

Effective March 16, 2020, Governor Greg Abbott authorized the temporary suspension of certain statutory provisions of the Texas Open Meetings Act. This meeting of the City Council of the City of Midland is being held pursuant to such authorization and will limit face-to-face interactions for the purpose of slowing the spread of the coronavirus (COVID-19).

CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL MEETING
November 23, 2020 - 9:00 AM
300 North Loraine
Midland, Texas
Council Chamber - City Hall



Videoconference Information

Please click this URL to join. <https://zoom.us/j/93950088812?pwd=STN4Y242dDNWbVo0SE1UT08rTnNZdz09>

Passcode: 537284

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 253 215 8782 or +1 669 900 9128 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592

Webinar ID: 939 5008 8812

International numbers available: <https://zoom.us/u/aeiU8ooTYp>

The City Council may discuss, consider, and take action on any item listed on this agenda.

OPENING ITEMS

1. Invocation – Pastor Phil Allman, Grace Lutheran Church
2. Pledge of Allegiance

SECOND READINGS

3. 10135 – AN ORDINANCE ADOPTING A FEE SCHEDULE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN APPEAL PROCESS; AND ORDERING PUBLICATION (FINANCE) (FIRST READING HELD NOVEMBER 17, 2020)

MISCELLANEOUS

4. 2020-200 – RESOLUTION APPROVING A GRANT OF FUNDS TO THE MIDLAND COUNTY HOSPITAL DISTRICT IN THE AMOUNT OF \$1,376,572.00 FOR THE PURPOSE

OF FUNDING PROJECTS RELATED TO THE HOSPITAL DISTRICT'S RESPONSE TO THE COVID-19 PANDEMIC; AUTHORIZING THE MAYOR AND INTERIM CITY MANAGER TO EXECUTE ALL RELATED DOCUMENTS NECESSARY AND APPROPRIATE TO EFFECTUATE THE ADMINISTRATION OF SAID FUNDS; AND AUTHORIZING PAYMENT OF SAID FUNDS

5. 2020-193 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE YOUNG MENS CHRISTIAN ASSOCIATION OF MIDLAND, TEXAS FOR THE FACILITY IMPROVEMENT PROGRAM IN THE AMOUNT OF \$244,303.00 (DEVELOPMENT SERVICES) (DEFERRED FROM NOVEMBER 17, 2020)
6. 2020-194 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH ST. VINCENT DE PAUL SOCIETY FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM IN THE AMOUNT OF \$99,000.00 (DEVELOPMENT SERVICES) (DEFERRED FROM NOVEMBER 17, 2020)
7. 2020-195 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH SAINT ANN'S CHURCH FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM IN THE AMOUNT OF \$100,000.00 (DEVELOPMENT SERVICES) (DEFERRED FROM NOVEMBER 17, 2020)
8. 2020-201 – RESOLUTION AUTHORIZING THE MIDLAND POLICE DEPARTMENT TO ENFORCE GOVERNOR GREG ABBOTT'S EXECUTIVE ORDER NO. GA-29
9. 10137 – AN ORDINANCE DIRECTING OWNERS AND OPERATORS OF COMMERCIAL ENTITIES, BUILDINGS, AND OTHER ENCLOSED SPACES THAT ARE OPEN TO THE PUBLIC (1) TO POST NOTICES THAT FACE COVERINGS MUST BE WORN AND (2) TO REQUIRE INDIVIDUALS TO WEAR FACE COVERINGS; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00) FOR A VIOLATION OF THE NOTICE POSTING REQUIREMENT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION
10. 139-2020 – MOTION APPROVING A COVID-19 SEVEN-POINT MITIGATION PLAN (THE "MITIGATION PLAN"); AND AUTHORIZING THE INTERIM CITY MANAGER OR HIS DESIGNEE TO TAKE ALL ACTION NECESSARY AND APPROPRIATE TO IMPLEMENT THE MITIGATION PLAN
11. 2020-202 – RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, IN SUPPORT OF MIDLAND RESIDENTS PRACTICING EFFECTIVE HEALTH PROTOCOLS IN ORDER TO REDUCE THE SPREAD OF COVID-19; IN SUPPORT OF THE EXCEPTIONAL WORK OF MIDLAND HEALTH CARE PROFESSIONALS, INCLUDING EMPLOYEES OF MIDLAND MEMORIAL HOSPITAL AND THE CITY OF MIDLAND HEALTH DEPARTMENT; IN SUPPORT OF THE GOVERNOR'S ORDER REQUIRING INDIVIDUALS TO WEAR A FACE COVERING; AND IN SUPPORT OF BUSINESS OWNERS AND OPERATORS POSTING SIGNAGE THAT WEARING A FACE COVERING IS REQUIRED WHEN INSIDE THE BUSINESS

