



**MEETING AGENDA
City Council
REGULAR SESSION CITY COUNCIL
January 11, 2022**

**HAL BALDWIN MUNICIPAL COMPLEX COUNCIL CHAMBERS
1400 SCHERTZ PARKWAY BUILDING #4
SCHERTZ, TEXAS 78154**

CITY OF SCHERTZ CORE VALUES

Do the right thing

Do the best you can

Treat others the way you want to be treated

Work cooperatively as a team

AGENDA

TUESDAY, JANUARY 11, 2022 at 6:00 p.m.

City Council will hold its regularly scheduled meeting at 6:00 p.m., Tuesday, January 11, 2022, at the City Council Chambers. In lieu of attending the meeting in person, residents will have the opportunity to watch the meeting via live stream on the City's YouTube Channel.

Call to Order

**Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas.
(Councilmember Whittaker)**

City Events and Announcements

- Announcements of upcoming City Events (B. James/C. Kelm/S. Gonzalez)
- Announcements and recognitions by the City Manager (M. Browne)
- Announcements and recognitions by the Mayor (R. Gutierrez)

Hearing of Residents

This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than 3 minutes.

All remarks shall be addressed to the Council as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Council may be requested to leave the meeting.

Discussion by the Council of any item not on the agenda shall be limited to statements of specific factual information given in response to any inquiry, a recitation of existing policy in response to an inquiry, and/or a proposal to place the item on a future agenda. The presiding officer, during the Hearing of Residents portion of the agenda, will call on those persons who have signed up to speak in the order they have registered.

Consent Agenda Items

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

1. **Minutes** – Consideration and/or action regarding the approval of the minutes of the meeting of January 4, 2022. (B. Dennis)
2. **Ordinance No. 22-T-03** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget to provide funding for the purchase of HVAC equipment for the Civic Center HVAC Replacement Project, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. **(Final Reading)** (C. Kelm/S. Williams/S. McClelland)
3. **Resolution No. 22-R-11** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into a job order contract with Sullivan Contracting Services for the purchase of HVAC equipment relating to the Civic Center HVAC Replacement Project. (C. Kelm/S. Williams/S. McClelland)
4. **Resolution No. 22-R-08** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing approval of the Guadalupe Appraisal District (G.A.D.) Facility Parking Lot Expansion. (M. Browne)
5. **Resolution No. 22-R-04** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to reject all proposals received for BID 2021-019 regarding the Mobile/Modular Home for EMS and other matters in connection therewith. (M. Browne/J. Kurz/J. Golke)
6. **Resolution No. 22-R-10** - Consideration and approval of a Resolution by the Schertz City Council approving a Bond Resolution previously adopted by the Board of Directors of the Schertz/Seguin Local Government Corporation authorizing the issuance of obligations designated as “Schertz/Seguin Local Government Corporation Contract Revenue Refunding Bonds, Taxable New Series 2022”; acknowledging that these obligations will be sold pursuant to the provisions of a purchase contract; ratifying, reconfirming, and readopting the provisions of a Regional Water Supply Contract executed between the City of Schertz, Texas, the City of Seguin, Texas, and the Schertz/Seguin Local Government Corporation; authorizing the Mayor, the City Manager, and the City Secretary of the City of Schertz, Texas to execute on behalf of the City of Schertz, Texas all documents in connection with this transaction; and other matters in connection therewith. (C. Kelm/S. Williams/M. McLIney)

7. **Resolution No. 22-R-13** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into an agreement for the purchase of one (1) Modular building and associated equipment. (C. Kelm/J. Mabbitt)
8. **Resolution No. 22-R-12** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the purchase of two generators from Holt Power Systems to be installed at the Nacogdoches and Morning Drive Water Facilities. (C. Kelm/S. Williams/S. McClelland)

Public Hearings

9. **Ordinance No. 22-S-01** - Hold a public hearing, consider and make a recommendation on a request to amend the Comprehensive Land Use Plan by changing approximately 363 acres of the Future Land Use Map from Agricultural Conservation and Estate Neighborhood land use designation to Single-Family Residential land use, generally located 6,050 feet east of the intersection of Trainer Hale Road and FM 1518, also known as Bexar County Property Identification Numbers, 310053, 310060, 310061, and 310121, City of Schertz, Bexar County, Texas. *First Reading* (*B. James/L. Wood/M. Harrison)

Discussion and Action Items

10. **Ordinance No. 22-B-02** - Consideration and approval of an ordinance by the City Council of the City of Schertz, Texas authorizing the issuance of “City of Schertz, Texas, Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2022”; providing for the payment of said certificates by the levy of an ad valorem tax upon all taxable property within the city and further securing said certificates by a lien on and pledge of the pledged revenues of the system; and other matters incident and related thereto. (*First & Final*) (M. Browne/J. Walters/M. McLiney)
11. **Resolution No. 22-R-06** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing expenditures for the purchase of steel poles in advance of the FM 1518 Widening Project. (C. Kelm/S. Williams)
12. **Ordinance No. 22-T-04** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget to upgrade electrical poles, repealing all ordinances or parts of ordinances in conflict with this ordinance; providing an effective date; and declaring an emergency. *First and Final Reading* (M. Browne/C. Kelm/J. Walters)
13. **Resolution No. 22-R-07** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the allocation of the American Rescue Plan Act of 2021 (ARPA) funds for the Schertz Small Business Grant Program. (M. Browne)

Roll Call Vote Confirmation

Workshop

14. Discussion creation of a Housing Finance Corporation or a Public Finance Corporation associated with a proposed multifamily project on approximately 14 acres of land located at 9120 E FM 1518N, approximately 2,500 feet south of the intersection of Lower Seguin Road and FM 1518, also known as Bexar County Property Identification Numbers, 309999 and 309997, City of Schertz, Bexar County, Texas. (M. Browne/B. James)

Closed Session

15. The City Council will meet in closed session under Section 551.074 of the Texas Government Code, Personnel Matters, to conduct the annual evaluation of the City Manager, Dr. Mark Browne.

Reconvene into Regular Session

- 15a. Take any action based on discussions held in closed session under Agenda Item 15.

Roll Call Vote Confirmation

Requests and Announcements

- Announcements by the City Manager.
- Requests by Mayor and Councilmembers for updates or information from staff.
- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda.
- Announcements by Mayor and Councilmembers
 - City and community events attended and to be attended
 - City Council Committee and Liaison Assignments (see assignments below)
 - Continuing education events attended and to be attended
 - Recognition of actions by City employees
 - Recognition of actions by community volunteers

Adjournment

CERTIFICATION

I, BRENDA DENNIS, CITY SECRETARY OF THE CITY OF SCHERTZ, TEXAS, DO HEREBY CERTIFY THAT THE ABOVE AGENDA WAS PREPARED AND POSTED ON THE OFFICIAL BULLETIN BOARDS ON THIS THE 7th DAY OF JANUARY 2022 AT 2:00 P.M., WHICH IS A PLACE READILY ACCESSIBLE TO THE PUBLIC AT ALL TIMES AND THAT SAID NOTICE WAS POSTED IN ACCORDANCE WITH CHAPTER 551, TEXAS GOVERNMENT CODE.

BRENDA DENNIS

I CERTIFY THAT THE ATTACHED NOTICE AND AGENDA OF ITEMS TO BE CONSIDERED BY THE CITY COUNCIL WAS REMOVED BY ME FROM THE OFFICIAL BULLETIN BOARD ON ____DAY OF _____, 2022. TITLE: _____

This facility is accessible in accordance with the Americans with Disabilities Act. Handicapped parking spaces are available. If you require special assistance or have a request for sign interpretative services or other services, please call 210-619-1030.

The City Council for the City of Schertz reserves the right to adjourn into closed session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Open Meetings Act.

Closed Sessions Authorized: This agenda has been reviewed and approved by the City’s legal counsel and the presence of any subject in any Closed Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

COUNCIL COMMITTEE AND LIAISON ASSIGNMENTS

<p>Mayor Gutierrez Audit Committee Investment Advisory Committee Main Street Committee</p>	<p>Councilmember Scagliola – Place 5 Cibolo Valley Local Government Corporation - Alternate Hal Baldwin Scholarship Committee Interview Committee for Boards and Commissions - Alternate Schertz-Seguin Local Government Corporation</p>
<p>Councilmember Davis– Place 1 Interview Committee for Boards and Commissions Main Street Committee - Chair Schertz Housing Authority Board TIRZ II Board</p>	<p>Councilmember Scott – Place 2 Interview Committee for Boards and Commissions Schertz Animal Services Advisory Commission</p>
<p>Councilmember Whittaker – Place 3 Audit Committee TIRZ II Board</p>	<p>Councilmember Dahle – Place 4 Cibolo Valley Local Government Corporation Interview Committee for Boards and Commissions TIRZ II Board</p>
<p>Councilmember Heyward – Place 6 Animal Advisory Commission Audit Committee Investment Advisory Committee Main Street Committee</p>	<p>Councilmember Brown – Place 7 Main Street Committee Schertz-Seguin Local Government Corporation - Alternate</p>

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: City Secretary
Subject: Minutes – Consideration and/or action regarding the approval of the minutes of the meeting of January 4, 2022. (B. Dennis)

BACKGROUND

The City Council held a Regular City Council meeting on January 4, 2022.

RECOMMENDATION

Staff recommends approval of the January 4, 2022 minutes.

Attachments

01-04-2022 Draft minutes

DRAFT

MINUTES
REGULAR MEETING
January 4, 2022

A Regular Meeting was held by the Schertz City Council of the City of Schertz, Texas, on January 4, 2022, at 6:00 p.m. in the Hal Baldwin Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas. The following members present to-wit:

Present: Mayor Ralph Gutierrez; Mayor Pro-Tem Michael Dahle; Councilmember Rosemary Scott; Councilmember Jill Whittaker; Councilmember David Scagliola; Councilmember Allison Heyward; Councilmember Tim Brown

Absent: Councilmember Mark Davis

City Staff: City Manager Dr. Mark Browne; Assistant City Manager Brian James; Assistant City Manager Charles Kelm; City Attorney Daniel Santee; City Secretary Brenda Dennis; Assistant to the City Manager Sarah Gonzalez; Deputy City Secretary Sheila Edmondson

Call to Order

Mayor Gutierrez called the meeting to order at 6:00 p.m.

Opening Prayer and Pledges of Allegiance to the Flags of the United States and State of Texas. (Councilmember Scott)

Councilmember Scott provided the opening prayer followed by the Pledges of Allegiance to the Flags of the United States and the State of Texas.

New Employee Introductions

Mayor Gutierrez stated that the New Employee Introductions have been moved to February 2022.

Presentations

● Citizen Satisfaction Survey. (M. Browne/S. Gonzalez/L. Klepper/D. Christensen)

Mayor Gutierrez recognized Public Affairs Director Linda Klepper who introduced Mr. Jason Morado with ETC Institute, who presented the results from the Citizen Satisfaction Survey. (For a complete copy of the Citizen Satisfaction Survey contact the Public Affairs Office or City Secretary's Office)

Key Findings from the 2021 Citizen Satisfaction Survey:

Purpose:

- To objectively assess resident satisfaction with the delivery of major City services
- To help determine priorities for the community
- To measure trends from previous surveys

- To compare the City's performance with other communities regionally and nationally

Methodology:

- Survey Description: Seven-page survey; included many of the same questions as previous surveys 3rd Community Survey conducted for the City of Schertz
- Method of Administration: By mail and online to randomly selected sample of City residents
- Sample Size: 436 completed surveys; Margin of error: +/- 4.7% at the 95% level of confidence

Satisfaction with City Services Is Much Higher in Schertz Than Other Cities

- Schertz Rates Above the U.S. Average in 41 of 45 Areas
- Satisfaction with the Overall Quality of City Services Is 31% Above the U.S. Average
- Satisfaction with the Customer Service from City Employees Is 28% Above U.S. Average

Top Overall Priorities

- Traffic
- Planning for Rapid Growth
- Road Repair/Maintenance/Expansion
- Enforcing Codes and Ordinances

Major Findings

- Residents Have a Very Positive Perception of the City
- The City is Moving in the Right Direction
- Satisfaction with City Services is Much Higher in Schertz than other Communities
- Identifying the Top Priorities

Councilmember Heyward asked how many of the surveys were sent out, how many surveys were returned via mail vs. how many were completed online. Mr. Morado explained that 3000 surveys were mailed out. He can research how many were returned via mail and how many were online however he did not have that information in front of him. The online survey asks for a physical address when completing the survey, so they can be tracked. Councilmember Heyward asked where the questions originated from and asked if some questions could be asked differently to get clearer responses. Ms. Sarah Gonzalez stated that 90% of the questions came from ETC Institute and approximately the other 10% were custom questions. She stated if there are some specific questions that the City wants to ask, ETC can tailor those questions on the next survey.

Councilmember Scott stated thought this survey was great. Good information and appreciated the breakdown of the data. She asked if next time, if some of the demographic data could be presented in graph form.

Mayor Pro-Tem Dahle thanked the Staff and Management for all their hard work. He encouraged Staff to maintain a relentless dissatisfaction with the status quo and keep looking for ways to improve.

Mayor Gutierrez stated this report is a reflection of the hard work our City Staff has done. The numbers from the survey are quite impressive and the Mayor appreciates and thanked City Staff.

Police Best Practices. (C. Kelm/M. Bane)

Mayor Gutierrez recognized Interim-Chief Marc Bane who provided a presentation on the Police Best Practices.

Chief Bane stated that the last few months, the Schertz Police Department have been reconciling all Department polices in accordance with the Texas Police Chiefs Association-Best Practices Recognition Program.

Policy:

- All policies have been completed
- We are currently reconciling all Department policies against the Best Practices standards
- An audit of our property room will take place on January 10, 2022.

Program Management / Training:

- Best Practices Manager
- Best Practices Manager Training
- Training Corporal

PowerDMS

- All policies have been entered into PowerDMS
- All policies have a test attached
- Reconciled PowerDMS to ensure all policies and procedures were up-to-date
- Each policy is set up for a 2-year review

Application to the Best Practice Program

- We are ahead of schedule and look to apply to the program within the next 60 to 90 days.

Mayor Gutierrez and City Manager Dr. Mark Browne thanked Chief Bane and the Police Dept. for their hard work on this program.

City Events and Announcements

- Announcements of upcoming City Events (B. James/C. Kelm/S. Gonzalez)

Mayor Gutierrez recognized Assistant to the City Manager Sarah Gonzalez who announced upcoming City Events:

Saturday, January 8th

Polar Bear Plunge

Co-sponsored event with the Schertz Family YMCA

10:00 AM – 12:00 PM

Pickrell Pool

\$15 – register online at ymcasatx.org/polarbearplunge or in person at the Schertz Family YMCA

Tuesday, January 11th

Next regular scheduled Council meeting

6:00 PM

Council Chambers

Thursday, January 13th

Northeast Partnership Meeting

Olympia Hills Golf & Conference Center

RSVP to City Secretary Office if attending

- Announcements and recognitions by the City Manager (M. Browne)

City Manager Dr. Mark Browne thanked the Parks Department for the New Year's Eve Masquerade Event. It was a great success.

- Announcements and recognitions by the Mayor (R. Gutierrez)

Mayor Gutierrez thanked the Parks Department for the wonderful New Year's Eve Masquerade Event.

He stated that many who attended said they had great time.

Hearing of Residents

This time is set aside for any person who wishes to address the City Council. Each person should fill out the speaker's register prior to the meeting. Presentations should be limited to no more than 3 minutes.

All remarks shall be addressed to the Council as a body, and not to any individual member thereof. Any person making personal, impertinent, or slanderous remarks while addressing the Council may be requested to leave the meeting.

Mayor Pro Tem Dahle recognized the following residents:

- Mark A. Penshorn, 8320 Trainer Hale Rd. - Mr. Penshorn stated it was a pleasure to be part of the audience during the Citizen Satisfaction Survey and the results are why he moved his dental practice to this area 20 years ago. He also stated the Schertz Magazine received the highest rating in the survey, and he would add his accolades to that. Mr. Penshorn's concern is the proposed change of zoning of approximately 363 acres north of Trainer Hale Rd. from agricultural to single family housing. His family owns several hundred acres approximately 1500 ft. from the edge of that property. Mr. Penshorn explained that over the years, his family was reassured that their agricultural way of life was an asset to the City of Schertz. He asked to be part of the planning process as before, and ask that Council to deny the amendment next week until the Comprehensive Land Use Plan goes into effect after he and fellow stakeholders have an opportunity to talk to Staff.
- Michele Tereletsy, 705 Marilyn Dr.- Ms. Tereletsy asked about a brochure she received in the mail informing her that she received this brochure because she lives near a natural gas, liquid and or crude oil pipeline gathering system operated by Enterprise Products Operating LLC. She wanted to know where the pipeline is that the brochure is referring to.
- Kay Penshorn Vincent, 8310 Trainer Hale Rd.- Ms. Vincent has concerns about the City's disregard to the proposed amendment to the Comprehensive Land Use Plan when the current Master Plan is currently under review by City Staff. She stated the Elected Officials have a profound responsibility to every citizen and business to ensure that due diligence is conducted and actions are made with care and caution in the design of the region. Ms. Penshorn asked will the decision they make next week on the proposed zone change, make sure that Schertz will be an excellent place to live in 10 or 20 years from now? She stated she does not oppose growth, she just wants it done smartly.
- Dana Eldridge, 2628 Gallant Fox Dr.- Mr. Eldridge asked about the water bill with sewer averaging and the water rate increase on November 1, 2021. He is confused on the wording on the water bill explaining both items. Mr. Eldridge stated that he went downtown Main Street today and could not find parking. He asked City Council to address this issue. He also thanked City Council for the work completed on Live Oak Dr.

Consent Agenda Items

The Consent Agenda is considered self-explanatory and will be enacted by the Council with one motion. There will be no separate discussion of these items unless they are removed from the Consent Agenda upon the request of the Mayor or a Councilmember.

Mayor Gutierrez and Mayor Pro-Tem Dahle read the following into record:

1. **Minutes** – Consideration and/or action regarding the approval of the minutes of the meeting of December 14, 2021. (B. Dennis)

2. **Resolution No. 22-R-02** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz approving an eighth amendment to the Interlocal Agreement with the Alamo Area Council of Governments (AACOG) to provide funding in the amount of \$42,666.00 for transit Services in the City of Schertz. (M. Browne/B. James)
3. **Appointments and Resignations to the Various City Boards, Commissions and Committees** - Consideration and/or action approving the appointment of Mr. Jesse Gonzales as an Alternate Member to the Planning and Zoning Commission. (B. Dennis/Council)
4. **Resolution No. 22-R-03** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas accepting the Semi-annual report with respect to the Capital Improvements Plan, and other matters in connection therewith. (C. Kelm/S. Williams).
5. **Resolution No. 22-R-05** Authorizing the City Manager to enter into an agreement for the purchase of one (1) fire apparatus and associated equipment. (C. Kelm/K. Long)
6. **Resolution No. 22-R-09** - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas approving an amendment to the Interlocal Agreement (ILA) between the San Antonio River Authority (SARA) and the City of Schertz. (C. Kelm/S. Williams)

Mayor Gutierrez asked Council if there were any items they wished removed for separate action. As no item were removed, Mayor Gutierrez asked for a motion to approved Consent Agenda Items 1-6.

Moved by Councilmember Allison Heyward, seconded by Mayor Pro-Tem Michael Dahle to approve consent agenda items 1 through 6.

AYE: Mayor Pro-Tem Michael Dahle, Councilmember Rosemary Scott, Councilmember Jill Whittaker, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

Discussion and Action Items

7. **Ordinance No. 22-T-03** - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget to provide funding for the purchase of HVAC equipment for the Civic Center HVAC Replacement Project, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. (**First Reading**) (C. Kelm/S. Williams/S. McClelland)

Mayor Gutierrez read the following into record:

ORDINANCE NO. 22-T-03

**A ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS
AUTHORIZING AN ADJUSTMENT TO THE FISCAL YEAR 2021-2022 BUDGET TO
PROVIDE FUNDING FOR THE PURCHASE OF HVAC EQUIPMENT FOR THE CIVIC
CENTER HVAC REPLACEMENT PROJECT, REPEALING ALL ORDINANCES OR
PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING
AN EFFECTIVE DATE.**

Mayor Gutierrez recognized Assistant Public Works Director Scott McClelland who provided a

presentation on the Budget Adjustment to provide funding for the purchase of HVAC equipment for the Civic Center HVAC Replacement Project. Mr. McClelland provided the following:

-Proposed Project

- Remove existing split system and select ductwork.
- Install new packaged units with variable air volume (VAV) units outside and VAV terminal units inside.
- Design Complete Early February
- Construction Begin Late March
- Construction Completion Early June

-Contract Approvals

- Design (M&S Engineering): \$93,500 (Approved October 26, 2021)
- Equipment Purchase Funding Ordinance: \$250,000 (City Council January 4th and 11th)
- Equipment Purchase Contract (Sullivan Contracting): Approx. \$250,000 (City Council January 11th)
- Full Construction Contract Funding Ordinance: City Council Late February or Early March
- Full Construction Contract (Sullivan Contracting): City Council Late February or Early March

Mayor Gutierrez recognized Councilmember Scagliola who wanted to make sure the funding is coming from the Hotel Occupancy Tax and that we get the best system we can.

Mayor Gutierrez recognized Mayor Pro-Tem Dahle who asked if the \$250,000 is enough to cover the equipment or will they need to be a contingency fund. Mr. McClelland said there would not be a need for a contingency fund.

Moved by Councilmember David Scagliola, seconded by Councilmember Allison Heyward to approve Ordinance No. 21-T-03 on first reading.

AYE: Mayor Pro-Tem Michael Dahle, Councilmember Rosemary Scott, Councilmember Jill Whittaker, Councilmember David Scagliola, Councilmember Allison Heyward, Councilmember Tim Brown

Passed

Roll Call Vote Confirmation

Mayor Gutierrez recognized City Secretary Brenda Dennis who provided the roll call confirmation for Items 1-7.

Closed Session

Mayor Gutierrez read the following closed session item into record:

8. City Council will meet in closed session under Section 551.087 of the Texas Government Code, Deliberation Regarding Economic Development Negotiations; Closed Meeting. The governmental body is not required to conduct an open meeting (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect. - Project E-079

Mayor Gutierrez recessed the meeting into Closed Session at 7:18 pm.

Reconvene into Regular Session

Mayor Gutierrez reconvened back into regular session at 8:05 pm.

- 8a.** Take any action based on discussion held in Closed Session under agenda Item 8.
No action was taken.

Roll Call Vote Confirmation

No roll call confirmation as no action was taken on Item #8.

Requests and Announcements

- Announcements by the City Manager.

No further announcements.

- Requests by Mayor and Councilmembers for updates or information from staff.

Mayor Gutierrez recognized Councilmember Heyward who stated she would like to have the Onboard Date added to the Employee Separation Notices as well as the exit interviews from the employee. City Manager Dr. Browne will provide additional information to Councilmember Heyward pertaining to her requests.

- Requests by Mayor and Councilmembers that items or presentations be placed on a future City Council agenda.

No items were requested.

- Announcements by Mayor and Councilmembers

Mayor Gutierrez recognized the following:

Mayor Pro-Tem Dahle who stated he attended the New Year's Eve event.

Councilmember Scott who stated she attended the New Year's Event.

Councilmember Scagliola who stated he attended the New Year's Event.

Councilmember Heyward who stated she attended the New Year's Event.

Adjournment

Mayor Gutierrez adjourned the meeting at 8:09 pm.

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, Deputy City Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: City Secretary
Subject: Ordinance No. 22-T-03 - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz, Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget to provide funding for the purchase of HVAC equipment for the Civic Center HVAC Replacement Project, repealing all ordinances or parts of ordinances in conflict with this ordinance; and providing an effective date. (*Final Reading*) (C. Kelm/S. Williams/S. McClelland)

BACKGROUND

The Schertz Civic Center has been providing rental space for the community since 2006. Recently, the HVAC system in the facility is experiencing outages, performance and reliability issues. In addition to having the City's on-staff HVAC Technician diagnose the ongoing issues, the City also entered into a task order with M&S Engineering (one of the City's on-call engineering firms) to do a full redesign of the facility's HVAC system.

The new system being proposed for the Civic Center is a system that is more conventional for a facility of this size. New package units will be installed on-grade on the exterior of the building. The variable air volume (VAV) units will be distributed to each zone within the facility by VAV terminal units. A large portion of the existing duct work will be able to remain in place allowing for less disruption within the facility during construction.

Due to long lead times, City Staff is recommending ordering the HVAC equipment prior to the final design being completed. This will shorten the overall construction schedule which will minimize the impacts on the Civic Center operations. This ordinance allocates funds from the Hotel Occupancy Tax reserves in order to fund the purchase of the HVAC equipment for the project.

A separate resolution will be brought to City Council authorizing the agreement for the purchase of the HVAC equipment.

City Council approved this item on first reading at their meeting of January 4, 2022.

GOAL

The goal of this ordinance is to amend the fiscal year 2021-2022 budget to provide funding for the purchase of HVAC equipment for the Civic Center.

COMMUNITY BENEFIT

Replacing the existing HVAC system will allow the Civic Center to continue to provide high-end event rental space to the community.

SUMMARY OF RECOMMENDED ACTION

Staff recommends that the City Council approve Ordinance 22-T-03 on final reading authorizing the budget adjustment to allow for the purchase of new HVAC equipment.

FISCAL IMPACT

Funding for the equipment procurement and construction of the project will be paid for using existing Hotel Occupancy Tax Funds which are permitted to be used on Capital Improvements at the Civic Center.

RECOMMENDATION

Staff recommends that the City Council approve Ordinance 22-T-03 on final reading authorizing the budget adjustment to allow for the purchase of new HVAC equipment.

Attachments

22-T-03

ORDINANCE NO. 22-T-03

A ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN ADJUSTMENT TO THE FISCAL YEAR 2021-2022 BUDGET TO PROVIDE FUNDING FOR THE PURCHASE OF HVAC EQUIPMENT FOR THE CIVIC CENTER HVAC REPLACEMENT PROJECT, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Ordinance 21-T-38, the City Council of Schertz, Texas, (the “City”) adopted the budget for the City for the fiscal year 2021-2022 (the “Budget”), which provides funding for the City’s operations throughout the 2021-2022 fiscal year; and

WHEREAS, the City needs to authorize a budget amount of \$250,000 for the purpose of purchasing HVAC equipment related to the Civic Center HVAC Replacement Project; and

WHEREAS, City Staff recommends that the City Council of the City adjust the Budget and approve the ordinance; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the City to adjust the Budget and approve the budget transfer for the Civic Center HVAC Replacement Project, as more fully set forth in this Ordinance; and

WHEREAS, the City has identified a need to replace the existing HVAC system at the Civic Center; and

WHEREAS, the City has Hotel Occupancy Tax Funds available to be used on Capital Projects at the Civic Center; and

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City shall transfer a budget of \$250,000 from the Hotel Occupancy Tax Fund to the Civic Center HVAC Replacement Project.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All ordinances, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Ordinance shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED on first reading, this 4th day of January, 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: Public Works
Subject: Resolution No. 22-R-11 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into a job order contract with Sullivan Contracting Services for the purchase of HVAC equipment relating to the Civic Center HVAC Replacement Project. (C. Kelm/S. Williams/S. McClelland)

BACKGROUND

The Schertz Civic Center has been providing rental space for the community since 2006. Recently, the HVAC system in the facility is experiencing outages and performance and reliability issues. In addition to having the City's on-staff HVAC Technician diagnose the ongoing issues, the City also entered into a task order with M&S Engineering (one of the City's on-call engineering firms) to do a full redesign of the facility's HVAC system.

The new system being proposed for the Civic Center is a system that is more conventional for a facility of this size. New package units will be installed on-grade on the exterior of the building. The variable air volume (VAV) units will be distributed to each zone within the facility by VAV terminal units. A large portion of the existing duct work will be able to remain in place allowing for less disruption within the facility during construction.

City Staff is recommending awarding the equipment procurement and construction contracts to Sullivan Contracting through a job order contract. Sullivan has a Job Order Contract agreement with the Choice Partners Group Purchasing Cooperative ("CP"). CP completed a Request for Proposals for Job Order Contracts in February 2018. A total of 571 vendors were invited to participate in the procurement process. Twenty-five responses were received and evaluated by a three member evaluation team. Evaluations were done on the basis of Price, Vendor's experience and reputation, Quality of products/services, Compliance with local, state, and federal law, safety record, financial capability, marking plan, and value add products/services. The program intended to award to all vendors scoring an overall score of 70 or better to allow for a variety of specialties including roofing, fencing, interior/exterior construction, and HVAC. A total of 15 vendors were awarded under this procurement. Sullivan comes highly recommended by M&S Engineering, the Design Engineer for this project, based on Sullivan's work for Comal County, the City of New Braunfels, and the City of Seguin.

By contracting with Sullivan via the Choice Partners Group Purchasing Cooperative, the City will save significant time and resources on this project. City Staff is recommending awarding the project in two phases. The first phase, being awarded with this resolution, will be to order the HVAC equipment for the project prior to the design being completed. Phase two will award the construction phase of the project, which will be awarded after the design is completed. By awarding the project in two phases, City Staff anticipates being able to cut the construction schedule by 6 weeks due to current equipment lead times.

GOAL

The goal of this resolution is to award a job order contract to Sullivan Contracting for the purchase of HVAC equipment for the Civic Center.

COMMUNITY BENEFIT

Replacing the existing HVAC system will allow the Civic Center to continue to provide high-end event rental space to the community. By contracting with Sullivan via the Choice Partners Group Purchasing Cooperative, the City will save significant time and resources on this project.

SUMMARY OF RECOMMENDED ACTION

Staff recommends that the City Council approve Resolution 22-R-11 to allow for the purchase of new HVAC equipment for the Civic Center.

FISCAL IMPACT

Funding for the equipment procurement and construction of the project will be paid for using existing Hotel Occupancy Tax Funds which are permitted to be used on Capital Improvements at the Civic Center and will not exceed \$250,000.

RECOMMENDATION

Staff recommends that the City Council approve Resolution 22-R-11 to allow for the purchase of new HVAC equipment for the Civic Center.

Attachments

22-R-11

Schertz Civic Center HVAC Replacement - CP - REVISED 1.5.22 - Proposal

Sullivan JOC - Choice Partners Contract

05_18-029JN JOC IDIQ_Eval Summary

06_18-029JN JOC IDIQ_Bid Tabulation

RESOLUTION NO. 22-R-11

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOB ORDER CONTRACT WITH SULLIVAN CONTRACTING SERVICES FOR THE PURCHASE OF HVAC EQUIPMENT RELATING TO THE CIVIC CENTER HVAC REPLACEMENT PROJECT

WHEREAS, the City of Schertz (the “City”) has a need to replace the entire HVAC system at the Civic Center; and

WHEREAS, Sullivan Contracting Services has a Job Order Contract agreement with the Choice Partners Group Purchasing Cooperative; and

WHEREAS, the City is a member of Choice Partners and has confirmed that their procurement methods align with the City’s requirements; and

WHEREAS, the City has dedicated Hotel Occupancy Tax funds for the completion of this project.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to execute and deliver an agreement in compliance with Choice Partners standards with Sullivan Contracting Services for the purchase of HVAC equipment for an amount not to exceed \$250,000.00 based on the attached proposal.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of January, 2022

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)



PROPOSAL

The Pounds Group LLC dba Sullivan Contracting Services

Choice Partners Contract #: 21/039MR-14

Send to: City of Schertz
10 Commercial Place, Bldg. 2
Schertz, TX 78154

Phone: 210.619.1809
Job # : 621229
Email: smcclelland@schertz.com

1/5/2022

Attn: Scott McClelland

Job Name: Schertz Civic Center HVAC Replacement - CP

Job Description

- Pricing below reflects the equipment only for HVAC per schedules and specifications designated on sheets M401, M501, & M701.

Equipment is as follows:

- (3) Package Units (3) EA. @ \$46,261.33 \$138,784.00
- (1) DOAS-1 \$68,572.85
- (13) VAVs (13) EA. @ \$2,052.92 \$26,688.00

Current Lead Times for equipment:

- PKG Units - 13 to 15 weeks
- DOAS – 1 - 16 to 18 weeks
- VAV Boxes - 8 to 10 weeks

****Pricing below includes Performance and Payments Bonds****

Exclude: After Hours, Structural Design/Fees, Electrical, HVAC, Plumbing, Fire Sprinkler/Alarm, Permitting, Testing, any items not listed above.

Price excludes any owner mandated COVID-19 Testing, Procedures, and/or changes to normal work practices not covered above.

Due to current volatility in the market, proposal has potential to only be guaranteed for 15 days


CostWorks Base	\$246,363.00
95% Coeff	\$234,044.85
Owner Contingency	\$0.00
Sub Total	\$234,044.85
Bond	\$4,680.90
PROJECT TOTAL	\$238,725.75 <i>Plus applicable sales tax</i>

Respectfully submitted,
Kyle Baker

EXECUTION OF OFFER

The undersigned Proposer has carefully examined all instructions, requirements, specifications, terms and conditions of this RFP and the Agreement and certifies:

1. It is a reputable company regularly engaged in providing goods and/or services necessary to meet the requirements, specifications, terms and conditions of the RFP and the Agreement.
2. It has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the requirements, specifications, terms and conditions of the RFP and the Agreement. Further, if awarded, the Proposer agrees to perform the requirements, specifications, terms and conditions of the RFP and the Agreement.
3. All statements, information, and representations prepared and submitted in response to this RFP are current, complete, true, and accurate. Proposer acknowledges that HCDE will rely on such statements, information, and representations in selecting the successful Proposer(s).
4. It is not currently barred or suspended from doing business with the Federal government, any of the members represented, or any of their respective agencies.
5. It shall be bound by all statements, representations, warranties, and guarantees made in its proposal.
6. Submission of a proposal indicates the Proposer's acceptance of the evaluation technique and the Proposer's recognition that some subjective judgments may be made by HCDE and its membership as part of the evaluation.
7. That all of the requirements of this RFP and the Agreement have been read and understood. In addition, compliance with all requirements, terms and conditions will be assumed by HCDE if not otherwise noted in the proposal.
8. The individual signing below has authority to enter into this on behalf of Proposer.
9. Proposer acknowledges that the Agreement may be canceled if any conflict of interest or appearance of a conflict of interest is discovered by HCDE.
10. This Agreement is subject to purchase orders duly authorized and executed by HCDE.

CORPORATE NAME:	The Pounds Group LLC dba Sullivan Contracting Services		
AUTHORIZED SIGNATURE:			
PRINT NAME:	Cody Hallmark		
TITLE:	Operations Manager		
DATE:	1/10/2018		
ADDRESS:	2299 Rudeloff Rd E		
CITY, STATE, ZIP CODE:	Seguin, TX 78155		
PHONE:	(830)372-3812	FAX:	(830)401-5888
EMAIL ADDRESS:	cody@scs-tx.com		
WEBSITE URL	www.scs-tx.com		

This Section to be Completed by HCDE

Contract Number: 18/029JN-13 Term of contract: 02/28/2018 to 02/27/2020

Vendor shall honor all CPC Administrative Fees for any sales resulting from this Contract whether Vendor is awarded a renewal or not.

Approved by Harris County Department of Education:



 Jesus J. Amezcua, PhD, CPA, RSTBA
 Assistant Superintendent for Business Services



 Board Approval Date

5.0 CONTRACT TERMS AND CONDITIONS

These Contract Terms and Conditions are part of the final contract in each product and/or service contract awarded as a result of this CSP and are part of the terms and conditions of each Purchase Order, Job Order, or proposal forms issued in connection with this CSP. Vendors are responsible for identifying any exceptions to these terms and conditions. **ANY EXCEPTIONS MUST BE NOTED DIRECTLY BELOW EACH OF THE RESPECTIVE TERMS AND CONDITIONS.** Proposals that are qualified with conditional clauses, items not called for, or other irregularities may be considered non-responsive by HCDE/CP and eliminated from further consideration.

**CONTRACT BETWEEN
HARRIS COUNTY DEPARTMENT OF EDUCATION AND
Pounds Group, LLC dba Sullivan Contracting Services
FOR
JOB ORDER CONTRACTING, IDIQ PUBLIC WORK,
MINOR CONSTRUCTION, MAINTENANCE, AND RENOVATION WORK**

This Contract is entered into between HCDE/CP and Vendor, having submitted a proposal in response to this CSP issued by HCDE/CP and whose proposal has been accepted and awarded by HCDE. In consideration of the mutual covenants and conditions contained in this Contract and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, HCDE/CP and Vendor, intending to be legally bound, and subject to the terms, conditions, and provisions of this Contract, agree as follows:

5.1. Definitions

The terms used in this Contract shall have the meanings assigned to them in **Section 1.0 Notice of Intent** of the CSP.

5.2. Use of Contract by CP members

Vendor agrees and understands that this CSP and Contract may be used to accomplish work for HCDE/CP, a local governmental entity. Vendor further agrees and understands that this CSP and Contract may also be utilized by CP members pursuant to the piggyback method, as contemplated in the U.S. Department of Agriculture Memorandum SP 35-2012, *Procuring Services of Purchasing Cooperatives, Group Purchasing Organizations, Group Buying Organizations, etc.* ("SP 35-2012). Vendor agrees and understands that CP members include "school food authorities," as that term is used in SP 35-2012.

5.3. Contract Terms; Amendment

The terms and conditions of this Contract shall govern all procurements conducted hereunder. No pre-published terms on Vendor's Purchase Order, acknowledgments, invoices, or other forms shall have any force or effect unless expressly agreed to by the CP member and Vendor. No amendment of this Contract shall be permitted unless and until first approved in writing by HCDE/CP and, if necessary, the CP member(s), and no such amendment shall have any effect unless and until a written amendment to this Contract is executed by the HCDE Superintendent or his designee after any necessary approvals have been obtained from the HCDE Board of Trustees. In the event that a Vendor has an existing HCDE/CP contract in the same contract title, upon award, the new contract will immediately supersede the older contract, if applicable.

5.4. Term of Contract; Renewal of Contract

The initial term of this Contract is for a period of two (2) years, with HCDE/CP having the option to renew the Contract for three (3) additional one-year terms, at HCDE's sole discretion, unless otherwise specified in **Section 6.0 Scope of Proposal**. Consequently, the total term of the Contract may be for a period of **five (5)** years. The phrase "Term" in this Contract shall mean the then-current Term of the Contract, whether an initial term or a renewal term.

5.5. Termination of Contract; Survival

This Contract shall remain in effect until (1) the Contract expires by its terms or (2) the Contract is terminated by mutual consent of HCDE/CP and Vendor. All Supplemental Contracts, purchase orders, and/or orders for goods or services issued by HCDE and/or CP members and accepted by Vendor shall survive the expiration or

termination of this Contract. During the term of any Supplemental Contract entered into between Vendor and a CP member, all terms of this Contract shall continue to apply to the Supplemental Contract.

In the event of a breach or default of the Contract and/or the CSP by Vendor, HCDE/CP reserves the right to enforce the performance of the Contract in any manner prescribed by law or deemed to be in the best interest of HCDE/CP and/or CP members. HCDE/CP further reserves the right to terminate the Contract immediately in the event Vendor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the CSP, this Contract, and/or a Purchase Order; (2) make any payments owed; or (3) otherwise perform in accordance with this Contract and/or the CSP. HCDE/CP also reserves the right to terminate the Contract immediately, with written notice to Vendor, if HCDE/CP believes, in its sole discretion that it is in the best interest of HCDE/CP and/or CP members to do so.

In the event that a material change to the terms of the Contract occurs, then the Contract shall be allowed to expire and shall not be renewed upon the conclusion of the Contract's term. The phrase "material change" in this paragraph shall mean a modification that substantially exceeds the terms of the original contract between HCDE/CP and Vendor. Upon the expiration of the Contract's term, HCDE/CP may issue a new CSP for the goods or services procured under the previous contract.

Vendor agrees that HCDE/CP shall not be liable for damages in the event that HCDE/CP declares Vendor to be in default or breach of this Contract and/or the CSP. Vendor further agrees that upon termination of the Contract for any reason, Vendor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and/or Vendor.

5.6. **Buy America Act; Prevailing Wage Rates**

Buy American Act

The Buy American Act, set forth in 7 C.F.R. Part 210.21(d), requires that participants in the National School Lunch Program and School Breakfast Program use the federal nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products. 7 CFR Part 210.21(d) defines a "domestic commodity or product" as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. "Substantially" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

Because many HCDE/CP members participate in the National School Lunch Program and School Breakfast Program, HCDE/CP requires Vendor to certify whether its products are "domestic commodities or products", as defined by 7 C.F.R. Part 210.21(d). Accordingly, Vendor agrees to provide certification of the domestic content in the parts, components, and other elements contained in the product, including specific information about the percentage of U.S. content from the supplier (i.e., manufacturer or distributor).

Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved by the CP member, upon request. To be considered for an exception to the Buy American provision, Vendor may submit a good faith request for an exception, certifying that Vendor reasonably believes that:

- (a) the product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; and/or
- (b) the costs of a U.S. product are significantly higher than the non-domestic product.

In the event Vendor or Vendor's supplier(s) are unable or unwilling to certify compliance with the Buy American Provision, or the applicability of an exception to the Buy American provision, HCDE/CP members may decide not to purchase from Vendor.

Additionally, HCDE/CP members may require country of origin on all products and invoices submitted for payment by Vendor, and Vendor agrees to comply with any such requirement.

Prevailing Wage Rates

Vendor and all subcontractors of Vendor shall comply with all laws regarding prevailing wage rates, including, but not limited to, TEX. GOV'T. CODE Chapter 2258, applicable to the construction of a public work, and any

related federal requirements, including the DAVIS-BACON ACT. In the event TEX. GOV'T. CODE Chapter 2258 applies to a product or service provided by Vendor to HCDE/CP or a CP member, Vendor and any subcontractor(s) shall comply with the prevailing wage rates set by HCDE/CP or the CP member.

5.7. **Change Orders**

Pursuant to TEX. EDUC. CODE § 44.0411(a), for HCDE/CP and CP members that are Texas school districts, if a change in plans or specifications is necessary after the performance of a Purchase Order or Job Order has begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the CP member may approve change orders making the changes. The total Purchase Order or Job Order price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants. The CP member may grant general authority to an administrative official to approve the change orders. A Purchase Order or Job Order with an original contract price of \$1 million or more may not be increased under TEX. EDUC. CODE § 44.0411(a) by more than 25 percent. If a change order for a Purchase Order or Job Order with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

5.8. **Compliance with Laws**

Vendor shall comply with all applicable federal, state, and local laws, statutes, ordinances, standards, orders, rules, and regulations, including, as applicable, workers' compensation laws; minimum and maximum salary and wage statutes and regulations; prompt payment and licensing laws and regulations; anti-discrimination statutes and regulations (Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 C.F.R. Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement—Nutrition Programs and Activities); the Davis-Bacon Act (40 U.S.C. § 276a / 29 CFR Part 5); the Copeland "Anti-Kickback" Act (18 U.S.C. § 874 / 29 CFR Part 5); the Equal Opportunity Employment requirements (Executive Orders 11246 and 11375 / 41 CFR Chapter 60); the McNamara-O'Hara Service Contract Act (41 U.S.C. 351); Section 306 of the Clean Air Act (42 U.S.C. § 1857h); Section 508 of the Clean Water Act (33 U.S.C. § 1368); Executive Order 11738, Environmental Protection Agency regulations (40 CFR Part 15); the Contract Work Hours and Safety Act (40 U.S.C. § 3701-3708; 29 C.F.R. Part 5); the Solid Waste Disposal Act (Section 6002 as amended by the Resource Conservation and Recovery Act for procuring solid waste management services in a manner that maximizes energy and resource recovery when contract amount is in excess of \$10,000); the Education Department General Administrative Regulations ("EDGAR") (2 C.F.R. Part 200); mandatory standards and policies contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871); and all applicable requirements and regulations, including those related to reporting, patent rights, copyrights, data rights, and those mandated by federal agencies making awards of federal funds to HCDE/CP and/or CP members. Vendor understands that Vendor is ineligible to receive a contract award with HCDE/CP if Vendor or its principal(s) is listed on the government wide exclusions in the System for Award Management (Debarment and Suspension Orders Executive Orders 12549 and 12689) or is 30 days or more delinquent in paying child support (Tex. Fam. Code § 231.006). For the entire duration of this Contract, Vendor and all subcontractors shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. All permits will be acquired by Vendor and invoiced to the CP member at cost as part of the Purchase Order, unless the permits are provided by the CP member. For the entire duration of this Contract, Vendor and all subcontractors shall also comply with all requirements pertaining to local, state, or federal health and safety certifications, licensing, or regulations. Vendor must comply with all state and local building code requirements unless otherwise specifically provided in the CP member's Purchase Order, and Vendor must pay all fees and charges for connections to outside services and for use of property outside the project site. The states of individual CP members may have regulations and laws that govern payment retention and progress payments for public projects. Vendor is responsible for being acquainted with and complying with each state's requirements. When required or requested by HCDE/CP or a CP member, Vendor shall furnish HCDE/CP and/or the CP member with satisfactory proof of Vendor's compliance with this provision.

5.9. **Confidentiality**

Vendor and HCDE/CP agree to secure the confidentiality of all information and records in accordance with applicable federal and state laws, rules, and regulations. Vendor and HCDE/CP understand that the Family

Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, governs the privacy and security of educational records and information and agree to abide by FERPA rules and regulations, as applicable. Vendor also acknowledges that HCDE/CP and numerous CP members are subject to the Texas Public Information Act, and Vendor waives any claim against and releases from liability HCDE/CP and CP members, their respective officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by Vendor, HCDE, or a CP member and determined by HCDE/CP or the CP member, the Attorney General of Texas, or a court of law to be subject to disclosure under the Texas Public Information Act.

5.10. **Performance and Payment Bonds**

Vendor agrees to provide performance bonds and/or payment bonds as required by law, based on the amount or estimated amount of any Purchase Order or Job Order for a public work contract, which is defined as a contract for constructing, altering, or repairing a public building or carrying out or completing any public work. TEX. GOV'T. CODE §§ 2253.001(4); 22269.411. Pursuant to TEX. GOV'T. CODE § 2253.021, a performance bond is required if a Purchase Order is in excess of \$100,000 for CP members that are governmental entities subject to Chapter 2253; a payment bond is required if a Purchase Order or Job Order is in excess of \$25,000 for CP members that are governmental entities subject to Chapter 2253 and are not municipalities or a joint board created under Subchapter D, Chapter 22 of the Tex. Transp. Code, and a payment bond is required if a Purchase Order or Job Order is in excess of \$50,000 for CP members that are governmental entities subject to Chapter 2253 and are municipalities or a joint board created under Subchapter D, Chapter 22 of the TEX. TRANSP. CODE. Additionally, Vendor shall provide all bonds, including bid guarantee, performance bond, and payment bond, as applicable under U.S. Department of Agriculture and/or Texas Department of Agriculture rules.

5.11. **Title and Risk of Loss**

Whenever HCDE/CP or a CP member is purchasing (and not leasing) a product under this Contract, title and risk of loss shall pass upon the later of HCDE/CP or the CP member's acceptance of the product or payment of the applicable invoice.

5.12. **Warranty Conditions**

All product(s) and/or service(s) provided by the Vendor under this Contract must be warranted to be free from defects in material, workmanship, and free from such defects in design for a period of one (1) year upon the later of HCDE's or the CP member's acceptance of the product and/or service or payment of the applicable invoice. Vendor warrants that all products and/or services furnished under this Contract shall conform in all respects to the terms of this Contract, including any drawings, specifications, and/or standards incorporated herein, including, without limitation, those detailed in the CSP and Purchase Order. In addition, Vendor warrants that products and/or services are suitable for and will perform in accordance with the purposes for which they are intended. Vendor shall assume all liabilities incurred within the scope of consequential damages and incidental expenses, as set forth in the Vendor or manufacturer's warranty, which result from either delivery or use of product, which does not meet the specifications within this Contract, the CSP, or Purchase Order.

5.13. **Criminal History Review**

Section 10.0 Attachment–SB 9 Contractor Certification: Contractor Employees (Required) and Attachment–SB 9 Contractor Certification: Subcontractor Form (If Applicable) must be submitted with packet, if applicable.

Prior to commencing any work under the Contract, if Vendor contracts with HCDE/CP to provide services, Vendor must certify, on the form provided herein, that for each covered employee of Vendor who will have direct contact with students, Vendor has obtained, as required by TEX. EDUC. CODE Section 22.0834: (a) state criminal history record information from a law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.) for each covered employee of Vendor employed before January 1, 2008; and (b) national criminal history record information for each employee of Vendor employed on or after January 1, 2008. Vendor must also obtain similar certifications of compliance with TEX. EDUC. CODE, Chapter 22 requirements from any subcontractors on the form provided herein. Covered employees with disqualifying criminal history are prohibited from serving at HCDE/CP or at CP school district members' locations; Vendor and any subcontracting entity may not permit a covered employee to provide services at a school if the employee has been convicted of a felony or misdemeanor

offense that would prevent a person from being employed under TEX. EDUC. CODE § 22.085(a) (i.e., Title 5 felony or an offense requiring registration as a sex offender and victim was under 18 years of age or was enrolled in a public school at the time the offense occurred). Covered employees do not include employees of a contracting or subcontracting entity that is providing engineering, architectural, or construction services on a project to design, construct, alter, or repair a public work if: (1) the public work does not involve the construction, alteration, or repair of an instructional facility as defined by Texas Education Code Section 46.001; (2) the employee's duties will be completed more than seven (7) days before a new instructional facility will be used for instruction; or (3) for an existing instructional facility, the work area contains sanitary facilities separated from all areas used by students by a fence at least six (6) feet high, and the Contractor adopts, informs employees of, and enforces a policy prohibiting employees and any subcontractor's employees from interacting with students or entering areas used by students. Tex. Educ. Code §§ 22.0834(a-1), .08341. The criminal history record information review obligation applies only if Vendor contracts with HCDE/CP to provide services; it does not apply to a contract for the purchase of goods, products or real estate.

5.14. **Customer Support**

Vendor shall provide timely and accurate technical advice and sales support to HCDE/CP staff, and CP members. Vendor shall respond to requests for customer support within one (1) business day after receipt of the request. Vendor shall provide training to HCDE/CP staff and/or CP members regarding products and/or services supplied by Vendor, at no additional charge, if requested by HCDE/CP or a CP member.

5.15. **HCDE/CP and/or CP members' Property**

In the event of loss, damage, or destruction of any property owned by or loaned by HCDE/CP or a CP member that is caused by Vendor or Vendor's representative, agent, employee, or contractor, Vendor shall indemnify HCDE/CP or the CP member and pay to HCDE/CP or the CP member the full value of or the full cost of repair or replacement of such property, whichever is greater, within thirty (30) days of Vendor's receipt of written notice of HCDE's or the CP member's determination of the amount due. If Vendor fails to make timely payment, HCDE/CP or the CP member may obtain such money from Vendor by any means permitted by law, including, without limitation, offset or counterclaim against any money otherwise due to Vendor by HCDE/CP or the CP member.

5.16. **Tax Exempt Status**

HCDE/CP and all CP members that are Texas governmental entities or agencies are exempt from payment of Texas State Sales Taxes under TEXAS TAX CODE § 151.310 for the purchase of tangible personal property. Laws of other states govern the tax status of CP members in states other than Texas. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, without limitation, any federal, state, or local income, sales or excise taxes of Vendor or its employees. HCDE/CP and CP members shall not be liable for any taxes resulting from this Contract, except where otherwise required by law.

5.17. **Other State Tax Requirements**

5.17.1. Payment of Taxes by CP members Outside of Texas – CP members outside of Texas will pay only the rate and/or amount of taxes identified in Vendor's proposal submitted in response to the CSP as appropriate to the specific CP member.

5.17.2. State and Local Transaction Privilege Taxes – The CP member is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sales of products and are the sole responsibility of Vendor, as the seller, to remit. Failure to remit taxes from HCDE/CP and/or the CP member, as the buyer, does not relieve Vendor, as the seller, from its obligation to remit taxes.

5.18. **State of Texas Franchise Tax**

By submitting a proposal in response to the CSP, Vendor certifies that Vendor is not currently delinquent in Vendor's payment of any franchise taxes or other taxes owed to the State of Texas.

5.19. **Tax Responsibilities of Vendor and Indemnification for Taxes**

Vendor is responsible for complying with the tax laws of states and the federal government. Vendor and all subcontractor(s) of Vendor shall pay all federal, state, and local taxes applicable to Vendor's operation, any

persons employed by Vendor, and all subcontractors of Vendor. Vendor shall require all subcontractors to hold HCDE/CP and the CP member harmless from any responsibility for taxes, damages, and interest. If applicable, contributions required under federal, state, and/or local laws and regulations and any other costs, including, but not limited to, transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation, shall be the sole responsibility of Vendor.

5.20. **IRS W-9**

To receive payment under this Contract, Vendor shall have a current I.R.S. W-9 Form on file with the CP member.

5.21. **Assignment of Contract**

Vendor may not assign this Contract or any of its rights, duties or obligations hereunder without the prior written approval of HCDE. Any attempted assignment of this Contract by Vendor shall be null and void. Any Purchase Order or Job Order made as a result of this Contract may not be transferred, assigned, subcontracted, mortgaged, pledged, or otherwise disposed of or encumbered in any way by Vendor without the prior written approval of HCDE/CP and, if applicable, the CP member.

5.22. **Notification of Material Change**

Vendor is required to notify HCDE/CP when any material change in operations occurs, including changes in distribution rights for awarded products, bankruptcy, material changes in financial condition, change of ownership, and the like, within three (3) business days of such change.

5.23. **Performance**

Vendor agrees to use commercially reasonable best efforts to provide the product(s) and/or service(s) subject to this Contract. Vendor shall furnish all supervision, labor, tools, equipment, permits, licenses, transportation, insurance, material, and supplies necessary to complete any scope of work, Purchase Order, or Job Order under this Contract. Vendor shall use skilled, trained personnel, who shall be supervised by Vendor.

5.24. **Subcontractors**

If Vendor uses subcontractors in the performance of any part of this Contract, Vendor shall be fully responsible to HCDE/CP and CP members for all acts and omissions of the subcontractors. Nothing in this Contract shall create for the benefit of any such subcontractor any contractual relationship between HCDE/CP and any such subcontractor, nor shall it create any obligation on the part of HCDE/CP or CP members to pay or to see to the payment of any monies due any such subcontractor except as may otherwise be required by law. Vendor represents and warrants that it is willing, able, and capable of obtaining, supervising, and being responsible for any subcontractors who perform and/or provide products and services related to this Contract.

If Vendor uses subcontractors in the performance of any Purchase Order or Job Order issued as a result of a Job Order Contract awarded via this procurement solicitation, subcontractors must issue their Job Order Quotes using the same pricing method(s) outlined in the procurement solicitation and according to Texas Government Code Chapter 22269, Subchapter I, Job Order Contracts Method.

5.25. **Non-Appropriation**

Renewal of this Contract, if any, will be in accordance with TEX. LOCAL GOV'T. CODE § 271.903 concerning non-appropriation of funds for multi-year contracts. Notwithstanding any other provision of this Contract or obligation imposed on HCDE/CP or any CP member by this Contract, HCDE/CP and CP members shall have the right to terminate this Contract, any Supplemental Contract, Purchase Order, and/or Job Order without default or liability to Vendor resulting from such termination, effective as of the expiration of each budget period of HCDE/CP or any CP member if it is determined by HCDE/CP or any CP member, at their sole discretion, that there are insufficient funds to extend this Contract, any Supplemental Contract, any Purchase Order. The parties agree that this Contract, any Supplemental Contract, any Purchase Order, and/or any Job Order are commitments of the current revenue of HCDE/CP and CP members only.

5.26. **Ordering Procedures**

Purchase Orders/Job Orders are issued by HCDE/CP and/or CP members to the Vendor according to this Contract and any Supplemental Contract between HCDE/CP and the CP member. CP members must send Purchase

Orders/Job orders to HCDE/CP, unless otherwise stipulated by HCDE/CP. HCDE/CP may request confirmation of receipt of the Purchase Order/Job Order from Vendor.

HCDE/CP also may elect to require e-commerce functionality, in which Purchase Orders/Job Orders are sent directly to Vendor and reported by the CP member to HCDE/CP on a specified basis. The e-commerce approach must be approved by HCDE/CP prior to the start date of any Term of the Contract.

5.27. **Invoices; Payments**

5.27.1. Vendor shall submit invoices, in duplicate, directly to HCDE/CP or the CP member at the appropriate location(s) specified by HCDE/CP or the CP member. Each invoice shall include HCDE's or the CP member's Purchase Order/Job Order number and HCDE/CP Contract Number. All invoices shall be itemized to include the type of product(s) and/or service(s) rendered. Vendor shall submit invoices within a timely manner during HCDE's or the CP member's fiscal year in which the product(s) and/or service(s) are purchased. The shipment tracking number or pertinent information for verification of HCDE's or the CP member's receipt shall be made available upon request by HCDE/CP or the CP member.

5.27.2. HCDE/CP or the CP member will make payments directly to Vendor. HCDE/CP or the CP member placing the Purchase Order/Job Order with Vendor shall alone be liable and/or responsible for payment for product(s) and/or service(s) ordered and must be invoiced directly by Vendor. Neither HCDE/CP nor any CP member shall be liable for the indebtedness of any one CP member.

5.27.3. TEX. GOV'T. CODE § 2251.021 shall govern when payments are due to the Vendor. Payments are due to Vendor by HCDE/CP and any CP member whose governing body meets only once a month or less frequently, **within forty-five (45) days** after the later of the following: (1) the date HCDE/CP or the CP member receives the products and services under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date HCDE/CP or the CP member receives an invoice for the products or service. For CP members whose governing bodies meet more than once a month or more often, payments are due by those CP members **within thirty (30) days** after the later of the following: (1) the date the CP member receives product(s) under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date the CP member receives an invoice for product(s) or service(s). Vendor agrees to pay any subcontractors the appropriate share of the payment received from HCDE/CP or the CP member not later than the **tenth (10th) day** after the date the Vendor receives the payment from HCDE/CP or the CP member.

The exceptions to payments made by HCDE, a CP member, and/or Vendor listed in TEX. GOV'T. CODE § 2251.002 shall apply to this Contract.

5.28. **Reporting**

The Vendor shall provide HCDE/CP with a detailed monthly report showing the total dollar volume of all sales under this Contract for the previous month in Microsoft Excel format, in the format and with the information specified by HCDE/CP. Reports are due on the **fifteenth (15) day of the month**, after the close of the previous month and shall provide information regarding Purchase Orders/Job Orders during the previous month. Vendor is responsible for collecting and compiling all sales under this Contract from all CP members and submitting **one (1)** consolidated monthly report. The monthly report shall include, at a minimum, the date of each Purchase Order/Job Order, Purchase Order/Job Order number, CP member name, city/town, and Purchase Order total dollar amount. Reports shall be submitted in an electronic format to HCDE/CP at 6005 Westview, Houston, Texas 77055, or electronically mailed to facilityreporting@choicepartners.org. **Reports are required even if there is no activity to report.**

5.29. **Pricing Changes**

All prices and discount percentages in Vendor's proposal shall be firm for the Term of this Contract. Pricing may be negotiated during the Contract renewal period. Vendor agrees to promptly lower the proportionate price of any product purchased through this Contract following a reduction in the price the Vendor is paying suppliers. All pricing submitted to HCDE/CP in Vendor's proposal shall include the administrative fee to be remitted to

HCDE/CP by Vendor. It is Vendor's responsibility to keep all pricing up-to-date and on file with HCDE/CP. All price changes shall be presented to HCDE/CP for acceptance or rejection by HCDE/CP, in its sole discretion, using the same format as was accepted in Vendor's original proposal; all price changes for products and/or services provided under this Contract must be approved, in writing, by HCDE/CP prior to taking effect.

The following documentation shall be provided to support a request for a price change:

- justification for change/increase
- terms and conditions
- market conditions
- manufacturers'/distributors' impact, if any

All price decreases shall be allowed for all products and/or services.

5.30. **HCDE/CP Administrative Fee**

HCDE/CP will invoice Vendor for the HCDE/CP Administrative Fee of **4%**, subject to the Administrative Incentive Clause, below. HCDE/CP reserve the right to modify the Administrative Fee at any time, upon notice to Vendor. The invoice for the Administrative Fee will be based on total sales made through this Contract. Vendor shall remit payment of the HCDE/CP Fee to HCDE/CP no later than **thirty (30)** days following the end of the month. Failure to pay the HCDE/CP Administrative Fee in a timely manner may result in Vendor breaching this Contract and may result in HCDE/CP suspending or terminating this Contract. Vendor shall honor and pay HCDE/CP the HCDE/CP Administrative Fee for any sales resulting from this Contract that occurred within **thirty (30) days** of the expiration or termination of this Contract. All rebates, discounts, and other applicable credits granted by Vendor as a result of any Supplemental Contracts entered into between Vendor and CP members shall accrue exclusively to CP member(s).

Administrative Fee Incentive Clause. The following incentives will be determined in the sole discretion of HCDE/CP and will be based on amounts actually billed by Vendor. Vendor's failure to abide by the Contract's terms and conditions, including, without limitation, Vendor's requirement to report sales to HCDE/CP, may result in HCDE/CP voiding the Administrative Fee Incentive, in HCDE/CP's sole discretion.

One-Year Term(s)

- **Gross sales above \$5M invoiced by Choice Partners = 3% for remainder of the then-current Contract Term**
- **Subsequent renewal 1-year Term = 3.75% and Vendor must maintain production of \$5M to keep 3.75% fee for the next subsequent renewal 1-year Term**

Individual Job Orders

- **\$2M or above = 3.5% only in the Contract Term in which they are invoiced**
- **\$1M or above = 3.75% only in the Contract Term in which they are invoiced**

5.31. **Records Retention**

Vendor shall maintain its records and accounts in a manner that shall assure a full accounting for all product(s) and/or service(s) provided by the Vendor to HCDE/CP and/or CP members under this Contract. These records and accounts shall be retained by Vendor and made available for review and copying by HCDE/CP and CP members for a period of **not less than three (3) years** from the date of completion of the service(s), receipt of product(s), the date of the receipt by HCDE/CP or the CP member of Vendor's final invoice or claim for payment in connection with this Contract, or the date HCDE/CP or the CP member makes final payments and closes pending matters in connection with a federal grant, whichever is later. If an audit or a compliance review has been announced, the Vendor shall retain its records and accounts until such audit or compliance review has been completed.

When federal funds are expended by HCDE or any CP member pursuant to this Contract, Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. Vendor further certifies that Vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or

subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

5.32. **Right to Review, Audit and Inspect**

HCDE/CP, CP members, any federal agency that has awarded federal funds/grant(s) to HCDE/CP or a CP member, and the Comptroller General of the United States, and/or any of their authorized representatives, shall, upon written notice, have the right to audit and examine all of Vendor's records and accounts relating to this Contract and inspect any project performed by the Vendor relating to this Contract. Records subject to audit/review shall include, but are not limited to, all Purchase Orders and/or Job Orders resulting from this Contract and records which may have a bearing on matters in connection with the Vendor's work for HCDE/CP and/or CP members, and shall be open to inspection and subject to audit/review and/or reproduction by HCDE/CP, CP member, and/or their authorized representative(s) to the extent necessary to adequately permit evaluation and verification of:

5.32.1. Vendor's compliance with this Contract and the requirements of the CSP.

5.32.2. Compliance with procurement laws, policies, and procedures, including, without limitation, reviewing/comparing pricing on invoices and the appropriate Unit Price Book for JOC work performed for HCDE/CP and/or CP members.

5.32.3. Compliance with provisions for computing billings to HCDE/CP and/or to CP members.

5.32.4. Any other matter related to this Contract.

5.33. **Indemnification**

VENDOR SHALL INDEMNIFY AND HOLD HARMLESS HCDE/CP AND EACH CP MEMBER, INCLUDING HCDE'S AND CP MEMBERS' TRUSTEES, OFFICERS, ADMINISTRATORS, EMPLOYEES, AND AGENTS, FROM ALL CLAIMS, LIABILITIES, COSTS, SUITS OF LAW OR IN EQUITY, EXPENSES, ATTORNEYS' FEES, FINES, PENALTIES OR DAMAGES ARISING FROM ACTS OR OMISSIONS OF VENDOR, VENDOR'S EMPLOYEES, AGENTS, OR SUBCONTRACTORS, IN CONNECTION WITH THIS CONTRACT, INCLUDING WITHOUT LIMITATION, THOSE ARISING FROM CLAIMED INFRINGEMENT OF ANY PATENTS, TRADEMARKS, COPYRIGHT OR OTHER CORRESPONDING RIGHT(S) WHICH IS RELATED TO ANY ITEM VENDOR IS REQUIRED TO DELIVER. VENDOR'S OBLIGATIONS UNDER THIS CLAUSE SHALL SURVIVE ACCEPTANCE AND PAYMENT BY HCDE/CP OR THE CP MEMBER.

5.34. **Governing Law and Exclusive Venue**

The laws of the State of Texas, without regard to its provisions on conflicts of laws, govern this Contract. Any dispute under this Contract involving HCDE/CP must be brought exclusively in the state and federal courts located in Houston, Harris County, Texas. Any dispute not involving HCDE/CP but involving a CP member and Vendor shall be governed by the laws of the state of the CP member, without regard to its provisions on conflicts of laws, and exclusive jurisdiction and venue shall lie in the city, county, and state of the CP member.

5.35. **Multiple Contract Awards; Non-Exclusivity**

HCDE/CP reserves the right to award multiple contracts under the CSP, including multiple contracts for each product/service category. Product/Service categories are established at the sole discretion of HCDE/CP. Nothing in this Contract may be construed to imply that Vendor has the exclusive right to provide products and/or services to HCDE/CP and/or CP members. During the Term of this Contract, HCDE/CP and CP members reserve the right to use all available resources to procure other products and/or services as needed and doing so will not violate any rights of Vendor. In the event that a Vendor has an existing HCDE/CP contract in the same contract title, upon award the new contract will immediately supersede the older contract.

5.36 **New Products**

New products that meet the specifications detailed in the CSP may be added to this Contract, with prior written approval from HCDE/CP. Pricing of any new products shall be equivalent to the percentage discount or proposed prices for other similar products. Vendor may replace or add products to the contract if: the replacing products

are equal to or superior to the original products offered or discounted in a similar degree or to a greater degree and the products meet the requirements of the CSP. No products may be added to avoid competitive procurement procedures. HCDE/CP may reject any proposed additions, without cause, in its sole discretion.

5.37. **No Substitution**

Any Purchase Order issued pursuant to this Contract shall conform to the specifications and descriptions identified in this Contract and the CSP. Vendor shall not deliver substitutes without prior written authorization from HCDE/CP or the CP member.

5.38 **Penalties**

If the Vendor is unable to provide the product(s) or services at the prices quoted in Vendor's proposal or if Vendor fails to fulfill or abide by the terms and conditions of the Contract, the CSP, or a Supplemental Contract, HCDE/CP or the CP member may take the following action(s), in the sole discretion of HCDE/CP or the CP member, and Vendor agrees to comply with the chosen action(s):

- 5.38.1 Insist that the Vendor honor the quoted price(s) specified in Vendor's proposal or the Supplemental Contract, as applicable;
- 5.38.2 Have the Vendor pay the difference between the Vendor's price and the price of the next acceptable proposal, as determined by HCDE/CP or the CP member;
- 5.38.3 Have the Vendor pay the difference between Vendor's price and the actual purchase price of the product or service on the open market; and/or
- 5.38.4 Recommend to HCDE Board of Trustees that the Vendor no longer be given the opportunity to submit a proposal to HCDE/CP and/or that this Contract be terminated.

5.39. **Promotion of Contract Marketing Plan**

The marketing of Vendor's company, product, and/or services shall be the sole responsibility of Vendor. HCDE/CP may only supply Vendor with CP members' contact lists that contain name, address, phone numbers, and/or email addresses. Other items geared toward the joint-marketing of HCDE/CP and Vendor's company, product, and/or services shall be at HCDE/CP's sole discretion. Encouraging CP members to circumvent this Contract by purchasing directly from Vendor may result in suspension or termination of this Contract. For so long as this Contract is valid and enforceable between the parties, Vendor agrees to display the CP seal in its marketing collateral materials, such as Vendor's website and related marketing materials. Vendor shall submit all promotional materials to HCDE/CP and obtain written approval before Vendor finalizes or publishes promotional material bearing the HCDE/CP or HCDE/CP name or seal. Vendor may not release any press release or other publication regarding this Contract or HCDE/CP unless and until HCDE/CP first approves the press release or publication in writing.

5.40. **Website Support**

Vendor agrees to cooperate with HCDE/CP in publicizing contract particulars on the CP website. Vendor also agrees to work with HCDE/CP in updating and maintaining current information on Vendor activities related to the Contract on the CP website. Vendor agrees to provide an electronic version of its logo for use on the CP website upon Contract award and provide other information as reasonably requested by HCDE/CP to help ensure that the CP website is current and consistently updated.

5.41. **Safety**

Vendor, its subcontractor(s), and their respective employees shall comply fully with all applicable federal, state, and local safety and health laws, ordinances, rules, and regulations in the performance of services under this Contract, including, without limitation, those promulgated by HCDE/CP, CP members, and by the Occupational Safety and Health Administration ("OSHA"). In case of conflict, the most stringent safety requirements shall govern. Vendor shall comply with all other safety guidelines and standards as required by HCDE/CP or CP members. Vendor shall indemnify and hold HCDE/CP and/or the CP member harmless from and against all claims, demands, suits, actions, judgments, fines, penalties, and liability of every kind arising from the breach of Vendor's obligations under this provision.

5.42. **Workforce**

Vendor shall employ only orderly and competent workers, skilled in the performance of the services, if any, which shall be performed under this Contract. Vendor, its employees, subcontractors, and subcontractor's employees may not use or possess any firearms, alcoholic or other intoxicating beverages, illegal drugs or controlled substances while on the job or on HCDE/CP and CP members' property, nor may such workers be intoxicated or under the influence of alcohol or drugs on HCDE/CP and CP members' property.

5.43. **Supplemental Contracts**

A CP member and Vendor may enter into a separate, Supplemental Contract. Any Supplemental Contract developed as a result of this Contract and/or the CSP is exclusively between the CP member and Vendor and shall have no effect or impact on HCDE, any other CP member, or this Contract. Any Supplemental Contract between Vendor and a CP member is exclusively between that specific CP member and Vendor and will be subject to immediate cancellation by the CP member (without penalty to the CP member) if, in the opinion of the CP member, the quality, service, and specification requirements, and/or the terms and conditions are not maintained as stated in the Supplemental Contract. Vendor shall promptly notify HCDE/CP of any Supplemental Contract executed between Vendor and a CP member. Supplemental Contracts are entered into pursuant to the piggyback method delineated in the U.S. Department of Agriculture directive SP 35-2012.

5.44. **Insurance**

Vendor is required to provide HCDE/CP and/or the CP member with copies of certificates of insurance, naming HCDE/CP and/or the CP member as additional insured's for Texas Workers Compensation and General Liability Insurance, **within 14 business days of contract award and prior to the commencement of any work under this Contract.** Certificates of Insurance, name and address of Vendor, the limits of liability, the effective dates of each policy, and policy number shall be delivered to HCDE/CP and/or the CP member prior to commencement of any work under this Contract. The insurance company insuring Vendor shall be licensed in the State of Texas or the state in which the CP member is located, and shall be acceptable to HCDE/CP and/or the CP member. Vendor shall give HCDE/CP or the CP member a **minimum of ten (10) days'** notice prior to any modifications or cancellation of said policies of insurance. Vendor shall require all subcontractors performing any work under or relating to this Contract to maintain coverage as specified below. Vendor shall, at all times during the Term of this Contract, maintain insurance coverage with not less than the type and requirements shown below. If the CP member has higher insurance requirements than those listed below, such may be added to the Purchase Order. Such insurance is to be provided at the sole cost of the Vendor. These requirements do not establish limits of Vendor's liability.

All policies of insurance shall waive all rights of subrogation against HCDE, CP members, and HCDE/CP and CP members' officers, employees and agents.

Upon request, certified copies of original insurance policies shall be furnished to HCDE/CP and/or to CP members.

HCDE/CP and the CP member, as requested, shall be named as an "additional insured" on insurance policies.

HCDE/CP and the CP member reserve the right to require additional insurance should HCDE/CP or the CP member deem additional insurance necessary, in their sole discretion.

- Workers Compensation (with waiver of subrogation to HCDE/CP and the CP member) Employer's Liability, including all states, U.S. Longshoremen, Harbor Workers and other endorsements.
- Statutory, and Bodily Injury by Accident: \$100,000 each employee. Bodily Injury by Disease: \$500,000, policy limit \$100,000 each employee.
- Commercial General Liability Occurrence Form including, but not limited to, Premises and Operations, Products Liability Broad Form Property Damage, Contractual Liability, Personal and Advertising Injury Liability and where the exposure exists, coverage for watercraft, blasting collapse, and explosions, blowout, cratering and underground damage. \$300,000 each occurrence Limit Bodily Injury and Property Damage combined. \$300,000 Products-Completed Operations Aggregate Limit \$500,000 per Job Aggregate. \$300,000 Personal and Advertising Injury Limit.

- Automobile Liability Coverage: \$300,000 Combined Liability Limits Bodily Injury and Property Damage Combined.

5.45. **Participation in HCDE/CP**

Vendor acknowledges and agrees that continued participation in the HCDE/CP cooperative purchasing program is subject to HCDE/CP's sole discretion and that Vendor may be removed from the HCDE/CP program at any time, with or without cause, in HCDE/CP's sole discretion. All work resulting from this Contract must cease immediately after completion of the final accepted Purchase Order/Job Order. Nothing in this Contract or in any other communication between HCDE/CP and Vendor may be construed as a guarantee that HCDE/CP or CP members will submit any Purchase Order/Job Order to Vendor at any time.

At a minimum, to continue participation in the HCDE/CP cooperative purchasing program, Vendor must:

- **Submit detailed monthly reports of all sales activity (such report is required even if there is no sales activity for a given month);**
- **Timely remit Administrative Fee(s) to HCDE/CP;**
- **Market Choice Partners, including inclusion of CP seal on Vendor's website, development and execution of marketing plan, and participation in at least 5 of marketing events (such as trade shows and conferences) annually;**
- **Maintain a minimum annual sales activity of \$15,000;**
- **Completion of all required forms (such as Form 1295, EDGAR Certifications, etc.); and**
- **Maintain required insurance and submit updated certificate(s) to CP annually**

5.46. **No Agency or Endorsements**

It is the intention of the parties to this Contract that Vendor is independent of HCDE/CP and CP members, is an independent contractor, and is not an employee, agent, joint venturer, or partner of HCDE/CP or any CP member. Nothing in this Contract shall be interpreted or construed as creating or establishing the relationship of employer and employee, agent, joint venturer or partner, between HCDE/CP and Vendor, any CP member and Vendor, HCDE/CP and any of Vendor's agents, or any CP member and any of Vendor's agents. Vendor has no power or authority to assume or create any obligation or responsibility on behalf of HCDE/CP or any CP member, and HCDE/CP and HCE members have no power or authority to assume or create any obligation or responsibility on behalf of Vendor. This Contract shall not be construed to create or imply any partnership, agency, or joint venture, nor shall it be construed or deemed an endorsement of a specific company or product. Vendor agrees that HCDE/CP and CP members have no responsibility for any conduct of any of Vendor's employees, agents, representatives, contractors, or subcontractors.

5.47. **Equal Opportunity**

It is the policy of HCDE/CP not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified, binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.

5.48. **Force Majeure**

Neither HCDE, any CP member, or Vendor shall be deemed to have breached any provision of this Contract as a result of any delay, failure in performance, or interruption of service resulting directly or indirectly from acts of God, network failures, acts of civil or military authorities, civil disturbances, wars, energy crises, fires, transportation contingencies, interruptions in third-party telecommunications or Internet equipment or service, other catastrophes, or any other occurrences which are reasonably beyond HCDE, any CP member, or Vendor's control.

HCDE, CP members, and Vendor are required to use due caution and preventive measures to protect against the effects of force majeure, and the burden of proving that a force majeure event has occurred shall rest on the party seeking relief under this provision. The party seeking relief due to force majeure is required to promptly notify the other parties in writing, citing the details of the force majeure event and relief sought, and shall resume performance immediately after the obstacles to performance caused by a force majeure event have been removed, provided the Contract has not been terminated. Delay or failure of performance, by either party to this Contract, caused solely by a force majeure event, shall be excused for the period of delay caused solely by the force majeure event. HCDE, CP members, and Vendor shall not have any claim for damages against any other party resulting from delays caused solely by force majeure. Notwithstanding any other provision of this Contract, in the event the Vendor's performance of its obligations under this Contract is delayed or stopped by a force majeure event, HCDE/CP shall have the option to terminate this Contract. This section shall not be interpreted as to limit or otherwise modify any of HCDE's or CP members' contractual, legal, or equitable rights.

5.49. **Severability**

In the event any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

5.50. **Waiver**

No failure on the part of either party at any time to require the performance by the other party of any term hereof shall be taken or held to be a waiver of such term or in any way affect such party's right to enforce such term, and no waiver on the part of either party of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof. No waiver, alteration, or modification of any of the provisions of this Contract shall be binding unless in writing and signed by duly authorized representatives of the parties hereto.

5.51. **Entire Agreement**

The Contract, the CSP, Vendor's proposal submitted in response to the CSP, the attached and incorporated attachments, addendum, and/or exhibits, if any, and the Supplemental Contract, if any, contain the entire agreement of the parties relative to the purpose(s) of the Contract and supersede any other representations, agreements, arrangements, negotiations, or understandings, oral or written, between the parties to this Contract. In the event of a conflict between this Contract and the CSP or Vendor's proposal submitted in response to the CSP, this Contract shall control. In the event of a conflict between the CSP and Vendor's proposal submitted in response to the CSP, the CSP shall control. This Contract supersedes any conflicting terms and conditions on any Purchase Order/Job Order, invoices, checks, order acknowledgements, forms, purchase orders, or similar commercial documents relating hereto and which may be issued by Vendor after the Effective Date of this Contract.

In addition to this Contract, a Supplemental Contract between Vendor and the CP member may be established to further detail the terms and conditions of the CP member's specific project. In the event of a conflict between this Contract and the Supplemental Contract, as to HCDE, this Contract shall prevail. In the event of a conflict between this Contract and the Supplemental Contract, as to the CP member, the Supplemental Contract shall prevail unless the Supplemental Contract states otherwise.

5.52. **Interpretation**

Vendor agrees that the normal rules of construction that requires that any ambiguities in this Contract are to be construed against the drafter shall not be employed in the interpretation of this Contract.

5.53. **Notice**

Any notice provided under the terms of this Contract by the parties to any other shall be in writing and shall be given by hand-delivery or by certified or registered mail, return receipt requested. Notice shall be sufficient if made or addressed to the party at the address listed in the signature line of this Contract. Notice shall be deemed effective upon receipt. Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified mail, return receipt requested.

5.54. **Captions**

The captions herein are for convenience and identification purposes only, are not an integral part hereof, and are not to be considered in the interpretation of any part hereof.

5.55 **Certifications**

Vendor hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State. Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any (the "Vendor Companies"), boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory.

Vendor certifies and agrees that it shall not assist an employee, contractor, or agent of HCDE or of any other school district in obtaining a new job if the Vendor knows, or has probable cause to believe, that the individual engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personnel file does not violate this prohibition. *See* HCDE Policy CJ (Legal) and (Local).

Evaluation Criteria	Total Weighted Value		AAA Time Saver Services	American Technologies, Inc	Bass Constuction Co., Inc.	Blackmon Mooring
Averages						
(1) Price Overall Cost of Program Vendor's proposed coefficient(s)	30		17.33	#DIV/0!	15.67	19.00
(2) Vendor's experience and reputation References for local governmental entities and with a purchasing cooperative program Local government agencies within the past 5 years Other projects completed within the past 10 years	20		14.67	#DIV/0!	15.67	15.67
(3) Quality of Vendor's products/services and extent to which the products/services meet HCDE and HCDE members' needs: JOC Project Management JOC Infrastructure Solutions Quality of Vendor's Products/Service Demonstrated Ability to Perform JOC work and the Vendor's proposed personnel	20		14.00	#DIV/0!	14.33	14.33
(4) Impact on the ability of HCDE members to comply with laws and rules relating to HUB/MWBE/SBE	0		0.00	#DIV/0!	0.00	0.00
(5) Vendor's safety record, including current OSHA safety report	5		3.67	#DIV/0!	4.33	3.00
(6) Whether Vendor's financial capability is appropriate to the size and scope of the project and the total long-term cost to HCDE/CP and CP members to acquire the products/services	10		4.33	#DIV/0!	9.67	8.00
(7) Vendor's past relationship with HCDE/CP and/or CP members, including Vendor's job order contracting relationship with HCDE/CP and/or CP members	7		4.00	#DIV/0!	3.67	5.00
(8) Marketing Plan	5		3.33	#DIV/0!	4.00	4.33
(9) Value Add Products/Services	3		0.67	#DIV/0!	1.67	1.33
Total	100		62.00	0.00	69.00	70.67
Evaluation committee for this RFP: Stephen Kendrick Jay Atkins Michael Robles	Invitations sent to 581 Contracts are in accordance with TEC 44.031 It is recommended that the following awards of annual contracts: <u>Contract</u> <u>Vendor</u> 18/029JN -01 Blackmon Mooring 18/029JN -02 Centennial Moisture Control, Inc. 18/029JN -03 Falkenberg Construction Company, Inc.					
Yellow - non-responsive or did not make 70.						

