue, and west of Iola Avenue, due to a change in the development of this property.

Item Summary

On May 13, 2025, the City Council approved the first reading of the ordinance unanimously.

The City of Lubbock is in receipt of a request to abandon and close right-of-way located on 120th Street, east of Milwaukee Avenue.

The total area of the right-of-way being closed is 27,985 square feet. The proponent desires to close the road due to a change in the development of this property, which contains no infrastructure.

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

June Estates - Ordinance
June Estates - Metes and Bounds
June Estates - GIS Map

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING RIGHT-OF-WAY LOCATED IN SECTION 20, BLOCK AK, 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 June Estates
4.16.25

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

EXHIBIT "A"

RIGHT-OF-WAY EASEMENT CLOSURE

METES AND BOUNDS DESCRIPTION of a 0.6424-acre tract of land located in Section 20, Block AK, Lubbock County, Texas, being a portion of that right-of-way easement as granted in Volume1885, Page 819, of the Deed Records of Lubbock County, Texas, said 0.6424-acre tract being further described as follows:

BEGINNING at a point for the Southwest corner of this tract, which bears N.01°41'11" E. a distance of 660.00 feet and S. 88°19'49" E. a distance of 1049.40 feet from the Southwest corner of the Northwest quarter of Section 20, Block AK, Lubbock County, Texas;

THENCE N. 01°39'22" E. a distance of 30.00 feet to a point for the Northwest corner of this tract;

THENCE S. 88°19'49" E. a distance of 932.86 feet to a point for the Northeast corner of this tract;

THENCE S. 01°41'11" W. a distance of 30.00 feet to a point for the Southeast corner of this tract;

THENCE N. 88°19'49" W. a distance of 932.84 feet to the Point of Beginning.

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

Contains: 27,985 square feet

PREPARED FOR EASEMENT CLOSURE ONLY

Prepared for Loop 88 LLC

March 14, 2025

Proposed Right of Way Closure
Located in Section 20, Block AK



0 0.25 0.5 1 Miles

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# 13445
Regular City Council Meeting 5. 3.
05/27/2025:

Information

Agenda Item

Ordinance 1st Reading - Right-of-Way: Consider an ordinance abandoning and closing portions of a Public Access Easement, located in Section 4, Block AK, Lubbock County, Texas, south of 142nd Street, west of Indiana Avenue, due to a change in the development of this property.

Item Summary

The City of Lubbock is in receipt of a request to abandon and close portions of a Public Access Easement located south of 142nd Street, west of Indiana Avenue.

The total area of the right-of-way being closed is 12,985 square feet. The proponent desires to close the road due to a change in the development of this property. There is currently no infrastructure.

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

Eastwick Commercial - Ordinance
Eastwick Commercial - Metes and Bounds
Eastwick Commercial - GIS Map

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING PORTIONS OF A PUBLIC ACCESS EASEMENT LOCATED IN SECTION 4, BLOCK AK, 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 public 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

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"

PUBLIC ACCESS EASEMENT

METES AND BOUNDS DESCRIPTION of a 0.2862 acre tract of land located in Section 4, Block AK, Lubbock County, Texas, being all of that Public Access Easement as dedicated by plat recorded under County Clerk File Number 2020028832, Official Public Records of Lubbock County, Texas, said 0.2862 acre Public Access Easement being further described as follows:

BEGINNING at a point in the West right-of-way line of Indiana Avenue as dedicated by plat recorded under County Clerk File Number 2019014345, Official Public Records of Lubbock County, Texas, and the Eastern boundary of the plat limits of Tracts "B-1-A" – "B-3-C", Eastwick Commercial as recorded under County Clerk File Number 2020028832, Official Public Records of Lubbock County, Texas, for the Southeast corner of this tract which bears N. 01°45'55" E. a distance of 50.00 feet from the Southeast corner of Tract "B-3-C", said Eastwick Commercial;

THENCE N. 88°12'49" W. a distance of 62.98 feet to a point for the Southwest corner of this tract;

THENCE N. 01°47'11" E. a distance of 494.50 feet to a point in the Northern boundary of said plat limits, for the Northwest corner of this tract;

THENCE S. 88°12'49" E. a distance of 20.00 feet to a point for the Northeast corner of this tract;

THENCE S. 01°47'11" W. a distance of 127.50 feet to a point;

THENCE S. 88°12'49" E. a distance of 42.85 feet to a point in the West right-of-way line of said Indiana Avenue and the Eastern boundary of said plat limits;

THENCE S. 01°45'55" W., along said West right-of-way line and the Eastern boundary of said plat limits, a distance of 20.00 feet to a point;

THENCE N. 88°12'49" W. a distance of 42.85 feet to a point;

THENCE S. 01°47'11" W. a distance of 152.00 feet to a point;

THENCE S. 88°12'49" E. a distance of 42.91 feet to a point in the West right-of-way line of said Indiana Avenue and the Eastern boundary of said plat limits;

THENCE S. 01°45'55" W., along said West right-of-way line and the Eastern boundary of said plat limits, a distance of 20.00 feet to a point;

THENCE N. 88°12'49" W. a distance of 42.92 feet to a point;

THENCE S. 01°47'11" W. a distance of 155.00 feet to a point;

THENCE S. 88°12'49" E. a distance of 42.97 feet to a point in the West right-of-way line of said Indiana Avenue and the Eastern boundary of said plat limits;

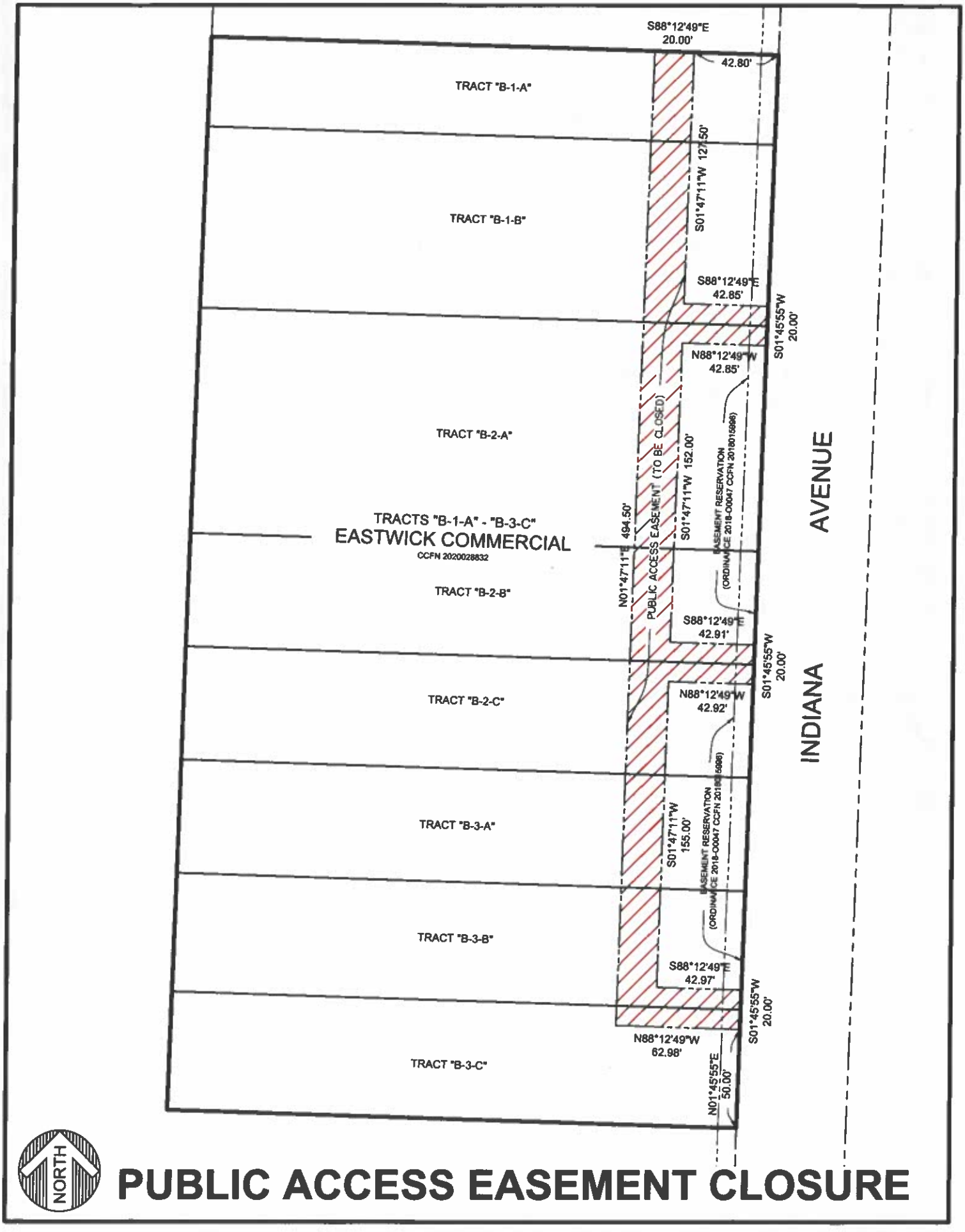
THENCE S. 01°45'55" W., along said West right-of-way line and the Eastern boundary of said plat limits, a distance of 20.00 feet to the Point of Beginning.

Contains: 0.2862 Acres

PREPARED FOR EASEMENT CLOSURE ONLY

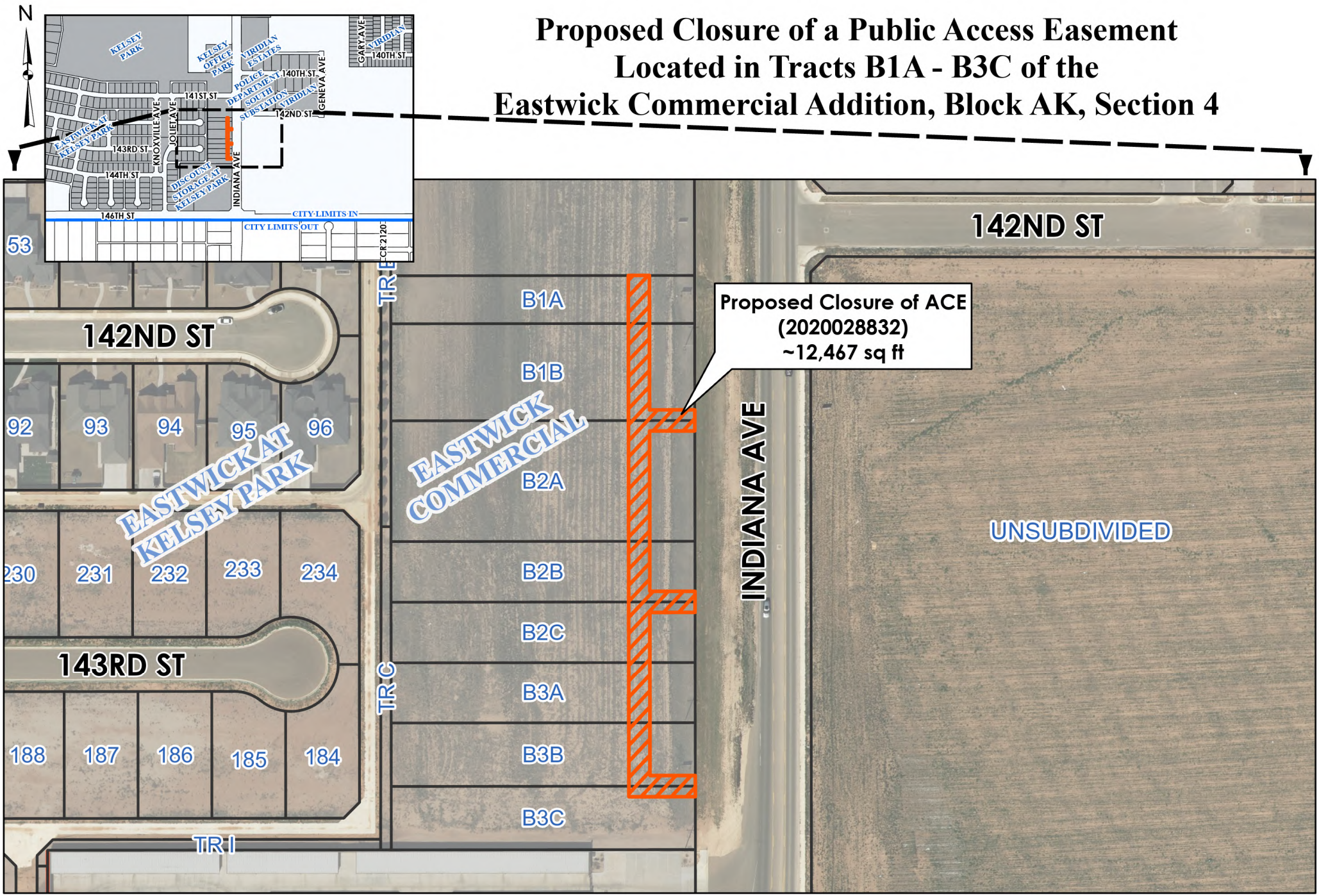
Prepared for Ford Development Corp.

March 7, 2025



PUBLIC ACCESS EASEMENT CLOSURE

Proposed Closure of a Public Access Easement Located in Tracts B1A - B3C of the Eastwick Commercial Addition, Block AK, Section 4



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# 13454
Regular City Council Meeting 5. 4.
05/27/2025:

Information

Agenda Item

Ordinance 1st Reading - Right-of-Way: Consider an ordinance abandoning and closing a portion of Alley Right-of-Way, located in Block 116, Original Town of Lubbock, Lubbock County, Texas, between Avenue L and Avenue M, south of Main Street, to create an additional parking area.

Item Summary

The City of Lubbock is in receipt of a request to abandon and close a portion of an alley in Block 116, Original Town of Lubbock, Lubbock County, Texas, between Avenue L and Avenue M, south of Main Street, on behalf of Broadway Market, LLC and 1602 Texas Ave, LLC.

The proponents are closing the alley to create an additional parking area. An Underground Utility Easement will be dedicated upon closure of the alley.

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

Fiscal Impact

$4,687.50 to the General Fund

Staff/Board Recommending

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

Attachments

Ordinance - Block 116, Orig. Town
m & b - Block 116, Orig. Town
GIS Map - Block 116, Orig. Town

ORDINANCE NO. _____

AN ORDINANCE ABANDONING AND CLOSING A PORTION OF ALLEY RIGHT-OF-WAY LOCATED IN BLOCK 116, ORIGINAL TOWN OF LUBBOCK, LUBBOCK COUNTY, TEXAS, WHICH IS MORE PARTICULARLY DESCRIBED IN THE BODY OF THIS ORDINANCE; DIRECTING THE CITY ENGINEER TO MARK THE OFFICIAL MAPS OF THE CITY TO REFLECT SAID ABANDONMENT AND CLOSING; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR PUBLICATION.

WHEREAS, the City Council finds that the 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.Alley Right-of-Way Original Town of Lubbock
1.6.25

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 0.0573 acre tract, being a portion of an alley located in Block 116, Original Town of Lubbock, as dedicated by plat recorded in Volume 5, Page 384 of the Deed Records of Lubbock County, Texas, and being further described as follows:

BEGINNING at a "X" cut in concrete set in the South right-of-way line of Main Street, dedicated by said Original Town of Lubbock, for the Northwest corner of Lot 20, Block 116, said Original Town of Lubbock, and the Northeast corner of this tract, whence a "X" cut in concrete found at the Northeast corner of said Block 116 bears S. 88°20'03" E. a distance of 124.93 feet;

THENCE S. 01°39'57" W., along the Western boundary of said Lot 20, a distance of 125.00 feet to a point in the North line of a 20 foot alley, dedicated by said Original Town of Lubbock, for the Southwest corner of said Lot 20 and the Southeast corner of this tract;

THENCE N. 88°20'03" W., along the North line of said 20 foot alley, a distance of 20.00 feet to a point for the Southeast corner of Lot 5, said Block 116, for the Southwest corner of this tract;

THENCE N. 01°39'57" E., along the Eastern boundary of said Lot 5, a distance of 125.00 feet to a "X" cut in concrete set in the South right-of-way line of said Main Street, for the Northeast corner of said Lot 5 and the Northwest corner of this tract;

THENCE S. 88°20'03" E., along the South right-of-way line of said Main Street, a distance of 20.00 feet to the Point of Beginning.

Contains: 2,500 square feet more or less.

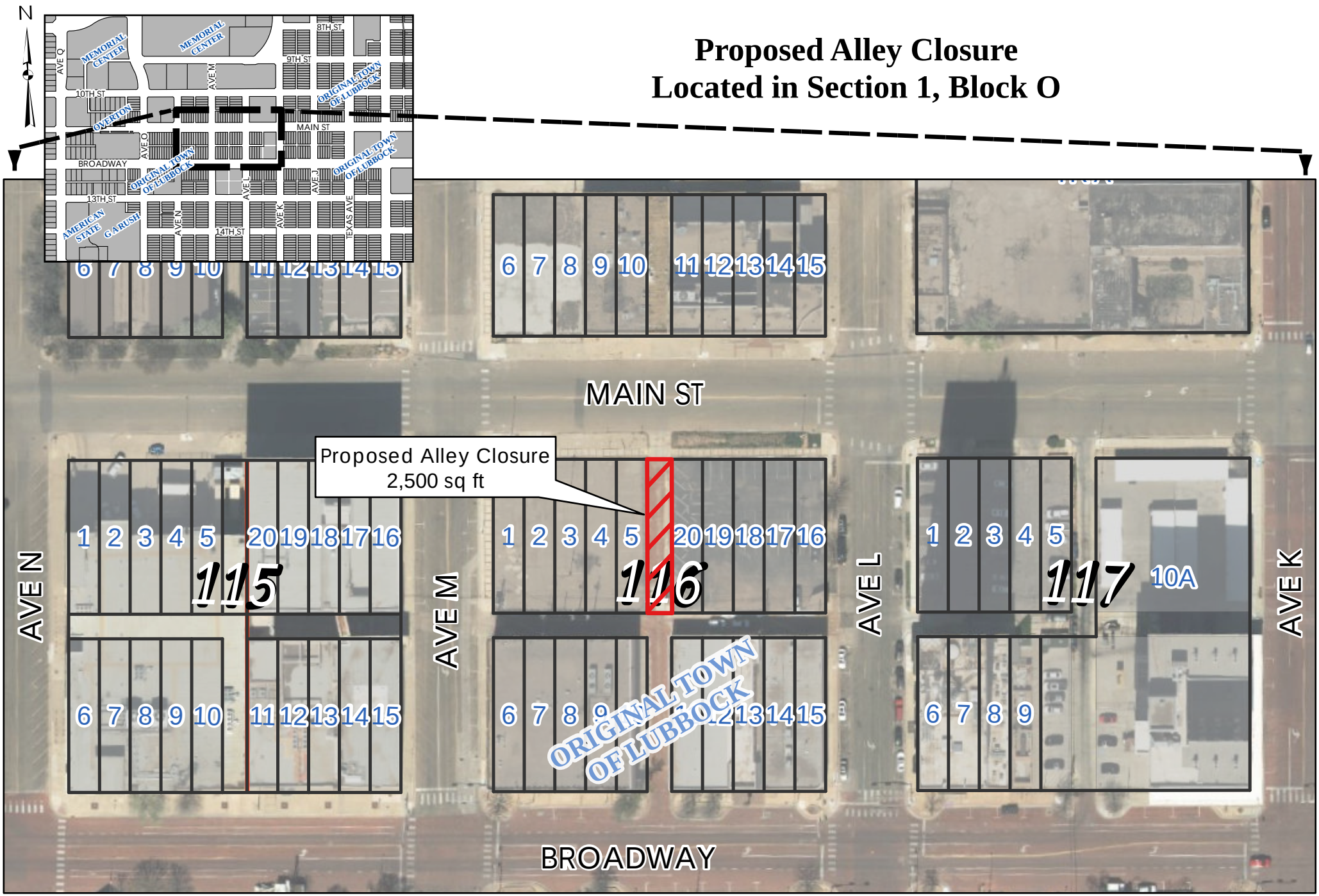
Bearings are relative to Grid North, Texas Coordinate System of 1983, North-Central Zone (2011).

Surveyed on the ground,
November 14, 2023

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

STATE OF TEXAS
REGISTERED
CYRIL HOWARD TURNER
6460
PROFESSIONAL
LAND SURVEYOR

Proposed Alley Closure
Located in Section 1, Block O



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# 13446
Regular City Council Meeting **5. 5.**
05/27/2025:

Information

Agenda Item

Resolution - Right-of-Way: Consider a resolution authorizing the Mayor to execute a Possession and Use Agreement, and all related documents, by and between the City of Lubbock and Ignacio Lopez, related to property located on the west side of Upland Avenue, north of 19th Street and south of 17th Street, for road utility purposes with independent consideration, to be utilized for the 2022 Street Bond Project.

Item Summary

The proposed Possession and Use Agreement between the City of Lubbock and Ignacio Lopez is for a 2,804 square foot tract of land that is located on the west side of Upland Avenue, north of 19th Street. The 2,804 square foot parcel is necessary for the Upland Avenue: 4th to 19th Street Capital Improvements Bond Project.

The proposed agreement will result in a $1,000 payment to Ignacio Lopez for the possession and use of the property. This will allow the City to proceed with the project while the parcel goes through the condemnation process.

Fiscal Impact

The cost of the Possession and Use Agreement is $1,000. This agreement is funded in Capital Improvements Project 92812, Upland Avenue: 4th Street to 19th Street – 22B.

Staff/Board Recommending

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

Attachments

Parcel 4 PUA - Resolution
Parcel 4 PUA
Parcel 4 - GIS Map
CIP 92812 - Budget Detail
CIP 92812 - 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, Possession and Use Agreement for road and utility purposes with independent consideration, by and between the City of Lubbock and Ignacio Lopez, and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.Possession and Use Agreement I. Lopez
5.7.25

POSSESSION AND USE AGREEMENT FOR ROAD AND UTILITY PURPOSES WITH INDEPENDENT CONSIDERATION

STATE OF TEXAS	§
	§
COUNTY OF LUBBOCK	§

This **Possession and Use Agreement For Road and Utility Purposes** (the "**Agreement**") between the **City of Lubbock, Texas** (the "**City**"), and **Ignacio Lopez**, an unmarried man (the "**Grantor**" whether one or more), grants to the City, its contractors, agents and all others deemed necessary by the City (the "**City's Permitted Users**" whether one or more), an irrevocable right to possession and use of the Grantor's property for the purpose of constructing a portion of Woodrow Road (the "**Project**"). The property subject to this Agreement is described more fully in field notes and plat map (attached as "**Exhibit A**") and made a part of this Agreement by reference (the "**Property**"). The parties to this Agreement may be referred to individually as a "**Party**" and collectively as the "**Parties.**"

1. For the consideration paid by the City, described in further detail in Paragraph 2 below, the receipt and sufficiency of which is acknowledged, the Grantor grants, bargains, sells and conveys to the City of Texas the right of entry and exclusive possession and use of the Property for the purpose of constructing a public road, and appurtenances thereto, including drainage and utility facilities, and the right to remove any improvements. Authorized activities include, without limitation, surveying, inspection, environmental studies, archeological studies, clearing, demolition, construction of permanent improvements, relocating, replacing, and improving existing road, drainage, and utility facilities, locating new road, drainage, and utility facilities, and all other work required to be performed in connection with the Project, in the sole determination and discretion of the City and/or the City's Permitted Users. This Agreement will extend to the City, its contractors and assigns, owners of any existing utilities on the Property and those which may be lawfully permitted on the Property by the City in the future, and all others deemed necessary by the City for the purpose of the Project. This grant will allow the construction, relocation, replacement, repair, improvement, operation, inspection, testing, and maintenance of road, drainage, and utility facilities, and all related structures, on the Property.

2. In full consideration for this irrevocable grant of possession and use and other Grantor covenants, warranties, and obligations under this Agreement, the City will tender to the Grantor the sum of One Thousand Dollars and Zero Cents ($1,000.00) (the "**Consideration**") within thirty (30) days from the date this Agreement is fully executed by all Parties hereto. The Grantor hereby acknowledges and agrees that this sum represents adequate and full compensation for the possession and use of the Property. The City will be entitled to take possession and use of the Property upon Grantor's execution of this Agreement. The Parties acknowledge that the Consideration assumes no adverse environmental conditions affect the value of the Property. The Consideration is the City's determination of the just compensation owed to the Grantor for the interest to be acquired by the City under this Agreement, encumbered with the improvements thereon, if any, and damages to the remainder, if any, save and except all oil, gas and sulphur.

3. The effective date of this Agreement will be the date on which all Parties hereto have executed the Agreement (the "**Effective Date**").

4. The Parties hereto acknowledge that the Property currently has at least there (3) liens against it and is therefore not free and clear of liens and encumbrances. The Grantor warrants and represents that after the Effective Date of this Agreement, Grantor will continue its best efforts to obtain proper releases or consents and/or subordinations from any and all lienholders prior to final acquisition of the Property. The Grantor further warrants that no other person or entity owns an interest in fee simple to the Property and further agrees to indemnify the City from all unreleased or undisclosed liens, claims or encumbrances affecting the Property.

5. This Agreement is made with the understanding that the City will continue to proceed with acquisition of a real property interest in the Property. The Grantor reserves all rights of compensation for the title and interest in and to the Property which the Grantor holds as of the time immediately prior to the Effective Date of this Agreement. This Agreement shall in no way prejudice the Grantor's rights to receive full and just compensation as allowed by law for all of the Grantor's interests in and to the Property to be acquired by the City, encumbered with the improvements thereon, if any, and damages, if any, to the remainder of the Grantor's interest in any larger tract of which the Property is a part (the "**Remainder**") if any, as the Property exists on the Effective Date of this Agreement. The City's removal or construction of improvements on the Property shall in no way affect the fair market value of the Property in determining compensation due to the Grantor in eminent domain proceedings. There will be no project impact upon the appraised value of the Property. This grant will not prejudice the Grantor's rights to any relocation benefits for which Grantor may be eligible.

6. In the event the City institutes, or has instituted, eminent domain proceedings, the City will not be liable to the Grantor for interest upon any award or judgment as a result of such proceedings for any period of time prior to the date of the award. Payment of any interest, if any, may be deferred by the City until entry of judgment.

7. The purpose of this Agreement is to allow the City to proceed with its Project without delay, and to allow the Grantor to have the use of the Compensation. The Grantor expressly acknowledges that the proposed Project is for a valid public use and voluntarily waives any right the Grantor has or may have, known or unknown, to contest the jurisdiction of the court in any condemnation proceeding for acquisition of the Property related to the Project, based upon claims that the condemning authority has no authority to acquire the Property through eminent domain, has no valid public use for the Property, or that acquisition of the Property is not necessary for the public use.

8. The Grantor reserves all of the oil, gas and sulphur in and under the land herein conveyed but waives all right of ingress and egress to the surface for the purpose of exploring, developing, mining or drilling. Any extraction of oil, gas and minerals may not affect the geological stability of the surface. Nothing in this reservation will affect the title and rights of the City to take and use all other minerals and materials thereon, and thereunder.

9. The undersigned Grantor agrees to pay as they become due, all ad valorem property taxes

and special assessments assessed against Property, including prorated taxes for the year in which the City takes possession under this agreement.

10. Notwithstanding the acquisition of the right of possession to the Property by the City in an eminent domain proceeding by depositing the Special Commissioners' award into the registry of the court, less any amounts tendered to the Grantor pursuant to Paragraph 2 above, this Agreement shall continue to remain in effect until the City acquires title to the Property either by negotiation, settlement, or final court judgment.

11. This Agreement will also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors in interest, and assigns of the Parties.

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

13. It is agreed the City may record this Agreement.

14. Other conditions: none.

To have and to hold the Agreement herein described and conveyed, together with all the rights and appurtenances belonging to the City of Lubbock, Texas and its assigns forever, for the purposes and subject to the limitations set forth above.

Remainder of Page Intentionally Left Blank – Signatures Follow

GRANTOR:

IGNACIO LOPEZ

ACKNOWLEDGMENT

STATE OF TEXAS §
§
CITY OF LUBBOCK §

This instrument was acknowledged before me on March 20, 2025 by **IGNACIO LOPEZ**. 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.

IRENE PARRISH
Notary Public, State of Texas
Comm. Expires 03-16-2028
Notary ID 132405761

NOTARY PUBLIC, STATE OF TEXAS

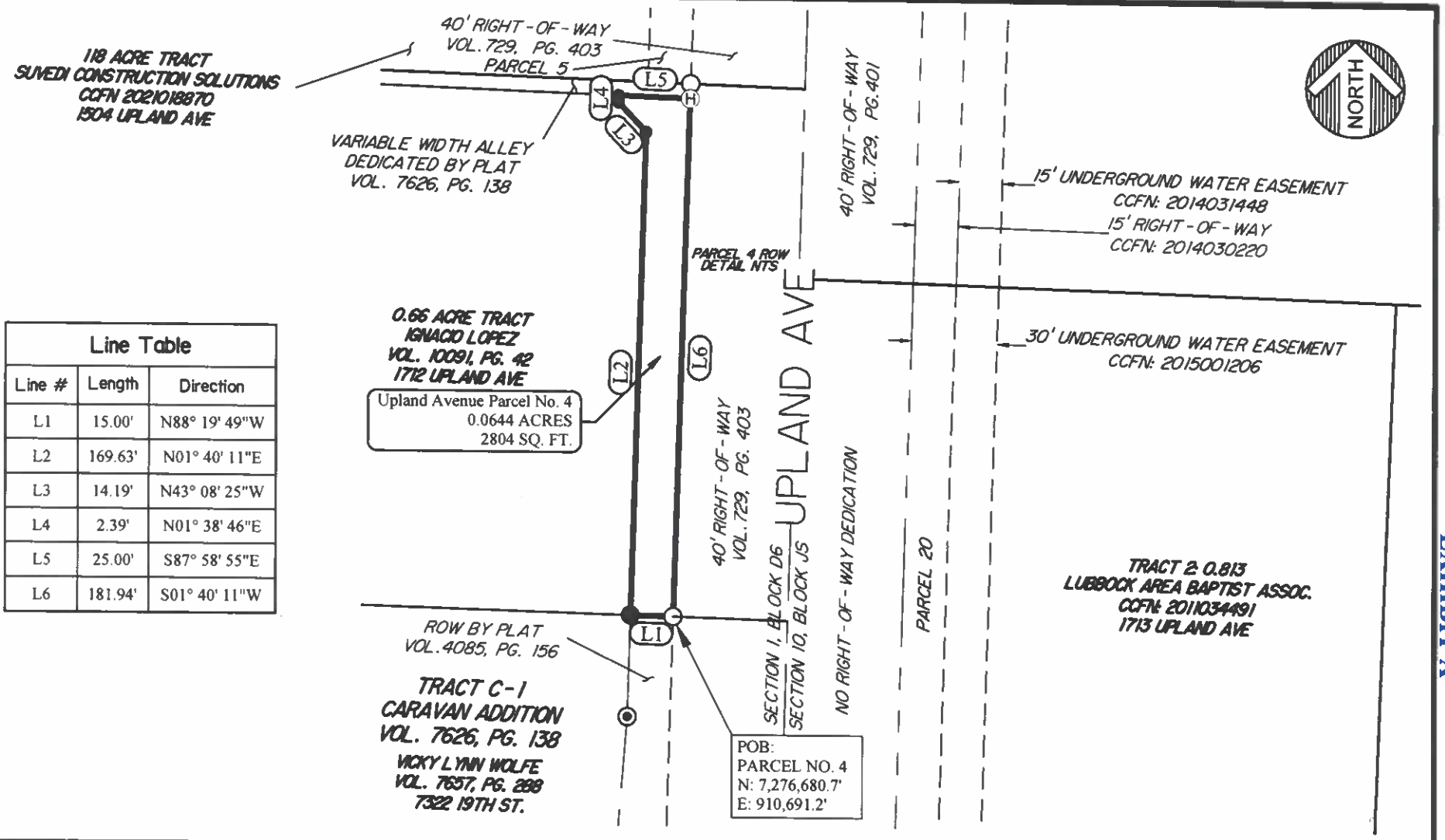
MARK W. MCBRAYER, MAYOR

ATTEST:

COURTNEY PAZ, CITY SECRETARY

APPROVED AS TO CONTENT:

JOHN TURPIN, DIVISION DIRECTOR OF ENGINEERING/CITY ENGINEER



Line Table		
Line #	Length	Direction
L1	15.00'	N88° 19' 49"W
L2	169.63'	N01° 40' 11"E
L3	14.19'	N43° 08' 25"W
L4	2.39'	N01° 38' 46"E
L5	25.00'	S87° 58' 55"E
L6	181.94'	S01° 40' 11"W

EXHIBIT A

UPLAND AVENUE
19TH STREET TO 4TH STREET

Parcel 4
PERIMETER SURVEY OF A
0.0644 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK D6
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

02/28/2024

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: 1.00023

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LEGEND:

- SURVEYED PROPERTY
- ADJACENT PROPERTY
- RIGHT-OF-WAY
- EASEMENT

- (H) - FOUND 1/2" IRON ROD/CAP (HRA)
- ● - SET 1/2" IRON ROD/CAP (HRA)
- ◉ - FOUND 1/2" IRON ROD/CAP (4460)
- ○ - FOUND 3/8" IRON ROD

POB- POINT OF BEGINNING

CCFN- COUNTY CLERK FILE NUMBER

DESCRIPTION FOR PARCEL 4

METES AND BOUNDS DESCRIPTION of a 0.0644-acre (2,804 sq. ft.) parcel located in the Southeast Quarter (SE/4) of Section 1, Block D6, Lubbock County, Texas, being a portion of that 0.66-acre tract as described in Volume 10091, Page 42, Official Public Records of Lubbock County, Texas (OPRLCT), said 0.0644-acre parcel being further described as follows:

BEGINNING at a 3/8" iron rod (N=7,276,680.7', E=910,691.2') found in the West line of that 40' Upland Avenue Right-of-Way described in Volume 729, Page 403 Deed Records of Lubbock County, Texas (DRLCT), in the North line of Tract C-1 Caravan Addition to the City of Lubbock according to the instrument recorded in Volume 7626, Page 138, OPRLCT, in the South line of said 0.66-acre tract, at the Southeast corner of this parcel, which bears N. 01°40'11" E. a distance of 539.85 feet (Deed: North 544.12') and N. 88°19'49" W. a distance of 40.00 feet from the Southeast corner of said Section 1;

THENCE N. 88°19'49" W., along the North line of said Tract C-1 and the South line of said 0.66-acre tract, a distance of 15.00 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for the Southwest corner of this parcel;

THENCE N. 01°40'11" E., 55.00 feet West of and parallel to the East line of said Section1, a distance of 169.63 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for a corner of this parcel;

THENCE N. 43°08'25" W. a distance of 14.19 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set for a corner of this parcel;

THENCE N. 01°38'46" E. a distance of 2.39 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." set in the South line of that variable-width alley dedicated by plat of Tracts A-1, B, C-1, and E, said Caravan Addition, for the Northwest corner of this parcel;

THENCE S. 87°58'55" E., along the South line of said alley, a distance of 25.00 feet to a 1/2" iron rod with cap marked "HUGO REED & ASSOC." found in the West line of said 40' Right-of-Way, at the Northeast corner of this parcel;

THENCE S. 01°40'11" W., along the West line of said 40' Right-of-Way, a distance of 181.94 feet to the POINT OF BEGINNING, having an area of 0.0644 Acres (2,804 Square Feet), more or less.

UPLAND AVENUE
19TH STREET TO 4TH STREET

Parcel 4
PERIMETER SURVEY OF A
0.0644 ACRE PARCEL LOCATED IN
SECTION 1, BLOCK D6
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

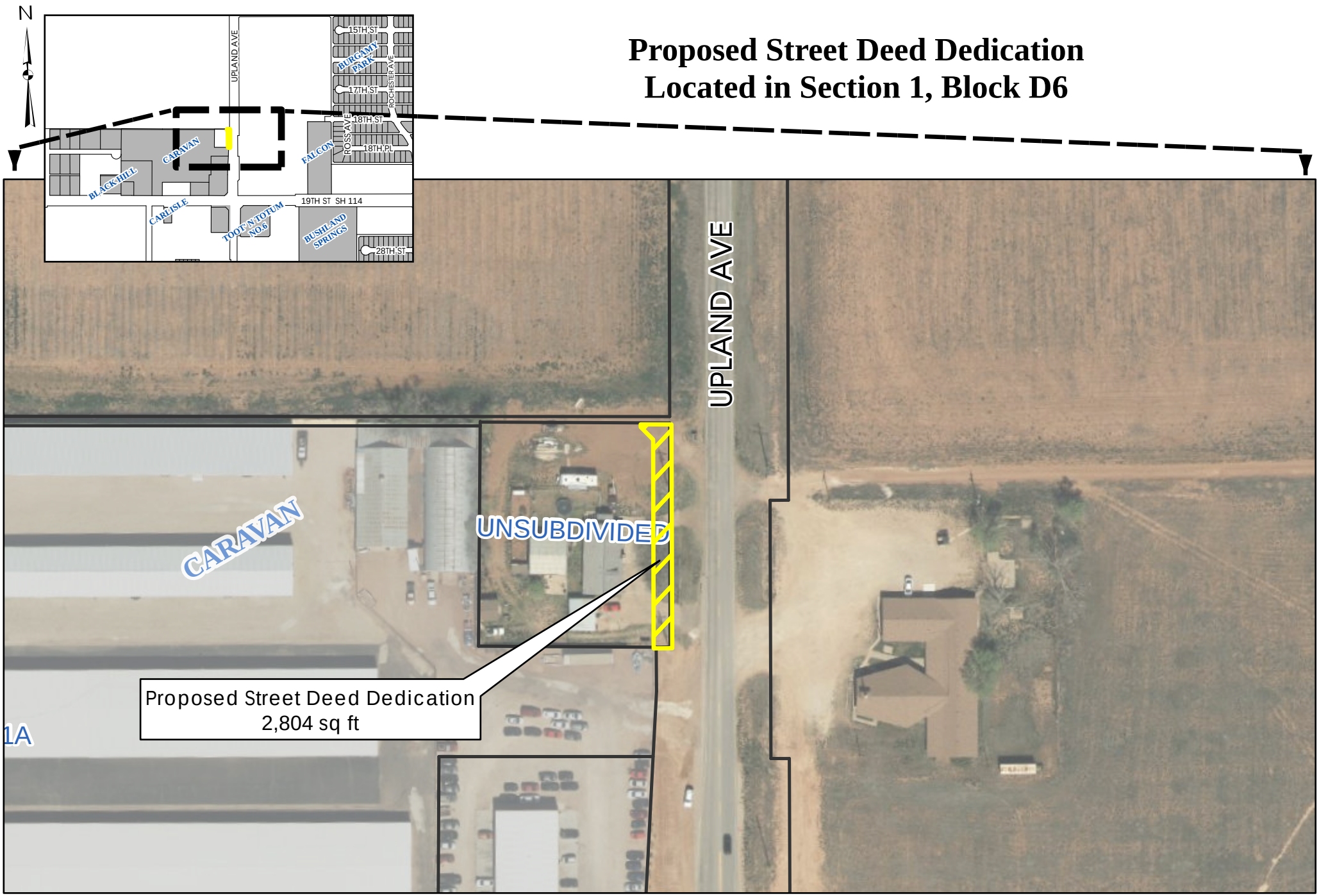
02/28/2024

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: 1.00023

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Proposed Street Deed Dedication
Located in Section 1, Block D6



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
May 27th, 2025

Capital Project Number: 92812

Capital Project Name: Upland Avenue: 4th St to 19th St - 22B

Encumbered/Expended	**Budget**
City of Lubbock Staff Time	13,027
Contract 17113 with Half Associates, Inc. for Design Services	949,700
Parcel 5B - Land Acquisition	54,552
Parcel 6 - Land Acquisition	24,740
Parcel 7 - Land Acquisition	14,493
Parcel 8 - Land Acquisition	55,625
Parcel 12 - Land Acquisition	32,422
Parcel 13 - Land Acquisition	52,055
Parcel 14 - Land Acquisition	26,793
Parcel 15 - Land Acquisition	44,523
Parcel 16 - Land Acquisition	65,026
Parcel 17 - Land Acquisition	98,267
Parcel 20 - Land Acquisition	29,232
Parcel 21 - Land Acquisition	37,680
Agenda Item May 27th, 2025	
Parcel 4 - PUA	1,000
Encumbered/Expended To Date	1,499,135
Estimated Cost for Remaining Appropriation	
Upland Avenue: 4th St to 19th St - 22B Construction	13,200,865
Remaining Appropriation	
Total Appropriation	14,700,000

CIP 92812 Upland Avenue: 4th Street to 19th Street - 22B

Bond Election Project – 2022

Project Manager: Kerry Koehler - Engineering

Project Scope

Upland Avenue from 4th Street to 19th Street is currently a two-lane paved road and is designated in the 2018 Thoroughfare Master Plan to become a five-lane modified principal arterial roadway. Continued growth in northwest Lubbock has increased traffic demands along the north Upland Avenue street corridor from 4th Street to 19th Street. The roadway contract will design and build three-lanes at the ultimate configuration of the fully designed five lane thoroughfare.

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 2022-23 $3,200,000 was appropriated by Ord. 2022-O0169
- FY 2024-25 $11,500,000 was appropriated by Ord. 2024-O0128

***FY 2024-25 issuance was $9,300,000 leading to actual funding of $12,500,000. Corrections will be made in the FY 2025-26 budget.**

Project Dates

Start Design: 02/2023
Design Completion: 02/2025
Bid for Construction: 07/2025
Award Construction: 09/2025
Construction Completion: 04/2027

Project Location

Upland Avenue, 4th Str to 19th Str

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Construction	$14,700,000	$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**

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AI# 13447

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

05/27/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Amendment No. 1 to Professional Services Agreement Contract 17632, and related documents, by and between the City of Lubbock and Kimley-Horn and Associates, Inc., for the reconstruction of 114th Street, from Frankford Avenue to Slide Road - 22B, to be utilized for the 2022 Street Bond Project.

Item Summary

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

114th Street from Frankford Avenue to Slide Road is currently a 2-lane paved road and is designated in the 2018 Thoroughfare Master Plan to become a 5-lane minor arterial roadway. Continued growth in Southwest Lubbock has increased traffic demands along the 114th Street corridor from Frankford Avenue to Slide Road. The services will include the ultimate design of a 5-lane arterial, intersection improvements, drainage solutions, utility adjustment, and right-of-way acquisition services.

Under Amendment No. 1 to Professional Services Contract 17632, Kimley-Horn and Associates, Inc., will be granted a one-year contract time extension to complete the remaining scope of work for land acquisition and utility relocation coordination professional services.

Fiscal Impact

Amendment No. 1 to Contract 17632 with Kimley-Horn and Associates, Inc., is for time extension only with no fiscal impact.

Staff/Board Recommending

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

Attachments

Resolution
Amendment No.1
Contract 17632
Location Exhibit
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 execute for and on behalf of the City of Lubbock, Amendment No. 1 to the professional services agreement Contract No. 17632 for the reconstruction of 114th Street from Frankford Avenue to Slide Road – 22B by and between the City of Lubbock and Kimley-Horn 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 #1 17632 KH 114th reconstruction
4.29.25

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 10th day of October, 2023, Contract No. 17632, by and between the City of Lubbock ("City") and Kimley-Horn Associates, Inc. ("Engineer"), collectively (the "Parties").

Engineer is providing professional services for the reconstruction of 114th Street from Frankford Avenue to Slide Road – 22B (the "Activities").

The Parties now agree to add more time to the term of the agreement in order to complete the Activities.

NOW THEREFORE, the Parties enter into this amendment and agree as follows:

An additional one (1) year shall be added to the term 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

Kimley-Horn and Associates, Inc.

Douglas Arnold, P.E., Contract Specialist

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. 2023-R0497
Item No. 5.15
October 10, 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. 17632 for the reconstruction of 114th Street from Frankford Avenue to Slide Road – 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 October 10, 2023.

TRAY PAYNE, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.PSA-No. 17632 – KH 114h St Frankford-Slide
9.28.23

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 17632 is entered into this 10th day of October, 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 114th Street from Frankford Ave to Slide Road – 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 600 days. If the Engineer determines that additional time is required to complete the Services, the City Engineer, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Exhibit "A", attached hereto (the "Services").

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed $1,242,700, as set forth in Exhibit "B".

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

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

ARTICLE V. 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. 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.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457

Telephone: 806-775-3317
Email: zfekete@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

KIMLEY-HORN AND ASSOCIATES, INC.

By: _____
Kevin Hoppers, P.E., Sr. Vice President

Email: kevin.hoppers@kimley-horn.com

EXHIBIT A

Engineering Scope of Services

114th Street reconstruction – Frankford Ave to Slide Road

City of Lubbock

Project Understanding

1. Existing corridor:
    a. Existing 2-lane HMAC pavement
    b. Frankford Ave intersection:
        i. North and south approach throat width: 8 lanes
        ii. East and west approach: 7 lane ultimate configuration
    c. Slide Road intersection
        i. North and south approach throat width: 8 lanes
        ii. East approach: 6 lanes
        iii. West approach: 3 lanes
    d. Existing curb and gutter located along the road has been set for either 7-lane or 5-lane roadway
2. Proposed improvements consist of:
    a. Develop 5-lane proposed concrete roadway (HMAC pavement as a bid alternate)
    b. Develop construction plans for the ultimate 5-lane configuration
    c. 6-lane approaches at Slide Road (concrete approach legs)
    d. 7-lane approach at Frankford Avenue intersection (concrete approach legs)
    e. Utility adjustments
    f. Drainage adjustments
3. Special Considerations for this project
    a. Slide road intersection
        i. Existing area drains to be replaced with curb inlets to match proposed curb and gutter limits
    b. Drainage
        i. Storm sewer or ditch drainage improvements to lower gutter flow depths

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 (if required)
- Roadway design for 5-lane configuration, including two bid alternatives for use of HMAC or concrete pavement

- Minor water and sanitary sewer adjustments
- Traffic control plans
- Illumination design and ITS layouts
- Bidding Phase support services

The Project will be designed in accordance with City design and construction standards throughout the project.

2. Design Survey (by Subconsultant)

2.1. Survey Data – develop an existing ROW boundary survey and existing topographic data within the limits of this project.

2.1.1 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 114th Street will extend from approximately 600' west of Frankford Avenue to 400-ft east side of Slide Road intersection. The survey will consist of the existing and proposed ROW width of 110' and where subdivisions and structures are encountered adjacent to 114th Street. Data will be collected a minimum of 20-feet beyond the ROW limits.
- The following areas shall also be surveyed:
  - Minor Cross Streets - 100-feet north and south of the proposed 114th Street centerline at every minor cross street.
  - Finished floor elevations of existing structures adjacent to the ROW as needed.
- Place five (5) permanent 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 114th 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.

2.2. Prepare a final topographic drawing in digital format (Open Roads Designer) (including contours and break lines) showing the features located in the field as well as ROW strip map information, an ASCII coordinate file of the points located in the field, and a hard copy of the coordinates and feature descriptions. Include control monuments placed in the field in final topographic drawing with associated coordinate table. Provide Existing ROW Base Map.

2.3. The existing ROW 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.

3. Right-of-Way Survey and Services (by Subconsultant)

3.1. Perform the following ROW services in support of the City to acquire the property needed to construct the proposed roadway improvements.

3.1.1 Schedule and coordinate property appraisals.

3.1.2 Obtain Title Reports for each parcel to determine proper owner for negotiations.

3.1.3 Conduct appraisals on up to 5 parcels to determine fair market value for the purchase of a roadway easement.

3.1.4 Negotiate with property owners on behalf of City (up to 5 contacts) for purchase of roadway easement on 5 parcels.

3.1.5 Obtain final approval from City prior to making offers and prior to making final agreement in negotiations.

3.1.6 Deliver properly executed documents to the City.

3.2. Prepare ROW instruments (up to 5 parcels)

3.3. Individual parcel exhibits shall be on 8 ½"x11" paper, shall be sealed, dated, and signed by a Registered Professional Land Surveyor and shall consist of the following:

3.3.1 Parcel number.

3.3.2 Area required.

3.3.3 Area remaining.

3.3.4 Legal description.

3.3.5 Current owner.

3.3.6 Easements locatable in the public record.

3.3.7 All physical features.

3.4. 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.

4. Subsurface Utility Engineering (SUE) (by Subconsultant)

4.1. Utility Data – Franchise Utilities

4.1.1 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.

4.1.2 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.

4.1.3 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.

4.1.4 Deliverables:

- The electronic file will be delivered in digital format and PDF.

5. Geotechnical Investigation (by Subconsultant)

5.1. Subsurface Exploration

5.1.1 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.

5.2. 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

5.3. Engineering Services

5.3.1 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.

5.3.2 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.

6. Franchise Utility Coordination/Relocations (Engineer)

6.1. Coordination

6.1.1 At start up, send project notice to all franchise utilities via e-mail to provide project limits and schedule for construction.

6.1.2 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.

6.1.3 Franchise Conflicts Evaluation

- Coordinate possible conflicts due to vertical alignment of roadway and drainage facilities with SUE.
- Coordinate utility relocation assignments and schedule

6.1.4 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.

6.1.5 Engineer will work with franchise utilities to develop relocation plans to be prepared by the utility companies and initiated prior to bidding.

7. Preliminary Design

7.1. Project Management

7.1.1 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.
- One (1) project progress meeting with the City.
- Bi-weekly 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.

7.1.2 Coordinate with subconsultants (geotechnical, drainage, survey, and SUE)

7.1.3 Coordinate with City bond right-of-way consultant

7.1.4 Prepare and e-mail monthly progress reports to the City

7.1.5 Maintain Project Schedule

- Develop work plan (identify tasks and subtasks).
- Develop roles and assignments.
- Develop and maintain schedule and interim milestones.

7.1.6 Prepare Design Criteria (coordinate with City at kickoff meeting)

7.1.7 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.

7.1.8 Project Administration

- Prepare project correspondence, and invoicing documents.

7.2. Data Collection (City to provide hard copy and electronic format if available)

7.2.1 Roadway Data

- Electronic design files from improvements and any other plans available along the project limits.

7.2.2 Drainage Data

- Aerial and LiDAR information.
- Existing storm drainage facilities / record drawings.
- Existing hydraulic models.

7.2.3 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.

7.3. Preliminary Design Schematic (30%)

7.3.1 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

7.3.2 Drainage

- Coordination with drainage analysis subconsultant regarding:
  - Roadway profile
  - Channel cross section and materials, or-
  - Storm sewer and inlet sizing, alignment, and profile
  - Culvert sizing
- Identify type, location, and size of proposed drainage improvements (if necessary).
- Prepare plan for various side street cross culverts to convey drainage channel flows.

7.3.3 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.

7.3.4 Traffic

- Traffic Signals – Coordinate with City of Lubbock Traffic department to determine adjustments at signalized intersections
- 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.

7.4. Construction Cost Projection (Or Opinion of Probable Cost)

7.4.1 Perform quantity takeoff and develop construction cost projection.

7.4.2 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.

7.5. 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.

7.5.1 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

8. Drainage Analysis (by Subconsultant)

8.1. Perform the following drainage analysis tasks in support of the roadway and drainage improvements design.

8.1.1 Data collection

- Subconsultant will obtain approved drainage analysis reports for drainage areas contributing to the project limits.
- Extract the necessary model elements from the 114th Street – Slide to Quaker Avenue project model.
- Preliminary plats, preliminary drainage maps, zoning ordinances, and other files as available and necessary to evaluate expected fully developed conditions for undeveloped property at the time of the analysis.

8.1.2 Existing conditions analysis

- Develop existing conditions hydrologic data from current aerial imagery and site observations.
- Develop existing hydraulic cross sections and existing drainage improvement data for modeling.
- Model existing conditions in ICPR4 for 2-, 10-, 25-, 50-, and 100-year 24-hour storm events.

8.1.3 Proposed improvements analysis

- Import sub-basin limits and hydrologic data from 114th Street – Slide to Quaker project.
- Develop fully developed conditions hydrologic data
- Develop model hydraulic network from proposed roadway profile and typical sections.
- Model and analyze proposed full-width roadway on existing conditions hydrology.

- Model and analyze proposed roadway and drainage improvements on fully developed conditions hydrology, iterate model to develop drainage improvement recommendations.
- Recommend drainage improvements consisting of:
  - Roadway profile
  - Channel cross section and materials
  - Culvert sizing
  - Storm drain systems

8.1.4 Deliverables

- Drainage area map for PS&E package.
- Hydrologic and hydraulic data sheets.
- Stormwater routing sheets documenting proposed flow depths.
- Drainage improvements sizing recommendations.

9. Final Design

9.1. Project Management

9.1.1 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.
  - Bi-weekly progress meetings will be held to discuss design issues and progress of plan production.
  - Review meeting will be conducted at 90% Submittal.

9.1.2 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.

9.1.3 Coordinate with subconsultants.

9.1.4 Coordinate with City bond right-of-way consultant.

9.1.5 Prepare and e-mail monthly progress reports to City.

9.1.6 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.

9.1.7 Project Administration

- Prepare project correspondence and invoicing documents.

9.2. Roadway Design (PS&E)

9.2.1 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
- Illumination layouts
- Small sign summary
- Standard design details
- TxDOT standards

9.2.2 Analyze all driveways within the project and develop driveway profiles as needed. Driveways will typically be defined vertically by spot elevations.

9.2.3 Develop Final 3D roadway model.

9.2.4 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.

9.2.5 Prepare roadway details to clarify intent of design.

9.2.6 Compile applicable City standard details. Modify standard details as needed.

9.2.7 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.

9.3. Drainage Plans

9.3.1 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 (if necessary).
- Provide drainage improvements 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.

- 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.

9.4. Utilities - Public

9.4.1 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).

9.4.2 Compile applicable standard details. Modify standard details as needed.

9.5. Traffic

9.5.1 Traffic Signals

- Traffic signal design will not be part of this scope of work.
- Adjustments to Slide Road and Frankford Ave traffic signals to be coordinated with City of Lubbock Traffic Department.

9.6. ITS

9.6.1 Design and install conduit, cable, and ground boxes for ITS connections of traffic signals.

9.7. Traffic Control Plans

9.7.1 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.

9.7.2 Develop typical TCP cross sections showing lane widths, edge conditions, channelization, and proposed construction area.

9.7.3 Develop TCP typical intersection staging plans for similar intersections. Develop custom intersection staging layouts for special conditions.

9.7.4 Develop TCP typical driveway staging plans for similar driveways. Develop custom driveway staging layouts for special conditions.

9.7.5 Prepare traffic control details to clarify intent of design

9.7.6 Compile applicable TxDOT standard details. Modify standard details as needed.

9.8. Illumination

9.8.1 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.

9.8.2 Prepare a photometric layout and perform one iteration of the photometric layout based on the City's review.

9.8.3 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.

9.8.4 Provide supporting calculations.

9.8.5 Provide technical specifications for the light poles and fixtures.

9.8.6 Coordinate with local electric service providers for electrical service locations.

9.8.7 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.

9.9. Interim Design Submittal (90%) Deliverables

9.9.1 Submit 90% PS&E in pdf format to the City for review and comment.

9.9.2 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 consist of:

- 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%)

9.10. Final Design Submittal (Bid Set) Deliverables

9.10.1 Submit an electronic PS&E file submission as required by City consisting of sealed plan sheets and all supporting documents required for bidding.

9.11. Post Bid Submittal Deliverables

9.11.1 Submit one (1) PDF electronic copy of the plan set, specifications, and addenda after the project's bid opening.

10. Bid Phase Support

10.1. Support City during the bid phase to address and respond to questions from prospective bidders.

10.2. Prepare and submit addenda changes that are necessitated by questions during the bid phase.

10.3. Incorporate addenda changes into the Final Plan Set.

10.4. Assist the City in evaluating the bids and prepare a recommendation letter.

11. 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	November 1, 2023
• Design Survey, ROW Mapping, Geotechnical Investigation, SUE, Utility Coordination	March 1, 2024
• Preliminary Design Schematic (30%)	June 3, 2024
• Interim Design (90%)	November 18, 2024
• Final Design (100% complete plan set)	February 1, 2025

- End of Scope Services -

Kimley»Horn

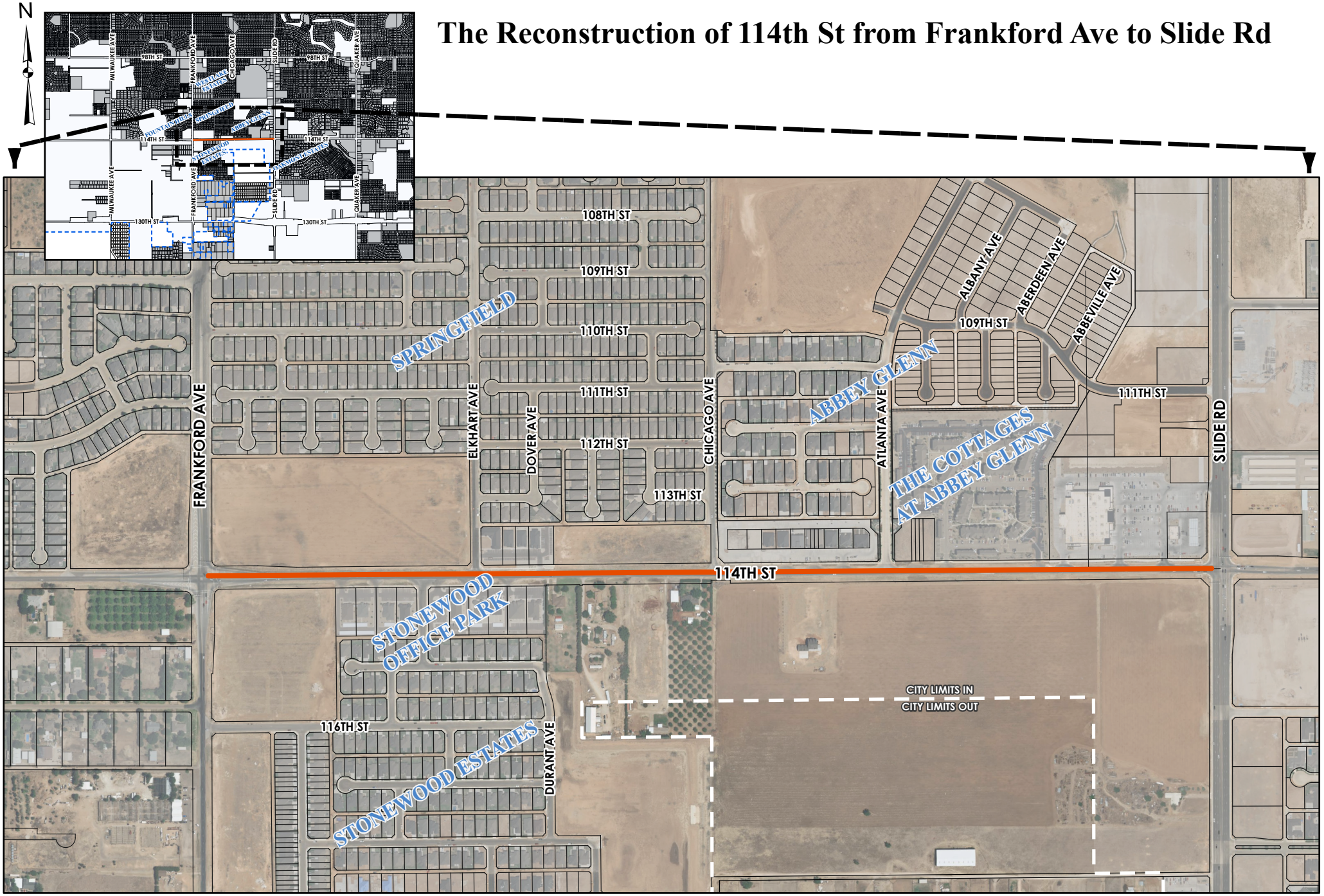
Exhibit B - Fee Schedule
City of Lubbock RFQ #
114th Street - Frankford Ave to Slide Road
9/20/2023

Task No.	Task Name (Lump Sum)	Kimley-Horn	Hugo Reed	Rios	Atlas	Subtotal
1	Design Survey	$ 11,660.00	$ 47,844.00	$ -	$ -	$ 59,504.00
2	Right of Way Survey and Services	$ 17,600.00	$ 130,750.00	$ -	$ -	$ 148,350.00
3	Subsurface Utility Engineering (SUE)	$ 10,600.00	$ -	$ 47,000.00	$ -	$ 57,600.00
4	Geotechnical Investigation	$ 4,500.00	$ -	$ -	$ 13,500.00	$ 18,000.00
5	Franchise Utility Coord./Relocations	$ 78,800.00	$ 19,968.00	$ -	$ -	$ 98,768.00
6	Preliminary Design	$ 258,100.00	$ 30,744.00	$ -	$ -	$ 288,844.00
7	Drainage Analysis	$ 38,000.00	$ 85,660.00	$ -	$ -	$ 123,660.00
8	Final Design	$ 381,560.00	$ 39,608.00	$ -	$ -	$ 421,168.00
9	Bid Phase Support	$ 24,150.00	$ 2,656.00	$ -	$ -	$ 26,806.00
Total Contract Fee		**$ 824,970.00**	**$ 357,230.00**	**$ 47,000.00**	**$ 13,500.00**	**$ 1,242,700.00**

Kimley-Horn will perform the services in Tasks 1-9 for the total lump sum fee of **$1,242,700.00** 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

The Reconstruction of 114th St from Frankford Ave to Slide Rd



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

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

City of Lubbock TEXAS

Digital Orthophotography - May 2022

City of Lubbock
Capital Project
Project Cost Detail
May 27, 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	21,891
ROW Acquisition, Parcel 52	9,148
ROW Acquisition, Parcel 54	7,325
Agenda Item May 27, 2025	
Amendment No. 1 for Contract 17632, Time Extension	-
Encumbered/Expended To Date	1,281,064
Estimated Cost for Remaining Appropriation	
114th Street: Frankford to Slide - 22B Construction	14,718,936
Remaining Appropriation	-
Total Appropriation	$ 16,000,000

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

Bond Election Project – 2022

Project Manager: Kerry Koehler - Engineering

Project Scope

114th Street from Frankford Avenue to Slide Road is currently a two-lane paved road and is designated in the 2018 Thoroughfare Master Plan to become a five-lane Minor Arterial. Continued growth in west Lubbock has increased traffic demands along the 114th corridor from Frankford Avenue to Slide Road. 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 $2,200,000 was appropriated by Ord. 2023-O0108
- FY 2024-25 $13,800,000 was appropriated by Ord. 2024-O0128

Project Dates

Start Design: 10/2023
Design Completion: 07/2025
Bid for Constuction: 06/2026
Award Construction: 08/2026
Construction Completion: 03/2028

Project Location

114th Street, Frankford Ave to Slide Rd

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Construction	$13,800,000	$0	$0	$0	$0	$0	$0
Design	$2,200,000	$0	$0	$0	$0	$0	$0
TOTAL	**$16,000,000**	**$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 Obligation Bonds	$16,000,000	$0	$0	$0	$0	$0	$0
TOTAL	**$16,000,000**	**$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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AI# 13451
Regular City Council Meeting 5. 7.
05/27/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding Contract 18911, and all related documents, by and between the City of Lubbock and South Plains Electric Cooperative, Inc., for adjustment and relocation of utility poles and lines, as part of the 34th Street Upland Avenue to Milwaukee Avenue Project, to be utilized for the 2022 Street Bond Project.

Item Summary

The 34th Street Upland Avenue to Milwaukee Avenue Project is currently in design. The project will reconstruct 34th Street from Upland Avenue to Milwaukee Avenue, and provide drainage improvements along the corridor.

Pursuant to the stipulations of this Memorandum of Understanding (MOU), the City of Lubbock will reimburse South Plains Electric Service (SPEC) for the cost of removal and relocation of certain existing utility poles and electric service lines that interfere and are in conflict with the proposed alignment of the proposed roadway.

Staff recommends approval of MOU Contract No. 18911, with South Plains Electric Cooperative, Inc., for the removal and relocation of electric utility poles ahead of the construction of the 34th Street: Upland Avenue to Milwaukee–22B Project.

Fiscal Impact

Contract No. 18911 for $644,688.79 is funded in Capital Improvements Project 92813, 34th Street: Upland Avenue to Milwaukee Avenue–22B.

Staff/Board Recommending

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

Attachments

Resolution

Contract 18911
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, a Memorandum of Understanding (MOU), Contract No. 18911 for utility relocation in preparation for roadway improvements on 34th Street, by and between the City of Lubbock and South Plains Electric Cooperative, Inc., and related documents. Said MOU 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.MOU-No. 18911 SPEC 34th utilities relocation
5.9.25

STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

MEMORANDUM OF UNDERSTANDING

BETWEEN
THE CITY OF LUBBOCK AND SOUTH PLAINS ELECTRIC COOPERATIVE, INC.

This Memorandum of Understanding (the "MOU"), Contract No. 18911, is made on this _____ day of _____, 2025, by and between the City of Lubbock ("City") and the South Plains Electric Cooperative, Inc. ("SPEC"), to adjust or relocate utility poles and lines as required for 34th Street from Upland Avenue to Milwaukee Avenue - 22B (the "Project").