12. 2020-203 – RESOLUTION ADDING ONE (1) REGULAR CITY COUNCIL MEETING ON DECEMBER 1, 2020, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2020 CALENDAR YEAR
13. MOTION MAKING APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS (CITY SECRETARY'S OFFICE) (DEFERRED FROM NOVEMBER 17, 2020)

EXECUTIVE SESSION

14. Pursuant to Texas Government Code § 551.101, the City Council will hold an Executive Session, which is closed to the public, to discuss the following matters as permitted under the following sections of the Texas Government Code:
 - a. Section 551.071, Consultation with the City Attorney
 - a.1. Discuss matters in which the duty of the attorney(s) to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. (CITY SECRETARY'S OFFICE)

Respectfully Submitted,

Robert Patrick
Interim City Manager

MEETING ASSISTANCE INFORMATION: The Midland City Hall and Council Chamber are wheelchair accessible. If you need special assistance to participate in this meeting, please contact the City Secretary's Office at (432) 685-7430. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.



City Council Meeting

Item Number: 3
Meeting Date: November 23, 2020
To: City Council / City Manager
From: Mark Mason, Director
Subject: AN ORDINANCE ON SECOND READING ADOPTING A FEE SCHEDULE;
CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING
AN APPEAL PROCESS; AND ORDERING PUBLICATION (FINANCE)

Purpose:

Adopt an Ordinance establishing regulatory and user fees collected by the City of Midland in order to adequately cover the costs and expenses incurred by the City in connection with providing the services associated with said fees.

Recommended City Council Action:

Approve

Fiscal Impact:

Regulatory and User Fees generate revenue designed to cover the cost of the service being provided by the City of Midland

Discussion:

The Airport has been working on an extensive parking lot project for the last several months. One of the two new lots, P-4, is nearing completion and should be open before the holidays, P-5 is scheduled to open in early 2021. In order to provide fees for parking in these new lots, and increase the fees in the existing lots, the fee schedule needed to be updated.

In addition to these new parking lots, the rate structure in all the lots has been modified to repeat every 24 hours. The lots have also been renamed for easier reference by Airport customers, and LED signage at the entrances to the Airport will indicate, in real time, the status of each lot.

In addition, we have updated the Water & Sewer Fee Schedule to reflect the rates adopted on October 20, 2020 with an effective date of July 1, 2020.

A handwritten signature in black ink, appearing to read "Robert Palmer". The signature is fluid and cursive, with the first name "Robert" and last name "Palmer" clearly distinguishable.

City Manager's Office

ORDINANCE NO. _____

**AN ORDINANCE ADOPTING A FEE SCHEDULE;
CONTAINING A SAVINGS AND SEVERABILITY
CLAUSE; PROVIDING AN APPEAL PROCESS; AND
ORDERING PUBLICATION**

WHEREAS, the City Council finds it to be in the public interest to establish fees collected by the City of Midland in order to adequately cover the costs and expenses incurred by the City in connection with providing the services associated with said fees; and

WHEREAS, the City Manager's designees have prepared Exhibits "A" through "O", which are attached hereto and incorporated herein for all purposes, identifying said fees (collectively, the "Fee Schedule"); and

WHEREAS, the City Council of the City of Midland, Texas, finds it to be in the public interest to adopt the Fee Schedule and to establish the fees identified therein as the fees to be collected by the City of Midland, said fees being reasonably related to the costs and expenses incurred by the City in connection with providing the services associated with said fees;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS;

SECTION ONE. That the facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct and are adopted as part of this ordinance for all purposes.