	Centennial Moisture Control, Inc.	Falkenberg Constructi on Company, Inc.	floors 2 adore	FRAGMA Constructi on Services, LLC	Hallmark Mitigation & Constructi on	J Reynolds & Co., Inc.												
Evaluation Criteria																		
Averages																		
(1) Price Overall Cost of Program Vendor's proposed coefficient(s)	14.67	13.67	22.00	26.00	17.33	#DIV/0!												
(2) Vendor's experience and reputation References for local governmental entities and with a purchasing cooperative program Local government agencies within the past 5 years Other projects completed within the past 10 years	17.00	17.33	15.67	11.33	12.67	#DIV/0!												
(3) Quality of Vendor's products/services and extent to which the products/services meet HCDE and HCDE members' needs: JOC Project Management JOC Infrastructure Solutions Quality of Vendor's Products/Service Demonstrated Ability to Perform JOC work and the Vendor's proposed personnel	16.67	17.33	16.67	13.33	15.67	#DIV/0!												
(4) Impact on the ability of HCDE members to comply with laws and rules relating to HUB/MWBE/SBE	0.00	0.00	0.00	0.00	0.00	#DIV/0!												
(5) Vendor's safety record, including current OSHA safety report	3.67	3.00	4.33	3.33	3.00	#DIV/0!												
(6) Whether Vendor's financial capability is appropriate to the size and scope of the project and the total long-term cost to HCDE/CP and CP members to acquire the products/services	8.33	8.67	7.67	6.67	8.33	#DIV/0!												
(7) Vendor's past relationship with HCDE/CP and/or CP members, including Vendor's job order contracting relationship with HCDE/CP and/or CP members	5.67	5.67	6.00	0.67	4.00	#DIV/0!												
(8) Marketing Plan	3.33	4.00	4.33	3.33	3.33	#DIV/0!												
(9) Value Add Products/Services	0.67	2.00	1.67	0.67	1.00	#DIV/0!												
Total	70.00	71.67	78.33	65.33	65.33	0.00												
<p>Evaluation committee for this RFP: Stephen Kendrick Jay Atkins Michael Robles</p> <p>Invitations sent to 676 prospective bidders Contracts are in accordance with TEC 44.031 It is recommended that the following awards of annual contracts:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"><u>Contract</u></td> <td style="width: 50%; border: none;"><u>Vendor</u></td> </tr> <tr> <td style="border: none;">18/029JN -04</td> <td style="border: none;">floors 2 adore</td> </tr> <tr> <td style="border: none;">18/029JN -05</td> <td style="border: none;">Jamail & Smith Construction, LP</td> </tr> <tr> <td style="border: none;">18/029JN -06</td> <td style="border: none;">Mic-Continental Restoration Company</td> </tr> <tr> <td style="border: none;">18/029JN -07</td> <td style="border: none;">Mooring Recovery Services</td> </tr> <tr> <td style="border: none;">18/029JN -08</td> <td style="border: none;">Near Future LLC</td> </tr> </table>							<u>Contract</u>	<u>Vendor</u>	18/029JN -04	floors 2 adore	18/029JN -05	Jamail & Smith Construction, LP	18/029JN -06	Mic-Continental Restoration Company	18/029JN -07	Mooring Recovery Services	18/029JN -08	Near Future LLC
<u>Contract</u>	<u>Vendor</u>																	
18/029JN -04	floors 2 adore																	
18/029JN -05	Jamail & Smith Construction, LP																	
18/029JN -06	Mic-Continental Restoration Company																	
18/029JN -07	Mooring Recovery Services																	
18/029JN -08	Near Future LLC																	
Yellow - non-responsive or did not make 70.																		

Evaluation Criteria	Jamail & Smith Construction, LP	KMD Hospitality (KMD Hospitality LLC)	LMC Corp (Lee Construction and Maintenance)	L-Sync, LLC	Mid-Continental Restoration Company	Mooring Recovery Services										
Averages																
(1) Price Overall Cost of Program Vendor's proposed coefficient(s)	29.33	#DIV/0!	#DIV/0!	12.33	16.67	21.33										
(2) Vendor's experience and reputation References for local governmental entities and with a purchasing cooperative program Local government agencies within the past 5 years Other projects completed within the past 10 years	16.33	#DIV/0!	#DIV/0!	12.33	17.00	16.00										
(3) Quality of Vendor's products/services and extent to which the products/services meet HCDE and HCDE members' needs: JOC Project Management JOC Infrastructure Solutions Quality of Vendor's Products/Service Demonstrated Ability to Perform JOC work and the Vendor's proposed personnel	17.67	#DIV/0!	#DIV/0!	14.00	16.33	16.00										
(4) Impact on the ability of HCDE members to comply with laws and rules relating to HUB/MWBE/SBE	0.00	#DIV/0!	#DIV/0!	0.00	0.00	0.00										
(5) Vendor's safety record, including current OSHA safety report	4.00	#DIV/0!	#DIV/0!	3.00	4.33	2.33										
(6) Whether Vendor's financial capability is appropriate to the size and scope of the project and the total long-term cost to HCDE/CP and CP members to acquire the products/services	9.67	#DIV/0!	#DIV/0!	6.33	8.67	9.33										
(7) Vendor's past relationship with HCDE/CP and/or CP members, including Vendor's job order contracting relationship with HCDE/CP and/or CP members	3.33	#DIV/0!	#DIV/0!	1.67	5.00	4.00										
(8) Marketing Plan	4.67	#DIV/0!	#DIV/0!	3.00	4.33	3.33										
(9) Value Add Products/Services	1.67	#DIV/0!	#DIV/0!	1.67	1.67	2.00										
Total	86.67	0.00	0.00	54.33	74.00	74.33										
<p>Evaluation committee for this RFP: Stephen Kendrick Jay Atkins Michael Robles</p> <p>Yellow - non-responsive or did not make 70.</p>	<p>Invitations sent to 676 prospective bidders Contracts are in accordance with TEC 44.031 It is recommended that the following awards of annual contracts:</p> <table border="0"> <tr> <td style="text-align: center;"><u>Contract</u></td> <td style="text-align: center;"><u>Vendor</u></td> </tr> <tr> <td>18/029JN -09</td> <td>Radius Design Works, LLC</td> </tr> <tr> <td>18/029JN -10</td> <td>Reliable Commercial Roofing Services, Inc.</td> </tr> <tr> <td>18/029JN -11</td> <td>SDB Contracting Services (SDB, Inc)</td> </tr> <tr> <td>18/029JN -12</td> <td>Sterling Structures, Inc.</td> </tr> </table>						<u>Contract</u>	<u>Vendor</u>	18/029JN -09	Radius Design Works, LLC	18/029JN -10	Reliable Commercial Roofing Services, Inc.	18/029JN -11	SDB Contracting Services (SDB, Inc)	18/029JN -12	Sterling Structures, Inc.
<u>Contract</u>	<u>Vendor</u>															
18/029JN -09	Radius Design Works, LLC															
18/029JN -10	Reliable Commercial Roofing Services, Inc.															
18/029JN -11	SDB Contracting Services (SDB, Inc)															
18/029JN -12	Sterling Structures, Inc.															

Evaluation Criteria	Near Future LLC	Radius Design Works, LLC	Reliable Commercial Roofing Services, Inc.	SDB Contracting Services (SDB, Inc)	Sterling Structures, Inc.								
Averages													
(1) Price Overall Cost of Program Vendor's proposed coefficient(s)	21.67	17.33	23.00	24.33	28.33								
(2) Vendor's experience and reputation References for local governmental entities and with a purchasing cooperative program Local government agencies within the past 5 years Other projects completed within the past 10 years	14.33	17.00	16.00	17.67	18.67								
(3) Quality of Vendor's products/services and extent to which the products/services meet HCDE and HCDE members' needs: JOC Project Management JOC Infrastructure Solutions Quality of Vendor's Products/Service Demonstrated Ability to Perform JOC work and the Vendor's proposed personnel	14.33	15.67	12.67	17.67	19.33								
(4) Impact on the ability of HCDE members to comply with laws and rules relating to HUB/MWBE/SBE	0.00	0.00	0.00	0.00	0.00								
(5) Vendor's safety record, including current OSHA safety report	2.67	3.33	3.00	4.67	4.67								
(6) Whether Vendor's financial capability is appropriate to the size and scope of the project and the total long-term cost to HCDE/CP and CP members to acquire the products/services	7.67	6.67	8.00	9.67	9.67								
(7) Vendor's past relationship with HCDE/CP and/or CP members, including Vendor's job order contracting relationship with HCDE/CP and/or CP members	5.00	6.67	5.33	5.00	6.33								
(8) Marketing Plan	4.00	3.67	3.33	4.33	4.00								
(9) Value Add Products/Services	2.00	2.00	2.33	0.67	2.00								
Total	71.67	72.33	73.67	84.00	93.00								
Evaluation committee for this RFP: Stephen Kendrick Jay Atkins Michael Robles	Invitations sent to 676 prospective bidders Contracts are in accordance with TEC 44.031 It is recommended that the following awards of annual contracts: <table style="width: 100%; border: none;"> <tr> <td style="width: 50%;"><u>Contract</u></td> <td style="width: 50%;"><u>Vendor</u></td> </tr> <tr> <td>18/029JN -13</td> <td>Sullivan Contracting Services (Pounds</td> </tr> <tr> <td>18/029JN -14</td> <td>The Fence Lady Inc.</td> </tr> <tr> <td>18/029JN -15</td> <td>The Thomas Group, Inc.</td> </tr> </table>					<u>Contract</u>	<u>Vendor</u>	18/029JN -13	Sullivan Contracting Services (Pounds	18/029JN -14	The Fence Lady Inc.	18/029JN -15	The Thomas Group, Inc.
<u>Contract</u>	<u>Vendor</u>												
18/029JN -13	Sullivan Contracting Services (Pounds												
18/029JN -14	The Fence Lady Inc.												
18/029JN -15	The Thomas Group, Inc.												
Yellow - non-responsive or did not make 70.													

	Sullivan Contracting Services (Pounds Group.	THE FENCE LADY INC.	The Thomas Group, Inc.	The Trevino Group, Inc.	0
Evaluation Criteria					
Averages					
(1) Price Overall Cost of Program Vendor's proposed coefficient(s)	25.67	17.33	25.67	11.67	#DIV/0!
(2) Vendor's experience and reputation References for local governmental entities and with a purchasing cooperative program Local government agencies within the past 5 years Other projects completed within the past 10 years	13.33	16.33	17.00	17.33	#DIV/0!
(3) Quality of Vendor's products/services and extent to which the products/services meet HCDE and HCDE members' needs: JOC Project Management JOC Infrastructure Solutions Quality of Vendor's Products/Service Demonstrated Ability to Perform JOC work and the Vendor's proposed personnel	14.67	17.00	15.00	14.67	#DIV/0!
(4) Impact on the ability of HCDE members to comply with laws and rules relating to HUB/MWBE/SBE	0.00	0.00	0.00	0.00	#DIV/0!
(5) Vendor's safety record, including current OSHA safety report	3.33	4.00	4.33	4.00	#DIV/0!
(6) Whether Vendor's financial capability is appropriate to the size and scope of the project and the total long-term cost to HCDE/CP and CP members to acquire the products/services	8.33	8.00	6.33	9.67	#DIV/0!
(7) Vendor's past relationship with HCDE/CP and/or CP members, including Vendor's job order contracting relationship with HCDE/CP and/or CP members	2.67	6.33	5.00	3.00	#DIV/0!
(8) Marketing Plan	3.33	4.33	4.00	3.33	#DIV/0!
(9) Value Add Products/Services	1.00	2.67	0.67	0.67	#DIV/0!
Total	72.33	76.00	78.00	64.33	0.00
Evaluation committee for this RFP: Stephen Kendrick Jay Atkins Michael Robles	Invitations sent to 676 prospective bidders Contracts are in accordance with TEC 44.031 It is recommended that the following awards of annual contracts: Group)				
Yellow - non-responsive or did not make 70.					

1 Coefficient for unit price book - RSMMeans online							
Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Jamail & Smith Construction, LP	1	EA	\$0.73	\$0.73			
Sterling Structures, Inc.	1	EA	\$0.80	\$0.80			
FRAGMA Construction Services,	1	EA	\$0.83	\$0.83	Coefficient for unit price book - RSMMeans o		
The Thomas Group, Inc.	1	EA	\$0.84	\$0.84			
Sullivan Contracting Services (Pc	1	EA	\$0.85	\$0.85			
Near Future LLC	1	EA	\$0.85	\$0.85			
floors 2 adore	1	EA	\$0.86	\$0.86			
SDB Contracting Services (SDB, I	1	EA	\$0.87	\$0.87			
Mooring Recovery Services	1	EA	\$0.88	\$0.88			
Reliable Commercial Roofing Se	1	EA	\$0.89	\$0.89			
Blackmon Mooring	1	EA	\$0.90	\$0.90			
LMC Corp (Lee Construction anc	1	EA	\$0.90	\$0.90	Regions: 2-Corpus Christi, 3-Victoria, 4-Hou		
AAA Time Saver Services	1	EA	\$0.91	\$0.91			
Radius Design Works, LLC	1	EA	\$0.93	\$0.93			
Hallmark Mitigation & Construc	1	EA	\$0.94	\$0.94	94%		
Bass Constuction Co., Inc.	1	EA	\$0.95	\$0.95			
Mid-Continental Restoration Co	1	EA	\$0.95	\$0.95			
THE FENCE LADY INC.	1	EA	\$0.96	\$0.96			
Centennial Moisture Control, In	1	EA	\$0.98	\$0.98			
Falkenberg Construction Compa	1	EA	\$0.99	\$0.99			
L-Sync, LLC	1	EA	\$0.99	\$0.99			
The Trevino Group, Inc.	1	EA	\$1.20	\$1.20			
J Reynolds & Co., Inc.	1	EA	No Bid				

2 Coefficient for RSMMeans online - after hours and overtime hours							
Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Jamail & Smith Construction, LP	1	EA	\$0.75	\$0.75			
The Thomas Group, Inc.	1	EA	\$0.87	\$0.87			
Sullivan Contracting Services (Pc	1	EA	\$0.89	\$0.89			
floors 2 adore	1	EA	\$0.89	\$0.89			
Sterling Structures, Inc.	1	EA	\$0.90	\$0.90			
FRAGMA Construction Services,	1	EA	\$0.91	\$0.91	Coefficient for RSMMeans online - after hour		
Mooring Recovery Services	1	EA	\$0.92	\$0.92			
AAA Time Saver Services	1	EA	\$0.93	\$0.93			
Blackmon Mooring	1	EA	\$0.93	\$0.93			
Near Future LLC	1	EA	\$0.95	\$0.95			

Radius Design Works, LLC	1	EA	\$0.95	\$0.95	
LMC Corp (Lee Construction anc	1	EA	\$0.95	\$0.95	
SDB Contracting Services (SDB, I	1	EA	\$0.95	\$0.95	
THE FENCE LADY INC.	1	EA	\$0.96	\$0.96	There will be no extra charge for afterhour:
Hallmark Mitigation & Construc	1	EA	\$0.99	\$0.99	99%
Reliable Commercial Roofing Se	1	EA	\$1.10	\$1.10	
Bass Constuction Co., Inc.	1	EA	\$1.10	\$1.10	
Mid-Continental Restoration Co	1	EA	\$1.10	\$1.10	
L-Sync, LLC	1	EA	\$1.13	\$1.13	
Falkenberg Construction Compa	1	EA	\$1.15	\$1.15	
The Trevino Group, Inc.	1	EA	\$1.33	\$1.33	
Centennial Moisture Control, In	1	EA	\$1.35	\$1.35	
J Reynolds & Co., Inc.	1	EA	No Bid		

3	Coefficient for National Construction Estimator book by Craftsman					
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Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Mooring Recovery Services	1	EA	\$1.13	\$1.13			
The Thomas Group, Inc.	1	EA	\$1.15	\$1.15			
THE FENCE LADY INC.	1	EA	\$1.15	\$1.15			
Blackmon Mooring	1	EA	\$1.17	\$1.17			
Jamail & Smith Construction, LP	1	EA	\$1.17	\$1.17			
L-Sync, LLC	1	EA	\$1.20	\$1.20			
Near Future LLC	1	EA	\$1.20	\$1.20			
Hallmark Mitigation & Construc	1	EA	\$1.20	\$1.20	115%		
Sullivan Contracting Services (Pr	1	EA	\$1.20	\$1.20			
Radius Design Works, LLC	1	EA	\$1.20	\$1.20			
Mid-Continental Restoration Co	1	EA	\$1.20	\$1.20			
floors 2 adore	1	EA	\$1.20	\$1.20			
LMC Corp (Lee Construction anc	1	EA	\$1.20	\$1.20			
AAA Time Saver Services	1	EA	\$1.20	\$1.20			
Falkenberg Construction Compa	1	EA	\$1.22	\$1.22			
The Trevino Group, Inc.	1	EA	\$1.24	\$1.24			
SDB Contracting Services (SDB, I	1	EA	\$1.24	\$1.24			
FRAGMA Construction Services, 1	1	EA	\$1.25	\$1.25			
Centennial Moisture Control, In	1	EA	\$1.25	\$1.25			
Sterling Structures, Inc.	1	EA	No Bid				
Bass Constuction Co., Inc.	1	EA	No Bid				
Reliable Commercial Roofing Se	1	EA	No Bid				
J Reynolds & Co., Inc.	1	EA	No Bid				

4 Coefficient for overtime hours for the National Construction Estimator book by Craftsman							
Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Mooring Recovery Services	1	EA	\$1.22	\$1.22			
THE FENCE LADY INC.	1	EA	\$1.25	\$1.25	Due to the Pricing schedules in Craftsman v		
The Thomas Group, Inc.	1	EA	\$1.25	\$1.25			
Jamail & Smith Construction, LP	1	EA	\$1.27	\$1.27			
Mid-Continental Restoration Co	1	EA	\$1.27	\$1.27			
AAA Time Saver Services	1	EA	\$1.27	\$1.27			
Blackmon Mooring	1	EA	\$1.29	\$1.29			
Near Future LLC	1	EA	\$1.30	\$1.30			
Hallmark Mitigation & Construc	1	EA	\$1.30	\$1.30			
Radius Design Works, LLC	1	EA	\$1.30	\$1.30			
floors 2 adore	1	EA	\$1.30	\$1.30			
L-Sync, LLC	1	EA	\$1.30	\$1.30			
Sullivan Contracting Services (Pc	1	EA	\$1.30	\$1.30			
FRAGMA Construction Services,	1	EA	\$1.32	\$1.32			
SDB Contracting Services (SDB, I	1	EA	\$1.32	\$1.32			
Falkenberg Construction Compa	1	EA	\$1.32	\$1.32			
The Trevino Group, Inc.	1	EA	\$1.34	\$1.34			
Centennial Moisture Control, In	1	EA	\$1.35	\$1.35			
LMC Corp (Lee Construction anc	1	EA	\$1.35	\$1.35			
Reliable Commercial Roofing Se	1	EA	No Bid				
J Reynolds & Co., Inc.	1	EA	No Bid				
Sterling Structures, Inc.	1	EA	No Bid				
Bass Constuction Co., Inc.	1	EA	No Bid				

5 Usual and customary mark up for any non-pre-priced items that may come up. This is not a coefficient. It is a percent mark up of actual cost.							
Supplier	QTY	UOM	Price	Extended	Supplier Notes	Manufacturer	Manuf Num
Sterling Structures, Inc.	1	EA	\$10.00	\$10.00	10%		
AAA Time Saver Services	1	EA	\$10.00	\$10.00	10%		
THE FENCE LADY INC.	1	EA	\$10.00	\$10.00	10%		
Falkenberg Construction Compa	1	EA	\$12.00	\$12.00	12%		
The Thomas Group, Inc.	1	EA	\$12.00	\$12.00	12%		
FRAGMA Construction Services,	1	EA	\$1.15	\$1.15	15%		
floors 2 adore	1	EA	\$15.00	\$15.00	15%		
Reliable Commercial Roofing Se	1	EA	\$15.00	\$15.00	15%		
The Trevino Group, Inc.	1	EA	\$15.00	\$15.00	15%		
Sullivan Contracting Services (Pc	1	EA	\$15.00	\$15.00	15%		

SDB Contracting Services (SDB, I	1	EA	\$15.00	\$15.00	15%
Bass Constuction Co., Inc.	1	EA	\$15.00	\$15.00	15%
Near Future LLC	1	EA	\$15.00	\$15.00	15%
L-Sync, LLC	1	EA	\$17.00	\$17.00	17%
Jamail & Smith Construction, LP	1	EA	\$1.18	\$1.18	18%
Hallmark Mitigation & Construc	1	EA	\$19.00	\$19.00	19%
Centennial Moisture Control, In	1	EA	\$0.20	\$0.20	20%
Radius Design Works, LLC	1	EA	\$0.20	\$0.20	20%
LMC Corp (Lee Construction anc	1	EA	\$1.20	\$1.20	20%
Blackmon Mooring	1	EA	\$20.00	\$20.00	20%
Mooring Recovery Services	1	EA	\$20.00	\$20.00	20%
Mid-Continental Restoration Co	1	EA	\$20.00	\$20.00	20%
J Reynolds & Co., Inc.	1	EA	No Bid		

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: City Secretary
Subject: Resolution No. 22-R-08 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing approval of the Guadalupe Appraisal District (G.A.D.) Facility Parking Lot Expansion. (M. Browne)

BACKGROUND

On October 26, 2021 City Council approved this item but due to the County not having enough participants because of the 30-day time limit they are requesting we approve the new resolution.

As background, on October 12, 2021 the City received a letter from Mr. Peter Snaddon, Chief Appraiser of Guadalupe Appraisal District stating that the Board of Directors would like to move forward with the parking lot expansion project at their Main Office location in Seguin. This expansion project was part of the Master Facility Plan which first began during the 2006-2007 time period. The 3,600 square feet addition to the renovation of the District's existing building was completed in 2008. The necessary activities to begin the project began late 2018 and into 2019.

The arrival of the COVID-19 pandemic, in early 2020, further complicated the commencement of the project bringing us to present day. The need of additional parking at their main office has only grown more prominent during these delays. In researching the facilities of other comparable appraisal districts (based on five (5) year growth analysis projections for the Guadalupe Appraisal District, comparable appraisal districts were chosen based on county population, county density, number of parcels, and staffing levels), it was determined that the additional thirty (30) parking spaces provided by this project would adequately serve the spacing needs of their organization.

Before this necessary project can be pursued, the City of Schertz is required to approve this project. Section §6.051(b) of the Texas Property Tax Code prescribes this approval process. The first step of the approval process requires that the Board of Directors (B.O.D.) approve a resolution proposing the project.

Upon approval of said resolution, the Chief Appraiser is required to notify the Presiding Officer of each entities' governing body of the approved resolution. The resolution passed proposes the cost of the project **shall not exceed** \$91,451. Attached is a copy of the approved resolution by the B.O.D. The District will not request any additional funds from the taxing units for this project. Sufficient funding for this capital improvement was included within their 2022 Adopted Budget, approved by the B.O.D. on August 4, 2021.

Section §6.051(b) further states that upon receiving notification of the approved resolution by the B.O.D. the governing body of each taxing unit, entitled to vote on the approval of the proposal, may approve or disapprove of the proposal by way of resolution. This action **must take place no later than** thirty (30) days after receiving notification of the approved resolution.

With this being said, the Board of Directors of the Guadalupe Appraisal District respectfully requests that an action item be placed upon our action agenda as soon as possible and no later than **January 25, 2022** to approve a resolution of the proposed project.

Section §6.051(b) also requires that each entity file with the Chief Appraiser the resolution that was approved by the governing body **no later than** ten (10) days after the thirty (30) day period following receipt of the B.O.D. resolution. If this is not filed timely, they will have to treat the resolution as if it were disapproved.

GOAL

To comply with Section §6.051(b) and approve the much-needed parking lot expansion project for the Guadalupe Appraisal District.

COMMUNITY BENEFIT

Provide additional parking spaces at the Guadalupe Appraisal Districts Main Office in Seguin.

SUMMARY OF RECOMMENDED ACTION

To approve a resolution as indicated under section §6.051(b) authorizing and approving the Guadalupe Appraisal District Facility Parking Lot Expansion.

FISCAL IMPACT

No fiscal impact as the funds were approved in the Guadalupe Appraisal District FY 2022 budget that was adopted August 4, 2021.

RECOMMENDATION

Approval of Resolution No. 22-R-08.

Attachments

Appraisal District Letter
Resolution 22-R-08

GUADALUPE APPRAISAL DISTRICT

Main Office

3000 N. Austin St.
Seguin, Texas 78155
(830) 303-3313 Opt. 1
(830) 372-2874 (Fax)



Schertz Substation

1052 FM 78 * Ste. 103
Schertz, Texas 78154
(830) 303-3313 Opt. 2
(877) 254-0888 (Fax)

December 28, 2021

City of Schertz Mayor and City Council

Ralph Gutierrez, Mayor
1400 Schertz Pkwy.
Schertz, TX 78154

Dear Mayor Gutierrez & City Council,

The Guadalupe Appraisal District (G.A.D.) Board of Directors would like to move forward with the parking lot expansion project (project) at our main office location in Seguin. This expansion project was part of the Master Facility Plan which first began during the 2006-2007 time period. The 3,600 sqft addition to and renovation of the district's existing building was completed in 2008. The necessary activities to begin the project began late 2018 and into 2019. The retirement of Jamie Osborne, chief appraiser during this time, and a procedural miscue¹ resulted in our need to delay the project. The arrival of the COVID-19 pandemic, in early 2020, further complicated the commencement of the project bringing us to present day. The need of additional parking at our main office has only grown more prominent during these delays. In researching the facilities of other comparable appraisal districts², it was determined that the additional thirty (30) parking spaces provided by this project would adequately serve the spacing needs of our organization.

Before this necessary project can be pursued, **your action is required to approve this project.**

§6.051(b) of the Texas Property Tax Code prescribes this approval process. The first step of the approval process requires that the Board of Directors (B.O.D.) approve a resolution proposing the project. During the regular meeting of the B.O.D. held December 15, 2021, the B.O.D. approved a resolution proposing this project.

¹ 2019 Budget Amendment Resolution was not brought to B.O.D. for a vote, as required by §6.06(c), to hold previously committed funding (\$102,831) from being returned to taxing entities per §6.06(j)

² Based on five (5) year growth analysis projections for the Guadalupe Appraisal District, comparable appraisal districts were chosen based county population, county density, number of parcels, and staffing levels.

Upon approval of said resolution, the chief appraiser is required to notify the Presiding Officer of each entities' governing body of the approved resolution, which is the purpose of this letter. The resolution passed proposes the cost of the project **shall not exceed** \$91,451. Enclosed you will find a copy of the approved resolution by the B.O.D. *The District will not request any additional funds from the taxing units for this project. Sufficient funding for this capital improvement was included within our 2022 Adopted Budget, approved by the B.O.D. on August 4, 2021.*

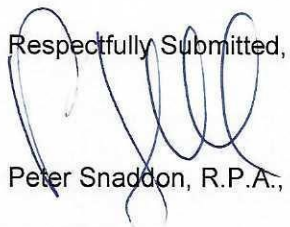
§6.051(b) further states that upon receiving notification of the approved resolution by the B.O.D, the governing body of each taxing unit, entitled to vote on the approval of the proposal, may approve or disapprove of the proposal by way of resolution. This action **must** take place **no later than** thirty (30) days after receiving notification of the approved resolution.

With that being said, the Board of Directors of the Guadalupe Appraisal District respectfully requests that an action item be placed upon your action agenda as soon as possible and no later than **January 25, 2022**, to approve a resolution of the proposed project. Enclosed you will find a sample resolution that your governing body may use for the approval process.

§6.051(b) also requires that each entity file with the Chief Appraiser the resolution that was approved by the governing body **no later than** ten (10) days after the thirty (30) day period following receipt of the B.O.D. resolution. If this is not filed timely, we will have to treat the resolution as if it were disapproved.

An appraisal district representative can be available to discuss with you this process or answer any questions you might have and or to attend the meeting in which this resolution will be discussed and acted upon. Please notify our office as soon as possible in this regard, so we may accommodate your entity in the manner you wish.

Respectfully Submitted,



Peter Snaddon, R.P.A., C.C.A.

Chief Appraiser

RESOLUTION NO. 22-R-08

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS APPROVING THE GUADALUPE APPRAISAL DISTRICT FACILITY PARKING LOT EXPANSION, AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, Guadalupe Appraisal District (G.A.D.) has demonstrated a need for additional parking space to meet the growing demand for appraisal services; and

WHEREAS, the Board of Directors of the G.A.D. proposed, and authorized expansion of the facility parking lot; and

WHEREAS, Texas Property Tax Code §6.051 requires acquisition or expansion of real property by the appraisal district to be approved by the governing bodies of three-fourths of the taxing units entitled to vote on the appointment of board members; and

WHEREAS, sufficient funds exist in the dedicated and budgeted reserves of the G.A.D. to expand the facility parking lot and **the District will not request from the taxing units any additional funds for this facility parking lot expansion;** and

WHEREAS, any funds left from the expansion of the facility parking lot be allocated to the District's dedicated reserve funds for future payments towards the master plan for future expansion; and

WHEREAS, the expansion offers the most effective solution to provide the G.A.D. with the additional parking needed to service the taxing entities and the taxpayers of Guadalupe County.

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

Section 1. The City Council of the City of Schertz, Texas approves the G.A.D. facility parking lot expansion located at 3000 N. Austin St., Seguin, TX 78155 in the amount of \$91,451.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of January 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: Purchasing & Asset Management
Subject: Resolution No. 22-R-04 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to reject all proposals received for BID 2021-019 regarding the Mobile/Modular Home for EMS and other matters in connection therewith. (M. Browne/J. Kurz/J. Golke)

BACKGROUND

In November 2021, staff issued a request for bids for a mobile home to be used at EMS 4 to house emergency services buildings. The budget for this solicitation was approximately \$75,000.00. The solicitation was for a 900-1100 sf Modular Home with a Minimum of three (3) Bedrooms and a Minimum of two (2) bathrooms, NO CARPET, Appliances Included and Approximate Measurements of 16' wide by 70' long. The solicitation included Delivery/Set-Up of the new building along with removal/disposal of the existing modular building located at 104 E. Hubinger, Marion, Texas.

The solicitation was posted for three (3) weeks and a single response was received in the amount of \$263,487.00.

Upon reaching out to the three main suppliers of mobile homes in the Tri-County area, staff found that a mobile home meeting the requirements set forth above could be purchased for \$88,000.00. As such, Staff believes it is in the best interest of the City to reject the bid received in response to Bid 2021-019 Modular Home to House Emergency Medical Service Team and move forward with the purchase of a mobile home from the local vendor.

GOAL

To obtain approval from City Council for staff to reject the single bid received in response to BID 2021-019 and move forward with a local purchase.

COMMUNITY BENEFIT

It is the responsibility of City Staff to ensure that we are good stewards of the City's money. As such, moving forward with a building purchase that is more than double that of a local provider is not in the best interest of the City and/or its citizens.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approval of resolution 22-R-04

FISCAL IMPACT

There is no impact financially to rejecting the bid received.

RECOMMENDATION

Staff recommends approval of resolution 22-R-04

Attachments

Resolution 22-R-04

RESOLUTION NO. 22-R-04

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO REJECT ALL BIDS RECEIVED FOR THE MOBILE HOME TO HOUSE EMS (BID# 2021-019)

WHEREAS, the City staff of the City of Schertz (the "City") has recommended that the City reject all received bids for the Mobile Home to house EMS; and

WHEREAS, City staff has reviewed the submitted bids and determined that the base bid pricing received is above the available budgeted amount; and

WHEREAS, the City Council has determined that it is in the best interest of the City to reject all received bids for the Mobile Home to house EMS in favor of purchasing from a local vendor that can provide equivalent housing for the project.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to reject all bids received for the Mobile Home to house EMS.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provisions.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this ____ day of _____, 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022

Department: Public Works

Subject: Resolution No. 22-R-10 - Consideration and approval of a Resolution by the Schertz City Council approving a Bond Resolution previously adopted by the Board of Directors of the Schertz/Seguin Local Government Corporation authorizing the issuance of obligations designated as “Schertz/Seguin Local Government Corporation Contract Revenue Refunding Bonds, Taxable New Series 2022”; acknowledging that these obligations will be sold pursuant to the provisions of a purchase contract; ratifying, reconfirming, and readopting the provisions of a Regional Water Supply Contract executed between the City of Schertz, Texas, the City of Seguin, Texas, and the Schertz/Seguin Local Government Corporation; authorizing the Mayor, the City Manager, and the City Secretary of the City of Schertz, Texas to execute on behalf of the City of Schertz, Texas all documents in connection with this transaction; and other matters in connection therewith. (C. Kelm/S.Williams/M. McLiney)

BACKGROUND

The Schertz/Seguin Local Government Corporation was created on December 23, 1998 on behalf of the City of Schertz and Seguin to assist in acquiring water outside of the Edwards Aquifer. The Corporation was created by the Cities to operate a wholesale water system for the benefit of the two City’s Utility Systems. The Corporation has financed the construction of well fields and cross-country pipelines and today provides a reliable, drought-resistant water source. The Bonds are supported by Contracts between the Cities and the Corporation, and the liability is evenly split between the two Cities. Currently, the LGC has \$130,515,000 of Bonds outstanding that are supported by the two Cities of which a portion of the Series 2014 and 2015 can be refunded for savings.

GOAL

To reduce overall project costs by refinancing existing indebtedness at a lower interest rate.

COMMUNITY BENEFIT

Rates paid pursuant to the Contract are tied to debt service payments on the Corporation's indebtedness. Savings from the refunding will result in lower payments under the terms of the Contract.

SUMMARY OF RECOMMENDED ACTION

Approve Resolution No. 22-R-10.

FISCAL IMPACT

Due to the low current interest rates a portion of the Series 2014 and 2015 can be Refunded for savings. We currently estimate that the Refunding will save the SSLGC approximately \$5,400,000 over the life of the Bonds. Since the Cities benefit equally, the savings amount to an approximate \$2,700,000 benefit to the City of Schertz.

SAMCO Capital Markets, the City’s and the Corporation’s Financial Advisor, proposes to sell the

refunding bonds on or about January 25, 2022. The SSLGC Board approved their resolution at their December 16, 2021 meeting and the City of Seguin ratified the SSLGC Board action at their December 21, 2021 meeting. To complete the transaction, the City will need to ratify the SSLGC Board action this action item.

Only after the both Cities approve the Resolution can the SSLGC proceed to a bond sale.

RECOMMENDATION

City Staff and consultants recommend that the City Council adopt Resolution No. 22-R-10 approving the sale of the Refunding Bonds so long as certain savings targets can be met as outlined in the Resolution before the Council and ratifying the Corporation’s action authorizing the sale of Bonds on December 16, 2021.

Suggested Motion:

I MOVE THAT THE CITY COUNCIL APPROVE A RESOLUTION APPROVING A BOND RESOLUTION PREVIOUSLY ADOPTED BY THE BOARD OF DIRECTORS OF THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION AUTHORIZING THE ISSUANCE OF BONDS DESIGNATED AS “SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION CONTRACT REVENUE REFUNDING BONDS, TAXABLE NEW SERIES 2022”

Attachments

- Resolution 22-R-10
 - Letter
 - General Certificate
 - City Secretary Certificate
-

RESOLUTION NO. 22-R-10

APPROVING A RESOLUTION BY THE SCHERTZ CITY COUNCIL APPROVING A BOND RESOLUTION PREVIOUSLY ADOPTED BY THE BOARD OF DIRECTORS OF THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION AUTHORIZING THE ISSUANCE OF OBLIGATIONS DESIGNATED AS “SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION CONTRACT REVENUE REFUNDING BONDS, TAXABLE NEW SERIES 2022”; ACKNOWLEDGING THAT THESE BONDS WILL BE SOLD TO UBS FINANCIAL SERVICES, INC., PURSUANT TO THE PROVISIONS OF A PURCHASE CONTRACT; RATIFYING, RECONFIRMING, AND READOPTING THE PROVISIONS OF A REGIONAL WATER SUPPLY CONTRACT EXECUTED BETWEEN THE CITY OF SCHERTZ, TEXAS, THE CITY OF SEGUIN, TEXAS, AND THE SCHERTZ/SEGUIN LOCAL GOVERNMENT CORPORATION; AUTHORIZING THE MAYOR, THE CITY MANAGER, AND THE CITY SECRETARY OF THE CITY OF SCHERTZ, TEXAS TO EXECUTE ON BEHALF OF THE CITY OF SCHERTZ, TEXAS ALL DOCUMENTS IN CONNECTION WITH THIS TRANSACTION; AND OTHER MATTERS IN CONNECTION THEREWITH

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

Section 1. The City Council of the City of Schertz, Texas (the “City”) has reviewed and hereby approves (i) the Bond Resolution as to form and content, including the factual findings contained therein and all documents referenced therein, adopted by the Board of Directors of the Schertz/Seguin Local Government Corporation (the “Corporation”) relating to the issuance of obligations designated as “Schertz/Seguin Local Government Corporation Contract Revenue Refunding Bonds, Taxable New Series 2022” (the “Bonds”), (ii) the Bonds that will be sold to UBS Financial Services, Inc., as the authorized representative of a group of underwriters (the “Underwriters”), (iii) the Regional Water Supply Contract, including the factual findings contained therein, previously approved and executed among the City of Schertz, Texas, the City of Seguin, Texas (collectively, the “Cities”), and the Schertz/Seguin Local Government Corporation (the “Contract”) which provides certain security for the payment of these obligations, (iv) the bond purchase contract (the “Purchase Contract”) authorizing the sale of the Bonds to the Underwriters, (v) the Sale and Offering Documents (as defined in the Contract), including, but not limited to, the City’s annual continuing disclosure requirements in accordance with the Rule (as defined in the Contract), (vi) the City’s obligations under the Contract and acknowledges that the payment of principal of and interest on such Bonds is payable, in whole or in part, from the Annual Payments to be made by the Cities to the Corporation under and pursuant to the Contract, and (vii) the refunding of the Refunded Obligations and acknowledges that this refunding will provide present value savings to the Corporation. The Mayor, the City Manager, and the City Secretary of the City (each, an “Authorized Official”) are hereby authorized to execute on behalf of the City, the Purchase Contract, and any and all documents in connection with this transaction. This resolution may be relied upon by the appropriate representatives of the parties to this transaction and the Texas Attorney General in his review and approval of this transaction.

Section 2. The City Council recognizes that Section 53 of the Bond Resolution contains covenants of the City relating to the Bonds. Since certain financial information, financial status, operating data, and annual audits of the City’s utility system will be entirely within the control and disposition of the City, and the Preliminary Official Statement and the Final Official Statement prepared in connection with the issuance of the Bonds (together, the “Official Statement”), describe a continuing disclosure undertaking agreement (the “Undertaking”) of the City, the City Council specifically adopts the covenants hereinafter described, which comprise the Undertaking, and shall comply therewith for so long as all or any portion of the Annual Payments made by the City under the Contract act as security for or a source of repayment of the Bonds.

A. Definitions.

As used in this Section, the following terms have the meanings ascribed to such terms below:

EMMA means the MSRB’s Electronic Municipal Market Access system, accessible by the general public, without charge, on the internet through the uniform resource locator (URL) <http://www.emma.msrb.org>.

Financial Obligation means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

MSRB means the Municipal Securities Rulemaking Board.

Rule means SEC Rule 15c2-12, as amended from time to time.

SEC means the United States Securities and Exchange Commission.

Undertaking means the City’s continuing disclosure undertaking, described in Paragraphs B through F below, hereunder accepted and entered into by the City for the purpose of compliance with the Rule.

B. Annual Reports.

The City shall file annually with the MSRB, (1) within six months after the end of each fiscal year of the City ending in or after 2021, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 35 of the Bond Resolution, being the information described in Exhibit E thereto, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit E thereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall file unaudited financial statements within such period and audited financial statements for the applicable fiscal year to the

MSRB, when and if the audit report on such financial statements becomes available. Under current Texas law, including, but not limited to, Chapter 103, as amended, Texas Local Government Code, the City must have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit. The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the City Secretary within one hundred eighty (180) days after the last day of the City's fiscal year. Additionally, upon the filing of this financial statement and the annual audit, these documents are subject to the Texas Open Records Act, as amended, Texas Government Code, Chapter 552.

If the City changes its fiscal year, it will file notice of such change (and of the date of the new fiscal year end) with the MSRB prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

C. Notice of Certain Events.

The City shall file notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to rights of holders of the Bonds, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry

into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(14) Appointment of a successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material;

(15) Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and

(16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City and (b) the City intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The City shall file notice with the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with this Section by the time required by this Section.