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this MOU, the City and SPEC hereby agree as follows:

1. TERM OF MEMORANDUM OF UNDERSTANDING

The term of this MOU shall be from the effective date herein through final completion of the Project, not to exceed one hundred fifty (150) days.

2. SPEC RESPONSIBILITIES

SPEC shall adjust or relocate all of its utility poles and lines as required in the area depicted on "Exhibit A", attached hereto and incorporated herein, in preparation for 34th Street from Upland Avenue to Milwaukee Avenue - 22B by the City of Lubbock.

3. CITY OF LUBBOCK RESPONSIBILITIES

The City of Lubbock shall pay SPEC in amount not to exceed six hundred forty-four thousand six hundred eighty-eight dollars and 79/100 ($644,688.79) for the removal and relocation by SPEC as set forth in "Exhibit B", attached hereto and incorporated herein. In the event that actual Project costs exceed costs estimated in "Exhibit B", the City and SPEC shall negotiate in good faith the amount set forth herein in order to complete the Project. Further, the City agrees to provide necessary support, permits, and assistance to facilitate completion of the Project.

4. NOTICE

A. General. Whenever notice between the parties is required or permitted by this MOU 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); (3) email; or

(4) 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. SPEC Address. SPEC address and numbers for the purposes of notice are:

South Plains Electric Cooperative, Inc.
P.O. Box 1830
Lubbock, TX 79408
Telephone: 806-783-7974
Email: jobloth@spec.coop

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

City of Lubbock
Attn: John Turpin
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Email: jturpin@mylubbock.us
Telephone: 806-775-2342

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 MOU, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

5. NO LIABILITY

No liability will arise or be assumed between the parties as a result of this MOU. All parties to this document will act in good faith to achieve the goals of the MOU in a reasonable time frame. This MOU is a good faith expression of the intent of the Parties.

6. NO JOINT ENTERPRISE

This MOU is not intended to, and shall not be construed to, create any joint enterprise between or among the Parties.

7. GOVERNING LAW

This MOU will be governed by the laws of the State of Texas. The sole venue for any action, controversy, dispute or claim arising under this MOU shall be in a court of appropriate jurisdiction in Lubbock County, Texas exclusively.

8. AMENDMENTS

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 City and SPEC.

9. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the City and SPEC, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

EXECUTED as of the Effective Date hereof.

The City of Lubbock

Mark McBrayer, Mayor

South Plains Electric Cooperative, Inc.

Brandon Loth

Brandon Loth, Manager of Engineering

ATTESTED:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

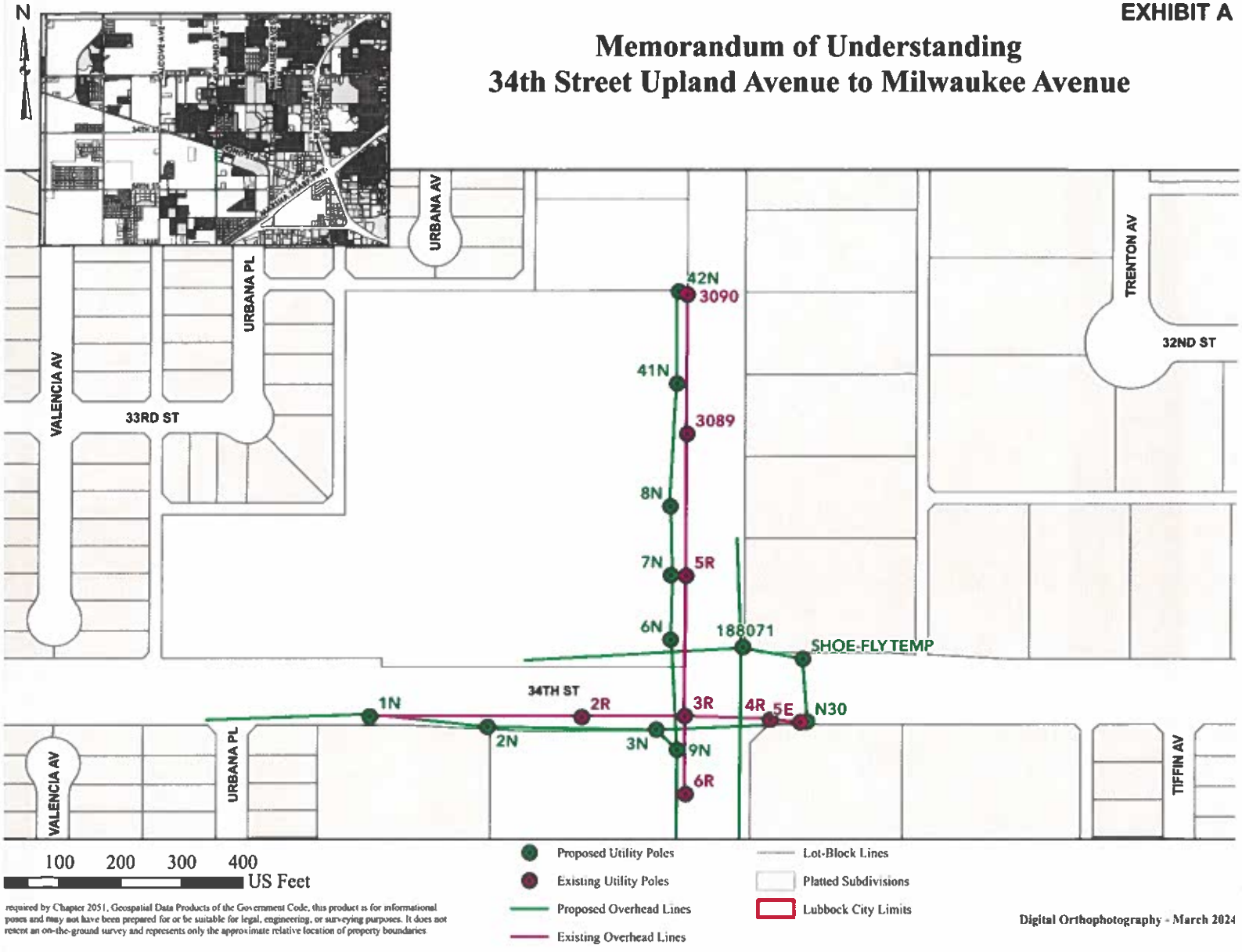
John Turpin, P.E., CPM
Division Director of Engineering/City Engineer

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

EXHIBIT A

Memorandum of Understanding
34th Street Upland Avenue to Milwaukee Avenue



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

EXHIBIT B

Utility Adjustment for 34th Street, Upland Ave to Milwaukee Ave
South Plains Electric Cooperative
Estimated Costs
WO#: 56242

Certified ledger, invoices, and/or checks (as applicable) are to be provided to the City of Lubbock for payment.

Estimated Material Costs	**$**	**295,538.79**
Estimated Labor Costs	**$**	**349,150.00**
Total Estimated Project Costs	**$**	**644,688.79**

City of Lubbock
Capital Project
Project Cost Detail
May 27, 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
Amendment No. 3 to Contract 17130	63,100
Staff Time	45,413
Surveying	4,500
3402 Upland - Land Acquisition	500,243
Parcel 2 - Land Acquisition	266,513
Parcel 11 - Land Acquisition	20,519
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 May 27, 2025	
Contract No. 18720 with AT&T	92,672
Contract No. 18911 with SPEC	644,690
Encumbered/Expended To Date	4,010,772
Estimated Cost for Remaining Appropriation	
34th Street: Upland to Milwaukee - 22B Construction	12,489,228
Remaining Appropriation	-
Total Appropriation	$ 16,500,000



CIP 92813 34th Street: Upland Avenue to Milwaukee Avenue - 22B

Bond Election Project – 2022

Project Manager: Kerry Koehler - 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, and 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

Start Design: 02/2023
Design Completion: 02/2025
Bid for Constuction: 07/2025
Award Construction: 09/2025
Construction Completion: 04/2027

Project Location

34th Street, Upland Ave to Milwaukee Ave

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 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	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 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	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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AI# 13461
Regular City Council Meeting 5. 8.
05/27/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute a Memorandum of Understanding, Contract 18912, by and between the City of Lubbock and South Plains Electric Cooperative, Inc., for utility relocation in preparation for roadway improvements on Upland Avenue, to be utilized for the 2022 Street Bond Project.

Item Summary

The design of the Upland Avenue: 34th Street to 50th Street Improvements Project is currently underway. The project will reconstruct Upland Avenue from 34th Street to 50th Street.

Pursuant to the stipulations of this Memorandum of Understanding (MOU), the City of Lubbock will reimburse South Plains Electric Service Cooperative, Inc. (SPEC), for the cost of removal and relocation of certain existing utility poles and electric service lines that interfere, and are in conflict, with the proposed alignment of the roadway in the amount of $857,296.07.

Staff recommends approval of MOU Contract 18912 with SPEC for the removal and relocation of electric utility poles ahead of the construction of Upland Avenue from 34th Street to 50th Street.

Fiscal Impact

Contract 18912 for $857,296.07 is funded in Capital Improvements Project 92815, Upland Avenue: 34th Street to 50th Street.

Staff/Board Recommending

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

Attachments

Resolution

Contract 18912
CIP 92815-Budget Detail
CIP 92815 - 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, a Memorandum of Understanding (MOU), Contract No. 18912 for utility relocation in preparation for roadway improvements on Upland Avenue, by and between the City of Lubbock and South Plains Electric Cooperative, Inc., and related documents. Said MOU 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.MOU-No. 18912 SPEC Upland utilities relocation
5.9.25

STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

MEMORANDUM OF UNDERSTANDING

BETWEEN
THE CITY OF LUBBOCK AND SOUTH PLAINS ELECTRIC COOPERATIVE, INC.

This Memorandum of Understanding (the "MOU"), Contract No. 18912, is made on this _____ day of _____, 2025, by and between the City of Lubbock ("City") and the South Plains Electric Cooperative, Inc. ("SPEC"), to adjust or relocate utility poles and lines as required for Upland Avenue: 34th Street to 50th Street – 22B (the "Project").

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this MOU, the City and SPEC hereby agree as follows:

1. TERM OF MEMORANDUM OF UNDERSTANDING

The term of this MOU shall be from the effective date herein through final completion of the Project, not to exceed one hundred fifty (150) days.

2. SPEC RESPONSIBILITIES

SPEC shall adjust or relocate all of its utility poles and lines as required in the area depicted on "Exhibit A", attached hereto and incorporated herein, in preparation for Roadway improvements as part of Upland Avenue: 34th Street to 50th Street – 22B by the City of Lubbock.

3. CITY OF LUBBOCK RESPONSIBILITIES

The City of Lubbock shall pay SPEC in amount not to exceed eight hundred fifty-seven thousand two hundred ninety-six dollars and 07/100 ($857,296.07) for the removal and relocation by SPEC as set forth in "Exhibit B", attached hereto and incorporated herein. In the event that actual Project costs exceed costs estimated in "Exhibit B", the City and SPEC shall negotiate in good faith the amount set forth herein in order to complete the Project. Further, the City agrees to provide necessary support, permits, and assistance to facilitate completion of the Project.

4. NOTICE

A. General. Whenever notice between the parties is required or permitted by this MOU 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); (3) email; or

(4) 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. SPEC Address. SPEC address and numbers for the purposes of notice are:

South Plains Electric Cooperative, Inc.
P.O. Box 1830
Lubbock, TX 79408
Telephone: 806-783-7974
Email: jobloth@spec.coop

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

City of Lubbock
Attn: John Turpin
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Email: jturpin@mylubbock.us
Telephone: 806-775-2342

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 MOU, and setting forth such new address or numbers. The address or numbers shall become effective on the 15th day after such notice is effective.

5. NO LIABILITY

No liability will arise or be assumed between the parties as a result of this MOU. All parties to this document will act in good faith to achieve the goals of the MOU in a reasonable time frame. This MOU is a good faith expression of the intent of the Parties.

6. NO JOINT ENTERPRISE

This MOU is not intended to, and shall not be construed to, create any joint enterprise between or among the Parties.

7. GOVERNING LAW

This MOU will be governed by the laws of the State of Texas. The sole venue for any action, controversy, dispute or claim arising under this MOU shall be in a court of appropriate jurisdiction in Lubbock County, Texas exclusively.

8. AMENDMENTS

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 City and SPEC.

9. ENTIRE AGREEMENT

This Agreement contains the entire agreement between the City and SPEC, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

EXECUTED as of the Effective Date hereof.

The City of Lubbock

Mark McBrayer, Mayor

South Plains Electric Cooperative, Inc.

Brandon Loth

Brandon Loth, Manager of Engineering

ATTESTED:

Courtney Paz, City Secretary

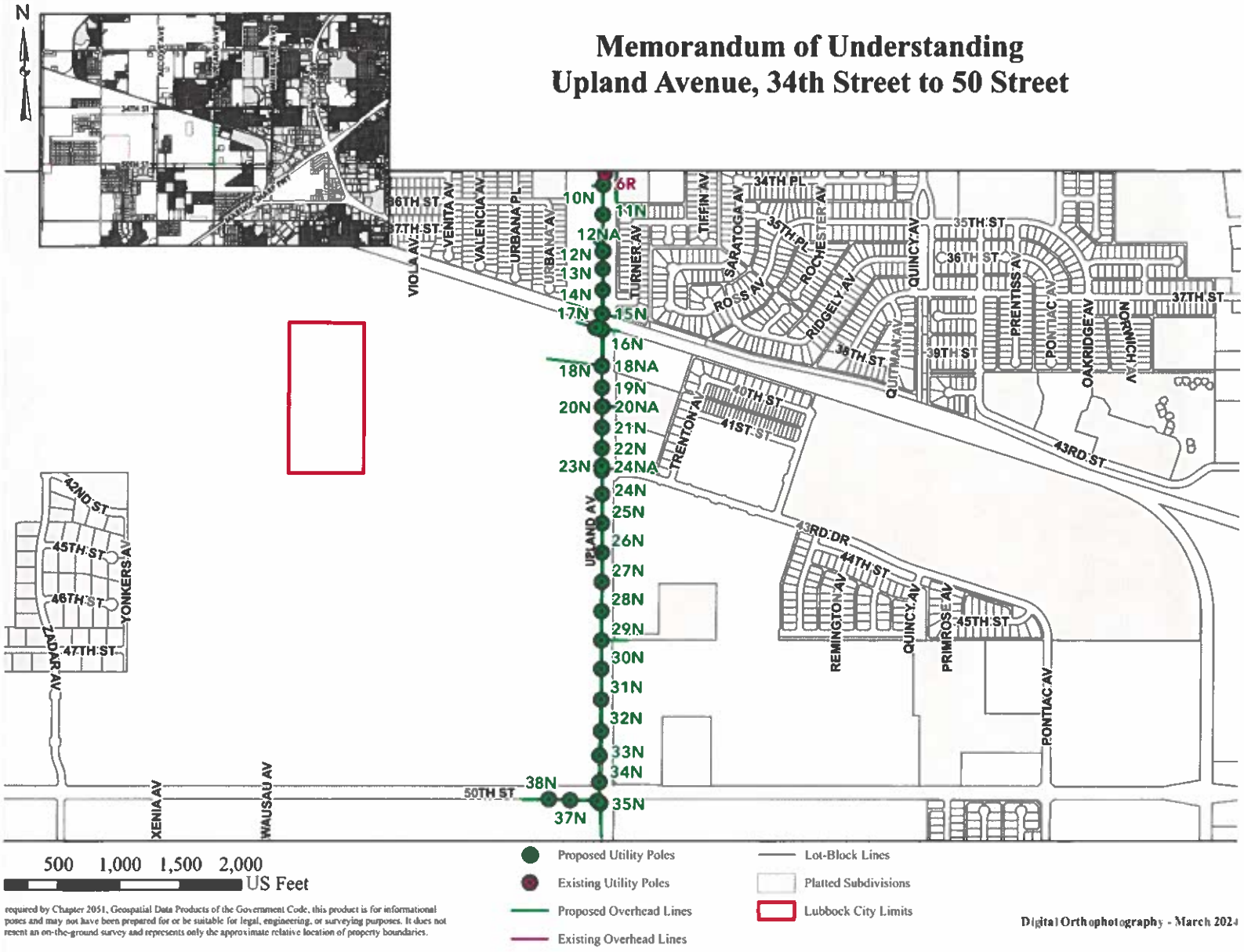
APPROVED AS TO CONTENT:

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

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Memorandum of Understanding
Upland Avenue, 34th Street to 50 Street



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

Digital Orthophotography - March 2024

EXHIBIT B

Utility Adjustment for Upland Ave, 34th Str to 50th Str
South Plains Electric Cooperative
Estimated Costs
WO#: 56183

Certified ledger, invoices, and/or checks (as applicable) are to be provided to the City of Lubbock for payment.

Estimated Material Costs	**$**	**657,696.07**
Estimated Labor Costs	**$**	**199,600.00**
Total Estimated Project Costs	**$**	**857,296.07**

City of Lubbock
Capital Project
Project Cost Detail
May 27, 2025

Capital Project Number:	92815
Capital Project Name:	Upland Ave: 34th to 50th Street - 22B

Encumbered/Expended	**Budget**
Staff time	$ 35,075
Contract 17074 with Freese and Nichols for Design Services	1,639,143
Contract 17074 Amendment 1 with Freese and Nichols	393,388
Contract 17074 Amendment 2 with Freese and Nichols	620,141
Parcel 1 - ROW Acquisition	13,874
Parcel 2 - ROW Acquisition	13,121
Parcel 3 - ROW Acquisition	10,347
Parcel 4 - ROW Acquisition	15,482
Parcel 5 - ROW Acquisition	55,000
Parcel 6 - ROW Acquisition	12,360
Parcel 7 - ROW Acquisition	95,666
Parcel 8 - ROW Acquisition	36,507
Parcel 9 - ROW Acquisition	82,662
Parcel 10 - ROW Acquisition	122,146
Parcel 11 - ROW Acquisition	22,064
Parcel 12 - ROW Acquisition	100,000
Parcel 13 - ROW Acquisition	74,031
Parcel 14 - ROW Acquisition	25,711
Parcel 15 - ROW Acquisition	3,984
Parcel 16 - ROW Acquisition	138,997
Parcel 17 - ROW Acquisition	1,125
Parcel 18 - ROW Acquisition	28,405
Parcel 19 - ROW Acquisition	44,249
Parcel 20 - ROW Acquisition	1,721
Parcel 21 - ROW Acquisition	44,115
Parcel 22 - ROW Acquisition	55,385
Agenda Item May 27, 2025	
SPEC MOU - Contract 18912	857,296
Encumbered/Expended To Date	4,541,995
Estimated Cost for Remaining Appropriation	
Construction Upland Ave 34th to 50th	12,958,005
Remaining Appropriation	-
Total Appropriation	$ 17,500,000

CIP 92815 Upland Avenue: 34th Street to 50th Street - 22B

Bond Election Project – 2022

Project Manager: Kerry Koehler - Engineering

Project Scope

Upland Avenue from 34th Street to 50th 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 34th Street to 50th 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 2022-23 $4,000,000 was appropriated by Ord. 2022-O0169
- FY 2023-24 $13,500,000 was appropriated by Ord. 2023-O0108

Project Dates

Start Design: 01/2023
Design Completion: 03/2025
Bid for Constuction: 07/2025
Award Construction: 09/2025
Construction Completion: 04/2027

Project Location

Upland Avenue, 34th Str to 50th St

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 Budget
Construction	$17,500,000	$0	$0	$0	$0	$0	$0
TOTAL	**$17,500,000**	**$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	$17,500,000	$0	$0	$0	$0	$0	$0
TOTAL	**$17,500,000**	**$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

Description	2025-26	2026-27	2027-28	2028-29	2029-30	2030-31	Total
TOTAL	$0	$0	$0	$0	$0	$0	$0

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AI# 13448
Regular City Council Meeting 5. 9.
05/27/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Professional Services Agreement, Contract 18720, and all related documents, by and between the City of Lubbock and AT&T, for a Custom Work Agreement for design and construction of a utility duct bank on 34th Street, to be utilized for the 2022 Street Bond Project.

Item Summary

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

34th Street, from Upland Avenue to Milwaukee is currently a 3-lane strip-paved road, and is designated in the 2018 Thoroughfare Master Plan to become a 5-lane modified principal arterial roadway. Continued growth in West Lubbock has increased traffic demands along the 34th Street corridor from Upland Avenue to Milwaukee Avenue.

Staff recommends approval of Custom Work Agreement Contract 18720 with AT&T, for $92,672.16, with a contract term of 120 days, for relocating an existing duct bank at 34th Street and Upland Avenue, in preparation for the 34th Street: Upland Avenue to Milwaukee Avenue - 22B Capital Improvements Project.

Fiscal Impact

Contract 18720 for $92,672.16, is funded in Capital Improvements Project 92813, 34th Street: Upland Avenue to Milwaukee Avenue -22B.

Staff/Board Recommending

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

Attachments

Resolution
Contract 18720
Location Exhibit
CIP 92813- Cost 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, Professional Services Agreement Contract No. 18720 for a Custom Work Agreement for design and construction of a utility duct bank on 34th Street, by and between the City of Lubbock and AT&T, and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.PSA-No. 18720 Duct Bank AT&T
5.5.25

LETTER OF AGREEMENT FOR CUSTOM WORK
ESTIMATE OF ACTUAL COST

Customer Name: CITY OF LUBBOCK
Billing Address: 1314 AVENUE K, LUBBOCK, TX 79401

Contact Name: ZOLTAN FEKETE
Contact Email: ZFEKETE@MYLUBBOCK.US
Contact Phone Number: (806) 775-3317

Project Number: A0558FK
Work Order ID: CWO-38756
Site Location: 34TH ST & UPLAND AVE, LUBBOCK, TX 79407

AT&T has received a request from you to perform the following work:
FIBERS WILL HAVE TO GO TO NEAREST SPLICE LOOP OR SPLICE TO SPLICE.

Estimated Actual Cost Quote

Engineering Labor	$13,346.78
Construction Labor	$39,664.17
Contractor Expense	$27,352.23
Material Expense	$12,308.98
Miscellaneous Expense	$0.00
Less Credit/Payments	$0.00
Total	$92,672.16

An advance payment based on the estimated cost of the special construction charges is required before work can begin. At the completion of the project, an additional payment may be required if costs exceed the estimated amount. A refund will be issued if actual costs are less than the estimated amount.

This signed agreement and advance payment $92,672.16 must be received at the AT&T address shown below before AT&T will proceed with any work.

CUSTOM WORK AGREEMENT

Project Number: A0558FK
Work Order ID: CWO-38756

This Custom Work Agreement ("Agreement") is entered into by and between CITY OF LUBBOCK (Customer). And SOUTHWESTERN BELL TELEPHONE COMPANY (hereafter "AT&T") and hereby agree to following terms and conditions:

1 Tariffs/Guidebooks. This Agreement is subject to and controlled by the provisions of AT&T's tariffs/guidebooks as applicable and all such revisions to said documents as may be made from time to time.

2 Special Construction. This Agreement is for the special construction as further described on page 1, attached hereto, and incorporated herein by this reference ("Special Construction"). As consideration for the Special Construction, Customer shall pay to AT&T $92,672.16. Advance payment based on estimated cost is required before work will begin. Payment in full for the remaining balance exceeding the advance payment based on actual costs is required within thirty days after AT&T issues an invoice to the Customer for the Special Construction charges.

3 Price Quote. The price is guaranteed for 60 days from 01/28/2025. If the charges are not accepted within 60 days the request will be canceled and a new request will need to be placed. The second estimate may be higher than the price that was originally quoted.

4 Early Termination. Should Customer terminate or cancel this Agreement prior to the completion of construction, Customer shall remain liable for the Special Construction Charges. Customer acknowledges and agrees AT&T shall incur substantial up-front costs in connection with its performance under this Agreement and that damages in the event of such early termination or cancellation are not readily ascertainable and that in such event of early termination payment of the Special Construction Charges is reasonable. Customer further acknowledges and agrees that it hereby waives any right to contest such payment of the Special Construction Charges for any reason, including, but not limited to reasonableness of the charges, quality of the work, or timeliness of the work. However, AT&T shall perform all work in conformance with all federal, state, and local laws, and shall resolve any issues regarding the work that are not in compliance with said laws.

5 Limitation of Liability. AT&T's maximum liability arising in, out of or in any way connected to this Agreement shall be as set forth in the tariffs and/or guidebooks, as applicable, and in no event shall exceed Special Construction Charges paid by Customer to AT&T.

6 Changes in Scope of Work. The parties recognize that this is an 'Actual Cost' contract. "Actual Cost" means that Customer will be provided with a final bill after the completion of all work and agrees to pay that final bill. The final bill will be calculated based on AT&T's billing practices and work performed and shall be made in good faith and representative of the actual work performed, which Customer agrees to accept. Customer understands and agrees that the final bill for the Actual Cost may exceed the preliminary cost estimate that has been provided for this work. In the event that Actual Cost exceed the cost estimate, AT&T shall promptly notify the Customer of overages and provide the supporting documentation with an explanation for overages. Further, if the Customer initiates changes in the scope of the work after AT&T has provided the preliminary cost estimate or after executing this contract, the above cost estimate and this contract are null and void. A new cost estimate must be provided based on the new scope of work and a new contract entered. Additionally, if the contractor bid exceeds the estimated contractor costs the applicant will be responsible for additional costs and a change order will be issued for customer approval. Work will not commence until signed change order and additional payment has been received.

7 Changes Due to Field Conditions. In the event there exists any conditions in the field that differ from those that existed at the time AT&T provided the quote or from the time the Customer executes the contract, AT&T shall bill and Customer shall pay any additional cost. Field conditions that may alter the cost associated with this work include, but are not limited to, conditions that exist below the surface of the ground and could not have been anticipated at the time of the price quote, above ground barriers, Acts of God affecting the progress or sequencing of the work, labor disputes and other conditions or circumstances that AT&T could not have reasonably anticipated at the time the cost estimate was provided. Differing field conditions are but one example of why the Actual Cost may exceed the preliminary cost estimate. Further, items that Customer has agreed to provide in connection with the Special Construction work, such as (but not limited to) providing conduit and/or handholes, must be suitable to AT&T's purposes. If these items are not suitable or AT&T is forced to acquire or provide them, it will result in increased costs that Customer agrees to pay.

8 Customer Obligations. Customer agrees to provide appropriate easements and/or rights of way, as determined by AT&T, to AT&T for its lines and any facilities necessary for the Special Construction work. Further, Customer agrees to provide and place suitable conduit and handholes for AT&T's use in the Special Construction work. Should Customer not provide these

items, Customer understands and agrees that it will result in increased costs above the estimate provided, which Customer agrees to pay.

9 Time to Complete. Any representation by AT&T, its contractors, or employees that the project will be complete by a certain date or certain time period is strictly an estimate and not binding. All estimated completion dates are subject to changing conditions in the field, changes in the scope of the work, relocation of existing utilities not within AT&T's control, Acts of God, weather delays, labor disputes, contractor disputes, pandemics and other conditions or circumstances could not reasonably anticipate at the time of the estimate.

10 Indemnification and Hold Harmless. Both parties, its agents, servants, and employees hereby agree to indemnify and hold harmless each other, and its employees, agents and contractors, from and against any and all claims, costs, expenses, judgments or actions for damage to property or injury or death to persons, and/or arising from or relating to the work that is the subject of this agreement, to the extent any such claims are caused by the negligent acts or omissions of both parties, its agents, servants, or employees to the extent permitted by Texas law.

11 Miscellaneous.

A. Counterparts. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed to be an original, but all of which when taken together shall constitute one and the same instrument.
B. Effect of Waiver. No consent or waiver, express or implied shall be deemed a consent to or waiver of any other breach of the same or any other covenant, condition, or duty.
C. Headings. The headings, captions, and arrangements used in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
D. Interpretation. The parties agree that this Agreement shall not be interpreted in favor or against either any party. The parties further agree that they entered into this Agreement after conferring with legal counsel, or after having a reasonable opportunity to confer with legal counsel.
E. Applicable Law. This Agreement shall be governed and interpreted in accordance with the laws of the state that the work site location is located without regard to that state conflict of law principles.
F. Attorneys' Fees. If either party materially breaches this Agreement and should the non-breaching party seek to enforce it rights through legal action, the prevailing party shall recover from the other party all costs and expenses incurred, including, but not limited to, reasonable attorneys' fees.
G. Authority. The signatories to this Agreement represent and warrant that they are duly authorized to execute this Agreement.
H. No Precedent. Except for the matters resolved and released herein, this Agreement is of no

value and shall not be considered precedent for resolving any dispute that may arise in the future.

I. Severability. Any provision of this Agreement held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Agreement and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

J. Successors and Assigns. This Agreement is binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

K. Non-Appropriation. All funds for payment by the Customer under this Agreement are subject to the availability of an annual appropriation for this purpose by the Customer. 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 Customer 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 AT&T on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the Customer shall not be obligated under this Agreement beyond the Non-Appropriation Date.

L. 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 Customer from entering into a contract with a company 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

M. 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.

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

O. AT&T represents and verifies 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 AT&T is a company with 10 or more full-time employees and if this Agreement has a value of at least $100,000 or more, AT&T 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.

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

Q. To the extent Subchapter J, Chapter 552, Government Code applies to this agreement, AT&T 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.

12 Final Agreement. THIS AGREEMENT REPRESENTS THE ENTIRE AND FINAL EXPRESSION OF THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF. EXCEPT AS PROVIDED HEREIN, THIS AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES; THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative on the dates set below. This quote is only valid for 60 days from the date of this letter.

Project Number: A0558FK
Work Order ID: CWO-38756
AT&T Design Engineer: BRYAN JONES
AT&T Engineer Email: BJ1726@att.com

Please send check payable to AT&T CWO along with signed agreement to:
14575 PRESIDIO SQUARE BLVD, FLOOR 1, ROOM 111, HOUSTON, TX 77083

ACCEPTED FOR CUSTOMER:

BY:_____

MARK W. MCBRAYER, MAYOR

ACCEPTED FOR AT&T:

BY: Bryan Jones

Printed Name: Bryan Jones

Title: OSP Engineer

Date Signed: _____ Date Signed: 05/02/2025

ATTEST:

Courtney Paz, City Secretary

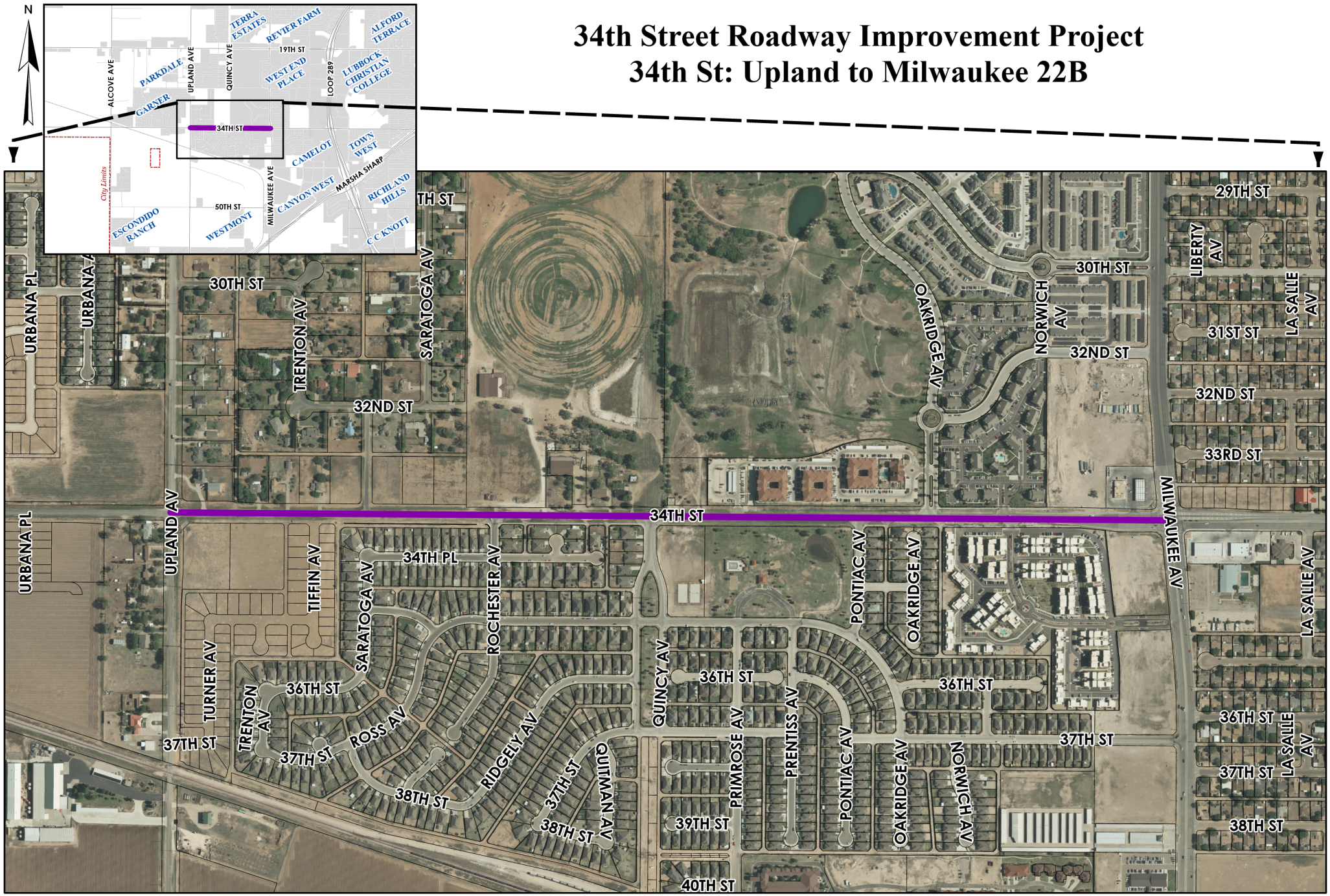
APPROVED AS TO CONTENT:

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

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

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
May 27, 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
Amendment No. 3 to Contract 17130	63,100
Staff Time	45,413
Surveying	4,500
3402 Upland - Land Acquisition	500,243
Parcel 2 - Land Acquisition	266,513
Parcel 11 - Land Acquisition	20,519
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 May 27, 2025	
Contract No. 18720 with AT&T	92,672
Contract No. 18911 with SPEC	644,690
Encumbered/Expended To Date	4,010,772
Estimated Cost for Remaining Appropriation	
34th Street: Upland to Milwaukee - 22B Construction	12,489,228
Remaining Appropriation	-
Total Appropriation	$ 16,500,000



CIP 92813 34th Street: Upland Avenue to Milwaukee Avenue - 22B

Bond Election Project – 2022

Project Manager: Kerry Koehler - 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, and 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

Start Design: 02/2023
Design Completion: 02/2025
Bid for Constuction: 07/2025
Award Construction: 09/2025
Construction Completion: 04/2027

Project Location

34th Street, Upland Ave to Milwaukee Ave

Project Appropriations

	Appropriation to Date	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 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	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget	2030 - 31 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	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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AI# 13455
Regular City Council Meeting 5. 10.
05/27/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 18855, and related documents, with Hugo Reed and Associates, Inc., for on-call general surveying services.

Item Summary

The City of Lubbock has a frequent need for professional surveying services. Due to project requirements and good design practices, various surveying services, as well as construction staking, are needed. As the City continues to grow, it will become necessary to secure professional surveying services to provide accurate and rapid completion of design on projects.

A Request for Qualifications (RFQ) was initiated that allowed firms that provide surveying services to submit their qualifications.

In response to RFQ 25-18672-TF, eleven submissions were received on March 27, 2025, and were evaluated by a 3-person evaluation committee using the following criteria:

Team Organization and Qualifications - 35 Points
Experience on Relevant Projects - 35 Points
Management Approach - 25 Points, and
Overall Responsiveness to the RFQ - 5 Points.

The eleven firms received the following rankings.

Firm	Score
Hugo Reed and Associates, Inc., Lubbock, Texas	98.00
AMD Engineering, Lubbock, Texas	93.00
Cobb, Fendley & Associates, Inc., Lubbock, Texas	91.33
Parkhill, Lubbock, Texas	90.33
R2M Engineering, LLC, Lubbock, Texas	89.67
Surveying and Mapping, LLC, Austin, Texas	78.33

Frank X. Spencer & Associates, Inc., El Paso, Texas	78.00
Kimley-Horn and Associates, Inc.,Lubbock, Texas	76.00
Manhard Consulting, Lincolnshire, Illinois	74.67
West Texas Consultants, Andrews, Texas	72.33
Halff Associates, Inc., Richardson, Texas	70.67

Five firms were chosen that best matched the needs of the City of Lubbock. Contract negotiations were conducted with the top ranking firm, Hugo Reed and Associates, Inc. Fair and reasonable hourly rates were determined for an amount to be paid for the performance of the service at rates set forth in Exhibit “B” of the Professional Services Agreement.

The term of this contract will be for one-year with the option of 4, one-year renewals.

A total of 5 firms will be selected for contracts to perform professional surveying services for the City of Lubbock. The firms are as follows from the rankings above: Hugo Reed and Associates, AMD Engineering, Cobb, Fendley and Associates Inc., Parkhill, R2M Engineering LLC.

Fiscal Impact

This contract is in the amount of the service rates set forth in Exhibit “B” of the Professional Services Agreement. These services will be funded in the Capital Improvement Projects that will require these services to be rendered.

Staff/Board Recommending

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

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Attachments

Resolution 18855
Contract 18855 - Hugo Reed

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. 18855 for on-call general surveying services, by and between the City of Lubbock and Hugo Reed and Associates, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.PSA-No. 18855 HR on-call surveying
5.8.25

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement (“Agreement”) Contract No. 18855 is entered into this ___ day of _____, 2025, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Hugo Reed and Associates, Inc., (the” Surveyor”), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Surveyor to provide professional services for On-Call General Surveying Services, (the “Activities”); and

WHEREAS, the Surveyor has a professional staff experienced and is qualified to provide professional Surveying 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 Surveyor to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Surveyor to provide professional services related to the Activities, and Surveyor 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 Surveyor 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 5 years. 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 Surveyor shall conduct all activities, and within such timeframes, as set forth on Exhibit “A”, attached hereto (the “Services”).

B. The Surveyor shall receive as consideration to be paid for the performance of the Services at such rates 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 Surveyor. In the event this Agreement is so terminated, the City shall only pay the Surveyor for services actually performed by the Surveyor up to the date the Surveyor is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Surveyor 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 Surveyor 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 Surveyor 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 Surveyor. This Agreement constitutes legal, valid, and binding obligations of the Surveyor and is enforceable in accordance with the terms thereof.

D. Surveyor. The Surveyor 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 Surveyor 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 Surveyor warrants that any materials provided by the Surveyor 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 Surveyor shall be solely responsible for ensuring that any materials provided by the Surveyor pursuant to this Agreement satisfy this requirement and the Surveyor 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 Surveyor's failure to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Surveyor 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 Surveyor and the City agree that the Surveyor 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 Surveyor 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 Surveyor and the Surveyor'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 Surveyor 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 Surveyor 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 Surveyor 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

Drone (Unmanned Aircraft) Liability:

Per Occurrence Single Limit: $1,000,000

General Aggregate Limit: $2,000,000

The Surveyor shall further cause any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Surveyor 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 Surveyor 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 Surveyor shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Surveyor 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 Surveyor maintains said coverage. The Surveyor 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 Surveyor fails

to maintain the required insurance in full force and effect, the Surveyor 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 Surveyor'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 Surveyor may employ or retain consultants, contractors, or third parties (any of which are referred to herein as "Sub-consultant"), to perform certain duties of Surveyor, as set forth on Exhibit A, attached hereto, under this Agreement, provided that the City approves the retaining of Sub-consultants. The Surveyor is at all times responsible to the City to perform the Services as provided in this Agreement and the Surveyor 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 Surveyor shall be required by the Surveyor to carry, for the protection and benefit of the City and the Surveyor and naming said third parties as additional insureds, insurance as described above required to be carried by the Surveyor in this Agreement.

The Surveyor 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 Surveyor 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 SURVEYOR 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 SURVEYOR, 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 Surveyor 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 Surveyor to the City or the City to the Surveyor 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. Surveyor's Address. The Surveyor's address and numbers for the purposes of notice are:

Hugo Reed and Associates, Inc.
Jason L. Swofford, P.E.
1601 Avenue N
Lubbock, Texas 79401
Telephone: (806) 763-5642
Email: jswofford@hugoreed.com

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

Zildjian Manicavelu, EIT
City of Lubbock
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: (806) 775-3630
Email: zmanicavelu@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 Surveyor non-confidential studies, reports and other available data in the possession of the City pertinent to the Surveyor's Services, so long as the City is entitled to rely on such studies, reports and other data for the performance of the Surveyor's Services under this Agreement (the "Provided Data"). The Surveyor 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 Surveyor 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 Surveyor's books and records with respect to this Agreement between the Surveyor and the City.

C. Records. The Surveyor shall maintain records that are necessary to substantiate the services provided by the Surveyor.

D. Assignability. The Surveyor 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 Surveyor, and in the case of the City, its respective successors, legal representatives, and assigns, and in the case of the Surveyor, 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 Surveyor and the City.

I. Entire Agreement. This Agreement, including Exhibits "A" through "B" attached hereto, contains the entire agreement between the City and the Surveyor, 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 Surveyor and the City.

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

L. Notice of Waiver. A waiver by either the City or the Surveyor 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 Surveyor.

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 Surveyor 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, Surveyor 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 Surveyor is a company with 10 or more full-time employees and if this Agreement has a value of at least $100,000 or more, Surveyor 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. Surveyor 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 Surveyor is a company with 10 or more full-time employees and if this Agreement has a value of at least $100,000 or more, Surveyor 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, Surveyor 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 Surveying services to be performed shall be done with the professional skill and care ordinarily provided by competent architects or Surveyors 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:

John Turpin, P.E., Division Director of Surveying/City Surveyor

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Firm

Hugo Reed and Associates, Inc.

By:

Jason L. Swofford, P.E., President

Email: jswofford@hugoreed.com

EXHIBIT A

PROFESSIONAL SERVICES AGREEMENT
FOR
GENERAL SURVEYING SERVICES
BETWEEN
CITY OF LUBBOCK
AND
HUGO REED AND ASSOCIATES, INC.

SCOPE OF SERVICES

(Including but not limited to the following tasks)

1. HORIZONTAL AND VERTICAL CONTROL
    a. Establish horizontal and vertical control points, involves creating fixed reference points with known locations and elevations on a project site. Control points are crucial for precise surveying and construction, providing a basis for all subsequent measurements and layout.
    b. Horizontal control defines the spatial location (x, y coordinates), all horizontal control will be relative to the North American Datum of 1983 (NAD83)
    c. Vertical control defines elevation (z coordinate), all vertical control will be relative to the North American Vertical Datum of 1988 (NAVD88)
    d. Control monuments will generally be concrete markers with aluminum caps. Other types of monuments may be used depending upon the project requirements.
    e. Provide summary reports documenting the appropriate information for all control monuments signed by a Registered Professional Land Surveyor.
2. DESIGN SURVEYS
    a. Includes topographic, bathymetric,
    b. Prepare maps showing the elevation changes and features of a land area, provide a comprehensive view of the terrain, including both natural and man-made elements. These surveys are crucial for various applications like construction, infrastructure planning, and environmental studies.
    c. Collect bathymetric data using watercraft or sonar, if applicable.
    d. Perform surface modeling for development of contours and/or volumetric data (stockpiles, playa stage storage data, etc.)
    e. Data will be relative to NAVD88.
    f. Provide XML file for surface modeling.
    g. Provide survey map showing one-foot interval contours signed by a Registered Professional Land Surveyor.
3. LAND TITLE SURVEYS
    a. Includes boundary, lot/tract, title, route surveys and legal descriptions
    b. Prepare surveys to verify property boundaries, easements, and other legal or physical features impacting property ownership and use. These surveys are crucial for real estate transactions to ensure accurate title insurance and lender financing.
    c. Perform both field measurements and research into historical records and legal descriptions to establish the boundaries.
    d. Find/set monuments at the corners of the property.
    e. Perform work in accordance with American Land Title Association and American Congress on Survey and Mapping (ALTA/ACSM) standards, if applicable.
    f. Perform work in accordance with Texas Category 1A standards, if applicable.
    g. Prepare survey map showing the property lines, bearings, distances, and the total acreage signed by a Registered Professional Land Surveyor.

h. Include existing improvements like buildings, fences, and driveways, as well as any encroachments or easements, if required.

4. CONSTRUCTION SURVEYING
    a. Includes construction staking, construction layout, and as-built surveys
    b. Establish field markers (hubs, lathes, flags, pins, nails, etc.) to facilitate the control of placement of structures and infrastructure (pipelines, roadways, etc.) on a construction site.
    c. Measuring, marking, and mapping the site to ensure that buildings, roads, and other features are constructed in the correct location, elevation, and alignment according to design plans.
    d. Prepare offset calculations per the client's requirements based upon the design plans.
    e. Verify the construction follows the design plans and specifications.
    f. Record the actual location and dimensions of the constructed features.
    g. Provide measurements, data, reports, and/or maps documenting location of features signed by a Registered Professional Land Surveyor.
5. DRONE MAPPING
    a. Deploy unmanned aerial vehicle (UAV) to capture aerial data and create maps, models, and other visual representations of an area. Methodology offers efficiency, accuracy, and safety advantages compared to traditional mapping methods, particularly for large-scale projects or hard-to-access areas.
    b. Develop UAV flight and safety plans.
    c. Establish project control network.
    d. Post-process collected data.
    e. Deliver aerial imagery, aerial data, maps, and/or models in required formats.
6. 3D SCANNING
    a. Establish control for scans from appropriate locations and angles to collect scan data.
    b. Collect point cloud data from multiple control point locations to achieve necessary coverage.
    c. Process point cloud data to stitch scans.
    d. Filter data to emphasize key features, if necessary.
    e. Prepare and deliver point cloud data in Owner defined format.
7. SUBSURFACE UTILITY LOCATION
    a. Collect information for project planning, construction, and preventing damage to existing infrastructure.
    b. Subsurface utility engineering (SUE) is a comprehensive approach to this process, often involving various technologies and quality levels to ensure accuracy. Owner will define SUE requirements for each task order (Quality Level A, B, C, D)
        i. Level D - Research existing maps and other records to identify existing underground infrastructure.
        ii. Level D - Find and accurately map underground utilities such as gas, water, sewer, telecommunication, and electrical lines based upon visible surface evidence.
        iii. Level B – Employ geophysical methods to determine existence and horizontal location of existing underground infrastructure.
        iv. Level A – Physical location to determine precise location, type, size, and condition of existing underground infrastructure.
8. SUBDIVISION PLATS
    a. Includes subdivision plats, annexation surveys, zoning, legal descriptions and other related services.
    b. Subdivision plats are legal maps that depict how a piece of land is divided into lots, blocks, and public areas, including streets and easements. Plats are crucial for land development, property descriptions, and planning public works. Plats are the official record of property

boundaries.

c. Prepare and submit subdivision plat for review and approval.
d. Prepare and submit off plat easement documents for review and approval.
e. Prepare dedication documents to accompany subdivision plat.
f. Coordinate with City Planning Department to obtain approval of the plat.
g. Plats and supporting documents will be signed by a Registered Professional Land Surveyor.

9. MISCELLANEOUS SURVEYS
    a. ELEVATION CERTIFICATES – Collect data, including photographs. Complete FEMA forms. Certificates will be signed by a Registered Professional Land Surveyor or Professional Engineer.
    b. FAA CERTIFICATION SURVEYS - Collect data, including photographs. Complete FAA forms. Certificates will be signed by a Registered Professional Land Surveyor or Professional Engineer.

EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT
FOR
GENERAL SURVEYING SERVICES
BETWEEN
CITY OF LUBBOCK
AND
HUGO REED AND ASSOCIATES, INC.

HOURLY RATES

Professional Engineer - Officer	$240.00
Engineering Project Manager	216.00
Professional Engineer – Senior	204.00
Professional Engineer	180.00
Engineer-in-Training	132.00
Engineering Intern	100.00
Registered Professional Land Surveyor – Officer	$240.00
Licensed State Land Surveyor	240.00
Surveying Project Manager	216.00
Registered Professional Land Surveyor - Senior	204.00
Registered Professional Land Surveyor	180.00
Surveyor-in-Training	132.00
Surveying Field Manager	126.00
Survey Crew Chief	102.00
Survey Field Crew	210.00
Director of Development Services	$204.00
Development Associate	126.00
CADD Manager	$132.00
CADD Technician	105.00
Accountant (CPA)	$114.00
Research	86.00
Clerical Staff	70.00
IT Manager	108.00
Reimbursables	Cost

AI# 13456
Regular City Council Meeting 5. 11.
05/27/2025:

Information

Agenda Item

Resolution - Engineering: Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 18667, and related documents, with Cobb, Fendley, and Associates, Inc., for on-call subsurface utility engineering services.

Item Summary

The City of Lubbock has a frequent need for professional Subsurface Utility Engineering (SUE) services. Due to project requirements and good design practices, underground utilities must be located and marked prior to the commencement of construction work.

Having an agreement in place for these services will assist in expediting projects and will prevent delays. As the City continues to grow, it has become necessary to secure SUE professional services to provide accurate and rapid completion of design on projects.

A Request for Qualifications (RFQ) was initiated that allowed firms that provide SUE services to submit their qualifications.

In response to RFQ 25-18667-TF, proposals were received on March 26, 2025, and were evaluated by a 3-person evaluation committee using the following criteria. Team Organization and Qualifications - 35 Points, Experience on Relevant Projects - 35 Points, Management Approach - 25 Points, and Overall Responsiveness to the RFQ - 5 Points.

The firms received the following ranking.

Firm	Score
Cobb, Fendley & Associates, Lubbock, Texas	94.33
T2 Utility Engineering, Indianapolis, Indiana	91.00
Surveying And Mapping, LLC, Austin, Texas	88.67
KCI Technologies, Inc., Dallas, Texas	85.00
Frank X. Spencer & Associates, Inc., El Paso, Texas	83.33
Lina T. Ramey and Associates, Inc., Farmers Branch, Texas	81.67

PJB Surveying LLC, Allen, Texas	75.00

Contract negotiations were conducted with Cobb, Fendley, and Associates, Inc., and fair and reasonable hourly rates were determined for an amount to be paid for the performance of the service at rates set forth in Exhibit “B” of the Professional Services Agreement.

The term of this contract will be for one year with the option of 4, one-year renewals.

A total of 3 firms will be selected for contracts to perform Subsurface Utility Engineering (SUE) services for the City of Lubbock. The firms are as follows from the rankings above: Cobb, Fendley and Associates Inc., T2 Utility Engineering, Surveying and Mapping LLC..

Fiscal Impact

This contract is in the amount of the service rates set forth in Exhibit “B” of the Professional Services Agreement. These services will be funded by the Capital Improvement Projects that will require these services to be rendered.

Staff/Board Recommending

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

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Attachments

Resolution 18667
Contract 18667

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. 18667 for on-call subsurface utility engineering services, by and between the City of Lubbock and Cobb, Fendley and Associates, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.PSA-No. 18667 CF on call services
5.6.25

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No. 18667 is entered into this ___ day of _____, 2025, is by and between the City of Lubbock (the "City"), a Texas home rule municipal corporation, and Cobb, Fendley & Associates, Inc., (the" Engineer"), a Texas corporation.

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for On-Call Subsurface Utility Engineering Services, (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 5 years. An amendment to this Agreement resulting in an increase in the amount of the fee considerations 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 Service at such rates 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 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 shall exercise usual and customary professional care in its efforts 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-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

Heavy Equipment Endorsement: Heavy Equipment Endorsement is Required

Digging Endorsement: XCU Endorsement is required

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 (10 days' notice for cancellation due to non-payment of premium). 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 confidence, exercising no less than a reasonable degree of care, 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 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, 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 usual and customary professional care in its efforts to comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations in effect at the time of the execution of this Agreement, 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 or electronic mail (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:

Cobb, Fendley & Associates, Inc
Chris Ernst
4424 West Sam Houston Pkwy N, Suite 600
Houston, Texas 77041
Telephone: (972) 335-3214
Email: CErnst@cobbfendley.com

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

Fernando Velez, EIT
City of Lubbock
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: (806) 775-3125
Email: fvelez@mylubbock.us

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

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

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

ARTICLE XV. MISCELLANEOUS

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

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

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer.

D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

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

F. Construction and Venue.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

MARK 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

Firm

Cobb, Fendley & Associates, Inc

By: _____

Thomas Hunt, Vice President

Email: thunt@cobbfendley.com

Introduction

CobbFendley (CF) will perform the SUE work required for this project in general accordance with the recommended practices and procedures described in ASCE Publication CI/ASCE 38-22 (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 records.
- Quality Level C (QL "C") – QL "D" information supplemented with information obtained by surveying visible above-ground utility features (i.e. valves, hydrants, meters, manhole covers, etc.).
- 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") – Also known as "locating", this quality level provides precise three-dimensional (x, y, z) information at critical locations by exposing specific utilities. Non-destructive vacuum excavation equipment is used to expose the utilities at specific points which are then tied down by survey.

It is the responsibility of the SUE provider to perform due diligence with regard to records research (QL "D") and acquisition of available utility records. The due diligence provided for this project will consist of contacting applicable "one call" agencies, visually inspecting the work area for evidence of utilities, and reviewing the available utility record information. Utilities not identified through these efforts will be referred to as "unknown" utilities. CF personnel will scan the defined work area using electronic prospecting equipment to search for "unknown" utilities. CF is not responsible for designating and locating "unknown" utilities that were not detected while scanning the work area.

Designating Procedures

Prior to beginning field designating activities, CF's field manager will review the project scope of work and available utility records. Once these initial reviews are complete, the field manager and technicians will begin designating the approximate horizontal position of known subsurface utilities within the specified project limits. A suite of geophysical equipment (electromagnetic induction, magnetic) will be used to designate metallic/conductive utilities (e.g. steel pipe, electrical cable, telephone cable). Non-metallic/non-conductive utilities will be designated using other proven methods, such as rodding and probing. Where access is available, a sonde will be inserted into the utility line (e.g. PVC gravity sewer pipe) to provide a medium for signal transmission, which can then be designated using geophysical equipment. In instances where access is not available, (e.g. pressurized PVC water line), CF personnel will attempt to designate the utility by probing.

Accurate collection and recording of designated utilities is a critical component of the SUE process. CF utilizes a proven method of collecting and recording survey information once the utilities have been designated in the field. CF's field manager will produce detailed sketches depicting each utility as well as relevant surface features such as roadways, buildings, manholes, fire hydrants, utility pedestals, valves, meters, etc. Each utility will be labeled with a unique ID code. For example, if two buried electric cables exist on the project, one will be labeled E1 and the other E2. Paint and pin flags will be used to designate the utilities in the field. A labeled pin flag or paint mark will be used to mark each location where a survey shot is required. Shot points will typically be placed at 100-foot intervals on utilities running parallel to the alignment and at 50-foot intervals on utility crossings. The locations will be numbered sequentially for

each individual utility line. For example, if there are 50 shots required on buried electric line E1, the points will be numbered E1-1 through E1-50.

Preliminary field sketches depicting the designated utilities will be prepared for use during subsequent surveying activities. These sketches will also be used to check the survey information for completeness and accuracy.

Locating Procedures

CF will utilize its utility designating marks and specific information provided by LBB to lay out the test hole locations. CF will attempt to place the test holes outside of paved areas wherever possible. However, some test holes may need to be placed in paved areas that may require traffic control measures to be implemented. CF will establish routine/ordinary traffic control (cones and free-standing signage, etc.) whenever required as part of our standard pricing. If non-routine traffic control measures are required (barricades, flag person, changeable message board, etc.), these services will be considered extra and invoiced at cost. You will be notified if such circumstances arise, and LBB approval will be necessary before commencement.

CF will utilize non-destructive vacuum excavation equipment to excavate the test hole at the required locations. Once the utilities are located, CF will record the type, size, material, depth to top and general running direction. The test hole will be assigned a unique ID number and will be marked with rebar/cap, nail/disk, or chiseled X, as appropriate. Test-hole excavations will be backfilled with appropriate material and the original surface will be restored. The backfill will be compacted in lifts by mechanical means to minimize settlement.

It has been our experience in this part of Texas that test hole excavation frequently encounters rock strata. CF will do everything feasible to non-destructively expose utilities requested for test holes. However, we cannot ensure that vacuum excavation will be successful on all test holes if significant rock layers are encountered. If this becomes an issue, we will communicate the locations with you immediately to discuss options. Also, for PVC lines located under pavement it may be necessary to excavate additional test holes to locate the line.

Deliverables

As a QL "B" SUE deliverable, CF will produce an electronic SUE CAD file depicting the type and horizontal location of the designated utilities, and, if requested, signed and sealed by a professional engineer registered in Texas. The current base map/topographic files in electronic format will be used in preparing the SUE file. CF will utilize its standard SUE line styles and symbology.

The QL "A" SUE deliverable will consist of an updated SUE CAD file showing the locations of the test holes. CF will also prepare a summary sheet of test hole information showing the utility size, depth, material, direction and type of surface marker used to identify the test hole location.

Exhibit B

CobbFendley

Estimated Fees

SUE Investigation

SUE QL "B"	$2,750/Day*	
SUE QL "A"	$3,900/Day*	
Air and/or Hydro-vac Trenching	$370/Hour	(4 Hour Minimum)
Survey	$2,200/Day*	
Per diem	$68/Day	(GSA Rate)
Lodging (Includes fees and taxes)	$126/Day	(GSA Rate plus 15% tax/fee)

*These are daily rates, and include all field costs for a typical 10-hour crew workday, including vehicles, equipment, consumables (pin flags, paint, water, backfill, dumping fees, etc.) related to the field work, and all office time managing and coordinating the work, processing survey data and preparing the SUE deliverables (CAD file, KMZ if needed). If hourly rates are required, they can be determined by dividing the daily rate by 10 hours (i.e. $2,750/day = $275/hour).

If requested, Quality Level D records research can be performed on a project by project basis, and will be billed at the current rates shown in the attached CobbFendley 2025 Standard Rae Schedule.

CobbFendley

2025 Standard Rate Schedule

Principal	$360.00/HR
Senior Engineer V or Project Manager VI	$357.00/HR
Senior Engineer IV or Project Manager V	$340.00/HR
Senior Engineer III or Project Manager IV	$320.00/HR
Senior Engineer II or Project Manager III	$300.00/HR
Senior Engineer I or Project Manager II	$260.00/HR
Engineer III or Project Manager I	$215.00/HR
Engineer II	$195.00/HR
Engineer I	$165.00/HR
Graduate Engineer II	$152.00/HR
Graduate Engineer	$140.00/HR
Sr. Coordinator (Project, Utility)	$180.00/HR
Coordinator II (Project, Utility)	$150.00/HR
Coordinator I (Project, Utility)	$125.00/HR
Senior Technician III (GIS, Telecom, Utility, CAD, Field)	$202.00/HR
Senior Technician II (GIS, Telecom, Utility, CAD, Field)	$180.00/HR
Senior Technician I (GIS, Telecom, Utility, CAD, Field)	$154.00/HR
Technician III (GIS, Telecom, Utility, CAD, Field)	$136.00/HR
Technician II (GIS, Telecom, Utility, CAD, Field)	$121.00/HR
Technician I (GIS, Telecom, Utility, CAD, Field)	$91.00/HR
Licensed State Land Surveyor	$303.00/HR
Senior Registered Professional Land Surveyor II	$306.00/HR
Senior Registered Professional Land Surveyor	$275.00/HR
Registered Professional Land Surveyor II	$247.00/HR
Registered Professional Land Surveyor	$215.00/HR
Project Surveyor	$198.00/HR
Certified Photogrammetrist	$205.00/HR
3 Person Survey Crew	$240.00/HR
2 Person Survey Crew	$190.00/HR
1 Person Survey Crew	$140.00/HR
Construction Manager III	$350.00/HR
Construction Manager II	$281.00/HR
Construction Manager I	$219.00/HR
Construction Observer III	$195.00/HR
Construction Observer II	$165.00/HR
Construction Observer I	$135.00/HR
Sr. Right-of-Way Agent III or ROW Project Manager III	$300.00/HR
Sr. Right-of-Way Agent II or ROW Project Manager II	$260.00/HR

(Continued)

Sr. Right-of-Way Agent I or ROW Project Manager I	$215.00/HR
Right-of-Way Agent III	$210.00/HR
Right-of-Way Attorney	$205.00/HR
Right-of-Way Agent II	$180.00/HR
Right-of-Way Agent I	$140.00/HR
Right-of-Way Technician	$125.00/HR
Administrative	$135.00/HR
Clerical	$105.00/HR
Field Data Device	$40.00/HR/unit

SUBSURFACE UTILITY ENGINEERING

Two-Man Designating Crew (4-Hour Minimum)	$262/HR
One-Man Designating Crew (4-Hour Minimum)	$146/HR
Vacuum Excavation Truck with 2 Technicians (Vac 3000 & 4000) (4-Hour Minimum)	$370/HR
Terrestrial Scanner (excluding labor) (4-hr Min)	$200/HR
Mobile LiDAR (excluding labor)	$8,500/day
Helicopter	$2,750/HR
UTV and Trailer (excluding labor)	$200/day
Dump Trailer	$75/day
Boat w/ motor	$1,250/day
Ground Penetrating Radar (Equipment only)	$300/day
Traffic Control Officer	@ Cost + 10%
Traffic Control (Lane Closures, etc.)	To Be Negotiated
Permits (Local, State, etc.)	@ Cost + 10%
Designation, Location & Traffic Control Vehicles	$6.50/Mile

REIMBURSABLE EXPENSES

Consultant or Specialty Contractor (Outside Firm)	@ Cost + 10%
Courier, Special Equipment Rental	@ Cost + 10%
Reasonable Out of Town Travel Expenses (Air, Hotel, Rental, etc.)	@ Cost
Mileage (Standard Car or Truck)	IRS Approved Rate
Per Diem for Out of Town Travel (Per Day/Person)	GSA Standard Rate/Day
Title Plant Charges	@ Cost + 10%
Other Misc. Expenses Related to the Project	@ Cost + 10%

(Continued)

In-House Reproduction:

- Copies (Up to 11" x 17") $0.15/Each
- Color Prints (Up to 11" x 17") $1.50/Each
- Color Prints (Larger than 11" x 17") ..... $3.00/Sq. Ft.
- Bluelines (All Sizes) $1.00/Each
- Bond Prints (All Sizes) $2.00/Each
- Mylar Prints $12.00/Each
- Vellum Prints $9.00/Each

(*) Technology charges added to each billable man-hour.

AI# 13450
Regular City Council Meeting 5. 12.
05/27/2025:

Information

Agenda Item

Resolution - Stormwater Compliance: Consider a resolution authorizing the Mayor to execute License Agreement 18915, with Ashley Benton, regarding certain designated rights-of-way, for the purpose of installation and display of artwork.

Item Summary

To promote the importance of the role of community involvement necessary to keep all water systems within the City clean and free of chemicals, debris, and other harmful pollutants, the City is hosting the 2025 Storm Drain Art Contest. The City received numerous artwork submittals from contestants, and four (4) were selected as winners.

This license agreement is with Ashley Benton, a selected contest winner of the 2025 Storm Drain Art Project, for the installation and display of artwork at a City-designated storm drain in Downtown Lubbock.

The event will take place during the First Friday Art Trail on June 6, 2025, and the public is invited to watch the artist paint live. Additional information about the event can be found on the City's website: https://mylubbock.us/departments/stormwater-compliance/education/storm-drain-art-project

Fiscal Impact

Civic Lubbock, Inc. will provide a stipend of $1,000 to each of the selected winners of the 2025 Storm Drain Art Project. The Best of Show winner will receive a stipend of $1,250.

Staff/Board Recommending

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

Attachments

Resolution 18915
License Agreement 18915

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 License Agreement No. 18915 and related documents regarding certain designated rights of way for installation and display of artwork, by and between the City of Lubbock and Ashley Benton, a selected winner of the 2025 Storm Drain Art Project. 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

RES.LicenseAgrmnt 18917-Stormwater Art Contest ASHLEY BENTON
5.21.25

LICENSE AGREEMENT

THIS LICENSE Agreement No. 18915, entered into this ____ day of _____, 2025, by and between the City of Lubbock, Texas, a Texas Home Rule Municipal Corporation ("City") through its Stormwater Compliance Department, and Ashley Benton ("Licensee").

WITNESSETH

WHEREAS, in an effort to promote the importance of the role of community involvement necessary to keep all water systems within the City clean and free of chemicals, debris, and other harmful pollutants, the City hosted the 2025 Storm Drain Art Contest ("Contest"); and,

WHEREAS, the Licensee submitted artwork for the Contest and said artwork was chosen as a winning entry of the Contest; and,

WHEREAS, as a Contest winner, the Licensee will be installing their selected, winning artwork onto a City-designated storm drain in downtown Lubbock; and,

WHEREAS, the City desires to promote and enhance cultural arts within the City and its cultural arts district downtown, and finds that it is in the public interest and so promotes cultural arts for Licensee to install and display their artwork.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, to be kept and performed by the respective parties, IT IS AGREED AS FOLLOWS:

1. LICENSE GRANTED

In consideration of the mutual covenants and terms of this License, and of other good and valuable consideration, the City hereby grants, upon the terms and conditions set forth in this License, a license to Licensee for the sole purpose of installing and displaying Licensee's selected artwork on a City-designated storm drain in downtown Lubbock. Storm drains and any associated right-of-way with, and around the drains, throughout the City are owned by the City.