SECTION TWO. That the Fee Schedule is hereby approved and adopted. The fees identified in the Fee Schedule are hereby established as the fees to be collected by the City of Midland except for the following types of fees: a fee charged to a requestor who submits a request for information under the Texas Public Information Act; a fee assessed by the Municipal Court that is not identified in the Fee Schedule; a fee established by a contract, to the extent that the fee established by the contract conflicts with or is not identified in the Fee Schedule; a drainage charge; an impact fee; a fee prescribed by a state law, rule, or

regulation; or a fee for which a state law, rule, or regulation, or the City Charter requires a procedure to be followed to establish the fee other than the procedure that was followed to adopt the Fee Schedule.

To the extent that a fee identified in the Fee Schedule conflicts with a fee that was previously established by ordinance (including an ordinance that has been codified in the City Code), resolution, or other City of Midland instrument, this ordinance shall supersede such previous ordinance, resolution, or other instrument, and the fee identified in the Fee Schedule shall be the applicable fee.

To the extent that a fee identified in the Fee Schedule conflicts with a fee prescribed by a state law, rule, or regulation, the fee prescribed by the state law, rule, or regulation shall be the applicable fee.

To the extent that a fee identified in the Fee Schedule is a fee for which a state law, rule, or regulation, or the City Charter requires a procedure to be followed to establish the fee other than the procedure that was followed to adopt the Fee Schedule, such fee that was previously established by following the applicable procedure shall be the applicable fee.

SECTION THREE. Any person wishing to appeal the payment of a fee identified in the Fee Schedule may do so in accordance with the law, rule, regulation, or ordinance that established the procedure for appealing such fee. To the extent no such appeal procedure has been established for a fee identified in the Fee Schedule that is not a fee assessed by the Municipal Court, the following appeal procedure shall apply:

- A. Any person may appeal in writing to the City Manager, or the City Manager's designee, prior to paying the fee or after paying the fee. Any person may appeal in writing to the City Manager, or the City Manager's designee, if the person believes that he or she cannot afford the fee. The person may seek an exemption from all or part of the fee. The City Manager, or the City Manager's designee, shall make certain that the fee is not paid under duress.

If a person wishes to appeal after payment of the fee, the person shall appeal in writing to the City Manager, or the City Manager's designee, within ten (10) calendar days of paying the fee.

- B. The City shall not file criminal charges against any person related to non-payment of the fee if the fee is not paid. The City shall not file criminal charges against a person in an attempt to collect the fee.
- C. The City Manager, or the City Manager's designee, shall provide a full and meaningful review process. The City Manager, or the City Manager's designee, shall provide a fair opportunity for a person to challenge the accuracy and legal validity of his or her fee obligation. The City Manager, or the City Manager's designee, shall also provide a clear and certain remedy for any erroneous or unlawful fee collection to ensure that the opportunity to contest the fee is a meaningful one. Options that the City Manager, or the City Manager's designee, shall consider in providing a clear and certain remedy are a refund of any excess fee paid, as well as other factors, such as ensuring that a person may continue the operation of his or her business.
- D. The City Manager, or the City Manager's designee, shall make his or her decision within ten (10) days of receiving the written notice of appeal. The City Manager, or the City Manager's designee, shall ensure that a person has all rights under any applicable law. A person shall incur no financial hardship by exercising his or her right to appeal.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid

SECTION SIX. That this ordinance shall become effective immediately upon final passage and approval.

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, Interim City Manager

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

Exhibit A

City Secretary

	Fee
Business Regulations	
Junk and secondhand goods license	\$25.00
Renewal of junk and secondhand good	\$10.00
Alcoholic Beverage License Fee	1/2 of State Fee
Taxicab annual operating fee (each)	\$200.00
Limo or Motorbus operating fee (each)	\$100.00
Passports	
Execution Fee (DS-11)	\$35.00
Renewal Mailing Fee (DS-82)	\$10.00
Passport Photograph	\$18.00
Expedited Shipping Fee (DS-11)	\$26.40
Expedited Shipping Fee (DS-82)	\$32.95
Notarization Fee	\$10.00
Copies	\$0.25