D. Limitations, Disclaimers, and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit that causes the Bonds to be no longer Outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under the Bond Resolution for purposes of any other provision of the Bond Resolution.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of the Bond Resolution that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the holders and beneficial owners of the Bonds. The City may also repeal or amend the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or any court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the City also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in either case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule. If the City so amends the provisions of this Section, the City shall include with any amended financial information or operating data next provided in accordance with this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

E. Information Format – Incorporation by Reference.

The City information required under this Section shall be filed with the MSRB through EMMA in such format and accompanied by such identifying information as may be specified from time to time thereby. Under the current rules of the MSRB, continuing disclosure documents submitted to EMMA must be in word-searchable portable document format (PDF) files that permit the document to be saved, viewed, printed, and retransmitted by electronic means and the series of obligations to which such continuing disclosure documents relate must be identified by CUSIP number or numbers.

Financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public through EMMA or filed with the SEC.

F. General Policies and Procedures Concerning Compliance with the Rule.

Because the issuance of the Bonds is subject to the provisions of the Rule and because the potential “underwriters” in a negotiated sale of the Bonds or the initial purchasers in a competitive sale of the Bonds may be subject to MSRB rules and regulations with respect to such sale (including certain due diligence and suitability requirements, among others), the City hereby adopts the General Policies and Procedures Concerning Compliance with the Rule (the *Policies and Procedures*), attached hereto as Exhibit A, with which the City shall follow to assure compliance with the Undertaking. The City has developed these Policies and Procedures for the purpose of meeting its requirements of the Undertaking and, in connection therewith, has sought the guidance from its internal staff charged with administering the City’s financial affairs, its municipal or financial advisors, its legal counsel (including its Bond Counsel), and its independent accountants (to the extent determined to be necessary or advisable). The Policies and Procedures can be amended at the sole discretion of the City and any such amendment will not be deemed to be an amendment to the Undertaking. Each Authorized Official is hereby authorized to amend the Policies and Procedures as a result of a change in law, a future issuance of indebtedness subject to the Rule, or another purpose determined by the Authorized Official to be necessary or desirable for or with respect to future compliance with the Undertaking.

Section 3. Authorized Officials of the City will review and approve the Official Statement. Information appearing in the Official Statement concerning the City (including, particularly, the description of the Undertaking and Appendices C and E thereto), as of its date, were and are true and correct in all material respects. Insofar as the City and its affairs, including its financial affairs, are concerned, such Official Statement did not and does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. Insofar as the descriptions and statements, including financial data, of or pertaining to entities, other than the City, and their activities contained in such Official Statement are concerned, such statements and data have been obtained from sources which the City believes to be reliable, and the City has no reason to believe that they are untrue in any material respect.

Section 4. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 5. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 6. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 8. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 9. This Resolution shall be in force and effect from and after the date of its adoption, and it is so resolved.

[The remainder of this page intentionally left blank.]

APPROVED THIS THE 11TH DAY OF JANUARY, 2022.

ATTEST:

City Secretary

Mayor

EXHIBIT A

General Policies and Procedures Concerning Compliance with Federal Securities Laws

I. Capitalized terms used in this Exhibit have the meanings ascribed thereto in Section 2 of the Resolution. “Bonds” refers to the Bonds that are the subject of the Resolution to which this Exhibit is attached.

II. As a capital markets participant, the City is aware of its continuing disclosure requirements and obligations existing under the Rule prior to February 27, 2019, the effective date of the most recent amendment to the Rule (the “Effective Date”), and has implemented and maintained internal policies, processes, and procedures to ensure compliance therewith. Adherence to these internal policies, processes, and procedures has enabled underwriters in non-exempt negotiated sales and initial purchasers in non-exempt competitive sales to comply with their obligations arising under various MSRB rules and regulations concerning due diligence and findings of suitability, among other matters, regarding the City’s compliance with the Rule.

III. The City is aware that the Rule was amended as of the Effective Date (the *Rule Amendment*) and has accommodated this amendment by adding subparagraphs (15) and (16) to Section 53C of the Resolution, which provisions are a part of the Undertaking.

IV. The City is aware that “participating underwriters” (as such term is defined in the Rule) of the Bonds must make inquiry and reasonably believe that the City is likely to comply with the Undertaking and that the standards for determining compliance have increased over time as a result of, among others, the United States Securities and Exchange Commission’s Municipalities Continuing Disclosure Cooperation Initiative and regulatory commentary relating to the effectiveness of the Rule Amendment.

V. The City now establishes the following general policies and procedures (the “Policies and Procedures”) for satisfying its obligations pursuant to the Undertaking, which policies and procedures have been developed based on the City’s informal policies, procedures, and processes utilized prior to the Effective Date for compliance with the City’s obligations under the Rule, the advice from and discussions with the City’s internal senior staff (including staff charged with administering the City’s financial affairs), its municipal or financial advisors, its legal counsel (including Bond Counsel), and its independent accountants, to the extent determined to be necessary or advisable (collectively, the “Compliance Team”):

1. the City Manager and the Director of Finance (each, a “Compliance Officer”) shall be responsible for satisfying the City’s obligations pursuant to the Undertaking through adherence to these Policies and Procedures;
2. the Compliance Officer shall establish reminder or “tickler” systems to identify and timely report to the MSRB, in the format thereby prescribed from time to time, the City’s information of the type described in Section 53B of the Resolution;
3. the Compliance Officer shall promptly determine the occurrence of any of the events described in Section 53C of the Resolution;

4. the Compliance Officer shall work with external consultants of the City, as and to the extent necessary, to timely prepare and file with the MSRB the annual information of the City and notice of the occurrence of any of the events referenced in Clauses 2 and 3 above, respectively, the foregoing being required to satisfy the terms of the Undertaking;
5. the Compliance Officer shall establish a system for identifying and monitoring any Financial Obligations, whether now existing or hereafter entered into by the City, and (upon identification) determining if such Financial Obligation has the potential to materially impact the security or source of repayment of the Bonds;
6. upon identification of any Financial Obligation meeting the materiality standard identified in Clause 5 above, the Compliance Officer shall establish a process for identifying and monitoring any City agreement to covenants, events of default, remedies, priority rights, or other similar terms under such Financial Obligation;
7. the Compliance Officer shall establish a process for identifying the occurrence of any default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any Financial Obligation, the occurrence of any of which reflect financial difficulties of the City; and

VI. the Compliance Officer shall annually review these Policies and Procedures with the remainder of the Compliance Team, make any modifications on an internal document retained by the Compliance Officer and available to any “participating underwriter” (as defined in the Rule), if requested, and on the basis of this annual review (to the extent determined to be necessary or desirable), seek additional training for herself or himself, as well as other members of the City’s internal staff identified by the Compliance Officer to assist with the City’s satisfaction of the terms and provisions of the Undertaking.

NORTON ROSE FULBRIGHT

January 4, 2022

Via E-Mail
Via Federal Express

Ms. Brenda Dennis
City Secretary
City of Schertz
1400 Schertz Parkway
Schertz, Texas 78154

Norton Rose Fulbright US LLP
98 San Jacinto Boulevard, Suite 1100
Austin, Texas 78701-4255
United States

Stephanie Leibe
Partner
Direct line +1 512 536 2420
Stephanie.leibe@nortonrosefulbright.com

Tel +1 512 474 5201
Fax +1 512 536 4598
nortonrosefulbright.com

Re: Schertz/Seguin Local Government Corporation Contract Revenue Bonds, Taxable New Series 2022

Dear Brenda:

I enclose the following documents in connection with the captioned matter for execution at the January 11, 2022 regular meeting of the City Council:

1. Resolution approving the issuance of the Bonds (one copy and ten signature pages);
2. City Secretary's Certificate pertaining to this Resolution (two copies and ten signature pages); and
3. General Certificate (one copy and ten signature pages).

Please return one completed copy of the City Secretary's Certificate, and all executed signature pages to me. The completed copies of the aforementioned documents should be retained for the files of the City.

Thank you, in advance, for your prompt attention to this matter. If I can provide any additional assistance concerning this matter, please do not hesitate to contact me.

Very truly yours,



Stephanie V. Leibe

SVL/rmw
Enclosures

cc: Ms. Amber Briggs Beard (Schertz/Seguin Local Government Corporation)
Mr. Valentin T. Ruiz, Jr. (Schertz/Seguin Local Government Corporation)
Mr. Patrick W. Lindner (Davidson, Troilo, Ream & Garza P.C.)
Mr. Mark Browne (City of Schertz, Texas)

Ms. Brenda Dennis
January 4, 2022
Page 2

Mr. James Walters (City of Schertz, Texas)
Mr. Mark McLiney (SAMCO Capital Markets, Inc.)
Mr. Andrew Friedman (SAMCO Capital Markets, Inc.)
Mr. Duane Westerman (SAMCO Capital Markets, Inc.)
Mr. Allen Westerman (SAMCO Capital Markets, Inc.)
Mr. Nick Westerman (SAMCO Capital Markets, Inc.)
Mr. George W. Scofield (Firm)
Mr. Matthew A. Lee (Firm)
Mr. Chris Guevara (Firm)

of the City Manager appearing hereon is his genuine signature and by his signature hereon, the City Manager certifies that the signature of the Mayor appearing hereon is his genuine signature.

9. Capitalized terms not defined in this certificate shall have the meanings ascribed to them in the Resolution passed and adopted by the Schertz/Seguin Local Government Corporation on the 16th day of December, 2021 (the *Resolution*).

10. As Authorized Representatives (authorized to act in the City Manager's absence) pursuant to the terms of the Contract, the Resolution and the Sale and Offering Documents (as defined in the Contract) comply with the Contract.

11. This certificate is made for the benefit of the persons involved in this transaction and the Attorney General of The State of Texas in connection with his examination into and the approval of the Bonds.

12. None of the obligations being refunded by the Bonds has ever been held in or purchased for the account of the special Funds created and maintained for the payment and security of such obligations being refunded and, none of the obligations being refunded by the Bonds is currently owned nor has any of the same ever been purchased or held for any account or fund of the City.

Authorization of Attorney General to Date Certificate

13. This certificate is submitted pursuant to 1 TAC §53.247. Upon the approval of the Bonds and the Contract by the Attorney General of the State of Texas, he is authorized to date this certificate as of the date of such approval. If any litigation should develop, or if any other event should occur which should make this certificate inaccurate before the Attorney General's approval of the Bonds and the Contract, we will notify the Attorney General at once by both telephone and facsimile transmission. With this assurance, the Attorney General is entitled to rely on the accuracy of this certificate at the time of approval of the Bonds and the Contract unless we advise him otherwise.

[The remainder of this page intentionally left blank.]

WITNESS OUR HANDS AND THE SEAL OF THE CITY OF SCHERTZ, TEXAS, this

CITY OF SCHERTZ, TEXAS

Mayor

City Manager

(CITY SEAL)

EXHIBIT A

**CURRENTLY OUTSTANDING INDEBTEDNESS
PAYABLE FROM UTILITY SYSTEM REVENUES**

<u>Description</u>	<u>Amount</u>
None	

Additionally, the City has covenanted in the Contract to establish, assess, and collect rates sufficient to make the Annual Payments (as defined in the Contract), including an amount sufficient to pay the principal and interest payments on the Bonds and the currently outstanding Priority Bonds and the currently outstanding New Series Bonds designated as (i) Schertz/Schertz Local Government Corporation Contract Revenue Bonds, Series 2001”, dated February 1, 2001, issued in the aggregate original principal amount of \$41,040,000, (ii) Schertz/Seguin Local Government Corporation Contract Revenue Refunding Bonds, New Series 2014, dated September 1, 2014, issued in the aggregate original principal amount of \$6,275,000, (iii) Schertz/Seguin Local Government Corporation Contract Revenue Improvement and Refunding Bonds, New Series 2015, dated October 1, 2014, issued in the aggregate original principal amount of \$41,025,000, (iv) Schertz/Seguin Local Government Corporation Contract Revenue Bonds, New Series 2016 (Texas Water Development Board SWIRFT Project Financing), dated August 1, 2016, issued in the aggregate original principal amount of \$43,670,000, and (v) Schertz/Seguin Local Government Corporation Contract Revenue Refunding Bonds, New Series 2018, dated November 15, 2018, issued in the aggregate principal amount of \$19,045,000.

EXHIBIT B
UTILITY RATES

Electric Rates (Effective October 1, 2020)

Residential Electric - RES: *Applicable to individually metered residential dwellings.*

Applicable to individually metered residential dwellings.

Customer Charge, per meter:	\$14.50
Energy Charge per kWh:	\$.03757
PCRF Charge per kWh:	\$.05506

Small Commercial - SCS: *Applicable to non-residential customers or multiple dwelling unit residential customers billed through one meter and whose peak demand does not exceed 25 KW.*

Customer Charge, per meter:	\$30.00
Energy Charge per kWh:	\$.03379
PCRF Charge per kWh:	\$.05506

Large Power Commercial - LPS: *Applicable to non-residential customers whose peak KW is between 25 and 500.*

Customer Charge, per meter:	\$125.00
SECONDARY Customer Energy Charge per kWh:	\$.03035
SECONDARY Customer Demand Charge per KW:	\$2.50
PCRF Charge per kWh both SECONDARY & PRIMARY:	\$.05506
PRIMARY Customer Energy Charge per kWh:	\$.02944
PRIMARY Customer Demand Charge per kWh:	\$2.50

Large Power Industrial - IND: *Applicable to non-residential customers whose peak KW is greater than 500.*

Customer Charge, per meter:	\$350.00
SECONDARY Customer Energy Charge per kWh:	\$.014984
SECONDARY Customer Demand Charge per KW:	\$3.50
PCRF Charge per kWh both SECONDARY & PRIMARY:	\$.05506
PRIMARY Customer Energy Charge per kWh:	\$.01453
PRIMARY Customer Demand Charge per KW:	\$3.50

SECURITY LIGHTS

100 watt lamp per month:	\$ 7.00
150 watt lamp per month:	\$10.64
1500 watt lamp per month:	\$52.00

LED SECURITY LIGHTS

-4-

50 watt lamp per month:	\$ 5.94
80 watt lamp per month:	\$ 9.20
Setup fee for 100 or 150 watt lamps:	
Existing Pole	\$100.00
Wood Pole installation	\$250.00
Steel or Composite Pole	Actual Cost
Setup fee for 1500 watt lamps:	
Existing Pole	\$430.00
Wood Pole installation	\$480.00
Steel or Composite Pole	Actual Cost

Water Rates (Effective October 1, 2020)

Residential:

Capacity Charge	\$23.67
1 - 10,000 gallons used	\$ 4.12 (per 1,000 gal)
10,001 - 35,000 gallons used	\$ 4.70 (per 1,000 gal)
35,000 and above gallons used	\$ 5.30 (per 1,000 gal)

Commercial, Industrial, Governmental, and Multi-Family:

Capacity Charge per meter	\$51.07
First 12,000,000 gallons used (per 1,000 gal)	\$ 4.67
All additional gallons used (per 1,000 gal))	\$ 3.98

INDUSTRIAL SURFACE WATER (Effective October 1, 2020)

Capacity Charge per meter	\$51.07
All gallons used	\$ 3.51 (per 1,000 gal)
If ground water has to be used	\$ 3.98 (per 1,000 gal)

SEWER RATES: (effective October 1, 2020)

Residential:

Up to the first 2,000 Gallons of water used	\$33.16
The next 6,000 gallons used	\$ 4.97 (per 1,000 gal)
Max charge for 8,000 gallons of water used	\$62.98
Fixed sewer fee for wastewater service only and no metered water	\$41.45

Residential Outside:

Up to the first 2,000 Gallons of water used	\$41.45
The next 6,000 gallons used	\$ 6.21 (per 1,000 gal)

Commercial and Industrial:

Capacity Charge	\$54.69
First 8,000,000 gallons of water used	\$ 5.11 (per 1,000 gal)
All additional gallons used	\$ 4.01 (per 1,000 gal)
Fixed sewer for wastewater service only and no metered water	\$54.69

Industrial User Charge and Fee:

Permit Fee for all Commercial & Industrial users	\$4.00/month
Permit Fee for all discharge to the POTW (per 1,000)	\$.06
Based on water usage monthly above 200,000 gallons of water per month or document of metered discharge	

Industrial User Metered Sewer:

Capacity Charge	\$54.69
First 8,000,000 gallons of water used	\$ 4.97 (per 1,000 gal)
All additional gallons used	\$ 3.78 (per 1,000 gal)

Solid Water Services: Garbage Effective December 1, 2019
Recycling Effective December 1, 2019

Each residential account has one garbage container	\$14.47
Each additional container	\$ 6.20
Each residential account has one recycle container	\$ 3.23

EXHIBIT C

OPERATING SCHEDULE

Fiscal Year Ending	<u>9-30-2020</u>	<u>9-30-2019</u>	<u>9-30-2018</u>	<u>9-30-2017</u>	<u>9-30-2016</u>
Income:	\$56,181,996	\$54,671,288	\$53,025,594	\$50,369,518	\$46,694,348
Expenses:					
Power Purchased	17,695,999	16,830,729	16,970,475	18,351,972	16,367,503
Other	<u>26,539,157</u>	<u>28,629,186</u>	<u>24,142,389</u>	<u>23,355,181</u>	<u>21,986,954</u>
Total Expenses	\$44,235,156	\$45,459,915	\$41,112,864	\$41,707,153	\$38,354,457
Net Revenue Available for Debt Service	\$11,946,840	\$ 9,211,373	\$11,912,730	\$ 8,662,365	\$ 8,339,891
Annual Requirement Prior Lien Debt	\$ 2,503,299	\$ 2,609,069	\$ 2,260,175	\$ 1,761,445	\$ 1,881,744
Coverage of Outstanding Annual Requirement for Prior Lien Debt	4.77x	3.53x	5.27x	4.92x	4.43%

Source: City's audited financial statements and City Officials.

EXHIBIT D

AVERAGE ANNUAL DEBT SERVICE REQUIREMENTS

was introduced and submitted to the Council for passage and adoption. After presentation and due consideration of the Resolution, a motion was made by Councilmember _____ that the Resolution be finally passed and adopted as an emergency measure in accordance with the City's Home Rule Charter. The motion was seconded by Councilmember _____ and carried by the following vote:

_____ voted "For" _____ voted "Against" _____ abstained

all as shown in the official Minutes of the Council for the Meeting.

2. The attached Resolution is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the Council on the date of the Meeting are those persons shown above, and, according to the records of my office, each member of the Council was given actual notice of the time, place, and purpose of the Meeting and had actual notice that the Resolution would be considered; and the Meeting and deliberation of the aforesaid public business, was open to the public and written notice of said meeting, including the subject of the Resolution, was posted and given in advance thereof in compliance with the provisions of Chapter 551, as amended, Texas Government Code.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of the City, this 11th day of January, 2022.

City Secretary

(SEAL)

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: Emergency Medical Services
Subject: Resolution No. 22-R-13 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the City Manager to enter into an agreement for the purchase of one (1) Modular building and associated equipment. (C. Kelm/J. Mabbitt)

BACKGROUND

The EMS department purchased a FEMA trailer to staff an ambulance crew in Marion, TX eleven years ago, and it has since out-lived its life span. With the extension of the Guadalupe County agreement we need to purchase a new modular trailer. The City completed a formal request for bids and the one response received was rejected as it was significantly higher than local market value. EMS obtained three (3) quotes from local vendors and would like to award the purchase to Titan Factory Direct out of New Braunfels. Similar in pricing, Titan was the only provider that agreed to remove the existing structure without additional fees. The total cost includes the 14 x 76 modular home, haul off of the existing structure, utility connections, base work and delivery setup of the new structure. Associated costs will include new bed frames, desk, chairs, station alerting and other associated equipment needed to equip the station.

GOAL

To provide a new building for the EMS crews to continue to provide EMS services to the citizens of Guadalupe County.

COMMUNITY BENEFIT

The existing structure is dilapidated and in need of replacement. This new structure will provide the EMS crew with new quarters and will enhance the appearance of our presence in Guadalupe County.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approval to allow the City Manager to enter into an agreement with Titan Factory Direct for the purchase of a new modular building.

FISCAL IMPACT

The total cost for the building is \$88,000 and the purchase of associated equipment will not exceed \$12,000. This was an approved budget item for fiscal year 2022.

RECOMMENDATION

Approval of Resolution 22-R-13 authorizing the City Manager to enter into an agreement for the purchase of one (1) Modular building and associated equipment.

Attachments

Quotes

Purchasing & Asset Management Department

VENDOR

VENDOR

VENDOR

VENDOR



Quote Tabulation Sheet

Department: _____

Awarded Vendor: _____

Delivery of Item (measure in days): _____

Item No.:	Qty:	Description:	Unit Price	Ext. Price	Unit Price	Ext. Price	Unit Price	Ext. Price	Unit Price	Ext. Price
TOTAL \$										

This tabulation sheet is to be used by employees to receive quotes from vendors if amount is (TOTAL) less than \$50,000.00. If amount exceeds \$50,000.00 then City employees must contact Purchasing & Asset Management to prepare a Formal Bid.



Memorandum

MEMO TO: Purchasing & Asset Management

DATE:

FROM:

SUBJECT: Sole/Single Source Justification for (brief acquisition description)

In accordance with the City of Schertz Purchasing Policies, unless justified and documented for business reasons, all City of Schertz procurements exceeding \$1,000 should be competed between two or more eligible suppliers. Separate, sequential, or component purchase requests to avoid this threshold is prohibited. Consequently, every contracting action for which competition does not occur must have a sole/single-source justification document in the contract file. This applies to all requests/requirements, not just "new" requirements. The fundamental issue is whether the procurement is competed or not. If not, a written document must be developed and filed in the contract file, which justifies or explains why it was not competed.

This procurement cannot reasonably be competed because:

(Check all applicable blocks and completely explain)

- 1. Only one supplier (include the supplier name) produces or can produce this product or service. (Letter from vendor required).
- 2. Urgency of need limits the capability to compete the requirement. (Please explain the urgency and negative impact if timeline is extended to compete this requirement).
- 3. Standardization with existing products or services must be maintained. Use of any other type, brand, or service process would be incompatible or too costly to modify. (Explanation required).
- 4. Continuity with current or existing processes or services is necessary. (Change to another supplier is not possible for the following reasons).
- 5. Statutory or regulatory requirements limit competition for the following reasons:
- 6. Other reasons why competition for this requirement must be limited: (explain in detail)

EXPLANATION:

City completed a formal request for bids and only 1 response was received which was four times our City Budgeted amount and well over the market value of local offerings. This purchase cannot be made on a Group Purchasing Cooperative. It is in the best interest of the City to obtain quotes from the local providers and obtain an "on the lot" mobile home to ensure cost savings, delivery, and set-up.

Signed: _____

Position/Title: EMS Director

FOR PURCHASING USE ONLY

Approved: Julie G. [Signature]

Date: 10/10/2007

Asst. City Manager

Charles [Signature]

Date: 10 Dec 21



HOME SALES CONTRACT

Purchaser CITY OF SHERTZ DL: _____ Phone: _____
 Co-Purchaser _____ DL: _____ Phone: _____
 Mailing address _____ (City) _____ (State) _____ (Zip)
 Delivery Address _____ (City) _____ (State) _____ (Zip)
 Delivery County _____
 PHC HUNTER NALL License # 36649

Description of Home

New Stock Special Order
 Previously owned TFD Inventory Bank/Broker

Manufacturer CHAMPION

Model CHATH-1676 Year 2022

Building Code

HUD Manufactured Home RV / Park Model
 Modular Home - On Frame Modular Home - Off Frame

Identifying Numbers

Section	Label / Decal Number	ID /Serial Number
1		
2		
3		
4		

Bedrooms _____ Bathrooms _____

Size

Section	Width	Length
1	16	76
2		
3		
4		

Contract Transaction

Type of Transaction Cash Financed
 Type of Loan Chattel Land Home

Base Price _____
 (Page 2) Options \$88,000.00
 (Page 2) Improvements \$ -
Sub Total _____
 Excise Tax \$ -
 Title Fees \$ -
 Insurance (12 months) \$ -
 Extended Service Contract \$ -
 Lender Prepaid Finance Charges _____
Total Contract Price \$88,000.00

Trade-in Allowance \$ -
 Trade Pay Off \$ -
Net Trade-In Allowance \$ -
 Deposit (*) \$ -
 Other Down Payment \$ -
Total Down Payment \$ -

Sales Tax (if not included above) _____
Loan Amount (including points) _____
 Less Lender Prepaid Finance Charges _____
SALES CONTRACT PRICE \$88,000.00

Other Considerations:

- Possession and title of the home will not be transferred until the full cash price has been paid. Move-in cannot be granted until paid in full and the home has been set and tied down to state code. Purchaser is responsible for any temporary living arrangements needed prior to move in.
- If included in the contract, delivery, setup and tie down will be performed to state code.
- Purchaser is responsible for utility hook-ups, unless otherwise stated in the contract. Customer Initials _____
- If purchasing a model center display unit, furniture and décor are not included in the sale price, unless specifically stated.
- TITAN Factory Direct retains all wheels, axles and tires.

This contract is subject to arbitration and constitutes the entire agreement of the Seller for the sale, and the Purchaser(s) for the purchase, of the home described. This contract supersedes any previous versions. No other agreements, representations or inducements, either oral or written, have been made except as set forth in this contract.

*We received this offer 24 hours prior to signing this contract.

General Manager _____ Date _____
 Purchaser _____ Date _____
 Purchaser _____ Date _____

Final Sales Order

Nationwide Housing Systems LLC.
 dba Oak Creek Home Center
 3090 IH 10 West
 Seguin, TX 78155

RBI-32940
 (830) 372-9999

Buyer	Buyer	Phone			Date
Setup Address	City	State	ZIP	County	Salesperson
Mailing Address	City	State	ZIP	County	Licence Number

In this document the words I, Me and My refer to the Buyer and Co-Buyer signing this document. The words you and your refer to the retailer. Subject to the terms and conditions of this agreement, you agree to sell and I agree to purchase the following described unit.

Make <i>oak creek</i>	Model <i>9176</i>	Bedrooms <i>3</i>	Floor Size <i>14x76</i>	Hitch Size
Serial Number	Year or Used <i>NEW</i>	Year <i>2022</i>	HUD Label Number	

- OPTIONAL EQUIPMENT, LABOR AND ACCESSORIES**
- Retailer to deliver, block, level, and tie down the home.
 - Purchaser is responsible for all utility hookups to including water, sewer, gas, electric.
 - Furniture, light bulbs, and décor items are not included unless listed below.
 - Tires, wheels, and axels are not included unless listed below. (Modular Homes only – Hitch will be removed as well).
 - Skirting and other options are not included unless listed separately below.
 - Purchaser is responsible for the proper and legal placement of the home on the property.

Other Items included:

See attached Floor plan, Construction worksheet, and factory spec sheet (if Special order) as a part of this order.

1. Cash Price (Including Sales Tax of \$ 0.00).....	\$ 75,364.00
Cash payment	\$
Trade-In Gross Value \$	Liens \$
Net Trade-In Value \$	0.00
2. Total payment.....	\$
3. Unpaid Balance of Cash Price (1 minus 2).....	\$
4. Amounts paid to others on my behalf	
a. To Insurance Companies	
(1) Property Insurance.....	\$
(2) Credit Life Insurance.....	\$
(3) Home Buyer Protection.....	\$
b. To Public Officials	
(1) Certificate of Title.....	\$
(2) Filing Fees.....	\$
(3) Texas Inventory Tax	\$
c. To Delivery and set.....	\$ 4500.00
d. To A/C.....	\$ 2705.00
e. To Base pad	\$ 2000.00
f. To Home Buyer Protection	\$
g. To N/A.....	\$ 1000.00
h. To N/A.....	\$ 2200.00
i. To N/A.....	\$ 1500.00
Total (items a. through j.).....	\$
5. Unpaid Balance (3 plus 4).....	\$ 89269.00
6. Prepaid Finance Charge.....	\$
7. Amount Financed (5 minus 6).....	\$

ORAL PROMISES ARE NOT HONORED

Buyers hereby certify that no other promises and/or representations have been made to buyers by any of the personnel associated with Oak Creek Home Center other than those items enumerated above

THE TERMS AND CONDITIONS HEREIN ARE PART OF THIS DOCUMENT, PLEASE READ THEM CAREFULLY.

I/we acknowledge that I/we have read and understand this agreement, and that all blanks were filled in prior to signing below I/we are voluntarily purchasing the above home, the optional equipment and accessories named above, and insurance if included.

Description of Trade	Year
Make	Model
	Size
	X
Trade-In Debt To Be Paid By	Retailer
	Customer
Signature	
of Valid Unless Accepted and Signed below by Manager of the Company	
SIGNATURE and TITLE	

SIGNED _____ BUYER

_____ DATE

SIGNED _____ BUYER

_____ DATE

Approved, Subject to Acceptance of Financing by Bank or Finance Company



Home Center: CLAYTON HOMES-NEW

Location: NEW BRAUNFELS, TX

Building Facility: 931

Bedrooms: 3

Description: ANNIVERSARY

Model Number: 31ANN16763AH

Square Footage: 1216

Options Included:

Special CASH Price!
\$82,900*

JAN 6th
INCLUDES DEL'S SETUP
LIND T/O

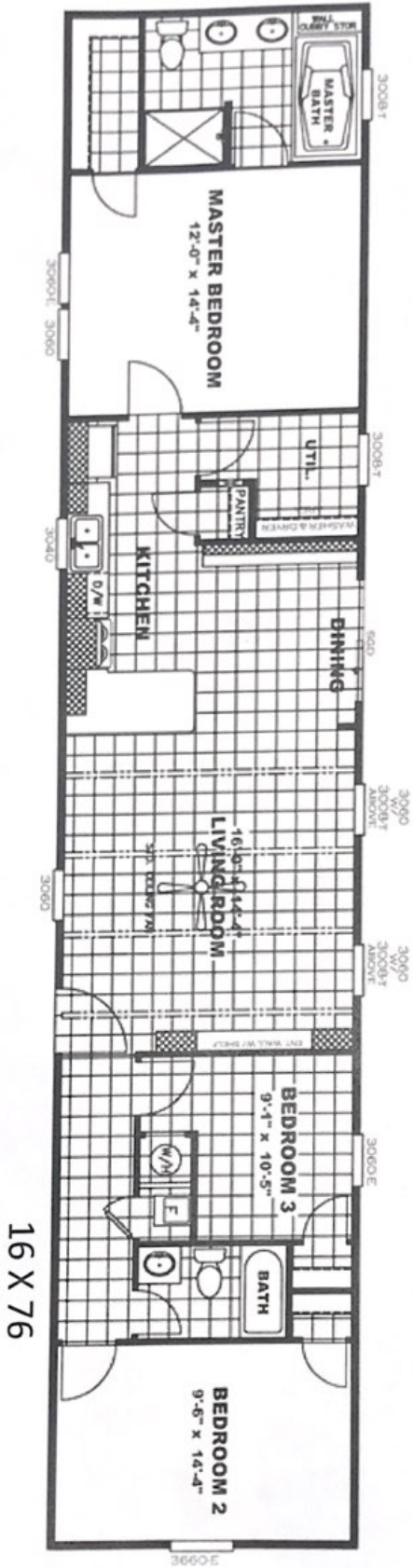
\$87,900*

RETAIL HOME ONLY PRICE

~~**\$107,828**~~

***For a limited time!
+ Tax/Title fees**

"The Anniversary"



Features

Anniversary 68 ▾

Exterior

Low E Thermal Pane Windows

38"x80" Steel Front Door

Sliding Glass Rear Door

Vinyl Exterior Siding w/Composition Roof

Shutters Hitch and Front Doorside

12" Hitch End Overhang

12 1/2" I-Beam

4" Vented Eaves

Full Length Outriggers(Ext Wall Support)

Tongue and Groove OSB Decking

2 X 6 Floor Joist - 16" OC

2 X 4 Exterior Walls

2 X 3 Interior Walls

20# Roof Load

Removable Hitch

(2) Transom Windows Living Room

30 X 40 Window over Kitchen Sink

Insulation

R-33 Ceiling Insulation

R-13 Wall Insulation

R-22 Floor Insulation

Energy Smart

R22-13-33 Insulation

A Coil Housing Box

Ecobee Programmable Thermostat

LED Bulbs

Interior

8' Flat Ceilings

Shaw Carpet w/ 5lb Pad

2" Cordless Blinds Throughout

44" Wide Hallways

White 2 Panel Cathedral Interior Doors

3 Hinges on all Interior Passage Doors

52" Ceiling Fan in Living Room

Brushed Nickel Glass Light Fixtures

W/B for Ceiling Fan Master Bedroom

Entertainment Center (Cable Jack)

(4) Ceiling Beams Living Room

Lino Living Room LUX

Kitchen

42" Cabinet System

Duracraft 3/4 Shaker Style Cabinet Doors

Hidden Hinges on all Cabinet Doors

White Finished Drawer Boxes

Metal Roller Drawer Guides

Lined Overhead Cabinets

Lined Base Shelves

Center Shelves in Base Cabinets

Kwikset Brushed Nickel Interior Door Knobs

Pfister Brushed Nickel Faucets

Stainless Farmhouse Kitchen Sink w/ Spring Loaded Faucet

Cabinet above Refrigerator

Can Lights Kitchen/Dining

Baths

72" Deck Tub in master bath

48" Shower with Glass Doors

Square China Sinks w/ Furniture Style Lavvy

54" Tub/Shower Guest Bath

Pfister Brushed Nickel Faucets with Lever Handles

Transom window over Master Bath Tub

Accent Over Sinks in Master Bath

GFI Receptacle

Elongated Commodes

Power Bath Fan in both baths

Access Panels to all plumbing

Lino in Master and Guest Baths

STD Can Lights

Utility

Total Electric with 200 Amp Service

GFI Protected Exterior Outlet Front Door Side

Copper Wiring Throughout

Plumb and Wired for Washer

Wired and Vented for Dryer

Water Shut-Offs Throughout

Whole House Ventilation System

Interior Utility Door

Wire Utility Shelf

Transom Window

Appliances

18 Cu Ft. Frost Free Refrigerator

30" Electric Range

Dishwasher

Range Hood with Light and Fan

40 Gallon Electric Water Heater

Carrier Electric Furnace (Down Flow)

Popular Options

Smart Panel Exterior Siding

Gas Furnace/Gas Range

Dream Kitchen (Black or Stainless)

Smooth Top Range

Side X Side Refer

Microwave

Thermal Zone 2 and 3

30lb Roof Load

40lb Roof Load

Wind Zone II & Wind III

Energy Star Compliant Package

RESOLUTION NO. 22-R-13

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT FOR THE PURCHASE OF ONE (1) MODULAR BUILDING AND ASSOCIATED EQUIPMENT

WHEREAS, Schertz EMS has a need to replace the EMS building in Marion due to the age; and

WHEREAS, the City Manager has rejected all bids received from a formal request for bids that the City completed; and

WHEREAS, Schertz EMS has chosen Titan Factory Direct as meeting its pricing and functional requirements to purchase a new modular building.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to enter into an agreement with Titan Factory Direct for the purchase of one (1) modular building and needed associated equipment not to exceed \$100,000.00 described in Exhibit A.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of January, 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: Public Works
Subject: Resolution No. 22-R-12 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the purchase of two generators from Holt Power Systems to be installed at the Nacogdoches and Morning Drive Water Facilities. (C. Kelm/S. Williams/S. McClelland)

BACKGROUND

After the snow storm of February 2021 when the electrical grid struggled to keep up with demand, it became apparent that a key component of any water utility is backup power generation. City Council identified a resilient water system as a key focus point when discussing how to allocate the funding received as part of the American Rescue Plan (ARP). Category 5 allowed for the ARP funding to be spent on Water, Sewer, and Broadband Infrastructure.

Also, because of the February 2021 snow storm, Senate Bill 3 was passed which mandated that water utilities must be prepared and able to maintain a minimum 20 pounds per square inch (psi) of pressure to all direct customers during a power outage lasting more than 24 hours caused by a natural disaster.

Based on the funding directive and the regulatory changes, City Staff moved forward with planning and procuring two new generators for two main water sites that do not currently have backup power generation onsite, the Nacogdoches Well Site and Morning Drive Booster Pump Station. Staff worked with M&S Engineering to identify the sizing and specifications of the generators required for each site. M&S Engineering also assisted with gathering proposals from three generator manufacturers to obtain the best value for the City through government purchasing cooperatives.

City Staff is recommending purchasing the generators from Holt Power Systems (Caterpillar) due to their competitive pricing and reputation in providing reliable equipment.

This resolution awarding the purchase of the two generators for the Nacogdoches and Morning Drive water facilities is only phase one of the larger generator project that staff is working on. Phase two will consist of reworking and updating the existing onsite electrical system at both Nacogdoches and Morning Drive water facilities to accept the generators. This electrical upgrade phase is also planned to use ARP funding as it is necessary to incorporate the generators in to the onsite systems. This phase is currently in the design development phase. Phase three will be to evaluate the backup power needs of the sewer lift stations and will likely involve the purchase of smaller mobile generators that can be moved and "plugged-in" to multiple different lift station sites.

GOAL

The goal of this resolution is to gain approval from Council to proceed with the purchase of two generators for the Nacogdoches and Morning Drive water facilities.

COMMUNITY BENEFIT

Providing onsite backup power at the City's water sites provides our water utility independence from the electrical grid in times of emergencies where reliable power is not available. Owning generators provides for a more efficient response when power failures occur and rental generators become unavailable. The City's water system requires electricity to power pumps and controls to distribute water to our customers safely and reliably.

SUMMARY OF RECOMMENDED ACTION

Staff recommends that the City Council approve Resolution 22-R-12 to allow for the purchase of two generators for the Nacogdoches and Morning Drive water facilities.

FISCAL IMPACT

Funding for the generators was approved by City Council with American Rescue Plan (ARP) tranche one funding allocated to "Category 5: Investment in Water, Sewer, and Broadband Infrastructure". Council allocated \$500,000 to generators from the ARP tranche one funds.

RECOMMENDATION

Staff recommends that the City Council approve Resolution 22-R-12 to allow for the purchase of two generators for the Nacogdoches and Morning Drive water facilities.

Attachments

22-R-12

Bid Tab

Holt Power Systems Proposal

RESOLUTION NO. 22-R-12

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE PURCHASE OF TWO GENERATORS FROM HOLT POWER SYSTEMS TO BE INSTALLED AT THE NACOGDOCHES AND MORNING DRIVE WATER FACILITIES

WHEREAS, the City of Schertz (the “City”) has a need to supply backup power to its water facilities; and

WHEREAS, permanent diesel generators are the most effective equipment available to provide backup power generation; and

WHEREAS, Holt Power Systems holds a BuyBoard contract and provided a proposal compliant with that contract; and

WHEREAS, the City is a member of BuyBoard and has confirmed that their procurement methods align with the City’s requirements; and

WHEREAS, the City has dedicated American Rescue Plan funds for the purchase of these generators.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. The City Council hereby authorizes the City Manager to execute and deliver an agreement in compliance with BuyBoard standards with Holt Power Systems for the purchase of two generators for an amount not to exceed \$198,402.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of January, 2022

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

50664954.1

- 2 -



Bid Summary

Date: 1/4/2022

To: City of Schertz
 Scott McClelland smcclelland@schertz.com

FROM: M&S Engineering, LLC.

RE: Request for bids on the purchase of two generators.

Project Description:

On behalf of the City of Schertz, M&S Engineering requested quotes for two emergency backup generators. The generators will be purchased directly by the City of Schertz through a purchasing cooperative (BuyBoard, Source Well, or another approved cooperative). The quote is for equipment only but shall include delivery to job site, submittals, warranty, start up, load bank testing, building load test, O&M, and onsite training.