The design to be installed by Licensee for the installation of their artwork is depicted in Exhibit "A", attached hereto and incorporated herein. Further, the location of the Licensee's artwork design to be installed at the City-designated storm drain shall be as depicted and described in Exhibit "B", attached hereto and incorporated herein.

2. LICENSE TERM

The term of this license shall be for thirty (30) days beginning on the date of the execution of this

License by the City and ending on the thirtieth (30th) day, unless renewed or terminated sooner as provided in this License (the "Primary Term").

3. OWNERSHIP OF ARTWORK AND INSTALLATION

Any and all original artwork and design selected during the Contest and submitted by Licensee, installation of said artwork and design, and as painted and located on any part of City property shall be considered property of the City, ownership rights of the City include, but are not limited to; a non-exclusive right to the artwork design of Licensee, the installation of the artwork, non-exclusive rights of reproduction, duplication, or distribution, and any and all other non-exclusive rights to Licensee's artwork and design submitted and installed in conjunction with the Contest. All ownership rights granted to the City shall survive the termination of this License.

4. ACCESS

During the term of this License, and any renewals thereof, the City grants the Licensee access to the City-designated storm drain attached hereto as Exhibit "B" for the purpose of installing and painting the selected design attached hereto as Exhibit "A", during the dates of June 2-June 6, 2025. In the event of any inclement weather, emergency, any other act of God, or other unforeseen circumstances not within the control of the City, Licensee and City will coordinate other dates for installation of artwork.

5. CITY-PROVIDED EQUIPMENT

The Licensee agrees that only city-provided paint and equipment depicted on Exhibit "C", attached hereto and incorporated herein, shall be the only paint and equipment used by Licensee for the painting and installation of Licensee's artwork.

6. COMPLIANCE WITH APPLICABLE LAWS

The Licensee 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 License, and any amendments thereto during the course of installing and painting the Licensee's artwork on City property.

7. INDEMNITY AND RELEASE

LICENSEE SHALL INDEMNIFY, RELEASE, 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 LICENSEE, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS LICENSE AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LICENSE.

8. NOTICE

Any notice required or permitted to be given herein must be given in writing and must be personally delivered, delivered by telephone facsimile, or mailed by prepaid certified or registered mail to the party to whom such notice or communication is directed at the address of such party as follows:

Licensee:
Attn: Ashley Benton
7901 Lynnhaven Avenue
Lubbock, TX 79423
Telephone: 806-264-2221
Email: ashleynicolebenton@gmail.com

Any such notice or other communication shall deemed to have been given (whether actually received or not) on the date it is personally delivered or, if mailed, on the third day, after it is mailed. Any party may change its address for purposes of this License by giving notice of such change to all other parties pursuant to this section.

9. ASSIGNABILITY

This license is personal to Licensee. Licensee shall not assign or sublet this license, without the consent of City. Any attempt to assign or sublet this license, without the consent of City, shall terminate the license granted herein.

10. RELATIONSHIP OF THE PARTIES

The relationship between the City and Licensee is at all times solely that of licensor and licensee, and may not be deemed, in any event, a partnership or a joint venture.

11. CONSTRUCTION AND VENUE

THIS LICENSE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS CONTRACT 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 LICENSE OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

12. SEVERABILITY

If any provision of this License 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 License, 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.

13. LICENSES SUPERSEDED

This License constitutes the parties' sole License and supersedes any prior understandings or written or oral agreement between the parties with respect to the subject matter hereof.

14. ENTIRE AGREEMENT

This Contract, including Exhibit "A" through "C" attached hereto, contains the entire agreement between the City and Licensee, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

15. BINDING EFFECT

This License shall inure to the benefit of and be binding upon the parties hereto, their respective successors, heirs, devisees, and assigns.

16. TIME OF ESSENCE

Time is of the essence in this License and all obligations shall be performed in a timely manner.

17. TERMINATION OF LICENSE

License may be terminated for any reason, by the City upon ten (10) days written notice to Licensee.

18. 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.

19. 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.

20. TEXAS GOVERNMENT CODE CHAPTER 2274.

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

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

22. 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.

IN WITNESS WHERE OF, the parties hereto have executed this License the day and year first above written.

EXECUTED and effective as of the date of the execution by the City of Lubbock.

CITY OF LUBBOCK, TEXAS

BY: _____
MARK W. MCBRAYER, MAYOR

BY: _____
Ashley Benton
Contest Winner in the City of Lubbock 2025
Storm Drain Art Contest

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Exhibit A

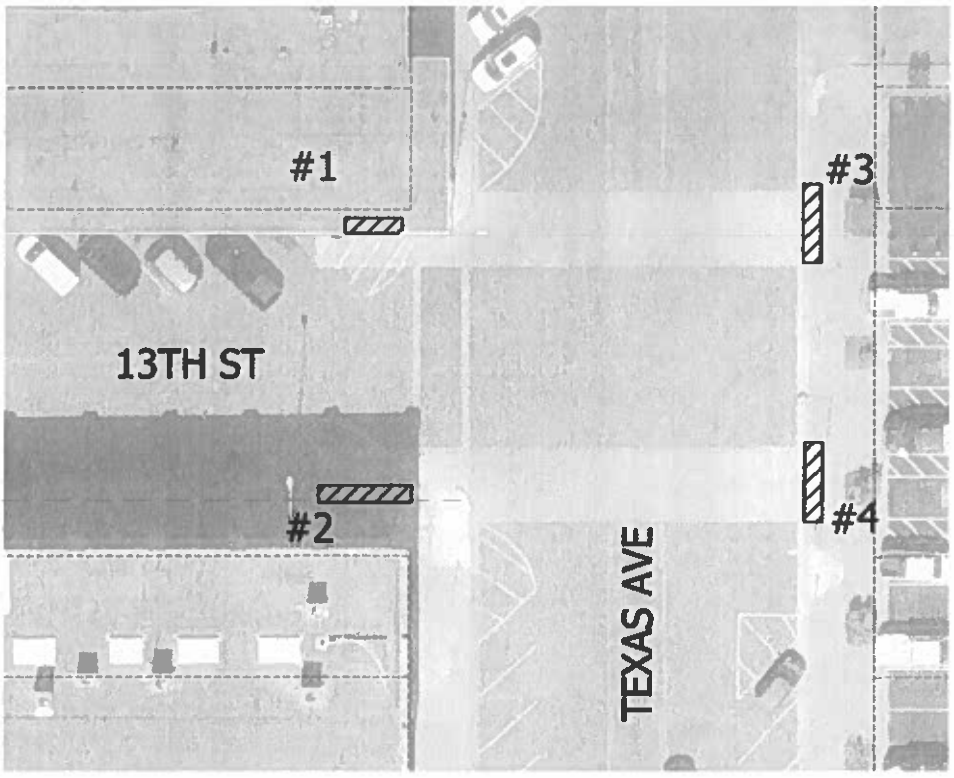
Original submitted design.



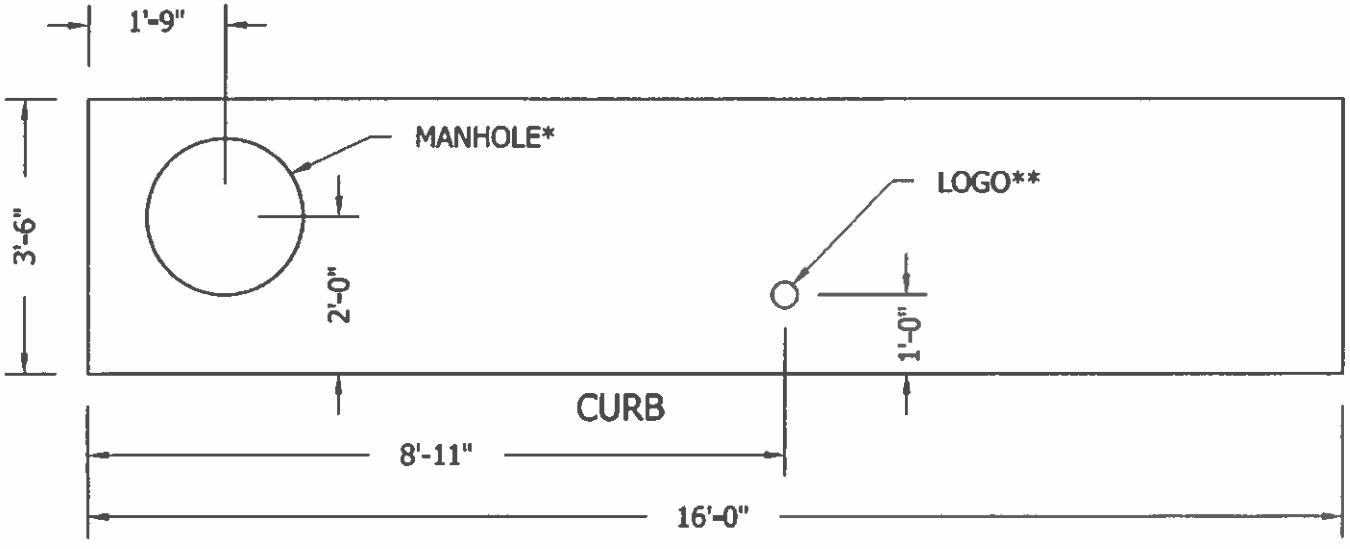
Art redesigned to fit storm drain dimensions.



Exhibit B



TEXAS AVE NORTH #3



* ALL MANHOLES ARE 24" IN DIAMETER
** PLAYA LAKE LOGO IS 4" IN DIAMATER
*** MANHOLE & LOGO DIMENSIONS ARE TO CENTER

Exhibit C

16 - 32oz Mixing Cups
1- Metal Paint Tray
2 - White Paint Tray Liners
1 - Kneeling Pad
1 - Roll of Painter's Tape
1 - Roll of Duct Tape
1 - Press & Seal Box
4 - 9in Paint Rollers
1 - 9in Paint Roller Frame
10 - Small Blue Flat-Tip Brushes
4 - Polyester Angled Brushes
3 - 3in Polyester Brushes
2 - 1in, 2in, 3in, 4in Foam Brushes
3 - 1in Wooden Brushes
2 - 1.5in, 2in, 2.5in, 3in, 4in Wooden Brushes
1 - 12 Count White Crayola Chalk Box
1 - Box of Chalk in Various Colors
1 - Set of 8 Black Charcoal Chalk
1 - Cardboard
1 - Tarp
1 - Empty Jug for Liquid Waste
1 - Small Black Trash Can
50 - Cloth-like Rugs
1 - Yard Stick
1 - Wooden Ruler
1 - Plastic Ruler
1 - Plastic Funnel
16- Painting Sticks (various sizes)
2 - Gallons of Water
1 - Safety Kit (Vest, Goggles, Gloves)
2 - Silicone 1gal Can Spouts
1 - 5gal Bucket with Lid
2 - 1gal Empty Paint Cans with Lids
1 - Paint Can Lid Opener
1 - All Purpose Scissors
1 - Yellow 1gal Paint Can
1 - Blue 1gal Paint Can
1 - Red 1gal Paint Can
2 - White 1gal Paint Cans
2- Black 1gal Paint Cans
1- Paint Primer
1- Paint Sealer


























AI# 13457
Regular City Council Meeting **5. 13.**
05/27/2025:

Information

Agenda Item

Resolution - Stormwater Compliance: Consider a resolution authorizing the Mayor to execute License Agreement #18916, with Edith Sanchez, regarding certain designated rights-of-way, for the purpose of installation and display of artwork.

Item Summary

To promote the importance of the role of community involvement necessary to keep all water systems within the City clean and free of chemicals, debris, and other harmful pollutants, the City is hosting the 2025 Storm Drain Art Contest. The City received numerous artwork submittals from contestants, and four (4) were selected as winners.

This license agreement is with Edith Sanchez, a selected contest winner of the 2025 Storm Drain Art Project, for the installation and display of artwork at a City-designated storm drain in Downtown Lubbock.

The event will take place during the First Friday Art Trail on June 6, 2025, and the public is invited to watch the artist paint live. Additional information about the event can be found on the City's website:
https://mylubbock.us/departments/stormwater-compliance/education/storm-drain-art-project

Fiscal Impact

Civic Lubbock, Inc. will provide a stipend of $1,000 to each of the selected winners of the 2025 Storm Drain Art Project. The Best of Show winner will receive a stipend of $1,250.

Staff/Board Recommending

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

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Attachments

Resolution 18916
License Agreement 18916

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 License Agreement No. 18916 and related documents regarding certain designated rights of way for installation and display of artwork, by and between the City of Lubbock and Edith Sanchez, a selected winner of the 2025 Storm Drain Art Project. 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

RES.LicenseAgrmnt 18916-Stormwater Art Contest EDITH SANCHEZ
5.21.25

LICENSE AGREEMENT

THIS LICENSE Agreement No. 18916, entered into this ____ day of _____, 2025, by and between the City of Lubbock, Texas, a Texas Home Rule Municipal Corporation ("City") through its Stormwater Compliance Department, and Edith Sanchez ("Licensee").

WITNESSETH

WHEREAS, in an effort to promote the importance of the role of community involvement necessary to keep all water systems within the City clean and free of chemicals, debris, and other harmful pollutants, the City hosted the 2025 Storm Drain Art Contest ("Contest"); and,

WHEREAS, the Licensee submitted artwork for the Contest and said artwork was chosen as a winning entry of the Contest; and,

WHEREAS, as a Contest winner, the Licensee will be installing their selected, winning artwork onto a City-designated storm drain in downtown Lubbock; and,

WHEREAS, the City desires to promote and enhance cultural arts within the City and its cultural arts district downtown, and finds that it is in the public interest and so promotes cultural arts for Licensee to install and display their artwork.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, to be kept and performed by the respective parties, IT IS AGREED AS FOLLOWS:

1. LICENSE GRANTED

In consideration of the mutual covenants and terms of this License, and of other good and valuable consideration, the City hereby grants, upon the terms and conditions set forth in this License, a license to Licensee for the sole purpose of installing and displaying Licensee's selected artwork on a City-designated storm drain in downtown Lubbock. Storm drains and any associated right-of-way with, and around the drains, throughout the City are owned by the City.

The design to be installed by Licensee for the installation of their artwork is depicted in Exhibit "A", attached hereto and incorporated herein. Further, the location of the Licensee's artwork design to be installed at the City-designated storm drain shall be as depicted and described in Exhibit "B", attached hereto and incorporated herein.

2. LICENSE TERM

The term of this license shall be for thirty (30) days beginning on the date of the execution of this

License by the City and ending on the thirtieth (30th) day, unless renewed or terminated sooner as provided in this License (the "Primary Term").

3. OWNERSHIP OF ARTWORK AND INSTALLATION

Any and all original artwork and design selected during the Contest and submitted by Licensee, installation of said artwork and design, and as painted and located on any part of City property shall be considered property of the City, ownership rights of the City include, but are not limited to; a non-exclusive right to the artwork design of Licensee, the installation of the artwork, non-exclusive rights of reproduction, duplication, or distribution, and any and all other non-exclusive rights to Licensee's artwork and design submitted and installed in conjunction with the Contest. All ownership rights granted to the City shall survive the termination of this License.

4. ACCESS

During the term of this License, and any renewals thereof, the City grants the Licensee access to the City-designated storm drain attached hereto as Exhibit "B" for the purpose of installing and painting the selected design attached hereto as Exhibit "A", during the dates of June 2-June 6, 2025. In the event of any inclement weather, emergency, any other act of God, or other unforeseen circumstances not within the control of the City, Licensee and City will coordinate other dates for installation of artwork.

5. CITY-PROVIDED EQUIPMENT

The Licensee agrees that only city-provided paint and equipment depicted on Exhibit "C", attached hereto and incorporated herein, shall be the only paint and equipment used by Licensee for the painting and installation of Licensee's artwork.

6. COMPLIANCE WITH APPLICABLE LAWS

The Licensee 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 License, and any amendments thereto during the course of installing and painting the Licensee's artwork on City property.

7. INDEMNITY AND RELEASE

LICENSEE SHALL INDEMNIFY, RELEASE, 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 LICENSEE, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS LICENSE AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LICENSE.

8. NOTICE

Any notice required or permitted to be given herein must be given in writing and must be personally delivered, delivered by telephone facsimile, or mailed by prepaid certified or registered mail to the party to whom such notice or communication is directed at the address of such party as follows:

Licensee:
Attn: Edith Sanchez
1629 74th Street, B
Lubbock, TX 79423
Telephone: 806-632-8168
Email: edith356@gmail.com

Any such notice or other communication shall deemed to have been given (whether actually received or not) on the date it is personally delivered or, if mailed, on the third day, after it is mailed. Any party may change its address for purposes of this License by giving notice of such change to all other parties pursuant to this section.

9. ASSIGNABILITY

This license is personal to Licensee. Licensee shall not assign or sublet this license, without the consent of City. Any attempt to assign or sublet this license, without the consent of City, shall terminate the license granted herein.

10. RELATIONSHIP OF THE PARTIES

The relationship between the City and Licensee is at all times solely that of licensor and licensee, and may not be deemed, in any event, a partnership or a joint venture.

11. CONSTRUCTION AND VENUE

THIS LICENSE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS CONTRACT 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 LICENSE OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

12. SEVERABILITY

If any provision of this License 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 License, 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.

13. LICENSES SUPERSEDED

This License constitutes the parties' sole License and supersedes any prior understandings or written or oral agreement between the parties with respect to the subject matter hereof.

14. ENTIRE AGREEMENT

This Contract, including Exhibit "A" through "C" attached hereto, contains the entire agreement between the City and Licensee, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

15. BINDING EFFECT

This License shall inure to the benefit of and be binding upon the parties hereto, their respective successors, heirs, devisees, and assigns.

16. TIME OF ESSENCE

Time is of the essence in this License and all obligations shall be performed in a timely manner.

17. TERMINATION OF LICENSE

License may be terminated for any reason, by the City upon ten (10) days written notice to Licensee.

18. 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.

19. 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.

20. TEXAS GOVERNMENT CODE CHAPTER 2274.

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

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

22. 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.

IN WITNESS WHERE OF, the parties hereto have executed this License the day and year first above written.

EXECUTED and effective as of the date of the execution by the City of Lubbock.

CITY OF LUBBOCK, TEXAS

BY: _____
MARK W. MCBRAYER, MAYOR

BY: _____
Edith Sanchez
Contest Winner in the City of Lubbock 2025
Storm Drain Art Contest

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Exhibit A

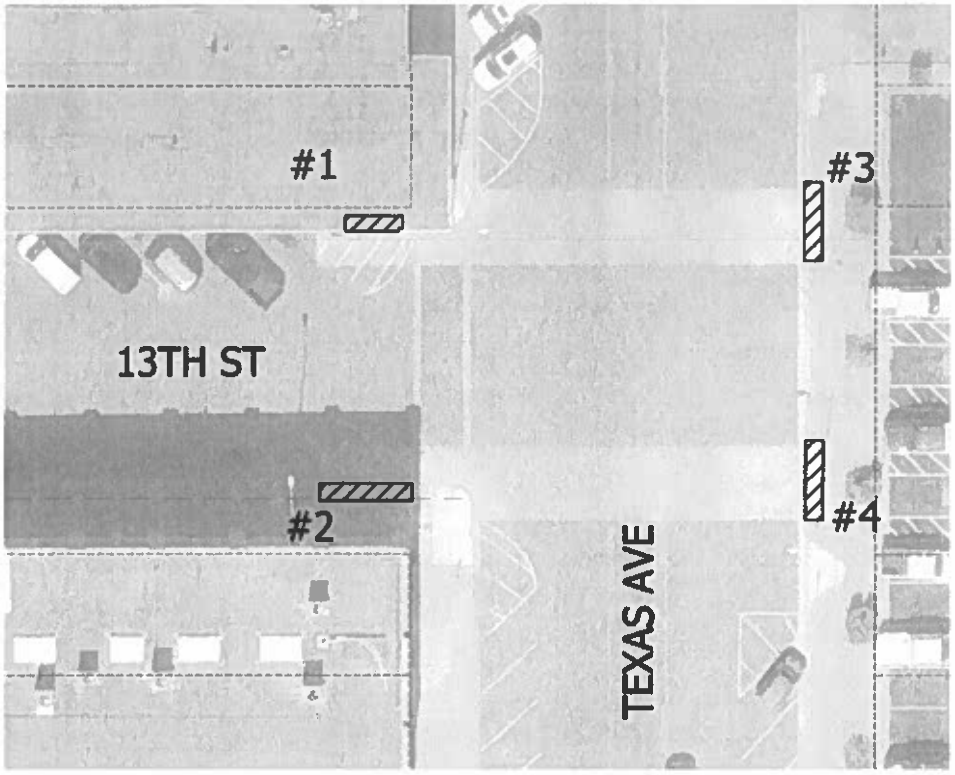
Original submitted design.

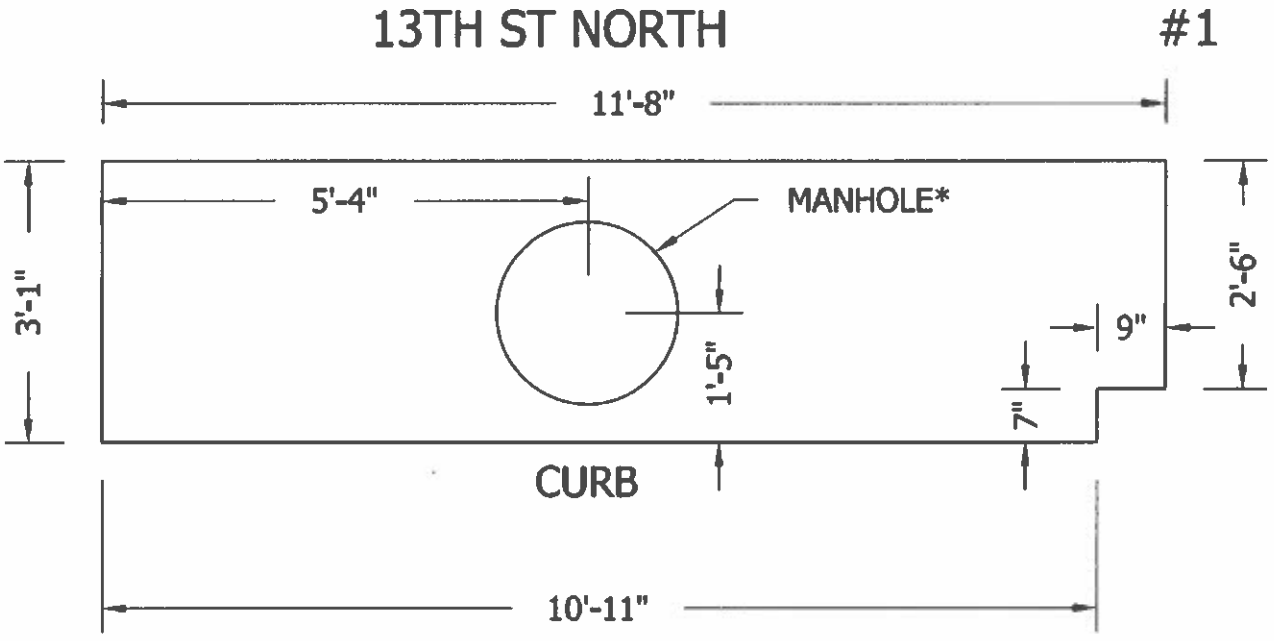


Art redesigned to fit storm drain dimensions.



Exhibit B





* ALL MANHOLES ARE 24" IN DIAMETER

*** MANHOLE & LOGO DIMENSIONS ARE TO CENTER

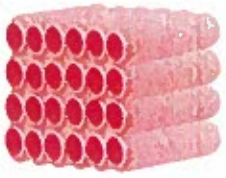
Exhibit C

16 - 32oz Mixing Cups
1- Metal Paint Tray
2 - White Paint Tray Liners
1 - Kneeling Pad
1 - Roll of Painter's Tape
1 - Roll of Duct Tape
1 - Press & Seal Box
4 - 9in Paint Rollers
1 - 9in Paint Roller Frame
10 - Small Blue Flat-Tip Brushes
4 - Polyester Angled Brushes
3 - 3in Polyester Brushes
2 - 1in, 2in, 3in, 4in Foam Brushes
3 - 1in Wooden Brushes
2 - 1.5in, 2in, 2.5in, 3in, 4in Wooden Brushes
1 - 12 Count White Crayola Chalk Box
1 - Box of Chalk in Various Colors
1 - Set of 8 Black Charcoal Chalk
1 - Cardboard
1 - Tarp
1 - Empty Jug for Liquid Waste
1 - Small Black Trash Can
50 - Cloth-like Rugs
1 - Yard Stick
1 - Wooden Ruler
1 - Plastic Ruler
1 - Plastic Funnel
16- Painting Sticks (various sizes)
2 - Gallons of Water
1 - Safety Kit (Vest, Goggles, Gloves)
2 - Silicone 1gal Can Spouts
1 - 5gal Bucket with Lid
2 - 1gal Empty Paint Cans with Lids
1 - Paint Can Lid Opener
1 - All Purpose Scissors
1 - Yellow 1gal Paint Can
1 - Blue 1gal Paint Can
1 - Red 1gal Paint Can
2 - White 1gal Paint Cans
2- Black 1gal Paint Cans
1- Paint Primer
1- Paint Sealer























AI# 13459
Regular City Council Meeting **5. 14.**
05/27/2025:

Information

Agenda Item

Resolution - Stormwater Compliance: Consider a resolution authorizing the Mayor to execute License Agreement #18917, with Willis Bagley, regarding certain designated rights-of-way, for the purpose of installation and display of artwork.

Item Summary

To promote the importance of the role of community involvement necessary to keep all water systems within the City clean and free of chemicals, debris, and other harmful pollutants, the City is hosting the 2025 Storm Drain Art Contest. The City received numerous artwork submittals from contestants, and four (4) were selected as winners.

This license agreement is with Willis Bagley, a selected contest winner of the 2025 Storm Drain Art Project, for the installation and display of artwork at a City-designated storm drain in Downtown Lubbock.

The event will take place during the First Friday Art Trail on June 6, 2025, and the public is invited to watch the artist paint live. Additional information about the event can be found on the City's website:
https://mylubbock.us/departments/stormwater-compliance/education/storm-drain-art-project

Fiscal Impact

Civic Lubbock, Inc. will provide a stipend of $1,000 to each of the selected winners of the 2025 Storm Drain Art Project. The Best of Show winner will receive a stipend of $1,250.

Staff/Board Recommending

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

Attachments

Resolution 18917
License Agreement 18917

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 License Agreement No. 18917 and related documents regarding certain designated rights of way for installation and display of artwork, by and between the City of Lubbock and Willis Bagley, a selected winner of the 2025 Storm Drain Art Project. 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

RES.LicenseAgrmnt 18917-Stormwater Art Contest WILLIS BAGLEY
5.21.25

LICENSE AGREEMENT

THIS LICENSE Agreement No. 18917, entered into this ____ day of _____, 2025, by and between the City of Lubbock, Texas, a Texas Home Rule Municipal Corporation ("City") through its Stormwater Compliance Department, and Willis Bagley ("Licensee").

WITNESSETH

WHEREAS, in an effort to promote the importance of the role of community involvement necessary to keep all water systems within the City clean and free of chemicals, debris, and other harmful pollutants, the City hosted the 2025 Storm Drain Art Contest ("Contest"); and,

WHEREAS, the Licensee submitted artwork for the Contest and said artwork was chosen as a winning entry of the Contest; and,

WHEREAS, as a Contest winner, the Licensee will be installing their selected, winning artwork onto a City-designated storm drain in downtown Lubbock; and,

WHEREAS, the City desires to promote and enhance cultural arts within the City and its cultural arts district downtown, and finds that it is in the public interest and so promotes cultural arts for Licensee to install and display their artwork.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, to be kept and performed by the respective parties, IT IS AGREED AS FOLLOWS:

1. LICENSE GRANTED

In consideration of the mutual covenants and terms of this License, and of other good and valuable consideration, the City hereby grants, upon the terms and conditions set forth in this License, a license to Licensee for the sole purpose of installing and displaying Licensee's selected artwork on a City-designated storm drain in downtown Lubbock. Storm drains and any associated right-of-way with, and around the drains, throughout the City are owned by the City.

The design to be installed by Licensee for the installation of their artwork is depicted in Exhibit "A", attached hereto and incorporated herein. Further, the location of the Licensee's artwork design to be installed at the City-designated storm drain shall be as depicted and described in Exhibit "B", attached hereto and incorporated herein.

2. LICENSE TERM

The term of this license shall be for thirty (30) days beginning on the date of the execution of this

License by the City and ending on the thirtieth (30th) day, unless renewed or terminated sooner as provided in this License (the "Primary Term").

3. OWNERSHIP OF ARTWORK AND INSTALLATION

Any and all original artwork and design selected during the Contest and submitted by Licensee, installation of said artwork and design, and as painted and located on any part of City property shall be considered property of the City, ownership rights of the City include, but are not limited to; a non-exclusive right to the artwork design of Licensee, the installation of the artwork, non-exclusive rights of reproduction, duplication, or distribution, and any and all other non-exclusive rights to Licensee's artwork and design submitted and installed in conjunction with the Contest. All ownership rights granted to the City shall survive the termination of this License.

4. ACCESS

During the term of this License, and any renewals thereof, the City grants the Licensee access to the City-designated storm drain attached hereto as Exhibit "B" for the purpose of installing and painting the selected design attached hereto as Exhibit "A", during the dates of June 2-June 6, 2025. In the event of any inclement weather, emergency, any other act of God, or other unforeseen circumstances not within the control of the City, Licensee and City will coordinate other dates for installation of artwork.

5. CITY-PROVIDED EQUIPMENT

The Licensee agrees that only city-provided paint and equipment depicted on Exhibit "C", attached hereto and incorporated herein, shall be the only paint and equipment used by Licensee for the painting and installation of Licensee's artwork.

6. COMPLIANCE WITH APPLICABLE LAWS

The Licensee 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 License, and any amendments thereto during the course of installing and painting the Licensee's artwork on City property.

7. INDEMNITY AND RELEASE

LICENSEE SHALL INDEMNIFY, RELEASE, 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 LICENSEE, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS LICENSE AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LICENSE.

8. NOTICE

Any notice required or permitted to be given herein must be given in writing and must be personally delivered, delivered by telephone facsimile, or mailed by prepaid certified or registered mail to the party to whom such notice or communication is directed at the address of such party as follows:

Licensee:
Attn: Willis Bagley
4207 East 61st Street
Lubbock, TX 79403
Telephone: 806-252-3007
Email: willis.bagley@yahoo.com

Any such notice or other communication shall deemed to have been given (whether actually received or not) on the date it is personally delivered or, if mailed, on the third day, after it is mailed. Any party may change its address for purposes of this License by giving notice of such change to all other parties pursuant to this section.

9. ASSIGNABILITY

This license is personal to Licensee. Licensee shall not assign or sublet this license, without the consent of City. Any attempt to assign or sublet this license, without the consent of City, shall terminate the license granted herein.

10. RELATIONSHIP OF THE PARTIES

The relationship between the City and Licensee is at all times solely that of licensor and licensee, and may not be deemed, in any event, a partnership or a joint venture.

11. CONSTRUCTION AND VENUE

THIS LICENSE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS CONTRACT 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 LICENSE OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

12. SEVERABILITY

If any provision of this License 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 License, 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.

13. LICENSES SUPERSEDED

This License constitutes the parties' sole License and supersedes any prior understandings or written or oral agreement between the parties with respect to the subject matter hereof.

14. ENTIRE AGREEMENT

This Contract, including Exhibit "A" through "C" attached hereto, contains the entire agreement between the City and Licensee, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

15. BINDING EFFECT

This License shall inure to the benefit of and be binding upon the parties hereto, their respective successors, heirs, devisees, and assigns.

16. TIME OF ESSENCE

Time is of the essence in this License and all obligations shall be performed in a timely manner.

17. TERMINATION OF LICENSE

License may be terminated for any reason, by the City upon ten (10) days written notice to Licensee.

18. 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.

19. 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.

20. TEXAS GOVERNMENT CODE CHAPTER 2274.

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

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

22. 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.

IN WITNESS WHERE OF, the parties hereto have executed this License the day and year first above written.

EXECUTED and effective as of the date of the execution by the City of Lubbock.

CITY OF LUBBOCK, TEXAS

BY: _____
MARK W. MCBRAYER, MAYOR

BY: _____
Willis Bagley
Contest Winner in the City of Lubbock 2025
Storm Drain Art Contest

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Exhibit A

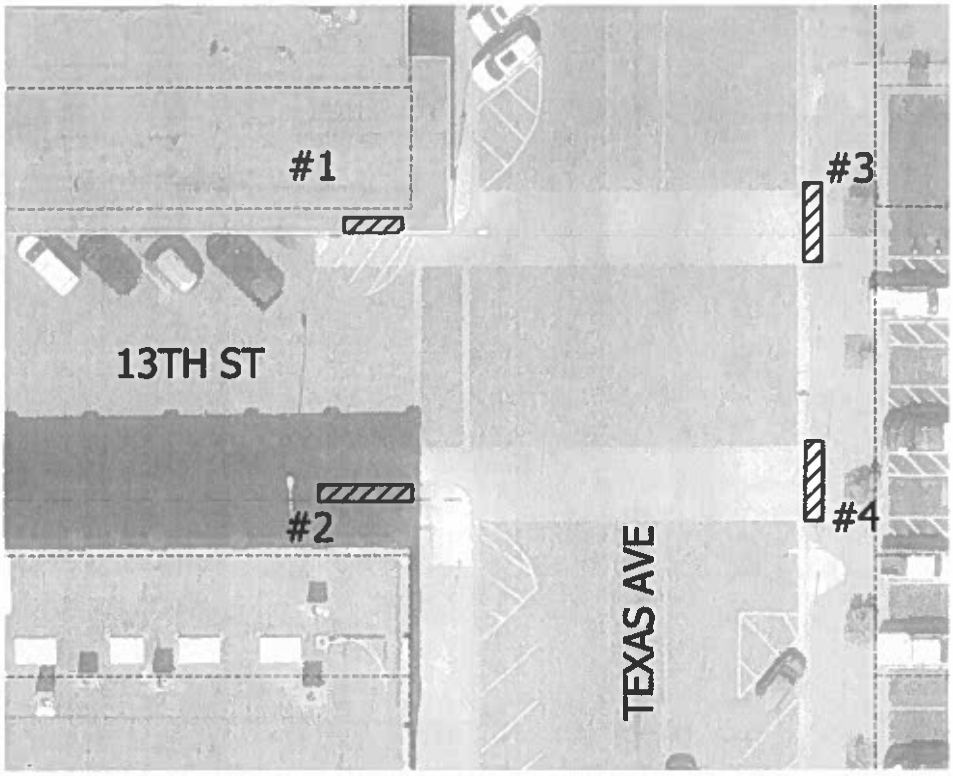
Original submitted design.



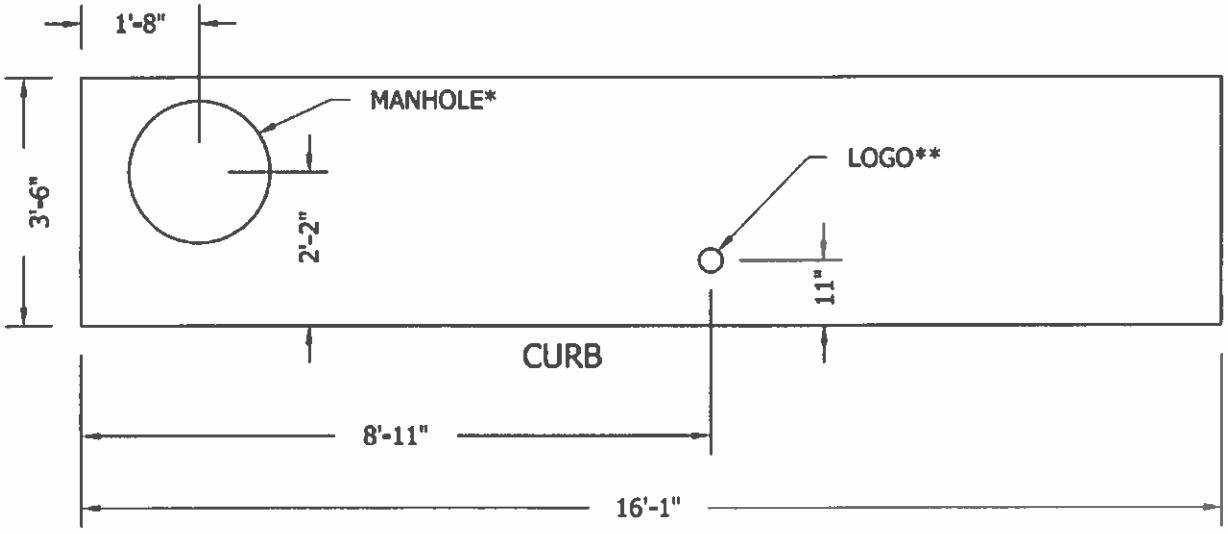
Art redesigned to fit storm drain dimensions.



Exhibit B



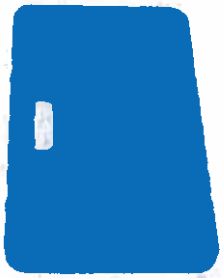
TEXAS AVE SOUTH #4



* ALL MANHOLES ARE 24" IN DIAMETER
** PLAYA LAKE LOGO IS 4" IN DIAMATER
*** MANHOLE & LOGO DIMENSIONS ARE TO CENTER

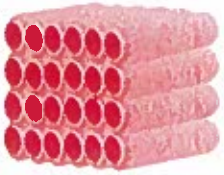
Exhibit C

16 - 32oz Mixing Cups
1- Metal Paint Tray
2 - White Paint Tray Liners
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3 - 3in Polyester Brushes
2 - 1in, 2in, 3in, 4in Foam Brushes
3 - 1in Wooden Brushes
2 - 1.5in, 2in, 2.5in, 3in, 4in Wooden Brushes
1 - 12 Count White Crayola Chalk Box
1 - Box of Chalk in Various Colors
1 - Set of 8 Black Charcoal Chalk
1 - Cardboard
1 - Tarp
1 - Empty Jug for Liquid Waste
1 - Small Black Trash Can
50 - Cloth-like Rugs
1 - Yard Stick
1 - Wooden Ruler
1 - Plastic Ruler
1 - Plastic Funnel
16- Painting Sticks (various sizes)
2 - Gallons of Water
1 - Safety Kit (Vest, Goggles, Gloves)
2 - Silicone 1gal Can Spouts
1 - 5gal Bucket with Lid
2 - 1gal Empty Paint Cans with Lids
1 - Paint Can Lid Opener
1 - All Purpose Scissors
1 - Yellow 1gal Paint Can
1 - Blue 1gal Paint Can
1 - Red 1gal Paint Can
2 - White 1gal Paint Cans
2- Black 1gal Paint Cans
1- Paint Primer
1- Paint Sealer























AI# 13458
Regular City Council Meeting **5. 15.**
05/27/2025:

Information

Agenda Item

Resolution - Stormwater Compliance: Consider a resolution authorizing the Mayor to execute License Agreement #18914, with Michelle Guerra, regarding certain designated rights-of-way, for the purpose of installation and display of artwork.

Item Summary

To promote the importance of the role of community involvement necessary to keep all water systems within the City clean and free of chemicals, debris, and other harmful pollutants, the City is hosting the 2025 Storm Drain Art Contest. The City received numerous artwork submittals from contestants, and four (4) were selected as winners.

This license agreement is with Michelle Guerra, a selected contest winner of the 2025 Storm Drain Art Project, for the installation and display of artwork at a City-designated storm drain in Downtown Lubbock.

The event will take place during the First Friday Art Trail on June 6, 2025, and the public is invited to watch the artist paint live. Additional information about the event can be found on the City's website:
https://mylubbock.us/departments/stormwater-compliance/education/storm-drain-art-project.

Fiscal Impact

Civic Lubbock, Inc. will provide a stipend of $1,000 to each of the selected winners of the 2025 Storm Drain Art Project. The Best of Show winner will receive a stipend of $1,250.

Staff/Board Recommending

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

Attachments

Resolution 18914
License Agmt. - Michelle Guerra

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 License Agreement No. 18914 and related documents regarding certain designated rights of way for installation and display of artwork, by and between the City of Lubbock and Michelle Guerra, a selected winner of the 2025 Storm Drain Art Project. 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

RES.LicenseAgrmnt 18917-Stormwater Art Contest MICHELLE GUERRA
5.21.25

LICENSE AGREEMENT

THIS LICENSE Agreement No. 18914, entered into this ____ day of _____, 2025, by and between the City of Lubbock, Texas, a Texas Home Rule Municipal Corporation ("City") through its Stormwater Compliance Department, and Michelle Guerra ("Licensee").

WITNESSETH

WHEREAS, in an effort to promote the importance of the role of community involvement necessary to keep all water systems within the City clean and free of chemicals, debris, and other harmful pollutants, the City hosted the 2025 Storm Drain Art Contest ("Contest"); and,

WHEREAS, the Licensee submitted artwork for the Contest and said artwork was chosen as a winning entry of the Contest; and,

WHEREAS, as a Contest winner, the Licensee will be installing their selected, winning artwork onto a City-designated storm drain in downtown Lubbock; and,

WHEREAS, the City desires to promote and enhance cultural arts within the City and its cultural arts district downtown, and finds that it is in the public interest and so promotes cultural arts for Licensee to install and display their artwork.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, to be kept and performed by the respective parties, IT IS AGREED AS FOLLOWS:

1. LICENSE GRANTED

In consideration of the mutual covenants and terms of this License, and of other good and valuable consideration, the City hereby grants, upon the terms and conditions set forth in this License, a license to Licensee for the sole purpose of installing and displaying Licensee's selected artwork on a City-designated storm drain in downtown Lubbock. Storm drains and any associated right-of-way with, and around the drains, throughout the City are owned by the City.

The design to be installed by Licensee for the installation of their artwork is depicted in Exhibit "A", attached hereto and incorporated herein. Further, the location of the Licensee's artwork design to be installed at the City-designated storm drain shall be as depicted and described in Exhibit "B", attached hereto and incorporated herein.

2. LICENSE TERM

The term of this license shall be for thirty (30) days beginning on the date of the execution of this

License by the City and ending on the thirtieth (30th) day, unless renewed or terminated sooner as provided in this License (the "Primary Term").

3. OWNERSHIP OF ARTWORK AND INSTALLATION

Any and all original artwork and design selected during the Contest and submitted by Licensee, installation of said artwork and design, and as painted and located on any part of City property shall be considered property of the City, ownership rights of the City include, but are not limited to; a non-exclusive right to the artwork design of Licensee, the installation of the artwork, non-exclusive rights of reproduction, duplication, or distribution, and any and all other non-exclusive rights to Licensee's artwork and design submitted and installed in conjunction with the Contest. All ownership rights granted to the City shall survive the termination of this License.

4. ACCESS

During the term of this License, and any renewals thereof, the City grants the Licensee access to the City-designated storm drain attached hereto as Exhibit "B" for the purpose of installing and painting the selected design attached hereto as Exhibit "A", during the dates of June 2-June 6, 2025. In the event of any inclement weather, emergency, any other act of God, or other unforeseen circumstances not within the control of the City, Licensee and City will coordinate other dates for installation of artwork.

5. CITY-PROVIDED EQUIPMENT

The Licensee agrees that only city-provided paint and equipment depicted on Exhibit "C", attached hereto and incorporated herein, shall be the only paint and equipment used by Licensee for the painting and installation of Licensee's artwork.

6. COMPLIANCE WITH APPLICABLE LAWS

The Licensee 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 License, and any amendments thereto during the course of installing and painting the Licensee's artwork on City property.

7. INDEMNITY AND RELEASE

LICENSEE SHALL INDEMNIFY, RELEASE, 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 LICENSEE, RELATED TO THE PERFORMANCE, OPERATIONS OR OMISSIONS UNDER THIS LICENSE AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS LICENSE.

8. NOTICE

Any notice required or permitted to be given herein must be given in writing and must be personally delivered, delivered by telephone facsimile, or mailed by prepaid certified or registered mail to the party to whom such notice or communication is directed at the address of such party as follows:

Licensee:
Attn: Michelle Guerra
6006 102nd Street
Lubbock, TX 79424
Telephone: 806-632-2332
Email: mguerra@allsaintsschool.org

Any such notice or other communication shall deemed to have been given (whether actually received or not) on the date it is personally delivered or, if mailed, on the third day, after it is mailed. Any party may change its address for purposes of this License by giving notice of such change to all other parties pursuant to this section.

9. ASSIGNABILITY

This license is personal to Licensee. Licensee shall not assign or sublet this license, without the consent of City. Any attempt to assign or sublet this license, without the consent of City, shall terminate the license granted herein.

10. RELATIONSHIP OF THE PARTIES

The relationship between the City and Licensee is at all times solely that of licensor and licensee, and may not be deemed, in any event, a partnership or a joint venture.

11. CONSTRUCTION AND VENUE

THIS LICENSE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS CONTRACT 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 LICENSE OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

12. SEVERABILITY

If any provision of this License 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 License, 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.

13. LICENSES SUPERSEDED

This License constitutes the parties' sole License and supersedes any prior understandings or written or oral agreement between the parties with respect to the subject matter hereof.

14. ENTIRE AGREEMENT

This Contract, including Exhibit "A" through "C" attached hereto, contains the entire agreement between the City and Licensee, and there are no other written or oral promises, conditions, warranties, or representations relating to or affecting the matters contemplated herein.

15. BINDING EFFECT

This License shall inure to the benefit of and be binding upon the parties hereto, their respective successors, heirs, devisees, and assigns.

16. TIME OF ESSENCE

Time is of the essence in this License and all obligations shall be performed in a timely manner.

17. TERMINATION OF LICENSE

License may be terminated for any reason, by the City upon ten (10) days written notice to Licensee.

18. 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.

19. 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.

20. TEXAS GOVERNMENT CODE CHAPTER 2274.

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

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

22. 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.

IN WITNESS WHERE OF, the parties hereto have executed this License the day and year first above written.

EXECUTED and effective as of the date of the execution by the City of Lubbock.

CITY OF LUBBOCK, TEXAS

BY: _____
MARK W. MCBRAYER, MAYOR

BY: Michelle Guerra
Michelle Guerra
Contest Winner in the City of Lubbock 2025
Storm Drain Art Contest

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Exhibit A

Original submitted design.



Art redesigned to fit storm drain dimensions.

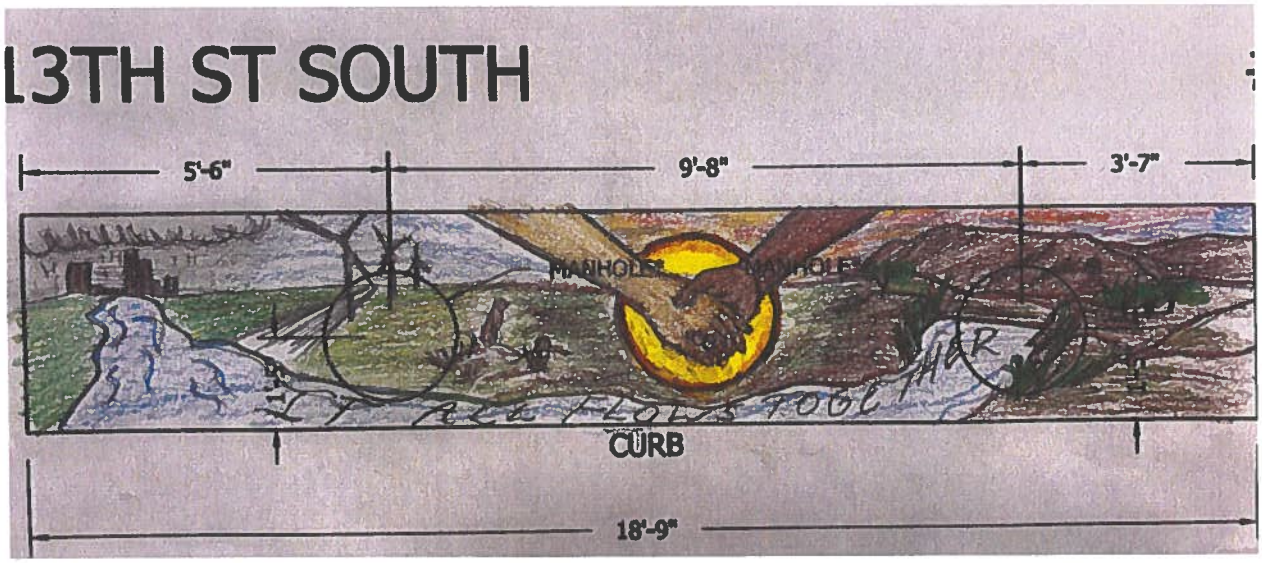
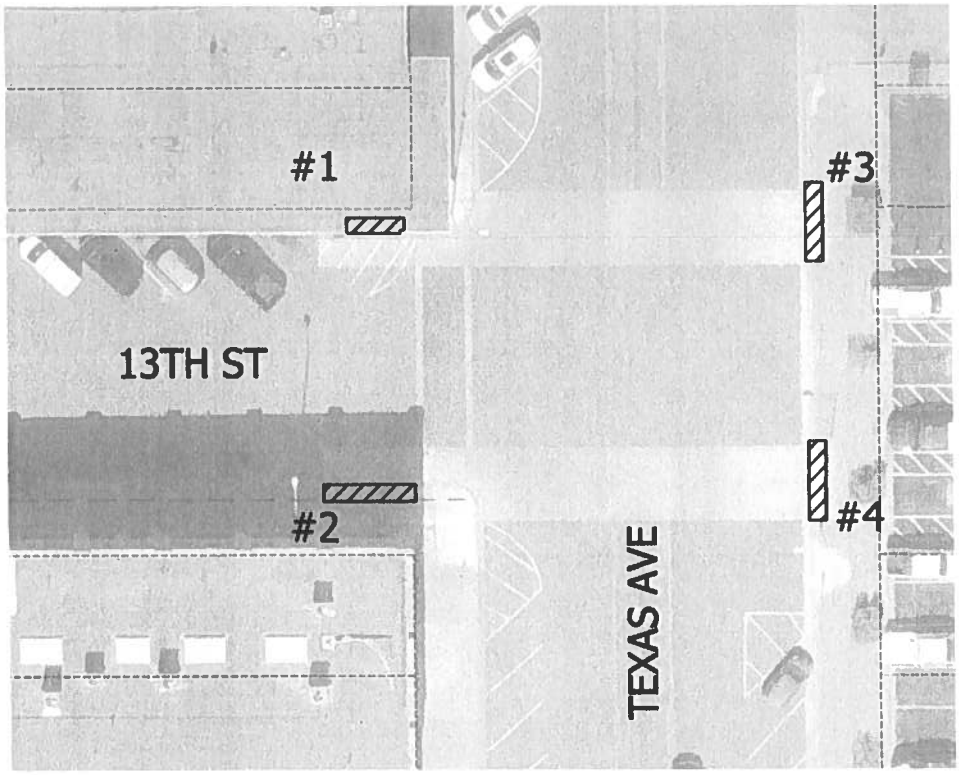
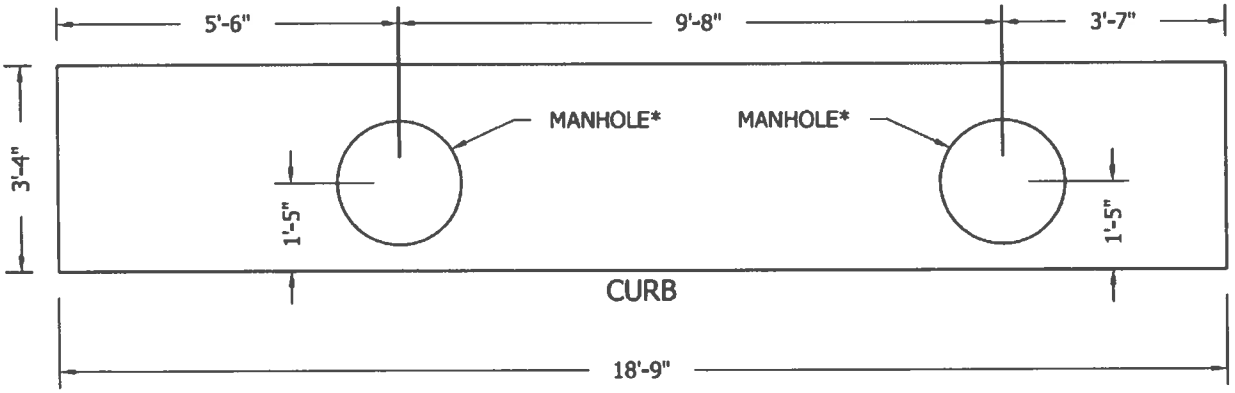


Exhibit B



13TH ST SOUTH #2



* ALL MANHOLES ARE 24" IN DIAMETER

*** MANHOLE & LOGO DIMENSIONS ARE TO CENTER

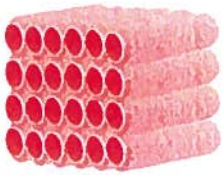
Exhibit C

16 - 32oz Mixing Cups
1- Metal Paint Tray
2 - White Paint Tray Liners
1 - Kneeling Pad
1 - Roll of Painter's Tape
1 - Roll of Duct Tape
1 - Press & Seal Box
4 - 9in Paint Rollers
1 - 9in Paint Roller Frame
10 - Small Blue Flat-Tip Brushes
4 - Polyester Angled Brushes
3 - 3in Polyester Brushes
2 - 1in, 2in, 3in, 4in Foam Brushes
3 - 1in Wooden Brushes
2 - 1.5in, 2in, 2.5in, 3in, 4in Wooden Brushes
1 - 12 Count White Crayola Chalk Box
1 - Box of Chalk in Various Colors
1 - Set of 8 Black Charcoal Chalk
1 - Cardboard
1 - Tarp
1 - Empty Jug for Liquid Waste
1 - Small Black Trash Can
50 - Cloth-like Rugs
1 - Yard Stick
1 - Wooden Ruler
1 - Plastic Ruler
1 - Plastic Funnel
16- Painting Sticks (various sizes)
2 - Gallons of Water
1 - Safety Kit (Vest, Goggles, Gloves)
2 - Silicone 1gal Can Spouts
1 - 5gal Bucket with Lid
2 - 1gal Empty Paint Cans with Lids
1 - Paint Can Lid Opener
1 - All Purpose Scissors
1 - Yellow 1gal Paint Can
1 - Blue 1gal Paint Can
1 - Red 1gal Paint Can
2 - White 1gal Paint Cans
2- Black 1gal Paint Cans
1- Paint Primer
1- Paint Sealer























AI# 13408
Regular City Council Meeting 5. 16.
05/27/2025:

Information

Agenda Item

Ordinance 2nd Reading - Planning: Consider Ordinance No. 2025-O0062, for a request for annexation, from Nicolett Land Company, LLC, to annex an area of approximately 121.80 acres, adjacent to the southwestern city limits of the City of Lubbock, south of 130th Street (Loop 88) and west of Milwaukee Avenue, into Lubbock's corporate limits.

Item Summary

On April 22, 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 owner.

On May 13, 2025, a public hearing was held, and the City Council voted unanimously to approve the first reading of the ordinance, annexing approximately 121.80 acres, adjacent to the southwestern city limits of the City of Lubbock, south of 130th Street (Loop 88) and west of Milwaukee 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 - Loop 88 & Milwaukee
Municipal Services Agreement - Loop 88 & Milwaukee
Petition - Loop 88 & Milwaukee
Map - Loop 88 & Milwaukee

ORDINANCE NO. _____

AN ORDINANCE: ANNEXING INTO THE CITY OF LUBBOCK, TEXAS OF AN AREA GENERALLY DESCRIBED AS APPROXIMATELY 121.80 ACRES SOUTH OF 130TH STREET AND WEST OF MILWAUKEE AVENUE, LOCATED 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 121.80 acres south of 130th Street and west of Milwaukee Avenue, located 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 April 22, 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 Nicolett Land Co.
4.22.25

Resolution No. 2025-R0208
Item No. 7.6
April 22, 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 and the Nicolett Land Company, 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 April 22, 2025.

MARK W. MCBRAYER, MAYOR

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

for
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

for
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.Municipal services agrmt – Nicolett Land Co.
4.10.25

MUNICIPAL SERVICES AGREEMENT

BETWEEN THE CITY OF LUBBOCK, TEXAS

AND THE NICOLETT LAND COMPANY, LLC

This Municipal Services Agreement ("Agreement") is entered into on 22nd day of April, 2025 by and between the City of Lubbock, Texas, a home-rule municipality of the State of Texas, ("City") and the Nicolett Land Company, LLC ("Owner"), collectively referred to as ("Parties").

RECITALS

The Parties agree that the following recitals are true and correct and form the basis upon which the Parties have entered into this Agreement.

WHEREAS, 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 Owner owns a certain parcel of land situated in Lubbock County, Texas which consists of approximately 121.8 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, Owner has 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 Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, the annexation and execution of this Agreement are subject to approval by the Lubbock City Council; and

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, the City and the Owner agree as follows:

1. **PROPERTY**. This Agreement is only applicable to the Property, which is the subject of the annexation.

2. **INTENT**. It is the intent of the City that this Agreement provide for the delivery of full, available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.

3. **MUNICIPAL SERVICES PLAN**

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. 19, located at 5826 98th Street, Fire Station No. 16, located at 4030 114th Street, and Station No. 15, located at 8002 Venita Avenue. Station No. 19 is approximately 2.9 miles from the proposed annexation with an approximate response time of 4 minutes. Station No. 16 is approximately 4.2 miles from the proposed annexation with an approximate response time of 7 minutes. Station 15 is approximately 4.4 miles from the proposed annexation with an approximate response time of 9 minutes. Although fire suppression activities can generally be afforded to the annexed area within current appropriation and within response standards described in NFPA 1710, the ability to meet the standard is marginal at this location. As this area is developed, an additional fire station to service this area will need to be considered. 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. 19, located at 5826 98th Street, Fire Station No. 16, located at 4030 114th Street, and Station No. 15, located at 8002 Venita Avenue. Station No. 19 is approximately 2.9 miles from the proposed annexation with an approximate response time of 4 minutes. Station No. 16 is approximately 4.2 miles from the proposed annexation with an approximate response time of 7 minutes. Station 15 is approximately 4.4 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 South Patrol Division, with secondary services provided by the North 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 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. 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 construct two-lanes of Milwaukee Avenue from 130th Street/Loop 88 to the existing paving in Windsor Park. The pavement shall be built to City arterial standards.

The current Master Thoroughfare Plan classifies Quincy Avenue and CR7440/138th Street as Collectors. The Developer is responsible for the design and construction of the Collectors per City of Lubbock engineering standards and the UDC requirements. All pavement design plans shall follow City Ordinances and Policies and be submitted to the City of Lubbock Engineering department for review and approval prior to construction. Roadway design, right-of-way acquisition, and construction will be at the expense of the Developer.

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*: Water and sewer infrastructure is not currently adjacent to this area within the existing City Limits. Availability of water and sewer is at the request and expense of the user, and shall be provided within current policies and ordinances of the City (note below for an explanation of pro-rata charges). Water and sewer for domestic and commercial use, when installed, will be available at approved City rates. Water for fire protection will be available through lines only after service lines are installed by the developer.

Pro-Rata Charges:
Chapter 22, City Code establishes the charges or the actual cost of construction due on all property to which water and/or sewer lines are extended. The charge is generally known as "pro-rata" and is due and payable before service is provided. The pro-rata charge represents a portion of the costs of providing water and/or sewer facilities to serve the property on which the pro-rata is paid. When a person desires water and/or sewer service to property that requires an extension of existing facilities to provide service adjacent to the property or when the service connection will be made

to a line constructed after April 1, 1952, the person desiring service shall pay non-refundable charge called pro-rata. When an extension of water/sewer facilities exceeds the above costs, the person(s) desiring service shall pay the entire cost and later be refunded that amount above pro-rata when other persons tie onto service and pay their pro-rata. Article 22.05 specifies other items including:

A. Pro-rata on property already platted, and extension of services;
B. Pro-rata and extensions to property being platted;
C. Sizes of lines and meter sizes;
D. Location for service connection;
E. Deposits, charges, refunds;
F. Cost of large mains may be partially paid by City, and other consideration; and
G. When the City Council can declare a health hazard and install mains at public expense.

c. Both Water and Sewer will require a study 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 two (2) years of installation of a dead-end water main. The Developer will be responsible for extending the existing 12" PVC water main in Milwaukee Avenue north of Loop 88 to the property in accordance with all TxDOT and City standards.

e. The annexation area will ultimately be served by the South Lubbock Sanitary Sewer Interceptor (SLSSI), currently located at 132nd Street and Frankford. The City makes no guarantee on the timeline of the Interceptor extension and availability.

If the annexation area requires a lift station in order to receive sanitary sewer services prior to the extension of the SLSSI, the lift station shall be sized to minimize the number of lift stations which will be turned over to the City of Lubbock. If a lift station is needed, it shall service at least the entirety of the voluntary annexed area, as well as all land within the City Limits bordered by 130th Street/Loop 88, 146th Street, Milwaukee Avenue, and Quincy Avenue. The sanitary sewer collection system shall be designed so

that any lift stations can be abandoned once the SLSSI has been extended along 146th Street.

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 immediate with this development. Additional driver and equipment can be anticipated with the addition of residential structures, and an increase in staffing and equipment will be needed as development continues within this proposed annexation area and exceeds route collection averages. The landfill will be able to handle this request. The only impact would be that the City could anticipate landfilling additional solid waste tonnage and ultimately developing the next landfill cell sooner than currently projected. However, the developer may be asked to assist with infrastructure for residential waste collection, i.e. carts or dumpsters.

c. *Service Route:* Until such time as adjacent unpaved roadways are built all City Solid Waste services will be routed through and upon Paved Arterial Roadways only. Solid Waste will not route trucks down unpaved roadways to service alleyways in any case.

B. It is understood and agreed that the City is not required to provide a service that is not included in this agreement.

C. Owner understands and acknowledges that the City departments listed above may change name or be-reorganized by the City Manager. Any reference to a specific department also includes any subsequent department that will provide the same or similar services.

4. **AUTHORITY**. City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges 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

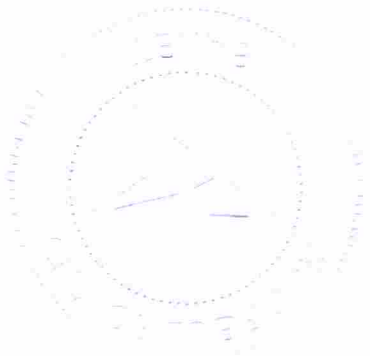
MARK W. MCBRAYER, Mayor

NICOLETT LAND COMPANY, LLC

Jan H. Campbell.

ATTEST:

Courtney Paz, City Secretary



SUBSCRIBED AND SWORN TO BEFORE ME on the day of 10 day of April, 2025, to certify which witness my hand and official seal.

APPROVED AS TO CONTENT:

Kristen Sager, Director of Planning

[*Seal*]

[*Signature*] Lillea Phillips

[*Printed name*] Lillea Phillips

Notary Public in and for
the State of Texas

APPROVED AS TO FORM:

Kelli Letsure, Senior Assistant City Attorney

LILLEA PHILLIPS
Notary Public. State of Texas
Notary ID# 13304137-7
My Commission Expires 04-15-2025

Ccdocs/Municipal Services Agreement_Nicolett Land Co.
4.10.25

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.

Property Owner(s): Nicolett Land Company

Address: 4606 16th Street, Lubbock, TX 79416

Address:

Telephone: (806) 789-2394 Email: jhcampbell44@yahoo.com

Telephone: (___) _____ Email:

Acreage of property: 120 Number of lots and proposed use: N/A

Nicolett Land Company

Owner of record signature by Jan Humphries Campbell

Please note: The signature of owner authorizes the City of Lubbock staff to visit and inspect the property that is subject to this application.

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, is not more than one-half mile in width, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Signed: Nicollet Land Company by Jan Humphries Campbell

Signed: _____

Signed: _____

THE STATE OF TEXAS

COUNTY OF Lubbock

BEFORE ME, the undersigned authority, on this day personally appeared Nicollet Land Company by Jan Humphries Campbell ~~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 10 day of April, 2025.

LILLEA PHILLIPS
Notary Public. State of Texas
Notary ID# 13304137-7
My Commission Expires 04-15-2025

Lillea Phillips

Notary Public in and for Lubbock County, Texas.