Exhibit B

Parks

	Fee
TEMP FENCING	
Deposit	\$200.00
Rental Fee (per panel)	\$10.00
SHOWMOBILE	
Deposit	\$1,000.00
4 Hours	\$250.00
8 Hours	\$500.00
Extensions	\$100.00
Show Lights	\$200.00
PORTABLE BLEACHERS	
Deposit	\$100.00
Rental Fee	\$100.00
PORTABLE STAGE	
Deposit	\$100.00
Rental Fee	\$100.00
TRASH CANS	
Deposit	\$100.00
Rental Fee (10 cans)	\$50.00
PARK PAVILION RENTAL	
Deposit	\$100.00
Rental Fee 9am-12am	\$60.00
Rental Fee 9am-3pm	\$30.00
Rental Fee 4pm-12am	\$40.00
BEAL RANCH HOUSE	
Deposit no Alcohol	\$300.00
Deposit w/Alcohol	\$500.00
Rental Fee Per Hour	\$50.00
GAZEBO RENTAL WADLEY	
Deposit	\$100.00
Rental Fee 9 am- 3 pm	\$50.00
Rental Fee 4 pm-10 pm	\$50.00
Rental Fee 9 am-10 pm	\$100.00
GAZEBO RENTAL BEAL	
Deposit	\$100.00
Rental Fee 9 am- 3 pm	\$50.00
Rental Fee 4 pm-10 pm	\$50.00
Rental Fee 9 am-10 pm	\$100.00

Exhibit C

Recreation

	Fee
CITY POOL RATES	
Entry Fee	\$3.00
Children under 2	Free
10 Punch Card	\$15.00
25 Punch Card	\$35.00
75 Punch Card	\$75.00
Personal Cooler Admission	\$10.00
Soda/Drinks	\$2.00
Snacks	\$1.00
Life Jacket Rental	\$1.00
Life Jacket Deposit	\$1.00
PRIVATE RENTALS	
DEPOSIT	\$250.00
RENTAL	\$700.00
POOL PAVILION RENTALS	
(Doug Russell Only)	
DEPOSIT	\$100.00
RENTAL	\$100.00
MARTIN LUTHER KING RECREATION CENTER	
	per hour
Activity Room	
During Operation	\$25.00
After Hours	\$35.00
Deposit	\$100.00
Activity Rm/with Gameroom	
	per hour
During Operation	\$35.00
After Hours	\$70.00
Deposit	\$300.00
Auditorium	
	per hour
During Operation	\$50.00
After Hours	\$75.00
Deposit No Alcohol	\$500.00
Deposit Alcohol	\$750.00
Gymnasium	
	per hour
Sporting Events ONLY	
During Operation	\$25.00
After Hours	\$50.00
Deposit	\$200.00
Training Room	
	per hour
Sporting Events ONLY	

Exhibit C

Recreation

	Fee
During Operation	\$50.00
After Hours	\$75.00
Deposit	\$1,000.00
Daily	\$1.00
Monthly Membership	\$15.00
MLK Volleyball Net Setup Fee	\$15.00
MOVIE SCREEN	
Deposit	\$1,000.00
Fee	\$500.00
BUBBLE SOCCER AT MLK Gym Only	
Deposit	\$300.00
During Hrs	\$100.00
After Hours	\$125.00
Bubble Soccer at MLK Gym/Activity Rm	
Deposit	\$300.00
During Hrs	\$125.00
After Hours	\$135.00
BUBBLE SOCCER AT MLK Gym/Act Rm/Game Rm	
Deposit	\$300.00
During Hrs	Not Available
After Hours	\$170.00
BUBBLE SOCCER NOT @MLK	
Deposit	\$500.00
Fee Per Hr (must be 2 hour rental)	\$200.00
AUXILIARY FIELDS	
Per Hour	\$50.00
Tournament (per game)	\$30.00
Deposit	\$100.00
Tournament Deposit (\$125 non refundable)	\$250.00
Field Marking	\$75.00
Lights for Practice field (per field per hour)	\$25.00