Three Bids were received by M&S:

1. Loftin Equipment – Kohler Dealer
2. Cummins Sales and Service
3. Holt Power Systems – Caterpillar Dealer

ITEM	LOCATION	DESCRIPTION	QTY	KOHLER		CUMMINS		CAT	
				UNIT PRICE	LEAD TIME (WEEKS)	UNIT PRICE	LEAD TIME (WEEKS)	UNIT PRICE	LEAD TIME (WEEKS)
1	3490 MORNING DR. SCHERTZ, TX 78108 (MORNING DR. BOOSTER STATION)	450KW GENERATOR, 480Y/277V, 3- PHASE, DIESEL	1	\$100,618.00	42 - 44	\$102,690.00	38	\$ 88,565.00	41 - 43
2	19625 FM3009, GARDEN RIDGE, TX 78266 (NACOGDOCHES EST)	500KW GENERATOR, 480Y/277V, 3- PHASE, DIESEL	1	\$100,099.00	42 - 44	\$102,910.00	38	\$ 91,800.00	41 - 43
ALT 2	19625 FM3009, GARDEN RIDGE, TX 78266 (NACOGDOCHES EST)	600KW GENERATOR, 480Y/277V, 3- PHASE, DIESEL	1	\$130,695.00	42 - 44	\$168,480.00	38	\$112,350.00	41 - 43
TOTAL				\$ 200,717.00		\$ 205,600.00		\$ 180,365.00	
ALT TOTAL				\$ 231,313.00		\$ 271,170.00		\$ 200,915.00	



Austin • Brownsville • Corpus Christi • Dallas • Edinburg • Ft Worth • Laredo • Longview • Pflugerville • San Antonio • Victoria • Waco

Quote No: 30955287

Quote Date: 1/3/2022

Quote Expires: 4/7/2022

Re: City of Schertz WSC

- Morning Dr Booster Station 480V 3PH 450kW
 - 24 Hour, 868 Gallon, UL142, Subbase Tank
 - **Buyboard Grand Total \$88,565.00** (List Price \$92,995.00)
 - Lead Times 41 – 43 weeks

- Nacogdoches EST 480V 3PH 500kW
 - 24 Hour, 868 Gallon, UL142, Subbase Tank
 - **Buyboard Grand Total \$91,800.00** (List Price \$96,390.00)
 - Lead Times 41 – 43 weeks

- Nacogdoches EST Alternate 480V 3PH 600kW
 - 24 Hour, 868 Gallon, UL142, Subbase Tank
 - **Buyboard Grand Total \$112,350.00** (List Price \$117,965.00)
 - Lead Times 41 – 43 weeks

TERP, Local, state, sales or taxes, which may be applicable, are not included.

Notes, Clarifications and Exceptions:

- Holt Scope of Supply is limited to those items expressly outlined in this proposal. Should there be any uncertainty in this proposal, please call to clarify
- Current lead times have been severely impacted. Therefore, Liquidated Damages will not be accepted. If liquidated damages apply for this project, please do not consider this a valid proposal
- Plans and Specifications were not provided at the time of pricing. If written specifications become available please notify us so we can modify this proposal
- Commissioning of the generator equipment will match the manufacturer's recommended services and is considered to be complete at the time of the Holt Power Systems startup unless explicitly stated in our proposal. If additional trips are required, those will be charged at the published field service rate for the time and date the service is rendered

Accessories & Services Included:

- Soft copy Submittals (**Current lead times are 2 – 4 weeks**)
 - Hard copy submittals can be provided upon request
 - For general drawings and spec sheets, follow this [LINK](#)
- Delivery to jobsite
 - Storage fees may apply if equipment is held for more than 60 days unless agreements are made prior to 30 days of stated delivery dates
- (2) Full days of startup per site (normal business hours)
 - Commissioning is included and to be performed once equipment is fully installed and prestartup checklist has been completed.
 - Testing of elevators and fire pumps to be done during this scheduled startup
 - Additional costs will apply if not done at this time
 - Additional trip charge may apply if equipment is not completely installed
 - Field tech travel is included
- Load Bank Test: 2 hours at no more than 100% load
 - Resistive Only
 - 50' cables will be provided
 - Customer is to provide load connection within this distance
 - Setup and connections of load bank to be performed by others
- Building Load Test: 2 hours of building load test to be conducted after load bank testing
- O & M and Parts manuals: electronic copy
 - Additional manuals available at \$250/ea
- Training will be provided
 - (Videotaping costs are excluded and done by others)

Accessories & Services NOT Included:

- Factory Witness Testing, Adder available (not specified)
- Neutral Ground Resistors (not specified)
- Generator Load Side Cable Lugs
- Infrared Scanning
- Fire Marshal Testing can be provided at an additional cost
- Coordination / Arc Flash Studies and Labels
- SCADA / BMS / Fire Alarm Systems
- Independent Testing Agency
- NETA Testing
- Construction and Fuel Tank permits and/or registrations
- Offloading of equipment at jobsite
- Protection from damage after delivery
- Cleaning and/or repairs from damage done by others after delivery
- Installation of equipment shipped loose (Exhaust and Fuel Tank accessories such as Remote Fill Station)
- Fuel for startup and testing

-HOLT POWER SYSTEMS TERMS & CONDITIONS-

Proposal This proposal is provided to meet the intention of the project equipment requirements. Some interpretational differences between our proposal and the specifications may exist; therefore the above bill of material contains our offer for this project. None other is expressed or implied unless stated in writing.

Pricing This Proposal is valid for 30 days from the date of proposal unless specifically noted otherwise.

Taxes & Permits This Proposal excludes any local, state and TERP applicable sales taxes, permits and licensing. Taxes, unless otherwise stated are not included in our Proposal. Note that a 2% additional charge is required by the state of Texas for all stationary engine equipment due to emission restrictions. This is in addition to any state and local taxes that may be required. No permits are included in this proposal unless specified in the preceding proposal.

Lead Time Standard delivery of proposed Caterpillar Generator Set to jobsite will be confirmed after receipt of order and submittals are approved and credit terms are agreed. The quoted lead-times are standard from the factory at the time of this quotation. In some cases lead-times maybe able to be improved to assist in customer needs. Please call and inquire about possible improved lead-times.
Note: The Caterpillar factory has mandatory factory shutdowns for two weeks in December/January and one week in July. The length of those shutdowns will extend lead-times on orders entered at those times. Orders, which include non-standard features, may require additional time before shipment. Consult with your Caterpillar dealer at the time of order.

Special Notes It is the responsibility of the customer to verify the voltage, number of poles in ATS, terminal conductor sizes and other Bill of Material items quoted above as compared to the requirements of this project. Lugs for terminations are included and Project Manager can assist with coordination to ensure compatibility. Holt Cat will not supply new lugs once submittals are approved and equipment has been ordered.

Fuel Tank Changes occur at the municipal level in regard to fire code requirements. Unless otherwise stated within the body of this quotation, the fuel tank included is as specified by the written specifications of this project (if specifications were supplied at the time of quotation). The specifications may be in conflict with City Fire Codes for the location of the project. Responsibility for local code compliance is with the specifying engineer and those responsible for the permits for the project.

Payment Terms Payment due in full Net 30 after delivery with approved Holt credit or COD at time of shipment. In cases where retainage is required, a maximum of 10% retainage will be allowed. The balance of retainage is due after startup-up/ commissioning services of equipment provided by Holt Cat is completed. Sales tax will be added to invoice. Resale tax certificate must be on file with the Holt credit department for tax-exempt sales.

Warranty Caterpillar's standard two (2) year warranty applies for standby applications, unless otherwise noted. Standard manufacturer's warranty applies to all non-Caterpillar equipment. Copies of warranty statements are available upon request.

Cancellation There will be a minimum 25% cancellation fee for orders cancelled, once placed and accepted by Holt Power Systems. Cost of custom components, completed fabrication, or any other work performed at the time of cancellation will be added to the cancellation fee. If all material have been acquired the cancellation fees will be 100%. Caterpillar content, 14 days after orders placed will be 100% of the order. Written notice of cancellation is required.

General Clarifications

Holt Power Systems is an equipment supplier only. No fuel, wiring, connecting, hook-up, plumbing, or other installation type labor is included in the proposal unless noted herein. This includes any control wiring to and from the generator sets to any automatic transfer switches, paralleling gear or other devices which HPS may or may not supply.

The customer is responsible for any and all installation of the above equipment. Holt personnel will perform an installation audit prior to start-up.

Unless stated otherwise in this proposal, service and/or maintenance for this equipment are not included. HPS product support service group can provide a quote to the end user of this equipment for those services under a separate proposal.

All equipment needed to perform any loading or unloading of the equipment supplied by Holt Power Systems is the responsibility of the buyer. Holt Power Systems limits the scope of supply for this quotation to the equipment and services listed in our bill of material. Unless specifically listed in our bill of material, equipment not indicated is to be supplied by others. We have detailed the equipment proposed in the bill of material. Please carefully review it to be certain it meets your requirements.

Third party electrical testing and certifications, seismic calculations, coordination studies, stamped engineering calculations, emissions testing, NETA, infrared scanning, meg-testing or other services and material not specifically included in the preceding quotation, is not included in this proposal.

Holt Power Systems reserves the right to correct any errors or omissions. Contracts which include penalty or liquidated damage clauses for failure to meet promised shipping dates are not acceptable or binding on Holt Power Systems, unless accepted and confirmed in writing by an officer of Holt Cat.

Holt Power Systems standard terms and conditions are included in the quotation and hereby become part of this quotation. These same terms need to be noted on any purchase order received by Holt Power Systems.

Holt Power Systems will not be responsible for any labor or material charged by others associated with the start-up and installation of this equipment unless previously agreed upon in writing by HPS.

Testing & Commissioning

If included in the proposal, all on-site startup/ commissioning, testing and training will be performed Monday through Friday during normal business hours and excluding nights, weekends, or holidays unless agreed otherwise in writing. Additional charges may be added for work requested to be done outside HPS's standard business hours, on weekends, or holiday. For those instances, standard overtime rates will apply. All permits are to be by others.

Shipping

Delivery of the product unless otherwise stated is by hired independent freight carriers that may require road permitting and other requirements which are outside the responsibility of Holt Cat. Traffic delays and required routing may also delay deliveries. Holt Cat is not responsible for any delays and costs associated with those delays.

Submittals

An order for the equipment covered by this proposal will be accepted on a "Hold for Submittal Release" basis. The order will not be released and scheduled for production until written approval to proceed is received in HPS's office.

Authorization to proceed with submittals:

Name

Date

Purchase Order Number

Richard de los Santos

Power Systems – Sales Engineer

Cell: 210-763-2278

Richard.delosSantos@HoltCat.com



CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022

Department: Planning & Community Development

Subject: Ordinance No. 22-S-01 - Hold a public hearing, consider and make a recommendation on a request to amend the Comprehensive Land Use Plan by changing approximately 363 acres of the Future Land Use Map from Agricultural Conservation and Estate Neighborhood land use designation to Single-Family Residential land use, generally located 6,050 feet east of the intersection of Trainer Hale Road and FM 1518, also known as Bexar County Property Identification Numbers, 310053, 310060, 310061, and 310121, City of Schertz, Bexar County, Texas. *First Reading* (*B. James/L. Wood/M. Harrison)

BACKGROUND

BACKGROUND: Twenty-eight (28) public hearing notices were mailed to the surrounding property owners within two hundred (200) feet of the subject property on November 24, 2021, with a public hearing notice published in the "San Antonio Express", on December 22, 2021, prior to the City Council public hearing. At the time of this report, staff has received nine (9) responses in favor, two (2) responses opposed and One (1) response that did not indicate if they were either in favor, opposed or neutral to the request.

Owner of approximately 166 acres, Property ID 310053: Wiederstein Trust Fund
Owner of approximately 78 acres, Property ID 310060: Valerie Hartmann & Brian Beutnagel
Owner of approximately 69 acres, Property ID 310061: Brycap Comml Properties LLC
Owner of , approximately 53 acres, Property ID 310121: Kneupper Bryson Properties LTD
Applicant: Marcus Moreno, Scott Felder Homes, LLC
Engineer: Todd Blackmon, Pape-Dawson Engineers, Inc.

GOAL

The goal is to amend the Comprehensive Land Use Plan by changing approximately 363 acres of land of the Future Land Use Map from the Agricultural Conservation and Estate Neighborhood land use designation to the new land use designation, Single-Family Residential.

COMMUNITY BENEFIT

The community benefit is to promote safe, orderly, efficient development and bring about the City's vision of future growth.

SUMMARY OF RECOMMENDED ACTION

The applicant is requesting to amend the Comprehensive Land Use Plan by changing approximately 363 acres on the Future Land Use Map from the Agricultural Conversation and Estate Neighborhood land use designations to the Single-Family Residential land use designation.

The Future Land Use Map for the subject area was evaluated as part of the Sector Plan Amendment to the Comprehensive Land Use Plan, adopted by City Council on July 16, 2013. The subject properties are currently designated under the Agricultural Conservation and Estate Neighborhood land use

designations as shown in "Exhibit 2".

The Agricultural Conservation land use designation is intended to preserve much of South Schertz in a rural/agricultural state. This area is less attractive for more intense uses due to its distance from the Interstate and limited street connectivity. Some character-defining elements recommended are mainly large-lot (5 acre minimum lot size) residential, 70% open space, and agricultural uses with some agricultural related commercial uses being permitted (landscaping business, metal workshop, farmers market, convenience store, etc., with appropriate design and transition standards). The Estate Neighborhood land use designation is designed similar to the Agricultural Conservation designation, which is intended to preserve the rural character of South Schertz. This area was intended to have large residential lots, (1/2 acre min.) maintain 50% of open space, and to encourage cluster neighborhood development.

The applicant is proposing to change the Future Land Use designation of the subject properties to Single-Family Residential. This proposed future land use designation is intended to be comprised of primarily conventional detached dwellings. The proposed development will provide a mix of lot sizes, amenities, open space, and create walk ability throughout the neighborhood.

FISCAL IMPACT

None

RECOMMENDATION

The 2013 Sector Plan Amendment of the Comprehensive Land Use Plan sought to establish future development objectives that balance the traditionally rural and agricultural identity that has shaped the character of South Schertz with the opportunity for smart growth as the City continues to develop south of FM 78. The proposed development that led to the filing of this Comprehensive Land Use Plan involves the potential for varying lot sizes, amenities, walkability throughout the subdivision, and open space. The proposed subdivision does not fit within the Agricultural Conservation and Estate Neighborhood future land use designations given the required open space and density minimums required in the land use categories. Therefore, the applicant has moved forward with this proposed Comprehensive Land Use Amendment to reclassify the properties under the Single-Family Residential future land use designation.

The South Schertz area, based on recently approved Future Land Use Plan amendments (Carmel Ranch and Saddlebrook both approved in 2020) has begun to see a shift from the rural, large lot, agricultural areas to more of the traditional subdivision type development with a mixture in lot sizes, as well as open space/park, amenity centers, and creating walkable pathways for residents. Additionally, In the FY2020-2021 budget City Council approved to allocate funding for a full Comprehensive Land Use Plan Amendment. This would allow staff the opportunity to tailor the future plans for Schertz to the evolving needs and desires of our residents. The full amendment would enable City Staff to make modifications to the Future Land Use Map that are the more appropriate for each area within Schertz. As the city has seen in recent years there has been deviation from the current plan to allow for more single-family residential neighborhoods. With the previous and incoming developments they are working to keep the esthetics of southern Schertz, with creating larger lots, and incorporating a mixture of smaller lot sizes, along with vast amounts of open space and developing walkable pathways meandering through the neighborhood. The subject property, like many others in the area, having the land use designations of Agricultural Conservation and Estate Neighborhood were found to be more appropriate at the time the Schertz Sector Plan Amendment of the Comprehensive Land Use Plan was done in 2013. Staff understands that the intention of the Amendment in 2013 was to maintain the character of Southern Schertz as the rural/agricultural feel and to have larger lots with 50-70 percent open space. However, due to the evolving needs that we are seeing and the recent Comprehensive

Land Use Plan Amendments, allowing this amendment to the Single-Family Residential land use designation would allow for the mixture of lot sizes, open space/park amenities, and walkable neighborhoods that are now desired.

The upcoming Comprehensive Plan rework would allow Staff to reconcile the gaps between our future plan, the residents' desires, and current market conditions. However, this proposed Comprehensive Land Use Plan amendment for the subject tracts would allow the property owners the ability to have their property develop as desired, now, without requiring them to wait the full Comprehensive Land Use Plan amendment.

Planning and Zoning Commission Recommendation: The Planning and Zoning Commission held a public hearing on December 8, 2021, where they made a recommendation of denial to the City Council with a vote of 4-0. The Commission spoke in length regarding the traffic in South Schertz with the addition of this property being considered single-family residential land use designation, the impact it would have too surrounding properties, allowing the development to slow down in order for infrastructure to catch up, and then also debating whether or not to make a recommendation of approval to change individual parcels on the Comprehensive Land Use Plan given the upcoming full Comprehensive Land Use Plan Update.

Staff recommends approval of the proposed Comprehensive Land Use Plan Amendment to change approximately 363 acres of land from Agricultural Conservation and Estate Neighborhood land use designations to Single-Family Residential land use designation.

Attachments

Ord. No. 22-S-01

Comprehensive Plan Amendment Request Letter

Exhibit A: Property Exhibit

Exhibit B: Comprehensive Land Use Plan

Aerial Map

Public Hearing Notice Map

Public Hearing Responses

ORDINANCE NO. 22-S-01

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AMENDING THE COMPREHENSIVE LAND USE PLAN BY CHANGING APPROXIMATELY 363 ACRES OF THE FUTURE LAND USE MAP FROM THE AGRICULTURAL CONSERVATION AND ESTATE NEIGHBORHOOD TO THE SINGLE-FAMILY RESIDENTIAL LAND USE DESIGNATION, GENERALLY LOCATED APPROXIMATELY 6,050 FEET EAST OF THE INTERSECTION OF TRAINER HALE ROAD AND FM 1518, ALSO KNOWN AS BEXAR COUNTY PROPERTY IDENTIFICATION NUMBERS 310053, 310060, 310061, AND 310121, CITY OF SCHERTZ, BEXAR COUNTY, TEXAS.

WHEREAS, an application to amend the Comprehensive Land Use Plan by changing approximately 363 acres of the Future Land Use Map from Agricultural Conservation and Estate Neighborhood to Single-Family Residential land use designation, also known as Bexar County Property Identification Numbers 310053, 310060, 310061 and 310121, and more specifically described in the Exhibit A attached herein (herein, the “Property”) has been filed with the City; and

WHEREAS, a total of 28 public hearing notices were mailed out to the property owners within the two hundred (200) feet of the subject property on November 24, 2021 and a public hearing notice was published in the San Antonio Express on December 22, 2021; and

WHEREAS, the City’s Unified Development Code Section 21.4.6.D. provides for certain criteria to be considered by the Planning and Zoning Commission in making recommendations to City Council and by City Council in considering final action on an amendment to the Comprehensive Land Use Plan (the “Criteria”); and

WHEREAS, on December 8, 2021, the Planning and Zoning Commission conducted a public hearing and, after considering the Criteria, made a recommendation to City Council to approve the requested Comprehensive Land Use Plan Amendment; and

WHEREAS, on January 11, 2022, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the requested Comprehensive Land Use Plan Amendment be approved as provided for herein.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:
THAT:**

Section 1. The current Comprehensive Land Use Plan is hereby amended to change the Future Land Use Map of the property, as shown and more particularly described in the attached Exhibit B, from Estate Neighborhood and Agricultural Conservation land use designation to Single-Family Residential land use designation.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 8. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

Approved on first reading the 11th day of January 2022.

PASSED, APPROVED AND ADOPTED on final reading the 25th day of January 2022.

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary
(SEAL OF THE CITY)



November 9, 2021

DELIVERED VIA EMAIL

Planning & Community Development Department
Attn: Lesa Wood
City of Schertz
1400 Schertz Parkway
Schertz, Texas 78154

RE: Sterling Grove Comprehensive Plan Amendment, Trainer Hale Road

Dear Ms. Wood,

Scott Felder Homes is excited to share with you all the proposed development of approximately 362 acres on Trainer Hale Road (the “Subject Property”) (see “Exhibit 1”). The Subject Property is located both within the City of Schertz (“City”) boundaries, as well as the City’s Extraterritorial Jurisdiction (“ETJ”). Please accept this letter as a formal request to amend the City’s future land use designation for the Subject Property to ‘Single-Family Residential’. The Subject Property is proposed to be developed as a Master Planned Community, currently branded Sterling Grove (“Project”).

The City of Schertz Comprehensive Plan currently designates the future land use of the Subject Property as Estate Neighborhood and Agricultural Conservation designation (see “Exhibit 2”). These land use designations may have been appropriate in the past, but as the City continues to grow, causing an increased demand for more housing, including more affordable and diverse housing choices. We request that the Subject Property’s current land uses designations be amended to Single-Family Residential (see “Exhibit 3”). As you are aware, the City of Schertz is currently in the process of updating the Comprehensive Land Use Plan and we believe the Subject Property is better suited for Single Family. The Single-Family Residential designation allows for the development of a community that includes amenities, walkability, access to the City’s future trail system, and a variety of housing types.

Please note that following the requested change to the Subject Property’s future land use designation, a petition for annexation and request to change the zoning to the Planned Development District (“PDD”) will be submitted. The PDD shows in greater detail the diverse and creative housing choices for future and current Schertz residents. Additionally, the master-planned community will include access to parks and amenities for all residents. Design guidelines will also be implemented to promote a cohesive style of architecture blending all phases of the Project together.

We believe the requested change in Land Use is appropriate, compatible, and beneficial for the City, and therefore ask for your support. We look forward to working with the City on the Project and are happy to discuss further any questions.

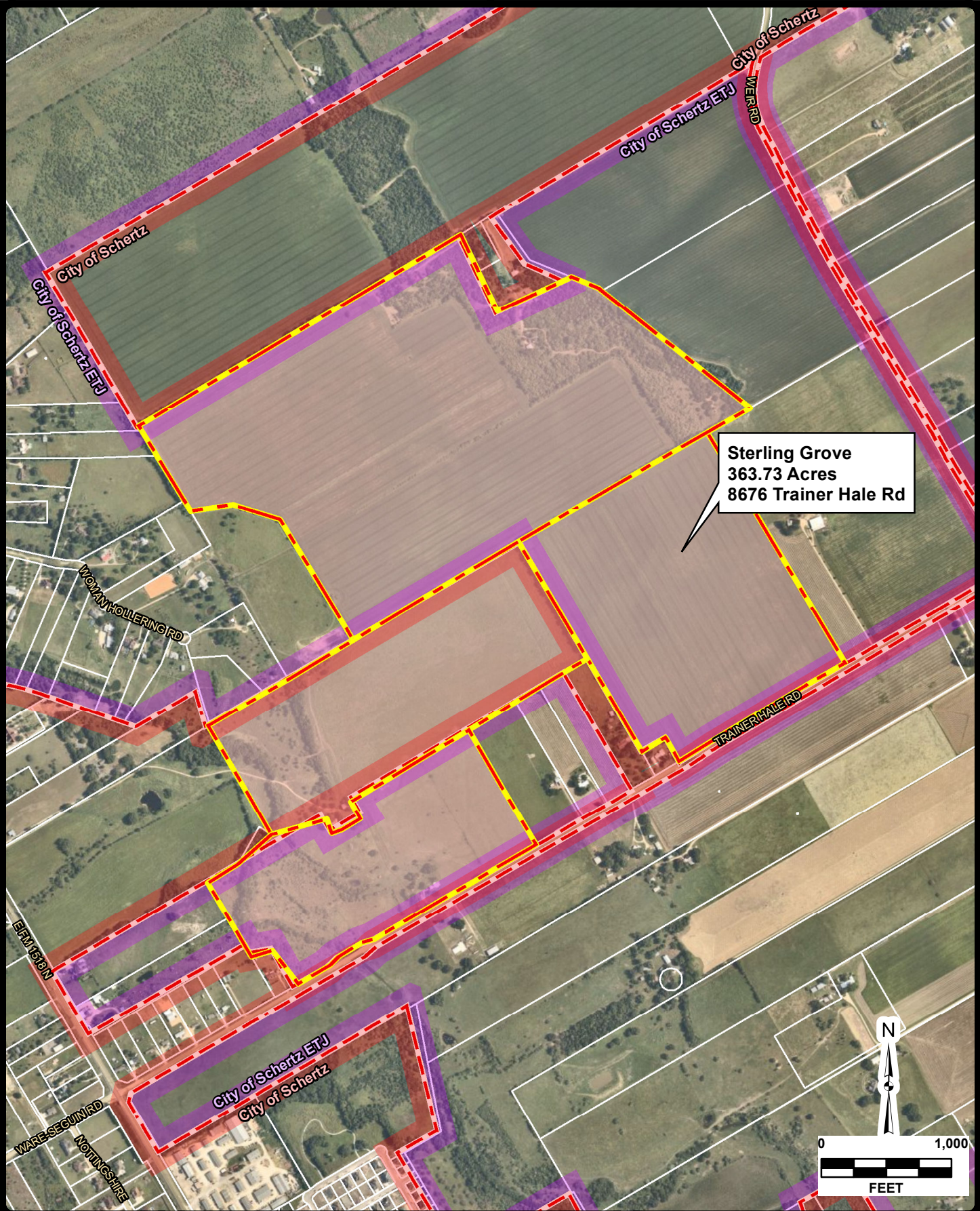
Sincerely,

Marcus Moreno

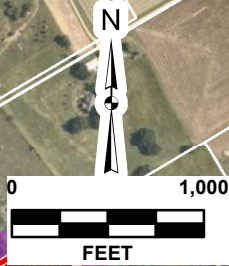
Marcus C. Moreno
Vice President
Scott Felder Homes, LLC

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Date: Oct 20, 2021 11:42:10 AM User: S.Dunlap
File: C:\Users\S.Dunlap\Documents\Projects\2021\101_Comp\Plan_TrainerHale\Sketch\MXD\101_LocMap_Mag_8.5x11.mxd



Sterling Grove
363.73 Acres
8676 Trainer Hale Rd

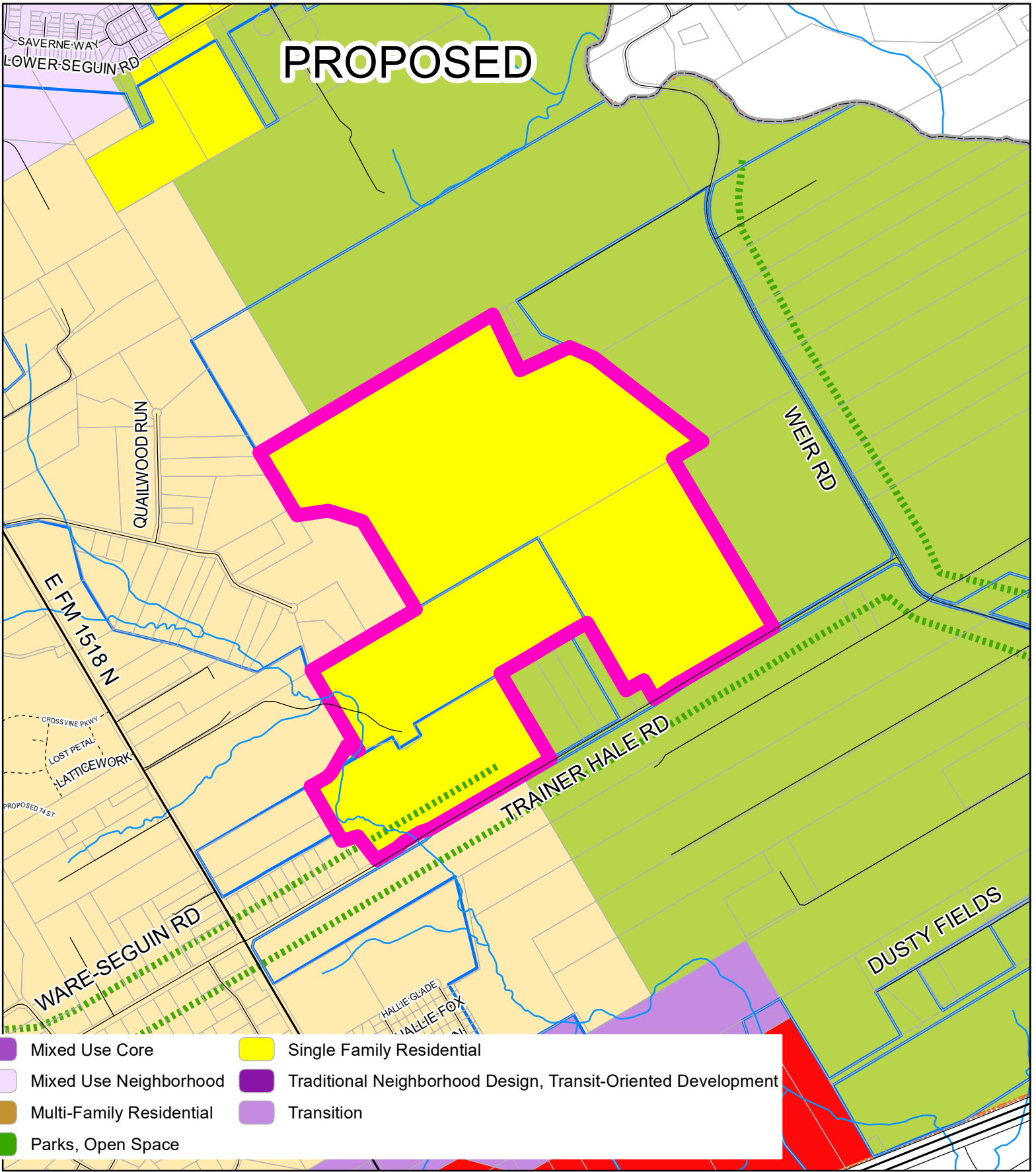
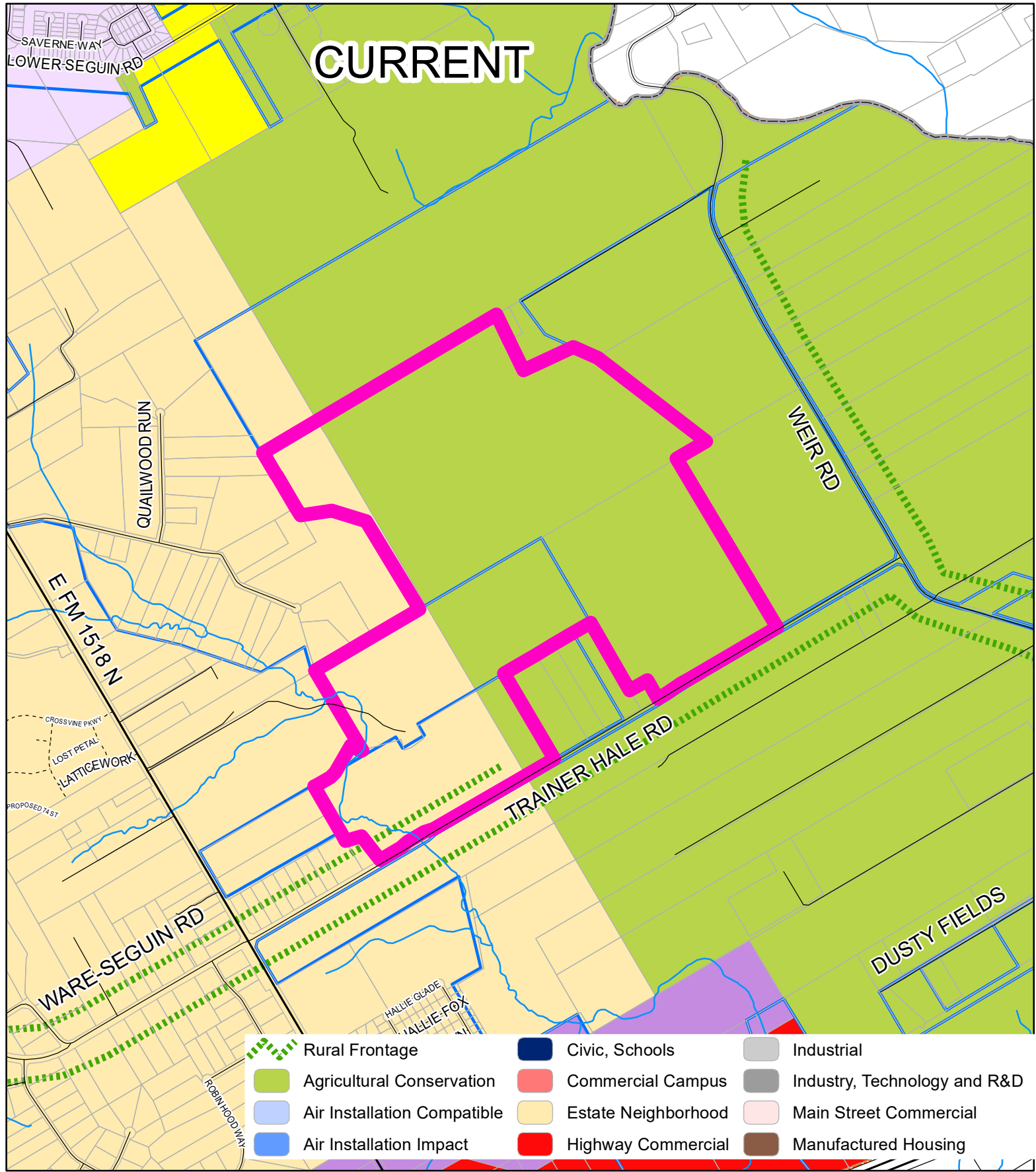


JOB NO.	---
DATE	Oct 2021
DESIGNER	HF
CHECKED	HF
DRAWN	SD
SHEET	1.0

EXHIBIT 1: LOCATION MAP
CITY OF SCHERTZ (ETJ), TEXAS

Pape-Dawson ENGINEERS

NEW BRAUNFELS | SAN ANTONIO | AUSTIN | HOUSTON | FORT WORTH | DALLAS
1672 INDEPENDENCE DR, STE 102 | NEW BRAUNFELS, TX 78132 | 830.632.5633
TEXAS ENGINEERING FIRM #470 | TEXAS SURVEYING FIRM #10028800



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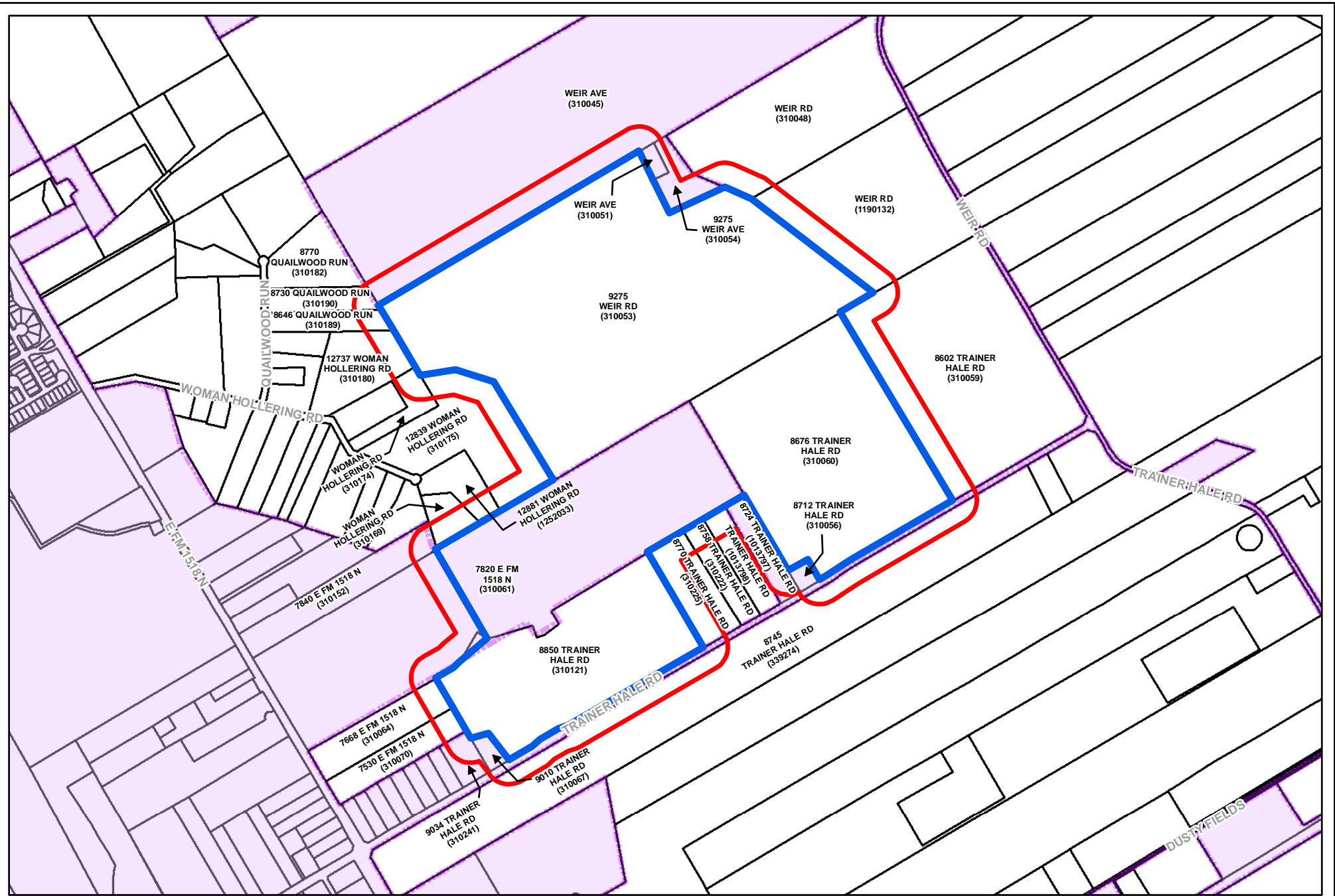
Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

SCHIERITZ
COMMUNITY + SERVICE + OPPORTUNITY

STERLING GROVE
TRAINER HALE RD

<all other values>	<all other values>	Planned Secondary Arterial	Commercial Collector B	1", 1 1/2"	10"	30"	Schertz Gravity	Hydrant	200' Buffer
Highways	Freeway	Secondary Rural Arterial	Planned Commercial Collector B	2", 2 1/2"	12"	36"	Schertz Pressure	Manholes	Schertz Municipal Boundary
Major Roads	Principal Arterial	Planned Secondary Rural Arterial	Commercial Collector A	3"	16"	Neighboring Main	Neighboring Gravity	County Boundaries	
Minor Roads	Planned Principal Arterial	Residential Collector	Planned Commercial Collector A	4"	18"	Private	Private Pressure		
Other Cities	Secondary Arterial	Planned Residential Collector		6"	20"	Schertz Parcels			
				8"	24"				




1 Inch = 500 Feet

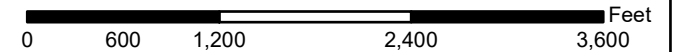


City of Schertz

Sterling Grove

Trainer Hale Rd

-  Parcel Boundaries
-  Schertz City Boundary
-  200' Buffer



I am: in favor of opposed to neutral to the request for ZC2021-016

COMMENTS: _____

NAME: Phil SWEET SIGNATURE Phil Sweet
(PLEASE PRINT)

STREET ADDRESS: 12870 WOMAN HOLLERING RD

DATE: 12-1-21

I am: in favor of opposed to neutral to the request for ZC2021-016

COMMENTS: _____

NAME: JAMES BARR / SHARON BARR SIGNATURE James Barr / Sharon Barr
(PLEASE PRINT)

STREET ADDRESS: 8758 TRAINER HALE RD. SCHERTZ, TX 78154

DATE: 12-8-21

Reply Form

I am: in favor of opposed to neutral to the request for ZC2021-016

COMMENTS: _____

NAME: GERALD W. VERA SIGNATURE Gerald W. Vera
(PLEASE PRINT)

STREET ADDRESS: 8770 TRAINER HALE RD. SCHERTZ, TEXAS 78154

DATE: 12/01/2021

Reply Form

I am: in favor of opposed to neutral to the request for **ZC2021-016**

COMMENTS: owner of 310060

NAME: Valerie Hartmann SIGNATURE Valerie Hartmann
(PLEASE PRINT)

STREET ADDRESS: 621 Bentmeyer Seguin, Texas 78155

DATE: 11/30/21



Reply Form

I am: in favor of opposed to neutral to the request for **ZC2021-016**

COMMENTS: For property at 4291 Weir Rd

NAME: _____ SIGNATURE Melvin A Krueger
(PLEASE PRINT)

STREET ADDRESS: _____

MELVIN A KRUEGER
334 PRIVATE ROAD-5936
YANTIS TX 75497-3721

DATE: 12/1/2021

Reply Form

I am: in favor of opposed to neutral to the request for ZC2021-016

COMMENTS: owner of 310060

NAME: Brian Bentnegel SIGNATURE Brian Bentnegel
(PLEASE PRINT)

STREET ADDRESS: 307 W. Wetz, Marion TX 78124

DATE: 11/30/2021

Reply Form

I am: in favor of opposed to neutral to the request for ZC2021-016

COMMENTS: I am in favor + support this action on behalf of Betty Jean Wiederstein.