Parkhill

AFFIDAVIT

I, Tarek Redwan, of legal age, residing at 9908 Uvalde Avenue, Lubbock, TX 79423, do hereby solemnly swear and affirm as follows:

1. **Representation:**
    - **I am the duly authorized representative of Jan Campbell (hereinafter referred to as "the Individual"), who resides at 4606 16th Street, Lubbock, TX 79416.**
    - **I have been granted full authority by Jan Campbell to act as their representative in all matters pertaining to the annexation of the property attached below.**
2. **Authority and Purpose:**
    - **In my capacity as the representative of Jan Campbell, I am fully authorized to execute and deliver documents, enter into agreements, and perform all other necessary acts and things on behalf of the Individual with regard to the annexation of the property attached below.**
    - **Attached to this affidavit is the Voluntary Annexation Application, duly executed and certified by Jan Campbell, granting me the authority to represent them in all legal and administrative matters.**
3. **Duties and Responsibilities:**
    - **As the representative of Jan Campbell, I undertake the duty to act in good faith and in the best interest of the Individual in all dealings and matters related to this annexation.**
    - **I acknowledge that I shall remain responsible for all actions taken in the exercise of my authority.**
4. **Verification:**
    - **I confirm that the information provided in this affidavit is true and correct to the best of my knowledge and belief.**
    - **I understand that any misrepresentation or false declaration may subject me to legal consequences under the applicable laws.**

Signed and sworn (or affirmed) before me this 02 day of October 2024, by Tarek Redwan.

Debbie German

Notary Public Signature
(Seal)

NOTARY PUBLIC
Debbie German
Exp. 6/6/2028
ID No. 130684115
STATE OF TEXAS

Tarek Redwan

Tarek O. Redwan, P.E.
Project Manager

Notary Public Name
My Commission Expires: 06/06/2028
Notary Registration Number: 130684115

Parkhill

A 121.80-ACRE TRACT IN SECTIONS 9 & 12, BLOCK AK, E.L. & R.R. RR. CO. SURVEY, LUBBOCK COUNTY, TEXAS

A 121.80-acre tract of land in Sections 9 and 12, Block AK, E.L. & R.R. RR. Company Survey, Lubbock County, Texas, being further described by metes and bounds as follows:

BEGINNING at a point in the south line of the existing City of Lubbock annexation limits described in Ordinance No. 2008-00104, in the east right-of-way line of Milwaukee Avenue dedicated with the plats of Windsor Park, Lots 1 through 63 and Windsor Park Lots 64 through 136 and Tract "A", according to the maps, plats, and/or dedication deeds thereof recorded in Volume 6596, Page 78 and Volume 8203, Page 258 of the Real Property Records of Lubbock County, Texas, for the northeast corner of this tract, whence the northeast corner of said Section 12 bears *North 88 degrees 12 minutes 35 seconds West* a distance of 55.00 feet and *North 01 degrees 47 minutes 25 seconds East* a distance of 660.00 feet;

(1) THENCE *South 01 degrees 47 minutes 25 seconds West*, along the east right-of-way line of said Milwaukee Avenue, a distance of 823.87 feet to a point of curvature for a corner of this tract;

(2) THENCE southeasterly, along the east right-of-way line of said Milwaukee Avenue, and a curve to the left, an arc distance of 323.86 feet, said curve having a radius of 945.00 feet, a delta angle of *19 degrees 38 minutes 09 seconds*, a chord bearing of *South 08 degrees 01 minutes 39 seconds East* and a chord distance of 322.38 feet to a point of intersection for a corner of this tract;

(3) THENCE *South 72 degrees 09 minutes 16 seconds West* a distance of 110.00 feet to a point in the west plat limits of said Windsor Park, at a point of intersection for a corner of this tract;

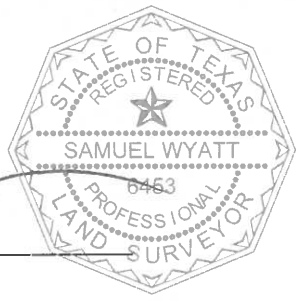
(4) THENCE *South 01 degrees 35 minutes 22 seconds West*, along the west line of the plat limits of said Windsor Park, a distance of 805.13 feet to a 1/2-inch iron rod with a plastic cap marked "H.R. & ASSOC." found for the southeast corner of this tract;

(5) THENCE *North 88 degrees 04 minutes 41 seconds West*, at a distance of 9.17 feet pass the east quarter corner of said Section 12, continuing for a total distance of 2650.22 feet to a point at the southwest corner of the northeast quarter of said Section 12 for the southwest corner of this tract;

(6) THENCE *North 01 degrees 49 minutes 40 seconds East*, along the west line of the northeast quarter of said Section 12, a distance of 1977.10 feet to a point in the south line of said City of Lubbock annexation limits, for the northwest corner of this tract;

(7) THENCE *South 88 degrees 12 minutes 59 seconds East*, along the south line of said City of Lubbock annexation limits, at a distance of 2639.74 feet pass the east line of said Section 12, continuing at a distance of 2641.94 feet pass the west line of the plat limits of said Windsor Park, continuing for a total distance of 2694.74 feet to the **POINT OF BEGINNING**. Bearings called in this description are based on the Texas Coordinate System, North Central Zone 4202, North American Datum of 1983. Distances called in this description are at surface. Areas reported in this description 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 these tracts. A plat of this survey is included on a separate document attached herewith.

Signed: October 01, 2024



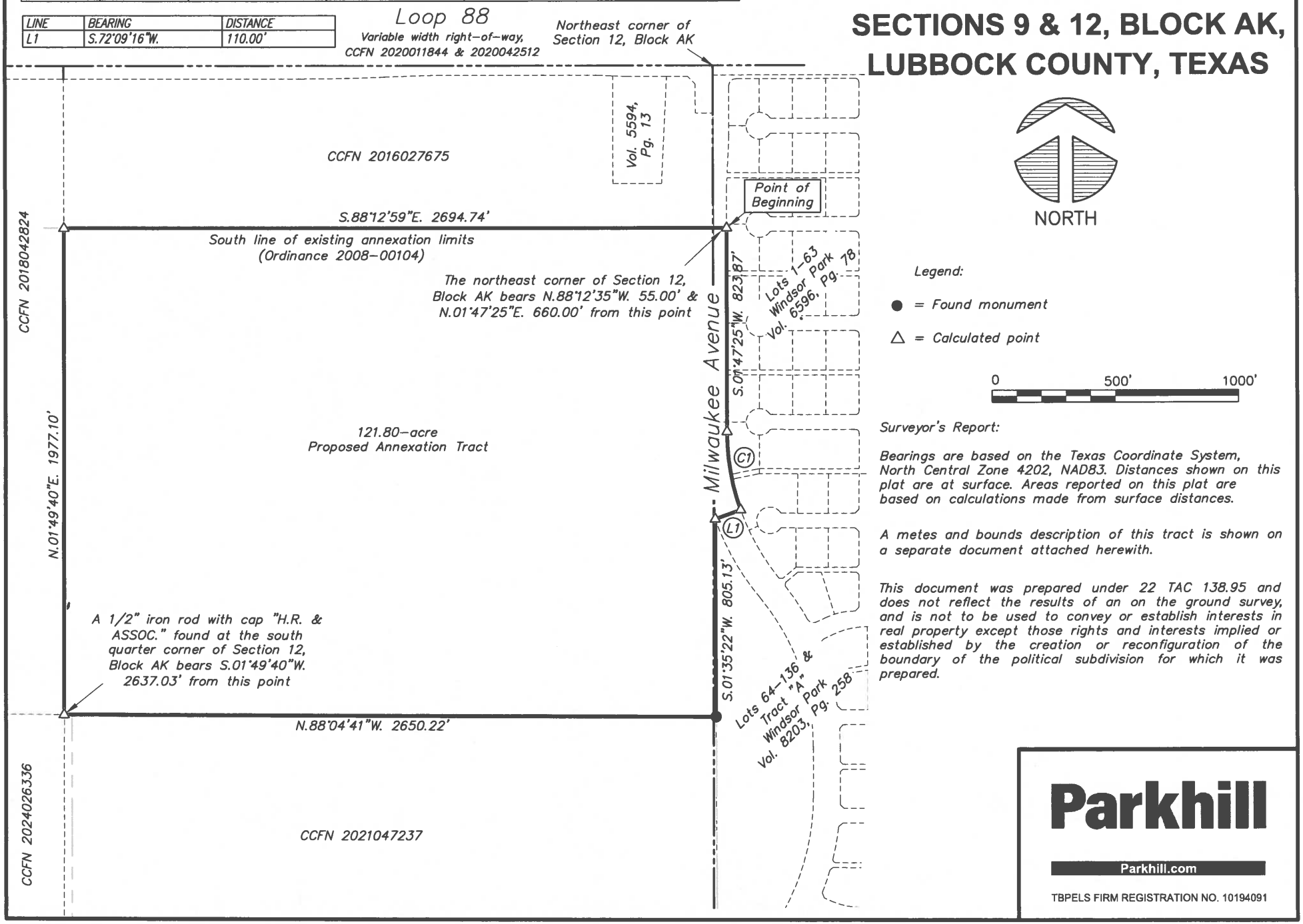
Samuel Wyatt, RPLS 6453

This document was prepared under 22 TAC 138.95 and 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.

A 121.80-ACRE TRACT IN SECTIONS 9 & 12, BLOCK AK, LUBBOCK COUNTY, TEXAS

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	945.00'	323.86'	322.38'	S.08°01'39"E.	19°38'09"

LINE	BEARING	DISTANCE
L1	S.72°09'16"W.	110.00'



NORTH

Legend:

● = *Found monument*

△ = *Calculated point*

0 500' 1000'

Surveyor's Report:

Bearings are based on the Texas Coordinate System, North Central Zone 4202, NAD83. Distances shown on this plat are at surface. Areas reported on this plat are based on calculations made from surface distances.

A metes and bounds description of this tract is shown on a separate document attached herewith.

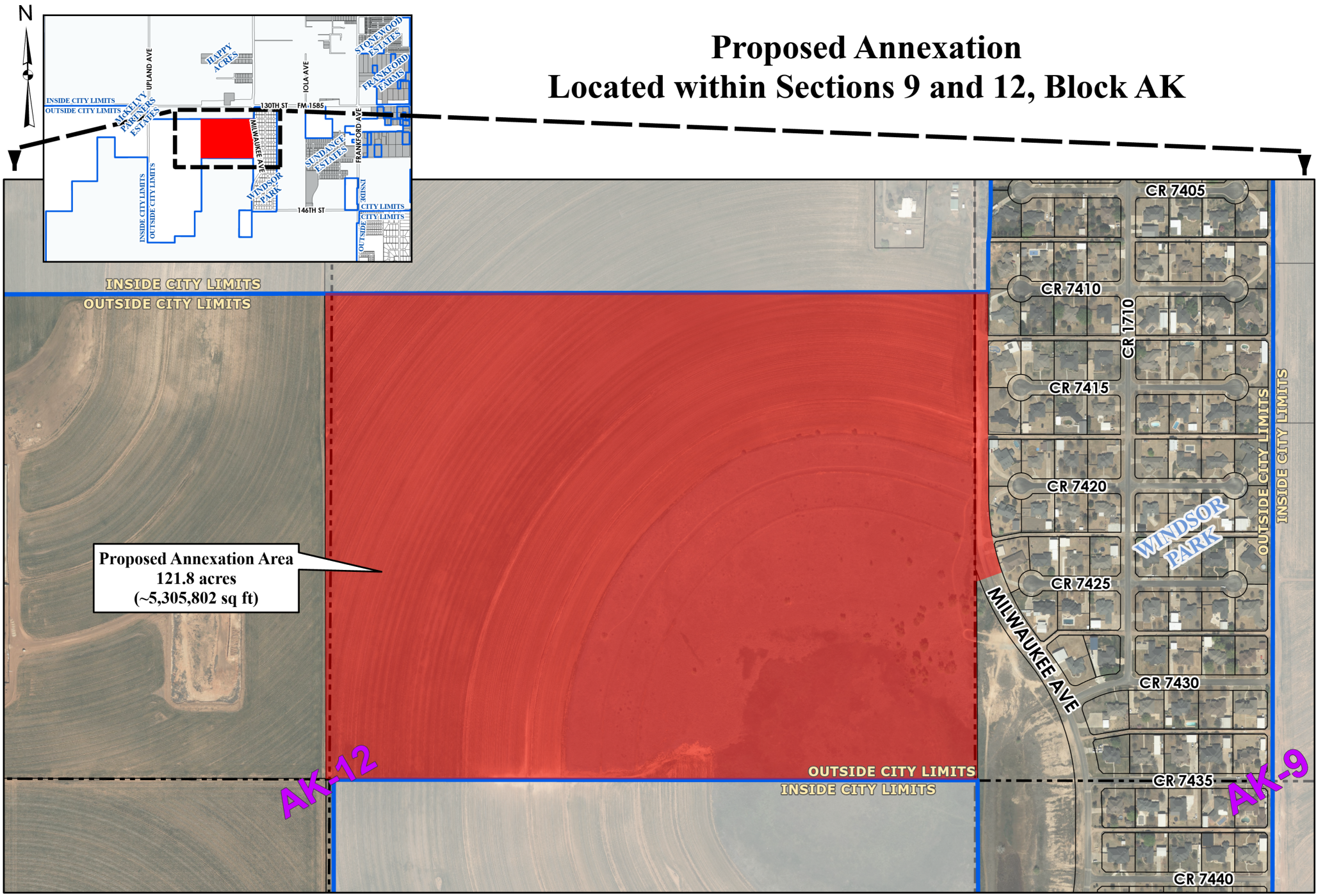
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Parkhill

Parkhill.com

TBPELS FIRM REGISTRATION NO. 10194091

Proposed Annexation
Located within Sections 9 and 12, Block AK



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.

Lubbock City Limits

Proposed Annexation

City of Lubbock TEXAS

Digital Orthophotography - March 2024

AI# 13449

Regular City Council Meeting **5. 17.**

05/27/2025:

Information

Agenda Item

Resolution - Public Works Traffic Management: Consider a resolution authorizing the Mayor to execute Amendment No. 2 to Contract 17858, with AtkinsRealis, for additional engineering services related to the City's Americans with Disabilities Act Transition Plan Sidewalk Gap Analysis Project.

Item Summary

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

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

AtkinsRealis recently completed the Phase 1 study and associated technical memo. Amendment No. 1 of the contract has allowed AtkinsRealis to work on Phase 2 of the sidewalk gap analysis, which addresses access issues related to bus stops and sidewalks at Citibus stops throughout the City. Amendment No. 1 expires on June 6, 2025. Amendment No. 2 adds a 6-month time extension to this portion of the project that will allow AtkinsRealis time to complete the analysis of sidewalk and ramp infrastructure related to bus stops.

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

Fiscal Impact

Amendment No. 2 to Contract Number 17858 with AtkinsRealis, is strictly a time extension and adds no additional funding commitment to the project.

Staff/Board Recommending

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

Attachments

Resolution
AtkinsRealis Contract 17858 Amendment 2
AtkinsRealis Contract 17858 Amendment 1
AtkinsRealis Contract 17858 Amendment 1 Attachments A and B
AtkinsRealis Extension Contract 17858
AtkinsRealis Professional Services Agmt.
CIP 92570 Budget Detail
CIP Project Detail

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Amendment No. 2 to the professional services agreement Contract No. 17858 for an ADA transition plan – gap analysis by and between the City of Lubbock and AtkinsRealis, and related documents. Said Amendment is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Erik Rejino, Assistant City Manager

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.Amend #2 172858 AtkinsRealis
5.12.25

Amendment 2
To Agreement Between
The City of Lubbock, TX
and
AtkinsRealis

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

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

The Parties entered into a six (6) month extension for services on June 21, 2024, and entered Amendment No. 1 on October 8, 2024 to add additional services to the scope of the Agreement.

Now the Parties agree to an additional time extension to complete the Activities.

WITNESSETH:

The City and Engineer now agree the Agreement is hereby extended an additional six (6) months for the completion of the Activities, with the Agreement terminating on December 6, 2025.

All other portions of the original Agreement and prior Amendment 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

AtkinsRealis

_____
Daphne King, Project Director

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

L. Wood Franklin, Division Director of Public Works

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Resolution No. 2024-R0461
Item No. 6.7
October 8, 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. 17858 for engineering services for ADA transition plan – gap analysis, by and between the City of Lubbock and AtkinsRealis, and related documents. Said Amendment is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on October 8, 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 #1 to PSA 17858 AtkinsRealis ADA transition analysis
9.20.24

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

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

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

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

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

WITNESSETH:

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

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

IN WITNESS HEREOF, the parties have executed this Agreement as of this 8th day of October 2024.

CITY OF LUBBOCK

MARK W. MCBRAYER, Mayor

AtkinsRealis

Chris Wright, P.E.

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

L. Wood Franklin, Director of Public Works

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

AtkinsRéalis

AtkinsRéalis
11801 Domain Boulevard, Suite 500
Austin, Tx 78758
Ph: 512.342.3265

ATTACHMENT "A"

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

SCOPE OF PROJECT

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

PROPOSED BASIC SCOPE OF SERVICES

A. DESKTOP INVENTORY OF CITIBUS BUS STOP ADA GAPS

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

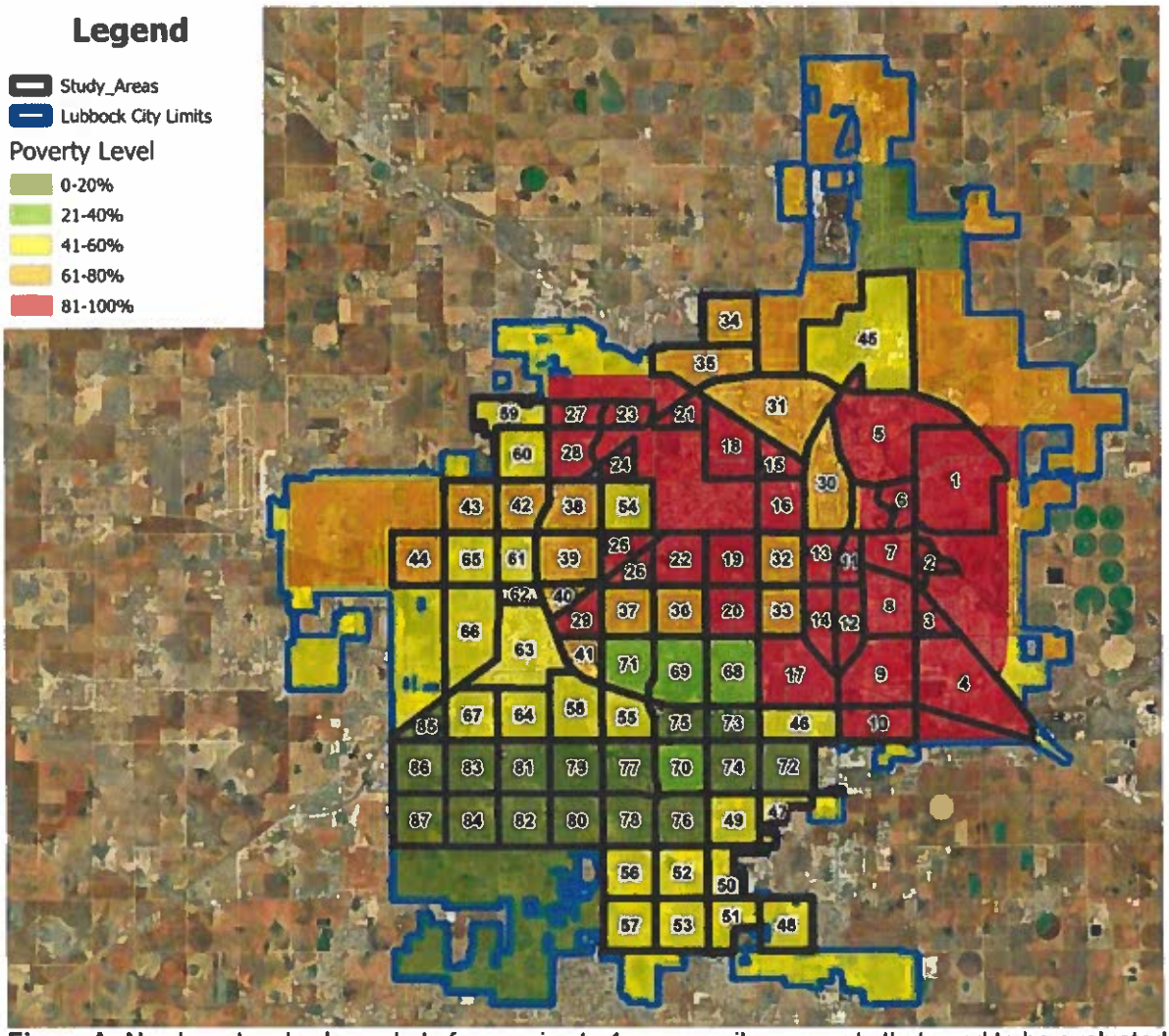


Figure A: Numbered and color coded of approximate 1 square mile segments that need to be evaluated. Highest priority is shown starting with Segment 1.

B. FIELD VERIFICATION

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

C. TECHNICAL REPORT:

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

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

C. MEETINGS:

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

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

1. Land and topographic surveys

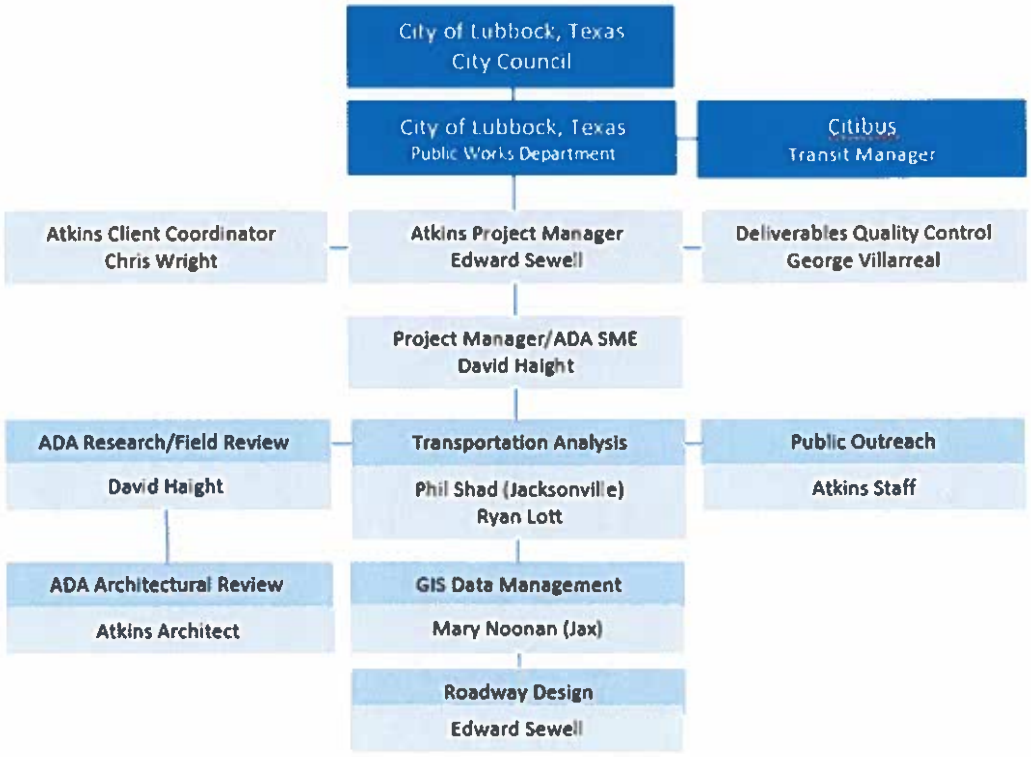
PROJECT TEAM:

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

AtkinsRéalis

City of Lubbock, Texas
ADA Transition Plan for Public Facilities

Team Organization Chart



SCHEDULE:

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

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

AtkinsRéalis

ATTACHMENT "B"

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

COMPENSATION:

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

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

CLIENT:

CITY OF LUBBOCK

By: _____

Date: 9/24/2024

Name: David Bragg, P.E

Title: Director of Traffic Management

ENGINEER:

AtkinsRéalis

By: _____

Date: 7/23/24

Name: Chris Wright, P.E.

Title: Project Director

MODIFICATION FOR TIME EXTENSION ON PROFESSIONAL SERVICES CONTRACT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

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

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

APPROVED AS TO CONTENT:

John Turpin, Assistant Division Director of Public Works

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Firm: AtkinsRealis

By: _____

Printed Name: Chris Wright P.E.

Email: Chris.Wright@atkinsrealis.com

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

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

WITNESSETH

WHEREAS, The City desires to contract with the Engineer to provide professional services for ADA Transition Plan – Gap Analysis, (the "Activities"); and

WHEREAS, the Engineer has a professional staff experienced and is qualified to provide professional engineering services related to Activities, and will provide the services, as defined below, for the price provided herein, said price stipulated by the City and the Engineer to be a fair and reasonable price; and

WHEREAS, the City desires to contract with the Engineer to provide professional services related to the Activities, and Engineer desires to provide the Services related to same.

NOW THEREFORE, for and in consideration of the terms, covenants and conditions set forth in this Agreement, the City and the Engineer hereby agree as follows:

ARTICLE I. TERM

The term of this Agreement commences on the Effective Date and continues without interruption for a term of 180 days. If the Engineer determines that additional time is required to complete the Services, the Assistant Division Director of Public Works, may, but is not obligated to, in his or her discretion, execute an agreement to grant up to an additional six (6) months of time so long as the amount of the consideration does not increase. An amendment to this Agreement resulting in an increase in the amount of the consideration must be approved by the City acting through its governing body.

ARTICLE II. SERVICES AND COMPENSATION

A. The Engineer shall conduct all activities, and within such timeframes, as set forth on Attachment "A", attached hereto (the "Services").

B. The Engineer shall receive as consideration to be paid for the performance of the Services, in an amount not to exceed $49,205.21, as set forth in Attachment "B".

ARTICLE III. TERMINATION

A. General. The City may terminate this Agreement, for any reason or convenience, upon thirty (30) days written notice to the Engineer. In the event this Agreement is so terminated, the City shall only pay the Engineer for services actually performed by the Engineer up to the date the Engineer is deemed to have received notice of termination, as provided herein.

B. Termination and Remedies. In the event the Engineer breaches any term and/or provision of this Agreement, the City shall be entitled to exercise any right or remedy available to it by this Agreement, at law, equity, or otherwise, including without limitation, termination of this Agreement and assertion of an action for damages and/or injunctive relief. The exercise of any right or remedy shall not preclude the concurrent or subsequent exercise of any right or remedy and all rights and remedies shall be cumulative.

ARTICLE IV. NON - ARBITRATION

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

ARTICLE V. REPRESENTATIONS AND WARRANTIES

A. Existence. The Engineer is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas and is qualified to carry on its business in the State of Texas.

B. Corporate Power. The Engineer has the corporate power to enter into and perform this Agreement and all other activities contemplated hereby.

C. Authorization. Execution, delivery, and performance of this Agreement and the activities contemplated hereby have been duly and validly authorized by all the requisite corporate action on the part of the Engineer. This Agreement constitutes legal, valid, and binding obligations of the Engineer and is enforceable in accordance with the terms thereof.

D. Engineer. The Engineer maintains a professional staff and employs, as needed, other qualified specialists experienced in providing the Services, and is familiar with all laws, rules, and regulations, both state and federal, including, without limitation the applicable laws, regarding the Activities contemplated hereby.

E. Performance. The Engineer will and shall conduct all activities contemplated by this Agreement in accordance with the standard of care, skill and diligence normally provided by a professional person in performance of similar professional services, and comply with all applicable laws, rules, and regulations, both state and federal, relating to professional services, as contemplated hereby.

F. Use of Copyrighted Material. The Engineer warrants that any materials provided by the Engineer for use by City pursuant to this Agreement shall not contain any proprietary material owned by any other party that is protected under the Copyright Act or any other law, statute, rule, order, regulation, ordinance or contractual obligation relating to the use or reproduction of materials. The Engineer shall be solely responsible for ensuring that any materials provided by the Engineer pursuant to this Agreement satisfy this requirement and the Engineer agrees to indemnify and hold City harmless from all liability or loss caused to City or to which City is exposed on account of the Engineer's failure to perform this duty.

ARTICLE VI. SCOPE OF WORK

The Engineer shall accomplish the following: Professional Services related to the Services, as provided in Attachment "A", attached hereto and made a part hereof.

ARTICLE VII. INDEPENDENT CONTRACTOR STATUS

The Engineer and the City agree that the Engineer shall perform the duties under this Agreement as an independent contractor and shall be considered as independent contractor under this Agreement and/or in its activities hereunder for all purposes. The Engineer has the sole discretion to determine the manner in which the Services are to be performed. During the performance of the Services under this Agreement, the Engineer and the Engineer's employees and/or sub-consultants, will not be considered, for any purpose, employees or agents of the City within the meaning or the application of any federal, state or local law or

regulation, including without limitation, laws, rules or regulations regarding or related to unemployment insurance, old age benefits, workers compensation, labor, personal injury or taxes of any kind.

ARTICLE VIII. INSURANCE

The Engineer shall procure and carry, at its sole cost and expense through the life of this Agreement, except as otherwise provided herein, insurance protection as hereinafter specified, in form and substance satisfactory to the City, carried with an insurance company authorized to transact business in the state of Texas, covering all aspects and risks of loss of all operations in connection with this Agreement, including without limitation, the indemnity obligations set forth herein. The Engineer shall obtain and maintain in full force and effect during the term of this Agreement, and shall cause each approved subcontractor or sub-consultant of the Engineer to obtain and maintain in full force and effect during the term of this Agreement, commercial general liability, professional liability and automobile liability coverage for non-owned and hired vehicles with insurance carriers admitted to do business in the state of Texas. The insurance companies must carry a Best's Rating of A-VII or better. Except for Professional Liability, the policies will be written on an occurrence basis, subject to the following minimum limits of liability:

Commercial General Liability:

Per Occurrence Single Limit: $1,000,000

General Aggregate Limit: $2,000,000

Professional Liability:

Combined Single Limit: $2,000,000

Automobile Liability:

Combined Single Limit for any auto: $1,000,000 Per Occurrence

Employer's Liability:

Per Occurrence Single Limit: $1,000,000

Worker's Compensation

Per Occurrence Single Limit: $500,000

The Engineer shall further cause any approved subcontractor or sub-consultant to procure and carry, during the term of this Agreement, the insurance coverage required of Engineer herein, including without limitation, Professional Liability coverage, protecting the City against losses caused by the professional negligence of the approved subcontractor or sub-consultant. The City shall be listed as a primary and noncontributory additional insured with respect to the Automobile Liability and Commercial General Liability and shall be granted a waiver of subrogation under those policies. The Engineer shall provide a Certificate of Insurance to the City as evidence of coverage.

The Certificate shall provide 30 days' notice of cancellation. A copy of the additional insured endorsement and waiver of subrogation attached to the policy shall be included in the Certificate. The Engineer shall elect to obtain worker's compensation coverage pursuant to Section 406.002 of the Texas Labor Code. Further, the Engineer shall maintain said coverage throughout the term of this Agreement and shall comply with all provisions of Title 5 of the Texas Labor Code to ensure that the Engineer maintains said coverage. The Engineer may maintain Occupational Accident and Disability Insurance in lieu of Worker's Compensation. In either event, the policy must be endorsed to include a waiver of subrogation in favor of the City. If at any time during the life of the Agreement or any extension hereof, the Engineer fails to maintain the required insurance in full force and effect, the Engineer shall be in breach hereof and all work under the Agreement shall be discontinued immediately.

Notwithstanding anything contained herein to the contrary, the professional liability policy shall be maintained at the Engineer's sole cost and expense. The retroactive date shall be no later than the commencement of the performance of this Agreement and the discovery period (possibly through tail coverage) shall be no less than 5 years after the completion of the Services provided for in this Agreement. The provisions of this Article VIII shall survive the termination or expiration of this Agreement.

ARTICLE IX. EMPLOYMENT OF AGENTS/RETAINING OF CONSULTANTS

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

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

ARTICLE X. CONFIDENTIALITY

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

ARTICLE XI. INDEMNITY

THE ENGINEER SHALL INDEMNIFY AND HOLD HARMLESS THE CITY OF LUBBOCK AND ITS ELECTED OFFICIALS, OFFICERS, DESIGNATED AGENTS, AND EMPLOYEES FROM ALL LOSSES, DAMAGES, LIABILITIES, , ALL EXPENSES OF LITIGATION, COURT COSTS, AND REASONABLE ATTORNEY'S FEES, FOR INJURY OR DEATH TO ANY PERSON, OR INJURY TO ANY PROPERTY, RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, TO THE EXTENT RELATED TO THE NEGLIGENT ACTS OF THE ENGINEER, ITS AGENTS, EMPLOYEES, AND/OR SUBCONSULTANTS, RELATED TO ERRORS OR OMISSIONS UNDER THIS AGREEMENT AND/OR THE USE OR OCCUPATION OF CITY OWNED PROPERTY. THE INDEMNITY OBLIGATION PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT. PROVIDED HEREIN SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

ARTICLE XII. COMPLIANCE WITH APPLICABLE LAWS

The Engineer shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations relating, in any way, manner or form, to the activities under this Agreement, and any amendments thereto.

ARTICLE XIII. NOTICE

A. General. Whenever notice from the Engineer to the City or the City to the Engineer is required or permitted by this Agreement and no other method of notice is provided, such notice shall be given by (1) actual delivery of the written notice to the other party by hand (in which case such notice shall be effective upon delivery); (2) facsimile (in which case such notice shall be effective upon delivery); or (3) by depositing the written notice in the United States mail, properly addressed to the other party at the address provided in this article, registered or certified mail, return receipt requested, in which case such notice shall be effective on the third business day after such notice is so deposited.

B. Engineer's Address. The Engineer's address and numbers for the purposes of notice are:

Atkinsrealis.

Chris Wright P.E.
11801 Domain Boulevard, Suite 500
Austin, Texas 78758
Telephone: 512-342-3265
Email: Chris.Wright@atkinsrealis.com

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

John Turpin P.E.
City of Lubbock
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 8067752342
Email: jturpin@mylubbock.us

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

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

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

ARTICLE XV. MISCELLANEOUS

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

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

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

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

F. Construction and Venue.

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

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

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

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

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

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

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

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

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

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

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

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

R. Texas Government Code 2274. By entering into this Agreement, Contractor verifies that: (1) it does not, and will not for the duration of the contract, have a practice, policy, guidance, or directive

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

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

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

Marta Alvarez, Director of Purchasing and Contract Management

APPROVED AS TO CONTENT:

Assistant Division Director of Public Works

Division Director of Public Works

Assistant City Manager

APPROVED AS TO FORM:

Kelli Leisure, Assistant City Attorney

Firm

AtkinsRealis

By: _____

Chris Wright P.E.

Email: Chris.Wright@atkinsrealis.com

AtkinsRéalis

AtkinsRéalis
11801 Domain Boulevard, Suite 500
Austin, Tx 78758
Ph: 512.342.3265

ATTACHMENT "A"

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

SCOPE OF PROJECT

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

PROPOSED BASIC SCOPE OF SERVICES

A. DESKTOP INVENTORY OF ADA AND SIDEWALK GAPS

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

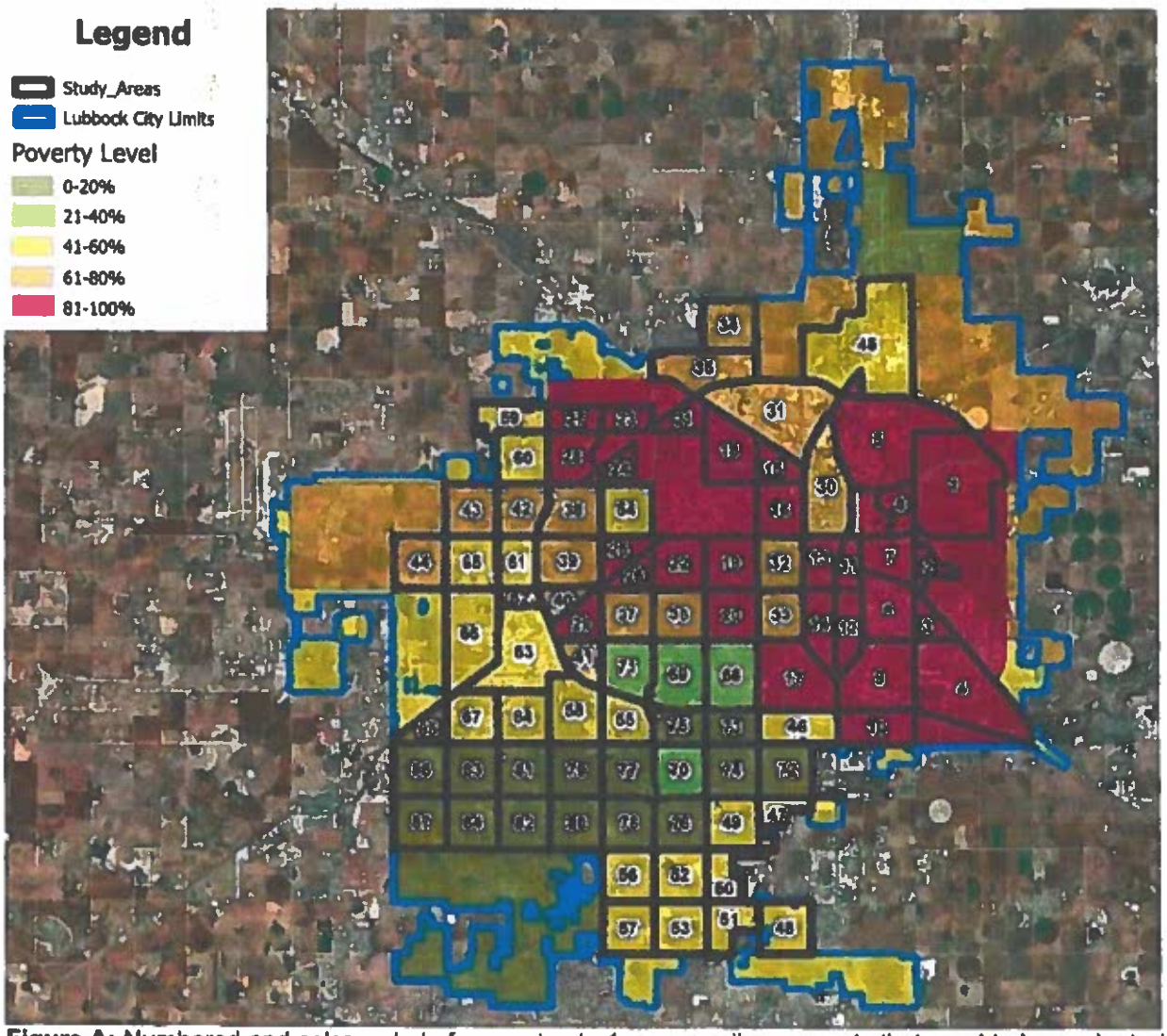


Figure A: Numbered and color coded of approximate 1 square mile segments that need to be evaluated. Highest priority is shown starting with Segment 1.

B. TECHNICAL MEMORANDUM:

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

C. MEETINGS:

AtkinsRéalis

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

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

1. Field Work
2. Land and topographic surveys

PROJECT TEAM:

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

Team Organization Chart



AtkinsRéalis

SCHEDULE:

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

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

OTAtkinsRealis

ATTACHMENT "B"

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

COMPENSATION:

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

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

CLIENT:

CITY OF LUBBOCK

By: _____

Date: 1/16/2024

Name: John Turpin, P.E

Title: Assistant Division Director of Public Works

ENGINEER:

AtkinsRdalis

By: _____

Date: 1/15/2024

Name: Chris Wright, P.E.

Titie: Project Director

City of Lubbock
Capital Project
Project Cost Detail
May 27, 2025

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

Encumbered/Expended	Budget
Design	104,319
AtkinsRealis Sidewalk Gap Analysis Phase 1	49,159
AtkinsRealis Sidewalk Gap Analysis Phase 2	204,855
Ramp and Sidewalk Construction	1,111,557
Agenda Item May 27, 2025	
	-
Encumbered/Expended To Date	1,469,889
Estimated Cost for Remaining Appropriation	
Construction	155,111
Remaining Appropriation	155,111
Total Appropriation	1,625,000

CIP 92570 American Disability Act Ramp and Sidewalk Project

New Facility

Project Manager: Bailey Ratcliffe - Engineering

Project Scope

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

Project Justification

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

Project Highlights

Council Priorities Addressed: Community Improvement, Public Safety

Project History

- FY 2018-19 $250,000 was appropriated by Ord. 2018-O0109
- FY 2019-20 $125,000 was appropriated by Ord. 2019-O0129
- FY 2020-21 $150,000 was appropriated by Ord. 2020-O0123
- FY 2021-22 $250,000 was appropriated by Ord. 2021-O0126
- FY 2022-23 $300,000 was appropriated by Ord. 2022-O0136
- FY 2023-24 $250,000 was appropriated by Ord. 2023-O0108

Project Dates

Ongoing

Project Location

City-wide

Project Appropriations

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

Project Funding

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

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# 13436
Regular City Council Meeting **5. 18.**
05/27/2025:

Information

Agenda Item

Resolution: Public Health Services: Consider a resolution authorizing the Mayor to execute the Department of State Health Services Grant Agreement Contract No. HHS001588400033, and all related documents, under the Regional and Local Services System/Local Public Health Services Grant Program, by and between the City of Lubbock and the State of Texas Department of State Health Services.

Item Summary

This is an existing grant. The Regional and Local Services System/Local Public Health Services Grant (RLSS) was initially awarded to the Public Health Department in 2012. The purpose of this Grant Agreement is to provide local public health services to improve or strengthen local public health within the State of Texas in State Fiscal Year 2026 and Fiscal Year 2027. This grant requires an electronic signature.

This Grant Agreement is effective on September 1, 2025, and expires on August 31, 2027.

The total amount of this Grant Agreement will not exceed $175,290. The total allocation for FY2026 is $87,645. and the tTotal allocation for FY2027 is $87,645.

Fiscal Impact

The amount of this contract is $87,645 from Federal and State Funds. A local match is not required for this grant.

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, the Department of State Health Services Grant Agreement Contract No. HHS001588400033 under the Regional and Local Services System/Local Public Health Services 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 Grant Agreement 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.DSHS-HHS001588400033 RLSS Grant
4.29.25

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SIGNATURE DOCUMENT FOR
TEXAS DEPARTMENT OF STATE HEALTH SERVICES
GRANT AGREEMENT,
CONTRACT NO. HHS001588400033
UNDER THE
REGIONAL AND LOCAL SERVICES SYSTEM /LOCAL PUBLIC HEALTH SERVICES
GRANT PROGRAM

The parties to this agreement ("Grant Agreement" or "Contract") are the Department of State Health Services ("DSHS" or "System Agency"), a pass-through entity, City of Lubbock ("Grantee"), having its principal office at 1314 Ave K., Lubbock, Texas 79401 (each a "Party" and collectively the "Parties").

I. PURPOSE

The purpose of this Grant Agreement is to Grantee to provide local public health services to improve or strengthen local public health within the State of Texas in State Fiscal Year (FY) 2026 and FY 2027.

II. LEGAL AUTHORITY

This Grant Agreement is entered into pursuant to the Texas Health and Safety Code Chapters 12 and 1001, as applicable.

III. DURATION

This Grant Agreement is effective on September 1, 2025, and expires on August 31, 2027, unless sooner terminated pursuant to the terms and conditions of the Grant Agreement. This Grant Agreement does not include renewals.

IV. STATEMENT OF WORK

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, FY2026/2027 SCOPE OF GRANT PROJECT**.

V. BUDGET AND INDIRECT COST RATE

The total amount of this Grant Agreement will not exceed $175,290.00 Grantee is not required to provide matching funds.

The total not-to-exceed amount includes the following:

Total Federal Funds: $106,212.72
Total State Funds: $69,077.28

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The total allocation amount for FY2026 (September 1, 2025, through August 31, 2026) is $87,645.00.

The total allocation amount for FY2027 (September 1, 2026, through August 31, 2027) is $87,645.00.

All expenditures under the Grant Agreement will be in accordance with **ATTACHMENT B, FY2026/2027 BUDGET**.

If the System Agency approves or acknowledges an updated indirect cost rate, the Grant Agreement will be amended to incorporate the new rate (and the new indirect cost rate letter, if applicable) and the budget revised accordingly.

VI. REPORTING REQUIREMENTS

Grantee shall submit the following reports:

REPORT	FREQUENCY	DUE DATE	DSHS EMAIL ADDRESSES TO SUBMIT REPORT
Financial Status Report (FSR) – Biannual	The last business day of the month following the end of each second fiscal quarter AND thirty (30) calendar days following the end of each fourth fiscal quarter. *The final FSR is due thirty (30) calendar days following fiscal contract term.	March 29, 2026 September 30, 2026 March 31, 2027 September 30, 2027	Invoices@dshs.texas.gov ; FSRGrants@dshs.texas.gov ; copy to the System Agency representative identified in **SECTION VII, CONTRACT REPRESENTATIVES**, of this Grant Agreement
Invoices/Requests for Reimbursement – Monthly	The last business day of the month following the month in which expenses were incurred. *The final invoice is due thirty (30) calendar days following fiscal contract term.	October 31, 2025 November 28, 2025 December 31, 2025 January 30, 2026	Invoices@dshs.texas.gov ; CMSInvoices@dshs.texas.gov ; copy to the System Agency representative identified in **SECTION VII, CONTRACT REPRESENTATIVES**, of this Grant Agreement

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		February 27, 2026 March 31, 2026 April 30, 2026 May 29, 2026 June 30, 2026 July 31, 2026 August 31, 2026 September 30, 2026 October 30, 2026 November 30, 2026 December 31, 2026 January 29, 2027 February 26, 2027 March 31, 2027 April 30, 2027 May 31, 2027 June 30, 2027 July 30, 2027 August 31, 2027 September 30, 2027	
Performance Report – Quarterly	The last calendar day of the month following the end of each fiscal quarter.	December 31, 2025 March 31, 2026	LocalPHTeam@dshs.texas.gov ; copy to the System Agency representative identified in **SECTION VII,**

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	NOTE: The final performance report for each fiscal year is submitted with the fourth quarter report for each fiscal year. Therefore, both the final performance report and fourth quarter report will be submitted on September 30, 2026, and September 30, 2027, respectively.	June 30, 2026 September 30, 2026 December 31, 2026 March 31, 2027 June 30, 2027 September 30, 2027	**CONTRACT REPRESENTATIVES**, of this Grant Agreement
DSHS Contractor's Property Inventory Report (Form GC-11) – Annual	Once per State Fiscal Year.	October 15th	FSOequip@dshs.texas.gov ; copy to the System Agency representative identified in **SECTION VII, CONTRACT REPRESENTATIVES**, of this Grant Agreement

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VII. CONTRACT REPRESENTATIVES

The following will act as the representative authorized to administer activities under this Grant Agreement on behalf of their respective Party.

System Agency	Grantee
Megan Alexander	Katherine Wells
Texas Department of State Health Services	City of Lubbock
1100 W 49th Street, MC 1990	1314 Ave K
Austin, Texas 78756	Lubbock, Texas 79401
Megan.Alexander@dshs.texas.gov	kwells@mylubbock.us

VIII. NOTICE REQUIREMENTS

A. All notices given by Grantee shall be in writing, include the Grant Agreement contract number, comply with all terms and conditions of the Grant Agreement, and be delivered to the System Agency's Contract Representative identified above.

B. Grantee shall send legal notices to System Agency at the address below and provide a copy to the System Agency's Contract Representative:

Health and Human Services Commission
Attn: Office of Chief Counsel
4601 W. Guadalupe, Mail Code 1100
Austin, Texas 78751

with a copy to:

Department of State Health Services
Attention: General Counsel
1100 W. 49th Street, Mail Code 1919
Austin, Texas 78756

C. Notices given by System Agency to Grantee may be emailed, mailed or sent by common carrier. Email notices shall be deemed delivered when sent by System Agency. Notices sent by mail shall be deemed delivered when deposited by the System Agency in the United States mail, postage paid, certified, return receipt requested. Notices sent by common carrier shall be deemed delivered when deposited by the System Agency with a common carrier, overnight, signature required.

D. Notices given by Grantee to System Agency shall be deemed delivered when received by System Agency.

E. Either Party may change its Contract Representative or Legal Notice contact by providing written notice to the other Party.

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IX. Federal Award Information

Grantee's Unique Entity Identifier is: LXDNEKWRVKJ6

Federal funding under this Grant Agreement is a subaward under the following federal award.

Federal Award Identification Number (FAIN): NB01OT009461

A. Assistance Listings Title, Number, and Dollar Amount: Centers for Disease Control and Prevention (CDC), Preventive Health and Health Services Block Grant, 93.991, Amount $6,232.297.00
B. Federal Award Date: August 16, 2023
C. Federal Award Period: October 1, 2023 – September 30, 2025
D. Name of Federal Awarding Agency: CDC
E. Federal Award Project Description: Preventive Health and Health Services Block Grant
F. Awarding Official Contact Information:
   Ester Edward
   Grants Management Officer
   CDC Office of Grants Services, Branch 4
   2929 Flowers Road
   Atlanta, GA 30341
   Telephone: 770-488-2852
   Email: ece9@cdc.gov
G. Total Amount of Federal Funds Awarded to System Agency: $6,323,297.00
H. Amount of Funds Awarded to Grantee: $106,212.72
I. Identification of Whether the Award is for Research and Development: No

X. Contract Documents

The following documents are incorporated by reference and made a part of this Grant Agreement for all purposes.

Attachment A – FY2026/2027 Scope of Grant Project
Attachment B – FY2026/2027 Budget
Attachment C – Contract Affirmations – v 2.5, Effective November 2024
Attachment D – Uniform Terms and Conditions – Grant v 3.5, Effective September 2024
Attachment E – HHS Additional Provisions – Grant Funding v. 1.0, Effective February 2021
Attachment F – Data Use Agreement – TACCHO Version, Effective October 23, 2019
Attachment F-1 - DUA Security and Privacy Inquiry - v2
Attachment G– Federal Assurances
Attachment H – Certification Regarding Lobbying
Attachment I – FFATA Certification Form

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Unless expressly stated otherwise in this Grant Agreement, in the event of conflict, ambiguity or inconsistency between or among any documents, all System Agency documents take precedence over Grantee's documents and the Data Use Agreement takes precedence over all other contract documents.

XI. SIGNATURE AUTHORITY

Each Party represents and warrants that the person executing this Grant Agreement on its behalf has full power and authority to enter into this Grant Agreement. Any services or work performed by Grantee before this Grant Agreement is effective or after it ceases to be effective are performed at the sole risk of Grantee.

SIGNATURE PAGE FOLLOWS

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SIGNATURE PAGE FOR DSHS GRANT AGREEMENT,
CONTRACT NO. HHS001588400033

DEPARTMENT OF STATE HEALTH SERVICES

_____
Signature

Printed Name:_____

Title: _____

Date of Execution: _____

CITY OF LUBBOCK

_____
Signature

Printed Name: _____

Title: _____

Date of Execution: _____

Docusign Envelope ID: C919F9C5-BD92-44AF-8E52-8E36B50D262B

ATTACHMENT A
FY2026/2027 SCOPE OF GRANT PROJECT

I. GRANTEE RESPONSIBILITIES

Grantee will perform activities in support of the CDC Preventive Health and Health Services Block Grant, as listed below.

A. Grantee shall perform the activities required under this Grant Agreement in the following Texas county/counties: Lubbock County.

B. Grantee will comply with all applicable regulations, standards, and guidelines in effect on the Effective Date of this Grant Agreement and as restated in subsequent amendments, if applicable.

C. Grantee will work to improve or strengthen local public health infrastructure within the State of Texas by:
   1. Developing objective(s) to address a public health issue;
   2. Utilizing resources provided through this Grant Agreement to conduct activities and services that provide or support the delivery of essential public health services;
   3. Assessing, monitoring, and evaluating the essential public health activities and services provided through this Grant Agreement; and
   4. Developing strategies to improve the delivery of essential public health service(s) to its identified service area(s).

D. Grantee will assess, monitor, and evaluate the essential public health activities in accordance with the following standards:
   1. National Public Health Performance Standards, approved by the CDC Healthy People 2030 (Healthy People) related goals and objectives;
   2. System Agency's programmatic grant guidance and performance standards relative to this **ATTACHMENT A, FY2026/2027 SCOPE OF GRANT PROJECT**; and
   3. Federal, state or local laws or regulations governing the delivery of essential public health services.

   Other evaluation methods utilizing standards not listed in this section must be preapproved in writing by System Agency.

E. Grantee shall implement its Project Service Delivery Plan ("**PSDP**"), as stated in its FY2026/2027 Local Public Health Services Application. Grantee's PSDP in the FY2026/2027 Local Public Health Services Application has been approved by System Agency and is incorporated by reference and made part of this Grant Agreement as if fully set forth herein. Any changes to the approved PSDP will require System Agency's written approval.

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F. Grantee shall submit quarterly performance reports, including a final performance report each fiscal year, that describes progress toward achieving the objectives contained in Grantee's approved PSDP. The quarterly performance reports must be submitted to the following email addresses: (1) LocalPHTeam@dshs.texas.gov and (2) the listed email address for the assigned System Agency Contract Representative identified in **SECTION VII, CONTRACT REPRESENTATIVES**, of the Grant Agreement.

Grantee shall submit all quarterly performance reports by the last calendar day of the month following the end of each fiscal quarter. The final performance report must be submitted with each fourth quarter report. Failure to submit a required report by the due date specified in this Grant Agreement constitutes breach of contract, may result in delayed payment, and may adversely affect evaluation of Grantee's future contracting opportunities with the department.

G. Grantee will maintain an inventory of the following as defined on the form entitled "DSHS Contractor's Property Inventory Report (Form GC-11)": (1) Equipment, (2) Controlled Assets, (3) Real Property, and (4) Other Intangible Property. Grantee will complete an annual cumulative report of the above stated items on Form GC-11 and submit the completed Form GC-11, via email, to (1) FSOequip@dshs.texas.gov, and (2) the assigned System Agency Contract Representative identified in **SECTION VII, CONTRACT REPRESENTATIVES**, of the Grant Agreement. The Form GC-11 must be submitted by no later than October 15th of each State Fiscal Year.

H. Grantee will submit Financial Status Reports ("FSRs") to System Agency, for review and financial assessment biannually. The reporting periods are as follows:

1. September 1st through February 28th (or February 29th, if a leap year); and
2. March 1st through August 31st.

Specifically, Grantee will submit FSRs on the following timeline: (1) by no later than the last business day of the month following the end of the second fiscal quarter and (2) by no later than thirty (30) calendar days following the end of each fourth fiscal quarter.

The biannual FSRs are to be submitted, by the due dates identified above, to the following email addresses:

1. Invoices@dshs.texas.gov;
2. FSRGrants@dshs.texas.gov; and
3. The assigned System Agency Contract Representative identified in **SECTION VII, CONTRACT REPRESENTATIVES**, of the Grant Agreement.

I. Grantee may not begin work or incur charges for FY2026 until System Agency issues a written Notice to Proceed (NTP) to Grantee, as funding for this Grant Agreement is dependent on the award of both state (General Revenue) and federal grant funds. Although the NTP may issue a budget amount less than the total not to exceed amount of the Grant Agreement, the NTP must not effectuate a total budget of the Grant

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Agreement that results in a total not to exceed Grant Agreement amount that exceeds the amount specified in **SECTION V, BUDGET AND INDIRECT COST RATE,** of the Grant Agreement. Such changes to total not to exceed amount specified in the Grant Agreement must be effectuated by amendment. Any expenditures made beyond the dollar amounts specified in the NTP(s) will be at Grantee's sole risk. Notwithstanding the preceding, at the discretion of the System Agency, Grantee may be eligible to receive reimbursement for eligible expenses incurred during the period of performance, as defined by 2 CFR §200.309.

J. Grantee shall provide notification of budget transfers by submitting a revised Categorical Budget Form that highlights the areas affected by the budget transfer to the assigned System Agency Contract Representative identified in **SECTION VII, CONTRACT REPRESENTATIVES**, of the Grant Agreement. Grantee is advised as follows:
   1. Transferring funds between budget categories, other than the "Equipment" and "Indirect Cost" categories, is allowable, but cannot exceed twenty-five percent (25%) of the Grant Agreement value during each State Fiscal Year. If the budget transfer(s) exceeds twenty-five percent (25%) of the total Grant Agreement value in a State Fiscal Year, alone or cumulatively, a formal amendment to the Grant Agreement is required; and
   2. After review, the assigned System Agency Contract Representative identified in **SECTION VII, CONTRACT REPRESENTATIVES**, of the Grant Agreement shall provide notification of acceptance to Grantee via email, upon receipt of which, the revised budget shall be incorporated into the Grant Agreement.

II. PERFORMANCE MEASURES

System Agency will monitor the Grantee's performance of the requirements in this **ATTACHMENT A, FY2026/2027 SCOPE OF GRANT PROJECT,** and compliance with the Grant Agreement's terms and conditions.

III. INVOICE AND PAYMENT

A. Grantee will request payment using the State of Texas Purchase Voucher (Form B-13). The Form B-13, and any supporting documentation, will be submitted by the last business day of the month following the month in which expenses were incurred via electronic mail, fax, or U.S. mail. DSHS prefers that the Form B-13, and any supporting documentation, be submitted via electronic mail, but the other two methods are also acceptable.

Texas Department of State Health Services
Claims Processing Unit, MC 1940
1100 West 49th Street
P.O. Box 149347
Austin, TX 78714-9347
Fax: 512-458-7442

Docusign Envelope ID: C919F9C5-BD92-44AF-8E52-8E36B50D262B

Email: invoices@dshs.texas.gov, CMSInvoices@dshs.texas.gov, and the assigned System Agency Contract Representative identified in Section VII, Contract Representatives, of the Grant Agreement.

B. Upon providing acceptable supporting documentation for reimbursement of the required services/deliverables, Grantee will be paid on a monthly basis and in accordance with **ATTACHMENT B, FY2026/2027 BUDGET**, of this Grant Agreement.

C. System Agency reserves the right, where allowed by legal authority, to redirect funds in the event of financial shortfalls. System Agency will monitor Grantee's expenditures on a quarterly basis. If expenditures are below that projected in Grantee's total Grant Agreement amount, Grantee's budget may be subject to a decrease for the remainder of the term of the Grant Agreement. Vacant positions existing after ninety (90) calendar days may result in a decrease in funds.

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ATTACHMENT B
FY2026/2027 BUDGET

Budget Categories	FY2026 Budget Summary (9/1/2025 – 8/31/2026)	FY2027 Budget Summary (9/1/2026 – 8/31/2027)	2 Year Total Budget
Personnel	$75,608.00	$75,608.00	$151,216.00
Fringe Benefits	$12,037.00	$12,037.00	$24,074.00
Travel	$0.00	$0.00	$0.00
Equipment	$0.00	$0.00	$0.00
Supplies	$0.00	$0.00	$0.00
Contractual	$0.00	$0.00	$0.00
Other	$0.00	$0.00	$0.00
Total Direct Costs	**$87,645.00**	**$87,645.00**	**$175,290.00**
Indirect Costs	$0.00	$0.00	$0.00
Subtotal of Total Direct Costs and Indirect Costs	**$87,645.00**	**$87,645.00**	**$175,290.00**
Less Match (Cash or In-Kind)	$0.00	$0.00	$0.00
TOTAL	**$87,645.00**	**$87,645.00**	**$175,290.00**

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HEALTH AND HUMAN SERVICES
Contract Number HHS001588400033
Attachment C CONTRACT AFFIRMATIONS

For purposes of these Contract Affirmations, HHS includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). System Agency refers to HHSC, DSHS, or both, that will be a party to this Contract. These Contract Affirmations apply to all Contractors and Grantees (referred to as "Contractor") regardless of their business form (e.g., individual, partnership, corporation).

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

1. Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.

2. **Complete and Accurate Information**

   Contractor represents and warrants that all statements and information provided to HHS are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.

3. **Public Information Act**

   Contractor understands that HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

4. **Contracting Information Requirements**

   Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

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5. Assignment

A. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from System Agency. Any attempted assignment in violation of this provision is void and without effect.

B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity.

6. Terms and Conditions

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from HHS' terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

7. HHS Right to Use

Contractor agrees that HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHS deems necessary to complete the procurement process or comply with state or federal laws.

8. Release from Liability

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

9. Dealings with Public Servants

Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.

10. Financial Participation Prohibited

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

11. Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract

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and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

12. Child Support Obligation

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate. If the certification is shown to be false, Contractor may be liable for additional costs and damages set out in 231.006(f).

13. Suspension and Debarment

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.

14. Excluded Parties

Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, *"Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism,"* published by the United States Department of the Treasury, Office of Foreign Assets Control.'

15. Foreign Terrorist Organizations

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

16. Executive Head of a State Agency

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

17. Human Trafficking Prohibition

Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

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18. Franchise Tax Status

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

19. Debts and Delinquencies

Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

20. Lobbying Prohibition

Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

21. Buy Texas

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

22. Disaster Recovery Plan

Contractor agrees that upon request of System Agency, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

23. Computer Equipment Recycling Program

If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.

24. Television Equipment Recycling Program

If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

25. Cybersecurity Training

A. Contractor represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.

B. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2054.5192.

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26. Restricted Employment for Certain State Personnel

Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

27. No Conflicts of Interest

A. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to System Agency under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

B. Contractor agrees that, if after execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to System Agency. In addition, Contractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Contractor or by System Agency as a potential conflict. System Agency reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by System Agency's decision.

28. Fraud, Waste, and Abuse

Contractor understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Grantee officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027.

A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: http://sao.fraud.state.tx.us/

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All reports made to the OIG must be made through one of the following avenues:

- OIG Toll Free Hotline 1-800-436-6184
- OIG Website: ReportTexasFraud.com
- Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us
- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us.
- OIG Mailing Address: Office of Inspector General
  Attn: Fraud Hotline
  MC 1300
  P.O. Box 85200
  Austin, Texas 78708-5200

29. Antitrust

The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and

C. neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

30. Legal and Regulatory Actions

Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify System Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update System Agency shall constitute breach of contract and may result in immediate contract termination.

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31. No Felony Criminal Convictions

Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

32. Unfair Business Practices

Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

33. Entities that Boycott Israel

Contractor represents and warrants that (1) it does not, and shall not for the duration of the Contract, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

34. E-Verify

Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:

1. all persons employed by Contractor to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.

35. Former Agency Employees – Certain Contracts

If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, in accordance with Section 2252.901 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the Contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the Contract.

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36. Disclosure of Prior State Employment – Consulting Services

If this Contract is for consulting services,

A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:

1. Name of individual(s) (Contractor or employee(s));
2. Status;
3. The nature of the previous employment with HHSC or the other State of Texas agency;
4. The date the employment was terminated and the reason for the termination; and
5. The annual rate of compensation for the employment at the time of its termination.

B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by System Agency or any other State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services.

37. Abortion Funding Limitation

Contractor understands, acknowledges, and agrees that, pursuant to Article IX of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act:

1. performs an abortion procedure that is not reimbursable under the state's Medicaid program;
2. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program; or
3. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program.

The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX.

38. Funding Eligibility

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code, except as exempted under that Chapter, HHSC cannot contract with an abortion provider or an affiliate of an abortion provider. Contractor certifies that it is not ineligible to contract with HHSC under the terms of Chapter 2272 (eff. Sept. 1, 2021, Ch. 2273) of the Texas Government Code.

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39. Gender Transitioning and Gender Reassignment Procedures and Treatments for Certain Children – Prohibited Use of Public Money; Prohibited State Health Plan Reimbursement.

Contractor understands, acknowledges, and agrees that, pursuant to Section 161.704 of the Texas Health and Safety Code (eff. Sept. 1, 2023), public money may not directly or indirectly be used, granted, paid, or distributed to any health care provider, medical school, hospital, physician, or any other entity, organization, or individual that provides or facilitates the provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor also understands, acknowledges, and agrees that, pursuant to Section 161.705 of the Texas Health and Safety Code (eff. Sept. 1, 2023), HHSC may not provide Medicaid reimbursement and the child health plan program established under Chapter 62 may not provide reimbursement to a physician or health care provider for provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor certifies that it is not ineligible to contract with System Agency under the terms of Chapter 161, Subchapter X, of the Texas Health and Safety Code.

40. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)

Contractor certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract or funding pursuant to 2 CFR 200.216.

41. COVID-19 Vaccine Passports

Pursuant to Texas Health and Safety Code, Section 161.0085(c), Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.

42. COVID-19 Vaccinations

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, none of the General Revenue Funds appropriated to the Department of State Health Services (DSHS) may be used for the purpose of promoting or advertising COVID-19 vaccinations in the 2024-25 biennium. It is also the intent of the legislature that to the extent allowed by federal law, any federal funds allocated to DSHS shall be expended for activities other than promoting or advertising COVID-19 vaccinations. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article II.

43. Entities that Boycott Energy Companies

In accordance with Senate Bill 13, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 (eff. Sept. 1, 2023, Section 2276.002, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.) of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Contractor represents and warrants that: (1) it does not, and will not for the duration of the Contract, boycott energy companies or (2) the verification required by Section 2274.002 (eff. Sept. 1, 2023, Section 2276.002, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.) of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

44. Entities that Discriminate Against Firearm and Ammunition Industries

In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Contractor verifies that: (1) it does not, and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

45. Security Controls for State Agency Data

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.138, Contractor understands, acknowledges, and agrees that if, pursuant to this Contract, Contractor is or will be authorized to access, transmit, use, or store data for System Agency, Contractor is required to meet the security controls the System Agency determines are proportionate with System Agency's risk under the Contract based on the sensitivity of System Agency's data and that Contractor must periodically provide to System Agency evidence that Contractor meets the security controls required under the Contract.

46. Cloud Computing State Risk and Authorization Management Program (TX-RAMP)

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.0593, Contractor acknowledges and agrees that, if providing cloud computing services for System Agency, Contractor must comply with the requirements of the state risk and authorization management program and that System Agency may not enter or renew a contract with Contractor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless Contractor demonstrates compliance with program requirements. If providing cloud computing services for System Agency that are subject to the state risk and authorization management program, Contractor certifies it will maintain program compliance and certification throughout the term of the Contract.

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47. **Office of Inspector General Investigative Findings Expert Review**
In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 531.102(m-1)(2) (eff. Apr. 1, 2025, Section 544.0106, pursuant to House Bill 4611, Acts 2023, 88th Leg., R.S.) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

48. **Contract for Professional Services of Physicians, Optometrists, and Registered Nurses**
In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2254.008(a)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

49. **Foreign-Owned Companies in Connection with Critical Infrastructure**
If Texas Government Code, Section 2274.0102(a)(1) (eff. Sept. 1, 2023, Section 2275.0102(a)(1), pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.) (relating to prohibition on contracts with certain foreign-owned companies in connection with critical infrastructure) is applicable to this Contract, pursuant to Government Code Section 2274.0102 (eff. Sept. 1, 2023, Section 2275.0102, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.), Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103 (eff. Sept. 1, 2023, Section 2275.0103, pursuant to House Bill 4595, Acts 2023, 88th Leg., R.S.), or (2) headquartered in any of those countries.

50. **Critical Infrastructure Subcontracts**
For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 117.002 of the Business and Commerce Code, Contractor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 117.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Contractor will notify the System Agency before entering into any subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 117.001 of the Texas Business & Commerce Code, in this state.

51. **Enforcement of Certain Federal Firearms Laws Prohibited**
In accordance with House Bill 957, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2.101 is applicable to Contractor, Contractor certifies that it is not ineligible to receive state grant funds pursuant to Texas Government Code, Section 2.103.

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52. Prohibition on Abortions

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article II.

53. Pursuant to Executive Order GA-48, relating to hardening of state government, issued November 19, 2024, Contractor certifies it is not and, if applicable, any of its holding companies or subsidiaries is not:

a. Listed in Section 889 of the 2019 National Defense Authorization Act (NDAA); or

b. Listed in Section 1260H of the 2021 NDAA; or

c. Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or

d. Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

54. False Representation

Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

55. False Statements

Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

56. Permits and License

Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.

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57. Equal Employment Opportunity

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

58. Federal Occupational Safety and Health Law

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

59. Signature Authority

Contractor represents and warrants that the individual signing this Contract Affirmations document is authorized to sign on behalf of Contractor and to bind the Contractor.

Signature Page Follows

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Authorized representative on behalf of Contractor must complete and sign the following:

Legal Name of Contractor

Assumed Business Name of Contractor, if applicable (d/b/a or 'doing business as')

Texas County(s) for Assumed Business Name (d/b/a or 'doing business as')
Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.

Signature of Authorized Representative	**Date Signed**
Printed Name of Authorized Representative First, Middle Name or Initial, and Last Name	**Title of Authorized Representative**
Physical Street Address	**City, State, Zip Code**
Mailing Address, if different	**City, State, Zip Code**
Phone Number	**Fax Number**
Email Address	**DUNS Number**
Federal Employer Identification Number	**Texas Identification Number (TIN)**
Texas Franchise Tax Number	**Texas Secretary of State Filing Number**
SAM.gov Unique Entity Identifier (UEI)	

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TEXAS
Health and Human Services

Health and Human Services (HHS)

Uniform Terms and Conditions - Grant

Version 3.5

Published and Effective – September 2024

Responsible Office: Chief Counsel

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ABOUT THIS DOCUMENT

In this document, Grantees (also referred to in this document as subrecipients or contractors) will find requirements and conditions applicable to grant funds administered and passed through by both the Texas Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). These requirements and conditions are incorporated into the Grant Agreement through acceptance by Grantee of any funding award by HHSC or DSHS.

The terms and conditions in this document are in addition to all requirements listed in the RFA, if any, under which applications for this grant award are accepted, as well as all applicable federal and state laws and regulations. Applicable federal and state laws and regulations may include, but are not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; requirements of the entity that awarded the funds to HHS; Chapter 783 of the Texas Government Code; Texas Comptroller of Public Accounts' agency rules; the Texas Grant Management Standards (TxGMS) developed by the Texas Comptroller of Public Accounts; and the Funding Announcement, Solicitation, or other instrument/documentation under which HHS was awarded funds. HHS, in its sole discretion, reserves the right to add requirements, terms, or conditions.

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 DEFINITIONS

As used in this Grant Agreement, unless a different definition is specified, or the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

"Amendment" means a written agreement, signed by the Parties, which documents changes to the Grant Agreement.

"Contract" or "Grant Agreement" means the agreement entered into by the Parties, including the Signature Document, these Uniform Terms and Conditions, along with any attachments and amendments that may be issued by the System Agency.

"Deliverables" means the goods, services, and work product, including all reports and project documentation, required to be provided by Grantee to the System Agency.

"DSHS" means the Department of State Health Services.

"Effective Date" means the date on which the Grant Agreement takes effect.

"Federal Fiscal Year" means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

"GAAP" means Generally Accepted Accounting Principles.

"GASB" means the Governmental Accounting Standards Board.

"Grantee" means the Party receiving funds under this Grant Agreement. May also be referred to as "subrecipient" or "contractor" in this document.

"HHSC" means the Texas Health and Human Services Commission.

"Health and Human Services" or "HHS" includes HHSC and DSHS.

"Intellectual Property Rights" means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right may be evidenced by or embodied in:

i. any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement;
ii. any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work;
iii. any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin;
iv. domain name registrations; and
v. any other proprietary or similar rights. The Intellectual Property Rights of a Party include all worldwide proprietary rights or interests that the Party may have acquired by assignment, by exclusive license, or by license with the right to grant sublicenses.

"Parties" means the System Agency and Grantee, collectively.

"Party" means either the System Agency or Grantee, individually.

"Project" means specific activities of the Grantee that are supported by funds provided under this Grant Agreement.

"Signature Document" means the document executed by all Parties for this Grant Agreement.

"Solicitation," "Funding Announcement" or "Request for Applications (RFA)" means the document (including all exhibits, attachments, and published addenda), issued by the System Agency under which applications for grant funds were requested, which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

"Solicitation Response" or "Application" means Grantee's full and complete Solicitation response (including any attachments and addenda), which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

"State Fiscal Year" means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

"State of Texas *Textravel*" means the Texas Comptroller of Public Accounts' website relative to travel reimbursements under this Contract, if any.

"Statement of Work" means the description of activities Grantee must perform to complete the Project, as specified in the Grant Agreement, and as may be amended.

"System Agency" means HHSC or DSHS, as applicable.

"Work Product" means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Grantee in connection with Grantee's performance of its duties under the Grant Agreement or through use of any funding provided under this Grant Agreement.

"Texas Grant Management Standards" or "TxGMS" means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies. Under this Grant Agreement, TxGMS applies to Grantee except as otherwise provided by applicable law or directed by System Agency. Additionally, except as otherwise provided by applicable law, in the event of a conflict between TxGMS and applicable federal or state law, federal law prevails over state law and state law prevails over TxGMS.

1.2 Interpretive Provisions

A. The meanings of defined terms include the singular and plural forms.
B. The words "hereof," "herein," "hereunder," and similar words refer to this Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
C. The term "including" is not limiting and means "including without limitation" and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts (including this Grant Agreement) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Grant Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

D. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Grant Agreement are references to these documents as amended, modified, or supplemented during the term of the Grant Agreement.
E. The captions and headings of this Grant Agreement are for convenience of reference only and do not affect the interpretation of this Grant Agreement.
F. All attachments, including those incorporated by reference, and any Amendments are considered part of the terms of this Grant Agreement.
G. This Grant Agreement may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative.
H. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase "in its sole discretion."
I. Time is of the essence in this Grant Agreement.
J. Prior to execution of the Grant Agreement, Grantee must notify System Agency's designated contact in writing of any ambiguity, conflict, discrepancy, omission, or other error. If Grantee fails to notify the System Agency designated contact of any ambiguity, conflict, discrepancy, omission, or other error in the Grant Agreement prior to Grantee's execution of the Grant Agreement, Grantee:
    i. Shall have waived any claim of error or ambiguity in the Grant Agreement; and
    ii. Shall not contest the interpretation by the System Agency of such provision(s).

No grantee will be entitled to additional reimbursement, relief, or time by reason of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

ARTICLE II. PAYMENT PROVISIONS

2.1 PROMPT PAYMENT

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

2.2 TAXES

Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from the Grant Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. System Agency shall not be liable for any taxes resulting from the Grant Agreement.

2.3 ANCILLARY AND TRAVEL EXPENSES

A. Except as otherwise provided in the Grant Agreement, no ancillary expenses incurred by the Grantee in connection with its provision of the services or deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to, costs associated with transportation, delivery, and insurance for each deliverable.
B. Except as otherwise provided in the Grant Agreement, when the reimbursement of travel expenses is authorized by the Grant Agreement, all such expenses will be reimbursed in accordance with the rates set by the Texas Comptroller's *Textravel* guidelines, which can currently be accessed at: https://fmx.cpa.texas.gov/fmx/travel/textravel/

2.4 Billing

Unless otherwise provided in the Grant Agreement, Grantee shall bill the System Agency in accordance with the Grant Agreement. Unless otherwise specified in the Grant Agreement, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

2.5 Use of Funds

Grantee shall expend funds under this Grant Agreement only for approved services and for reasonable and allowable expenses directly related to those services.

2.6 Use for Match Prohibited

Grantee shall not use funds provided under this Grant Agreement for matching purposes in securing other funding without the written approval of the System Agency.

2.7 Program Income

Program income refers to gross income directly generated by a supporting activity during the period of performance. Unless otherwise required under the Grant Agreement, Grantee shall use Program Income, as provided in TxGMS, to further the Project, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Grant Agreement, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Grant Agreement term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Grant Agreement.

2.8 Nonsupplanting

Grant funds must be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds that have been appropriated, allocated, or disbursed for the same purpose. System Agency may conduct Grant monitoring or audits may be conducted to review, among other things, Grantee's compliance with this provision.

2.9 Indirect Cost Rates

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable Grant Agreements. For subrecipients receiving federal funds, indirect cost rates will be determined in accordance with applicable law including, but not limited to, 2 CFR 200.414(f). For recipients receiving state funds, indirect costs will be determined in accordance with applicable law including, but not limited to, TxGMS. Grantees funded with blended federal and state funding will be subject to both state and federal requirements when determining indirect costs. In the event of a conflict between TxGMS and applicable federal law or regulation, the provisions of federal law or regulation will apply. Grantee will provide any necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and TxGMS.

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 EXCESS OBLIGATIONS PROHIBITED

This Grant Agreement is subject to termination or cancellation, without penalty to System Agency, either in whole or in part, subject to the availability and actual receipt by System Agency of state or federal funds. System Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If System Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either System Agency's or Grantee's delivery or performance under the Grant Agreement impossible or unnecessary, the Grant Agreement will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, System Agency will not be liable to Grantee for any damages that are caused or associated with such termination or cancellation, and System Agency will not be required to give prior notice. Additionally, System Agency will not be liable to Grantee for any remaining unpaid funds under this Grant Agreement at time of termination.

3.2 NO DEBT AGAINST THE STATE

This Grant Agreement will not be construed as creating any debt by or on behalf of the State of Texas.

3.3 DEBTS AND DELINQUENCIES

Grantee agrees that any payments due under the Grant Agreement shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support during the entirety of the Grant Agreement term.

3.4 REFUNDS AND OVERPAYMENTS

A. At its sole discretion, the System Agency may (i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s); or (ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice – to System Agency any funds erroneously paid by System Agency which are not expressly authorized under the Grant Agreement.

B. "Overpayments" as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Grant Agreement, including any unapproved expenditures. Grantee understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Grant Agreement. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Grant Agreement.

ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.1 ALLOWABLE COSTS

A. Allowable Costs are restricted to costs that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws. This Grant Agreement is subject to all applicable requirements of TxGMS, including the

criteria for Allowable Costs. Additional federal requirements apply if this Grant Agreement is funded, in whole or in part, with federal funds.

B. System Agency will reimburse Grantee for actual, allowable, and allocable costs incurred by Grantee in performing the Project, provided the costs are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Grant Agreement. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from remaining funds available under this Grant Agreement in amounts necessary to fulfill Grantee's repayment obligations. Grantee and all payments received by Grantee under this Grant Agreement are subject to applicable cost principles, audit requirements, and administrative requirements including applicable provisions under 2 CFR 200, 48 CFR Part 31, and TxGMS.

C. OMB Circulars will be applied with the modifications prescribed by TxGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

4.2 Audits and Financial Statements

A. Audits

i. Grantee understands and agrees that Grantee is subject to any and all applicable audit requirements found in state or federal law or regulation or added by this Grant Agreement.

ii. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee may be subject to sanctions and remedies for non-compliance.

iii. If Grantee, within Grantee's fiscal year, expends federal funds awarded of at least $750,000 for audit periods beginning before October 1, 2024 (beginning on or after October 1, 2024, at least $1,000,000), Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.

iv. If Grantee, within Grantee's fiscal year, expends at least $750,000 in state funds awarded or other amount specified in the TxGMS, Grantee shall have a single audit or program-specific audit in accordance with TxGMS. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and TxGMS.

v. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or TxGMS, as applicable, for their program-specific audits.

vi. Each Grantee required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with applicable provisions of 2 CFR 200 and TxGMS.

B. Financial Statements.

Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements for the audit period.

4.3 Submission of Audits and Financial Statements

A. Audits.
Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit one electronic copy of the single audit or program-specific audit to the System Agency via:
i. HHS portal at https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau or,
ii. Email to: single_audit_report@hhsc.state.tx.us.

B. Financial Statements.
Due no later than nine months after the Grantee's fiscal year-end, Grantees not required to submit an audit, shall submit one electronic copy of their financial statements via:
i. HHS portal at https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau; or,
ii. Email to: single_audit_report@hhsc.state.tx.us.

ARTICLE V. Warranty, Affirmations, Assurances and Certifications

5.1 Warranty

Grantee warrants that all work under this Grant Agreement shall be completed in a manner consistent with standards under the terms of this Grant Agreement, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Grant Agreement; and all deliverables shall be fit for ordinary use, of good quality, and with no material defects. If System Agency, in its sole discretion, determines Grantee has failed to complete work timely or to perform satisfactorily under conditions required by this Grant Agreement, the System Agency may require Grantee, at its sole expense, to:

i. Repair or replace all defective or damaged work;
ii. Refund any payment Grantee received from System Agency for all defective or damaged work and, in conjunction therewith, require Grantee to accept the return of such work; and,
iii. Take necessary action to ensure that Grantee's future performance and work conform to the Grant Agreement requirements.

5.2 General Affirmations

Grantee certifies that, to the extent affirmations are incorporated into the Grant Agreement, the Grantee has reviewed the affirmations and that Grantee is in compliance with all requirements.

5.3 Federal Assurances

Grantee further certifies that, to the extent federal assurances are incorporated into the Grant Agreement, the Grantee has reviewed the federal assurances and that Grantee is in compliance with all requirements.

5.4 Federal Certifications

Grantee further certifies that, to the extent federal certifications are incorporated into the Grant Agreement, the Grantee has reviewed the federal certifications and that Grantee is in compliance with all requirements. In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Grant Agreement.

5.5 State Assurances

Except to the extent of any conflict under applicable law or requirements or guidelines of any federal awarding agency from which funding for this Grant Agreement originated, the Grantee must comply with the applicable state assurances included within the TxGMS which are incorporated here by reference.

ARTICLE VI. Intellectual Property

6.1 Ownership of Work Product

A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.

B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.

C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.

D. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.

E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

6.2 Grantee's Pre-Existing Works

A. To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Grant Agreement ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works.

B. Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.

C. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

6.3 Third Party IP

A. To the extent that any Third Party IP is included or incorporated in the Work Product by Grantee, Grantee hereby grants to System Agency, or shall obtain from the applicable third party for System Agency's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency's internal business or governmental purposes only, to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and to authorize others to do any or all of the foregoing.

B. Grantee shall obtain System Agency's advance written approval prior to incorporating any Third Party IP into the Work Product, and Grantee shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.

C. Grantee shall provide System Agency all supporting documentation demonstrating Grantee's compliance with this Section 6.3, including without limitation documentation indicating a third party's written approval for Grantee to use any Third Party IP that may be incorporated in the Work Product.

6.4 Agreements with Employees and Subcontractors

Grantee shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Grantee's compliance with Grantee's obligations under this Article VI, Intellectual Property.

6.5 Delivery upon Termination or Expiration

No later than the first calendar day after the termination or expiration of the Grant Agreement or upon System Agency's request, Grantee shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Grant Agreement. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Grant Agreement without the prior written consent of System Agency.

6.6 Survival

The provisions and obligations of this Article survive any termination or expiration of the Grant Agreement.

6.7 System Agency Data

A. As between the Parties, all data and information acquired, accessed, or made available to Grantee by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Grantee in the course of providing data processing services in connection with Grantee's performance hereunder (the "System Agency Data"), is owned solely by System Agency.

B. Grantee has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Grantee to fulfill its obligations under the Grant Agreement or as authorized in advance in writing by System Agency.

C. For the avoidance of doubt, Grantee is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
D. Grantee shall make System Agency Data available to System Agency, including to System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.
E. Furthermore, the proprietary nature of Grantee's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Grantee's performance of its obligations hereunder.

ARTICLE VII. PROPERTY

7.1 USE OF STATE PROPERTY

A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (*e.g.,* laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.
C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.
E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
    i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
    ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

7.2 DAMAGE TO STATE PROPERTY

A. In the event of loss, destruction, or damage to any System Agency or State of Texas owned, leased, or occupied property or equipment by Grantee or Grantee's employees, agents, Subcontractors, or suppliers, Grantee shall be liable to System Agency and the State of Texas for the full cost of repair, reconstruction, or replacement of the lost, destroyed, or damaged property.
B. Grantee shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Grantee shall reimburse System Agency and the State of Texas for such property damage within ten (10) calendar days after Grantee's receipt of System Agency's notice of amount due.

7.3 Property Rights upon Termination or Expiration of Contract

In the event the Grant Agreement is terminated for any reason or expires, State Property remains the property of the System Agency and must be returned to the System Agency by the earlier of the end date of the Grant Agreement or upon System Agency's request.

7.4 Equipment and Property

All equipment and property acquired by Grantee, with funds awarded under this Grant Agreement, are subject to all applicable laws and governing authority including, but not limited to, applicable provisions of 2 CFR 200 and TxGMS. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

ARTICLE VIII. Record Retention, Audit, And Confidentiality

8.1 Record Maintenance and Retention

A. Grantee shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives all information required to determine compliance with the terms and conditions of this Grant Agreement and all state and federal rules, regulations, and statutes. Grantee shall ensure these same requirements are included in all subcontracts.

B. Grantee shall maintain and retain legible copies of this Grant Agreement and all records relating to the performance of the Grant Agreement, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by the Grantee for a minimum of seven (7) years after the Grant Agreement expiration date or seven (7) years after all audits, claims, litigation, or disputes involving the Grant Agreement are resolved, whichever is later. Grantee shall ensure these same requirements are included in all subcontracts.

8.2 Agency's Right to Audit

A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas. Grantee shall ensure these same requirements are included in all subcontracts.

B. In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Grant Agreement. Grantee shall permit the System Agency or any of its duly authorized federal, state, or local authorities unrestricted access to and the right to examine all external contracts and or pricing models or methodologies related to the Grant Agreement. Grantee shall ensure these same requirements are included in all subcontracts. If the Grant Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency

providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority.

C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of oversight, including, but not limited to, reviews, inspections, audits and investigations, Grantee shall produce original documents related to this Grant Agreement.

D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings and payments related to the Grant Agreement, including those related to a Subcontractor.

E. Grantee shall include the System Agency's and any of its duly authorized representatives', as well as duly authorized federal, state, or local authorities, unrestricted right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

8.3 Response/Compliance with Audit or Inspection Findings

A. Grantee must act to ensure its and its Subcontractors' compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, inspection or investigation of the Grant Agreement and the services and Deliverables provided. Any such correction will be at Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.

B. As part of the services, Grantee must provide to HHS upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Grant Agreement.

C. Grantee shall include the requirement to provide to System Agency (and any of its duly authorized federal, state, or local authorities) internal audit reports related to this Grant Agreement in any Subcontract it awards. Upon request by System Agency, Grantee shall enforce this requirement against its Subcontractor. Further, Grantee shall include in any Subcontract it awards a requirement that all Subcontractor Subcontracts must also include these provisions.

8.4 State Auditor's Right to Audit

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Grantee shall ensure the authority to audit funds received indirectly by subcontractors through the contract and the requirement to cooperate is included in any subcontract it awards.

8.5 Confidentiality

Grantee shall maintain as confidential and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This Article VIII will survive termination or expiration of this Grant Agreement. Further, the obligations of Grantee under this Article VIII will survive termination or expiration of this Grant Agreement. This requirement must be included in all subcontracts awarded by Grantee.

ARTICLE IX. Grant Remedies, Termination And Prohibited Activities

9.1 Remedies

A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to the following:
   i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
   ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
   iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
   iv. suspending all or part of the Grant Agreement;
   v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
   vi. recouping payments made by the System Agency to the Grantee found to be in error;
   vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
   viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is obtained;
   ix. withholding release of new grant agreements; and
   x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.

B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.

C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

9.2 Termination for Convenience

The System Agency may terminate the Grant Agreement, in whole or in part, at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in the System Agency's notice of termination.

9.3 Termination for Cause

A. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Grant Agreement, in whole or in part, upon either of the following conditions:

i. **Material Breach**
The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.

ii. **Failure to Maintain Financial Viability**
The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.

B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

9.4 Grantee Responsibility for System Agency's Termination Costs

If the System Agency terminates the Grant Agreement for cause, the Grantee shall be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas to replace the Grantee. These costs include, but are not limited to, the costs of procuring a substitute grantee and the cost of any claim or litigation attributable to Grantee's failure to perform any work in accordance with the terms of the Grant Agreement.

9.5 Inherently Religious Activities

Grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may engage in inherently religious activities; however, these activities must be separate in time or location from the grant-funded program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. These requirements apply to all grantees, not just faith-based organizations.

9.6 Political Activities

Grant funds cannot be used for the following activities:

A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.

B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.

C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.

D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

ARTICLE X. INDEMNITY

10.1 GENERAL INDEMNITY

A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.

B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.

C. FOR THE AVOIDANCE OF DOUBT, SYSTEM AGENCY SHALL NOT INDEMNIFY GRANTEE OR ANY OTHER ENTITY UNDER THE GRANT AGREEMENT.

10.2 INTELLECTUAL PROPERTY

GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE SYSTEM AGENCY AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM:

i. THE PERFORMANCE OR ACTIONS OF GRANTEE PURSUANT TO THIS GRANT AGREEMENT;

ii. ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR

iii. SYSTEM AGENCY'S AND/OR GRANTEE'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY GRANTEE OR OTHERWISE TO WHICH SYSTEM AGENCY HAS ACCESS AS A RESULT OF GRANTEE'S PERFORMANCE UNDER THE GRANT AGREEMENT.

10.3 Additional Indemnity Provisions

A. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.

B. THE DEFENSE SHALL BE COORDINATED BY THE GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.

C. GRANTEE SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF GRANTEE OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND GRANTEE SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.

ARTICLE XI. General Provisions

11.1 Amendments

Except as otherwise expressly provided, the Grant Agreement may only be amended by a written Amendment executed by both Parties.

11.2 No Quantity Guarantees

The System Agency makes no guarantee of volume or usage of work under this Grant Agreement. All work requested may be on an irregular and as needed basis throughout the Grant Agreement term.

11.3 Child Abuse Reporting Requirements

A. Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.

B. Grantee shall use the Texas Abuse Hotline Website located at https://www.txabusehotline.org/Login/Default.aspx as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.

11.4 Certification of Meeting or Exceeding Tobacco-Free Workplace Policy Minimum Standards

A. Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:

i. Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;
ii. Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Grant Agreement are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
iii. Applying to all employees and visitors in this designated area; and
iv. Providing for or referring its employees to tobacco use cessation services.

B. If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.

11.5 Insurance and Bonds

Unless otherwise specified in this Contract, Grantee shall acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Grantee shall provide evidence of insurance as required under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Grantee shall secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Grantee must produce renewal certificates for each type of coverage. In addition, if required by System Agency, Grantee must obtain and have on file a blanket fidelity bond that indemnifies System Agency against the loss or theft of any grant funds, including applicable matching funds. The fidelity bond must cover the entirety of the grant term and any subsequent renewals. The failure of Grantee to comply with these requirements may subject Grantee to remedial or corrective actions detailed in section 10.1, General Indemnity, above.

These and all other insurance requirements under the Grant apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

11.6 Limitation on Authority

A. Grantee shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Grant Agreement; no other authority, power, or use is granted or implied. Grantee may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
B. Grantee may not rely upon implied authority and is not granted authority under the Grant Agreement to:
   i. Make public policy on behalf of the System Agency;
   ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
   iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding System Agency programs or

the Grant Agreement. However, upon System Agency request and with reasonable notice from System Agency to the Grantee, the Grantee shall assist the System Agency in communications and negotiations regarding the Work under the Grant Agreement with state and federal governments.

11.7 Change in Laws and Compliance with Laws

Grantee shall comply with all laws, regulations, requirements, and guidelines applicable to a Grantee providing services and products required by the Grant Agreement to the State of Texas, as these laws, regulations, requirements, and guidelines currently exist and as amended throughout the term of the Grant Agreement. Notwithstanding Section 11.1, Amendments, above, System Agency reserves the right, in its sole discretion, to unilaterally amend the Grant Agreement to incorporate any modifications necessary for System Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

11.8 Subcontractors

Grantee may not subcontract any or all of the Work and/or obligations under the Grant Agreement without prior written approval of the System Agency. Subcontracts, if any, entered into by the Grantee shall be in writing and be subject to the requirements of the Grant Agreement. Should Grantee subcontract any of the services required in the Grant Agreement, Grantee expressly understands and acknowledges System Agency is in no manner liable to any subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Grant Agreement.

11.9 Permitting and Licensure

At Grantee's sole expense, Grantee shall procure and maintain for the duration of this Grant Agreement any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Grant Agreement. Grantee shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Grant Agreement.

11.10 Independent Contractor

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Grant Agreement. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. The Grantee is not a "governmental body" solely by virtue of this Grant Agreement or receipt of grant funds under this Grant Agreement. Grantee shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Grant Agreement shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

11.11 Governing Law and Venue

The Grant Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit

arising under the Grant Agreement is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

11.12 SEVERABILITY

If any provision contained in this Grant Agreement is held to be unenforceable by a court of law or equity, such construction will not affect the legality, validity, or enforceability of any other provision or provisions of this Grant Agreement. It is the intent and agreement of the Parties this Grant Agreement shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this Grant Agreement will continue in full force and effect.

11.13 SURVIVABILITY

Expiration or termination of the Grant Agreement for any reason does not release Grantee from any liability or obligation set forth in the Grant Agreement that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the Grant Agreement, including without limitation the provisions regarding return of grant funds, audit requirements, records retention, public information, warranty, indemnification, confidentiality, and rights and remedies upon termination.

11.14 FORCE MAJEURE

Neither Grantee nor System Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Grant Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

11.15 NO IMPLIED WAIVER OF PROVISIONS

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee which is in violation or breach of the terms of the Grant Agreement shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

11.16 FUNDING DISCLAIMERS AND LABELING

A. Grantee shall not use System Agency's name or refer to System Agency directly or indirectly in any media appearance, public service announcement, or disclosure relating to this Grant Agreement including any promotional material without first obtaining written consent from System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Grantee's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Grantee. This does not limit the Grantee's responsibility to comply with obligations related to the Texas Public Information Act or Texas Open Meetings Act.

B. In general, no publication (including websites, reports, projects, etc.) may convey System Agency's recognition or endorsement of the Grantee's project without prior written approval from System Agency. Publications funded in part or wholly by HHS grant funding must include a statement that "HHS and neither any of its components operate, control, are responsible for, or necessarily endorse, this publication (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)" at HHS's request.

11.17 Media Releases

A. Grantee shall not use System Agency's name, logo, or other likeness in any press release, marketing material or other announcement without System Agency's prior written approval. System Agency does not endorse any vendor, commodity, or service. Grantee is not authorized to make or participate in any media releases or public announcements pertaining to this Grant Agreement or the Services to which they relate without System Agency's prior written consent, and then only in accordance with explicit written instruction from System Agency.

B. Grantee may publish, at its sole expense, results of Grantee performance under the Grant Agreement with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

11.18 Prohibition on Non-Compete Restrictions

Grantee shall not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements, that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

11.19 Sovereign Immunity

Nothing in the Grant Agreement will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Grant Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Grant Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Grant Agreement or by its conduct prior to or subsequent to entering into the Grant Agreement.

11.20 Entire Contract and Modification

The Grant Agreement constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Grant Agreement will be harmonized with this Grant Agreement to the extent possible.

11.21 Counterparts

This Grant Agreement may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Grant Agreement.

11.22 PROPER AUTHORITY

Each Party represents and warrants that the person executing this Grant Agreement on its behalf has full power and authority to enter into this Grant Agreement.

11.23 E-VERIFY PROGRAM

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

A. all persons employed to perform duties within Texas during the term of the Grant Agreement; and
B. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Grant Agreement within the United States of America.

11.24 CIVIL RIGHTS

A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
   i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);
   ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
   iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);
   iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
   v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
   vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and
   vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Grant Agreement.
B. Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters
E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.

G. Grantee must notify HHSC's Civil Rights Office of any complaints of discrimination received relating to its performance under this Grant Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail CodeW206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313
Fax: (512) 438-5885
Email: HHSCivilRightsOffice@hhsc.state.tx.us

11.25 Enterprise Information Management Standards

Grantee shall conform to HHS standards for data management as described by the policies of the HHS Office of Data, Analytics, and Performance. These include, but are not limited to, standards for documentation and communication of data models, metadata, and other data definition methods that are required by HHS for ongoing data governance, strategic portfolio analysis, interoperability planning, and valuation of HHS System data assets.

11.26 Disclosure of Litigation

A. The Grantee must disclose in writing to the contract manager assigned to this Grant Agreement any material civil or criminal litigation or indictment either threatened or pending involving the Grantee. "Threatened litigation" as used herein shall include governmental investigations and civil investigative demands. "Litigation" as used herein shall include administrative enforcement actions brought by governmental agencies. The Grantee must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, "material" refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Grant Agreement or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with any litigation threatened or pending that may result in a substantial change in the Grantee's financial condition.

B. This is a continuing disclosure requirement; any litigation commencing after Grant Agreement Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

11.27 No Third Party Beneficiaries

The Grant Agreement is made solely and specifically among and for the benefit of the Parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the Grant Agreement as a third-party beneficiary or otherwise.

11.28 Binding Effect

The Grant Agreement shall inure to the benefit of, be binding upon, and be enforceable against each Party and their respective permitted successors, assigns, transferees, and delegates.

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TEXAS
Health and Human Services

Health and Human Services (HHS)
Additional Provisions – Grant Funding
Version 1.0
Effective: February 2021

Docusign Envelope ID: C919F9C5-BD92-44AF-8E52-8E36B50D262B

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ADDITIONAL PROVISIONS

The terms and conditions of these Additional Provisions are incorporated into and made a part of the Grant Agreement. Terms included in these Additional Provisions and not otherwise defined have the meanings assigned to them in **ATTACHMENT D, HHS UNIFORM TERMS AND CONDITIONS – GRANT VERSION 3.5, EFFECTIVE SEPTEMBER 2024**, of this Grant Agreement.

1. ELECTRICAL ITEMS

All electrical items purchased under this Grant Agreement/Contract or used in the performance of approved and eligible grant-funded activities must meet all applicable Occupational Safety and Health Administration (OSHA) standards and regulations, and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers Association (NEMA).

2. DISASTER SERVICES

In the event of a local, state, or federal emergency, including natural, man-made, criminal, terrorist, and/or bioterrorism events, declared as a state disaster by the Governor, or a federal disaster declared by the appropriate federal official, Grantee/Contractor may be called upon to assist the System Agency in providing the following services:

i. Community evacuation;
ii. Health and medical assistance;
iii. Assessment of health and medical needs;
iv. Health surveillance;
v. Medical care personnel;
vi. Health and medical equipment and supplies;
vii. Patient evacuation;
viii. In-hospital care and hospital facility status;
ix. Food, drug and medical device safety;
x. Worker health and safety;
xi. Mental health and substance abuse;
xii. Public health information;
xiii. Vector control and veterinary services; and
xiv. Victim identification and mortuary services.

3. SERVICES AND INFORMATION FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

A. Grantee/Contractor shall take reasonable steps to provide services and information both orally and in writing, in appropriate languages other than English, to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits and activities. Meaningful access may entail providing language assistance services, including oral interpretation and written translation, if necessary. More information can be found at https://www.lep.gov/.

B. Grantee/Contractor shall identify and document on the client records the primary language/dialect of a client who has limited English proficiency and the need for translation or interpretation services and shall not require a client to provide or pay for the services of a translator or interpreter.

C. Grantee/Contractor shall make every effort to avoid use of any persons under the age of 18 or any family member or friend of the client as an interpreter for essential communications with a client with limited English proficiency, unless the client has requested that person and using the person would not compromise the effectiveness of services or violate the client's confidentiality and the client is advised that a free interpreter is available.

4. HIV/AIDS Model Workplace Guidelines

A. Grantee/Contractor shall implement DSHS's HIV-STD Policy No. 090.021, HIV/AIDS Model Workplace Guidelines for Businesses, State Agencies, and State Contractors, accessible at http://www.dshs.state.tx.us/hivstd/policy/policies.shtm.

B. Grantee/Contractor shall also educate employees and clients concerning HIV and its related conditions, including AIDS, in accordance with the Texas Health & Safety Code §§ 85.112-114.

5. Interim Extension Amendment

A. Prior to or on the expiration date of this Grant Agreement/Contract, the Parties agree that this Grant Agreement/Contract can be extended as provided under this section.

B. The System Agency shall provide written notice of interim extension amendment to the Grantee/Contractor under one of the following circumstances:
   i. Continue provision of services in response to a disaster declared by the governor; or
   ii. To ensure that services are provided to clients without interruption.

C. The System Agency will provide written notice of the interim extension amendment that specifies the reason for it and period of time for the extension.

D. Grantee/Contractor will provide and invoice for services in the same manner that is stated in the Grant Agreement/Contract.

E. An interim extension under subsection (B)(i) of this section shall extend the term of the Grant Agreement/Contract not longer than 30 days after governor's disaster declaration is declared unless the Parties agree to a shorter period of time.

F. An interim extension under subsection (B)(i) of this section shall be a one-time extension for a period of time determined by the System Agency.

6. Project Commencement

The Grantee shall begin the grant-funded project <<on or before *insert date*>> <<within 90 days of the original start date of the grant term or grant execution date, whichever is later,>>, unless otherwise approved by System Agency. If project commencement is delayed, the Grantee must submit in writing to the assigned contract manager, the steps taken to initiate the project, the reasons for the delay, and the expected start date. System Agency may require Grantee to take immediate remedial or corrective action in response to any delay.

7. Notice of Criminal Activity and Disciplinary Actions

A. Grantee/Contractor shall immediately report in writing to its assigned System Agency contract manager when Grantee/Contractor learns of or has any reason to believe it or any person with ownership or controlling interest in Grantee/Contractor, or their agent, employee, subcontractor or volunteer who is providing services under this Grant Agreement/Contract has been placed on community supervision, received deferred

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adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime.

B. Grantee/Contractor shall not permit any person who engaged, or was alleged to have engaged, in any activity subject to reporting under this section to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the System Agency.

8. NOTICE OF GRANT AGREEMENT/CONTRACT ACTION

Grantee/Contractor shall notify the assigned System Agency contract manager if Grantee/Contractor has any grant agreement or contract suspended or terminated for cause by any local, state or federal department or agency or nonprofit entity within five business days of becoming aware of the action and include the following:

i. Reason for such action;
ii. Name and contact information of the local, state or federal department or agency or entity;
iii. Effective start date of the grant agreement/contract;
iv. Date of suspension or termination; and
v. Grant agreement/contract or case reference number.

9. NOTICE OF BANKRUPTCY

Grantee/Contractor shall notify in writing the assigned System Agency contract manager of its plan to seek bankruptcy protection within five business days of such action by Grantee/Contractor.

10. NOTICE OF CHANGE OF CONTACT PERSON OR KEY PERSONNEL

The Grantee/Contractor shall notify in writing the assigned System Agency contract manager within ten business days of any change to the Grantee/Contractor's Contact Person or Key Personnel.

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HHS DATA USE AGREEMENT

This Data Use Agreement ("DUA"), effective as of the date the Base Contract into which it is incorporated is signed ("Effective Date"), is entered into by and between a Texas Health and Human Services Enterprise agency ("HHS"), and the Contractor identified in the Base Contract, a political subdivision of the State of Texas ("CONTRACTOR").

ARTICLE 1.
PURPOSE; APPLICABILITY; ORDER OF PRECEDENCE

The purpose of this DUA is to facilitate creation, receipt, maintenance, use, disclosure or access to Confidential Information with CONTRACTOR, and describe CONTRACTOR's rights and obligations with respect to the Confidential Information. ***45 CFR 164.504(e)(1)-(3)***. This DUA also describes HHS's remedies in the event of CONTRACTOR's noncompliance with its obligations under this DUA. This DUA applies to both Business Associates and contractors who are not Business Associates who create, receive, maintain, use, disclose or have access to Confidential Information on behalf of HHS, its programs or clients as described in the Base Contract.

As of the Effective Date of this DUA, if any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

ARTICLE 2.
DEFINITIONS

For the purposes of this DUA, capitalized, underlined terms have the meanings set forth in the following: Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (42 U.S.C. §1320d, *et seq.*) and regulations thereunder in 45 CFR Parts 160 and 164, including all amendments, regulations and guidance issued thereafter; The Social Security Act, including Section 1137 (42 U.S.C. §§ 1320b-7), Title XVI of the Act; The Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a and regulations and guidance thereunder; Internal Revenue Code, Title 26 of the United States Code and regulations and publications adopted under that code, including IRS Publication 1075; OMB Memorandum 07-18; Texas Business and Commerce Code Ch. 521; Texas Government Code, Ch. 552, and Texas Government Code §2054.1125. In addition, the following terms in this DUA are defined as follows:

"Authorized Purpose" means the specific purpose or purposes described in the Statement of Work of the Base Contract for CONTRACTOR to fulfill its obligations under the Base Contract, or any other purpose expressly authorized by HHS in writing in advance.

"Authorized User" means a Person:

(1) Who is authorized to create, receive, maintain, have access to, process, view, handle, examine, interpret, or analyze Confidential Information pursuant to this DUA;

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(2) For whom CONTRACTOR warrants and represents has a demonstrable need to create, receive, maintain, use, disclose or have access to the Confidential Information; and

(3) Who has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information as required by this DUA.

"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR, or that CONTRACTOR may, for an Authorized Purpose, create, receive, maintain, use, disclose or have access to, that consists of or includes any or all of the following:

(1) Client Information;

(2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information (herein "PHI");

(3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;

(4) Federal Tax Information;

(5) Individually Identifiable Health Information as related to HIPAA, Texas HIPAA and Personal Identifying Information under the Texas Identity Theft Enforcement and Protection Act;

(6) Social Security Administration Data, including, without limitation, Medicaid information;

(7) All privileged work product;

(8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

"Legally Authorized Representative" of the Individual, as defined by Texas law, including as provided in 45 CFR 435.923 (Medicaid); 45 CFR 164.502(g)(1) (HIPAA); Tex. Occ. Code § 151.002(6); Tex. H. & S. Code §166.164; and Estates Code Ch. 752.

ARTICLE 3.
CONTRACTOR'S DUTIES REGARDING CONFIDENTIAL INFORMATION

3.01 Obligations of CONTRACTOR

CONTRACTOR agrees that:

(A) CONTRACTOR will exercise reasonable care and no less than the same degree of care CONTRACTOR uses to protect its own confidential, proprietary and trade secret information to prevent any portion of the Confidential Information from being used in

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a manner that is not expressly an Authorized Purpose under this DUA or as Required by Law. ***45 CFR 164.502(b)(1); 45 CFR 164.514(d)***

(B) Except as Required by Law, CONTRACTOR will not disclose or allow access to any portion of the Confidential Information to any Person or other entity, other than Authorized User's Workforce or Subcontractors (as defined in ***45 C.F.R. 160.103***) of CONTRACTOR who have completed training in confidentiality, privacy, security and the importance of promptly reporting any Event or Breach to CONTRACTOR's management, to carry out CONTRACTOR's obligations in connection with the Authorized Purpose.

HHS, at its election, may assist CONTRACTOR in training and education on specific or unique HHS processes, systems and/or requirements. CONTRACTOR will produce evidence of completed training to HHS upon request. ***45 C.F.R. 164.308(a)(5)(i); Texas Health & Safety Code §181.101***

All of CONTRACTOR's Authorized Users, Workforce and Subcontractors with access to a state computer system or database will complete a cybersecurity training program certified under Texas Government Code Section 2054.519 by the Texas Department of Information Resources or offered under Texas Government Code Sec. 2054.519(f).

(C) CONTRACTOR will establish, implement and maintain appropriate sanctions against any member of its Workforce or Subcontractor who fails to comply with this DUA, the Base Contract or applicable law. CONTRACTOR will maintain evidence of sanctions and produce it to HHS upon request.***45 C.F.R. 164.308(a)(1)(ii)(C); 164.530(e); 164.410(b); 164.530(b)(1)***

(D) CONTRACTOR will not, except as otherwise permitted by this DUA, disclose or provide access to any Confidential Information on the basis that such act is Required by Law without notifying either HHS or CONTRACTOR's own legal counsel to determine whether CONTRACTOR should object to the disclosure or access and seek appropriate relief. CONTRACTOR will maintain an accounting of all such requests for disclosure and responses and provide such accounting to HHS within 48 hours of HHS' request. ***45 CFR 164.504(e)(2)(ii)(A)***

(E) CONTRACTOR will not attempt to re-identify or further identify Confidential Information or De-identified Information, or attempt to contact any Individuals whose records are contained in the Confidential Information, except for an Authorized Purpose, without express written authorization from HHS or as expressly permitted by the Base Contract. ***45 CFR 164.502(d)(2)(i) and (ii)*** CONTRACTOR will not engage in prohibited marketing or sale of Confidential Information. ***45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002***

(F) CONTRACTOR will not permit, or enter into any agreement with a Subcontractor to, create, receive, maintain, use, disclose, have access to or transmit Confidential Information to carry out CONTRACTOR's obligations in connection with the Authorized Purpose on behalf of CONTRACTOR, unless Subcontractor agrees to comply

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with all applicable laws, rules and regulations. ***45 CFR 164.502(e)(1)(ii); 164.504(e)(1)(i) and (2).***

(G) CONTRACTOR is directly responsible for compliance with, and enforcement of, all conditions for creation, maintenance, use, disclosure, transmission and Destruction of Confidential Information and the acts or omissions of Subcontractors as may be reasonably necessary to prevent unauthorized use. ***45 CFR 164.504(e)(5); 42 CFR 431.300, et seq.***

(H) If CONTRACTOR maintains PHI in a Designated Record Set which is Confidential Information and subject to this Agreement, CONTRACTOR will make PHI available to HHS in a Designated Record Set upon request. CONTRACTOR will provide PHI to an Individual, or Legally Authorized Representative of the Individual who is requesting PHI in compliance with the requirements of the HIPAA Privacy Regulations. CONTRACTOR will release PHI in accordance with the HIPAA Privacy Regulations upon receipt of a valid written authorization. CONTRACTOR will make other Confidential Information in CONTRACTOR's possession available pursuant to the requirements of HIPAA or other applicable law upon a determination of a Breach of Unsecured PHI as defined in HIPAA. CONTRACTOR will maintain an accounting of all such disclosures and provide it to HHS within 48 hours of HHS' request. ***45 CFR 164.524and 164.504(e)(2)(ii)(E).***

(I) If PHI is subject to this Agreement, CONTRACTOR will make PHI as required by HIPAA available to HHS for review subsequent to CONTRACTOR's incorporation of any amendments requested pursuant to HIPAA. ***45 CFR 164.504(e)(2)(ii)(E) and (F).***

(J) If PHI is subject to this Agreement, CONTRACTOR will document and make available to HHS the PHI required to provide access, an accounting of disclosures or amendment in compliance with the requirements of the HIPAA Privacy Regulations. ***45 CFR 164.504(e)(2)(ii)(G) and 164.528.***

(K) If CONTRACTOR receives a request for access, amendment or accounting of PHI from an individual with a right of access to information subject to this DUA, it will respond to such request in compliance with the HIPAA Privacy Regulations. CONTRACTOR will maintain an accounting of all responses to requests for access to or amendment of PHI and provide it to HHS within 48 hours of HHS' request. ***45 CFR 164.504(e)(2).***

(L) CONTRACTOR will provide, and will cause its Subcontractors and agents to provide, to HHS periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to data transfers and the handling and disposal of Confidential Information. ***45 CFR 164.308; 164.530(c); 1 TAC 202.***

(M) Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may use PHI for the proper management and administration of CONTRACTOR or to carry out CONTRACTOR's

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legal responsibilities. Except as otherwise limited by this DUA, the Base Contract, or law applicable to the Confidential Information, CONTRACTOR may disclose PHI for the proper management and administration of CONTRACTOR, or to carry out CONTRACTOR's legal responsibilities, if: ***45 CFR 164.504(e)(4)(A).***

(1) Disclosure is Required by Law, provided that CONTRACTOR complies with Section 3.01(D); or

(2) CONTRACTOR obtains reasonable assurances from the person or entity to which the information is disclosed that the person or entity will:

(a)Maintain the confidentiality of the Confidential Information in accordance with this DUA;

(b) Use or further disclose the information only as Required by Law or for the Authorized Purpose for which it was disclosed to the Person; and

(c)Notify CONTRACTOR in accordance with Section 4.01 of any Event or Breach of Confidential Information of which the Person discovers or should have discovered with the exercise of reasonable diligence. ***45 CFR 164.504(e)(4)(ii)(B).***

(N) Except as otherwise limited by this DUA, CONTRACTOR will, if required by law and requested by HHS, use commercially reasonable efforts to use PHI to provide data aggregation services to HHS, as that term is defined in the HIPAA, 45 C.F.R. §164.501 and permitted by HIPAA. ***45 CFR 164.504(e)(2)(i)(B)***

(O) CONTRACTOR will, on the termination or expiration of this DUA or the Base Contract, at its expense, send to HHS or Destroy, at HHS's election and to the extent reasonably feasible and permissible by law, all Confidential Information received from HHS or created or maintained by CONTRACTOR or any of CONTRACTOR's agents or Subcontractors on HHS's behalf if that data contains Confidential Information. CONTRACTOR will certify in writing to HHS that all the Confidential Information that has been created, received, maintained, used by or disclosed to CONTRACTOR, has been Destroyed or sent to HHS, and that CONTRACTOR and its agents and Subcontractors have retained no copies thereof. Notwithstanding the foregoing, HHS acknowledges and agrees that CONTRACTOR is not obligated to send to HHSC and/or Destroy any Confidential Information if federal law, state law, the Texas State Library and Archives Commission records retention schedule, and/or a litigation hold notice prohibit such delivery or Destruction. If such delivery or Destruction is not reasonably feasible, or is impermissible by law, CONTRACTOR will immediately notify HHS of the reasons such delivery or Destruction is not feasible, and agree to extend indefinitely the protections of this DUA to the Confidential Information and limit its further uses and disclosures to the purposes that make the return delivery or Destruction of the Confidential Information not feasible for as long as CONTRACTOR maintains such Confidential Information. ***45 CFR 164.504(e)(2)(ii)(J)***

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(P) CONTRACTOR will create, maintain, use, disclose, transmit or Destroy Confidential Information in a secure fashion that protects against any reasonably anticipated threats or hazards to the security or integrity of such information or unauthorized uses. ***45 CFR 164.306; 164.530(c)***

(Q) If CONTRACTOR accesses, transmits, stores, and/or maintains Confidential Information, CONTRACTOR will complete and return to HHS at infosecurity@hhsc.state.tx.us the HHS information security and privacy initial inquiry (SPI) at Attachment 1 . The SPI identifies basic privacy and security controls with which CONTRACTOR must comply to protect HHS Confidential Information. CONTRACTOR will comply with periodic security controls compliance assessment and monitoring by HHS as required by state and federal law, based on the type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses or has access to and the Authorized Purpose and level of risk. CONTRACTOR's security controls will be based on the National Institute of Standards and Technology (NIST) Special Publication 800-53. CONTRACTOR will update its security controls assessment whenever there are significant changes in security controls for HHS Confidential Information and will provide the updated document to HHS. HHS also reserves the right to request updates as needed to satisfy state and federal monitoring requirements. ***45 CFR 164.306.***

(R) CONTRACTOR will establish, implement and maintain reasonable procedural, administrative, physical and technical safeguards to preserve and maintain the confidentiality, integrity, and availability of the Confidential Information, and with respect to PHI, as described in the HIPAA Privacy and Security Regulations, or other applicable laws or regulations relating to Confidential Information, to prevent any unauthorized use or disclosure of Confidential Information as long as CONTRACTOR has such Confidential Information in its actual or constructive possession. ***45 CFR 164.308 (administrative safeguards); 164.310 (physical safeguards); 164.312 (technical safeguards); 164.530(c)(privacy safeguards).***

(S) CONTRACTOR will designate and identify, a Person or Persons, as Privacy Official ***45 CFR 164.530(a)(1)*** and Information Security Official, each of whom is authorized to act on behalf of CONTRACTOR and is responsible for the development and implementation of the privacy and security requirements in this DUA. CONTRACTOR will provide name and current address, phone number and e-mail address for such designated officials to HHS upon execution of this DUA and prior to any change. If such persons fail to develop and implement the requirements of the DUA, CONTRACTOR will replace them upon HHS request. ***45 CFR 164.308(a)(2).***

(T) CONTRACTOR represents and warrants that its Authorized Users each have a demonstrated need to know and have access to Confidential Information solely to the minimum extent necessary to accomplish the Authorized Purpose pursuant to this DUA and the Base Contract, and further, that each has agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information contained in this DUA. ***45 CFR 164.502; 164.514(d).***

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(U) CONTRACTOR and its Subcontractors will maintain an updated, complete, accurate and numbered list of Authorized Users, their signatures, titles and the date they agreed to be bound by the terms of this DUA, at all times and supply it to HHS, as directed, upon request.

(V) CONTRACTOR will implement, update as necessary, and document reasonable and appropriate policies and procedures for privacy, security and Breach of Confidential Information and an incident response plan for an Event or Breach, to comply with the privacy, security and breach notice requirements of this DUA prior to conducting work under the Statement of Work. ***45 CFR 164.308; 164.316; 164.514(d); 164.530(i)(1).***

(W) CONTRACTOR will produce copies of its information security and privacy policies and procedures and records relating to the use or disclosure of Confidential Information received from, created by, or received, used or disclosed by CONTRACTOR for an Authorized Purpose for HHS's review and approval within 30 days of execution of this DUA and upon request by HHS the following business day or other agreed upon time frame. ***45 CFR 164.308; 164.514(d).***

(X) CONTRACTOR will make available to HHS any information HHS requires to fulfill HHS's obligations to provide access to, or copies of, PHI in accordance with HIPAA and other applicable laws and regulations relating to Confidential Information. CONTRACTOR will provide such information in a time and manner reasonably agreed upon or as designated by the Secretary of the U.S. Department of Health and Human Services, or other federal or state law. ***45 CFR 164.504(e)(2)(i)(I).***

(Y) CONTRACTOR will only conduct secure transmissions of Confidential Information whether in paper, oral or electronic form, in accordance with applicable rules, regulations and laws. A secure transmission of electronic Confidential Information *in motion* includes, but is not limited to, Secure File Transfer Protocol (SFTP) or Encryption at an appropriate level. If required by rule, regulation or law, HHS Confidential Information *at rest* requires Encryption unless there is other adequate administrative, technical, and physical security. All electronic data transfer and communications of Confidential Information will be through secure systems. Proof of system, media or device security and/or Encryption must be produced to HHS no later than 48 hours after HHS's written request in response to a compliance investigation, audit or the Discovery of an Event or Breach. Otherwise, requested production of such proof will be made as agreed upon by the parties. De-identification of HHS Confidential Information is a means of security. With respect to de-identification of PHI, "secure" means de-identified according to HIPAA Privacy standards and regulatory guidance. ***45 CFR 164.312; 164.530(d).***

(Z) For each type of Confidential Information CONTRACTOR creates, receives, maintains, uses, discloses, has access to or transmits in the performance of the Statement of Work, CONTRACTOR will comply with the following laws rules and regulations, only to the extent applicable and required by law:

- Title 1, Part 10, Chapter 202, Subchapter B, Texas Administrative Code;

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- The Privacy Act of 1974;
- OMB Memorandum 07-16;
- The Federal Information Security Management Act of 2002 (FISMA);
- The Health Insurance Portability and Accountability Act of 1996 (HIPAA) as defined in the DUA;
- Internal Revenue Publication 1075 – Tax Information Security Guidelines for Federal, State and Local Agencies;
- National Institute of Standards and Technology (NIST) Special Publication 800-66 Revision 1 – An Introductory Resource Guide for Implementing the Health Insurance Portability and Accountability Act (HIPAA) Security Rule;
- NIST Special Publications 800-53 and 800-53A – Recommended Security Controls for Federal Information Systems and Organizations, as currently revised;
- NIST Special Publication 800-47 – Security Guide for Interconnecting Information Technology Systems;
- NIST Special Publication 800-88, Guidelines for Media Sanitization;
- NIST Special Publication 800-111, Guide to Storage of Encryption Technologies for End User Devices containing PHI; and

Any other State or Federal law, regulation, or administrative rule relating to the specific HHS program area that CONTRACTOR supports on behalf of HHS.

(AA) Notwithstanding anything to the contrary herein, CONTRACTOR will treat any Personal Identifying Information it creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with Texas Business and Commerce Code, Chapter 521 and other applicable regulatory standards identified in Section 3.01(Z), and Individually Identifiable Health Information CONTRACTOR creates, receives, maintains, uses, transmits, destroys and/or discloses in accordance with HIPAA and other applicable regulatory standards identified in Section 3.01(Z).

ARTICLE 4.
BREACH NOTICE, REPORTING AND CORRECTION REQUIREMENTS

4.01 Breach or Event Notification to HHS. 45 CFR 164.400-414.

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(A) CONTRACTOR will cooperate fully with HHS in investigating, mitigating to the extent practicable and issuing notifications directed by HHS, for any Event or Breach of Confidential Information to the extent and in the manner determined by HHS.

(B) CONTRACTOR'S obligation begins at the Discovery of an Event or Breach and continues as long as related activity continues, until all effects of the Event are mitigated to HHS's reasonable satisfaction (the "incident response period"). ***45 CFR 164.404.***

(C) Breach Notice:

(1) Initial Notice.

(a) For federal information, including without limitation, Federal Tax Information, Social Security Administration Data, and Medicaid Client Information, within the first, consecutive clock hour of Discovery, and for all other types of Confidential Information not more than 24 hours after Discovery, or in a timeframe otherwise approved by HHS in writing, initially report to HHS's Privacy and Security Officers via email at: privacy@HHSC.state.tx.us and to the HHS division responsible for this DUA; and IRS Publication 1075; Privacy Act of 1974, as amended by the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. § 552a; OMB Memorandum 07-16 as cited in HHSC-CMS Contracts for information exchange.

(b) Report all information reasonably available to CONTRACTOR about the Event or Breach of the privacy or security of Confidential Information. ***45 CFR 164.410.***

(c) Name, and provide contact information to HHS for, CONTRACTOR's single point of contact who will communicate with HHS both on and off business hours during the incident response period.

(2) Formal Notice. No later than two business days after the Initial Notice above, provide formal notification to privacy@HHSC.state.tx.us and to the HHS division responsible for this DUA, including all reasonably available information about the Event or Breach, and CONTRACTOR's investigation, including without limitation and to the extent available***: For (a) - (m) below: 45 CFR 164.400-414.***

(a) The date the Event or Breach occurred;

(b) The date of CONTRACTOR's and, if applicable, Subcontractor's Discovery;

(c) A brief description of the Event or Breach; including how it occurred and who is responsible (or hypotheses, if not yet determined);

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(d) A brief description of CONTRACTOR's investigation and the status of the investigation;

(e) A description of the types and amount of Confidential Information involved;

(f) Identification of and number of all Individuals reasonably believed to be affected, including first and last name of the Individual and if applicable the, Legally Authorized Representative, last known address, age, telephone number, and email address if it is a preferred contact method, to the extent known or can be reasonably determined by CONTRACTOR at that time;

(g) CONTRACTOR's initial risk assessment of the Event or Breach demonstrating whether individual or other notices are required by applicable law or this DUA for HHS approval, including an analysis of whether there is a low probability of compromise of the Confidential Information or whether any legal exceptions to notification apply;

(h) CONTRACTOR's recommendation for HHS's approval as to the steps Individuals and/or CONTRACTOR on behalf of Individuals, should take to protect the Individuals from potential harm, including without limitation CONTRACTOR's provision of notifications, credit protection, claims monitoring, and any specific protections for a Legally Authorized Representative to take on behalf of an Individual with special capacity or circumstances;

(i) The steps CONTRACTOR has taken to mitigate the harm or potential harm caused (including without limitation the provision of sufficient resources to mitigate);

(j) The steps CONTRACTOR has taken, or will take, to prevent or reduce the likelihood of recurrence of a similar Event or Breach;

(k) Identify, describe or estimate the Persons, Workforce, Subcontractor, or Individuals and any law enforcement that may be involved in the Event or Breach;

(l) A reasonable schedule for CONTRACTOR to provide regular updates during normal business hours to the foregoing in the future for response to the Event or Breach, but no less than every three (3) business days or as otherwise directed by HHS, including information about risk estimations, reporting, notification, if any, mitigation, corrective action, root cause analysis and when such activities are expected to be completed; and

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(m) Any reasonably available, pertinent information, documents or reports related to an Event or Breach that HHS requests following Discovery.

4.02 Investigation, Response and Mitigation. 45 CFR 164.308, 310 and 312; 164.530

(A) CONTRACTOR will immediately conduct a full and complete investigation, respond to the Event or Breach, commit necessary and appropriate staff and resources to expeditiously respond, and report as required to and by HHS for incident response purposes and for purposes of HHS's compliance with report and notification requirements, to the reasonable satisfaction of HHS.

(B) CONTRACTOR will complete or participate in a risk assessment as directed by HHS following an Event or Breach, and provide the final assessment, corrective actions and mitigations to HHS for review and approval.

(C) CONTRACTOR will fully cooperate with HHS to respond to inquiries and/or proceedings by state and federal authorities, Persons and/or Individuals about the Event or Breach.

(D) CONTRACTOR will fully cooperate with HHS's efforts to seek appropriate injunctive relief or otherwise prevent or curtail such Event or Breach, or to recover or protect any Confidential Information, including complying with reasonable corrective action or measures, as specified by HHS in a Corrective Action Plan if directed by HHS under the Base Contract.

4.03 Breach Notification to Individuals and Reporting to Authorities. Tex. Bus. & Comm. Code §521.053; 45 CFR 164.404 (Individuals), 164.406 (Media); 164.408 (Authorities)

(A) HHS may direct CONTRACTOR to provide Breach notification to Individuals, regulators or third-parties, as specified by HHS following a Breach.

(B) CONTRACTOR shall give HHS an opportunity to review and provide feedback to CONTRACTOR and to confirm that CONTRACTOR's notice meets all regulatory requirements regarding the time, manner and content of any notification to Individuals, regulators or third-parties, or any notice required by other state or federal authorities, including without limitation, notifications required by Texas Business and Commerce Code, Chapter 521.053(b) and HIPAA. HHS shall have ten (10) business days to provide said feedback to CONTRACTOR. Notice letters will be in CONTRACTOR's name and on CONTRACTOR's letterhead, unless otherwise directed by HHS, and will contain contact information, including the name and title of CONTRACTOR's representative, an email address and a toll-free telephone number, if required by applicable law, rule, or regulation, for the Individual to obtain additional information.

(C) CONTRACTOR will provide HHS with copies of distributed and approved communications.

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(D) CONTRACTOR will have the burden of demonstrating to the reasonable satisfaction of HHS that any notification required by HHS was timely made. If there are delays outside of CONTRACTOR's control, CONTRACTOR will provide written documentation of the reasons for the delay.

(E) If HHS delegates notice requirements to CONTRACTOR, HHS shall, in the time and manner reasonably requested by CONTRACTOR, cooperate and assist with CONTRACTOR's information requests in order to make such notifications and reports.

ARTICLE 5.
STATEMENT OF WORK

"Statement of Work" means the services and deliverables to be performed or provided by CONTRACTOR, or on behalf of CONTRACTOR by its Subcontractors or agents for HHS that are described in detail in the Base Contract. The Statement of Work, including any future amendments thereto, is incorporated by reference in this DUA as if set out word-for-word herein.

ARTICLE 6.
GENERAL PROVISIONS

6.01 Oversight of Confidential Information

CONTRACTOR acknowledges and agrees that HHS is entitled to oversee and monitor CONTRACTOR's access to and creation, receipt, maintenance, use, disclosure of the Confidential Information to confirm that CONTRACTOR is in compliance with this DUA.

6.02 HHS Commitment and Obligations

HHS will not request CONTRACTOR to create, maintain, transmit, use or disclose PHI in any manner that would not be permissible under applicable law if done by HHS.

6.03 HHS Right to Inspection

At any time upon reasonable notice to CONTRACTOR, or if HHS determines that CONTRACTOR has violated this DUA, HHS, directly or through its agent, will have the right to inspect the facilities, systems, books and records of CONTRACTOR to monitor compliance with this DUA. For purposes of this subsection, HHS's agent(s) include, without limitation, the HHS Office of the Inspector General or the Office of the Attorney General of Texas, outside consultants or legal counsel or other designee.

6.04 Term; Termination of DUA; Survival

This DUA will be effective on the date on which CONTRACTOR executes the DUA, and will terminate upon termination of the Base Contract and as set forth herein. If the Base Contract is extended or amended, this DUA shall be extended or amended concurrent with such extension or amendment.

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(A) HHS may immediately terminate this DUA and Base Contract upon a material violation of this DUA.

(B) Termination or Expiration of this DUA will not relieve CONTRACTOR of its obligation to return or Destroy the Confidential Information as set forth in this DUA and to continue to safeguard the Confidential Information until such time as determined by HHS.

(C) If HHS determines that CONTRACTOR has violated a material term of this DUA; HHS may in its sole discretion:

(1) Exercise any of its rights including but not limited to reports, access and inspection under this DUA and/or the Base Contract; or

(2) Require CONTRACTOR to submit to a Corrective Action Plan, including a plan for monitoring and plan for reporting, as HHS may determine necessary to maintain compliance with this DUA; or

(3) Provide CONTRACTOR with a reasonable period to cure the violation as determined by HHS; or

(4) Terminate the DUA and Base Contract immediately, and seek relief in a court of competent jurisdiction in Texas.

Before exercising any of these options, HHS will provide written notice to CONTRACTOR describing the violation, the requested corrective action CONTRACTOR may take to cure the alleged violation, and the action HHS intends to take if the alleged violated is not timely cured by CONTRACTOR.

(D) If neither termination nor cure is feasible, HHS shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

(E) The duties of CONTRACTOR or its Subcontractor under this DUA survive the expiration or termination of this DUA until all the Confidential Information is Destroyed or returned to HHS, as required by this DUA.

6.05 Governing Law, Venue and Litigation

(A) The validity, construction and performance of this DUA and the legal relations among the Parties to this DUA will be governed by and construed in accordance with the laws of the State of Texas.

(B) The Parties agree that the courts of Texas, will be the exclusive venue for any litigation, special proceeding or other proceeding as between the parties that may be brought, or arise out of, or in connection with, or by reason of this DUA.

6.06 Injunctive Relief

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(A) CONTRACTOR acknowledges and agrees that HHS may suffer irreparable injury if CONTRACTOR or its Subcontractor fails to comply with any of the terms of this DUA with respect to the Confidential Information or a provision of HIPAA or other laws or regulations applicable to Confidential Information.

(B) CONTRACTOR further agrees that monetary damages may be inadequate to compensate HHS for CONTRACTOR's or its Subcontractor's failure to comply. Accordingly, CONTRACTOR agrees that HHS will, in addition to any other remedies available to it at law or in equity, be entitled to seek injunctive relief without posting a bond and without the necessity of demonstrating actual damages, to enforce the terms of this DUA.

6.07 Responsibility.

To the extent permitted by the Texas Constitution, laws and rules, and without waiving any immunities or defenses available to CONTRACTOR as a governmental entity, CONTRACTOR shall be solely responsible for its own acts and omissions and the acts and omissions of its employees, directors, officers, Subcontractors and agents. HHS shall be solely responsible for its own acts and omissions.