NAME: Rebecca Robertson SIGNATURE Rebecca Robertson
(PLEASE PRINT) (Executor)

STREET ADDRESS: 9275 Weir Road, Schertz, TX 78108

DATE: 29 Nov 2021

1400 Schertz Parkway * Schertz, Texas 78154 * 210.619.1000 * schertz.com

Reply Form

I am: in favor of opposed to neutral to the request for ZC2021-016

COMMENTS: I am in favor + support this action on behalf of the ^{Wiederstein Trust} ~~Joy~~ ^{Fund, copy} Wiederstein

NAME: Rebecca Robertson SIGNATURE Rebecca Robertson
(PLEASE PRINT) (Executor)

STREET ADDRESS: 9275 Weir Road, Schertz TX 78108

DATE: 29 Nov 21

1400 Schertz Parkway * Schertz, Texas 78154 * 210.619.1000 * schertz.com



PLANNING & COMMUNITY DEVELOPMENT

NOTICE OF PUBLIC HEARING

November 24, 2021

To whom it may concern,

The Schertz Planning and Zoning Commission will conduct a public hearing on Wednesday, December 8, 2021 at 6:00 p.m. located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make recommendation on the following item:

ZC2021-016 A request to amend the Comprehensive Land Use Plan by changing approximately 363 acres of the Future Land Use Map from Agricultural Conservation and Estate Neighborhood land use designations to the Single-Family Residential land use designation, generally located 6,050 feet east from the intersection of Trainer Hale Road and FM 1518 also known as Bexar County Property Identification Numbers, 310053, 310060, 310061 and 310121, City of Schertz, Bexar County, Texas

The Planning and Zoning Commission would like to hear how you feel about this request and invites you to attend the public hearing. This form is used to calculate the percentage of landowners that support and oppose the request. You may return the reply form below prior to the first public hearing date by mail or personal delivery to Megan Harrison, Planner, 1400 Schertz Parkway, Schertz, Texas 78154, by fax (210) 619-1789, or by e-mail mharrison@schertz.com. If you have any questions please feel free to call Megan Harrison, Planner directly at (210) 619-1781.

Sincerely,

[Handwritten signature]

Megan Harrison
Planner

Reply Form

I am: in favor of [checked] opposed to [] neutral to [] the request for ZC2021-016

COMMENTS: Part owner of the wiederstein Trust property

NAME: Vickie McDaniel
(PLEASE PRINT)

SIGNATURE

DocuSigned by: Vickie McDaniel
D26C98EEED0B440...

STREET ADDRESS: 627 Gebhardt Rd. Sealy, TX 77474

DATE: 12/6/2021



PLANNING & COMMUNITY DEVELOPMENT

NOTICE OF PUBLIC HEARING

November 24, 2021

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The Schertz Planning and Zoning Commission will conduct a public hearing on Wednesday, December 8, 2021 at 6:00 p.m. located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make recommendation on the following item:

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Sincerely,

Megan Harrison
Planner

Reply Form

I am: in favor of opposed to neutral to the request for **ZC2021-016**

COMMENTS: _____

NAME: David Wiederstein SIGNATURE David Wiederstein
(PLEASE PRINT) DocuSigned by: B2592FEB9F154B5...

STREET ADDRESS: 3616 Rakowitz Adkins, TX 78101

DATE: 12/6/2021



PLANNING & COMMUNITY DEVELOPMENT

NOTICE OF PUBLIC HEARING

November 24, 2021

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The Schertz Planning and Zoning Commission will conduct a public hearing on **Wednesday, December 8, 2021 at 6:00 p.m.** located at the Municipal Complex Council Chambers, 1400 Schertz Parkway, Building #4, Schertz, Texas to consider and make recommendation on the following item:

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Sincerely,

Megan Harrison
Planner

Reply Form

I am: in favor of opposed to neutral to the request for **ZC2021-016**

I am part owner of the wiederstein Trust Property at 9275 Weir Rd.

COMMENTS: _____

NAME: Diane Hunter
(PLEASE PRINT)

SIGNATURE

DocuSigned by:
Diane Hunter
B006832BD163462...

STREET ADDRESS: 1414 Santa Anna Seguin, TX 78155

DATE: 12/6/2021

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022

Department: Finance

Subject: Ordinance No. 22-B-02 - Consideration and approval of an ordinance by the City Council of the City of Schertz, Texas authorizing the issuance of “City of Schertz, Texas, Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2022”; providing for the payment of said certificates by the levy of an ad valorem tax upon all taxable property within the city and further securing said certificates by a lien on and pledge of the pledged revenues of the system; and other matters incident and related thereto. *(First & Final)* (M. Browne/J. Walters/M. McLiney)

BACKGROUND

The City previously authorized a Notice of Intention Resolution on November 9, 2021, declaring its intent to issue Certificates of Obligation (“CO”) to fund capital improvement projects. Having met the legal requirements of publication and having received no qualifying petition from any citizen, the City can now proceed with the consideration and issuance of the COs.

In keeping with the previously authorized Notice of Intention Resolution, the Ordinance makes clear that the City is issuing COs in an amount not-to-exceed \$10,150,000 for the purposes of purchasing and installing energy management and conservation equipment, street improvements and constructing improvements to the City’s Utility System.

On January 11th the City will price its COs and the Council will then consider an Ordinance approving the sale to the winning bidder of the COs at a competitive sale. The COs will be supported by both ad valorem taxes for general fund projects and the utility fund for projects related to utility system improvements. The authorization and sale of these COs will not require a tax rate increase or a utility rate increase.

GOAL

To complete the sale of bonds to fund necessary and cost saving infrastructure.

COMMUNITY BENEFIT

Improved traffic flow at the intersection of FM 78 and 3009 and on FM 1518 south of FM 78.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approving the sale of Certificates of Obligation with funds delivered on February 2, 2022.

FISCAL IMPACT

The funds are proposed to be distributed to projects as follows:

FM 1518 Utility Relocation \$5,000,000

Energy Saving Project \$1,250,000

Streets/FM 78/3009 \$3,900,000

The FM 1518 Utility Relocation funds were included in the rate study and should not cause any additional rate increases.

The Energy Savings Project will come with a savings guarantee contract with the service provided that will be selected. The savings will cover the cost of the debt payments and not cause a tax or fee increase.

The Streets projects debt was expected to be in FY 2024-25. Due to the time sensitive nature of proceeding to develop the FM78/3009 intersection that timeline was moved up. This is not expected to have a negative impact on future tax rates but could lower or delay the next planned debt issuance for streets.

RECOMMENDATION

Staff recommends approval of Ordinance 22-B-02

I MOVE THAT THE CITY COUNCIL ADOPT AN ORDINANCE AUTHORIZING THE “CITY OF SCHERTZ, TEXAS, COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2022”

Attachments

Ordinance 22-B-02

ORDINANCE NO. 22-B-02

AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF SCHERTZ, TEXAS COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2022”; PROVIDING FOR THE PAYMENT OF SAID CERTIFICATES BY THE LEVY OF AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY AND FURTHER SECURING SAID CERTIFICATES BY A LIEN ON AND PLEDGE OF THE PLEDGED REVENUES OF THE SYSTEM; PROVIDING THE TERMS AND CONDITIONS OF SAID CERTIFICATES AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SAID CERTIFICATES, INCLUDING THE APPROVAL AND DISTRIBUTION OF AN OFFICIAL STATEMENT PERTAINING THERETO; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND AN OFFICIAL BID FORM; COMPLYING WITH THE REQUIREMENTS OF THE LETTER OF REPRESENTATIONS PREVIOUSLY EXECUTED WITH THE DEPOSITORY TRUST COMPANY; AUTHORIZING THE EXECUTION OF ANY NECESSARY ENGAGEMENT AGREEMENT WITH THE CITY’S FINANCIAL ADVISORS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Schertz, Texas (the *City*) has caused notice to be given of its intention to issue certificates of obligation in the maximum principal amount of \$10,150,000 for the purpose of paying contractual obligations of the City to be incurred for making permanent public improvements and for other public purposes, to-wit: (1) designing, acquiring, constructing, renovating, enlarging, improving, and installing energy management and conservation equipment for City-owned facilities, including energy efficient lighting fixtures; (2) designing, constructing, acquiring, purchasing, renovating, equipping, enlarging, and improving the City’s utility system; (3) constructing street improvements (including utilities repair, replacement, and relocation), curbs, gutters, and sidewalk improvements, including drainage and traffic safety signalization and signage incidental thereto; (4) the purchase of materials, supplies, equipment, machinery, landscaping, land, and rights-of way for authorized needs and purposes relating to the aforementioned capital improvements; and (5) the payment of professional services related to the design, construction, project management, and financing of the aforementioned projects. This notice has been duly published in a newspaper hereby found and determined to be of general circulation in the City, once a week for two (2) consecutive weeks, the date of the first publication of such notice being not less than forty-five (45) days prior to the tentative date stated therein for the passage of the ordinance authorizing the issuance of such certificates of obligation; and

WHEREAS, in accordance with the provisions of Section 271.049, as amended, Texas Local Government Code, the City confirms that notice of the City’s intention to issue certificates

of obligation was approved by resolution at a public meeting and stated (1) the then-current principal of all outstanding debt of the City; (2) the then-current combined principal and interest required to pay all outstanding debt obligations of the City on time and in full, based on the City's expectations relative to the interest due on any variable rate debt obligations, as applicable (3) the maximum principal amount of the certificates of obligation to be authorized; (4) the estimated combined principal and interest required to pay the certificates of obligation in full; (5) the estimated interest rate for the certificates of obligation or that the maximum interest rate for the certificates of obligation may not exceed the maximum legal interest rate; and (6) the maximum maturity date of the certificates of obligation; and

WHEREAS, no petition protesting the issuance of the certificates of obligation described in this notice, signed by at least 5% of the qualified electors of the City, has been presented to or filed with the City Secretary prior to the date tentatively set in such notice for the passage of this ordinance; and

WHEREAS, the City Council hereby finds and determines that the issuance of the certificates of obligation, under the terms herein specified, is in the best interests of the City and its residents; and

WHEREAS, the City Council hereby finds and determines that certificates of obligation in the principal amount of \$____,____,____ described in such notice should be issued and sold at this time; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

SECTION 1. Authorization - Designation - Principal Amount - Purpose. The certificates of obligation of the City shall be and are hereby authorized to be issued in the aggregate principal amount of _____ THOUSAND AND NO/100 DOLLARS (\$____,____,____), to be designated and bear the title of "CITY OF SCHERTZ, TEXAS COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2022" (the *Certificates*), for the purpose of paying contractual obligations of the City to be incurred for making permanent public improvements and for other public purposes, to-wit: (1) designing, acquiring, constructing, renovating, enlarging, improving, and installing energy management and conservation equipment for City-owned facilities, including energy efficient lighting fixtures; (2) designing, constructing, acquiring, purchasing, renovating, equipping, enlarging, and improving the City's utility system; (3) constructing street improvements (including utilities repair, replacement, and relocation), curbs, gutters, and sidewalk improvements, including drainage and traffic safety signalization and signage incidental thereto; (4) the purchase of materials, supplies, equipment, machinery, landscaping, land, and rights-of way for authorized needs and purposes relating to the aforementioned capital improvements; and (5) the payment of professional services related to the design, construction, project management, and financing of the aforementioned projects, pursuant to the authority conferred by and in conformity with the laws of the State of Texas, particularly the Certificate of Obligation Act of 1971, as amended, Texas Local Government Code Section 271.041 through Section 271.064, Chapter 1502, as amended, Texas Government Code, and the City's Home Rule Charter.

SECTION 2. Fully Registered Obligations - Authorized Denominations - Stated Maturities - Interest Rates – Certificate Date. The Certificates are issuable in fully registered form only; shall be dated January 1, 2022 (the *Certificate Date*) and shall be issued in denominations of \$5,000 or any integral multiple (within a Stated Maturity) thereof, and the Certificates shall become due and payable on February 1 in each of the years and in principal amounts (the *Stated Maturities*) and bear interest on the unpaid principal amounts from the Certificate Date, or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for, to the earlier of redemption or Stated Maturity, at the per annum rates, while Outstanding, in accordance with the following schedule:

<u>Years of Stated Maturity</u>	<u>Principal Amounts (\$)</u>	<u>Interest Rates (%)</u>
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		
2037		
2038		
2039		
2040		
2041		
2042		

The Certificates shall bear interest on the unpaid principal amounts from the Certificate Date, or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for, to Stated Maturity or prior redemption, while Outstanding, at the rates per annum shown in the above schedule (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Certificates shall be payable on February 1 and August 1 in each year (each, an *Interest Payment Date*), commencing August 1, 2022, while the Certificates are Outstanding.

SECTION 3. Payment of Certificates - Paying Agent/Registrar. The principal of, premium, if any, and interest on the Certificates, due and payable by reason of Stated Maturity,

redemption, or otherwise, shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and such payment of principal of, premium if any, and interest on the Certificates shall be without exchange or collection charges to the Holder (hereinafter defined) of the Certificates.

The selection and appointment of UMB Bank, N.A., Austin, Texas (the *Paying Agent/Registrar*) to serve as the initial Paying Agent/Registrar, for the Certificates is hereby approved and confirmed, and the City agrees and covenants to cause to be kept and maintained at the corporate trust office of the Paying Agent/Registrar books and records (the *Security Register*) for the registration, payment and transfer of the Certificates, all as provided herein, in accordance with the terms and provisions of a Paying Agent/Registrar Agreement, attached, in substantially final form, as Exhibit A hereto, and such reasonable rules and regulations as the Paying Agent/Registrar and City may prescribe. The City covenants to maintain and provide a Paying Agent/Registrar at all times while the Certificates are Outstanding, and any successor Paying Agent/Registrar shall be (i) a national or state banking institution or (ii) an association or a corporation organized and doing business under the laws of the United States of America or of any state, authorized under such laws to exercise trust powers. Such Paying Agent/Registrar shall be subject to supervision or examination by federal or state authority and authorized by law to serve as a Paying Agent/Registrar.

The City reserves the right to appoint a successor Paying Agent/Registrar upon providing the previous Paying Agent/Registrar with a certified copy of a resolution or ordinance terminating such agency. Additionally, the City agrees to promptly cause a written notice of this substitution to be sent to each Holder of the Certificates by United States mail, first-class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of, premium, if any, and interest on the Certificates, due and payable by reason of Stated Maturity, redemption, or otherwise, shall be payable only to the registered owner of the Certificates appearing on the Security Register (the *Holder* or *Holder*s) maintained on behalf of the City by the Paying Agent/Registrar as hereinafter provided (i) on the Record Date (hereinafter defined) for purposes of payment of interest thereon, (ii) on the date of surrender of the Certificates for purposes of receiving payment of principal thereof upon redemption of the Certificates or at the Certificates' Stated Maturity, and (iii) on any other date for any other purpose. The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder as the owner of a Certificate for purposes of receiving payment and all other purposes whatsoever, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary.

Principal of and premium, if any, on the Certificates shall be payable only upon presentation and surrender of the Certificates to the Paying Agent/Registrar at its corporate trust office. Interest on the Certificates shall be paid to the Holder whose name appears in the Security Register at the close of business on the fifteenth day of the month next preceding an Interest Payment Date for the Certificates (the *Record Date*) and shall be paid (i) by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, by the Paying Agent/Registrar, to the address of the Holder appearing in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested in writing by the Holder at the Holder's risk and expense.

If the date for the payment of the principal of, premium, if any, or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the corporate trust office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a day. The payment on such date shall have the same force and effect as if made on the original date any such payment on the Certificates was due.

In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a Special Record Date) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder of a Certificate appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 4. Redemption.

A. Mandatory Redemption. The Certificates stated to mature on February 1, 20__, and February 1, 20__ are referred to herein as the "Term Certificates". The Term Certificates are subject to mandatory sinking fund redemption prior to their stated maturities from money required to be deposited in the Certificate Fund for such purpose and shall be redeemed in part, by lot or other customary method, at the principal amount thereof plus accrued interest to the date of redemption in the following principal amounts on February 1 in each of the years as set forth below:

Term Certificates Stated to Mature <u>on February 1, 20__</u>		Term Certificates Stated to Mature <u>on February 1, 20__</u>	
<u>Year</u>	<u>Principal Amount (\$)</u>	<u>Year</u>	<u>Principal Amount (\$)</u>
20__		20__	
20__		20__	

*Payable at Stated Maturity

The principal amount of a Term Certificate required to be redeemed pursuant to the operation of such mandatory redemption provisions shall be reduced, at the option of the City, by the principal amount of any Term Certificates of such Stated Maturity which, at least fifty (50) days prior to the mandatory redemption date (1) shall have been defeased or acquired by the City and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and cancelled by the Paying Agent/Registrar at the request of the City, or (3) shall have been redeemed

pursuant to the optional redemption provisions set forth below and not theretofore credited against a mandatory redemption requirement.

B. Optional Redemption. The Certificates having Stated Maturities on and after February 1, 20__ shall be subject to redemption prior to Stated Maturity, at the option of the City, on February 1, 20__, or on any date thereafter, as a whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar), at the redemption price of par plus accrued interest to the date of redemption.

C. Exercise of Redemption Option. At least forty-five (45) days prior to a date set for the redemption of Certificates (unless a shorter notification period shall be satisfactory to the Paying Agent/Registrar), the City shall notify the Paying Agent/Registrar of its decision to exercise the right to redeem Certificates, the principal amount of each Stated Maturity to be redeemed, and the date set for the redemption thereof. The decision of the City to exercise the right to redeem Certificates shall be entered in the minutes of the governing body of the City.

D. Selection of Certificates for Redemption. If less than all Outstanding Certificates of the same Stated Maturity are to be redeemed on a redemption date, the Paying Agent/Registrar shall select at random and by lot the Certificates to be redeemed, provided that if less than the entire principal amount of a Certificate is to be redeemed, the Paying Agent/Registrar shall treat such Certificate then subject to redemption as representing the number of Certificates Outstanding which is obtained by dividing the principal amount of such Certificate by \$5,000.

E. Notice of Redemption. Not less than thirty (30) days prior to a redemption date for the Certificates, the Paying Agent/Registrar shall cause a notice of redemption to be sent by United States mail, first-class postage prepaid, in the name of the City and at the City's expense, by the Paying Agent/Registrar to each Holder of a Certificate to be redeemed, in whole or in part, at the address of the Holder appearing on the Security Register at the close of business on the business day next preceding the date of mailing such notice, and any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Holder. This notice may also be published once in a financial publication, journal, or reporter of general circulation among securities dealers in the City of New York, New York (including, but not limited to, *The Bond Buyer* and *The Wall Street Journal*), or in the State of Texas (including, but not limited to, *The Texas Bond Reporter*).

All notices of redemption shall (i) specify the date of redemption for the Certificates, (ii) identify the Certificates to be redeemed and, in the case of a portion of the principal amount to be redeemed, the principal amount thereof to be redeemed, (iii) state the redemption price, (iv) state that the Certificates, or the portion of the principal amount thereof to be redeemed, shall become due and payable on the redemption date specified, and the interest thereon, or on the portion of the principal amount thereof to be redeemed, shall cease to accrue from and after the redemption date, and (v) specify that payment of the redemption price for the Certificates, or the principal amount thereof to be redeemed, shall be made at the corporate trust office of the Paying Agent/Registrar only upon presentation and surrender thereof by the Holder.

If a Certificate is subject by its terms to redemption and has been called for redemption and notice of redemption thereof has been duly given or waived as herein provided, such Certificate (or the principal amount thereof to be redeemed) so called for redemption shall become due and payable, and if money sufficient for the payment of such Certificates (or of the principal amount thereof to be redeemed) at the then applicable redemption price is held for the purpose of such payment by the Paying Agent/Registrar, then on the redemption date designated in such notice, interest on the Certificates (or the principal amount thereof to be redeemed) called for redemption shall cease to accrue and such Certificates shall not be deemed to be Outstanding in accordance with the provisions of this Ordinance.

F. Transfer/Exchange of Certificates. Neither the City nor the Paying Agent/Registrar shall be required (1) to transfer or exchange any Certificate during a period beginning forty-five (45) days prior to the date fixed for redemption of the Certificates or (2) to transfer or exchange any Certificate selected for redemption, provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance of a Certificate which is subject to redemption in part.

SECTION 5. Execution - Registration. The Certificates shall be executed on behalf of the City by its Mayor or Mayor Pro Tem under the seal of the City reproduced or impressed thereon and attested by its City Secretary. The signature of either of said officers on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of individuals who were, at the time of the Certificate Date, the proper officers of the City shall bind the City, notwithstanding that such individuals or either of them shall cease to hold such offices prior to the delivery of the Certificates to the Purchasers (hereinafter defined), all as authorized and provided in Chapter 1201, as amended, Texas Government Code.

No Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate either a certificate of registration substantially in the form provided in Section 8C, executed by the Comptroller of Public Accounts of the State of Texas or his duly authorized agent by manual signature, or a certificate of registration substantially in the form provided in Section 8D, executed by the Paying Agent/Registrar by manual signature, and either such certificate upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified or registered and delivered.

SECTION 6. Registration - Transfer - Exchange of Certificates - Predecessor Certificates. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of every owner of the Certificates, or if appropriate, the nominee thereof. Any Certificate may, in accordance with its terms and the terms hereof, be transferred or exchanged for Certificates of other authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for transfer of any Certificate at the corporate trust office of the Paying Agent/Registrar, the City shall execute and the Paying Agent/Registrar shall register and deliver,

in the name of the designated transferee or transferees, one or more new Certificates of authorized denomination and having the same Stated Maturity and of a like interest rate and aggregate principal amount as the Certificate or Certificates surrendered for transfer.

At the option of the Holder, Certificates may be exchanged for other Certificates of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Certificates surrendered for exchange upon surrender of the Certificates to be exchanged at the corporate trust office of the Paying Agent/Registrar. Whenever any Certificates are so surrendered for exchange, the City shall execute, and the Paying Agent/Registrar shall register and deliver, the Certificates to the Holder requesting the exchange.

All Certificates issued upon any transfer or exchange of Certificates shall be delivered at the corporate trust office of the Paying Agent/Registrar, or be sent by registered mail to the Holder at his request, risk, and expense, and upon the delivery thereof, the same shall be the valid and binding obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Certificates surrendered upon such transfer or exchange.

All transfers or exchanges of Certificates pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Certificates cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be Predecessor Certificates, evidencing all or a portion, as the case may be, of the same debt evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer therefor. Additionally, the term Predecessor Certificates shall include any Certificate registered and delivered pursuant to Section 25 in lieu of a mutilated, lost, destroyed, or stolen Certificate which shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Certificate.

SECTION 7. Initial Certificate. The Certificates herein authorized shall be issued initially either (i) as a single fully registered Certificate in the total principal amount of \$_____, with principal installments to become due and payable as provided in Section 2 and numbered T-1, or (ii) as one (1) fully registered Certificate for each year of Stated Maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (the *Initial Certificate*) and, in either case, the Initial Certificate shall be registered in the name of the Purchasers or the designee thereof. The Initial Certificate shall be the Certificate submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the Purchasers. Any time after the delivery of the Initial Certificate to the Purchasers, the Paying Agent/Registrar, pursuant to written instructions from the Purchasers or their designee, shall cancel the Initial Certificate delivered hereunder and exchange therefor definitive Certificates of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates on the unpaid principal amounts from the Certificate Date, or from the most recent Interest Payment Date to which interest has been paid or duly provided for, to Stated Maturity, and shall be lettered "R" and numbered consecutively from one (1) upward for transfer and delivery to the Holders named

at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the Purchasers, or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 8. Forms.

A. Forms Generally. The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Certificates shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends and any reproduction of an opinion of Bond Counsel (hereinafter referenced)) thereon as may, consistent herewith, be established by the City or determined by the officers executing the Certificates as evidenced by their execution thereof. Any portion of the text of any Certificate may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Certificate.

The definitive Certificates shall be printed, lithographed, or engraved, produced by any combination of these methods, or produced in any other similar manner, all as determined by the officers executing the Certificates as evidenced by their execution thereof, but the Initial Certificate submitted to the Attorney General of the State of Texas may be typewritten or photocopied or otherwise reproduced.

[The remainder of this page intentionally left blank.]

B. Form of Definitive Certificate.

REGISTERED
NO. _____

REGISTERED
PRINCIPAL AMOUNT
\$ _____

United States of America
State of Texas
Counties of Guadalupe, Comal, and Bexar
CITY OF SCHERTZ, TEXAS
COMBINATION TAX AND LIMITED PLEDGE REVENUE
CERTIFICATES OF OBLIGATION, SERIES 2022

Certificate Date: Interest Rate: Stated Maturity: CUSIP No.
January 1, 2022

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____

The City of Schertz, Texas (the *City*), a body corporate and municipal corporation in the Counties of Guadalupe, Comal, and Bexar, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner specified above, or the registered assigns thereof, on the Stated Maturity date specified above, the Principal Amount specified above (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amount hereof from the Certificate Date specified above, or from the most recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for until such Principal Amount has become due and payment thereof has been made or duly provided for, to the earlier of redemption or Stated Maturity, while Outstanding, at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 1 and August 1 of each year (each, an *Interest Payment Date*), commencing August 1, 2022.

Principal and premium, if any, of this Certificate shall be payable to the Registered Owner hereof (the *Holder*), upon presentation and surrender, at the corporate trust office of the Paying Agent/Registrar executing the registration certificate appearing hereon or a successor thereof. Interest shall be payable to the Holder of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each Interest Payment Date. All payments of principal of and interest on this Certificate shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by the Holder hereof at the Holder's risk and expense.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of \$ __, __, __ (the *Certificates*) pursuant to an Ordinance adopted by the governing body of the City (the *Ordinance*), for the purpose of paying contractual obligations of the City to be incurred for making permanent public improvements and for other public purposes, to-wit: (1) designing, acquiring, constructing, renovating, enlarging, improving, and installing energy management and conservation equipment for City-owned facilities, including energy efficient lighting fixtures; (2) designing, constructing, acquiring, purchasing, renovating, equipping, enlarging, and improving the City's utility system; (3) constructing street improvements (including utilities repair, replacement, and relocation), curbs, gutters, and sidewalk improvements, including drainage and traffic safety signalization and signage incidental thereto; (4) the purchase of materials, supplies, equipment, machinery, landscaping, land, and rights-of way for authorized needs and purposes relating to the aforementioned capital improvements; and (5) the payment of professional services related to the design, construction, project management, and financing of the aforementioned projects, under and in strict conformity with the laws of the State of Texas, particularly Chapter 1502, as amended, Texas Government Code, the Certificate of Obligation Act of 1971, as amended, Texas Local Government Code, Section 271.041 through 271.064, and the City's Home Rule Charter.

As provided in the Ordinance, the Certificates stated to mature on February 1, 20__, and February 1, 20__ are referred to herein as the "Term Certificates". The Term Certificates are subject to mandatory sinking fund redemption prior to their stated maturities from money required to be deposited in the Certificate Fund for such purpose and shall be redeemed in part, by lot or other customary method, at the principal amount thereof plus accrued interest to the date of redemption in the following principal amounts on February 1 in each of the years as set forth below:

Term Certificates Stated to Mature on February 1, 20__		Term Certificates Stated to Mature on February 1, 20__	
<u>Year</u>	<u>Principal Amount (\$)</u>	<u>Year</u>	<u>Principal Amount (\$)</u>
20__		20__	
20__		20__	

*Payable at Stated Maturity

The principal amount of a Term Certificate required to be redeemed pursuant to the operation of such mandatory redemption provisions shall be reduced, at the option of the City, by the principal amount of any Term Certificates of such Stated Maturity which, at least fifty (50) days prior to the mandatory redemption date (1) shall have been defeased or acquired by the City and delivered to the Paying Agent/Registrar for cancellation, (2) shall have been purchased and cancelled by the Paying Agent/Registrar at the request of the City, or (3) shall have been redeemed

pursuant to the optional redemption provisions set forth below and not theretofore credited against a mandatory redemption requirement.

As provided in the Ordinance, the Certificates having Stated Maturities on and after February 1, 20__ shall be subject to redemption prior to Stated Maturity, at the option of the City, on February 1, 20__, or on any date thereafter, as a whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity selected at random and by lot by the Paying Agent/Registrar), at the redemption price of par plus accrued interest to the date of redemption; provided, however, that at least thirty (30) days prior written notice shall be sent to the Holders of the Certificates to be redeemed by United States mail, first-class postage prepaid, and subject to the terms and provisions relating thereto contained in the Ordinance. If this Certificate is subject to redemption prior to Stated Maturity and is in a denomination in excess of \$5,000, portions of the principal sum hereof in installments of \$5,000 or any integral multiple thereof may be redeemed, and, if less than all of the principal sum hereof is to be redeemed, there shall be issued, without charge therefor, to the Holder hereof, upon the surrender of this Certificate to the Paying Agent/Registrar at its corporate trust office, a new Certificate or Certificates of like Stated Maturity and interest rate in any authorized denominations provided in the Ordinance for the then unredeemed balance of the principal sum hereof.

If this Certificate (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption has been duly given, then upon such redemption date this Certificate (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and, if the money for the payment of the redemption price, and the interest accrued on the principal amount to be redeemed to the date of redemption is held for the purpose of such payment by the Paying Agent/Registrar, interest shall cease to accrue and be payable hereon from and after the redemption date on the principal amount hereof to be redeemed. If this Certificate is called for redemption, in whole or in part, the City or the Paying Agent/Registrar shall not be required to issue, transfer, or exchange this Certificate within forty-five (45) days of the date fixed for redemption; provided, however, such limitation of transfer shall not be applicable to an exchange by the Holder of the unredeemed balance hereof in the event of its redemption in part.

The Certificates of this series are payable from the proceeds of an ad valorem tax levied upon all taxable property within the City, within the limitations prescribed by law, and are further payable from and secured by a lien on and pledge of the Pledged Revenues (identified and defined in the Ordinance), being a limited amount of the Net Revenues derived from the operation of the City's combined utility system (the *System*), such lien on and pledge of the limited amount of Net Revenues being subordinate and inferior to the lien on and pledge of such Net Revenues securing payment of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City. The City has previously authorized the issuance of the currently outstanding Limited Pledge Obligations (identified and defined in the Ordinance) that are payable, in part, from and secured by a lien on and pledge of a limited amount of the Net Revenues of the System in the manner and as described in the ordinances authorizing the issuance of the currently outstanding Limited Pledge Obligations. In the Ordinance, the City reserves and retains the right to issue Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, and Additional Limited Pledge Obligations (all as identified and defined in the Ordinance), while the Certificates are Outstanding, without limitation as to principal amount but subject to any terms, conditions or restrictions as may be applicable thereto under law or otherwise.

Reference is hereby made to the Ordinance, a copy of which is on file in the corporate trust office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by his acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied and the revenues pledged for the payment of the Certificates; the terms and conditions under which the City may issue Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, and Additional Limited Pledge Obligations; the terms and conditions relating to the transfer or exchange of the Certificates; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holder; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Certificate may be redeemed or discharged at or prior to the Stated Maturity thereof, and deemed to be no longer Outstanding thereunder; and for the other terms and provisions specified in the Ordinance. Capitalized terms used herein without definition have the same meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register upon presentation and surrender at the corporate trust office of the Paying Agent/Registrar, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by the Holder hereof, or his duly authorized agent, and thereupon one or more new fully registered Certificates of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the Holder hereof whose name appears on the Security Register (i) on the Record Date as the owner hereof for purposes of receiving payment of interest hereon, (ii) on the date of surrender of this Certificate as the owner hereof for purposes of receiving payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner hereof for all other purposes, and neither the City nor the Paying Agent/Registrar, or any such agent of either, shall be affected by notice to the contrary. In the event of a non-payment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a Special Record Date) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the *Special Payment Date* - which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, covenanted, and represented that all acts, conditions, and things required to be performed, exist, and be done precedent to the issuance of this Certificate in order to render the same a legal, valid, and binding obligation of the City have been performed, exist, and have been done, in regular and due time, form, and manner, as required by the laws of the State of Texas and the Ordinance, and that issuance of the Certificates does not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of, premium if any, and interest on the Certificates by the levy of a tax and collection of Pledged Revenues as aforesated. In case any provision in this Certificate or any application thereof shall be deemed invalid, illegal, or unenforceable, the validity, legality, and enforceability

of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City has caused this Certificate to be duly executed under its official seal.

CITY OF SCHERTZ, TEXAS

By _____
Mayor

ATTEST:

City Secretary

(CITY SEAL)

C. *Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Certificate Only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER OF §
PUBLIC ACCOUNTS §
THE STATE OF TEXAS § REGISTER NO. _____
§

I HEREBY CERTIFY that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____

Comptroller of Public Accounts
of the State of Texas

(SEAL)

*NOTE TO PRINTER: Do not print on Definitive Certificates.

D. *Form of Certificate of Paying Agent/Registrar to Appear on Definitive Certificates Only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Certificate has been duly issued under the provisions of the within-mentioned Ordinance; the Certificate or Certificates of the above-entitled and designated series originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

Registered this date: UMB BANK, N.A., Austin, Texas, as Paying Agent/Registrar

_____ By: _____
Authorized Signature

*NOTE TO PRINTER: Print on Definitive Certificates.

E. Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): _____

(Social Security or other identifying number): _____

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular.

Signature guaranteed:

F. Form of Initial Certificate. The Initial Certificate shall be in the form set forth in paragraph B of this Section, except that the form of a single fully registered Initial Certificate shall be modified as follows:

- (i) immediately under the name of the Certificate the headings "Interest Rate and "Stated Maturity shall both be completed "as shown below";
- (ii) the first two paragraphs shall read as follows:

The City of Schertz, Texas (the *City*), a body corporate and municipal corporation in the Counties of Guadalupe, Comal, and Bexar, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the order of the Registered Owner named above, or the registered assigns thereof, the Principal Amount specified above stated to mature on the first day of February in each of the years and in principal amounts and bearing interest at per annum rates in accordance with the following schedule:

<u>Years of Stated Maturity</u>	<u>Principal Amounts (\$)</u>	<u>Interest Rates (%)</u>
-------------------------------------	-----------------------------------	-------------------------------

(Information to be inserted
from schedule in Section 2 hereof)

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid Principal Amounts hereof from the Certificate Date specified above, or from the most

recent Interest Payment Date (hereinafter defined) to which interest has been paid or duly provided for until the Principal Amount has become due and payment thereof has been made or duly provided for, to the earlier of redemption or Stated Maturity, at the per annum rates of interest specified above, computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on February 1 and August 1 of each year (each, an *Interest Payment Date*), commencing August 1, 2022.

Principal of this Certificate shall be payable to the Registered Owner hereof (the *Holder*), upon its presentation and surrender, to Stated Maturity or prior redemption, while Outstanding, at the corporate trust office of UMB Bank, N.A., Austin, Texas (the *Paying Agent/Registrar*). Interest shall be payable to the Holder of this Certificate whose name appears on the Security Register maintained by the Paying Agent/Registrar at the close of business on the Record Date, which is the fifteenth day of the month next preceding each Interest Payment Date. All payments of principal of and interest on this Certificate shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest shall be paid by the Paying Agent/Registrar by check sent on or prior to the appropriate date of payment by United States mail, first-class postage prepaid, to the Holder hereof at the address appearing in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder hereof.

[END OF FORM]

G. Insurance Legend. If bond insurance is obtained by the City or the Purchasers for the Certificates, the Definitive Certificates and the Initial Certificate shall bear an appropriate legend as provided by the insurer, to appear under the following header.

[BOND INSURANCE]

SECTION 9. Definitions. For all purposes of this Ordinance (as defined below), except as otherwise expressly provided or unless the context otherwise requires: (i) the terms defined in this Section have the meanings assigned to them in this Section, and certain terms used in Sections 27 and 44 of this Ordinance have the meanings assigned to them in Sections 27 and 44 of this Ordinance, and all such terms, include the plural as well as the singular; (ii) all references in this Ordinance to designated “Sections” and other subdivisions are to the designated Sections and other subdivisions of this Ordinance as originally adopted; and (iii) the words “herein”, “hereof”, and “hereunder” and other words of similar import refer to this Ordinance as a whole and not to any particular Section or other subdivision.

A. The term *Additional Limited Pledge Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation or other evidences of indebtedness hereafter issued by the City payable in part from a limited pledge of and lien on Net Revenues of the System such pledge being subordinate and inferior to the lien thereon and pledge thereof securing the payment of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City, which pledge of revenues is limited pursuant to Section 1502.052, as amended, Texas Government Code, all as further provided in Section 20 of this Ordinance, and (ii) any obligations issued to refund the foregoing as determined by the City Council in accordance with applicable law.

B. The term *Authorized Officials* shall mean the Mayor, the Mayor Pro Tem, the City Manager, the Executive Director, the Director of Finance, and/or the City Secretary.

C. The term *Certificates* shall mean the \$____,____,____ “CITY OF SCHERTZ, TEXAS COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2022” authorized by this Ordinance.

D. The term *Certificate Fund* shall mean the special Fund created and established by the provisions of Section 10 of this Ordinance.

E. The term *City* shall mean the City of Schertz, located in Guadalupe, Comal, and Bexar Counties, Texas and, where appropriate, the City Council of the City.

F. The term *Closing Date* shall mean the date of physical delivery of the Initial Certificates in exchange for the payment of the agreed purchase price for the Certificates.

G. The term *Collection Date* shall mean, when reference is being made to the levy and collection of annual ad valorem taxes, the date the annual ad valorem taxes levied each year by the City become delinquent.

H. The term *Debt Service Requirements* shall mean, as of any particular date of computation, with respect to any obligations and with respect to any period, the aggregate of the amounts to be paid or set aside by the City as of such date or in such period for the payment of the principal of, premium, if any, and interest (to the extent not capitalized) on such obligations; assuming, in the case of obligations without a fixed numerical rate, that such obligations bear interest at the maximum rate permitted by the terms thereof and further assuming in the case of obligations required to be redeemed or prepaid as to principal prior to Stated Maturity, the principal amounts thereof will be redeemed prior to Stated Maturity in accordance with the mandatory redemption provisions applicable thereto.

I. The term *Depository* shall mean an official depository bank of the City.

J. The term *Fiscal Year* shall mean the annual financial accounting period for the System now ending on September 30th of each year; provided, however, the City Council may change such annual financial accounting period to end on another date if such change is found and determined to be necessary for accounting purposes or is required by applicable law.

K. The term *Government Securities*, as used herein, shall mean (i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by, the United States of America; (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its equivalent; (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the governing body of the issuer adopts or approves the proceedings authorizing the issuance of refunding bonds, are rated as to investment quality by a nationally recognized investment rating firm not less than “AAA” or its

equivalent, or (iv) any additional securities and obligations hereafter authorized by the laws of the State of Texas as eligible for use to accomplish the discharge of obligations such as the Certificates.

L. The term *Gross Revenues* for any period shall mean all revenue during such period in respect or on account of the operation or ownership of the System, excluding refundable meter deposits, restricted gifts, and grants in aid of construction, but including earnings and income derived from the investment or deposit of money in any special fund or account (except the Certificate Fund) created and established for the payment or security of the Certificates.

M. The term *Holder* or *Holder*s shall mean the registered owner, whose name appears in the Security Register, for any Certificate.

N. The term *Interest Payment Date* shall mean the date interest is payable on the Certificates, being February 1 and August 1 of each year, commencing August 1, 2022, while any of the Certificates remain Outstanding.

O. The term *Junior Lien Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation or any similar obligations hereafter issued by the City that are payable in whole or in part from and equally and ratably secured by a junior and inferior lien on and pledge of the Net Revenues of the System, such pledge being junior and inferior to the lien on and pledge of the Net Revenues of the System that may be pledged to the payment of any Prior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the Net Revenues of the System that are or will be pledged to the payment of the currently outstanding Limited Pledge Obligations, and the Certificates, or any Subordinate Lien Obligations or Additional Limited Pledge Obligations hereafter issued by the City all as further provided in Section 20 of this Ordinance and (ii) obligations hereafter issued to refund any of the foregoing that are payable from and equally and ratably secured by a junior and inferior lien on and pledge of the Net Revenues of the System as determined by the City Council in accordance with any applicable law.

P. The term *Limited Pledge Obligations* shall mean (i) the Certificates and the outstanding and unpaid obligations of the City that are payable, in part, from and secured by a subordinate and inferior lien on and pledge of a limited amount of the Net Revenues of the System and designated as follows:

(1) “City of Schertz, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2013”, dated September 1, 2013, originally issued in the aggregate principal amount of \$4,965,000;

(2) “City of Schertz, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2016A”, dated August 1, 2016, originally issued in the aggregate principal amount of \$2,375,000;

(3) “City of Schertz, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Taxable Series 2016B”, dated August 1, 2016, originally issued in the aggregate principal amount of \$1,475,000;

(4) “City of Schertz, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2017”, dated May 15, 2017, originally issued in the aggregate principal amount of \$5,475,000;

(5) “City of Schertz, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2018”, dated July 1, 2018, originally issued in the aggregate principal amount of \$10,440,000;

(6) City of Schertz, Texas Combination Tax and Limited Pledge Revenue Certificates of Obligation, Series 2019”, dated July 1, 2018, originally issued in the aggregate principal amount of \$7,495,000; and

(ii) any obligations hereafter issued to refund any of the foregoing as determined by the City Council in accordance with any applicable law.