6.08 Insurance

(A) As a governmental entity, and in accordance with the limits of the Texas Tort Claims Act, Chapter 101 of the Texas Civil Practice and Remedies Code, CONTRACTOR either maintains commercial insurance or self-insures with policy limits in an amount sufficient to cover CONTRACTOR's liability arising under this DUA. CONTRACTOR will request that HHS be named as an additional insured. HHSC reserves the right to consider alternative means for CONTRACTOR to satisfy CONTRACTOR's financial responsibility under this DUA. Nothing herein shall relieve CONTRACTOR of its financial obligations set forth in this DUA if CONTRACTOR fails to maintain insurance.

(B) CONTRACTOR will provide HHS with written proof that required insurance coverage is in effect, at the request of HHS.

6.08 Fees and Costs

Except as otherwise specified in this DUA or the Base Contract, if any legal action or other proceeding is brought for the enforcement of this DUA, or because of an alleged dispute, contract violation, Event, Breach, default, misrepresentation, or injunctive action, in connection with any of the provisions of this DUA, each party will bear their own legal expenses and the other cost incurred in that action or proceeding.

6.09 Entirety of the Contract

This DUA is incorporated by reference into the Base Contract as an amendment thereto and, together with the Base Contract, constitutes the entire agreement between the parties. No change, waiver, or discharge of obligations arising under those documents will be valid unless in writing and executed by the party against whom such change, waiver, or discharge is sought to be

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enforced. If any provision of the Base Contract, including any General Provisions or Uniform Terms and Conditions, conflicts with this DUA, this DUA controls.

6.10 Automatic Amendment and Interpretation

If there is (i) a change in any law, regulation or rule, state or federal, applicable to HIPPA and/or Confidential Information, or (ii) any change in the judicial or administrative interpretation of any such law, regulation or rule,, upon the effective date of such change, this DUA shall be deemed to have been automatically amended, interpreted and read so that the obligations imposed on HHS and/or CONTRACTOR remain in compliance with such changes. Any ambiguity in this DUA will be resolved in favor of a meaning that permits HHS and CONTRACTOR to comply with HIPAA or any other law applicable to Confidential Information.

TEXAS Health and Human Services

Texas HHS System - Data Use Agreement - Attachment 2
SECURITY AND PRIVACY INQUIRY (SPI)

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses (except A9a) prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers (except A9a and A11) prior to performing any work on behalf of any Texas HHS agency.

For any questions answered "No" (except A9a and A11), an *Action Plan for Compliance with a Timeline* must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

SECTION A: APPLICANT/BIDDER INFORMATION (To be completed by Applicant/Bidder)

1. Does the applicant/bidder access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.)? **IF NO, STOP. THE SPI FORM IS NOT REQUIRED.**	○ Yes ○ No
2. Entity or Applicant/Bidder Legal Name	Legal Name: Legal Entity Tax Identification Number (TIN) (Last Four Numbers Only): Procurement/Contract#: Address: City: State: ZIP: Telephone #: Email Address:
3. Number of Employees, at all locations, in Applicant/Bidder's Workforce "Workforce" means all employees, volunteers, trainees, and other Persons whose conduct is under the direct control of Applicant/Bidder, whether or not they are paid by Applicant/Bidder. If Applicant/Bidder is a sole proprietor, the workforce may be only one employee.	Total Employees:
4. Number of Subcontractors (if Applicant/Bidder will not use subcontractors, enter "0")	Total Subcontractors:
5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder (Privacy and Security Official may be the same person.)	**A. Security Official:** Legal Name: Address: City: State: ZIP: Telephone #: Email Address:
	B. Privacy Official: Legal Name: Address: City: State: ZIP: Telephone #: Email Address:

6. **Type(s) of Texas HHS Confidential Information the Applicant/Bidder will create, receive, maintain, use, disclose or have access to: (Check all that apply)** • *Health Insurance Portability and Accountability Act (HIPAA) data* • *Criminal Justice Information Services (CJIS) data* • *Internal Revenue Service Federal Tax Information (IRS FTI) data* • *Centers for Medicare & Medicaid Services (CMS)* • *Social Security Administration (SSA)* • *Personally Identifiable Information (PII)*	HIPAA ☐	CJIS ☐	IRS FTI ☐	CMS ☐	SSA ☐	PII ☐
	Other (Please List)					

7. **Number of Storage Devices for Texas HHS Confidential Information (as defined in the Texas HHS System Data Use Agreement (DUA))** Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than a local server or a personal computer. A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business.	Total # (Sum a-d) 0
a. Devices. Number of personal user computers, devices or drives, including mobile devices and mobile drives.	
b. Servers. Number of Servers that are not in a data center or using Cloud Services.	
c. Cloud Services. Number of Cloud Services in use.	
d. Data Centers. Number of Data Centers in use.	

8. **Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle Texas HHS Confidential Information during one year:**	Select Option (a-d)
a. 499 individuals or less	○ a.
b. 500 to 999 individuals	○ b.
c. 1,000 to 99,999 individuals	○ c.
d. 100,000 individuals or more	○ d.

9. **HIPAA Business Associate Agreement**	
a. Will Applicant/Bidder use, disclose, create, receive, transmit or maintain protected health information on behalf of a HIPAA-covered Texas HHS agency for a HIPAA-covered function?	○ Yes ○ No
b. Does Applicant/Bidder have a Privacy Notice prominently displayed on a Webpage or a Public Office of Applicant/Bidder's business open to or that serves the public? (This is a HIPAA requirement. Answer "N/A" if not applicable, such as for agencies not covered by HIPAA.)	○ Yes ○ No ○ N/A
Action Plan for Compliance with a Timeline:	Compliance Date:

10. **Subcontractors.** If the Applicant/Bidder responded "0" to Question 4 (indicating no subcontractors), check "N/A" for both 'a.' and 'b.'	
a. Does Applicant/Bidder require subcontractors to execute the DUA Attachment 1 Subcontractor Agreement Form?	○ Yes ○ No ○ N/A
Action Plan for Compliance with a Timeline:	Compliance Date:

b. Will Applicant/Bidder agree to require subcontractors who will access Confidential Information to comply with the terms of the DUA, not disclose any Confidential Information to them until they have agreed in writing to the same safeguards and to discontinue their access to the Confidential Information if they fail to comply?	○ Yes ○ No ○ N/A
Action Plan for Compliance with a Timeline:	Compliance Date:
11. Does Applicant/Bidder have any **Optional Insurance** currently in place? Optional Insurance provides coverage for: (1) Network Security and Privacy; (2) Data Breach; (3) Cyber Liability (lost data, lost use or delay/suspension in business, denial of service with e-business, the Internet, networks and informational assets, such as privacy, intellectual property, virus transmission, extortion, sabotage or web activities); (4) Electronic Media Liability; (5) Crime/Theft; (6) Advertising Injury and Personal Injury Liability; and (7) Crisis Management and Notification Expense Coverage.	○ Yes ○ No ○ N/A

SECTION B: PRIVACY RISK ANALYSIS AND ASSESSMENT (To be completed by Applicant/Bidder)	
For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.	
1. Written Policies & Procedures. Does Applicant/Bidder have current written privacy and security policies and procedures that, at a minimum:	**Yes or No**
a. Does Applicant/Bidder have current written privacy and security policies and procedures that identify Authorized Users and Authorized Purposes (as defined in the DUA) relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
b. Does Applicant/Bidder have current written privacy and security policies and procedures that require Applicant/Bidder and its Workforce to comply with the applicable provisions of HIPAA and other laws referenced in the DUA, relating to creation, receipt, maintenance, use, disclosure, access or transmission of Texas HHS Confidential Information on behalf of a Texas HHS agency?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
c. Does Applicant/Bidder have current written privacy and security policies and procedures that limit use or disclosure of Texas HHS Confidential Information to the minimum that is necessary to fulfill the Authorized Purposes?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
d. Does Applicant/Bidder have current written privacy and security policies and procedures that respond to an actual or suspected breach of Texas HHS Confidential Information, to include at a minimum (if any responses are "No" check "No" for all three): i. Immediate breach notification to the Texas HHS agency, regulatory authorities, and other required Individuals or Authorities, in accordance with Article 4 of the DUA; ii. Following a documented breach response plan, in accordance with the DUA and applicable law; & iii. Notifying Individuals and Reporting Authorities whose Texas HHS Confidential Information has been breached, as directed by the Texas HHS agency?	○ Yes ○ No

Action Plan for Compliance with a Timeline:	Compliance Date:

e. Does Applicant/Bidder have current written privacy and security policies and procedures that conduct annual workforce training and monitoring for and correction of any training delinquencies?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

f. Does Applicant/Bidder have current written privacy and security policies and procedures that permit or deny individual rights of access, and amendment or correction, when appropriate?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

g. Does Applicant/Bidder have current written privacy and security policies and procedures that permit only Authorized Users with up-to-date privacy and security training, and with a reasonable and demonstrable need to use, disclose, create, receive, maintain, access or transmit the Texas HHS Confidential Information, to carry out an obligation under the DUA for an Authorized Purpose, unless otherwise approved in writing by a Texas HHS agency?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

h. Does Applicant/Bidder have current written privacy and security policies and procedures that establish, implement and maintain proof of appropriate sanctions against any Workforce or Subcontractors who fail to comply with an Authorized Purpose or who is not an Authorized User, and used or disclosed Texas HHS Confidential Information in violation of the DUA, the Base Contract or applicable law?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

i. Does Applicant/Bidder have current written privacy and security policies and procedures that require updates to policies, procedures and plans following major changes with use or disclosure of Texas HHS Confidential Information within 60 days of identification of a need for update?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

j. Does Applicant/Bidder have current written privacy and security policies and procedures that restrict permissions or attempts to re-identify or further identify de-identified Texas HHS Confidential Information, or attempt to contact any Individuals whose records are contained in the Texas HHS Confidential Information, except for an Authorized Purpose, without express written authorization from a Texas HHS agency or as expressly permitted by the Base Contract?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
k. If Applicant/Bidder intends to use, disclose, create, maintain, store or transmit Texas HHS Confidential Information outside of the United States, will Applicant/Bidder obtain the express prior written permission from the Texas HHS agency and comply with the Texas HHS agency conditions for safeguarding offshore Texas HHS Confidential Information?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
l. Does Applicant/Bidder have current written privacy and security policies and procedures that require cooperation with Texas HHS agencies' or federal regulatory inspections, audits or investigations related to compliance with the DUA or applicable law?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
m. Does Applicant/Bidder have current written privacy and security policies and procedures that require appropriate standards and methods to destroy or dispose of Texas HHS Confidential Information?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
n. Does Applicant/Bidder have current written privacy and security policies and procedures that prohibit disclosure of Applicant/Bidder's work product done on behalf of Texas HHS pursuant to the DUA, or to publish Texas HHS Confidential Information without express prior approval of the Texas HHS agency?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
2. Does Applicant/Bidder have a current Workforce training program? Training of Workforce must occur at least once every year, and within 30 days of date of hiring a new Workforce member who will handle Texas HHS Confidential Information. Training must include: (1) privacy and security policies, procedures, plans and applicable requirements for handling Texas HHS Confidential Information, (2) a requirement to complete training before access is given to Texas HHS Confidential Information, and (3) written proof of training and a procedure for monitoring timely completion of training.	○ Yes ○ No

Action Plan for Compliance with a Timeline:	Compliance Date:

3. Does Applicant/Bidder have Privacy Safeguards to protect Texas HHS Confidential Information in oral, paper and/or electronic form? "Privacy Safeguards" means protection of Texas HHS Confidential Information by establishing, implementing and maintaining required Administrative, Physical and Technical policies, procedures, processes and controls, required by the DUA, HIPAA (45 CFR 164.530), Social Security Administration, Medicaid and laws, rules or regulations, as applicable. Administrative safeguards include administrative protections, policies and procedures for matters such as training, provision of access, termination, and review of safeguards, incident management, disaster recovery plans, and contract provisions. Technical safeguards include technical protections, policies and procedures, such as passwords, logging, emergencies, how paper is faxed or mailed, and electronic protections such as encryption of data. Physical safeguards include physical protections, policies and procedures, such as locks, keys, physical access, physical storage and trash.	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
4. Does Applicant/Bidder and all subcontractors (if applicable) maintain a current list of Authorized Users who have access to Texas HHS Confidential Information, whether oral, written or electronic?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
5. Does Applicant/Bidder and all subcontractors (if applicable) monitor for and remove terminated employees or those no longer authorized to handle Texas HHS Confidential Information from the list of Authorized Users?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

SECTION C: SECURITY RISK ANALYSIS AND ASSESSMENT (to be completed by Applicant/Bidder)

This section is about your electronic system. If your business DOES NOT store, access, or transmit Texas HHS Confidential Information in electronic systems (e.g., laptop, personal use computer, mobile device, database, server, etc.) select the box to the right, and "YES" will be entered for all questions in this section.	**No Electronic Systems** ☐

For any questions answered "No," an Action Plan for Compliance with a Timeline must be documented in the designated area below the question. The timeline for compliance with HIPAA-related items is 30 calendar days, PII-related items is 90 calendar days.

1. Does the Applicant/Bidder ensure that services which access, create, disclose, receive, transmit, maintain, or store Texas HHS Confidential Information are maintained **IN** the United States (no offshoring) unless **ALL** of the following requirements are met? **a.** The data is encrypted with FIPS 140-2 validated encryption **b.** The offshore provider does not have access to the encryption keys **c.** The Applicant/Bidder maintains the encryption key within the United States **d.** The Application/Bidder has obtained the express prior written permission of the Texas HHS agency *For more information regarding FIPS 140-2 encryption products, please refer to:* *http://csrc.nist.gov/publications/fips*	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
2. Does Applicant/Bidder utilize an IT security-knowledgeable person or company to maintain or oversee the configurations of Applicant/Bidder's computing systems and devices?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
3. Does Applicant/Bidder monitor and manage access to Texas HHS Confidential Information (e.g., a formal process exists for granting access and validating the need for users to access Texas HHS Confidential Information, and access is limited to Authorized Users)?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
4. Does Applicant/Bidder a) have a system for changing default passwords, b) require user password changes at least every 90 calendar days, and c) prohibit the creation of weak passwords (e.g., require a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numerals, where possible) for all computer systems that access or store Texas HHS Confidential Information. **If yes, upon request must provide evidence such as a screen shot or a system report.**	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

5. Does each member of Applicant/Bidder's Workforce who will use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information have a unique user name (account) and private password?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
6. Does Applicant/Bidder lock the password after a certain number of failed attempts and after 15 minutes of user inactivity in all computing devices that access or store Texas HHS Confidential Information?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
7. Does Applicant/Bidder secure, manage and encrypt remote access (including wireless access) to computer systems containing Texas HHS Confidential Information? (e.g., a formal process exists for granting access and validating the need for users to remotely access Texas HHS Confidential Information, and remote access is limited to Authorized Users). *Encryption is required for all Texas HHS Confidential Information. Additionally, **FIPS 140-2** validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.* *For more information regarding FIPS 140-2 encryption products, please refer to:* *http://csrc.nist.gov/publications/fips*	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
8. Does Applicant/Bidder implement computer security configurations or settings for all computers and systems that access or store Texas HHS Confidential Information? (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit exploitation opportunities for hackers or intruders, etc.)	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
9. Does Applicant/Bidder secure physical access to computer, paper, or other systems containing Texas HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.)?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

10. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information that is ***transmitted*** over a public network (e.g., the Internet, WiFi, etc.)? **If yes, upon request must provide evidence such as a screen shot or a system report.** *Encryption is required for all HHS Confidential Information. Additionally, **FIPS 140-2** validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.* *For more information regarding FIPS 140-2 encryption products, please refer to:* *http://csrc.nist.gov/publications/fips*	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
11. Does Applicant/Bidder use encryption products to protect Texas HHS Confidential Information ***stored*** on end user devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.)? **If yes, upon request must provide evidence such as a screen shot or a system report.** *Encryption is required for all Texas HHS Confidential Information. Additionally, **FIPS 140-2** validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.* *For more information regarding FIPS 140-2 encryption products, please refer to:* *http://csrc.nist.gov/publications/fips*	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
12. Does Applicant/Bidder require Workforce members to formally acknowledge rules outlining their responsibilities for protecting Texas HHS Confidential Information and associated systems containing HHS Confidential Information before their access is provided?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
13. Is Applicant/Bidder willing to perform or submit to a criminal background check on Authorized Users?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
14. Does Applicant/Bidder prohibit the access, creation, disclosure, reception, transmission, maintenance, and storage of Texas HHS Confidential Information with a subcontractor (e.g., cloud services, social media, etc.) unless Texas HHS has approved the subcontractor agreement which must include compliance and liability clauses with the same requirements as the Applicant/Bidder?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

15. Does Applicant/Bidder keep current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
16. Do Applicant/Bidder's computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information contain up-to-date anti-malware and antivirus protection?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
17. Does the Applicant/Bidder review system security logs on computing systems that access or store Texas HHS Confidential Information for abnormal activity or security concerns on a regular basis?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
18. Notwithstanding records retention requirements, does Applicant/Bidder's disposal processes for Texas HHS Confidential Information ensure that Texas HHS Confidential Information is destroyed so that it is unreadable or undecipherable?	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:
19. Does the Applicant/Bidder ensure that all public facing websites and mobile applications containing Texas HHS Confidential Information meet security testing standards set forth within the Texas Government Code (TGC), Section 2054.516; including requirements for implementing vulnerability and penetration testing and addressing identified vulnerabilities? *For more information regarding TGC, Section 2054.516 DATA SECURITY PLAN FOR ONLINE AND MOBILE APPLICATIONS, please refer to: https://legiscan.com/TX/text/HB8/2017*	○ Yes ○ No
Action Plan for Compliance with a Timeline:	Compliance Date:

SECTION D: SIGNATURE AND SUBMISSION (to be completed by Applicant/Bidder)

Please sign the form digitally, if possible. If you can't, provide a handwritten signature.

1. I certify that all of the information provided in this form is truthful and correct to the best of my knowledge. If I learn that any such information was not correct, I agree to notify Texas HHS of this immediately.

2. Signature	**3.** Title	**4.** Date:

To **submit** the completed, signed form:

- Email the form as an attachment to the appropriate Texas HHS Contract Manager(s).

Section E: To Be Completed by Texas HHS Agency Staff:

Agency(s): HHSC: ☐ DFPS: ☐ DSHS: ☐	Requesting Department(s):
Legal Entity Tax Identification Number (TIN) (Last four Only): [redacted]	PO/Contract(s) #:

Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
Contract Manager:	Contract Manager Email Address:	Contract Manager Telephone #:
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INSTRUCTIONS FOR COMPLETING THE SECURITY AND PRIVACY INQUIRY (SPI)

Below are instructions for Applicants, Bidders and Contractors for Texas Health and Human Services requiring the Attachment 2, Security and Privacy Inquiry (SPI) to the Data Use Agreement (DUA). Instruction item numbers below correspond to sections on the SPI form.

If you are a bidder for a new procurement/contract, in order to participate in the bidding process, you must have corrected any "No" responses (except A9a) prior to the contract award date. If you are an applicant for an open enrollment, you must have corrected any "No" answers (except A9a and A11) prior to performing any work on behalf of any Texas HHS agency.

For any questions answered "No" (except A9a and A11), an *Action Plan for Compliance with a Timeline* must be documented in the designated area below the question. The timeline for compliance with HIPAA-related requirements for safeguarding Protected Health Information is 30 calendar days from the date this form is signed. Compliance with requirements related to other types of Confidential Information must be confirmed within 90 calendar days from the date the form is signed.

SECTION A. APPLICANT /BIDDER INFORMATION

Item #1. *Only contractors that access, transmit, store, and/or maintain Texas HHS Confidential Information will complete and email this form as an attachment to the appropriate Texas HHS Contract Manager.*

Item #2. Entity or Applicant/Bidder Legal Name. *Provide the legal name of the business (the name used for legal purposes, like filing a federal or state tax form on behalf of the business, and is not a trade or assumed named "dba"), the legal tax identification number (last four numbers only) of the entity or applicant/bidder, the address of the corporate or main branch of the business, the telephone number where the business can be contacted regarding questions related to the information on this form and the website of the business, if a website exists.*

Item #3. Number of Employees, at all locations, in Applicant/Bidder's workforce. *Provide the total number of individuals, including volunteers, subcontractors, trainees, and other persons who work for the business. If you are the only employee, please answer "1."*

Item #4. Number of Subcontractors. *Provide the total number of subcontractors working for the business. If you have none, please answer "0" zero.*

Item #5. Number of unduplicated individuals for whom Applicant/Bidder reasonably expects to handle HHS Confidential Information during one year. *Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle Texas HHS Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.*

Item #5. Name of Information Technology Security Official and Name of Privacy Official for Applicant/Bidder. *As with all other fields on the SPI, this is a required field. This may be the same person and the owner of the business if such person has the security and privacy knowledge that is required to implement the requirements of the DUA and respond to questions related to the SPI. In 4.A. provide the name, address, telephone number, and email address of the person whom you have designated to answer any security questions found in Section C and in 4.B. provide this information for the person whom you have designated as the person to answer any privacy questions found in Section B. The business may contract out for this expertise; however, designated individual(s) must have knowledge of the business's devices, systems and methods for use, disclosure, creation, receipt, transmission and maintenance of Texas HHS Confidential Information and be willing to be the point of contact for privacy and security questions.*

Item #6. Type(s) of HHS Confidential Information the Entity or Applicant/Bidder Will Create, Receive, Maintain, Use, Disclose or Have Access to: *Provide a complete listing of all Texas HHS Confidential Information that the Contractor will create, receive, maintain, use, disclose or have access to. The DUA section Article 2, Definitions, defines Texas HHS Confidential Information as:*

> *"Confidential Information" means any communication or record (whether oral, written, electronically stored or transmitted, or in any other form) provided to or made available to CONTRACTOR or that CONTRACTOR may create, receive, maintain, use, disclose or have access to on behalf of Texas HHS that consists of or includes any or all of the following:*
>
> *(1) Client Information;*
> *(2) Protected Health Information in any form including without limitation, Electronic Protected Health Information or Unsecured Protected Health Information;*
> *(3) Sensitive Personal Information defined by Texas Business and Commerce Code Ch. 521;*

(4) Federal Tax Information;
(5) Personally Identifiable Information;
(6) Social Security Administration Data, including, without limitation, Medicaid information;
(7) All privileged work product;
(8) All information designated as confidential under the constitution and laws of the State of Texas and of the United States, including the Texas Health & Safety Code and the Texas Public Information Act, Texas Government Code, Chapter 552.

Definitions for the following types of confidential information can be found the following sites:

- *Health Insurance Portability and Accountability Act (HIPAA) - http://www.hhs.gov/hipaa/index.html*
- *Criminal Justice Information Services (CJIS) - https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center*
- *Internal Revenue Service Federal Tax Information (IRS FTI) - https://www.irs.gov/pub/irs-pdf/p1075.pdf*
- *Centers for Medicare & Medicaid Services (CMS) - https://www.cms.gov/Regulations-and-Guidance/Regulations-and-Guidance.html*
- *Social Security Administration (SSA) - https://www.ssa.gov/regulations/*
- *Personally Identifiable Information (PII) - http://csrc.nist.gov/publications/nistpubs/800-122/sp800-122.pdf*

Item #7. Number of Storage devices for Texas HHS Confidential Information. *The total number of devices is automatically calculated by exiting the fields in lines a - d. Use the <Tab> key when exiting the field to prompt calculation, if it doesn't otherwise sum correctly.*

- ***Item 7a. Devices****. Provide the number of personal user computers, devices, and drives (including mobile devices, laptops, USB drives, and external drives) on which your business stores or will store Texas HHS Confidential Information.*
- ***Item 7b. Servers****. Provide the number of servers not housed in a data center or "in the cloud," on which Texas HHS Confidential Information is stored or will be stored. A server is a dedicated computer that provides data or services to other computers. It may provide services or data to systems on a local area network (LAN) or a wide area network (WAN) over the Internet. If none, answer "0" (zero).*
- ***Item 7c. Cloud Services****. Provide the number of cloud services to which Texas HHS Confidential Information is stored. Cloud Services involve using a network of remote servers hosted on the Internet to store, manage, and process data, rather than on a local server or a personal computer. If none, answer "0" (zero.)*
- ***Item 7d. Data Centers.*** *Provide the number of data centers in which you store Texas HHS Confidential Information. A Data Center is a centralized repository, either physical or virtual, for the storage, management, and dissemination of data and information organized around a particular body of knowledge or pertaining to a particular business. If none, answer "0" (zero).*

Item #8. Number of unduplicated individuals for whom the Applicant/Bidder reasonably expects to handle Texas HHS Confidential Information during one year*. Select the radio button that corresponds with the number of clients/consumers for whom you expect to handle Confidential Information during a year. Only count clients/consumers once, no matter how many direct services the client receives during a year.*

Item #9. HIPAA Business Associate Agreement*.*

- ***Item #9a.*** *Answer "Yes" if your business will use, disclose, create, receive, transmit, or store information relating to a client/consumer's healthcare on behalf of the Department of State Health Services, the Department of Disability and Aging Services, or the Health and Human Services Commission for treatment, payment, or operation of Medicaid or Medicaid clients. If your contract does not include HIPAA covered information, respond "no." If "no," a compliance plan is not required.*
- ***Item #9b.*** *Answer "Yes" if your business has a notice of privacy practices (a document that explains how you protect and use a client/consumer's healthcare information) displayed either on a website (if one exists for your business) or in your place of business (if that location is open to clients/consumers or the public). If your contract does not include HIPAA covered information, respond "N/A."*

Item #10. Subcontractors*. If your business responded "0" to question 4 (number of subcontractors), Answer "N/A" to Items 10a and 10b to indicate not applicable.*

- ***Item #10a.*** *Answer "Yes" if your business requires that all subcontractors sign Attachment 1 of the DUA.*
- ***Item #10b.*** *Answer "Yes" if your business obtains Texas HHS approval before permitting subcontractors to handle Texas HHS Confidential Information on your business's behalf.*

Item #11. Optional Insurance. *Answer "yes" if applicant has optional insurance in place to provide coverage for a Breach or any*

other situations listed in this question. If you are not required to have this optional coverage, answer "N/A" A compliance plan is not required.

SECTION B. PRIVACY RISK ANALYSIS AND ASSESSMENT

Reasonable and appropriate written Privacy and Security policies and procedures are required, even for sole proprietors who are the only employee, to demonstrate how your business will safeguard Texas HHS Confidential Information and respond in the event of a Breach of Texas HHS Confidential Information. To ensure that your business is prepared, all of the items below must be addressed in your written Privacy and Security policies and procedures.

Item #1. Answer "Yes" if you have written policies in place for each of the areas (a-o).

- **Item #1a.** Answer "yes" if your business has written policies and procedures that identify everyone, including subcontractors, who are authorized to use Texas HHS Confidential Information. The policies and procedures should also identify the reason why these Authorized Users need to access the Texas HHS Confidential Information and this reason must align with the Authorized Purpose described in the Scope of Work or description of services in the Base Contract with the Texas HHS agency.
- **Item #1b.** Answer "Yes" if your business has written policies and procedures that require your employees (including yourself), your volunteers, your trainees, and any other persons whose work you direct, to comply with the requirements of HIPAA, if applicable, and other confidentiality laws as they relate to your handling of Texas HHS Confidential Information. Refer to the laws and rules that apply, including those referenced in the DUA and Scope of Work or description of services in the Base Contract.
- **Item #1c.** Answer "Yes" if your business has written policies and procedures that limit the Texas HHS Confidential Information you disclose to the minimum necessary for your workforce and subcontractors (if applicable) to perform the obligations described in the Scope of Work or service description in the Base Contract. (e.g., if a client/consumer's Social Security Number is not required for a workforce member to perform the obligations described in the Scope of Work or service description in the Base Contract, then the Social Security Number will not be given to them.) If you are the only employee for your business, policies and procedures must not include a request for, or use of, Texas HHS Confidential Information that is not required for performance of the services.
- **Item #1d.** Answer "Yes" if your business has written policies and procedures that explain how your business would respond to an actual or suspected breach of Texas HHS Confidential Information. The written policies and procedures, at a minimum, must include the three items below. If any response to the three items below are no, answer "no."
  - **Item #1di.** Answer "Yes" if your business has written policies and procedures that require your business to immediately notify Texas HHS, the Texas HHS Agency, regulatory authorities, or other required Individuals or Authorities of a Breach as described in Article 4, Section 4 of the DUA.
    Refer to Article 4, Section 4.01:

    Initial Notice of Breach *must be provided in accordance with Texas HHS and DUA requirements with as much information as possible about the Event/Breach and a name and contact who will serve as the single point of contact with HHS both on and off business hours. Time frames related to Initial Notice include:*
    - *within one hour of Discovery of an Event or Breach of Federal Tax Information, Social Security Administration Data, or Medicaid Client Information*
    - *within 24 hours of all other types of Texas HHS Confidential Information* ***48-hour Formal Notice*** *must be provided no later than 48 hours after Discovery for protected health information, sensitive personal information or other non-public information and must include applicable information as referenced in Section 4.01 (C) 2. of the DUA.*
  - **Item #1dii.** Answer "Yes" if your business has written policies and procedures require you to have and follow a written breach response plan as described in Article 4 Section 4.02 of the DUA.
  - **Item #1diii.** Answer "Yes" if your business has written policies and procedures require you to notify Reporting Authorities and Individuals whose Texas HHS Confidential Information has been breached as described in Article 4 Section 4.03 of the DUA.
- **Item #1e.** Answer "Yes" if your business has written policies and procedures requiring annual training of your entire workforce on matters related to confidentiality, privacy, and security, stressing the importance of promptly reporting any Event or Breach, outlines the process that you will use to require attendance and track completion for employees who failed to complete annual training.

- **Item #1f.** Answer "Yes" if your business has written policies and procedures requiring you to allow individuals (clients/consumers) to access their individual record of Texas HHS Confidential Information, and allow them to amend or correct that information, if applicable.
- **Item #1g.** Answer "Yes" if your business has written policies and procedures restricting access to Texas HHS Confidential Information to only persons who have been authorized and trained on how to handle Texas HHS Confidential Information
- **Item #1h.** Answer "Yes" if your business has written policies and procedures requiring sanctioning of any subcontractor, employee, trainee, volunteer, or anyone whose work you direct when they have accessed Texas HHS Confidential Information but are not authorized to do so, and that you have a method of proving that you have sanctioned such an individuals. If you are the only employee, you must demonstrate how you will document the noncompliance, update policies and procedures if needed, and seek additional training or education to prevent future occurrences.
- **Item #1i.** Answer "Yes" if your business has written policies and procedures requiring you to update your policies within 60 days after you have made changes to how you use or disclose Texas HHS Confidential Information.
- **Item #1j.** Answer "Yes" if your business has written policies and procedures requiring you to restrict attempts to take de-identified data and re-identify it or restrict any subcontractor, employee, trainee, volunteer, or anyone whose work you direct, from contacting any individuals for whom you have Texas HHS Confidential Information except to perform obligations under the contract, or with written permission from Texas HHS.
- **Item #1k.** Answer "Yes" if your business has written policies and procedures prohibiting you from using, disclosing, creating, maintaining, storing or transmitting Texas HHS Confidential Information outside of the United States.
- **Item #1l.** Answer "Yes" if your business has written policies and procedures requiring your business to cooperate with HHS agencies or federal regulatory entities for inspections, audits, or investigations related to compliance with the DUA or applicable law.
- **Item #1m.** Answer "Yes" if your business has written policies and procedures requiring your business to use appropriate standards and methods to destroy or dispose of Texas HHS Confidential Information. Policies and procedures should comply with Texas HHS requirements for retention of records and methods of disposal.
- **Item #1n.** Answer "Yes" if your business has written policies and procedures prohibiting the publication of the work you created or performed on behalf of Texas HHS pursuant to the DUA, or other Texas HHS Confidential Information, without express prior written approval of the HHS agency.

Item #2. Answer "Yes" if your business has a current training program that meets the requirements specified in the SPI for you, your employees, your subcontractors, your volunteers, your trainees, and any other persons under you direct supervision.

Item #3. Answer "Yes" if your business has privacy safeguards to protect Texas HHS Confidential Information as described in the SPI.

Item #4. Answer "Yes" if your business maintains current lists of persons in your workforce, including subcontractors (if applicable), who are authorized to access Texas HHS Confidential Information. If you are the only person with access to Texas HHS Confidential Information, please answer "yes."

Item #5. Answer "Yes" if your business and subcontractors (if applicable) monitor for and remove from the list of Authorized Users, members of the workforce who are terminated or are no longer authorized to handle Texas HHS Confidential Information. If you are the only one with access to Texas HHS Confidential Information, please answer "Yes."

SECTION C. SECURITY RISK ANALYSIS AND ASSESSMENT

This section is about your electronic systems. If you DO NOT store Texas HHS Confidential Information in electronic systems (e.g., laptop, personal computer, mobile device, database, server, etc.), select the "No Electronic Systems" box and respond "Yes" for all questions in this section.

Item #1. Answer "Yes" if your business does not "offshore" or use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information outside of the United States. If you are not certain, contact your provider of technology services (application, cloud, data center, network, etc.) and request confirmation that they do not off-shore their data.

Item #2. Answer "Yes" if your business uses a person or company who is knowledgeable in IT security to maintain or oversee the configurations of your business's computing systems and devices. You may be that person, or you may hire someone who can provide that service for you.

Item #3. Answer "Yes" if your business monitors and manages access to Texas HHS Confidential Information (i.e., reviews systems to ensure that access is limited to Authorized Users; has formal processes for granting, validating, and reviews the need for remote access to Authorized Users to Texas HHS Confidential Information, etc.). If you are the only employee, answer "Yes" if you have implemented a process to periodically evaluate the need for accessing Texas HHS Confidential Information to fulfill your Authorized Purposes.

Item #4. Answer "Yes" if your business has implemented a system for changing the password a system initially assigns to the user (also known as the default password), and requires users to change their passwords at least every 90 days, and prohibits the creation of weak passwords for all computer systems that access or store Texas HHS Confidential Information (e.g., a strong password has a minimum of 8 characters with a combination of uppercase, lowercase, special characters, and numbers, where possible). If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example:
https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/password-policy

Item #5. Answer "Yes" if your business assigns a unique user name and private password to each of your employees, your subcontractors, your volunteers, your trainees and any other persons under your direct control who will use, disclose, create, receive, transmit or maintain Texas HHS Confidential Information.

Item #6. Answer "Yes" if your business locks the access after a certain number of failed attempts to login and after 15 minutes of user inactivity on all computing devices that access or store Texas HHS Confidential Information. If your business uses a Microsoft Windows system, refer to the Microsoft website on how to do this, see example:
https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/account-lockout-policy

Item #7. Answer "Yes" if your business secures, manages, and encrypts remote access, such as: using Virtual Private Network (VPN) software on your home computer to access Texas HHS Confidential Information that resides on a computer system at a business location or, if you use wireless, ensuring that the wireless is secured using a password code. If you do not access systems remotely or over wireless, answer "Yes."

Item #8. Answer "Yes" if your business updates the computer security settings for all your computers and electronic systems that access or store Texas HHS Confidential Information to prevent hacking or breaches (e.g., non-essential features or services have been removed or disabled to reduce the threat of breach and to limit opportunities for hackers or intruders to access your system). For example, Microsoft's Windows security checklist:
https://docs.microsoft.com/en-us/windows/security/threat-protection/security-policy-settings/how-to-configure-security-policy-settings

Item #9. Answer "Yes" if your business secures physical access to computer, paper, or other systems containing Texas HHS Confidential Information from unauthorized personnel and theft (e.g., door locks, cable locks, laptops are stored in the trunk of the car instead of the passenger area, etc.). If you are the only employee and use these practices for your business, answer "Yes."

Item #10. Answer "Yes" if your business uses encryption products to protect Texas HHS Confidential Information that is transmitted over a public network (e.g., the Internet, WIFI, etc.) or that is stored on a computer system that is physically or electronically accessible to the public (FIPS 140-2 validated encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data.) For more information regarding FIPS 140-2 encryption products, please refer to: *http://csrc.nist.gov/publications/fips*).

Item #11. Answer "Yes" if your business stores Texas HHS Confidential Information on encrypted end-user electronic devices (e.g., laptops, USBs, tablets, smartphones, external hard drives, desktops, etc.) and can produce evidence of the encryption, such as, a screen shot or a system report (FIPS 140-2 encryption is required for Health Insurance Portability and Accountability Act (HIPAA) data, Criminal Justice Information Services (CJIS) data, Internal Revenue Service Federal Tax Information (IRS FTI) data, and Centers for Medicare & Medicaid Services (CMS) data). For more information regarding FIPS 140-2 validated encryption products, please refer to: *http://csrc.nist.gov/publications/fips*). If you do not utilize end-user electronic devices for storing Texas HHS Confidential Information, answer "Yes."

Item #12. Answer "Yes" if your business requires employees, volunteers, trainees and other workforce members to sign a document that clearly outlines their responsibilities for protecting Texas HHS Confidential Information and associated systems containing Texas HHS Confidential Information before they can obtain access. If you are the only employee answer "Yes" if you have signed or are willing to sign the DUA, acknowledging your adherence to requirements and responsibilities.

Item #13. Answer "Yes" if your business is willing to perform a criminal background check on employees, subcontractors, volunteers, or trainees who access Texas HHS Confidential Information. If you are the only employee, answer "Yes" if you are willing to submit to a background check.

Item #14. Answer "Yes" if your business prohibits the access, creation, disclosure, reception, transmission, maintenance, and storage of Texas HHS Confidential Information on Cloud Services or social media sites if you use such services or sites, and there is a Texas HHS approved subcontractor agreement that includes compliance and liability clauses with the same requirements as the Applicant/Bidder. If you do not utilize Cloud Services or media sites for storing Texas HHS Confidential Information, answer "Yes."

Item #15. Answer "Yes" if your business keeps current on security updates/patches (including firmware, software and applications) for computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:
https://portal.msrc.microsoft.com/en-us/

Item #16. Answer "Yes" if your business's computing systems that use, disclose, access, create, transmit, maintain or store Texas HHS Confidential Information contain up-to-date anti-malware and antivirus protection. If you use a Microsoft Windows system, refer to the Microsoft website on how to ensure your system is automatically updating, see example:
https://docs.microsoft.com/en-us/windows/security/threat-protection/

Item #17. Answer "Yes" if your business reviews system security logs on computing systems that access or store Texas HHS Confidential Information for abnormal activity or security concerns on a regular basis. If you use a Microsoft Windows system, refer to the Microsoft website for ensuring your system is logging security events, see example:
https://docs.microsoft.com/en-us/windows/security/threat-protection/auditing/basic-security-audit-policies

Item #18. Answer "Yes" if your business disposal processes for Texas HHS Confidential Information ensures that Texas HHS Confidential Information is destroyed so that it is unreadable or undecipherable. Simply deleting data or formatting the hard drive is not enough; ensure you use products that perform a secure disk wipe. Please see NIST SP 800-88 R1, *Guidelines for Media Sanitization* and the applicable laws and regulations for the information type for further guidance.

Item #19. Answer "Yes" if your business ensures that all public facing websites and mobile applications containing HHS Confidential Information meet security testing standards set forth within the Texas Government Code (TGC), Section 2054.516

SECTION D. SIGNATURE AND SUBMISSION

Click on the signature area to digitally sign the document. Email the form as an attachment to the appropriate Texas HHS Contract Manager.

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OMB Number: 4040-0007
Expiration Date: 02/28/2025

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

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

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C.§§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U. S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

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9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

Docusign Envelope ID: C919F9C5-BD92-44AF-8E52-8E36B50D262B

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

* APPLICANT'S ORGANIZATION
* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE Prefix: * First Name: Middle Name: * Last Name: Suffix: * Title:
* SIGNATURE: * DATE:

Docusign Envelope ID: C919F9C5-BD92-44AF-8E52-8E36B50D262B

TEXAS Health and Human Services | Texas Department of State Health Services

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:

docusign

Certificate Of Completion

Envelope Id: C919F9C5-BD92-44AF-8E52-8E36B50D262B
Status: Sent
Subject: Please Sign: $175,290.00 HHS001588400033 City of Lubbock RLSS/LPHS
Source Envelope:
Document Pages: 97
Signatures: 0
Certificate Pages: 2
Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
CMS Internal Routing Mailbox
11493 Sunset Hills Road
#100
Reston, VA 20190
CMS.InternalRouting@dshs.texas.gov
IP Address: 10.104.81.137

Record Tracking

Status: Original
4/24/2025 3:06:55 PM
Holder: CMS Internal Routing Mailbox
CMS.InternalRouting@dshs.texas.gov
Location: DocuSign

Signer Events	Signature	Timestamp
Mark McBrayer mmcbrayer@mylubbock.us Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 4/24/2025 3:23:09 PM
Megan Alexander megan.alexander@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Jonah Wilczynski jonah.wilczynski@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Patricia Melchior Patty.Melchior@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Dave Gruber David.Gruber@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
Gloria Diaz gdiaz@mylubbock.us Financial Analyst Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 4/24/2025 3:23:08 PM Viewed: 4/24/2025 3:26:15 PM
Katherine Wells kwells@mylubbock.us Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	COPIED	Sent: 4/24/2025 3:23:08 PM
CMS Internal Routing Mailbox cms.internalrouting@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	4/24/2025 3:23:08 PM

Payment Events	Status	Timestamps

AI# 13420
Regular City Council Meeting 5. 19.
05/27/2025:

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing the Mayor to execute Emergency Solution Grant (ESG) Funding Agreement Contract 18865, and all related documents, by and between the City of Lubbock and Family Promise, for addressing homeless issues including homeless prevention, rapid re-housing, case management, and data collection.

Item Summary

Grantee: Family Promise

Program: Rapid Homeless Management Information System (HMIS)

Funding Source: Emergency Solution Grant (ESG), administered by the U.S. Department of Housing & Urban Development.

Use of Funds: Addressing homeless issues including homeless prevention, rapid re-housing, case management, and data collection into a homeless management information system.

The Community Development & Services Board (CDSB), at their regular board meeting 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 May 14, 2025, approved allocation to Family Promise for the above-mentioned Use of Funds.

Fiscal Impact

The funds used originate from the U.S. Department of Housing and Urban Development (HUD), so this agreement has no fiscal impact on the General Fund. The maximum allocation of this agreement is $100,000.

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, Emergency Solutions Grant (ESG) Funding Agreement 18865, and all related documents, between the City of Lubbock and Family Promise of Lubbock, Inc. for homeless prevention, rapid re-housing, case management, and data collection. 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.ESG No. 18865 Family Promise
5.7.25

EMERGENCY SOLUTIONS GRANT (ESG) FUNDING AGREEMENT

BETWEEN

THE CITY OF LUBBOCK AND

FAMILY PROMISE OF LUBBOCK

This Emergency Solutions Grant (ESG) Program (the "Agreement") Contract No.**18865** is made by and between the City of Lubbock, a State of Texas home rule municipal corporation (the "City") and Family Promise of Lubbock, 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 City is obligated to do and perform certain services in its undertaking of an Emergency Solutions Grant (ESG) Program. These funds pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378), as amended by the Homeless Emergency and Rapid Transition to Housing Act of 2009 (Public Law 111-22) (HEARTH Act); and

WHEREAS, the Subrecipient operates a non-profit center offering services to the homeless throughout Lubbock County, Texas.

WHEREAS, the Subrecipient and the services it provides have been found to meet the criteria for funding under provisions of 24 CFR Part 576; and

WHEREAS, the Subrecipient proposes to use the funds for homeless activities including homeless prevention, rapid re-housing, case management, and data collection into a homeless management information system (the "Program"); 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 Program 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 Subrecipient to make available the services provided under the Program; and **NOW, THEREFORE:**

THE PARTIES, FOR GOOD AND VALUABLE CONSIDERATION, AGREE AS FOLLOWS:

I. SCOPE OF PROGRAM

A. General Administration

In compliance with all of the terms and conditions of this Agreement, the Subrecipient agrees to provide the services set forth in **EXHIBIT A**, which provides a description of each activity, including the services to be performed, the person(s) or entity providing the services, the estimated number of recipients of the services, and the manner and means of the services. The Subrecipient represents and warrants that the services provided under this Agreement shall be performed in a competent, professional and satisfactory manner in accordance federal regulations and the terms of this Agreement.

B. Levels of Accomplishment – Goals and Performance Measures

The Subrecipient shall be responsible to accomplish the levels of performance and for such period as set forth in **EXHIBIT A** and report such measures monthly to the City. If the Subrecipient estimates such goals will not be met, the Subrecipient is to contact the City, at which time the City will determine if any adjustment to the funding is warranted.

II. TERM OF AGREEMENT

This Agreement shall commence on April 1, 2025 and terminate on September 30, 2025, unless otherwise cancelled or modified according to this Agreement.

III. DISBURSEMENT AND FUNDS

A. Maximum Amount of Disbursements

City agrees to reimburse Subrecipient under this Agreement in a sum not to exceed **One Hundred Thousand Dollars ($100,000.00)** for Subrecipient's performance of the Program in accordance with the Budget attached hereto as **EXHIBIT A**. A Request for Reimbursement (RFR) shall be submitted to the City on or about the 10th day of each month, or until funding allocated to the Subrecipient under this Agreement has been fully expended and reimbursed. Such schedule may be modified with the approval of the City. The City shall distribute ESG funds within 14 business days after approval from the City. Grantee has the ability to adjust line item amounts in the Budget with the prior written approval of the City's Director of Community Development, so long as the total Budget amount does not increase.

B. Payment

The Funding shall be disbursed on a monthly basis, pending the Subrecipient's submission to the City of a written Request for Reimbursement (RFR), with such request being in a form acceptable to the City (the "Payment"). Expenses eligible for Payment to the Subrecipient by the City shall be those expenses incurred or paid for by the Subrecipient prior to submission of an RFR. The Subrecipient shall submit with its RFR, detailed source documentation that clearly shows the source of the expenses incurred and paid for by the Subrecipient that are the subject of the Subrecipient's RFR. Such source documentation includes, but is not limited to, time sheets, paycheck stubs, receipts, general ledger, invoices, billing statements, or other verification in support of all expenditures incurred by the Subrecipient in its performance of the Program. All expenses under which reimbursement is

being requested must be eligible and must be incurred as a direct result of carrying out the Program. Ineligible expenses will not be included in the Payment to the Subrecipient by the City.

Failure to provide any of the required documentation and reporting will cause the City to withhold all or a portion of an RFR until such documentation and reporting has been received and approved by the City.

C. Use of Funds

The Subrecipient agrees to use funds pursuant to this Agreement to pay for necessary and reasonable costs allowable under federal law and regulations to operate the Program including homeless prevention, rapid re-housing, case management and data collection into a homeless management information system ("HMIS"). Allowable program costs are detailed in the Budget, as set forth in **EXHIBIT A**. The Subrecipient's failure to perform, as required, may, in addition to other remedies set forth in this Agreement, result in readjustment of the amount of funds the City is otherwise obligated to pay to the Subrecipient pursuant to the terms hereof.

D. Conditions of Funding

1) The City advises the Subrecipient that a significant change in entitlement funding may result in a change in the current process utilized by the City to determine funding allocations. The Subrecipient acknowledges that the obligation of the City is contingent upon the availability of federal funds, which are appropriated or allocated for the payment of such an obligation.

2) If funding levels are significantly affected by federal budgeting or if funds are not allocated and available for the continuance of the function performed by the Subrecipient, this Agreement may be terminated by the City at the end of the period for which funds are available. In the event of funding reduction, the City may reduce the Budget for this Agreement as a whole or may limit the rate by which Subrecipient receives the ESG funds for providing Subrecipient's services hereunder. At the earliest opportunity, the City shall notify the Subrecipient of any services, which may be affected by a shortage of funds.

3) No penalty shall accrue to the City in the event this provision is exercised and the City shall not be liable for any damages as a result of termination under this provision of this Agreement. Nothing herein shall be construed as obligating the City to expend funds in excess of appropriations authorized by law.

4) The Subrecipient shall allow representatives of the City or HUD and their agents and representatives to inspect facilities which are used in connection with the Agreement or which implement programs funded under this Agreement and to observe the provision of services. The City is under no duty to supervise the provision of Subrecipient's services. Any inspection or examination by the City is for the sole purpose of protecting and preserving the City's rights under this Agreement.

5) No default of Subrecipient shall be waived by any inspection by the City. In no event will any inspection by the City be a representation that there has been or will be compliance with this Agreement or that Subrecipient is in compliance with any federal, state and local laws, ordinances, regulations and directives applicable to the performance of this Agreement or the provision of Subrecipient's services.

6) Where the City has reasonable grounds to question the fiscal accountability, financial soundness, or compliance with this Agreement by the Subrecipient, the City may suspend the operation of this Agreement for up to sixty (60) days, given a three (3) day notice to Subrecipient of the City's intention to so act, pending an audit or other resolution of such questions.

E. Program Match

The Subrecipient is required to make matching contributions to supplement the ESG program in an amount that equals or exceeds the amount of 2024 ESG funds awarded to the Subrecipient as described in **EXHIBIT A**. Such contributions shall be entirely consistent with the match requirements as outlined by 24 CFR § 576.201.

F. Program Income

(1) Program income is the income received by the Subrecipient directly generated by a grant-supported activity. Program income must be earned during the terms of this Agreement and used for eligible activities in accordance with this Agreement.

(2) The Subrecipient shall use all income received from said funds only for the same purposes for which said funds may be expended pursuant to the terms and conditions of this Agreement.

(3) Costs paid by program income may count toward meeting the matching requirements, provided the costs are eligible ESG costs that supplement the program and are consistent with the requirements in 24 CFR 576.201.

G. Separation of Accounts

All funds received by the Subrecipient from the City pursuant to this Agreement shall be maintained, or of any principal or member of the Subrecipient, in an account (the "Account") at a federally insured banking or savings and loan institution with record keeping of such Accounts maintained pursuant to applicable legal requirements. The Subrecipient shall keep all records of the Account in a manner that is consistent with generally accepted accounting principles. No monies shall be withdrawn from the Account except for expenditures relating to ESG Program costs that are eligible, allowable and allocable, as authorized hereunder.

All disbursements from the Account shall be for obligations incurred in the performance of this Agreement and shall be supported by contracts, invoices, vouchers, and other data, as appropriate, evidencing the necessity of such expenditure. The City may withhold payment allocation requests if the Subrecipient fails to comply with the above requirements until such compliance is demonstrated to the satisfaction of the City.

H. Expenditure of Funds

The Subrecipient shall expend all of the funding for eligible activity costs within the term of this Agreement. For the purposes of this paragraph, expenditure means either an actual cash disbursement for a direct charge for goods or services or an indirect cost, or the accrual of a direct charge for goods or services or an indirect cost. Failure to expend said funds within said timeframe can result in a reallocation of funds.

I. Prohibited Use

(1) The Subrecipient hereby certifies and agrees that it will not use funds provided through this Agreement to pay for meals for persons and families other than those identified as eligible program participants. Said funds shall not be used for entertainment purposes or for gifts. The Subrecipient certifies that it will not use said funds for illegal or dishonest conduct; rather, the use of ESG funds will remain in compliance with all applicable federal, state, and local laws, including applicable laws not outlined in this Agreement.

(2) The Subrecipient certifies and agrees that it will comply with federal law and regulations found at 24 CFR Part 87, which provide that no appropriated funds may 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, Member of Congress, or an officer or employee of a Member of Congress in connection with awarding of any federal contract, the making of any federal grant or loan, entering into any cooperative agreement and the extension, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

IV. GENERAL CONDITIONS

The Subrecipient agrees to work with the City to ensure compliance with the Coordinated Entry Policies and Procedures, including the use of HMIS to collect and manage participant data and required prioritization for Rapid Re- Housing (RRH) assistance. Subrecipient agrees to serve as a Coordinated Entry access point. Subrecipient agrees to accept referrals for people who are served outside their own agency for services provided under this Agreement.

A. Evaluation of Program Participants Eligibility and Needs

The Subrecipient must conduct initial evaluations and periodic re-evaluations to determine the eligibility of each individual or family's eligibility for ESG assistance in accordance with 24 CFR§ 576.401.

B. Terminating Assistance

If a program participant violates program requirements, the Subrecipient may terminate the assistance in accordance with a formal process established by the Subrecipient that recognizes the rights of individuals affected and in compliance with 24 CFR § 576.402.

C. Shelter and Housing Standards

The Subrecipient certifies that shelters and housing supported by ESG funds and used by ESG beneficiaries will conform to 24 CFR § 576.403.

D. Homeless Involvement

The Subrecipient certifies that it will involve, to the maximum extent practicable, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under the ESG program, and in providing services for occupants of these facilities.

E. 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/employee between the Parties. City assumes no liability for Subrecipient's actions and performance; nor does the City assume responsibility for taxes, bonds, payments, or other commitments, implied or explicit, by or for Subrecipient. Subrecipient shall not have authority to act as an agent on behalf of City unless specifically authorized to do so in writing. Subrecipient acknowledges that it is aware that because it is an independent contractor, City is making no deduction from any amount paid to Subrecipient and is not contributing to any fund on its behalf. Subrecipient disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

As respects all acts or omissions of Subrecipient relating to Subrecipient's responsibility for taxes, bonds, payments, or other commitments, implied, or explicit, by or for Subrecipient, the Subrecipient agrees to indemnify, defend (at the City's option), and hold harmless the City, its officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, reasonable defense costs, or liability of any kind or nature to the extent arising out of or in connection with the Subrecipient's performance or failure to perform under this Section.

F. Subcontracts

1) The Subrecipient will include all relevant provisions of this Agreement in all subcontracts entered into as part of the activities undertaken in furtherance of this Agreement and will take appropriate action pursuant to any subcontract upon a finding that the subcontractor is in violation of regulations issued by any federal agency.

2) 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 Part 135 (Economic Opportunities for Low- and Very Low-Income Persons) and will not allow any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

3) The Subrecipient must submit all subcontracts and other Agreements that relate to this Agreement to the City.

G. Licensing

The Subrecipient agrees to obtain and maintain, at its sole cost and expense, all required licenses, registrations, accreditation, permits and approvals as may be required by law for its operations and the performance of its services under this Agreement.

The Subrecipient shall require subcontractors to obtain and maintain all required licenses, registrations, accreditation, permits and approvals as may be required by law for the performance of services hereunder. Such licensing requirements include obtaining a City business license, as applicable. Subrecipient shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for the performance of the services required by this Agreement.

H. Responsibilities Toward Employees

The Subrecipient accepts full responsibility for payment of any and all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholdings, social security withholdings, and any and all other taxes or payroll withholdings required for all employees engaged in the performance of the work and activities authorized by the Agreement. The Subrecipient accepts full responsibility for providing workers with proper safety equipment and taking any and all necessary precautions to guarantee the safety of workers or persons otherwise affected.

I. 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. Insurance coverage must be obtained prior to the commencing of any services of activities under this Agreement.

J. Zoning

The Subrecipient agrees that any facility/property used in furtherance of said program shall be specifically zoned and permitted for activities under this Agreement. Should the Grantee fail to have the required land entitlement and/or permits, thus violating any local, state, or federal rules and regulations relating thereto, the Grantee shall immediately make good-faith efforts to gain compliance with local, state, or federal rules and regulations following written notification of said violation(s) from the City or other authorized citing agency. The Grantee shall notify the City immediately of any pending violations. Failure to notify the City of pending violations, or to remedy such known violation(s), shall result in termination of grant funding hereunder. The Grantee must make all corrections required to bring the facility/property into compliance with the law within sixty (60) days of notification of the violation(s); failure to gain compliance within such time shall result in termination of grant funding hereunder.

K. Displacement and Relocation.

The Subrecipient must assure that it has taken all reasonable steps to minimize displacement of persons. Relocation must be consistent with requirements as set forth in 24 CFR § 576.408.

L. Provisions Required by Law Deemed Inserted.

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or correctly inserted, then upon the application of either Party, the contract shall forthwith be physically amended to make such insertion or correction.

M. 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 an 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 agent, as applicable, all attorneys' fees incurred by enforcing the Subrecipients indemnity herein.

3) The Subrecipient, and its respective officers, employees, elected officials, and agent shall not be liable, and the Subrecipient hereby releases the City and its respective officers, employees, elected officials, and agent, for, from, and against any losses, damages, claims, or liabilities to the Subrecipient.

4) The Indemnity and Release provided herein shall survive this Agreement.

V. ASSURANCES AND CERTIFICATIONS

A. Certification of Non-Profit Status

1) The Subrecipient is a duly organized and existing non-profit corporation in good standing and authorized to do business under the laws of the City of Lubbock and in possession of required non-profit status under the United States Internal Revenue Code.

2) The Subrecipient has full right, power, and lawful authority to accept the funding hereunder and to undertake all obligations as provided herein and the execution, performance, and delivery of this Agreement by the Subrecipient has been fully authorized by all requisite actions on the part of the Subrecipient.

3) If the Subrecipient's non-profit status changes at any time during this Agreement, it will advise the City within 15 days of such change.

4) As a non-profit, the Subrecipient acknowledges that administration of its operation and services are subject to the requirements as established in 2 CFR §200.

B. Adherence to Federal, State, and Local Laws and Regulations

(1) Subrecipient agrees to comply with all requirements of the ESG program as stated in 24 CFR 576 and applicable crosscutting Federal, State, and Local requirements.

(2) Subrecipient shall ensure that employment and other economic opportunities generated by the Program shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and regulations at 24 CFR part 135 apply, except that homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c).

(3) The Subrecipient agrees 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 the 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, and 41 CFR Chapter 60.

(4) During the performance under this Agreement, the Subrecipient shall not discriminate against any employee or applicant for employment based on race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, sexual orientation, or any other basis prohibited by applicable law. The Subrecipient shall take affirmative action to ensure that all applicants and employees are treated without regard to race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, and sexual orientation. The Subrecipient shall comply with all provisions of Executive Order 11246, Equal Employment Opportunity, as amended.

(5) The requirements in 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR § 5.105(a). The Subrecipient shall not discriminate against any participant on the ground of race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familiar status, sexual orientation, or any other basis prohibited by applicable law. The Subrecipient shall, through affirmative outreach, make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. The Subrecipient must take appropriate steps to ensure effective communication with persons with disabilities.

(6) The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with the Americans with Disabilities Act, which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and Local government services, and public accommodations.

(7) Under section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing. HUD requires the same of its funded sub- recipients. The Subrecipient has a duty to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act.

C. Falsification of Information

The Subrecipient represents and warrants that it has made no false statements to the City in the process of obtaining this award of the ESG Funds.

D. Drug Free Workplace

The Subrecipient represents and warrants that it has established the following drug-free workplace policy:

(1) The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace for any employee involved in a federally funded program.

(2) As an employee working in conjunction with a federally funded program, the employees of the Subrecipient will be required to:

(a) Abide by the terms above in statement (1), and

(b) Notify the appropriate Subrecipient authorities and City officials of any criminal drug statute conviction for a violation occurring in the workplace. Such notification shall be made no later than five (5) days after conviction.

(3) The City and the United States Department of Housing and Urban Development will be notified within ten days after receiving notice of any such violation.

(4) Within thirty (30) days of receiving such notice, appropriate personnel action will be taken against such employee, up to and including termination.

(5) Each such employee shall be required to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or Local health, law enforcement, or other appropriate agency.

E. Religious Organization

The Subrecipient may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of said program or services. If the Subrecipient conducts such activities, the activities must be offered separately, in time or location, from said programs or services, and participation must be voluntary for the program participants. The Subrecipient shall not discriminate against a program participant or prospective program participant based on religion or religious belief.

If the Subrecipient is a religious organization, it retains its independence from Federal, State, and Local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that the religious organization does not use direct ESG funds to support any inherently religious activities. The Subrecipient agrees that rehabilitation of structures by the religious organization in connection with said program must be in sound accord with the provisions under 24 CFR § 576.406.

F. Additional Terms between the City and HUD

The Subrecipient agrees further that it shall be bound by the standard terms and conditions used in the Grant Agreement between HUD and the City and such other rules, regulations, or requirements as HUD may reasonably impose in addition to the aforementioned assurances at or subsequent to the execution of this Agreement by the Parties hereto.

G. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of the Hatch Act, 5 U.S.C. Section 1501 et seq.

H. Davis-Bacon Act

The provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-5) do not apply to the ESG program.

VI. ADMINISTRATIVE REQUIREMENTS

Under 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles and Audit Requirements, the Subrecipient agrees to comply with the following:

A. Financial Management

Including Accounting Standards, Internal Controls, maintenance of Source Documentation, and Cost principles as applied to indirect and direct costs.

B. Procurement

(1) The Subrecipient shall comply with current HUD and City policies concerning the procurement of equipment, goods, and services, and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. The Subrecipient shall report to the City all program assets (unexpended program income, property, equipment, etc.), and upon the CITY'S request, such assets shall revert to the City upon termination of this Agreement.

(2) Use and Reversion of Assets. The use and disposition of equipment under this Agreement shall comply with the requirements of 2 CFR Part 200.

C. Documentation and Record Keeping

Sufficient records must be established and maintained to enable the City and HUD to determine whether the ESG requirements are being met. Record keeping requirements must conform to the policies and procedures as established by the City.

All accounting records, reports, all evidence pertaining to costs, expenses, and ESG Funds of the Subrecipient, and all documents related to this Agreement shall be maintained and kept available at the Subrecipient's office or place of business for the duration of the Agreement and for five (5) years after Agreement terms, but not before performance of an audit in conformity with the ESG requirements, except as hereinafter provided relating to retention of any records or documentation existing, created, or maintained in compliance with LBP regulations below.

Records to be maintained include: (a) complaints, claims, administrative proceedings or litigation arising out of the performance of this Agreement, or (b) costs and expenses of this Agreement to which the City or any other governmental agency takes exception,

shall be retained beyond the five (5) years until complete resolution or disposition of such appeals, litigation claims, or exceptions. All records relating to, or created or maintained in compliance with, the Lead-Based Paint regulations shall be retained and maintained by the Subrecipient indefinitely, including without limitation, all inspection report(s), disclosure statement(s), and clearance report(s). The City, HUD and auditors shall have the right to access all Subrecipient records for as long as the records are retained by the Subrecipient. In the event the Subrecipient does not make the above- referenced documents available within the City of Lubbock, the Subrecipient agrees to pay all necessary and reasonable expenses incurred by the City in conducting any audit at the location where said records and books of account are maintained. The Subrecipient agrees to meet the requirements set forth in 24 CFR § 576.500.

D. Reporting

Reporting requirements must conform to the policies and procedures as established by the City and in compliance with 24 CFR § 576.500. The Subrecipient shall submit to the City, on or before the 10th day of each month:

(1) Payment Request. An original request for reimbursement and true copies of invoices, receipts, Agreements, or other documentation supporting and evidencing how the ESG Funds have been expended during the applicable month.

(2) Monthly Activities and written cumulative (year-to-date) reports of activities, program accomplishments, new program information, and up-to-date program statistics on expenditures, caseload and activities. Failure to provide any of the required documentation and reporting will cause the City to withhold all or a portion of a request for reimbursement until such documentation and reporting has been received and approved by the City.

(3) Matching Monthly certification of match contribution and expense, plus documentation of match source.

(4) Any other such reports as the City (or HUD) shall reasonably require and/or request, including but not limited to the following information: monthly records of all ethnic and racial statistics of persons and families benefited by the Subrecipient in the performance of its obligations under this Agreement.

E. Confidentiality of Records.

Subrecipient shall adhere to the requirements of 24 CFR 576.500(x) and any written procedures developed by the City and provided to Subrecipient from time to time during the Term of the Agreement.

F. Homeless Management Information Systems (HMIS)

The Subrecipient must ensure that data is collected for all persons served and all activities performed under this Agreement and that data is reported in HMIS, in accordance with HUD's standards on participation, data collection, and reporting, meeting HMIS Data and Technical Standards of HUD, set forth in the McKinney-Vento Homeless Assistance Act, as amended.

(1) Subrecipient shall execute an Interagency Data Sharing Agreement with the HMIS Lead Agency to participate in the established HMIS. The Subrecipient will provide a copy of the Agreement with the HMIS Lead Agency to the City.

(2) Under the agreement with the Lead Agency, the Subrecipient agrees to share HMIS data with other community agencies regarding clients entered into the system, unless prohibited by law. A HMIS Client Release of Information consent form must be included in the agreement.

(3) Subrecipient must enter data directly into HMIS, and adhere to all implementation guidelines developed under the Continuum of Care. HMIS participation includes, but is not limited to, the input of all programmatic and client data for the generation of all mandated monthly, quarterly and closeout reports. Subrecipient must input client data in real time, or no more than twenty-four (24) hours after date of program entry. Services rendered to clients must be entered into HIMS within twenty-four (24) hours from date of services. All clients who exit the program must have updated status in HIMS within twenty- four (24) hours of actual exit date. Failure to meet the above Data Input requirements will constitute a violation of the terms and conditions of this Agreement and subject to the remedies set forth in Section XIV below.

(4) Subrecipient must assign no less than two (2) HMIS users, including but not limited to the Director for the agency. If for any reason an HMIS user provides notice of resignation, or has been terminated from his/her position, the Subrecipient must notify the City no less than seventy-two (72) hours after notice is given, or after termination. The exiting employee(s) must deactivate his/her user ID and another employee must be established after training has been completed.