Q. The term *Maintenance and Operating Expenses* shall mean all current expenses of operating and maintaining the System not paid from the proceeds of the Certificates, including (1) the cost of all salaries, labor, materials, repairs, and extensions necessary to render efficient service, but only if, in the case of repairs and extensions, they are, in the judgment of the City Council (reasonably and fairly exercised), necessary to maintain operation of the System and render adequate service to the City and the inhabitants thereof, or are necessary to meet some physical accident or condition which would otherwise impair obligations payable from Net Revenues, (2) payments to pension, retirement, health, hospitalization, and other employee benefit funds for employees of the City engaged in the operation or maintenance of the System, (3) payments under contracts for the purchase of water supply, treatment of sewage, or other materials, goods, or services for the System to the extent authorized by law and the provisions of such contract, (4) payments to auditors, attorneys, and other consultants incurred in complying with the obligations of the City hereunder, and (5) any legal liability of the City arising out of the operation, maintenance, or condition of the System, but excluding any allowance for depreciation, property retirement, depletion, obsolescence, and other items not requiring an outlay of cash and any interest on the Certificates or other bonds, notes, warrants, or similar obligations of the City payable from Net Revenues.

R. The term *Net Revenues* for any period shall mean the Gross Revenues of the System less the Maintenance and Operating Expenses of the System.

S. The term *Ordinance* shall mean this ordinance as finally passed and adopted by the City Council of the City.

T. The term *Outstanding* when used in this Ordinance with respect to the Certificates shall mean, as of the date of determination, all Certificates issued and delivered under this Ordinance, except:

(1) those Certificates cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Certificates for which payment has been duly provided by the City in accordance with the provisions of Section 29 of this Ordinance; and

(3) those Certificates that have been mutilated, destroyed, lost, or stolen and replacement Certificates have been registered and delivered in lieu thereof as provided in Section 25 of this Ordinance.

U. The term *Pledged Revenues* shall mean, while the Certificates remain Outstanding, an amount of Net Revenues not in excess of \$1,000. The Pledged Revenues shall be deposited, allocated, and expended in accordance with Section 10 of this Ordinance.

V. The term *Pledged Revenue Amount* shall mean the total amount, not to exceed \$1,000 while the Certificates are Outstanding, of Net Revenues that may be transferred in whole or in part by the City in any given Fiscal Year (however, any amounts transferred prior to the final maturity date of the Certificates may not exceed the total amount of \$1,000) to the Certificate Fund.

W. The term *Prior Lien Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation or any similar obligations hereafter issued by the City that are payable in whole or in part from and equally and ratably secured by a first and prior lien on and pledge of the Net Revenues of the System, all as further provided in Section 20 of this Ordinance, and (ii) any obligations hereafter issued to refund the foregoing if issued in a manner so as to be payable from and equally and ratably secured by a first and prior lien on and pledge of the Net Revenues of the System as determined by the City Council in accordance with any applicable law.

X. The term *Purchasers* shall mean the initial purchaser or purchasers of the Certificates named in Section 26 of this Ordinance.

Y. The term *Stated Maturity* shall mean the annual principal payments of the Certificates payable on February 1 of each year the Certificates are Outstanding as set forth in Section 2 of this Ordinance.

Z. The term *Subordinate Lien Obligations* shall mean (i) any bonds, notes, warrants, certificates of obligation, or any similar obligations hereafter issued by the City that are payable in whole or in part from and equally and ratably secured by a lien on and pledge of the Net Revenues of the System, such pledge being subordinate and inferior to the lien on and pledge of the Net Revenues of the System that may be pledged to the payment of any Prior Lien Obligations or Junior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the limited amount of the Net Revenues securing, in part, the payment of the currently outstanding Limited Pledge Obligations, the Certificates, and any Additional Limited Pledge Obligations hereafter issued by the City, all as further provided in Section 20 of this Ordinance and (ii) any obligations hereafter issued to refund any of the foregoing if issued in a manner so as to be payable from and equally and ratably secured by a subordinate and inferior lien on and pledge of the Net Revenues as determined by the City Council in accordance with any applicable law.

AA. The term *System* shall mean all properties, facilities and plants currently owned, operated, and maintained by the City for the supply, treatment, and transmission of treated potable water, for the collection and treatment of wastewater, together with all future extensions, improvements, replacements and additions thereto, whether situated within or without the limits of the City and the City expressly reserves the right at its sole discretion to include additional

utility, telecommunications, technology, or similar enterprise services as components of the System; provided, however, that notwithstanding the foregoing, and to the extent now or hereafter authorized or permitted by law, the term System shall not mean to include facilities of any kind which are declared not to be a part of the System and which are acquired or constructed by or on behalf of the City with the proceeds from the issuance of *Special Facilities Bonds*, which are hereby defined as being special revenue obligations of the City which are not payable from Net Revenues but which are payable from and equally and ratably secured by other liens on and pledges of any revenues, sources or payments, not pledged to the payment of the Bonds Similarly Secured including, but not limited to, special contract revenues or payments received from any other legal entity in connection with such facilities.

SECTION 10. Certificate Fund – Investments. For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption, and retirement of the Certificates, there shall be and is hereby created a special fund to be designated “COMBINATION TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2022, INTEREST AND SINKING FUND” (the *Certificate Fund*), which fund shall be kept and maintained at the Depository, and money deposited in the Certificate Fund shall be used for no other purpose and shall be maintained as provided in Section 27. Authorized Officials of the City are hereby authorized and directed to make withdrawals from the Certificate Fund sufficient to pay the purchase price or the amount of principal of, premium, if any, and interest on the Certificates as the same become due and payable and shall cause to be transferred to the Paying Agent/Registrar from money on deposit in the Certificate Fund an amount sufficient to pay the amount of principal and/or interest stated to mature on the Certificates, such transfer of funds to the Paying Agent/Registrar to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar on or before the business day next preceding each interest and principal payment date for the Certificates.

The City, at its sole discretion, may deposit the Pledged Revenue Amount to the Certificate Fund. The Pledged Revenue Amount, if deposited, shall be expended annually to pay principal of and interest on the Certificates as the same become due and payable. This Pledged Revenue Amount shall be accounted for and transferred to the Paying Agent/Registrar in accordance with the provisions of the previous paragraph of this Section.

Pending the transfer of funds to the Paying Agent/Registrar, money deposited in any fund created and established by this Ordinance may, at the option of the City, be placed in time deposits, certificates of deposit, guaranteed investment contracts, or similar contractual agreements, as permitted by the provisions of the Public Funds Investment Act, as amended, Chapter 2256, Texas Government Code, secured (to the extent not insured by the Federal Deposit Insurance Corporation) by obligations of the type hereinafter described, or be invested, as authorized by any law, including investments held in book-entry form, in securities, including, but not limited to, direct obligations of the United States of America, obligations guaranteed or insured by the United States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations, or invested in indirect obligations of the United States of America, including, but not limited to, evidences of indebtedness issued, insured or guaranteed by such governmental agencies as the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Government National Mortgage Association, Small Business Administration, Farmers Home Administration,

Federal Home Loan Mortgage Association, or Federal Housing Association; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from such fund will be available at the proper time or times. All interest and income derived from deposits and investments in any fund established pursuant to the provisions of this Ordinance shall be credited to, and any losses debited to, such fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Certificates.

SECTION 11. Tax Levy. To provide for the payment of the Debt Service Requirements on the Certificates being (i) the interest on the Certificates and (ii) a sinking fund for their redemption at Stated Maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied for the current year and each succeeding year thereafter while the Certificates or any interest thereon shall remain Outstanding, a sufficient tax, within the limitations prescribed by law, on each one hundred dollars valuation of taxable property in the City, adequate to pay such Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be paid into the Certificate Fund and are thereafter pledged to the payment of the Certificates. The City Council hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness and other obligations of the City.

The amount of taxes to be provided annually for the payment of the principal of and interest on the Certificates shall be determined and accomplished in the following manner:

A. Prior to the date the City Council establishes the annual tax rate and passes an ordinance levying ad valorem taxes each year, the City Council shall determine:

(1) the amount of Debt Service Requirements to become due and payable on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year;

(2) the amount on deposit in the Certificate Fund after (a) deducting therefrom the total amount of Debt Service Requirements to become due on Certificates prior to the Collection Date for the ad valorem taxes to be levied and (b) adding thereto the amount of the Pledged Revenues, if any, to be appropriated and allocated during such year to pay such Debt Service Requirements, if any, prior to the Collection Date for the ad valorem taxes to be levied; and

(3) the amount of Pledged Revenues, if any, to be appropriated and to be set aside for the payment of the Debt Service Requirements on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding Fiscal Year.

B. The amount of taxes to be levied annually each year to pay the Debt Service Requirements on the Certificates shall be the amount established in paragraph (1) above less the

sum total of the amounts established in paragraphs (2) and (3), after taking into consideration delinquencies and costs of collecting such annual taxes.

SECTION 12. Pledge of Revenues. The City hereby covenants and agrees that, subject to (i) any prior lien on and pledge of the Net Revenues of the System to the payment and security of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City and (ii) the lien on and pledge of a limited amount of the Net Revenues to the payment and security of the currently outstanding Limited Pledge Obligations, the Pledged Revenues are hereby irrevocably pledged to the payment of the principal of and interest on the Certificates and the pledge of Pledged Revenues herein made for the payment of the Certificates shall constitute a lien on the Pledged Revenues in accordance with the terms and provisions hereof and be valid and binding without any physical delivery thereof or further act by the City.

SECTION 13. System Fund. The City hereby covenants and agrees that all Gross Revenues derived from the operation of the System shall be kept separate and apart from all other funds, accounts and money of the City and shall be deposited as collected into the "CITY OF SCHERTZ, TEXAS UTILITY SYSTEM FUND" (the *System Fund*). All money deposited in the System Fund shall be pledged and appropriated to the extent required for the following purposes and in the order of priority shown:

- First: to the payment of the reasonable and proper Maintenance and Operating Expenses of the System required by statute or ordinances authorizing the issuance of any indebtedness of the City to be a first charge on and claim against the Gross Revenues of the System;
- Second: To the payment of the amounts that must be deposited in the special funds and accounts created and established for the payment, security, and benefit of any Prior Lien Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinance authorizing their issuance;
- Third: To the payment of the amounts that must be deposited in the special funds and accounts created and established for the payment, security, and benefit of any Junior Lien Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinance authorizing their issuance;
- Fourth: To the payment of the amounts that must be deposited in the special funds and accounts created and established for the payment, security, and benefit of any Subordinate Lien Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinance authorizing their issuance; and
- Fifth: To the payment of the amounts that may be deposited in the special funds and accounts established for the payment of the currently outstanding Limited Pledge Obligations, including the Certificates, and any Additional Limited Pledge Obligations hereafter issued by the City in accordance with the terms and provisions of any ordinances authorizing their issuance.

Any Net Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment, security and benefit thereof, may be appropriated and used for any other City purpose now or hereafter permitted by law.

SECTION 14. Deposits to Certificate Fund – Surplus Certificate Proceeds. The City hereby covenants and agrees to cause to be deposited in the Certificate Fund prior to a principal and interest payment date for the Certificates, from the Pledged Revenues in the System Fund, after the deduction of all payments required to be made to the special funds or accounts created for the payment, security, and benefit of (i) any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City and (ii) the currently outstanding Limited Pledge Obligations, including the Certificates, and any amounts budgeted to be paid therefrom in such Fiscal Year.

Accrued interest received from the Purchasers of the Certificates shall be deposited to the Certificate Fund and ad valorem taxes levied and collected for the benefit of the Certificates shall be deposited to the Certificate Fund. In addition, any surplus proceeds, including investment income therefrom, from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said fund from ad valorem taxes.

SECTION 15. Security of Funds. All money on deposit in the funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested as provided herein) shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of public funds, and money on deposit in such funds shall be used only for the purposes permitted by this Ordinance.

SECTION 16. Maintenance of System - Insurance. The City covenants and agrees that while the Certificates remain Outstanding it will maintain and operate the System with all possible efficiency and maintain casualty and other insurance (including a system of self-insurance) on the properties of the System and its operations of a kind and in such amounts customarily carried by municipal corporations in the State of Texas engaged in a similar type of business and that it will faithfully and punctually perform all duties with reference to the System required by the laws of the State of Texas. All money received from losses under such insurance policies, other than public liability policies, are held for the benefit of the holders of the Certificates until and unless the proceeds are paid out in making good the loss or damage in respect of which such proceeds are received, either by replacing the property destroyed or repairing the property damaged, and adequate provision for making good such loss or damage must be made within ninety (90) days after the date of loss. The payment of premiums for all insurance policies required under the provisions hereof shall be considered Maintenance and Operating Expenses. Nothing in this Ordinance shall be construed as requiring the City to expend any funds which are derived from sources other than the operation of the System but nothing herein shall be construed as preventing the City from doing so.

SECTION 17. Rates and Charges. The City hereby covenants and agrees with the Holders of the Certificates that rates and charges for utility services afforded by the System will be established and maintained to provide Gross Revenues sufficient at all times:

A. to pay, together with any other lawfully available funds, all operating, maintenance, depreciation, replacement, betterment, and other costs incurred in the maintenance and operation of the System, including, but not limited to, Maintenance and Operating Expenses; provided, however, that the City expressly reserves the right to utilize other lawfully available funds to pay the Maintenance and Operating Expenses;

B. to produce Net Revenues sufficient, together with any other lawfully available funds, to pay (i) the interest on and principal of any Prior Lien Obligations hereafter issued by the City as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof, (ii) the interest on and principal of any Junior Lien Obligations hereafter issued by the City as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof, (iii) the interest on and principal of any Subordinate Lien Obligations hereafter issued by the City as the same becomes due and payable and the amounts required to be deposited in any special fund created and established for the payment, security, and benefit thereof, and (iv) the amounts that may be deposited in the special funds established for the payment of the currently outstanding Limited Pledge Obligations, the Certificates, and any Additional Limited Pledge Obligations hereafter issued by the City; and

C. to pay other legally incurred indebtedness payable from the Net Revenues of the System and/or secured by a lien on the System or the Net Revenues thereof.

SECTION 18. Records and Accounts - Annual Audit. The City further covenants and agrees that so long as any of the Certificates remain Outstanding it will keep and maintain separate and complete records and accounts pertaining to the operations of the System in which complete and correct entries shall be made of all transactions relating thereto, as provided by Chapter 1502, as amended, Texas Government Code, or other applicable law. The Holders of the Certificates or any duly authorized agent or agents of the Holders shall have the right to inspect the System and all properties comprising the same. The City further agrees that, following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of certified public accountants. Expenses incurred in making the annual audit of the operations of the System are to be regarded as Maintenance and Operating Expenses.

SECTION 19. Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in the payments to be made to the Certificate Fund, or (b) defaults in the observance or performance of any other of the covenants, conditions, or obligations set forth in this Ordinance, the Holders of any of the Certificates shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition, or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

SECTION 20. Issuance of Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, and Additional Limited Pledge Obligations. The City hereby expressly reserves the right to hereafter issue bonds, notes, warrants, certificates of obligation, or similar obligations, payable, in whole or in part, as appropriate, from and secured by a pledge of and lien on the Net Revenues of the System with the following priorities, without limitation as to principal amount, but subject to any terms, conditions, or restrictions applicable thereto under existing ordinances, laws, or otherwise:

A. Prior Lien Obligations payable from and equally and ratably secured by a first and prior lien on and pledge of the Net Revenues of the System;

B. Junior Lien Obligations payable from and equally and ratably secured by a lien on and pledge of the Net Revenues that is junior and inferior to the lien on and pledge thereof securing the payment of any Prior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the Net Revenues securing in whole or in part the payment of the currently outstanding Limited Pledge Obligations, the Certificates, and any Subordinate Lien Obligations or Additional Limited Pledge Obligations hereafter issued by the City;

C. Subordinate Lien Obligations payable from and equally and ratably secured by a lien on and pledge of the Net Revenues that is subordinate and inferior to the lien on and pledge thereof securing the payment of any Prior Lien Obligations or Junior Lien Obligations hereafter issued by the City, but prior and superior to the lien on and pledge of the Net Revenues securing, in part, the payment of the currently outstanding Limited Pledge Obligations, the Certificates, and any Additional Limited Pledge Obligations hereafter issued by the City; and

D. Additional Limited Pledge Obligations secured by a lien on and pledge of a limited amount of the Net Revenues in accordance with the provisions of the following paragraph.

Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations, if issued, may be payable, in whole or in part, from Net Revenues (without impairment of the obligation of contract with the holders of the currently outstanding Limited Pledge Obligations and the Certificates) upon such terms and conditions as the City Council may determine. Additional Limited Pledge Obligations, if issued and payable, in whole or in part, from Pledged Revenues (defined in the same or similar terms as provided in Section 9 of this Ordinance or in the ordinances authorizing the issuance of the currently outstanding Limited Pledge Obligations), shall not in any event be construed to be payable from the Pledged Revenues authorized by this Ordinance or in the respective ordinances authorizing the issuance of the currently outstanding Limited Pledge Obligations to be budgeted and appropriated for the payment of the Certificates or the currently outstanding Limited Pledge Obligations, respectively. However, the lien on and pledge of the limited amount of Net Revenues securing, in part, the payment of the Certificates, the Limited Pledge Obligations, and any Additional Limited Pledge Obligations shall be subordinate and inferior to the pledge of and lien on the Net Revenues securing the payment of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City.

SECTION 21. Special Covenants. The City hereby further covenants that:

A. it has the lawful power to pledge the Pledged Revenues supporting the Certificates and has lawfully exercised said powers under the laws of the State of Texas, including power existing under Chapter 1502, as amended, Texas Government Code, the Certificate of Obligation Act of 1971, as amended, Texas Local Government Code, Section 271.041 through Section 271.064, and the City's Home Rule Charter;

B. other than for the payment of the currently outstanding Limited Pledge Obligations and the Certificates, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the City or of the System;

C. as long as any Certificates or any interest thereon remain Outstanding, the City will not sell, lease or encumber (except in the manner provided in Section 20 of this Ordinance) the System or any substantial part thereof, provided that this covenant shall not be construed to prohibit the sale of such machinery, or other properties or equipment which has become obsolete or otherwise unsuited to the efficient operation of the System;

D. to the extent that it legally may, the City further covenants and agrees that, so long as any of the Certificates, or any interest thereon, are Outstanding, no franchise shall be granted for the installation or operation of any competing utility systems other than those owned by the City, and the operation of any such systems by anyone other than the City is hereby prohibited; and

E. no free service of the System shall be allowed, and should the City or any of its agents or instrumentalities make use of the services and facilities of the System, payment of the reasonable value thereof shall be made by the City out of funds from sources other than the revenues and income of the System.

SECTION 22. Application of the Covenants and Agreements of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations. It is the intention of the City Council and accordingly hereby recognized and stipulated that the provisions, agreements, and covenants contained herein bearing upon the management and operations of the System, and the administration and application of Gross Revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements, and covenants contained in the ordinances authorizing the issuance of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City, and to the extent of any irreconcilable conflict between the provisions contained herein and in the ordinances authorizing the issuance of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations, the provisions, agreements and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance, especially the priority of rights and benefits conferred thereby to the holders of any Prior Lien Obligations, Junior Lien Obligations, or Subordinate Lien Obligations hereafter issued by the City. It is expressly recognized that prior to the issuance of any Prior Lien Obligations, Junior Lien Obligations, Subordinate Lien Obligations, or Additional Limited Pledge Obligations, the City must comply with each of the conditions precedent contained in the respective ordinances authorizing the issuance of the currently outstanding Limited Pledge Obligations and the Certificates, as appropriate.

SECTION 23. Notices to Holders – Waiver. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first-class postage prepaid, to the address of each Holder as it appears in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Holders. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 24. Cancellation. All Certificates surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Certificates so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Certificates held by the Paying Agent/Registrar shall be destroyed as directed by the City.

SECTION 25. Mutilated, Destroyed, Lost, and Stolen Certificates. If (1) any mutilated Certificate is surrendered to the Paying Agent/Registrar, or the City and the Paying Agent/Registrar receive evidence to their satisfaction of the destruction, loss, or theft of any Certificate, and (2) there is delivered to the City and the Paying Agent/Registrar such security or indemnity as may be required to save each of them harmless, then, in the absence of notice to the City or the Paying Agent/Registrar that such Certificate has been acquired by a bona fide purchaser, the City shall execute and, upon its request, the Paying Agent/Registrar shall register and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost, or stolen Certificate, a new Certificate of the same Stated Maturity and interest rate and of like tenor and principal amount, bearing a number not contemporaneously Outstanding.

In case any such mutilated, destroyed, lost, or stolen Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a new Certificate, pay such Certificate.

Upon the issuance of any new Certificate or payment in lieu thereof, under this Section, the City may require payment by the Holder of a sum sufficient to cover any tax or other governmental charge imposed in relation thereto and any other expenses and charges (including attorney's fees and the fees and expenses of the Paying Agent/Registrar) connected therewith.

Every new Certificate issued pursuant to this Section in lieu of any mutilated, destroyed, lost, or stolen Certificate shall constitute a replacement of the prior obligation of the City, whether

or not the mutilated, destroyed, lost, or stolen Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Certificates.

SECTION 26. Sale of the Certificates at Competitive Sale – Approval of the Official Statement; Proceeds of Sale. The Certificates authorized by this Ordinance are hereby sold by the City to _____, _____, _____, as the authorized representative of a group of purchasers at a competitive sale (the *Purchasers*, having all of the rights, duties, benefits, and obligations of a Holder), in accordance with the provisions of an Official Bid Form (the *Official Bid Form*), dated January 11, 2022, attached hereto as Exhibit B and incorporated herein by reference as a part of this Ordinance for all purposes, at the price of par, plus a reoffering premium of \$_____ (including the Purchasers' compensation of \$_____), plus accrued interest to the date of initial delivery of the Certificates to the Purchasers and is hereby approved and confirmed. The Initial Certificate shall be registered in the name of _____. It is hereby officially found, determined, and declared that the Purchasers are the highest bidder for the Certificates whose bid, received as a result of invitations for competitive bids in compliance with applicable law, produced the lowest true interest cost to the City. The pricing and terms of the sale of the Certificates are hereby found and determined to be the most advantageous reasonably obtainable by the City. Any Authorized Official is hereby authorized and directed to execute the Official Bid Form for and on behalf of the City and as the act and deed of this City Council, and in regard to the approval and execution of the Official Bid Form, the City Council hereby finds, determines and declares that the representations, warranties, and agreements of the City contained in the Official Bid Form are true and correct in all material respects and shall be honored and performed by the City. Delivery of the Certificates to the Purchasers shall occur as soon as practicable after the adoption of this Ordinance, upon payment therefor in accordance with the terms of the Official Bid Form.

Proceeds from the sale of the Certificates shall be applied as follows:

(1) Accrued interest in the amount of \$_____ received from the Purchasers shall be deposited into the Certificate Fund.

(2) The City received a reoffering premium from the sale of the Certificates of \$565,404.65 which is hereby allocated by the City in the following manner: (i) \$_____ to pay the Purchasers' compensation (ii) \$_____ shall be deposited into the Construction Account established in paragraph (3) below, and (iii) \$_____ to pay the remaining costs of issuance of the Certificates.

(3) The balance of the proceeds (being a portion of the Certificates in the amount of \$_____,_____.00 and a portion of the reoffering premium in the amount of \$_____) derived from the sale of the Certificates (after paying costs of issuance) shall be deposited into the special construction account or accounts created for the projects to be constructed with the proceeds of the Certificates and used to pay costs of such projects. This special construction account shall be established and maintained at the Depository and shall be

invested in accordance with the provisions of Section 10 of this Ordinance. Interest earned on the proceeds of the Certificates pending completion of construction of the projects financed with such proceeds shall be accounted for, maintained, deposited, and expended as permitted by the provisions of Chapter 1201, as amended, Texas Government Code, or as required by any other applicable law. Thereafter, such amounts shall be expended in accordance with Section 14 of this Ordinance.

Furthermore, the City hereby ratifies, confirms, and approves in all respects (i) the City's prior determination that the Preliminary Official Statement was, as of its date, "deemed final" in accordance with the Rule (hereinafter defined) and (ii) the use and distribution of the Official Notice of Sale, Official Bid Form, and Preliminary Official Statement by the Purchasers in connection with the public offering and sale of the Certificates. The final Official Statement, being a modification and amendment of the Preliminary Official Statement to reflect the terms of sale referenced in the Official Bid Form (together with such changes approved by any Authorized Official, or any one or more of said officials), shall be and is hereby in all respects approved and the Purchasers are hereby authorized to use and distribute the final Official Statement, dated January 11, 2022, in the reoffering, sale and delivery of the Certificates to the public. The Mayor and City Secretary are further authorized and directed to manually execute and deliver for and on behalf of the City copies of the Official Statement in final form as may be required by the Purchasers, and such final Official Statement in the form and content manually executed by said officials shall be deemed to be approved by the City Council and constitute the Official Statement authorized for distribution and use by the Purchasers. The proper officials of the City are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Certificates.

SECTION 27. Covenants to Maintain Tax-Exempt Status.

A. Definitions. When used in this Section, the following terms have the following meanings:

"Closing Date" means the date on which the Certificates are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Certificates.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Certificates are invested and which is not acquired to carry out the governmental purposes of the Certificates.

“*Rebate Amount*” has the meaning set forth in Section 1.148-1(b) of the Regulations.

“*Regulations*” means any proposed, temporary, or final Income Tax Regulations issued pursuant to sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Certificates. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“*Yield*” of

(1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and

(2) the Certificates means the yield as calculated pursuant to Section 1.148-4 of the Regulations.

B. Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the City shall comply with each of the specific covenants in this Section.

C. No Private Use or Private Payments. Except to the extent it will not cause the Certificates to become “private activity bonds” within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Certificates:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Certificates, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Certificates or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general

application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

D. No Private Loan. Except to the extent it will not cause the Certificates to become “private activity bonds” within the meaning of section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be “loaned” to a person or entity if- (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

E. Not to Invest at Higher Yield. Except to the extent it will not cause the Certificates to become “arbitrage bonds” within the meaning of section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Certificates directly or indirectly invest Gross Proceeds in any Investment, if as a result of such investment the Yield of any Investment acquired with Gross Proceeds, whether then held or previously disposed of, materially exceeds the Yield of the Certificates.

F. Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

G. Information Report. The City shall timely file the information required by section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

H. Rebate of Arbitrage Profits. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last Outstanding Certificate is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Certificates with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its

official transcript of proceedings relating to the issuance of the Certificates until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Certificates by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Certificate Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Certificates equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

I. Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Certificates, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection H of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Certificates not been relevant to either party.

J. Certificates Not Hedge Bonds.

(1) The City reasonably expects to spend at least 85% of the spendable proceeds of the Certificates within three years after such Certificates are issued.

(2) Not more than 50% of the proceeds of the Certificates will be invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

K. Elections. The City hereby directs and authorizes any Authorized Official, either individually or any combination of them, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection

with the Certificates, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document. Such elections shall be deemed to be made on the Closing Date.

SECTION 28. Control and Custody of Certificates. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas and shall take and have charge and control of the Certificates pending their approval by the Attorney General of the State of Texas, the registration thereof by the Comptroller of Public Accounts of the State of Texas and the delivery of the Certificates to the Purchasers.

Furthermore, any Authorized Official, either individually or any combination of them, is hereby authorized and directed to furnish and execute such documents relating to the City and its financial affairs as may be necessary for the issuance of the Certificates, the approval of the Attorney General of the State of Texas and their registration by the Comptroller of Public Accounts of the State of Texas and, together with the City's financial advisors, Bond Counsel, and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Certificate to the Purchasers and, when requested in writing by the Purchasers, the initial exchange thereof for definitive Certificates.

SECTION 29. Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance, then the pledge of taxes levied and the lien on and pledge of the Pledged Revenues under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Certificates, or any principal amount(s) thereof, shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Certificates or the principal amount(s) thereof at Stated Maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, and/or (ii) Government Securities shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities will mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any money deposited therewith, if any, to pay when due the principal of and interest on such Certificates, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof for the Certificates. In the event of a defeasance of the Certificates, the City shall deliver a certificate from its financial advisor, the Paying Agent/Registrar, an independent accounting firm, or another qualified third party concerning the deposit of cash and/or Government Securities to pay, when due, the principal of, redemption premium (if any), and interest due on any defeased Certificate. To the extent applicable, if at all, the City covenants that no deposit of money or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as arbitrage bonds within the meaning of section 148 of the Code (as defined in Section 27 hereof).

Any money so deposited with the Paying Agent/Registrar, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Certificates, or any principal amount(s) thereof, or interest thereon with respect to which such money has been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Certificates and remaining unclaimed for a period of three (3) years after the Stated Maturity of the Certificates, or applicable redemption date of the Certificates, such money was deposited and is held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor, subject to the unclaimed property laws of the State of Texas.

Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem defeased Certificates that is made in conjunction with the payment arrangements specified in subsection (i) or (ii) above shall not be irrevocable, provided that: (1) in the proceedings providing for such defeasance, the City expressly reserves the right to call the defeased Certificates for redemption; (2) gives notice of the reservation of that right to the owners of the defeased Certificates immediately following the defeasance; (3) directs that notice of the reservation be included in any redemption notices that it authorizes; and (4) at the time of the redemption, satisfies the conditions of (i) or (ii) above with respect to such defeased debt as though it was being defeased at the time of the exercise of the option to redeem the defeased Certificates, after taking the redemption into account in determining the sufficiency of the provisions made for the payment of the defeased Certificates.

SECTION 30. Printed Opinion. The Purchasers' obligation to accept delivery of the Certificates is subject to their being furnished a final opinion of Norton Rose Fulbright US LLP, Austin, Texas, as Bond Counsel, approving certain legal matters as to the Certificates, this opinion to be dated and delivered as of the date of initial delivery and payment for such Certificates. Printing of a true and correct copy of this opinion on the reverse side of each of the Certificates, with appropriate certificate pertaining thereto executed by facsimile signature of the City Secretary of the City is hereby approved and authorized.

SECTION 31. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof, and neither the City nor Bond Counsel are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

SECTION 32. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 33. Ordinance a Contract, Amendments - Outstanding Certificates. The City acknowledges that the covenants and obligations of the City herein contained are a material inducement to the purchase of the Certificates. This Ordinance shall constitute a contract with the Holders from time to time, binding on the City and its successors and assigns, and it shall not be amended or repealed by the City so long as any Certificate remains Outstanding except as permitted in this Section. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests

of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of Holders holding a majority in aggregate principal amount of the Certificates then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided, however, that, without the consent of all Holders of Outstanding Certificates, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of and interest on the Certificates, reduce the principal amount thereof, the redemption price therefor, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Certificates, (2) give any preference to any Certificate over any other Certificate, or (3) reduce the aggregate principal amount of Certificates required for consent to any such amendment, addition, or rescission.

SECTION 34. Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, Bond Counsel, Paying Agent/Registrar, and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, Bond Counsel, Paying Agent/Registrar, and the Holders.

SECTION 35. Inconsistent Provisions. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters ordained herein.

SECTION 36. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 37. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 38. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 39. Incorporation of Preamble Recitals. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council of the City.

SECTION 40. Authorization of Paying Agent/Registrar Agreement. The City Council of the City hereby finds and determines that it is in the best interest of the City to authorize the execution of a Paying Agent/Registrar Agreement concerning the payment, exchange, registration, and transferability of the Certificates. A copy of the Paying Agent/Registrar Agreement is attached

hereto, in substantially final form, as Exhibit A and is incorporated by reference to the provisions of this Ordinance.

SECTION 41. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 42. Unavailability of Authorized Publication. If, because of the temporary or permanent suspension of any newspaper, journal, or other publication, or, for any reason, publication of notice cannot be made meeting any requirements herein established, any notice required to be published by the provisions of this Ordinance shall be given in such other manner and at such time or times as in the judgment of the City or of the Paying Agent/Registrar shall most effectively approximate such required publication and the giving of such notice in such manner shall for all purposes of this Ordinance be deemed to be in compliance with the requirements for publication thereof.

SECTION 43. No Recourse Against City Officials. No recourse shall be had for the payment of principal of, premium, if any, or interest on any Certificate or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Certificate.

SECTION 44. Continuing Disclosure Undertaking.

A. Definitions.

As used in this Section, the following terms have the meanings ascribed to such terms below:

EMMA means the MSRB's Electronic Municipal Market Access system, accessible by the general public, without charge, on the internet through the uniform resource locator (URL) <http://www.emma.msrb.org>.

Financial Obligation means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that "financial obligation" shall not include municipal securities (as defined in the Securities Exchange Act of 1934, as amended) as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

MSRB means the Municipal Securities Rulemaking Board.

Rule means SEC Rule 15c2-12, as amended from time to time.

SEC means the United States Securities and Exchange Commission.

Undertaking means the City's continuing disclosure undertaking, described in Paragraphs B through F below, hereunder accepted and entered into by the City for the purpose of compliance with the Rule.

B. Annual Reports.

The City shall file annually with the MSRB, (1) within six months after the end of each fiscal year of the City ending in or after 2021, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by Section 26 of this Ordinance, being the information described in Exhibit C hereto, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit C hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall file unaudited financial statements within such period and audited financial statements for the applicable fiscal year to the MSRB, when and if the audit report on such financial statements becomes available. Under current Texas law, including, but not limited to, Chapter 103, as amended, Texas Local Government Code, the City must have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit. The annual financial statement, including the auditor's opinion on the statement, shall be filed in the office of the City Secretary within 180 days after the last day of the City's fiscal year. Additionally, upon the filing of this financial statement and the annual audit, these documents are subject to the Texas Open Records Act, as amended, Texas Government Code, Chapter 552.

If the City changes its fiscal year, it will file notice of such change (and of the date of the new fiscal year end) with the MSRB prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

C. Notice of Certain Events.

The City shall file notice of any of the following events with respect to the Certificates to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other

material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;

- (7) Modifications to rights of Holders of the Certificates, if material;
- (8) Certificate calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Certificates, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material;
- (15) Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City, and (b) the City intends the words used in the immediately preceding paragraphs (15) and (16) and the definition of Financial Obligation in this Section to have the same meanings as when they are used in the Rule, as evidenced by SEC Release No. 34-83885, dated August 20, 2018.

The City shall file notice with the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with this Section by the time required by this Section.

D. Limitations, Disclaimers, and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit that causes the Certificates to be no longer Outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR *MANDAMUS* OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a person that is

unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the holders and beneficial owners of the Certificates. The City may also repeal or amend the provisions of this Section if the SEC amends or repeals the applicable provisions of the Rule or any court of final jurisdiction enters judgment that such provisions of the Rule are invalid, and the City also may amend the provisions of this Section in its discretion in any other manner or circumstance, but in either case only if and to the extent that the provisions of this sentence would not have prevented an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates, giving effect to (a) such provisions as so amended and (b) any amendments or interpretations of the Rule. If the City so amends the provisions of this Section, the City shall include with any amended financial information or operating data next provided in accordance with this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

E. Information Format – Incorporation by Reference.

The City information required under this Section shall be filed with the MSRB through EMMA in such format and accompanied by such identifying information as may be specified from time to time thereby. Under the current rules of the MSRB, continuing disclosure documents submitted to EMMA must be in word-searchable portable document format (PDF) files that permit the document to be saved, viewed, printed, and retransmitted by electronic means and the series of obligations to which such continuing disclosure documents relate must be identified by CUSIP number or numbers.

Financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document) available to the public through EMMA or filed with the SEC.

F. General Policies and Procedures Concerning Compliance with the Rule.

Because the issuance of the Certificates is subject to the provisions of the Rule and because the potential “underwriters” in a negotiated sale of the Certificates or the initial purchasers in a competitive sale of the Certificates may be subject to MSRB rules and regulations with respect to such sale (including certain due diligence and suitability requirements, among others), the City hereby adopts the General Policies and Procedures Concerning Compliance with the Rule (the “Policies and Procedures”), attached hereto as Exhibit E, with which the City shall follow to assure compliance with the Undertaking. The City has developed these Policies and Procedures for the purpose of meeting its requirements of the Undertaking and, in connection therewith, has sought the guidance from its internal staff charged with administering the City’s financial affairs, its municipal or financial advisors, its legal counsel (including its Bond Counsel), and its independent accountants (to the extent determined to be necessary or advisable). The Policies and Procedures can be amended at the sole discretion of the City and any such amendment will not be deemed to be an amendment to the Undertaking. Each Authorized Official is hereby authorized to amend the Policies and Procedures as a result of a change in law, a future issuance of indebtedness subject to the Rule, or another purpose determined by the Authorized Official to be necessary or desirable for or with respect to future compliance with the Undertaking.

SECTION 45. Book-Entry Only System.

The Certificates shall initially be registered so as to participate in a securities depository system (the *DTC System*) with the Depository Trust Company, New York, New York, or any successor entity thereto (*DTC*), as set forth herein. Each Stated Maturity of the Certificates shall be issued (following cancellation of the Initial Certificates described in Section 7) in the form of a single definitive Certificate. Upon issuance, the ownership of each such Certificate shall be registered in the name of Cede & Co., as the nominee of DTC, and all of the Outstanding Certificates shall be registered in the name of Cede & Co., as the nominee of DTC. The City and the Paying Agent/Registrar are authorized to execute, deliver, and take the actions set forth in such letters to or agreements with DTC as shall be necessary to effectuate the DTC System, including the Letter of Representations attached hereto as Exhibit D (the *Representation Letter*).

With respect to the Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any broker-dealer, bank, or other financial institution for which DTC holds the Certificates from time to time as securities depository (a *Depository Participant*) or to any person on behalf of whom such a Depository Participant holds an interest in the Certificates (an *Indirect Participant*). Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any Depository Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any Depository Participant or any other person, other than a registered owner of the Certificates, as shown on the Security Register, of any notice with respect to the Certificates, including any notice of redemption, or (iii) the delivery to any Depository Participant or any Indirect Participant or any other Person, other than a Holder of a Certificate, of any amount with respect to principal of, premium, if any, or interest on the Certificates. While in the DTC System, no person other than Cede & Co., or any successor thereto, as nominee for DTC, shall receive a bond certificate evidencing the obligation of the City to make payments of principal, premium, if any, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks or drafts being mailed to the Holder, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

In the event that (a) the City determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter, (b) the Representation Letter shall be terminated for any reason, or (c) DTC or the City determines that it is in the best interest of the beneficial owners of the Certificates that they be able to obtain certificated Certificates, the City shall notify the Paying Agent/Registrar, DTC, and the Depository Participants of the availability within a reasonable period of time through DTC of bond certificates, and the Certificates shall no longer be restricted to being registered in the name of Cede & Co., as nominee of DTC. At that time, the City may determine that the Certificates shall be registered in the name of and deposited with a successor depository operating a securities depository system, as may be acceptable to the City, or such depository's agent or designee, and if the City and the Paying Agent/Registrar do not select such alternate securities depository system then the Certificates may be registered in whatever name or names the Holders of Certificates transferring or exchanging the Certificates shall designate, in accordance with the provisions hereof.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the Representation Letter.

SECTION 46. Further Procedures. The officers and employees of the City are hereby authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the initial sale and delivery of the Certificates, the Official Bid Form, the Paying Agent/Registrar Agreement, and the Official Statement. In addition, prior to the initial delivery of the Certificates, any Authorized Official and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance and as described in the Official Statement necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance, (ii) obtain a rating from any of the national bond rating agencies, or (iii) obtain the approval of the Certificates by the Texas Attorney General's office. In case any officer of the City whose signature shall appear on any certificate shall cease to be such officer before the delivery of such certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 47. Contracts with Financial Advisor. The City Council authorizes any Authorized Official, or their designees, to take all actions necessary to execute any necessary financial advisory contracts with SAMCO Capital Markets, Inc., as the financial advisor to the City (the *Financial Advisor*). The City understands that under applicable federal securities laws and regulations that the City must have a contractual arrangement with its Financial Advisor relating to the sale, issuance, and delivery of the Certificates.

SECTION 48. City's Consent to Provide Information and Documentation to the Texas MAC. The Municipal Advisory Council of Texas (the *Texas MAC*), a non-profit membership corporation organized exclusively for non-profit purposes described in section 501(c)(6) of the Internal Revenue Code and which serves as a comprehensive financial information repository regarding municipal debt issuers in Texas, requires provision of written documentation regarding the issuance of municipal debt by the issuers thereof. In support of the purpose of the Texas MAC and in compliance with applicable law, the City hereby consents to and authorizes any Authorized Official, Bond Counsel to the City, and/or Financial Advisor to the City to provide to the Texas MAC information and documentation requested by the Texas MAC relating to the Certificates; provided, however, that no such information and documentation shall be provided prior to the Closing Date. This consent and authorization relates only to information and documentation that is a part of the public record concerning the issuance of the Certificates.

SECTION 49. Effective Date. Pursuant to the provisions of Section 1201.028, as amended, Texas Government Code, this Ordinance shall be effective immediately upon adoption, notwithstanding any provision in the City's Home Rule Charter to the contrary concerning a multiple reading requirement for the adoption of ordinances.

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PASSED, APPROVED, AND ADOPTED on the 11th day of January, 2022.