G. Audit Report Requirements

The Subrecipient agrees to have an annual audit conducted by a certified public accountant in accordance with the standards as set forth and published by the United States Office of Management and Budget (2 CFR § 200.501a). The Subrecipient shall provide the City with a copy of said audit by April 1 of the year following the program year in which this Agreement is executed. Further, the Subrecipient shall comply and/or cause compliance with audit report(s) required by applicable provisions of the Lead- Based Paint Regulations as further detailed below.

VII. PERFORMANCE MONITORING

The City will monitor the performance of the Subrecipient against goals and performance standards as required herein. The City will monitor reports and records submitted in the HMIS. The Subrecipient shall provide the City all necessary reporting information as required by the City in the administration and review of the Program. Substandard performance as determined by the City will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period after being notified by the City, contract suspension or termination procedures will be initiated. The City may conduct an onsite monitoring visit to ensure Subrecipient compliance with program regulations.

A. Access to Records

The Subrecipient gives the City and HUD, including their authorized representative, access to and the right to examine all records, books, papers, items, emails, and documents, both physical and electronic, relating to the program.

B. Financial Review

The City shall have the right to audit and monitor financial records including program income as a result of an ESG activity for monitoring purposes. The Subrecipient further agrees to provide all files, records, and documents for program activities under this Agreement.

C. Notifications

The City will notify the Subrecipient of all monitoring results. The City will notify the Subrecipient at least 15-days prior to an onsite monitoring visit. The City may request specific records be available for review during the visit.

VIII. LIABILITY

Each Party to this Agreement acknowledges that it will be liable for its own negligent acts or negligent omissions by or through itself, its employees, agents, and subcontractors. Each Party further agrees to defend itself and themselves, and to pay any judgments and costs arising out of such negligent acts or omissions, and nothing in this Agreement shall impute or transfer any such liability from one to the other. In other words, the Subrecipient agrees to be fully responsible for its negligent acts or omissions, or any intentional tortuous acts, which result in claims, or suits against the City, and agrees to be liable for any damages proximately caused by said acts or omissions. Nothing herein shall be construed as consent by a State or City agency or subdivision to be sued by third parties in any matter arising out of any contract, and nothing herein is intended to serve as a waiver of sovereign immunity where sovereign immunity applies.

A. City not Liable for Funds

The Subrecipient further acknowledges that the source of the ESG Funds is a federal pass-through grant to the Subrecipient. The City shall have no obligation to advance or pay the Subrecipient with any funds other than the ESG Funds the City receives from HUD.

B. Hold Harmless

The Subrecipient shall defend, indemnify and save harmless the City, its officers, agents, employees, representatives, volunteers, and student externs from and against any and all claims, demands, defense costs, liability or damages of any kind or nature resulting from or arising out of the acts, errors or omissions of the Subrecipient, its officers, directors, employees, agents, subcontractors, and suppliers in the performance of Subrecipient's services and activities under this Agreement.

IX. ENVIRONMENTAL CONDITIONS

ESG activities are subject to environmental review by the City under the environmental regulations in 24 CFR Part 58. The Subrecipient, or any contractor of the Subrecipient, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a

project or activity under this part, or commit or expend ESG or local funds for eligible activities under this part unless and until the City has performed an environmental review under 24 CFR part 58 and the Subrecipient has received City approval of the project.

The Subrecipient agrees to comply with all applicable environmental requirements insofar as they apply to the performance of this Agreement, including but not limited to the Clean Air Act, the Federal Water Pollution Control Act and the Flood Disaster Protection Act. If applicable, the Subrecipient also shall comply with the Historic Preservation requirements of the National Historic Preservation Act of 1966.

A. Lead-Based Paint Remediation and Disclosure

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead- Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG and all housing occupied by program participants that were built before 1978.

B. Compliance with Subpart K

In connection with the grant funds under this Agreement, the City requires that the Subrecipient comply and show evidence of compliance with all applicable subparts of 24 CFR 35, and especially, Subpart K ("LBP Regs"). The Subrecipient shall conduct the following activities for the dwelling unit, common areas servicing the dwelling unit, and the exterior surfaces of the building in which the dwelling unit is located:

(1) A visual assessment of all painted surfaces in order to identify deteriorated paint;

(2) Paint stabilization of each deteriorated paint surface, and clearance, in accordance with §§ 35.1330(a) and (b), before occupancy of a vacant dwelling unit or, where a unit is occupied, immediately after receipt of Federal assistance;

(3) Ongoing lead-based paint maintenance activities into regular building operations, in accordance with § 35.1355(a), if the dwelling unit has a continuing, active financial relationship with a Federal housing assistance program, except that mortgage insurance or loan guarantees are not considered to constitute an active programmatic relationship for the purposes of this part; and

(4) Notice to occupants in accordance with §§ 35.125(b)(1) and (c), describing the results of the clearance examination.

C. Notification of LBP Hazard

(1) In accordance with Section 35.130, the Subrecipient must provide an approved LBP hazard information pamphlet to all occupants of housing. The pamphlet shall be the EPA/HUD/Consumer Product Safety Commission lead hazard information pamphlet or an EPA-approved equivalent.

(2) In accordance with 24 CFR 35, Subpart A, all available information and knowledge regarding the presence of LBP and LBP hazards prior to leasing in writing of the results

of the presumption of LBP and/or LBP hazards, results of any lead hazard evaluation, and any lead hazard reduction work.

D. LBP Information Summary

For purposes of information only and in no respect intended to be a representation or warranty of the provisions of the LBP Regulations, the City has caused to be prepared an information summary relating to the LBP Regulations and Application to dwelling units that may be occupied by recipients of services and/or funding from the Subrecipient under this Agreement. City staff will cooperate with and be available to the Subrecipient to assist in implementation of compliance with the LBP Regs as to residential dwelling units to be assisted by the Subrecipient. The Parties acknowledge and agree the City shall not be liable or responsible for the accuracy of such summary, and the Subrecipient is directed to the LBP Regulations and implementing guidance published and provided by HUD relating to compliance with such LBP Regulations.

E. Exemptions

Section 35.115(a) provides exemptions from Subparts B through R. For example, lead-based paint requirements do not apply to housing assistance if the assistance lasts less than one hundred(100) days.

X. CONFLICTS OF INTEREST

The Subrecipient shall comply with 2 CFR § 200.112 with respect to the use of ESG funds to procure services, equipment, supplies, or other property. With respect to all other decisions involving the use of ESG funds, the following restriction shall apply: No person who is an employee, agent, consultant, officer, or elected or appointed official of the Subrecipient and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or Agreement with respect thereto, or the proceeds there under, either for himself or herself, or for those with who he or she has family or business ties, during his or her tenure or for one (1) year thereafter.

The Subrecipient agrees to abide by the ESG Program's Conflict of Interest provisions as expressly detailed in 24 CFR§576.404 regarding Organizational Conflicts of Interest and Personal Conflicts of Interest. All contractors of the Subrecipient must comply with the same requirements that apply to the Subrecipient under this section.

The Subrecipient may not, with respect to individuals or families occupying housing owned by the Subrecipient, or any parent or subsidiary of the Subrecipient, carry out the initial evaluation required under 24 CFR 576.401 or administer homelessness prevention assistance under 24 CFR 576.103

XI. ASSIGNABILITY

None of the duties of, or work to be performed by, the Subrecipient under this Agreement shall be subcontracted or assigned to any agency, consultant or person without the prior written consent of the City. The Subrecipient must submit all subcontracts and other Agreements that

relate to this Agreement to the City. No subcontract or assignment shall terminate or alter the legal obligations of the Subrecipient pursuant to this Agreement.

XII. EXCLUSIVITY OF AGREEMENT

This Agreement supersedes any and all other Agreements, either oral or in writing, between the Parties hereto with respect to the use of the City's ESG funds by the Subrecipient and contains all the covenants and Agreements between the Parties with respect to such ESG Funds in any manner whatsoever.

Each Party to this Agreement acknowledges that no representations, inducements, promises or Agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not embodied herein, and that no other Agreement or amendment hereto shall be effective unless executed in writing and signed by both the City and the Subrecipient.

XIII. AMENDMENTS OR MODIFICATIONS

The Subrecipient shall not obligate, encumber, spend, or otherwise utilize ESG funds for any activity or purpose not included or not in conformance with the budget as apportioned and as submitted to the City unless:

A. The Subrecipient has received explicit written approval from the City to undertake such actions, or

B. Budget changes may be made among approved program activities and among approved budget categories so long as the specific project activity has been approved, there is no change to the total grant amount, and the changes to the budget are documented.

C. Any program modification request by the Subrecipient must be requested at least forty-five (45) days prior to the end of the term of this Agreement. No modification to this Agreement shall be binding by either Party unless in writing and signed by both Parties.

D. In the event that the City approves any amendment to the funding allocation, the Subrecipient shall be notified in writing and such notification shall constitute an official amendment. The City may, at its discretion and upon provision of proper notice to the Subrecipient, amend this Agreement to conform to changes in Federal, State, and/or the City laws, regulations, guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement.

XIV. VIOLATION OF TERMS AND CONDITIONS

For purposes of this Section XIV, the word "Default" shall mean the failure of Subrecipient to perform any of Subrecipient's duties or obligations or the breach by Subrecipient of any of the terms and conditions set forth in this Agreement.

Subrecipient shall be deemed to be in Default upon Subrecipient's application for: (1) consent to, or suffering of, the appointment of a receiver, trustee or liquidator for all or a substantial portion of its assets, (2) making a general assignment for the benefit of creditors, (3) being adjudged bankrupt, (4) filing a voluntary petition or suffering an involuntary petition under any bankruptcy, arrangement, reorganization or insolvency law (unless in the case of an involuntary petition, the

same is dismissed within thirty (30) days of such filing), or (5) suffering or permitting to continue unstayed and in effect for fifteen (15) consecutive days any attachment, levy, execution or seizure of all or a substantial portion of Subrecipient's assets or of Subrecipient's interests hereunder. The City shall not be in Default for performance of any obligation required to be performed by the City until the City has failed to perform such obligation for a period of thirty (30) days after receipt of written notice from the Subrecipient specifying in reasonable detail the nature and extent of any such failure; provided, however, that if the nature of City's obligation is such that more than thirty (30) days are required for its performance, then the City shall not be deemed to be in Default if the City shall commence to cure such performance within such thirty (30) day period and thereafter diligently prosecute the same to completion.

A. Institution of Legal Actions.

In addition to any other rights and remedies, and subject to the restrictions otherwise set forth in this Agreement, either Party may institute an action at law or in equity to seek the specific performance of the terms of this Agreement, to cure, correct or remedy any Default, to recover damages for any Default or to obtain any other remedy consistent with the purpose of this Agreement.

B. Rights and Remedies Are Cumulative.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party.

C. Inaction Not a Waiver of Default.

Any failures or delays by either Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

D. Attorneys' Fees.

City and Subrecipient agree that in the event of litigation to enforce this Agreement or terms, provisions and conditions contained herein, to terminate this Agreement, or to collect damages for a Default hereunder, the prevailing Party shall be entitled to all costs and expenses, including reasonable attorneys' fees, incurred in connection with such litigation.

E. Immediate Termination for Subrecipient's Default.

In the event of any Default by Subrecipient, City may immediately terminate this Agreement. Such termination shall be effective immediately upon receipt by Subrecipient of written notice from City. In such event, Subrecipient shall have no further rights hereunder; City shall have all other rights and remedies as provided by law.

F. Termination Without Cause.

City may terminate this Agreement at any time without the necessity of cause or Default by Subrecipient by giving fifteen (15) days' notice in writing to Subrecipient. In such event,

Subrecipient shall have no further rights hereunder, except that Subrecipient shall be paid for all Services rendered prior to receipt of notice of such termination.

G. Time for Performance.

Time is of the essence in the performance of this Agreement. Subrecipient shall perform and complete all of Subrecipient's services in a timely and expeditious manner. Subrecipient shall not be responsible for delays caused by circumstances beyond its reasonable control, provided that Subrecipient has delivered to the City written notice of the cause of any such delay within ten (10) days of the occurrence of such cause.

XV. CLOSE-OUT

The Subrecipient agrees to comply with the closeout procedures detailed in 2 CFR 200.343, including the following:

A. Subrecipient must submit, no later than ninety (90) calendar days after the expiration of the term all financial, performance, and other reports as required by the terms and conditions of the Federal award;

B. Unless the City authorizes an extension, Subrecipient must liquidate all obligations incurred under the Federal award not later than ninety (90) calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award;

C. Subrecipient must promptly refund any balances of unobligated cash that the City paid in advance or paid and that is not authorized to be retained by Subrecipient for use in other projects (See 2 CFR 200.345);

D. Subrecipient must account for any real and personal property acquired with Federal funds or received from the Federal government in accordance with 2 CFR 200.310-200.316 and 200.329; and,

E. The City should complete all closeout actions for the Federal award no later than one year after receipt and acceptance of all required final reports.

XVI. VALIDITY AND SEVERABILITY

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

XVII. WAIVER

No delay or omission by the city hereto to exercise any right or power accruing upon any non-compliance or default by the Subrecipient with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the Parties hereto of any of the covenants, conditions, or Agreements to be performed by the

other shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition, or Agreement herein contained.

XVIII. AGREEMENT DOCUMENT, EXHIBITS, AND ATTACHMENTS

All of the attachments and exhibits attached to this Agreement are deemed incorporated by reference. This document may be executed in three (3) counterparts, each of which shall be deemed an original. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective Parties to each of the terms of this Agreement, and shall indemnify the City fully, including reasonable costs and attorney's fees, for any injuries or damages to the City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE EFFECTIVE DATE.

(Signature Page to Follow)

SIGNATURES

FOR: THE CITY OF LUBBOCK

Mark W. McBrayer, MAYOR

FOR: FAMILY PROMISE OF LUBBOCK

Monica Martin, Executive Director

Gene Sheets, Board President

FED. I.D. # 75-2758106

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, Community Development Director

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

EXHIBIT A

2024 EMERGENCY SOLUTIONS GRANT (ESG)

GRANTEE: FAMILY PROMISE OF LUBBOCK

TERM: April 1, 2025 through September 30, 2025

PROGRAM: Homeless Prevention and Rapid Rehousing

ALLOCATION: **$100,000.00**

MATCH: 100% of total ESG Allocation

PROGRAM DELIVERY

- HMIS and Case Management
- Rapid Re-Housing and Homeless Prevention

LEVEL OF ACCOMPLISHMENT

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program delivery services in its performance of the Program:

Activity	**Timeline**	**Proposed Count**
Homeless Services	April 1, 2025 – September, 30 2025	50 unduplicated households

Monthly Reports and Reimbursement Request are due on or about the 10th of each month. Year End and Outcome Report due no later than the 30 days after all funding is expended.

BUDGET

Line Item	**2024 ESG Funding**
Case Management & HMIS	$10,000.00
Rapid Re-Housing & Homeless Prevention	$ 90,000.00

CONTACT INFORMATION

Communication and details concerning this Agreement shall be directed to the following:

For the City:
Community Development
City of Lubbock
P. O. Box 2000
Lubbock, TX 79457

For the Grantee:
Monica Martin
Family Promise of Lubbock
2302 13th Street
Lubbock, TX 79401

AI# 13444
Regular City Council Meeting 5. 20.
05/27/2025:

Information

Agenda Item

Resolution - Community Development: Consider a resolution authorizing the Mayor to execute Emergency Solution Grant Funding Agreement Contract 18866, and all related documents, by and between the City of Lubbock and ECHO West Texas, for the implementation, maintenance, and ongoing support of the Homeless Management Information System within the Continuum of Care framework.

Item Summary

Grantee: ECHO West Texas

Program: Homeless Management Information System (HMIS)

Funding Source: Emergency Solution Grant (ESG), administered by U.S. Department of Housing & Urban Development (HUD).

Use of Funds: Implementation, maintenance and ongoing support of the Homeless Management Information System (HMIS) within the Continuum of Care framework, which will serve as the centralized electronic data collection system for tracking homeless housing and 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 May 14, 2025, approved allocation to ECHO for the above-mentioned Use of Funds.

Fiscal Impact

The funds used originate from HUD, so this agreement has no fiscal impact on the General Fund. The maximum allocation of this agreement is $96,000.

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, Emergency Solutions Grant (ESG) Funding Agreement 18866, and all related documents, between the City of Lubbock and ECHO West Texas for a centralized Homeless Management Information System (HMIS). 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

Karen Murfee, Community Development Director

APPROVED AS TO FORM:

Kelli Leisure

Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.ESG No. 18866 ECHO
5.7.25

EMERGENCY SOLUTIONS GRANT (ESG) FUNDING AGREEMENT

BETWEEN

THE CITY OF LUBBOCK AND

ECHO WEST TEXAS

This Emergency Solutions Grant (ESG) Program (the "Agreement") Contract No.**18866** is made by and between the City of Lubbock, a State of Texas home rule municipal corporation (the "City") and ECHO West Texas (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 City is obligated to do and perform certain services in its undertaking of an Emergency Solutions Grant (ESG) Program. These funds pursuant to Subpart B of Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371-11378), as amended by the Homeless Emergency and Rapid Transition to Housing Act of 2009 (Public Law 111-22) (HEARTH Act); and

WHEREAS, the Subrecipient operates as the Lead Agency for the approved HUD Continuum of Care (CoC) offering services to the homeless throughout Lubbock County, Texas.

WHEREAS, the Subrecipient and the services it provides have been found to meet the criteria for funding under provisions of 24 CFR Part 576; and

WHEREAS, the Subrecipient proposes to use the funds to support a centralized Homeless Management Information System(HMIS), which will track data for homeless services and outcomes across various agencies (the "Program"); 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 Program 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 Subrecipient to make available the services provided under the Program; and **NOW, THEREFORE:**

THE PARTIES, FOR GOOD AND VALUABLE CONSIDERATION, AGREE AS FOLLOWS:

I. SCOPE OF PROGRAM

A. General Administration

In compliance with all of the terms and conditions of this Agreement, the Subrecipient agrees to provide the services set forth in **EXHIBIT A**, which provides a description of each activity, including the services to be performed, the person(s) or entity providing the services, the estimated number of recipients of the services, and the manner and means of the services. The Subrecipient represents and warrants that the services provided under this Agreement shall be performed in a competent, professional and satisfactory manner in accordance federal regulations and the terms of this Agreement.

B. Levels of Accomplishment – Goals and Performance Measures

The Subrecipient shall be responsible to accomplish the levels of performance and for such period as set forth in **EXHIBIT A** and report such measures monthly to the City. If the Subrecipient estimates such goals will not be met, the Subrecipient is to contact the City, at which time the City will determine if any adjustment to the funding is warranted.

II. TERM OF AGREEMENT

This Agreement shall commence on April 1, 2025 and terminate on September 30, 2025, unless otherwise cancelled or modified according to this Agreement.

III. DISBURSEMENT AND FUNDS

A. Maximum Amount of Disbursements

City agrees to reimburse Subrecipient under this Agreement in a sum not to exceed **Ninety-Six Thousand Dollars ($96,000.00)** for Subrecipient's performance of the Program in accordance with the Budget specified in **EXHIBIT A**. A Request for Reimbursement (RFR) shall be submitted to the City on or about the 10th day of each month, or until funding allocated to the Subrecipient under this Agreement has been fully expended and reimbursed. Such schedule may be modified with the approval of the City. The City shall distribute ESG funds within 14 business days after approval from the City. Grantee has the ability to adjust line item amounts in the Budget with the prior written approval of the City's Director of Community Development, so long as the total Budget amount does not increase.

B. Payment

The Funding shall be disbursed on a monthly basis, pending the Subrecipient's submission to the City of a written Request for Reimbursement (RFR), with such request being in a form acceptable to the City (the "Payment"). Expenses eligible for Payment to the Subrecipient by the City shall be those expenses incurred or paid for by the Subrecipient prior to submission of an RFR. The Subrecipient shall submit with its RFR, detailed source documentation that clearly shows the source of the expenses incurred and paid for by the Subrecipient that are the subject of the Subrecipient's RFR. Such source documentation includes, but is not limited to, time sheets, paycheck stubs, receipts, general ledger, invoices, billing statements, or other verification in support of all expenditures incurred by the Subrecipient in its performance of the Program. All expenses under which reimbursement is

being requested must be eligible and must be incurred as a direct result of carrying out the Program. Ineligible expenses will not be included in the Payment to the Subrecipient by the City.

Failure to provide any of the required documentation and reporting will cause the City to withhold all or a portion of an RFR until such documentation and reporting has been received and approved by the City.

C. Use of Funds

The Subrecipient agrees to use funds pursuant to this Agreement to pay for necessary and reasonable costs allowable under federal, state, and local law and regulations to operate the Program including data collection and entry, system administration and maintenance, training and user support, and data quality assurance and reporting into a Homeless Management Information System (HMIS). Allowable program costs are detailed in **EXHIBIT A**. The Subrecipient's failure to perform, as required, may, in addition to other remedies set forth in this Agreement, result in readjustment of the amount of funds the City is otherwise obligated to pay to the Subrecipient pursuant to the terms hereof.

D. Conditions of Funding

1) The City advises the Subrecipient that a significant change in entitlement funding may result in a change in the current process utilized by the City to determine funding allocations. The Subrecipient acknowledges that the obligation of the City is contingent upon the availability of federal funds, which are appropriated or allocated for the payment of such an obligation.

2) If funding levels are significantly affected by federal budgeting or if funds are not allocated and available for the continuance of the function performed by the Subrecipient, this Agreement may be terminated by the City at the end of the period for which funds are available. In the event of funding reduction, the City may reduce the Budget for this Agreement as a whole or may limit the rate by which Subrecipient receives the ESG funds for providing Subrecipient's services hereunder. At the earliest opportunity, the City shall notify the Subrecipient of any services, which may be affected by a shortage of funds.

3) No penalty shall accrue to the City in the event this provision is exercised and the City shall not be liable for any damages as a result of termination under this provision of this Agreement. Nothing herein shall be construed as obligating the City to expend funds in excess of appropriations authorized by law.

4) The Subrecipient shall allow representatives of the City or HUD and their agents and representatives to inspect facilities which are used in connection with the Agreement or which implement programs funded under this Agreement and to observe the provision of services. The City is under no duty to supervise the provision of Subrecipient's services. Any inspection or examination by the City is for the sole purpose of protecting and preserving the City's rights under this Agreement.

5) No default of Subrecipient shall be waived by any inspection by the City. In no event will any inspection by the City be a representation that there has been or will be compliance with this Agreement or that Subrecipient is in compliance with any federal, state and local laws, ordinances, regulations and directives applicable to the performance of this Agreement or the provision of Subrecipient's services.

6) Where the City has reasonable grounds to question the fiscal accountability, financial soundness, or compliance with this Agreement by the Subrecipient, the City may suspend the operation of this Agreement for up to sixty (60) days, given a three (3) day notice to Subrecipient of the City's intention to so act, pending an audit or other resolution of such questions.

E. Program Match

The Subrecipient is required to make matching contributions to supplement the ESG program in an amount that equals or exceeds the amount of 2024 ESG funds awarded to the Subrecipient as described in **EXHIBIT A**. Such contributions shall be entirely consistent with the match requirements as outlined by 24 CFR § 576.201.

F. Program Income

(1) Program income is the income received by the Subrecipient directly generated by a grant-supported activity. Program income must be earned during the terms of this Agreement and used for eligible activities in accordance with this Agreement.

(2) The Subrecipient shall use all income received from said funds only for the same purposes for which said funds may be expended pursuant to the terms and conditions of this Agreement.

(3) Costs paid by program income may count toward meeting the matching requirements, provided the costs are eligible ESG costs that supplement the program and are consistent with the requirements in 24 CFR 576.201.

G. Separation of Accounts

All funds received by the Subrecipient from the City pursuant to this Agreement shall be maintained, or of any principal or member of the Subrecipient, in an account (the "Account") at a federally insured banking or savings and loan institution with record keeping of such Accounts maintained pursuant to applicable legal requirements. The Subrecipient shall keep all records of the Account in a manner that is consistent with generally accepted accounting principles. No monies shall be withdrawn from the Account except for expenditures relating to ESG Program costs that are eligible, allowable and allocable, as authorized hereunder.

All disbursements from the Account shall be for obligations incurred in the performance of this Agreement and shall be supported by contracts, invoices, vouchers, and other data, as appropriate, evidencing the necessity of such expenditure. The City may withhold payment allocation requests if the Subrecipient fails to comply with the above requirements until such compliance is demonstrated to the satisfaction of the City.

H. Expenditure of Funds

The Subrecipient shall expend all of the funding for eligible activity costs within the term of this Agreement. For the purposes of this paragraph, expenditure means either an actual cash disbursement for a direct charge for goods or services or an indirect cost, or the accrual of a direct charge for goods or services or an indirect cost. Failure to expend said funds within said timeframe can result in a reallocation of funds.

I. Prohibited Use

(1) The Subrecipient hereby certifies and agrees that it will not use funds provided through this Agreement to pay for meals for persons and families other than those identified as eligible program participants. Said funds shall not be used for entertainment purposes or for gifts. The Subrecipient certifies that it will not use said funds for illegal or dishonest conduct; rather, the use of ESG funds will remain in compliance with all applicable federal, state, and local laws, including applicable laws not outlined in this Agreement.

(2) The Subrecipient certifies and agrees that it will comply with federal law and regulations found at 24 CFR Part 87, which provide that no appropriated funds may 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, Member of Congress, or an officer or employee of a Member of Congress in connection with awarding of any federal contract, the making of any federal grant or loan, entering into any cooperative agreement and the extension, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

IV. GENERAL CONDITIONS

The Subrecipient agrees to work with the City to ensure compliance with the Coordinated Entry Policies and Procedures, including the use of HMIS to collect and manage participant data. Subrecipient operates as the lead agency for the local COC and agrees to serve as a Coordinated Entry access point. Subrecipient agrees to accept referrals for people who are served outside their own agency for services provided under this Agreement.

A. Evaluation of Program Participants Eligibility and Needs

The Subrecipient must conduct initial evaluations and periodic re-evaluations to determine the eligibility of each individual or family's eligibility for ESG assistance in accordance with 24 CFR§ 576.401.

B. Terminating Assistance

If a program participant violates program requirements, the Subrecipient may terminate the assistance in accordance with a formal process established by the Subrecipient that recognizes the rights of individuals affected and in compliance with 24 CFR § 576.402.

C. Shelter and Housing Standards

The Subrecipient certifies that shelters and housing supported by ESG funds and used by ESG beneficiaries will conform to 24 CFR § 576.403.

D. Homeless Involvement

The Subrecipient certifies that it will involve, to the maximum extent practicable, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under the ESG program, and in providing services for occupants of these facilities.

E. 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/employee between the Parties. City assumes no liability for Subrecipient's actions and performance; nor does the City assume responsibility for taxes, bonds, payments, or other commitments, implied or explicit, by or for Subrecipient. Subrecipient shall not have authority to act as an agent on behalf of City unless specifically authorized to do so in writing. Subrecipient acknowledges that it is aware that because it is an independent contractor, City is making no deduction from any amount paid to Subrecipient and is not contributing to any fund on its behalf. Subrecipient disclaims the right to any fee or benefits except as expressly provided for in this Agreement.

As respects all acts or omissions of Subrecipient relating to Subrecipient's responsibility for taxes, bonds, payments, or other commitments, implied, or explicit, by or for Subrecipient, the Subrecipient agrees to indemnify, defend (at the City's option), and hold harmless the City, its officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, reasonable defense costs, or liability of any kind or nature to the extent arising out of or in connection with the Subrecipient's performance or failure to perform under this Section.

F. Subcontracts

1) The Subrecipient will include all relevant provisions of this Agreement in all subcontracts entered into as part of the activities undertaken in furtherance of this Agreement and will take appropriate action pursuant to any subcontract upon a finding that the subcontractor is in violation of regulations issued by any federal agency.

2) 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 Part 135 (Economic Opportunities for Low- and Very Low-Income Persons) and will not allow any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

3) The Subrecipient must submit all subcontracts and other Agreements that relate to this Agreement to the City.

G. Licensing

The Subrecipient agrees to obtain and maintain, at its sole cost and expense, all required licenses, registrations, accreditation, permits and approvals as may be required by law for its operations and the performance of its services under this Agreement.

The Subrecipient shall require subcontractors to obtain and maintain all required licenses, registrations, accreditation, permits and approvals as may be required by law for the performance of services hereunder. Such licensing requirements include obtaining a City business license, as applicable. Subrecipient shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and which arise from or are necessary for the performance of the services required by this Agreement.

H. Responsibilities Toward Employees

The Subrecipient accepts full responsibility for payment of any and all unemployment compensation, insurance premiums, workers' compensation premiums, income tax withholdings, social security withholdings, and any and all other taxes or payroll withholdings required for all employees engaged in the performance of the work and activities authorized by the Agreement. The Subrecipient accepts full responsibility for providing workers with proper safety equipment and taking any and all necessary precautions to guarantee the safety of workers or persons otherwise affected.

I. 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. Insurance coverage must be obtained prior to the commencing of any services of activities under this Agreement.

J. Zoning

The Subrecipient agrees that any facility/property used in furtherance of said program shall be specifically zoned and permitted for activities under this Agreement. Should the Grantee fail to have the required land entitlement and/or permits, thus violating any local, state, or federal rules and regulations relating thereto, the Grantee shall immediately make good-faith efforts to gain compliance with local, state, or federal rules and regulations following written notification of said violation(s) from the City or other authorized citing agency. The Grantee shall notify the City immediately of any pending violations. Failure to notify the City of pending violations, or to remedy such known violation(s), shall result in termination of grant funding hereunder. The Grantee must make all corrections required to bring the facility/property into compliance with the law within sixty (60) days of notification of the violation(s); failure to gain compliance within such time shall result in termination of grant funding hereunder.

K. Displacement and Relocation.

The Subrecipient must assure that it has taken all reasonable steps to minimize displacement of persons. Relocation must be consistent with requirements as set forth in 24 CFR § 576.408.

L. Provisions Required by Law Deemed Inserted.

Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or correctly inserted, then upon the application of either Party, the contract shall forthwith be physically amended to make such insertion or correction.

M. 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 an 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 agent, as applicable, all attorneys' fees incurred by enforcing the Subrecipients indemnity herein.

3) The Subrecipient, and its respective officers, employees, elected officials, and agent shall not be liable, and the Subrecipient hereby releases the City and its respective officers, employees, elected officials, and agent, for, from, and against any losses, damages, claims, or liabilities to the Subrecipient.

4) The Indemnity and Release provided herein shall survive this Agreement.

V. ASSURANCES AND CERTIFICATIONS

A. Certification of Non-Profit Status

1) The Subrecipient is a duly organized and existing non-profit corporation in good standing and authorized to do business under the laws of the City of Lubbock and in possession of required non-profit status under the United States Internal Revenue Code.

2) The Subrecipient has full right, power, and lawful authority to accept the funding hereunder and to undertake all obligations as provided herein and the execution, performance, and delivery of this Agreement by the Subrecipient has been fully authorized by all requisite actions on the part of the Subrecipient.

3) If the Subrecipient's non-profit status changes at any time during this Agreement, it will advise the City within 15 days of such change.

4) As a non-profit, the Subrecipient acknowledges that administration of its operation and services are subject to the requirements as established in 2 CFR §200.

B. Adherence to Federal, State, and Local Laws and Regulations

(1) Subrecipient agrees to comply with all requirements of the ESG program as stated in 24 CFR 576 and applicable crosscutting Federal, State, and Local requirements.

(2) Subrecipient shall ensure that employment and other economic opportunities generated by the Program shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u, and regulations at 24 CFR part 135 apply, except that homeless individuals have priority over other Section 3 residents in accordance with § 576.405(c).

(3) The Subrecipient agrees 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 the 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, and 41 CFR Chapter 60.

(4) During the time of performance under this Agreement, the Subrecipient shall not discriminate against any employee or applicant for employment based on race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, sexual orientation, or any other basis prohibited by applicable law. The Subrecipient shall take affirmative action to ensure that all applicants and employees are treated without regard to race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familial status, and sexual orientation. The Subrecipient shall comply with all provisions of Executive Order 11246, Equal Employment Opportunity, as amended.

(5) The requirements in 24 CFR part 5, subpart A are applicable, including the nondiscrimination and equal opportunity requirements at 24 CFR § 5.105(a). The Subrecipient shall not discriminate against any participant on the ground of race, color, creed, religion, sex, age, handicap, disability, ancestry, national origin, marital status, familiar status, sexual orientation, or any other basis prohibited by applicable law. The Subrecipient shall, through affirmative outreach, make known that use of the facilities, assistance, and services are available to all on a nondiscriminatory basis. The Subrecipient must take appropriate steps to ensure effective communication with persons with disabilities.

(6) The Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with the Americans with Disabilities Act, which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and Local government services, and public accommodations.

(7) Under section 808(e)(5) of the Fair Housing Act, HUD has a statutory duty to affirmatively further fair housing. HUD requires the same of its funded sub- recipients. The Subrecipient has a duty to affirmatively further fair housing opportunities for classes protected under the Fair Housing Act.

C. Falsification of Information

The Subrecipient represents and warrants that it has made no false statements to the City in the process of obtaining this award of the ESG Funds.

D. Drug Free Workplace

The Subrecipient represents and warrants that it has established the following drug-free workplace policy:

(1) The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace for any employee involved in a federally funded program.

(2) As an employee working in conjunction with a federally funded program, the employees of the Subrecipient will be required to:

(a) Abide by the terms above in statement (1), and

(b) Notify the appropriate Subrecipient authorities and City officials of any criminal drug statute conviction for a violation occurring in the workplace. Such notification shall be made no later than five (5) days after conviction.

(3) The City and the United States Department of Housing and Urban Development will be notified within ten days after receiving notice of any such violation.

(4) Within thirty (30) days of receiving such notice, appropriate personnel action will be taken against such employee, up to and including termination.

(5) Each such employee shall be required to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or Local health, law enforcement, or other appropriate agency.

E. Religious Organization

The Subrecipient may not engage in inherently religious activities, such as worship, religious instruction, or proselytization as part of said program or services. If the Subrecipient conducts such activities, the activities must be offered separately, in time or location, from said programs or services, and participation must be voluntary for the program participants. The Subrecipient shall not discriminate against a program participant or prospective program participant based on religion or religious belief.

If the Subrecipient is a religious organization, it retains its independence from Federal, State, and Local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that the religious organization does not use direct ESG funds to support any inherently religious activities. The Subrecipient agrees that rehabilitation of structures by the religious organization in connection with said program must be in sound accord with the provisions under 24 CFR § 576.406.

F. Additional Terms between the City and HUD

The Subrecipient agrees further that it shall be bound by the standard terms and conditions used in the Grant Agreement between HUD and the City and such other rules, regulations, or requirements as HUD may reasonably impose in addition to the aforementioned assurances at or subsequent to the execution of this Agreement by the Parties hereto.

G. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of the Hatch Act, 5 U.S.C. Section 1501 et seq.

H. Davis-Bacon Act

The provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-5) do not apply to the ESG program.

VI. ADMINISTRATIVE REQUIREMENTS

Under 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles and Audit Requirements, the Subrecipient agrees to comply with the following:

A. Financial Management

Including Accounting Standards, Internal Controls, maintenance of Source Documentation, and Cost principles as applied to indirect and direct costs.

B. Procurement

(1) The Subrecipient shall comply with current HUD and City policies concerning the procurement of equipment, goods, and services, and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. The Subrecipient shall report to the City all program assets (unexpended program income, property, equipment, etc.), and upon the CITY'S request, such assets shall revert to the City upon termination of this Agreement.

(2) Use and Reversion of Assets. The use and disposition of equipment under this Agreement shall comply with the requirements of 2 CFR Part 200.

C. Documentation and Record Keeping

Sufficient records must be established and maintained to enable the City and HUD to determine whether the ESG requirements are being met. Record keeping requirements must conform to the policies and procedures as established by the City.

All accounting records, reports, all evidence pertaining to costs, expenses, and ESG Funds of the Subrecipient, and all documents related to this Agreement shall be maintained and kept available at the Subrecipient's office or place of business for the duration of the Agreement and for five (5) years after Agreement terms, but not before performance of an audit in conformity with the ESG requirements, except as hereinafter provided relating to retention of any records or documentation existing, created, or maintained in compliance with LBP regulations below.

Records to be maintained include: (a) complaints, claims, administrative proceedings or litigation arising out of the performance of this Agreement, or (b) costs and expenses of this Agreement to which the City or any other governmental agency takes exception,

shall be retained beyond the five (5) years until complete resolution or disposition of such appeals, litigation claims, or exceptions. All records relating to, or created or maintained in compliance with, the Lead-Based Paint regulations shall be retained and maintained by the Subrecipient indefinitely, including without limitation, all inspection report(s), disclosure statement(s), and clearance report(s). The City, HUD and auditors shall have the right to access all Subrecipient records for as long as the records are retained by the Subrecipient. In the event the Subrecipient does not make the above- referenced documents available within the City of Lubbock, the Subrecipient agrees to pay all necessary and reasonable expenses incurred by the City in conducting any audit at the location where said records and books of account are maintained. The Subrecipient agrees to meet the requirements set forth in 24 CFR § 576.500.

D. Reporting

Reporting requirements must conform to the policies and procedures as established by the City and in compliance with 24 CFR § 576.500. The Subrecipient shall submit to the City, on or before the 10th day of each month:

(1) Payment Request. An original request for reimbursement and true copies of invoices, receipts, Agreements, or other documentation supporting and evidencing how the ESG Funds have been expended during the applicable month.

(2) Monthly Activities and written cumulative (year-to-date) reports of activities, program accomplishments, new program information, and up-to-date program statistics on expenditures, caseload and activities. Failure to provide any of the required documentation and reporting will cause the City to withhold all or a portion of a request for reimbursement until such documentation and reporting has been received and approved by the City.

(3) Matching Monthly certification of match contribution and expense, plus documentation of match source.

(4) Any other such reports as the City (or HUD) shall reasonably require and/or request, including but not limited to the following information: monthly records of all ethnic and racial statistics of persons and families benefited by the Subrecipient in the performance of its obligations under this Agreement.

E. Confidentiality of Records.

Subrecipient shall adhere to the requirements of 24 CFR 576.500(x) and any written procedures developed by the City and provided to Subrecipient from time to time during the Term of the Agreement.

F. Homeless Management Information Systems (HMIS)

The Subrecipient must ensure that data is collected for all persons served and all activities performed under this Agreement and that data is reported in the HMIS, in accordance with HUD's standards on participation, data collection, and reporting, meeting HMIS Data and Technical Standards of HUD, set forth in the McKinney-Vento Homeless Assistance Act, as amended.

(1) As the Lead Agency, the Subrecipient will execute an Interagency Data Sharing Agreement with all agencies who participate in local CoC activities and who contribute to, and/ or have access to the local HMIS. The Subrecipient will provide a copy of each agreement with participating agencies to the City upon request.

(2) The Subrecipient must agree to share HMIS data with other participating agencies under the CoC regarding clients entered into the system, unless prohibited by law.

(3) Subrecipient must enter data directly into HMIS, and adhere to all implementation guidelines developed under the CoC. HMIS participation includes, but is not limited to, the input of all programmatic and client data for the generation of all mandated monthly, quarterly and closeout reports. Subrecipient must ensure client data is entered in real time, or no more than twenty-four (24) hours after date of program entry. Services rendered to clients must be entered into HIMS within twenty-four (24) hours from date of services. All clients who exit the program must have updated status in HIMS within twenty- four (24) hours of actual exit date.

(4) Subrecipient must assign no less than two (2) HMIS users. If for any reason an HMIS user provides notice of resignation, or has been terminated from his/her position, the Subrecipient must notify the City no less than seventy-two (72) hours after notice is given, or after termination. The exiting employee(s) must deactivate his/her user ID and another employee must be established after training has been completed.

G. Audit Report Requirements

The Subrecipient agrees to have an annual audit conducted by a certified public accountant in accordance with the standards as set forth and published by the United States Office of Management and Budget (2 CFR § 200.501a). The Subrecipient shall provide the City with a copy of said audit by April 1 of the year following the program year in which this Agreement is executed. Further, the Subrecipient shall comply and/or cause compliance with audit report(s) required by applicable provisions of the Lead- Based Paint Regulations as further detailed below.

VII. PERFORMANCE MONITORING

The City will monitor the performance of the Subrecipient against goals and performance standards as required herein. The City will monitor reports and records submitted in the HMIS. The Subrecipient shall provide the City all necessary reporting information as required by the City in the administration and review of the Program. Substandard performance as determined by the City will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period after being notified by the City, contract suspension or termination procedures will be initiated. The City may conduct an onsite monitoring visit to ensure Subrecipient compliance with program regulations.

A. Access to Records

The Subrecipient gives the City and HUD, including their authorized representative, access to and the right to examine all records, books, papers, items, emails, and documents, both physical and electronic, relating to the program.

B. Financial Review

The City shall have the right to audit and monitor financial records including program income as a result of an ESG activity for monitoring purposes. The Subrecipient further agrees to provide all files, records, and documents for program activities under this Agreement.

C. Notifications

The City will notify the Subrecipient of all monitoring results. The City will notify the Subrecipient at least 15-days prior to an onsite monitoring visit. The City may request specific records be available for review during the visit.

VIII. LIABILITY

Each Party to this Agreement acknowledges that it will be liable for its own negligent acts or negligent omissions by or through itself, its employees, agents, and subcontractors. Each Party further agrees to defend itself and themselves, and to pay any judgments and costs arising out of such negligent acts or omissions, and nothing in this Agreement shall impute or transfer any such liability from one to the other. In other words, the Subrecipient agrees to be fully responsible for its negligent acts or omissions, or any intentional tortuous acts, which result in claims, or suits against the City, and agrees to be liable for any damages proximately caused by said acts or omissions. Nothing herein shall be construed as consent by a State or City agency or subdivision to be sued by third parties in any matter arising out of any contract, and nothing herein is intended to serve as a waiver of sovereign immunity where sovereign immunity applies.

A. City not Liable for Funds

The Subrecipient further acknowledges that the source of the ESG Funds is a federal pass-through grant to the Subrecipient. The City shall have no obligation to advance or pay the Subrecipient with any funds other than the ESG Funds the City receives from HUD.

B. Hold Harmless

The Subrecipient shall defend, indemnify and save harmless the City, its officers, agents, employees, representatives, volunteers, and student externs from and against any and all claims, demands, defense costs, liability or damages of any kind or nature resulting from or arising out of the acts, errors or omissions of the Subrecipient, its officers, directors, employees, agents, subcontractors, and suppliers in the performance of Subrecipient's services and activities under this Agreement.

IX. ENVIRONMENTAL CONDITIONS

ESG activities are subject to environmental review by the City under the environmental regulations in 24 CFR Part 58. The Subrecipient, or any contractor of the Subrecipient, may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct property for a project or activity under this part, or commit or expend ESG or local funds for eligible activities under this part unless and until the City has performed an environmental review under 24 CFR part 58 and the Subrecipient has received City approval of the project.

The Subrecipient agrees to comply with all applicable environmental requirements insofar as they apply to the performance of this Agreement, including but not limited to the Clean Air Act, the

Federal Water Pollution Control Act and the Flood Disaster Protection Act. If applicable, the Subrecipient also shall comply with the Historic Preservation requirements of the National Historic Preservation Act of 1966.

A. Lead-Based Paint Remediation and Disclosure

The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821–4846), the Residential Lead- Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851–4856), and implementing regulations in 24 CFR part 35, subparts A, B, H, J, K, M, and R apply to all shelters assisted under ESG and all housing occupied by program participants that were built before 1978.

B. Compliance with Subpart K

In connection with the grant funds under this Agreement, the City requires that the Subrecipient comply and show evidence of compliance with all applicable subparts of 24 CFR 35, and especially, Subpart K ("LBP Regs"). The Subrecipient shall conduct the following activities for the dwelling unit, common areas servicing the dwelling unit, and the exterior surfaces of the building in which the dwelling unit is located:

(1) A visual assessment of all painted surfaces in order to identify deteriorated paint;

(2) Paint stabilization of each deteriorated paint surface, and clearance, in accordance with §§ 35.1330(a) and (b), before occupancy of a vacant dwelling unit or, where a unit is occupied, immediately after receipt of Federal assistance;

(3) Ongoing lead-based paint maintenance activities into regular building operations, in accordance with § 35.1355(a), if the dwelling unit has a continuing, active financial relationship with a Federal housing assistance program, except that mortgage insurance or loan guarantees are not considered to constitute an active programmatic relationship for the purposes of this part; and

(4) Notice to occupants in accordance with §§ 35.125(b)(1) and (c), describing the results of the clearance examination.

C. Notification of LBP Hazard

(1) In accordance with Section 35.130, the Subrecipient must provide an approved LBP hazard information pamphlet to all occupants of housing. The pamphlet shall be the EPA/HUD/Consumer Product Safety Commission lead hazard information pamphlet or an EPA-approved equivalent.

(2) In accordance with 24 CFR 35, Subpart A, all available information and knowledge regarding the presence of LBP and LBP hazards prior to leasing in writing of the results of the presumption of LBP and/or LBP hazards, results of any lead hazard evaluation, and any lead hazard reduction work.

D. LBP Information Summary

For purposes of information only and in no respect intended to be a representation or warranty of the provisions of the LBP Regulations, the City has caused to be prepared an

information summary relating to the LBP Regulations and Application to dwelling units that may be occupied by recipients of services and/or funding from the Subrecipient under this Agreement. City staff will cooperate with and be available to the Subrecipient to assist in implementation of compliance with the LBP Regs as to residential dwelling units to be assisted by the Subrecipient. The Parties acknowledge and agree the City shall not be liable or responsible for the accuracy of such summary, and the Subrecipient is directed to the LBP Regulations and implementing guidance published and provided by HUD relating to compliance with such LBP Regulations.

E. Exemptions

Section 35.115(a) provides exemptions from Subparts B through R. For example, lead-based paint requirements do not apply to housing assistance if the assistance lasts less than one hundred(100) days.

X. CONFLICTS OF INTEREST

The Subrecipient shall comply with 2 CFR § 200.112 with respect to the use of ESG funds to procure services, equipment, supplies, or other property. With respect to all other decisions involving the use of ESG funds, the following restriction shall apply: No person who is an employee, agent, consultant, officer, or elected or appointed official of the Subrecipient and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract, or Agreement with respect thereto, or the proceeds there under, either for himself or herself, or for those with who he or she has family or business ties, during his or her tenure or for one (1) year thereafter.

The Subrecipient agrees to abide by the ESG Program's Conflict of Interest provisions as expressly detailed in 24 CFR§576.404 regarding Organizational Conflicts of Interest and Personal Conflicts of Interest. All contractors of the Subrecipient must comply with the same requirements that apply to the Subrecipient under this section.

The Subrecipient may not, with respect to individuals or families occupying housing owned by the Subrecipient, or any parent or subsidiary of the Subrecipient, carry out the initial evaluation required under 24 CFR 576.401 or administer homelessness prevention assistance under 24 CFR 576.103

XI. ASSIGNABILITY

None of the duties of, or work to be performed by, the Subrecipient under this Agreement shall be subcontracted or assigned to any agency, consultant or person without the prior written consent of the City. The Subrecipient must submit all subcontracts and other Agreements that relate to this Agreement to the City. No subcontract or assignment shall terminate or alter the legal obligations of the Subrecipient pursuant to this Agreement.

XII. EXCLUSIVITY OF AGREEMENT

This Agreement supersedes any and all other Agreements, either oral or in writing, between the Parties hereto with respect to the use of the City's ESG funds by the Subrecipient and contains

all the covenants and Agreements between the Parties with respect to such ESG Funds in any manner whatsoever.

Each Party to this Agreement acknowledges that no representations, inducements, promises or Agreements, orally or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not embodied herein, and that no other Agreement or amendment hereto shall be effective unless executed in writing and signed by both the City and the Subrecipient.

XIII. AMENDMENTS OR MODIFICATIONS

The Subrecipient shall not obligate, encumber, spend, or otherwise utilize ESG funds for any activity or purpose not included or not in conformance with the budget as apportioned and as submitted to the City unless:

A. The Subrecipient has received explicit written approval from the City to undertake such actions, or

B. Budget changes may be made among approved program activities and among approved budget categories so long as the specific project activity has been approved, there is no change to the total grant amount, and the changes to the budget are documented.

C. Any program modification request by the Subrecipient must be requested at least forty-five (45) days prior to the end of the term of this Agreement. No modification to this Agreement shall be binding by either Party unless in writing and signed by both Parties.

D. In the event that the City approves any amendment to the funding allocation, the Subrecipient shall be notified in writing and such notification shall constitute an official amendment. The City may, at its discretion and upon provision of proper notice to the Subrecipient, amend this Agreement to conform to changes in Federal, State, and/or the City laws, regulations, guidelines, directives, and objectives. Such amendments shall be incorporated by written amendment as a part of this Agreement.

XIV. VIOLATION OF TERMS AND CONDITIONS

For purposes of this Section XIV, the word "Default" shall mean the failure of Subrecipient to perform any of Subrecipient's duties or obligations or the breach by Subrecipient of any of the terms and conditions set forth in this Agreement.

Subrecipient shall be deemed to be in Default upon Subrecipient's application for: (1) consent to, or suffering of, the appointment of a receiver, trustee or liquidator for all or a substantial portion of its assets, (2) making a general assignment for the benefit of creditors, (3) being adjudged bankrupt, (4) filing a voluntary petition or suffering an involuntary petition under any bankruptcy, arrangement, reorganization or insolvency law (unless in the case of an involuntary petition, the same is dismissed within thirty (30) days of such filing), or (5) suffering or permitting to continue unstayed and in effect for fifteen (15) consecutive days any attachment, levy, execution or seizure of all or a substantial portion of Subrecipient's assets or of Subrecipient's interests hereunder. The City shall not be in Default for performance of any obligation required to be performed by the City until the City has failed to perform such obligation for a period of thirty (30) days after receipt of written notice from Subrecipient specifying in reasonable detail the nature and extent of any such failure; provided, however, that if the nature of the City's obligation is such that more

than thirty (30) days are required for its performance, then the City shall not be deemed to be in Default if the City commences to cure such performance within thirty (30) days and thereafter diligently prosecute the same to completion.

A. Institution of Legal Actions.

In addition to any other rights and remedies, and subject to the restrictions otherwise set forth in this Agreement, either Party may institute an action at law or in equity to seek the specific performance of the terms of this Agreement, to cure, correct or remedy any Default, to recover damages for any Default or to obtain any other remedy consistent with the purpose of this Agreement.

B. Rights and Remedies Are Cumulative.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default by the other Party.

C. Inaction Not a Waiver of Default.

Any failures or delays by either Party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

D. Attorneys' Fees.

City and Subrecipient agree that in the event of litigation to enforce this Agreement or terms, provisions and conditions contained herein, to terminate this Agreement, or to collect damages for a Default hereunder, the prevailing Party shall be entitled to all costs and expenses, including reasonable attorneys' fees, incurred in connection with such litigation.

E. Immediate Termination for Subrecipient's Default.

In the event of any Default by Subrecipient, City may immediately terminate this Agreement. Such termination shall be effective immediately upon receipt by Subrecipient of written notice from City. In such event, Subrecipient shall have no further rights hereunder; City shall have all other rights and remedies as provided by law.

F. Termination Without Cause.

City may terminate this Agreement at any time without the necessity of cause or Default by Subrecipient by giving fifteen (15) days' notice in writing to Subrecipient. In such event, Subrecipient shall have no further rights hereunder, except that Subrecipient shall be paid for all Services rendered prior to receipt of notice of such termination.

G. Time for Performance.

Time is of the essence in the performance of this Agreement. Subrecipient shall perform and complete all of Subrecipient's services in a timely and expeditious manner. Subrecipient shall

not be responsible for delays caused by circumstances beyond its reasonable control, provided that Subrecipient has delivered to the City written notice of the cause of any such delay within ten (10) days of the occurrence of such cause.

XV. CLOSE-OUT

The Subrecipient agrees to comply with the closeout procedures detailed in 2 CFR 200.343, including the following:

A. Subrecipient must submit, no later than ninety (90) calendar days after the expiration of the term all financial, performance, and other reports as required by the terms and conditions of the Federal award;

B. Unless the City authorizes an extension, Subrecipient must liquidate all obligations incurred under the Federal award not later than ninety (90) calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award;

C. Subrecipient must promptly refund any balances of unobligated cash that the City paid in advance or paid and that is not authorized to be retained by Subrecipient for use in other projects (See 2 CFR 200.345);

D. Subrecipient must account for any real and personal property acquired with Federal funds or received from the Federal government in accordance with 2 CFR 200.310-200.316 and 200.329; and,

E. The City should complete all closeout actions for the Federal award no later than one year after receipt and acceptance of all required final reports.

XVI. VALIDITY AND SEVERABILITY

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

XVII. WAIVER

No delay or omission by the city hereto to exercise any right or power accruing upon any non-compliance or default by the Subrecipient with respect to any of the terms of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the Parties hereto of any of the covenants, conditions, or Agreements to be performed by the other shall not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition, or Agreement herein contained.

XVIII. AGREEMENT DOCUMENT, EXHIBITS, AND ATTACHMENTS

All of the attachments and exhibits attached to this Agreement are deemed incorporated by reference. This document may be executed in three (3) counterparts, each of which shall be

deemed an original. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective Parties to each of the terms of this Agreement, and shall indemnify the City fully, including reasonable costs and attorney's fees, for any injuries or damages to the City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE EFFECTIVE DATE.

(Signature Page to Follow)

SIGNATURES

FOR: THE CITY OF LUBBOCK

Mark W. McBrayer, MAYOR

FOR: ECHO WEST TEXAS

Valerie Longoria, Executive Director
FED. I.D. # 87-1319935

ATTEST:

Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Karen Murfee, Community Development Director

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

EXHIBIT A

2024 EMERGENCY SOLUTIONS GRANT (ESG)

GRANTEE: ECHO WEST TEXAS

TERM: April 1, 2025 through September 30, 2025

PROGRAM: HMIS

ALLOCATION: **$96,000.00**

MATCH: $97,378.00 of total 2024-25 ESG

PROGRAM DELIVERY

ECHO West Texas as the CoC Lead Agency for Lubbock County will implement, maintain, and support a Homeless Management Information System (HMIS).

LEVEL OF ACCOMPLISHMENT

In addition to the normal administrative services required as part of this Agreement, the Grantee agrees to provide the following levels of program delivery services in its performance of the Program:

Activity	Timeline	Proposed Count
HMIS	April 1, 2025 – September, 30 2025	25 Agencies

Monthly Reports and Reimbursement Request are due on or about the 10th of each month. Year End and Outcome Report due no later than the 30 days after all funding is expended.

BUDGET

Line Item	2024 ESG Funding
HMIS Data Collection	$96,000.00

CONTACT INFORMATION

Communication and details concerning this Agreement shall be directed to the following:

For the City:
Karen Murfee, Director
Community Development
City of Lubbock
P. O. Box 2000
Lubbock, TX 79457

For the Grantee:
Valerie Longoria, Executive Director
ECHO West Texas
PO Box 6448
Lubbock, TX 79464

AI# 13431
Regular City Council Meeting 5. 21.
05/27/2025:

Information

Agenda Item

Resolution - Business Development: Consider a resolution authorizing the Mayor to execute Professional Services Agreement Contract 18629, with Kimley-Horn and Associates, Inc., for engineering and design services related to street and pedestrian lighting in the Central Business District Tax Increment Financing Reinvestment Zone.

Item Summary

Staff issued a Request for Qualifications for engineering and design services for possible improvements to street and pedestrian lighting within the CBD TIF Reinvestment Zone.

In response to RFQ 25-18629-KM, six responses were received and were evaluated using the following criteria: Team Organization and Qualifications - 35 Points, Experience on Relevant Projects - 35 Points, Management Approach - 25 Points, and Overall Responsiveness to the RFQ - 5 Points. The maximum point value is 100 points.

After the proposals were evaluated, the following ranking was obtained:

Vendor	Points
Kimley Horn and Associates, Inc., Austin, Texas	85.33
Freese and Nichols, Inc., Fort Worth, Texas	81.33
Aurp, Houston, Texas	77.33
Rodriquez Transportation Group, Austin, Texas	76.17
Conser Engineers, LLC, Houston, Texas	75.67
Jacob & Martin, LLC, Abilene, Texas	58.67

Staff recommends award to the highest ranked proposer, Kimley Horn and Associates, Inc. of Austin, Texas.

This contract is for a term of 5 years, with an optional 6-month extension. Project scope and fees will be determined by contract amendments as projects are considered.

Fiscal Impact

Contract 18629 is funded in the CBD TIF Capital Project 92776, Utility Upgrades, Gateways and Greenspace. Project scope and fees will be determined by contract amendments as projects are considered.

Staff/Board Recommending

Bill Howerton, Deputy City Manager
Brianna Brown, Business Development Director
Central Business District Tax Increment Financing Reinvestment Zone Advisory Board

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Attachments

Resolution
Contract
Project Summary
CIP Detail

RESOLUTION

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

THAT the Mayor of the City of Lubbock is hereby authorized and directed to execute for and on behalf of the City of Lubbock, Professional Services Agreement Contract No. 18629 for Downtown Lubbock lighting analysis and design, by and between the City of Lubbock and Kimley-Horn and Associates, Inc., and related documents. Said Contract is attached hereto and incorporated in this resolution as if fully set forth herein and shall be included in the minutes of the City Council.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Bill Howerton, Deputy City Manager

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

ccdocs/RES.PSA-No. 18629 KH downtown lighting
5.22.25

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §

COUNTY OF LUBBOCK §

This Professional Service Agreement ("Agreement") Contract No.18629 is entered into this ___ day of _____, 2025, 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 Downtown Lubbock Lighting Analysis and Designs, (the "Activities"); and

WHEREAS, the Engineer has 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 5 years. If the Engineer determines that additional time is required to complete the Services, the Director of Business Development 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 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 or as identified in each individual project order (the "Services").

B. The Engineer shall receive as consideration to be paid for the performance of the Services, as set forth in Exhibit "B" or in the applicable individual project order.

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 each Exhibit "A" of the individual project order, 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, 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.
Carlye (Lide) Manchester, P.E.
2600 North Central Expressway, Suite 400
Richardson, Texas 75080
Telephone: 972-770-1395
Email: carlye.lide@kimley-horn.com

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

Brianna Brown
City of Lubbock
P.0. Box 2000
1314 Avenue K
Lubbock, Texas 79457
Telephone: 806-775-3082
Email: bbrown@mylubbock.us

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

ARTICLE XIV. CITY-PROVIDED DATA AND RESPONSIBILITIES

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

ARTICLE XV. MISCELLANEOUS

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

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

C. Records. The Engineer shall maintain records that are necessary to substantiate the services provided by the Engineer.

D. Assignability. The Engineer may not assign this Agreement without the prior written approval of the City.

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

F. Construction and Venue.

THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN LUBBOCK COUNTY, TEXAS. THE PARTIES HERETO HEREBY IRREVOCABLY CONSENT TO THE SOLE AND EXCLUSIVE JURISDICTION AND VENUE OF THE COURTS OF COMPETENT

JURISDICTION OF THE STATE OF TEXAS, COUNTY OF LUBBOCK, FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE ACTIONS THAT ARE CONTEMPLATED HEREBY.

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

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

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

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

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

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

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

N. Non-Appropriation. All funds for payment by the City under this Agreement are subject to the availability of an annual appropriation for this purpose by the City. In the event of non-appropriation of funds by the City Council of the City of Lubbock for the services provided under the Agreement, the City will terminate the Agreement, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first (the "Non-Appropriation Date"). If at any time funds are not appropriated for the continuance of this Agreement, cancellation shall be accepted by the Engineer on

thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the City shall not be obligated under this Agreement beyond the Non-Appropriation Date.

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

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

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

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

S. Texas Public Information Act. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter. To the extent Subchapter J, Chapter 552, Government Code applies to this agreement, Contractor agrees to: (1) preserve all contracting information related to the contract as provided by the records retention

requirements applicable to the governmental body for the duration of the contract; (2) promptly provide to the governmental body any contracting information related to the contract that is in the custody or possession of the entity on request of the governmental body; and (3) on completion of the contract, either: (A) provide at no cost to the governmental body all contracting information related to the contract that is in the custody or possession of the entity; or (B) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the governmental body.

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

EXECUTED as of the Effective Date hereof.

CITY OF LUBBOCK

_____
Mark McBrayer, Mayor

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

Brianna Brown, Business Development Director

APPROVED AS TO FORM:

Kelli Leisure, Senior Assistant City Attorney

Firm

Kimley-Horn and Associates, Inc.

By: _____
Firm Signature

Email: kyle.kubista@kimley-horn.com

City of Lubbock, TX
Request for Qualifications
PUR 25-18629-KM
Architectural / Engineering Services for Downtown Street / Pedestrian Lighting

The City of Lubbock and the Central Business District (CBD) Tax Increment Financing (TIF) District Advisory Board are seeking qualifications from an accomplished consulting firm to develop a lighting plan for downtown Lubbock.

1. PROJECT BACKGROUND

In December of 2019, the City of Lubbock and the CBD TIF Advisory Board completed a Downtown Master Planning process, with the Downtown Master Plan Update being adopted by the City Council in June of 2020. The updated plan built upon previous plans for downtown revitalization, and was focused in seven key areas:

- Development Potential
- Utilities Infrastructure
- Traffic Circulation and Connectivity
- Parking Management
- Parks and Open Space
- Streetscape Improvements
- Historic Resources

The vision of the Downtown Master Plan Update is to reposition Downtown as the urban center of Lubbock, connecting Texas Tech University on the west to the beautiful Canyon Lakes system on the east side of downtown. This will be accomplished through strengthening three key zones inside downtown - Broadway, the Arts District and the Depot District. One of the recommendations from the plan is for significant lighting and streetscape improvements on key corridors within these zones, with an overall focus on improved lighting and safety throughout the downtown area.

2. PROJECT SCOPE OF WORK

The City of Lubbock and the CBD TIF are issuing a Request for Qualifications (RFQ) for professional architectural / engineering services for the analysis, design and preparation of plans and specifications for various lighting improvement projects including but not limited to preliminary design, engineering phase activities, final design and construction services for lighting improvement projects expected or anticipated during the next five (5) years.

The preliminary design phase is intended to evaluate existing infrastructure, and provide alternatives to assure cost effective and practical solutions for the work items identified. Preliminary design activities include:

1. Coordinate with City of Lubbock and Lubbock Power & Light Staff to analyze existing infrastructure, and make recommendations for repairs, replacement and additions to the lighting infrastructure as appropriate.

2. Prepare preliminary estimate of probable construction costs and schematic design for each element.

3. Coordinate with the Business Development Director for required survey information.

4. Prepare overall construction phasing plan in consideration of priority needs and adjacent businesses and activities within the downtown area.

Engineering Phase activities include:

1. Review and evaluate project layout.

2. Determine where existing infrastructure should be maintained, and transitioned to LED heads.

3. For replacement or additional lighting, provide specifications for trenching, boring, and installation of conduits, cables, pedestals, removal of existing street or pedestrian light poles, material, and other necessary equipment.

4. Provide recommendations for construction phasing.

5. Complete estimates of probable construction costs for recommended alternatives.

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 City of Lubbock with the advertisement 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. Assist the City of Lubbock with advertising and interpretations of project requirements.

5. Provide technical assistance and recommendations to the selected Contractor during construction.

Construction Services: The consultant will assist the Contractor 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. Assist with 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 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.

6. Prepare change orders and supplemental agreement, if required.

7. Prepare and submit inspection reports.

8. Prepare and confirm monthly payment requests.

9. Conduct necessary quality control testing.

10. Conduct and document periodic wage rate interviews.

11. Conduct a final project inspection with City of Lubbock personnel and the Contractor.

12. Prepare as-constructed drawings and the final project report from information furnished by the consultant.

Lighting improvements are planned in the following areas 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.**

- Depot District
- Arts District
- Broadway District
- Other Projects in the Downtown Master Plan Update

3. SELECTION AND AWARD PROCESS

As a result of this competitive selection process, the City of Lubbock may award one or more contracts for Architectural/Engineering Services. The City of Lubbock will use a two-step process for the final selection of a qualified firm(s).

Step 1 will consist of a Qualifications package submitted by firms interested in being considered. A technical selection committee will be appointed to evaluate each submittal using the criteria set out below. The committee may select a firm or firms and make a recommendation to the City Council based on the initial written submission. However, as a result of the rankings, the committee may ask for a more detailed personal presentation from no more than five (5) firms. Firms will be evaluated again based on this second presentation.

Step 2 The City will initiate negotiations with the selected Architectural/Engineering firm(s) to develop a scope of work. If negotiations are unsuccessful, the City will enter into this process with the next highest ranked firm. The contract will be subject to approval by the City Council.

Professional services are procured in accordance with Chapter 2254 of the Government Code, Title 10, Subchapter A, Professional Services. Selection of the most highly qualified respondent is made based on demonstrated competence and qualifications as determined by the City of Lubbock based on information provided in response to the RFQ.

NO INDIVIDUAL OF ANY CITY DEPARTMENT HAS THE AUTHORITY TO LEGALLY AND/OR FINANCIALLY COMMIT THE CITY TO ANY CONTRACT, AGREEMENT OR PURCHASE ORDER FOR GOODS OR SERVICES, UNLESS SPECIFICALLY SANCTIONED BY THE REQUIREMENTS OF THE REQUEST FOR QUALIFICATIONS.

4. EVALUATION CRITERIA

The following criteria will be used to evaluate and rank submittals:

- Team Organization and Qualifications – 35 Points
- Experience on Relevant Projects – 35 Points
- Management Approach – 25 Points
- Overall Responsiveness – 5 Points

Kimley»Horn

Kimley-Horn and Associates, Inc.

Hourly Labor Rate Schedule

Classification	*Rate*
Analyst	$165 - $250
Professional	$235 - $300
Senior Professional I	$260 - $360
Senior Professional II	$345 - $380
Senior Technical Support	$160 - $285
Support Staff	$110 - $150
Technical Support	$125 - $155

Effective through June 30, 2025

Subject to adjustment thereafter

Internal Reimbursable Expenses will be charged at 5% of Labor Billings

External Reimbursable Expenses will be charged at 15% mark-up, or per the Contract

Sub-Consultants will be billed per the Contract

Purchasing and Contract Management

Project Summary

RFQ 25-18629-KM Architectural Engineering Services for Downtown Streets and Pedestrian Lighting

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 3 - March 6, 2025.
78 Firms downloaded the documents using Bonfire.com.
26 Firms were notified separately.
6 Firms submitted Statements of Qualifications



CIP 92776 Utility Upgrades, Gateways and Greenspace

Infrastructure Improvements

Project Manager: Brianna Brown - Business Development

Project Scope

Design, relocation, upgrading and replacement of public utility infrastructure, construction of gateways and greenspaces in the CBD, and any other related, allowable uses of the project funding.

Project Justification

The Downtown Master Plan update provides numerous recommendations for utility infrastructure upgrades, additional street and pedestrian lighting, improvements to the public right of way, and gateway and greenspace improvement.

Project Highlights

Council Priorities Addressed: Economic Development, Community Impact

Project History

- FY 2022-23 $1,378,955 was appropriated by Ord. 2022-O0136

Project Dates

FY 2024-25:

- Public Improvement Project in the Depot District to add lighting, improve right-of-way, add signage and wayfinding, install banners, and improve parking
- Consider requests to bury utility infrastructure as needed for development projects

FY 2023-24:

- $225,000 incentive to the Inn Town Inn project for utility infrastructure improvements needed for development of a housing project

Project Location

Internal Project

Project Appropriations

	Appropriation to Date	2024 - 25 Budget	2025 - 26 Budget	2026 - 27 Budget	2027 - 28 Budget	2028 - 29 Budget	2029 - 30 Budget
Construction	$1,378,955	$0	$0	$0	$0	$0	$0
TOTAL	**$1,378,955**	**$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
CBD TIF Fund Prior Year Bonds	$1,378,955	$0	$0	$0	$0	$0	$0
TOTAL	**$1,378,955**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Operating Budget Impacts

Description	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	Total
No Impact Anticipated	$0	$0	$0	$0	$0	$0	$0
TOTAL	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

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AI# 13475
Regular City Council Meeting 5. 22.
05/27/2025:

Information

Agenda Item

Resolution - City Manager: Consider a resolution authorizing the Mayor to execute a *Consent to Assignment and Assumption of Leasehold Interest* consenting to the assignment of Abby Quinn's leasehold interest to Kyle Williams, regarding the Lease Agreement entered into between the City of Lubbock and Samuel Cullen Arnett III and Abby Quinn on November 5, 2024.

Item Summary

On November 5, 2024, the Lubbock City Council passed Resolution No. 2024-R0526, which authorized a Real Estate Sales Contract for the acquisition of property situated in Sections 4, 9, 11, 14, 20, 21, and 24, Block S, Lubbock County, Texas, commonly referred to as the V-8 Ranch. This contract is between the City of Lubbock and the Arnett Family Partnership, LP, along with Mary Jane Holmes, Karen Dreyer, Abby Quinn, and Abby Quinn acting as Guardian of the Estate of William Flygare.

In relation to the V-8 Ranch purchase, the City of Lubbock has also entered into a Lease Agreement with Samuel Cullen Arnett III and Abby Quinn for the purpose of ranching, agricultural, and recreational uses. Abby Quinn, as a Tenant under this Lease Agreement, intends to transfer her complete interest in the Lease to Kyle Williams of Idalou, Texas.

City staff have consulted with Kyle Williams and are confident in his ability to fulfill the responsibilities of a Tenant under the current Lease Agreement, and he has agreed to meet all insurance requirements as stipulated.

The City staff recommend that the Assignment and Assumption of Leasehold Interest from Abby Quinn to Kyle Williams be approved and is in the best interest of the City of Lubbock.

Fiscal Impact

No fiscal impact on the City of Lubbock

Staff/Board Recommending

W. Jarrett Atkinson, City Manager

Attachments

Resolution - Assignment of Lease Agreement
Assignment & Assumption of Leasehold Interest

RESOLUTION

WHEREAS, on November 5, 2024, the City Council of the City of Lubbock approved Resolution No. 2024-R0526 approving a Real Estate Sales Contract for the purchase of real property located in Section 4, 9, 11, 14, 20, 21 and 24, Block S, Lubbock County, Texas, also known as the V-8 Ranch, by and between the City of Lubbock and the Arnett Family Partnership, LP, Mary Jane Holmes, Karen Dreyer, Abby Quinn, and Abby Quinn as Guardian of the Estate of William Flygare; and

WHEREAS, in conjunction with the purchase of the V-8 Ranch outlined above, the City of Lubbock, Texas (the "City"), entered into a Lease Agreement on November 5, 2024 with Samuel Cullen Arnett III and Abby Quinn ("Tenants") leasing the V-8 Ranch to the Tenants for ranching, agricultural and recreational activities and subject to the terms and conditions outlined in such Lease Agreement; and

WHEREAS, the City, in accordance with Section 8.1 of the Lease Agreement, conveyed to the Tenants the right to assign the Lease Agreement to any person, persons, or entities subject to the assignee being liable for performance of the assigning Tenant's duties and obligations under the terms of the Lease Agreement; and

WHEREAS, Abby Quinn, as a Tenant under the Lease Agreement, desires to assign her full leasehold interest in and to the Lease Agreement to Kyle Williams of 8708 East County Road 5700, Idalou, Texas 79329, in accordance with the terms and conditions of the *Assignment and Assumption of Leasehold Interest* which is attached to this resolution as *Exhibit A*; and

WHEREAS, as part of her assignment to Kyle Williams, Abby Quinn has requested the City to execute a *Consent to Assignment and Assumption of Leasehold Interest*, which is attached hereto as *Exhibit B*, recognizing, upon execution, that (i) Abby Quinn will no longer be a Tenant under the Lease Agreement, (ii) that Abby Quinn will be released from each and every duty, obligation, responsibility and liability as a Tenant under the Lease Agreement, and (iii) that Kyle Williams will assume all duties and obligations as a Tenant under the Lease Agreement; and

WHEREAS, the City Manager has met with Kyle Williams and believes Mr. Williams is capable of assuming the duties and responsibilities as a Tenant under the Lease Agreement and has provided or agreed to provide necessary proof of all insurance requirements as Tenant under the Lease Agreement; and

WHEREAS, the City Council of the City of Lubbock believes it to be in the best interest of the City of Lubbock to approve the *Consent to Assignment and Assumption of Leasehold Interest* as presented; **NOW THEREFORE,**

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

The Mayor of City of Lubbock is hereby authorized to execute on behalf of the City of Lubbock the *Consent to Assignment and Assumption of Leasehold Interest*, which is attached hereto as *Exhibit B*, recognizing that (i) Abby Quinn will no longer be a Tenant under the Lease Agreement, (ii) that Abby Quinn will be released from each and every duty, obligation, responsibility and liability as a Tenant under the Lease Agreement, and (iii) that Kyle Williams will assume all duties and obligations as a Tenant under the Lease Agreement.

Passed by the City Council on _____.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
W. Jarrett Atkinson, City Manager

APPROVED AS TO FORM:

_____
Matthew L. Wade, City Attorney

ccdocs II/RES.2025 Quinn V-8 Lease Assignment
May 27, 2025

ASSIGNMENT AND ASSUMPTION OF LEASEHOLD INTEREST

This Assignment and Assumption of Leasehold Interest (the "Agreement") is entered into this 20 day of May, 2025, by and between Abby Quinn, 4903 21st Street, Lubbock, Texas 79407, hereinafter referred to as "Assignor", and Kyle Williams, 8708 East County Road 5700, Idalou, Texas 79329, hereinafter referred to as "Assignee", for and in consideration of the payments, mutual agreements and covenants set forth herein.

Whereas, Samuel Cullen Arnett, III and Abby Quinn, collectively as Co-Tenants, entered into that certain Lease Agreement with the City of Lubbock, as Landlord, dated November 5, 2024, (the "Lease Agreement"), a copy of which is attached hereto as Exhibit "A" and incorporated herein for all purposes; and

Whereas, Abby Quinn desires to assign in full her leasehold interest in and to the Lease Agreement to Kyle Williams; and

Whereas, Kyle Williams desires to accept the assignment of leasehold interest and assume all rights, responsibilities, duties and obligations as a Tenant under the Lease Agreement;

Whereas, the City of Lubbock, by its execution of the Consent to this Agreement, a copy of which is attached hereto as Exhibit "B" and incorporated herein for all purposes, agrees to the assignment by Abby Quinn to Kyle Williams; and

Whereas, capitalized terms used in this Agreement not otherwise defined herein shall have the same meaning as set forth in the Lease Agreement;

Now, therefore, Assignor and Assignee agree as follows:

1. Assignor assigns all of her rights, interests, responsibilities, duties and obligations under the Lease Agreement to Assignee.

2. Assignee shall pay Assignor and only Assignor $5,000 per year during the Term with the first payment due upon execution of this Agreement. Each ensuing payment is due on the anniversary date of this Agreement until the lease terminates as contemplated in the Lease Agreement. Delivery or said payments, by mail or otherwise, shall be at 4903 21st St., Lubbock, TX.

3. Assignee shall immediately assume all duties, responsibilities, obligations and liabilities imposed upon Tenant in the Lease Agreement, including all insurance obligations set forth therein.

4. Assignee personally inspected the Ranch and accepts the Ranch AS IS and WITH ALL FAULTS. In acquiring this assignment and leasehold interest, Assignee relies on no representations or statements made by Assignor (or third parties on behalf of Assignor) pertaining, in any way, to the Ranch, the terms and provisions of the Lease Agreement, or other parties to the existing leasehold. Assignee's decision to acquire the leasehold interest from Assignor was based solely upon his own due diligence and independent investigation.

5. For sixty (60) days from the date of this Agreement, Assignor shall have the right to enter the Ranch and remove Assignor's personal property from the Ranch.

6. ***ASSIGNEE SHALL INDEMNIFY AND HOLD HARMLESS ASSIGNOR*** from and against all liabilities (including strict liabilities), losses, damages, costs, expenses and obligations (including reasonable attorney's fees) incurred as a result of claims, demands and causes of action asserted by any person or entity with respect

to or in any way related to or arising from the Lease Agreement and its performance, this Agreement, Assignee's occupancy of the property encompassed within the Lease Agreement, or the presence or activities of any person on the property encompassed within the Lease Agreement.

7. If any action at law or in equity is necessary to enforce or interpret this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief to which such party may be entitled.

8. This agreement shall be governed by and construed under the laws of the State of Texas with venue in Lubbock County, Texas.

9. This Agreement was negotiated between the parties hereto with the benefit of legal representation or the opportunity for such representation, and any rule of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party shall not apply to any construction or interpretation hereof.

10. This Agreement shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.

11. Assignor and assignee agree that this assignment is effective only upon the City of Lubbock releasing assignor from all obligations and liabilities imposed on leasees under the lease.

Executed to be effective as of the date first above written.

Abby Quinn

Abby Quinn

STATE OF TEXAS

COUNTY OF LUBBOCK

This instrument was acknowledged before me on the 20 *day of May 2025, by Abby Quinn.*

Miranda Young

Notary Public

MIRANDA YOUNG
NOTARY PUBLIC
STATE OF TEXAS
ID 130915795
EXP. 11-29-2028

Kyle Williams

STATE OF TEXAS

COUNTY OF LUBBOCK

This instrument was acknowledged before me on the 20 day of May, 2025, by Kyle Williams.



Notary Public

EXHIBIT B

CONSENT TO ASSIGNMENT AND ASSUMPTION OF LEASEHOLD INTEREST

The City of Lubbock by its signature below through its designated representative consents to the Agreement executed between Abby Quinn and Kyle Williams set forth above. Further, it (1) recognizes and agrees that Abby Quinn will no longer be a Tenant, Co-Tenant or obligor under the Lease Agreement; (2) releases Abby Quinn and her heirs, personal representatives, successor and assigns from each and every duty, obligation, responsibility and liability imposed on Abby Quinn in the Lease Agreement as a Tenant or Co-Tenant; and (3) recognizes and agrees that Kyle Williams assumes all duties, obligations, responsibilities and liabilities as a Tenant, Co-Tenant or obligor under the Lease Agreement.

City of Lubbock

By: _____ Date: _____

Title: _____

EXHIBIT "A"

Resolution No. 2024-R0526

Lease Agreement

This Lease Agreement is entered into on November 5, 2024 ("***Effective Date***"). by and between the landowners. ***The City of Lubbock***. whose address is 1314 Avenue K, Lubbock, Texas 79401 ("***Landlord***"), and the tenants. ***Mr. Samuel Cullen Arnett III*** and ***Mrs. Abby Quinn***. whose address is 806 Avenue J. Lubbock. Lubbock County. Texas 79401 and 4903 21st Street, Lubbock, Lubbock County, Texas 79407. respectively (collectively "***Tenant***"), Landlord and Tenant being collectively referred to as the "***Parties***" and separately at "***Party***." This Lease Agreement shall be referred to as "***Lease***" herein.

Background

A. Landlord owns real property in Lubbock County, Texas. as further described herein.

B. Tenant wishes to lease said real property for the purposes of ranching. agricultural. and recreational activities by Tenant as well as their guests and assignees and Landlord wishes to lease said real property to Tenant for any and all such stated purposes.

C. Therefore. for good and valuable consideration. the receipt and sufficiency of which is hereby acknowledged and accepted by both Parties, Landlord and Tenant wish to execute this Lease Agreement and lease the real property under the terms described herein.

Terms & Conditions

1. **Property Description & Scope of Lease.**

1.1 Property. The Landlord hereby leases to Tenant real estate located in Lubbock County. Texas. as further described in **"Exhibit A"** which is attached hereto and incorporated herein by reference (the "***Ranch***").

1.2 Scope of Lease. The lease of such Ranch includes any buildings and improvements as well as accessories located on such Ranch. The Ranch is leased to Tenant's. and Tenant's guests' and assignees', use for ranching. agricultural. and recreational purposes. which shall include but shall not be limited to all current and customary uses of the Property by Grantors as of the Effective Date hereof.

1.3 Cattle Baron's Ball. Additionally, Landlord shall permit the Ranch to serve as the physical location and site of the *Cattle Baron's Ball* fundraising event with the American Cancer Society, as currently titled but regardless of any changes in name. sponsor(s). or affiliations in the future, subject to Tenant's sole and absolute discretion.

2. **Term of Lease.**

2.1 Initial Term. The term of this Lease shall be five (5) years from the Effective Date hereof ("***Initial Term***").

2.2 Renewal Terms. This Lease may be renewed by mutual consent of the Parties for additional one-year (1 year) terms. Such Renewal shall occur by both Parties

executing a ***Renewal*** in substantially the same form and substance as **"Exhibit B"** and such shall become a part hereof. Should either Party wish to renew this Lease. such Party shall provide Notice to the other Party on or before 90-days prior to the expiration of the then-current Term. Providing such Notice does not effectuate an Option or any binding obligation on behalf of either Party to grant a renewal hereunder.

2.3 The Initial Term and all Renewal Terms which are properly exercised by the Parties shall be referred to herein as "***Term***" or "***Terms***."

3. Type of Lease, Rental Rates, & Payment Arrangements.

3.1 Type of Lease & Rental Rates.

(A) The Parties agree that the Rent and all consideration obligations imposed on Tenant hereunder for the Initial Term have been satisfied as part of the consideration. negotiation. and execution of the Special Warranty Deed executed between the Parties regarding the Ranch. which is. or shall be. recorded in the Official Public Records of Lubbock County. Texas.

(B) For any Renewal Term(s) hereunder. Tenant shall pay Landlord Rent at mutually agreeable market value lease rates.

3.2 Payment Arrangements. All funds shall be paid by cashier's check, certified funds, wire transfer. or cash either via mail or directly to Landlord or by direct deposit into Landlord's bank account at the financial institution of Landlord's choosing, but subject to Landlord providing the required information regarding such financial institution to Tenant.

4. Ranch Operation & Maintenance.

4.1 Landlord. Landlord agrees:

(A) to pay all taxes and other lawful assessment levied against the Ranch during the term of this Lease:

(B) to furnish the Ranch real property. and all improvements otherwise attached to the Ranch real property. unless expressly excluded under the terms of this Lease; and

4.2 Tenant. Tenant agrees:

(A) to conduct Tenant's activities on the Ranch in a good and workman-like manner or in such other manner as is industry standard and to keep and maintain the Ranch in its customary condition:

(B) to furnish all labor. power. machinery. movable equipment. and all related operation and maintenance expenses required to operate the Ranch:

(C) not to violate any restrictions that may exist in Landlord's or Tenant's insurance policies without written consent from the Landlord: and

(D) to carry general liability insurance in an amount and form necessary to conduct any activities on the Ranch, as determined in Landlord's sole discretion.

5. **Improvements.** With the written consent of Landlords. Tenant may make or add improvements to the Ranch at Tenant's own expense. Upon termination of this Lease. unless otherwise agreed upon in writing. any permanent improvements shall become the property of Landlords.

6. **Non-partnership Agreement.** This Lease is not intended to be. and does not give rise to a partnership. Neither Party shall have authority to bind the other Party without their/its written consent.

7. **Right of Entry.** The Landlord shall have the right. in person or by agent. to enter upon the Ranch to conduct any and all activities in relation to the Lake planning and construction. and. upon Landlord giving reasonable notice of activities that would require moving of livestock. the use of heavy equipment on the Ranch. However. Landlord and its agents. employees. contractors. invitees. guests. or representatives shall comply with each of the following while on or prior to entering the Ranch:

7.1 **Nuisance**. Shall not knowingly cause. authorize. or fail to halt any common law nuisance to occur on the Ranch:

7.2 **Firearms**. Shall not carry loaded or visible firearms. crossbows. bow-and-arrows. or any other weapon on the Ranch for any purpose. except for law enforcement purposes:

7.3 **Loiter.** Shall not loiter on Ranch generally. except for law enforcement purposes:

7.4 **Parking**. Shall not park vehicles or equipment anywhere other than the immediate vicinity of work or construction locations or other locations as expressly approved by Tenant in writing:

7.5 **Litter**. Shall not dispose of anything on the Ranch except via proper waste receptacles;

7.6 **Noxious weeds and brush.** Shall not cause the spread of noxious weeds or brush. but shall protect the Ranch from same;

7.7 **Speed limit.** Shall not allow travel at an unreasonable speed. more than 25 miles per hour is deemed unreasonable. except for law enforcement purposes:

7.8 **Hunt & Fishing**. Shall not hunt or fish on the Ranch:

7.9 **Alcohol, Tobacco, and Drugs**. Shall not carry. use. or otherwise consume or possess alcohol. tobacco or other smoking products. or illegal drugs on the Ranch or allow any person under the influence of alcohol. tobacco or other smoking products. or illegal drugs onto the Ranch:

7.10 **Dogs or animals**. Shall not bring dogs or other animals on the Ranch. except if otherwise. expressly permitted in writing by Tenant or for law enforcement purposes:

7.11 **Removal**: Shall not remove any personal property of Tenant from the Ranch. except as expressly permitted herein. if at all:

7.12 **Grounding**. Landlord shall properly and reasonably ground all electrical equipment used on the Ranch. **Landlord shall be responsible for any and all costs or damages associated with the grounding of electrical equipment or the electrification of any persons or property and, to the extent allowed by law, hold Tenant harmless from any and all damages, causes, claims, or suits related thereto**. Such grounding requirements shall include preventative measures and implements regarding lightning strikes:

7.13 **Livestock**. While using any gate or upon opening any gate Landlord shall maintain

sufficient guard or deterrent to keep cattle or livestock from crossing one fenced pasture to another. If any livestock is killed or suffers material, compensable injury due to Landlord's activities hereunder, Landlord shall pay Tenant the fair market value of such animal, using prevailing rates being paid for such animal in Lubbock County.

7.14 **Hazardous Materials**. Landlord shall not violate, **and, to the extent allowed by law, shall indemnify Tenant against any violation by Landlord of any federal, state, or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release, or threatened release, discharge, disposal, transportation, or presence of any substance, material, or waste which is now or hereafter classified as hazardous or toxic, or which is regulated under current or future federal, state, or local laws or regulations (each such substance, material, and waste "Hazardous Materials")** in, on, under, or about the Ranch. In conformance with the requirements of applicable law, Landlord shall clean up, remove, remedy, and repair any soil or ground water contamination and damage caused by the release or disposal of any Hazardous Materials by Landlord in, on, under, or about the Ranch.

In the event this Lease is not to be renewed, Tenant shall have a right of entry for 180 days after the termination of this Lease for the purpose of harvesting seeded crops (if any), relocating livestock (if any), or removing personal property and improvements, subject to the provisions hereof. Any personal property remaining on the Property after the 180-day period shall be considered abandoned. Tenant shall have no obligation to remove personal property and this provision imposes no such obligation.

8. **Assignability & Subletting.**

8.1 Assignability for Tenant. The Landlord conveys to the Tenant the right to lease, sublet, assign, devisee, bequeath, or otherwise transfer or convey any part of the Ranch or to assign the Lease to any person, persons, or entities whomsoever or whatsoever including heirs, but in either such event, the Assignee shall be liable for performance of the assigning Tenant's duties and obligations under the terms of this Lease.

8.2 Assignability for Landlords. Landlord may not assign or otherwise transfer or convey this Lease or its rights and duties hereunder, in whole or in part.

9. **[Intentionally omitted].**

10. **Water Rights.** Tenant shall have the right to non-exclusive use of surface and ground water on or under said Ranch for the purposes of this Lease.

11. **Termination.** Each Tenant, individually or collectively, may terminate this Lease regarding such Tenant's interest herein with or without cause at any time upon thirty (30) days prior written Notice to Landlord. Such termination shall relieve such Tenant of obligations and liabilities of this Lease. Should Tenant terminate this Lease, there shall be no refund of consideration previously tendered. During the Initial Term, there shall be no termination right for Landlord. During any Renewal Term, each Party, including each

Tenant individually or collectively, shall have the right to terminate this Lease upon thirty (30) days prior written Notice as provided herein to the other Party. Each Party, including each Tenant individually or collectively, shall have the right to seek specific performance or damages, as applicable and provided by law, if the other Party neglects or refuses to carry out any material provisions of this Lease after receiving a 30-day prior written notice of such demand.

12. General Terms.

12.1 Additional Agreements, Modifications, & Amendments. Any additions or changes to or modifications of this Lease shall be in writing, signed by the Parties against whom enforcement thereof is sought, and, once attached hereto, such shall become a part hereof.

12.2 Time is of the Essence. Time is of the essence in the performance of each Party's obligations under this Lease.

12.3 Calculating Time of Performance. If the time period for the performance of any act called for under this Lease falls or expires on a day other than a Business Day, the act in question may be performed on the next succeeding Business Day. A "Business Day" shall mean Monday through Friday with the exception of U.S. federal holidays.

12.4 Invalid Provisions & Severability. Any provision of this Lease which, on its Effective Date, is in conflict with the requirements of Texas or federal statutes or regulations is deemed to be amended to conform to the minimum requirements of those statutes and regulations. If any provision in this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance herefrom..

12.5 Costs of Enforcement & Attorney Fees. If any action at law or in equity is necessary to enforce or interpret the terms of this Lease or the agreements or documents contemplated hereby, the prevailing Party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief in equity or at law to which such Party may be entitled.

12.6 Non-Waiver. No failure by either Party to insist upon strict compliance with any term of this Lease, enforce any rights, or seek any remedy upon any default of the other Party will affect or constitute a waiver of the other Party's right to insist upon such strict compliance, enforce the right, or seek the remedy with respect to the default or any prior, contemporaneous, or subsequent default; nor will any custom or practice of the Parties at variance with any provision of this Lease affect or constitute a waiver of either Party's right to demand strict compliance with all provisions of this Lease.

12.11 Consent to Digital Communications, Documents & Signatures. By providing an email address. the Parties hereby consent to receive all documents. communications. notices. or other material. necessary or otherwise. by electronic means including. but not limited to. cloud sharing services. email. Bluetooth®. or other digital device or communication mediums. Such communications made through the services of third-parties such as. but not limited to. cloud sharing providers. email providers or hosts. internet providers. or other digital communication services or parties. shall not be considered a breach of any terms of this Lease. The Parties hereby acknowledge and authorize the use of digital communications notwithstanding the inherent confidentiality. cybersecurity. privacy. and disclosure risks. The Parties hereby consent to the use of Digital Documents and Signatures including. but not limited to. digital formats such as PDF: PNG. JPEG. GIF. and other image-file formats. facsimile. or other digital or electronic file formats. as well as digital images of a handwritten signature or encrypted digital signatures created through or maintained by third-party e-signature programs. software. or providers. A Digital Document or Signature by a Party shall be treated as an original writing. and shall be given equal dignity as a hard-copy writing or communication. This consent shall be considered express consent and authorization for the use of electronic signatures and electronic transactions under the *Electronic Signatures in Global and National Commerce Act (E-Sign)* and the *Texas Uniform Electronic Transactions Act.*

12.12 Counterpart Signature. This Lease may be executed by the Parties in counterparts. no one of which need be executed by all Parties. Each such counterpart shall be treated with equal dignity and deemed an original instrument. and all counterparts shall together constitute one and the same instrument, and any of the Parties may execute this Lease by signing any of the counterparts.

12.13 Signatories' Authority. The Parties each represent that they are persons or entities duly authorized to conduct business. and the agent signing below has been duly authorized to execute this Lease and effectuate its terms.

12.14 Notices & Writing. Any notices or writings required or permitted under the terms of this Lease shall be provided to the Parties using the contact information provided below:

Landlord: ***The City of Lubbock***
Jarrett Atkinson. City Manager
1314 Avenue K.
Lubbock. Texas 79401
Phone: 806.775.2016
Email: jatkinson@mylubbock.us
With copy to:
Amy Sims. *Deputy City Attorney*
1314 Avenue K.
Lubbock. Texas 79401
Phone: 806.775.2220
Email: asims@mail.ci.lubbock.tx.us

Tenant: ***Mr. Samuel Cullen Arnett III*** and ***Mrs. Abby Quinn.***
806 Avenue J
Lubbock, Texas 79401
&
4903 21st Street
Lubbock, Texas 79407
With copy to:
Mr. Zachary Brady & Mr. Garrett Couts
1602 13th Street.
Lubbock, TX 79401
Phone: 806.771.1850
Email: zach@bhlawgroup.com & garrett@bhlawgroup.com

If mailed, notices and writing shall be deemed given when deposited in the United States Postal Service, postage prepaid, addressed to the receiving Party at the address specified herein. If electronically provided, such notices and writings shall be deemed delivered when transmitted from the electronic-mail service, program, application, or carrier of the sending Party. A Party may change the Party's mailing address or electronic-contact information by giving written notice of the change to the other Party.

12.15 Background and/or Recitals. The Background and/or Recitals stated herein are incorporated in the binding terms of this Lease for all purposes.

12.16 Memorandum of Lease. At either Party's request, the other Party or Parties shall execute a Memorandum of Lease for purposes of recording, in the real-property records of each county in which the real property which is the subject of this Lease is located, to reflect the existence, general terms, and effect of this Lease.

In testimony whereof, the Parties executed this Lease on the dates indicated below.

[The remainder of this page is intentionally left blank. Signatures follow.]

AI# 13417

Regular City Council Meeting **6. 1.**

05/27/2025:

Information

Agenda Item

Public Hearing - Planning (District 4): Consider a request for Zone Case 3522, a request of Wayne & Marilyn Downing, for a zone change from Low Density Single-Family District (SF-2) to Auto-Urban Commercial District (AC), at 11713 Indiana Avenue, located east of Indiana Avenue and north of 118th Street, Speedy Acres Addition, Lot 3, 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 May 1, 2025, and recommended approval of the request by a unanimous vote of 9-0-0.

Fiscal Impact

None

Staff/Board Recommending

Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning
Planning and Zoning Commission

Attachments

Ordinance 3522
Staff Report 3522
Documentation 3522

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. 3522; A ZONING CHANGE FROM SF-2 TO AC ZONING DISTRICT AT 11713 INDIANA AVENUE, LOCATED EAST OF INDIANA AVENUE AND NORTH OF 118TH STREET, SPEEDY ACRES ADDITION, LOT 3, 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. 3522

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 **SF-2** to **AC** zoning district at 11713 Indiana Avenue, located east of Indiana Avenue and north of 118th Street, Speedy Acres Addition, Lot 3, 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/ZC3522
5.2.25

Planning Department
City of Lubbock

Staff Report	Zone Case 3522
City Council Meeting	May 27, 2025

Applicant Wayne & Marilyn Downing

Property Owner Wayne & Marilyn Downing

Council District 4

Prior Board or Council Action

- June 23, 2005, Ordinance No. O0067: The subject property was annexed into city limits and zoned Transition District (T).
- May 9, 2023, Ordinance No. 2023-O0054 (effective October 1, 2023): The subject property was rezoned from Transition District (T) to Low Density Single-Family District (SF-2), with the adoption of the Unified Development Code.
- May 1, 2025, Zone Case 3522: The Planning and Zoning Commission recommended approval of a request for a zone change from SF-2 to Auto-Urban Commercial (AC) by a vote of 9-0-0.

Notification Summary

- Notifications Sent: 15
- Received In Favor: 0
- Received In Opposition: 0

Site Conditions and History

The subject property was platted on December 13, 1988 as Speedy Acres Addition, Lot 3. The property was developed in 1989 and is currently operating as a gymnasium.

Adjacent Property Development

The surrounding properties are zoned Auto-Urban Commercial District (AC) to the north, west, and south; the property to the east is zoned Heavy Commercial District (HC). There is an antique store to the north, an indoor sports training facility to the south, a kennel to the east, and vacant land to the west.

Zoning Request and Analysis

Item Summary

The subject property is addressed as 11713 Indiana Avenue and is located east of Indiana Avenue and north of 118th Street, Speedy Acres Addition, Lot 3. The applicant is requesting a zone change from Low Density Single-Family District (SF-2) to Auto-Urban Commercial District (AC).

Current zoning: **Low Density Single-Family District (SF-2)**

Requested zoning: **Auto-Urban Commercial District (AC)**

Intent Statements

The intent of the existing Low Density Single-Family (SF-2) District is to provide for two types of residential subdivisions:

A. Conventional. Smaller to moderately-sized lots for dwellings on public utilities. Any open space is located on private lots.

B. Cluster. Clustering of smaller-sized lots for dwellings with an increased percentage of common open space compared to cluster developments in the SF-1 district to maintain the intended character of the district while providing for buffering between lower and higher density adjacent neighborhoods, as well as for recreational amenities and resource protection.

The intent of the requested Auto-Urban Commercial District (AC) 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 location is along Indiana Avenue which is designated as a Principal Arterial by the Master Thoroughfare Plan, 2018. Arterial streets are continuous routes whose function is to serve high volume needs of local traffic and regional traffic.

Compatibility with Surrounding Property
The proposed zone change is compatible with the surrounding area and will not change the character of the existing development.

Conformance with Comprehensive Plan Principles and Future Land Use Map
The Future Land Use Map designates this area for Commercial land uses. The request conforms to this designation and would be appropriate considering the existing adjacent zoning districts and land uses. Therefore, this request is in complete conformance with the Comprehensive Plan principles.

Conformance with Zoning Ordinance
The proposed zone change is in conformance with the zoning ordinance.

Suitability of Property for Allowed Uses
The property is suitable for the proposed zone change and the uses allowed in the AC District.

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

Sam Brackeen
Planner
Planning Department
806-775-2120
sbrackeen@mylubbock.us

Gregory Hernandez
Planning and Zoning Manager
Planning Department
806-775-3147
ghernandez@mylubbock.us

Case Information: Zone Case 3522

Allowable Uses: Auto-Urban Commercial (AC)

Transportation: The proposed development has points of access from Indiana Avenue.

Thoroughfare	Existing	Per Thoroughfare Development Plan
Indiana Avenue, Principal Arterial	R.O.W. 84 feet, 7 lane, divided, paved.	R.O.W. 88 feet, 7 lane, divided, paved.

Engineering Comments: No comments.

Public Works Comments: No comments.

Building Safety Comments: No comments.

Fire Marshal Comments: No comments.

Draft Planning and Zoning Commission Minutes

District 4

3.1 **Zone Case 3522:** Wayne & Marilyn Downing, request for a zone change from Low Density Single-Family District (SF-2) to Auto-Urban Commercial District (AC), at:

- 11713 Indiana Avenue, located east of Indiana Avenue and north of 118th Street, Speedy Acres Addition, Lot 3.

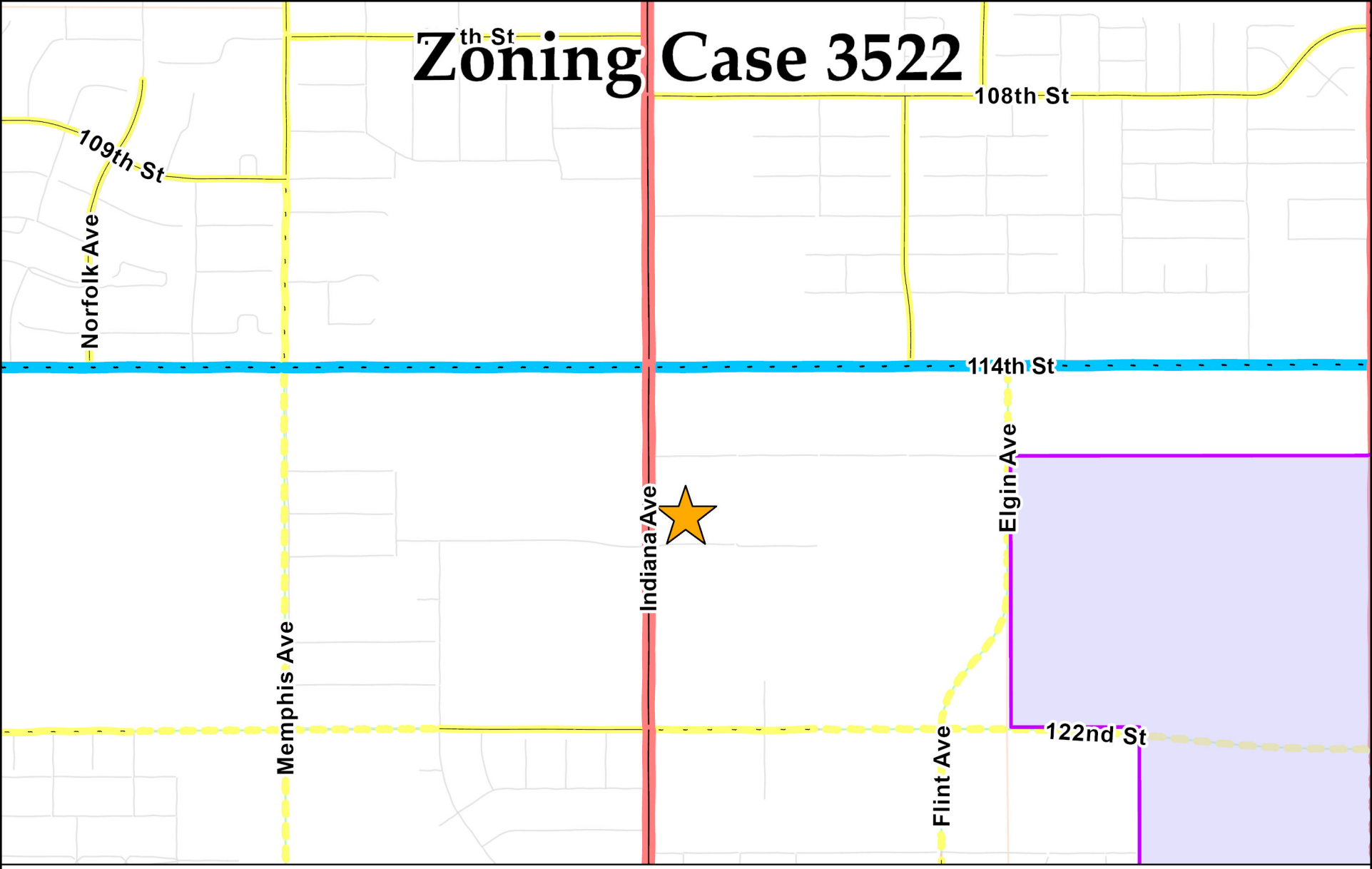
PLANNER SAM BRACKEEN gave a presentation and answered questions from the Commission. Staff has no objection to the request.

APPLICANT MARILYN DOWNING, 7502 Zoar Avenue, gave comments about the request and answered questions from the Commission.

No one appeared to speak in favor or in opposition to the request.

In the matter of **Zone Case 3522**, a motion was made by **SCOTT GLOYNA** and seconded by **TAREK REDWAN** to approve the request as presented. The Commission voted 9 (in favor) to 0 (in opposition) to approve the motion. The case will be forwarded to City Council for consideration.

Zoning Case 3522

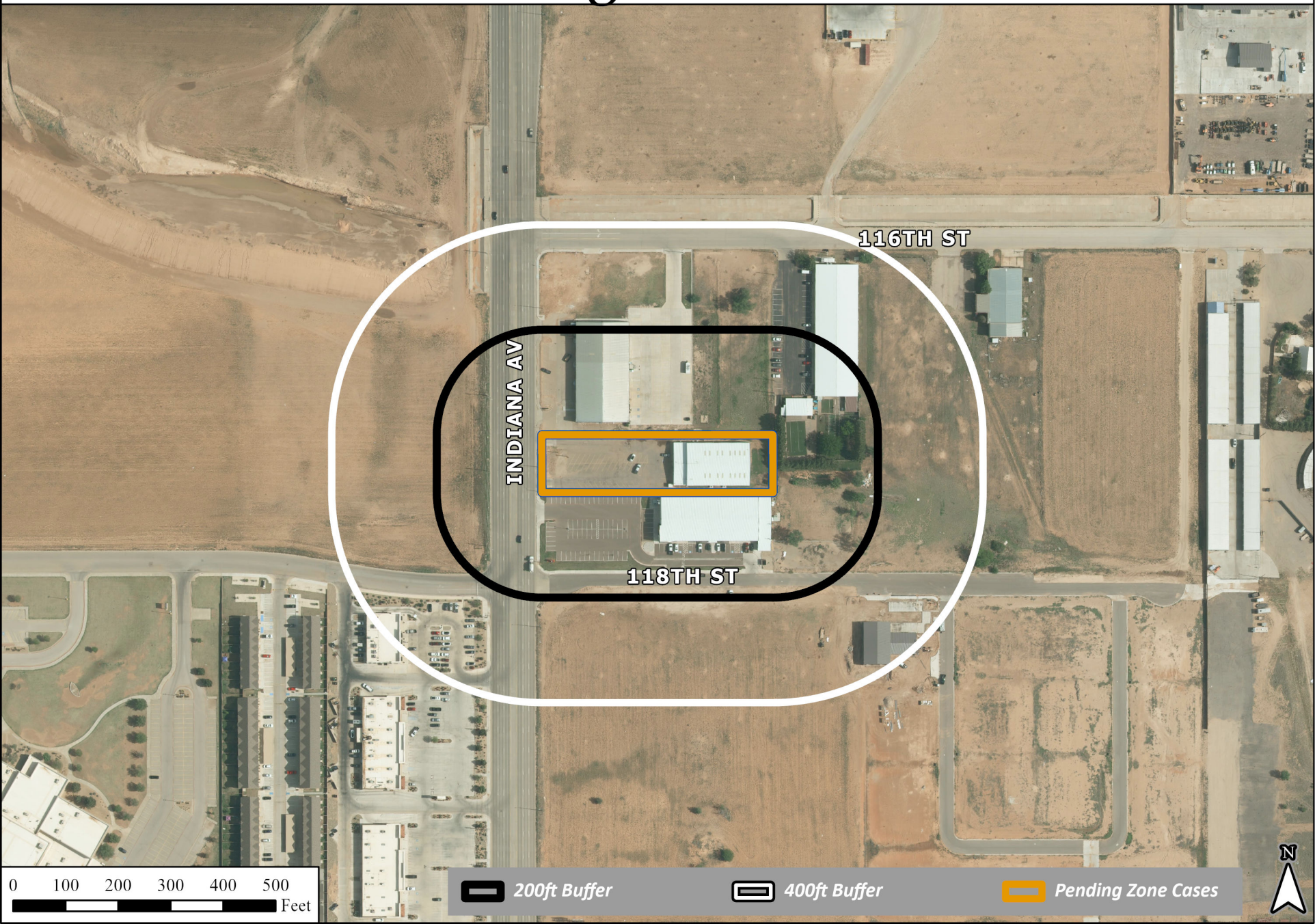


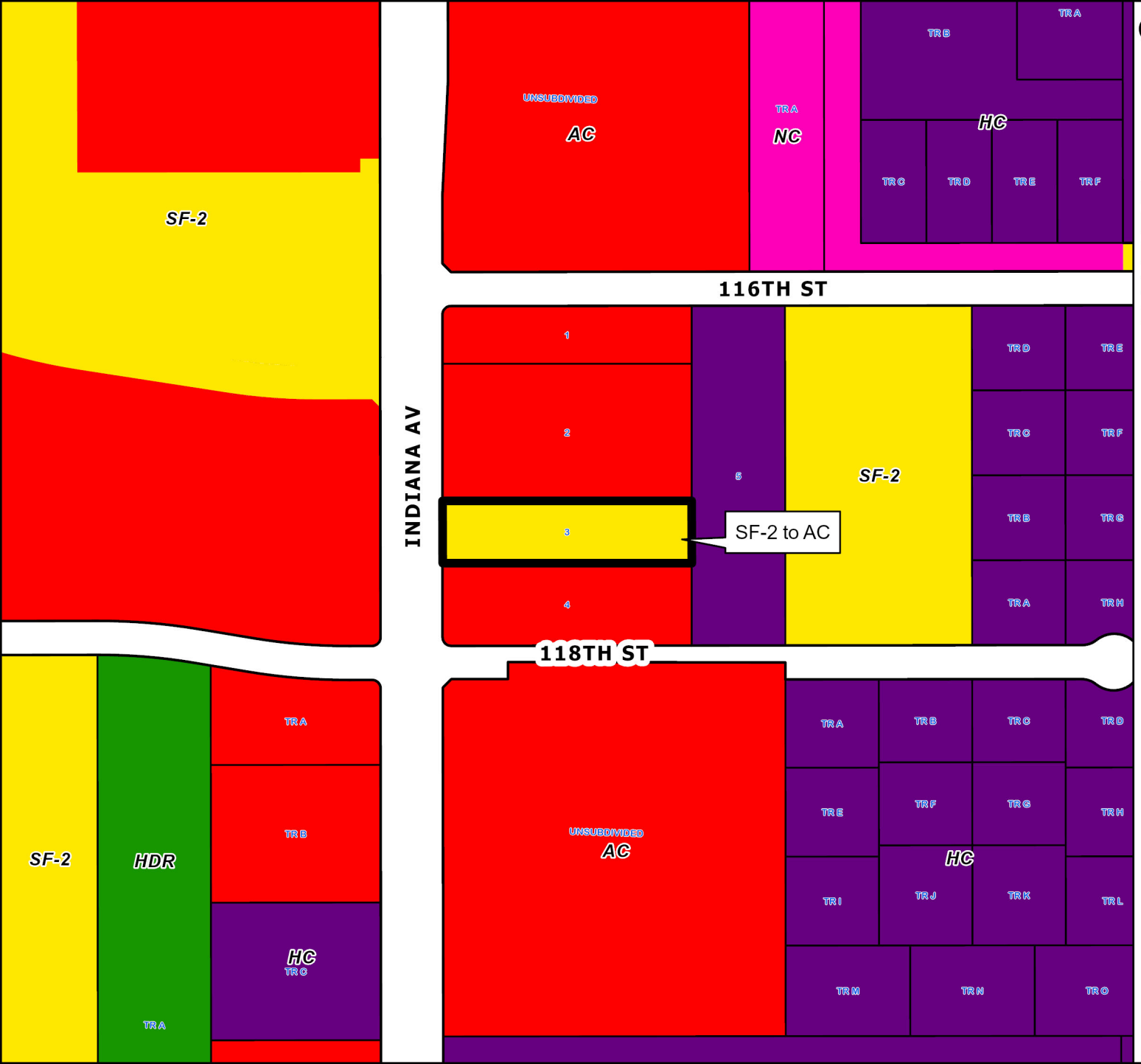
Collector	Minor Arterial	Modified Arterial	Principal Arterial	Freeway
Completed	Completed	Partial	Completed	Completed
Partial	Partial	Future	Partial	Partial
Future	Future		Future	Proposed Outer Loop

N
W E
S

Date Exported: April 2025

Zoning Case 3522





Current Zoning
3522

Zoning Districts

- Auto-Urban Commercial (AC)
- Heavy Commercial (HC)
- High Density Residential (HDR)
- Neighborhood Commercial (NC)
- Low Density Single Family (SF-2)

N

0 100 200 300 400 Feet

City of Lubbock TEXAS

Date Exported: April 2025



Future Land Use Plan
Case 3522

- Commercial
- Parks
- Public/ Semi-Public
- Residential Low Density

N

0 100 200 300 400 Feet

City of Lubbock TEXAS

Date Exported: April 2025

3522



View east. Subject property.



View south.



View west.



View north.

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: 11713 Indiana Ave Lubbock TX 79423

Lots/Tracts: Speedy Acres L3

Survey & Abstract: _____

Metes and Bounds Attached: Yes ☐ No ☑ Total Acreage of Request: 1.1 acres

Existing Land Use: Commercial Existing Zoning: SF2

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: _____

Name: _____

Address: _____ City: _____ State: _____

ZIP Code: _____ Telephone: _____ Email: _____

Applicant's Signature: _____

Date: _____ Printed Name: _____

Owner Information

Firm Name: Wayne and Marilyn Downing LLC dba Talent Plus

Owner: Wayne & Marilyn Downing

Address: 7502 Zoar Ave City: Lubbock State: TX

ZIP Code: 79424 Telephone: 806 745-0373 806 790-0373 Email: talentpluslubbock@gmail.com

Property Owner's Signature: Marilyn Downing

Date: 3/26/2025 Printed Name: Marilyn Downing

Preparer Information

Preparer's Signature: Marilyn Downing

Date: 3/26/2025 Printed Name: Marilyn Downing

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.

City of Lubbock

Planning Department

I am Marilyn Downing, owner of Talent Plus Dance and Gymnastics. I would like to change the zoning from low density residential SF2 to Auto, Urban, Commercial. The properties surrounding this location are already zoned as Auto, Urban, Commercial. I have been operating a commercial business as a recreational facility for 34 years at this location and was annexed into the city. I believe this would align all the properties originally known as Speedy Acres in the same classification. If you have any questions, please contact me.

Sincerely,

Marilyn Downing
Owner of Talent Plus

Talentpluslubbock @gmail.com

(806) 790-0373

AI# 13440
Regular City Council Meeting 6. 2.
05/27/2025:

Information

Agenda Item

Resolution - Planning: Consider a resolution approving and granting a variance from the applicable 300-feet minimum distance provision of the City of Lubbock Ordinance No. 2009-O0060, at 1905 19th Street, for an alcoholic beverage permit for Endzone Liquor Beer Wine.

Item Summary

Effective August 8, 2009, Ordinance No. 2009-O0060 Amended Section 14.01.007 (Section 18-11). Alcoholic beverage-sales near church, school or hospital, in Chapter 14, Offenses-Miscellanous of City of Lubbock Code of Ordinances related to businesses who obtain a permit from the Texas Alcoholic Beverage Commission (TABC) for the sale of alcohol.

As part of the ordinance, the City Council adopted a standard which prohibits any business that is within 300 feet of any school or daycare, measured from property line to property line, from having a permit issued by TABC. The City Council may consider a variance to the 300-foot requirement in the Texas Alcoholic Beverage Code.

The request for a variance is from Endzone Liquor Beer Wine, located at 1905 19th Street, which is within 300 feet of a public school, Lubbock High School.

A request for a new permit for off-premise alcohol sales at this location is pending, and requires a separation variance request. The City Council has wide discretion in considering whether to grant a variance. The following may be considered by the City Council (as noted by the State of Texas statute providing for the variance process):

1. The enforcement of the regulation in a particular instance is not in the best interest of the public;
2. The regulation constitutes waste or inefficient use of land or other resources;
3. The regulation creates an undue hardship on the applicant, does not serve its intended purpose or is not effective or necessary;
4. The variance may be granted for any other reason, after consideration of the health, safety and welfare of the public and the equity of the situation, if the governing body finds it to be in the best interest of the community.

Fiscal Impact
None

Staff/Board Recommending
Erik Rejino, Assistant City Manager
Kristen Sager, Director of Planning

Attachments

Resolution - Endzone Liquor Beer Wine
Zoning Certificate - Endzone Liquor Beer Wine
Applicant Letter - Endzone Liquor Beer Wine
Map - Endzone Liquor Beer Wine
TABC Packet - Endzone Liquor Beer Wine

RESOLUTION

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

THAT the City Council, as the governing board of the City of Lubbock, Texas, and pursuant to Section 109.33(e) of the Texas Alcoholic Beverage Code, after consideration of the health, safety, and welfare of the public and the equities of the situation, finds and determines herein that it is in the best interest of the community to approve and grant a variance, and hereby grants a variance, from the applicable provisions of City of Lubbock Ordinance No. 2009-O0060 at the following location: **1905 19th Street**, Lubbock, Texas. This variance shall remain in effect for so long as: a **package store [P]** or a subsequent like use, if any, are in effect at the above-referenced location.

Passed by the City Council on _____, 2025.

_____
MARK W. MCBRAYER, MAYOR

ATTEST:

_____
Courtney Paz, City Secretary

APPROVED AS TO CONTENT:

_____
Kristen Sager, Director of Planning & Zoning

APPROVED AS TO FORM:

_____
Kelli Leisure, Senior Assistant City Attorney

vw/ccdocs/Kelli/Resolutions/RES.Variance-Endzone
5.6.25

City of Lubbock TEXAS

Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457

ZONING CERTIFICATE

Business Information

Local Contact: Atul R. SHAH. Local Contact Phone No.: 806-523-8302.

Name of Business: ENDZONE Liquor BEER WINE

Address: 1905 19th St City: Lubbock State: Tx Zip: 79401.

Telephone: 806-523-8302 Email: ANDY.SHAH11@gmail.com.

On Premise Consumption:

Type of Business:

- ☐ Restaurant
- ☐ Nightclub/Bar/Lounge
- ☐ Hotel/Arena/Civic Center
- ☐ Dance Hall
- ☐ Sexually Oriented Business
- ☑ Other (describe) ~~ENDZONE~~

Permit(s) Requeste (Check all that apply):

- ☐ Mixed Beverage (MB)
- ☐ Food & Beverage Cert. (FB)
- ☐ Minibar Permit (MI)
- ☐ Mixed Beverage Late Hours (LB)
- ☐ Wine and Beer Retailer's (BG)
- ☐ Beer Retailer's On-Premise (BE)
- ☐ Beverage Cartage (PE)
- ☐ Private Club Beer & Wine (NB)
- ☐ Retail Dealer's On-Premise – late hours license (BL)
- ☐ Local Cartage Permit (E) – with BG only
- ☐ Catering (CB)
- ☐ Food & Beverage Cert. (FB)
- ☐ Brewpub License (BP)
- ☐ Private Carrier's Permit (O) – Brewpubs (BP) with a BG only
- ☐ Mixed Beverage Restaurant with Food and Beverage (RM)
- ☐ Other (describe)

Off Premise Consumption:

Type of Business:

- ☐ Grocery/Convenience Store
- ☐ Drug Store
- ☒ Package Store
- ☒ Other (describe) Liquor store.

Permit(s) Requested (Check all that apply):

- ☐ Beer Retailer's Off-Premise (BF)
- ☒ Package Store (P)
- ☐ Wine and Malt Beverage Retailer's Permit (BG)
- ☐ Wine and Beer Retailer's Off Premise (BQ)
- ☐ Wine Only Package Store (Q)
- ☐ Local Distributor (LP)
- ☐ Local Cartage Permit (E)
- ☐ Other (describe)
- ☐ Third-Party Cartage Permit (ET)

Property Owner Information

Name: Atul R. SHAH.

Address: 7753 19th St City: Lubbock State: Tx Zip: 79407.

Business Owner Information

Name: Atul R. SHAH.

Address: 7753 19th St City: Lubbock State: Tx Zip: 79407.

Applicant Information

Name: Atul R. SHAH.

Address: 1905 19th St City: Lubbock State: Tx Zip:

Interest in Business/Authority to Make Application:

If you have any questions pertaining to the City of Lubbock's Zoning Certificate, please contact:

City of Lubbock Planning Department	Phone: (806) 775 - 2108	E-mail: cityplanning@mylubbock.us
City of Lubbock City Secretary's Office	Phone: (806) 775 - 2061	E-mail: ocs@mylubbock.us

Lubbock Planning Department
PO Box 2000 / 1314 Avenue K
Lubbock, TX 79457

ZONING CERTIFICATE

Planning and Zoning Information

Gross Sq. Footage of Bldg. or Tenant Space: 1872 Zoning: NC Sales Tax No.: _____

Parking Ratio: 1:300 Spaces Req. 6 Spaces Provided: 33

Separation Information

Is a Church or Hospital located within 300 feet of your establishment (door to door)? ☐ Yes ☒ No

Is a School (Public or Private), day care, or child care facility located within 300 feet of your establishment (property line to property line)? ☒ Yes ☐ No

On-site Beverage consumption

Applicable: ☐ Yes ☒ No

On-Site Beverage map created? ☐ Yes ☒ No

Distance Door to door? _____

Distance from Residential? _____

Z.B.A. Variance: _____ Case No.: _____

Comments: _____

Applicant Signature

I hereby certify that I have read and fully understand the zoning restrictions and ordinances applicable to this property and that all information contained herein is true and correct. I further understand that this certificate is issued subject to all applicable regulations of the City of Lubbock and the violation of any of these regulations may result in my being ordered to cease the violation or vacate the premises, as well as the revocation of this certificate. I understand that if licensed as a restaurant, this certificate only permits me to operate a restaurant with the incidental right to sell alcoholic beverages, and I certify that is my intent and purpose in acquiring this certificate.

Signature: Shahi Alwan Date: 4/25/25

Planning Department Signature

Distance Map Created? ☐ Yes ☐ No

Distance Map Attached? ☐ Yes ☐ No

Alcohol Variance Required? ☐ Yes ☐ No

If so, Resolution No.: _____

I hereby certify that to the best of my knowledge, this request currently complies with all applicable zoning regulations of the City of Lubbock.

Signature: _____ Date: _____

If you have any questions pertaining to the City of Lubbock's Zoning Certificate, please contact:

City of Lubbock Planning Department Phone: (806) 775 - 2108 E-mail: cityplanning@mylubbock.us

City of Lubbock City Secretary's Office Phone: (806) 775 - 2061 E-mail: ocs@mylubbock.us

May 5, 2025

Property owner → Atul R. Shah.
7753 19th St
Lubbock - Tx. 79401.
806-523-8302 / Andy.shah11@gmail.com

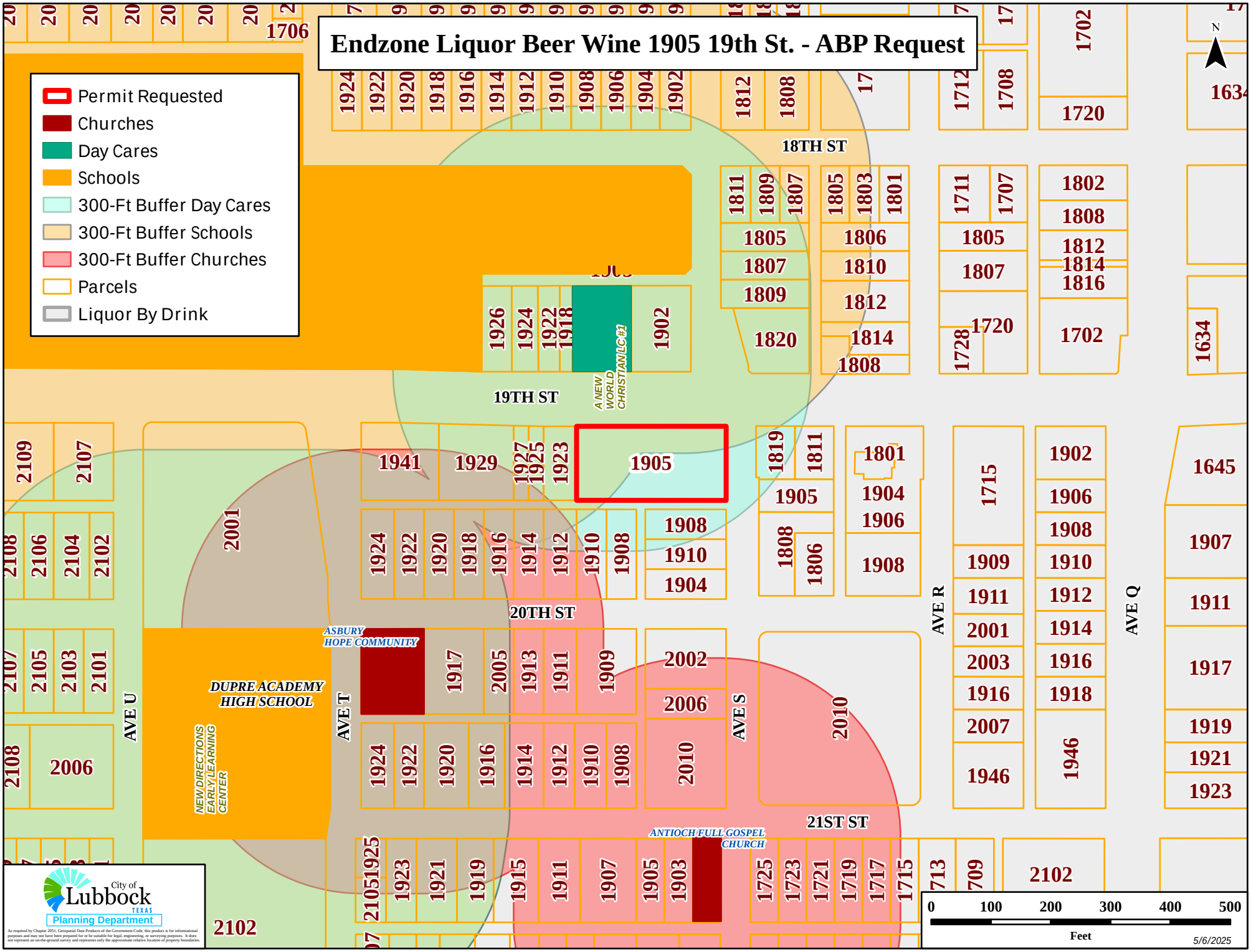
Business owner
Atul R. Shah.
7753 19th St
Lubbock - Tx 79401.
806-523-8302 / Andy.Shah11@gmail.com.

TABC Permits requested at ~~Co. Petegstard~~, (P)
1905 19th St
Lubbock Tx - 79401,

Requesting Package Store Permit (P), for off-premise consumption at 1905 19th Street for Endzone Liquor BEER WINE. THANK You!

Sincerely,

~~Shah A.~~


Endzone Liquor Beer Wine 1905 19th St. - ABP Request
Permit Requested
Churches
Day Cares
Schools
300-Ft Buffer Day Cares
300-Ft Buffer Schools
300-Ft Buffer Churches
Parcels
Liquor By Drink
N
18TH ST
19TH ST
20TH ST
21ST ST
AVE R
AVE Q
AVE U
AVE T
AVE S
A NEW WORLD CHRISTIAN LC #1
ASBURY HOPE COMMUNITY
DUPRE ACADEMY HIGH SCHOOL
NEW DIRECTIONS EARLY LEARNING CENTER
ANTIOCH FULL GOSPEL CHURCH
City of Lubbock TEXAS
Planning Department
0 100 200 300 400 500
Feet
5/6/2025

Document reference ID : 485815

Licensing Application Summary

You must review your application and confirm that the information displayed here is correct. Select **Review and Confirm** to continue and make the payment. If the information is not correct, select **Next** to return to the application, edit the data as needed and finalize the submission. If you need to store the application packet for your records, select **Download**.

Application ID:	485815
Applicant Name:	SAVI LLC
License Type applied for:	Package Store Permit (P)

Entity Information

Business Structure:	Limited liability company
FEIN/SSN Number:	464525822
Historically Underutilized Business:	No
Veteran-owned business:	No
Fraternal Owned:	No

Initial Application Information

Authority Type:	I am an authorized user without binding authority

Principal Parties

Principal Parent Entity	Principal Party	Role	Ownership %	Action
SAVI LLC	ATUL SHAH	Manager and/or Officer, Member, President	100	

Business/Trade Name: SAVI LLC

Business Type Package Store / Liquor Store

Location's Phone Numbers

Business Phone Number 806-523-8302

Alternate Phone Number 806-523-8302

Location Address

Address: 1905 19th St, Lubbock, TX, United States, Lubbock 79401

Is your location within city limits? Yes

Mailing Address Information

Address: 7753 19th St, 7753 19 TH STREET, LUBBOCK, TX, United States, Lubbock 79407

Measurement Information

Is a residential address or established neighborhood association located within 300 feet of any property line of your premises? Yes

Location Additional Information

Is the proposed location in a hotel or motel?	No
Is the business submitting this application as a result of acquiring an existing package store business pursuant to Section 22.041 of the Alcoholic Beverage Code?	No

Do you, the applicant, own the land, building, and/or warehouse at this proposed licensed location?	Yes
Are you operating under?	None

Location Diagram

Will the license or permit embrace the entire location address?	Yes

CERTIFICATE OF CITY SECRETARY FOR: (P, Q, BF & BQ)

Section 11.37 & 61.37

Not later than the 30th day after the date a prospective applicant for a license or permit requests certification, the city secretary or clerk shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the license or permit is sought is prohibited by ordinance.

I hereby certify on this _____ day of _____ , _____ , that the location for which the license/permit is sought is inside the boundaries of this city or town, in a **"wet"** area for such license/permit, and not prohibited by charter or ordinance in reference to the sale of such alcoholic beverages.

- ☐ **BF** The legal sale of malt beverages for off-premise consumption only ☐ ***greater than 5%*** alcohol by volume ***OR*** ☐ 5% or lessalcohol by volume
- ☐ **BF,BQ,Q** The legal sale of malt beverages and wine for off-premise consumption only
- ☐ **BF,BQ,Q,P** The legal sale of allalcoholic beverages for off-premise consumption only

OR

☐ I hereby refuse on this _____ day of _____ , 20_____ to certify this location.

SIGN HERE

_____
City Secretary/Clerk

_____ ,TEXAS
City

SEAL

CERTIFICATE OF COUNTY CLERK FOR: (P, Q , BF & BQ)

Section 11.37 & 61.37

Not later than the 30th day after the date a prospective applicant for a license or permit requests certification, the city secretary or clerk shall certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the license or permit is sought is prohibited by ordinance.

I hereby certify on this _____ day of _____, _____, that the location for which the license/permit is sought is in a **"wet"** and is not prohibited by any valid order of the Commissioner's Court.

☐ **BF** The legal sale of malt beverages for off-premise consumption only ☐ ***greater than 5%*** alcohol by volume ***OR*** ☐ **5% or less**alcohol by volume

☐ **BF,BQ,Q** The legal sale of malt beverages and wine for off-premise consumption only

☐ **BF,BQ,Q,P** The legal sale of allalcoholic beverages for off-premise consumption only

OR

☐ I hereby refuse on this _____ day of _____, 20_____ to certify this location.

SIGN HERE

_____
County Clerk

_____
County

SEAL

COMPTROLLER OF PUBLIC ACCOUNTS CERTIFICATES

I hereby certify on this Atul Shah day of 4/30/25, _____, the applicant holds or has applied for and satisfies all legal requirements for the issuance of a Sales Tax Permit under the Limited Sales, Excise and Use Tax Act or the applicant as of this date is not required to hold a Sales Tax Permit.

Sales Tax Permit Number _____

Outlet Number _____

Print Name of Comptroller Employee _____

Print Title of Comptroller Employee _____

SIGN HERE

_____
Comptroller Representative

_____ ,TEXAS
City

SEAL

PUBLISHER'S AFFIDAVIT	
Name of newspaper	
City, County	
Dates notice published in daily/weekly newspaper (MM/DD/YYYY)	
Publisher or designee certifies attached notice was published in newspaper stated on dates shown	
Signature of publisher or designee	
Sworn to and subscribed before me on this date	
Signature of Notary Public	
SEAL	
ATTACH PRINTED COPY OF THE NOTICE	