CITY OF SCHERTZ, TEXAS

Mayor

ATTEST:

City Secretary

(CITY SEAL)

INDEX TO EXHIBITS

Exhibit A	Paying Agent/Registrar Agreement
Exhibit B	Official Bid Form
Exhibit C	Description of Annual Financial Information
Exhibit D	DTC Letter of Representations
Exhibit E	General Policies and Procedures Concerning Compliance with the Rule

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT

See Tab No. __

EXHIBIT B

OFFICIAL BID FORM

See Tab No. __

EXHIBIT C

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 44 of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

(1) The City's audited financial statements for the most recently concluded fiscal year or to the extent these audited financial statements are not available, the portions of the unaudited financial statements of the City appended to the Official Statement as Appendix D, but for the most recently concluded fiscal year.

(2) The information in the Official Statement under Table 1 of the Official Statement and Tables 1 through 20 of Appendix A to the Official Statement.

Accounting Principles

The accounting principles referred to in such Section are generally accepted accounting principles for governmental units as prescribed by the Government Accounting Standards Board from time to time.

EXHIBIT D

DTC LETTER OF REPRESENTATIONS

See Tab No. __

EXHIBIT E

GENERAL POLICIES AND PROCEDURES CONCERNING COMPLIANCE WITH THE RULE

I. Capitalized terms used in this Exhibit have the meanings ascribed thereto in Section 44 of the Ordinance. “Certificates” refer to the Certificates that are the subject of the Ordinance to which this Exhibit is attached.

II. As a capital markets participant, the City is aware of its continuing disclosure requirements and obligations existing under the Rule prior to February 27, 2019, the effective date of the most recent amendment to the Rule (the “Effective Date”), and has implemented and maintained internal policies, processes, and procedures to ensure compliance therewith. Adherence to these internal policies, processes, and procedures has enabled underwriters in non-exempt negotiated sales and initial purchasers in non-exempt competitive sales to comply with their obligations arising under various MSRB rules and regulations concerning due diligence and findings of suitability, among other matters, regarding the City’s compliance with the Rule.

III. The City is aware that the Rule was amended as of the Effective Date (the *Rule Amendment*) and has accommodated this amendment by adding subparagraphs (15) and (16) to Section 44C of the Ordinance, which provisions are a part of the Undertaking.

IV. The City is aware that “participating underwriters” (as such term is defined in the Rule) of the Certificates must make inquiry and reasonably believe that the City is likely to comply with the Undertaking and that the standards for determining compliance have increased over time as a result of, among others, the United States Securities and Exchange Commission’s Municipalities Continuing Disclosure Cooperation Initiative and regulatory commentary relating to the effectiveness of the Rule Amendment.

V. The City now establishes the following general policies and procedures (the “Policies and Procedures”) for satisfying its obligations pursuant to the Undertaking, which policies and procedures have been developed based on the City’s informal policies, procedures, and processes utilized prior to the Effective Date for compliance with the City’s obligations under the Rule, the advice from and discussions with the City’s internal senior staff (including staff charged with administering the City’s financial affairs), its municipal or financial advisors, its legal counsel (including Bond Counsel), and its independent accountants, to the extent determined to be necessary or advisable (collectively, the “Compliance Team”):

1. the City Manager of the City (the “Compliance Officer”) shall be responsible for satisfying the City’s obligations pursuant to the Undertaking through adherence to these Policies and Procedures;
2. the Compliance Officer shall establish reminder or “tickler” systems to identify and timely report to the MSRB, in the format thereby prescribed from time to time, the City’s information of the type described in Section 44B of the Ordinance;
3. the Compliance Officer shall promptly determine the occurrence of any of the events described in Section 44C of the Ordinance;

4. the Compliance Officer shall work with external consultants of the City, as and to the extent necessary, to timely prepare and file with the MSRB the annual information of the City and notice of the occurrence of any of the events referenced in Clauses 2 and 3 above, respectively, the foregoing being required to satisfy the terms of the Undertaking;
5. the Compliance Officer shall establish a system for identifying and monitoring any Financial Obligations, whether now existing or hereafter entered into by the City, and (upon identification) determining if such Financial Obligation has the potential to materially impact the security or source of repayment of the Certificates;
6. upon identification of any Financial Obligation meeting the materiality standard identified in Clause 5 above, the Compliance Officer shall establish a process for identifying and monitoring any City agreement to covenants, events of default, remedies, priority rights, or other similar terms under such Financial Obligation;
7. the Compliance Officer shall establish a process for identifying the occurrence of any default, event of acceleration, termination event, modification of terms, or other similar events under the terms of any Financial Obligation, the occurrence of any of which reflect financial difficulties of the City; and
8. the Compliance Officer shall annually review these Policies and Procedures with the remainder of the Compliance Team, make any modifications on an internal document retained by the Compliance Officer and available to any “participating underwriter” (as defined in the Rule), if requested, and on the basis of this annual review (to the extent determined to be necessary or desirable), seek additional training for herself or himself, as well as other members of the City’s internal staff identified by the Compliance Officer to assist with the City’s satisfaction of the terms and provisions of the Undertaking.

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: Public Works
Subject: Resolution No. 22-R-06 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing expenditures for the purchase of steel poles in advance of the FM 1518 Widening Project. (C. Kelm/S. Williams)

BACKGROUND

TxDot has a 2022 project planned to widen FM 1518. As part of this widening project, utility providers are required to relocate utilities within the Right-of-Way. With this widening, CPS Energy is required to relocate existing utility poles that provide service to properties along FM 1518.

The City requires the use of steel poles for overhead utilities. CPS Energy is willing to reimburse the City for the cost of using wood poles in this project but has declined to pay the full cost of the steel poles. To accomplish this, CPS Energy has agreed to reimburse Schertz the cost difference between the wood poles and steel poles or \$748,070.00.

To ensure fiscal responsibility, the City advertised a request for bid for steel transmission poles and received five responses. The costliest response was \$1,856,090.25 and the lowest was \$1,253,511.00. Across those five responses there were varying delivery times from 8-22 weeks.

Three options have been formulated for council consideration to address the requirement of steel poles.

Option 1: This option uses CPS Energy costs for steel poles for 100% of the project and includes the credit CPS Energy agreed to give to Schertz.

Cost of project for Steel Poles: \$1,995,803.00
Cost of project for Wood Poles: \$748,070.00
Final cost to Schertz: \$1,247,733.00

Option 2: This option uses pricing from KBS Electrical, a vendor who responded to Schertz' RFB, for steel poles for 100% of the project with CPS Energy providing a credit to Schertz for the difference of cost between the wood poles and steel poles.

Cost of project for steel poles: \$1,253,511.00
Cost of project for wood poles: \$748,070.00
Final cost to Schertz: \$505,411.00

Under this recommended option, the City would award to KBS Electrical for the procurement of the poles with reimbursement from CPS for Wood Pole portion to follow.

Option 3: This option uses CPS Energy costs to use wood poles on 100% of the project. CPS Energy will fund this option and as a result, there is no cost to Schertz.

Cost of project for wood poles: \$748,070.00
Final cost to Schertz: \$0

GOAL

The goal is to utilize steel poles and be consistent with the Schertz UDC while providing resilient, reliable, and cost-effective services to our residents and businesses.

COMMUNITY BENEFIT

Steel poles increase the resiliency of the electric service to Schertz residents and businesses by eliminating maintenance risks, such as wood rot, damage from insects and animals, water related damage (ice and wind), vehicular damage, etc. In addition, steel poles have a longer life-span than wood poles, which is more than double that of a wood pole. The utilization of steel poles bolsters the aesthetics by promoting the consistency of pole type, not an uncommon practice for Cities.

SUMMARY OF RECOMMENDED ACTION

Staff recommends approval of Resolution 22-R-06 to purchase steel poles for the FM 1518 widening project through Option #2.

FISCAL IMPACT

The fiscal impact is \$505,411.00 or the difference remaining from the purchase of the steel poles from KBS Electric by the City of Schertz and the reimbursement of the wooden pole cost from CPS. This amount will be funded from City reserves. The following item on the agenda is an emergency budget adjustment ordinance to authorizing funding for this project. If council is not inclined to approve that item, they should not approve this item.

RECOMMENDATION

Staff recommends approval of Resolution 22-R-06 to purchase steel poles for the FM 1518 widening project.

Attachments

BID TABULATION

Resolution 22-R-06

BID TABULATION

BID/RFP# 2021-020 BID/RFP NAME: Power Poles for 1518 BUYER: JULIE GOHLKE

				VENDOR ONE (1)		VENDOR TWO (2)		VENDOR THREE (3)		VENDOR FOUR (4)		VENDOR FIVE (5)	
Company Name				KBS ELECTRICAL		MVA POWER, INC		ANIXTER INC		ESI INDUSTRIES		TECHLINE	
Point of Contact				MATT MCGUIRE		CHARLY-MARC		SCOTT MATTHE		ROB SILZER		NATHAN CHAN	
Phone Number				512-416-6063		552-585-0445		210-561-1454		604-807-7765		617-561-0900	
Email Address				MMCGUIRE@KBSSELECTRIC.COM		CHADD@MVAPOWER.COM		SCOTT.MATTHE@ANIXTER.COM		R.SILZER@ETERNALSUN.GROUP.COM		NCHAN@TECHLINE.INC.COM	
HUB Status						N/A							

Item#	QTY	UOM	Item Price	Extended Price	Item Price	Extended Price	Item Price	Extended Price	Item Price	Extended Price	Item Price	Extended Price	Item Price	Extended Price
1														
2														
3														
4														
5														
6														
7														
8														
9														
10														
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18														
19														
20														
21														
22														
23														
24														
25														
26														
27														
28														
TOTALS				VENDOR 1 TOTAL	\$1,253,511.00	VENDOR 2 TOTAL	\$1,856,090.25	VENDOR 3 TOTAL	\$1,737,358.00	VENDOR 4 TOTAL	\$1,850,000.00	VENDOR 5 TOTAL	\$1,287,761.00	

AWARD:	
NOTES:	

RESOLUTION NO. 22-R-06

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING EXPENDITURES FOR THE PURCHASE OF STEEL POLES IN ADVANCE OF THE FM 1518 WIDENING PROJECT, AND OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City staff of the City of Schertz (the “City”) has recommended that the City enter into an agreement to purchase steel poles for the TxDot FM 1518 widening project; and

WHEREAS TxDOT is widening FM 1518; and

WHEREAS CPS Energy is required to locate utility poles that serve Schertz; and

WHEREAS the City intends to utilize steel poles for the widening portion of the project; and

WHEREAS CPS Energy will reimburse the City approximately \$748,070.00 or the cost of wooden utility poles needed for the widening of FM 1518; and

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT

Section 1. The City Council hereby authorizes the award of Steel Poles to KBS Electrical for the purchase of steel poles for the FM 1518 road widening project.

Section 2. The City Council hereby authorizes the City Manager to enter into an agreement with CPS for the reimbursement amount of wooden poles for the number of steel poles purchased by the City with KBS Electrical.

Section 3. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 4. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 5. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 6. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless

be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of January, 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: Finance
Subject: Ordinance No. 22-T-04 - Consideration and/or action approving an Ordinance by the City Council of the City of Schertz Texas, authorizing an adjustment to the Fiscal Year 2021-2022 Budget to upgrade electrical poles, repealing all ordinances or parts of ordinances in conflict with this ordinance; providing an effective date; and declaring an emergency. *First and Final Reading* (M. Browne/C. Kelm/J. Walters)

BACKGROUND

If approved to move forward with purchasing metal utility poles through CPS energy, this ordinance will approve the budget to make the expenditure as described by Resolution 22-R-06.

GOAL

The goal of this ordinance is to amend the fiscal year 2021-2022 budget to provide funding metal utility poles for FM 1518.

COMMUNITY BENEFIT

Metal poles have longer useful lives and adhere to the City's development standards.

SUMMARY OF RECOMMENDED ACTION

Staff recommends the approval of Ordinance 22-T-04 on first and final reading authorizing the budget adjustment.

FISCAL IMPACT

This ordinance will allocate \$505,411.00 from the City's General Fund reserves. The City currently has \$12,200,000 estimated in its unassigned reserves as of September 30, 2021.

RECOMMENDATION

Staff recommends approval of Ordinance 22-T-04 on first and final reading.

Attachments

Ordinance 22-T-04

ORDINANCE NO. 22-T-04

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING AN ADJUSTMENT TO THE FISCAL YEAR 2021-2022 BUDGET TO UPGRADE ELECTRICAL POLES, REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance 21-T-38, the City of Schertz (the “City”) adopted the budget for the City for the fiscal year 2021-2022 (the “Budget”), which provides funding for the City’s operations throughout the 2021-2022 fiscal year; and

WHEREAS, the City needs to authorized budget amounts of \$505,411.00 from the General Fund Reserves for the upgrade of electrical poles along FM 1518, and

WHEREAS, City staff recommends that the City Council of the City adjust the Budget and approve the ordinance; and

WHEREAS, the City Council of the City has declared an emergency due to timing limitations on the purchase and installation of the electrical poles for the FM 1518 project; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the City to adjust the Budget and approve the upgrade of electrical poles, as more fully set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS:

Section 1. The City shall set a budget of \$505,411.00 from the General Fund Reserves for the electrical pole upgrade.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of

such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED ON FIRST and FINAL READING, the 11th day of January, 2022.

CITY OF SCHERTZ, TEXAS

Mayor

ATTEST:

City Secretary

(CITY SEAL)

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: Executive Team
Subject: Resolution No. 22-R-07 - Consideration and/or action approving a Resolution by the City Council of the City of Schertz, Texas authorizing the allocation of the American Rescue Plan Act of 2021 (ARPA) funds for the Schertz Small Business Grant Program. (M. Browne)

BACKGROUND

The American Rescue Plan Act (ARPA) authorized public grants to businesses to help recover losses during the COVID Pandemic. The act requires businesses to demonstrate that they suffered loss during the COVID pandemic and specifies that the losses incurred were from March 2021 forward.

When considering the allocation of ARPA funds, the City of Schertz approved up to \$1M in grants to Schertz businesses as part of its total allocation. The City also formed a 5-person committee consisting of two council members, the mayor, The Chamber President, and the Economic Development Director. The committee was tasked with reviewing applications and to determine the grant amounts awarded based on submitted documentation.

Accordingly, the City established an application form (example in your packet) and a process to apply for the funds. The application window opened on October 1, 2021 and closed on December 1, 2021. A total of 56 applications were received and considered by the committee.

At this meeting, the committee is recommending the Council consider 22 applications for approval and award of \$302,500. Four applications did not meet the criteria because the business was outside the city limits and will not be awarded funds.

The remaining 30 applications require further review and documentation provided before a decision on funding award can be made. The committee anticipates bringing these final 30 back to Council for consideration at the February 8 meeting.

A list of all the applications and amounts suggested for award is included in Council's packet.

GOAL

The goal was to help Schertz businesses recover from the COVID crisis and emerge stronger and better prepared for the future.

COMMUNITY BENEFIT

The benefit to the community is that businesses would be assisted in their efforts to recover losses during the pandemic and remain as viable businesses for the future in Schertz.

SUMMARY OF RECOMMENDED ACTION

Approve the award of grants to businesses in Schertz as determined by the committee.

FISCAL IMPACT

The awarded funds do not come out of Schertz's tax revenue but come out of the allocation of funds from the ARPA total for the City of Schertz.

RECOMMENDATION

Staff recommends Council approves Resolution 22-R-07 and award \$302,500 to the 22 Schertz businesses.

Attachments

Schertz Small Business Grant Guidelines and Application Form
Resolution 22-R-07

AMERICAN RESCUE PLAN ACT

SMALL BUSINESS GRANT GUIDELINES

BACKGROUND

The 117th United States Congress passed a \$1.9 trillion economic stimulus bill called The American Rescue Plan Act of 2021 ("ARPA") which was signed into law by President Biden on March 11, 2021. ARPA will deliver \$350 billion for eligible state, local, territorial, and Tribal governments.

The City of Schertz will be awarded a total of \$10,417,416.86 from ARPA. This amount will be delivered in two equal disbursements or tranches and will equate to \$5,208,708.43 per tranche. The following is a timeline of discussions:

- June 17, 2021—Initial ARPA Workshop Discussion with City Council
- August 6, 2021—Budget Retreat with City Council whereby staff received guidance on allocation of ARPA funds
- August 24, 2021—Council approved Resolution 21-R-85 authorizing approval of the allocation of funds from ARPA

SMALL BUSINESS GRANT ALLOCATION

As outlined in Resolution 21-R-85, the First Tranche Disbursement of Funds includes Category 2 whereby \$1,000,000 has been allocated for small businesses to addresses negative economic impacts caused by the public health emergency.

SMALL BUSINESS GRANT FUNDING

Per the Federal grant guidelines, the applicant is required to explain the losses the business experienced since the beginning of the pandemic (March 2020) as well as provide documentation of said loss. Ex: Letter of loss, general ledger information, receipts, income statements.

The applicant will also be required to explain what the grant funds would be used for by briefly describing expenditures or proposed expenditures and providing documentation. Note: If applying for funds to cover expenditures already made, please be aware that only purchases made on or after March 1, 2021 are eligible.

For information on eligible uses and restrictions of the ARPA grant funds, please refer to the *Department of Treasury's Interim Final Rule* Sections II, *Eligible Uses* (pages 10-77) and III, *Restrictions on Use* (pages 78-99). This document is provided as a link on our website.

APPLICATION TIMELINE

Applications will be accepted ONLINE ONLY from Friday, October 1, 2021 through Wednesday, December 1, 2021 at 5:00 PM. (No late submissions will be accepted).

GRANT COMMITTEE

The ARPA Grant Committee is comprised of the Mayor, City Manager, two Councilmembers, EDC Director, and The Chamber President.

AWARD PROCESS TIMELINE

The ARPA Grant Committee will meet to review applications and will submit their recommendations of award amounts to City Council for approval. Applicants will be notified as soon as possible after City Council approval.

HOW TO APPLY

Apply electronically by completing the *Small Business Grant Application*. By electronically submitting the *Small Business Grant Application*, the applicant certifies that they will utilize the ARPA funds awarded by the City of Schertz for the sole purpose as outlined in the application.

QUESTIONS?

For questions regarding the application process, please contact Cyndi Simmons, Administrative Assistant, City Management Office at 210-619-1000 or csimmons@schertz.com.



AMERICAN RESCUE PLAN ACT SMALL BUSINESS GRANT APPLICATION

1. Name of Business

2. Address

3. Type of Business	Restaurant	Service	Retail
	Manufacturing	Non-Profit	Home-Based
	Other (Please explain)		

4. Point of Contact

Phone

Email

5. Per the Federal grant guidelines, we need to know what loss(es) your business experienced since the beginning of the pandemic (March 2020). Briefly describe the loss below and attach documentation of loss. Ex: Letter of loss, general ledger information, receipts, or income statement.

6. What specifically have you spent funds on or propose to spend funds on? Briefly describe expenditures or proposed expenditures below and attach documentation. Note: If applying for funds to cover expenditures already made, please be aware that only purchases made on or after March 1, 2021 are eligible.

7. How much grant funding are you requesting?

APPLICATION PERIOD

Friday, October 1, 2021 through
Wednesday, December 1, 2021 at 5:00 PM
No late submissions will be accepted

AWARD PROCESS

The ARPA Grant Committee will meet to review applications and will submit their recommendations of award amount to City Council for approval. Applicants will be notified as soon as possible after City Council approval.

ATTESTATION

By electronically submitting this *Small Business Grant Application*, I hereby certify that I will utilize the American Rescue Plan Act funds awarded by the City of Schertz for the sole purpose as outlined in Question 7 of this application and the attached documentation describing the proposed expenditures.

Electronic Signature

FOR CITY USE ONLY

Award Amount Granted _____

Date Approved by City Council ____/____/____

RESOLUTION NO. 22-R-07

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS AUTHORIZING THE ALLOCATION OF THE AMERICAN RESCUE PLAN ACT OF 2021 (ARPA) FUNDS FOR THE SCHERTZ SMALL BUSINESS GRANT PROGRAM

WHEREAS, The 117th United States Congress passed a \$1.9 trillion economic stimulus bill called The American Rescue Plan Act of 2021 ("ARPA") which was signed into law by President Biden on March 11, 2021. ARPA will deliver \$350 billion for eligible state, local, territorial, and Tribal governments; and

WHEREAS, the City of Schertz was awarded a total of \$10,417,416.86 from ARPA. This amount will be delivered in two equal disbursements or tranches and will equate to \$5,208,708.43 per tranche; and

WHEREAS, the City of Schertz City Council approved Resolution No. 21-R-85 authorizing approval of the allocation of funds for the American Rescue Plan Act of 2021; and

WHEREAS, As outlined in Resolution 21-R-85, the First Tranche Disbursement of Funds includes Category 2 whereby \$1,000,000 has been allocated for small businesses to addresses negative economic impacts caused by the public health emergency; and

WHEREAS, the Application process and timeline regarding the Small Business Grant funding was published on the City of Schertz website; and

WHEREAS, per the Federal grant guidelines, the applicant was required to explain the losses the business experienced since the beginning of the pandemic (March 2020) as well as provide documentation of said loss. Ex: Letter of loss, general ledger information, receipts, income statements; and

WHEREAS, the applicant was also required to explain what the grant funds would be used for by briefly describing expenditures or proposed expenditures and providing documentation; and

WHEREAS, the applications were accepted ONLINE ONLY from Friday, October 1, 2021, through Wednesday, December 1, 2021, at 5:00 PM; and

WHEREAS, the applications were required to operate within the Schertz city limits; and

WHEREAS, an ARPA Grant Committee comprised of the Mayor, two Councilmembers, EDC Director, and The Chamber President was formed to meet and review applications submitted and submit their recommendations of award amounts to City Council for approval; and

WHEREAS, the ARPA Grant Committee submits the following document in Attachment A for

Council consideration.

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

Section 1. The City Council hereby approves distribution of Three Hundred Two Thousand and Five Hundred Dollars and no cents (\$302,500) from the ARPA Schertz Small Business Grant Allocations to the businesses and amounts set forth on Attachment A:

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND ADOPTED, this 11th day of January 2022.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Brenda Dennis, City Secretary

(CITY SEAL)

Attachment A

	Name of Business	Amount Suggested by Subcommittee
1	Nathan Obregon Agency	\$8,500
2	North Blackjack Speed Shop	\$13,000
3	Ci Bowl Lo Pho Restaurant	\$23,000
4	Preston Pest Control	\$10,000
5	Schertz Auto Service	\$19,000
6	Schertz-Cibolo Lions Fdtn	\$16,000
7	Steven Garza State Farm	\$10,000
8	Texas Heritage Children's Ranch	\$13,000
9	Zipliners Kitchen	\$8,500
10	Mattenga's Pizzeria	\$25,000
11	Amy's All Star Dance Studio	\$8,000
12	Fully Promoted/Signarama	\$5,000
13	Cat 5 Graphics	\$10,000
14	Abel's Diner	\$25,000
15	CK Clippers	\$10,500
16	For Now Rent	\$11,000
17	Nattaya TCOSA	\$23,000
18	Patrice & Assoc. Recruiting	\$9,500
19	Patriot Grill	\$6,500
20	Schertz Family YMCA	\$25,000
21	Schertz United Methodist Church	\$13,000
22	Tracks & Snacks(Shady Oaks Ranch)	\$10,000
	TOTALS FOR GROUP 3	\$302,500

CITY COUNCIL MEMORANDUM

City Council Meeting: January 11, 2022
Department: Executive Team
Subject: Discussion creation of a Housing Finance Corporation or a Public Finance Corporation associated with a proposed multifamily project on approximately 14 acres of land located at 9120 E FM 1518N, approximately 2,500 feet south of the intersection of Lower Seguin Road and FM 1518, also known as Bexar County Property Identification Numbers, 309999 and 309997, City of Schertz, Bexar County, Texas. (M. Browne/B. James)

BACKGROUND

The City of Schertz was approached by the NPR Group about a proposed multifamily project that is to be located on the east side of FM 1518, approximately 2,500 feet south of the intersection of Lower Seguin Road and FM 1518, also known as Bexar County Property Identification Numbers, 309999 and 309997, City of Schertz, Bexar County, Texas. The NRP Group is a national developer of multifamily projects. They are involved in the development, construction, and management of apartment complexes. They specialize in affordable housing.

They approached the City of Schertz about creating a Housing Finance Corporation (HFC) or a Public Facilities Corporation (PFC) to serve as the general partner in an affordable housing tax credit project located on the above-mentioned property. The HFC or PFC partnering on the project provides for an ad valorem tax exemption. As a partner, the HFC/PFC would share revenue/fees that would be negotiated with the NRP Group. The Schertz Housing Authority has already created a Public Facilities Corporation and could partner with the NRP Group on this project instead of the City. The Schertz Housing Authority Director has met with the NRP Group and is open to a partnership and is planning to brief her board on the concept.

Staff is seeking feedback from Council on creating an HFC or PFC for this particular project. It should be noted that a comprehensive plan amendment and a rezoning would be needed. Additionally, a letter of support for the project is needed from the City.

Attachments

NPR Group Information



SCHERTZ CITY COUNCIL

A Presentation of
Housing Structure Options

Partners in Community

DEVELOPMENT

NRP Development handles every aspect of development from concept to completion. Experienced multifamily developer of market rate, affordable, and senior housing projects along with significant experience in single- family infill housing.

CONSTRUCTION

NRP Contractors is a full-service general contractor, licensed in 14 states, providing professional construction services for multifamily and single- family homes. Over 40,000 units have been built since inception.

MANAGEMENT

NRP Management is a full-service property manager with over 19,000 market-rate, affordable, and senior rental units under management.



NRP is Texas Strong

25,000+

UNITS DEVELOPED

450+

TEXAS EMPLOYEES

\$3.0+ Billion

TOTAL DEVELOPMENT VALUE



**AFFORDABLE
HOUSING**
FINANCE

2020 U.S. Ranked
DEVELOPER #2



2019 & 2020
DEVELOPER OF THE YEAR



2021 U.S. Ranked
DEVELOPER #5
BUILDER #3

The PFC Statute - What is a PFC?

- Title 9 - Subtitle C - Chapter 303 - Public Facility Corporations (PFC)
 - Purpose of a PFC is to authorize the creation and use of public facility corporations with the broadest possible powers to finance or to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, and placement in service of public facilities in an orderly, planned manner and at the lowest possible borrowing costs
- ### Section 303.042 Taxation
- (a) A public facility, including a leasehold estate in a public facility, that is owned by a corporation and that, except for the purposes and nonprofit nature of the corporation, would be taxable to the corporation under Title 1, Tax Code, shall be assessed to the user of the public facility to the same extent and subject to the same exemptions from taxation as if the user owned the public facility.

The PFC Statute - Multifamily Real Estate

- Title 9 - Subtitle C - Chapter 303 - Public Facility Corporations (PFC)
- Section 303.042 Taxation
 - (d) An exemption under this section for a multifamily residential development which is owned by a public facility corporation created by a housing authority under this chapter and which does not have at least 20 percent of its units reserved for public housing units, applies only if:
 - (1) the housing authority holds a public hearing, at a regular meeting of the authority's governing body, to approve the development;
 - (2) at least 50 percent of the units in the multifamily residential development are reserved for occupancy by individuals and families earning less than 80 percent of the area median family income.

PFC vs HFC

- The NRP Group is proposing a Public Facility Corporation (PFC) partnership which provides the flexibility to create either Affordable-Workforce Housing or Market-Affordable Housing [Chapter 303 of the Texas Local Government Code]
- Housing Finance Corporations (HFCs) have the ability to create Affordable-Workforce Housing [Chapter 394 of the Texas Local Government Code]

Affordable-Workforce Housing

- All units are income restricted
- Proposed 50% - 70% Area Median Income (AMI) (development must average < 60%)

Market-Affordable Housing

- 50% of units are @ 80% Area Median Income (AMI) or below
- Remaining 50% of units are unrestricted, market drives rent

San Antonio Metropolitan Workforce Housing

- 2022 San Antonio Metropolitan Statistical Area (MSA) 4-person FMI - \$80,100.00

San Antonio Metropolitan Area Median Income			
Family Size	50% AMI	60% AMI	70% AMI
1 Person	\$28,051	\$33,661	\$39,272
2 Person	\$32,051	\$38,461	\$44,871
3 Person	\$36,050	\$43,260	\$50,471
4 Person	\$40,050	\$48,060	\$56,070



Workers at the Amazon distribution center have a starting salary around \$31,200



Schertz Police Officer starting salary is \$46,137



SCUSISD teacher salaries start at \$48,780



Children's Hospital of San Antonio™

Registered Nurses salaries start at \$75,112



Paralegal & Legal Assistants salaries start at \$55,588



National Association of Social Workers

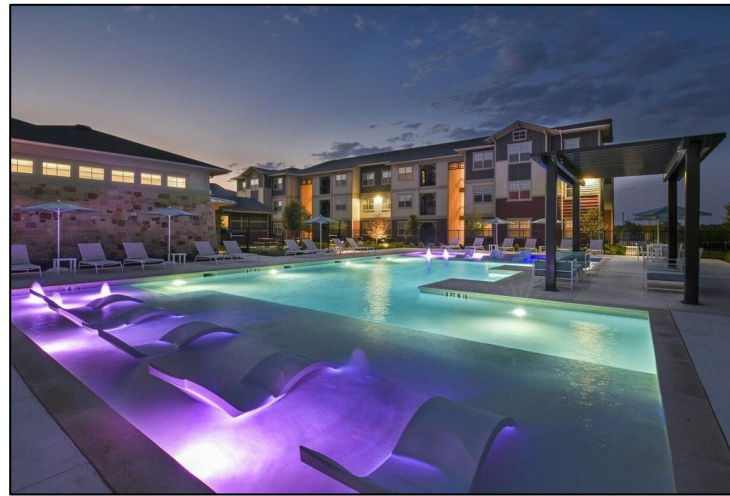
Child, Family, and School Social Workers salaries start at \$52,007

Affordable-Workforce HFC Case Study

3700 Dacy

3700 Dacy Ln, Kyle, TX 78640

- Partnership with Capital Area HFC
- 324 units
- 100% at or below 60% AMI
- 1-4 bedroom units



Affordable-Workforce PFC Case Study

Bridge at Loyola

6400 Loyola Ln, Austin, TX 78724

- Partnership with Austin Affordable Housing Corp.
- 204 units
- 16% at 40% AMI, 66% and 60% AMI, 16% at 80% AMI, and 2% at Market Rate
- 1-4 bedroom units

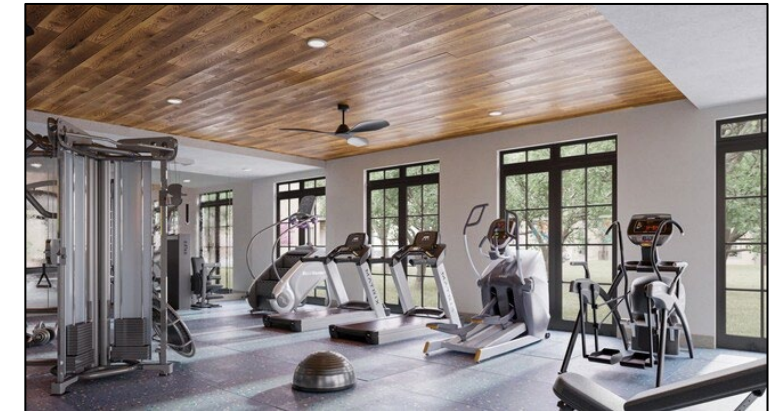


Market-Workforce PFC Case Study

Trophy Oak

224 Broad Oak Dr, Cibolo, TX 78108

- Partnership with City of Cibolo PFC
- 324 units
- 50% at or below 80% AMI and 50% at Market Rate
- 1-3 bedroom units



PFC Creation

- The Public Facility Corporation (PFC) can be created by either:

The City of Schertz

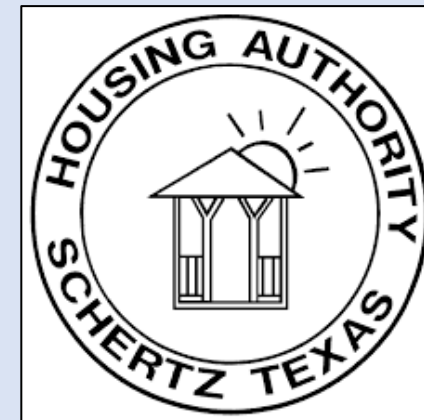
- The City of Schertz would create a PFC entity
- Board Members typically comprised of City Council Members



or

Schertz Housing Authority

- The Schertz Housing Authority would create a PFC Entity
- Board Members comprised of SHA Board Members

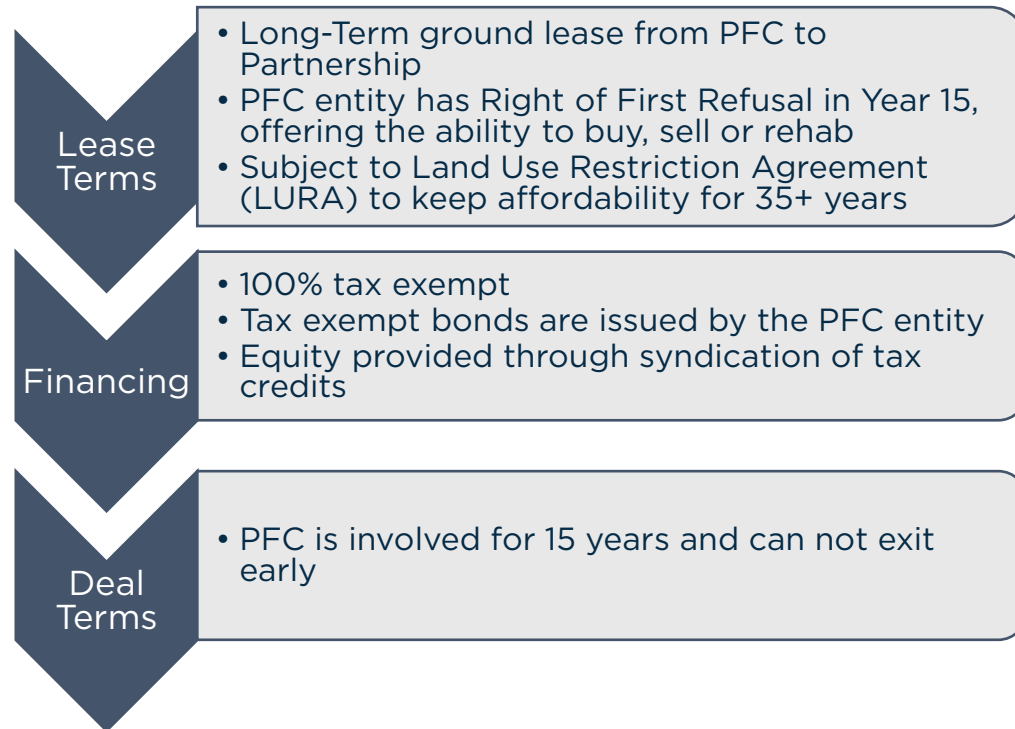


PFC Structure Process

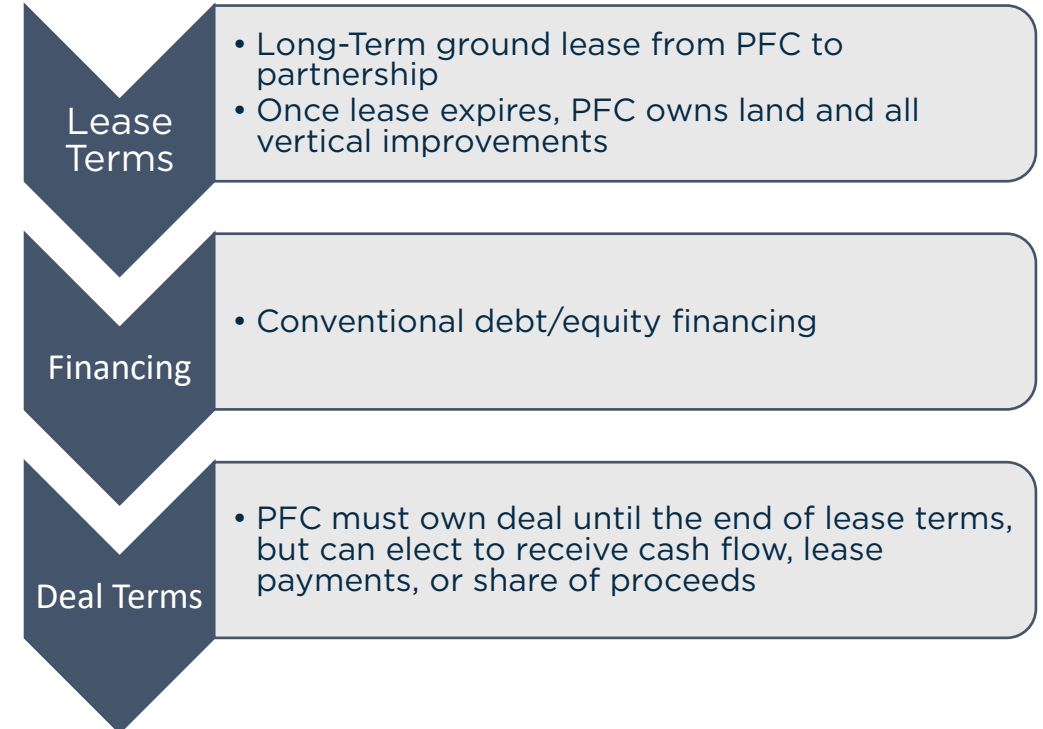
- Property under contract with Developer with intent to purchase
- Municipality or Housing Authority forms a Public Facility Corporation (PFC) to partner with Developer to create new multifamily rental development
- The PFC entity issues tax-exempt Multifamily Housing Revenue Bonds (Affordable-Workforce) to finance development
- At land closing, the title to the property is conveyed to the PFC and a lease is signed between the PFC and the developer
- The municipality's PFC is the owner of the land and the built improvements

PFC Business Terms

Affordable-Workforce Housing



Market-Workforce Housing



Affordable-Workforce: Benefits & Financing

- Provide much needed, high-quality affordable housing for working individuals, families, and seniors integral to local community
- Opportunity to 'lock-in' affordability in rapidly developing region
- PFC receives financial returns through partnership via cash flow, developer fee, issuer fees, etc.
- PFC/City takes no financial liability on the project and does NOT fund pre-development costs
- PFC has 'Right of First Refusal' to control asset after 15 years

Market–Workforce: Benefits & Financing

- High quality new multi-family residential construction
- Origination Fee paid at Closing
- Ongoing Fee structured via:
 - Annual Lease Payment
 - Negotiated Percentage of Cash Flow OR Portion of Sale Proceeds
- At lease expiration, PFC controls the property and can repurpose, continue to operate for cash flow, or sell and take 100% of proceeds
- PFC/City takes no financial liability on the project and does NOT fund pre-development costs

Affordable-Workforce Examples

3700 Dacy

3700 Dacy Ln, Kyle, TX 78640

- Partnership with Capital Area HFC
- 324 units
- 100% at or below 60% AMI
- 1-4 bedroom units



The Scott at Medio Creek

9130 Excellence Dr, San Antonio, TX 78252

- Partnership with Las Varas PFC
- 324 units
- 10% at 30% AMI, 70% at 60% AMI, & 20%
- 1-4 bedroom units



Affordable-Workforce Examples

Residences at Decker

9000 Decker Lane, Austin, TX 78724

- Partnership with Strategic HFC of Travis County
- 262 units
- 18% at 40% AMI, 63% at 60% AMI, 18% at 80% AMI, and 1% at Market Rate
- 1-4 bedroom units



Bridge at Loyola

6400 Loyola Ln, Austin, TX 78724

- Partnership with Austin Affordable Housing Corp
- 204 units
- 16% at 40% AMI, 66% and 60% AMI, 16% at 80% AMI, and 2% at Market Rate
- 1-4 bedroom units



Market-Workforce Examples

Acero

333 W Cevallos, San Antonio, TX 78204

- Partnership with San Antonio Housing Trust
- 323 units
- 50% at or below 80% AMI and 50% at Market Rate
- 1-3 bedroom units



Trophy Oak

224 Broad Oak Dr, Cibolo, TX 78108

- Partnership with City of Cibolo PFC
- 324 units
- 50% at or below 80% AMI and 50% at Market Rate
- 1-3 bedroom units



Market-Workforce Examples

The Baldwin at St. Paul Square

239 Center St, San Antonio, TX 78205

- Partnership with San Antonio Housing Trust
- 271 units
- 50% at or below 80% AMI and 50% at Market Rate
- 1-2 bedroom units



The Salado at Red Berry

902 Gemblar Rd, San Antonio, TX 78219

- Partnership with San Antonio Housing Trust
- 330 units
- 50% at or below 80% AMI and 50% at Market Rate
- 1-3 bedroom units