Exhibit D

Health and Senior Services

	Fee
Environmental Section	
Mobile Food Vendor	
Mobile Food Vendor	\$175.00
Mobile Food (Seasonal)	\$105.00
Temporary Permit	\$70.00
Food Services Establishments	
1 thru 5 employees	\$150.00
6 thru 10 employees	\$200.00
11 or more employees	\$250.00
Deli/Meat Market/Bakery	\$75.00
Farmers Market	\$50.00
Retail Food Store	
1 thru 5 employees	\$150.00
6 thru 10 employees	\$200.00
11 or more employees	\$250.00
Temporary Permit	\$70.00
Child Care Programs	
Day Care	\$100.00
Foster Care	\$50.00
Child Care Program for after School	\$50.00
Swimming Pool Permit or Spa	
Swimming Pool Permit or Spa	\$100.00
Non-Profit Yearly	\$30.00
Non-Profit Temporary	\$30.00
Re-inspection (When Establishment is shut down)	\$75.00
Septic System Inspections	
Septic System Residential	\$150.00
Septic System Commercial	\$210.00
Septic re-inspection (When fails initial inspection)	\$50.00
Late Fee (When not paid by specified date)	25% of Permit Fee
Clinical Section	
Health Department Services	
DTaP	\$45.00
Kinrix (DTaP & Polio)	\$100.00
Pentacel (DTaP & Polio & Flu Type B)	\$140.00
IPV (Polio)	\$50.00
Pedi HEP A	\$40.00
Pedi HEP B	\$35.00
HIB (Flu Type B)	\$40.00
Rototeg/Rotarix (rotavirus)	\$140.00

Exhibit D

Health and Senior Services

	Fee
Proquad (MMR & Varicella)	\$240.00
PCV 13 (Pneumococcal Conjugate)	\$200.00
PPSV23 (Pneumococcal Conjugate)	\$120.00
MMR	\$90.00
Varicella	\$150.00
TD (Tetanus & Diptheria)	\$50.00
TDAP (Tetanus Diptheria and Pertussis)	\$60.00
HPV 9	\$240.00
MCV4 (Meningitis)	\$150.00
Trumenba (Meningococcal Group B)	\$140.00
Bexsero (Meningococcal Group B)	\$130.00
Adult Hep A	\$60.00
Adult Hep B	\$65.00
Shingrix (Shingles)	\$170.00
Infant flu	\$25.00
Flu	\$30.00
High Dose Flu	\$60.00
Flublok	\$60.00
Yellow Fever	\$130.00
STD Testing	\$10.00
HIV Testing	\$10.00
STD Clinic Treatment	\$10.00
STD Clinic Retreatment	\$10.00
Pregnancy Test-Urine	\$10.00
Pregnancy Test - Blood	\$15.00
TB Test	\$15.00
TB Clinic	\$10.00
Administration Fees	
Insured	\$25.00
TVFC 1=\$10, 2=\$20, >or= 3 = \$30	
Refugee	\$0.00
Medicaid/CHIP	\$14.85
Medicare Flu or Pneumonia	\$25.00

Exhibit E

Animal Services

	Fee
Adoption Fees	
Adoption Fees (includes micro chipping)	\$35.00
Ducks, Rabbits, Other	\$5.00
Humane Coalition Transfer Fee (with micro chipping) Range \$17 to \$25	\$25.00
Animal Service Discount	\$6.73
Impoundment Fees	
Impoundment - 1st Offense (altered)	\$25.00
Impoundment - 1st Offense (unaltered)	\$100.00
Impoundment - 2nd Offense (altered)	\$50.00
Impoundment - 2nd Offense (unaltered)	\$100.00
Impoundment - 3rd+ Offense (altered)	\$60.00
Impoundment - 3rd+ Offense (unaltered)	\$100.00
Livestock Impoundment	\$100.00
Boarding & Quarantine	
Boarding (per day)	\$6.00
Quarantine Fees (\$8/day for 10 days)	\$8.00
Home Quarantine Fees (\$3/day for 10 days)	\$30.00
Pick-up Fees	
Pickup Fee - Owner release	\$15.00
Pickup Fee - Deceased	\$10.00
Pickup Fee - Dead Small Livestock	\$25.00
Pickup Fee- Deceased Livestock	\$75.00
Transfer to Vet Fee	\$15.00
Rabies Specimen Prep Fee	\$15.00
Rabies Specimen Shipping	\$45.00
Microchipping	
Microchips	\$15.00
Pet Services	
Flea/Tick Dip	\$15.00
Euthanasia	
Euthanasia	\$15.00
Pet Licenses	
Pet License (yearly) (\$7 reg, \$10 Spec Event)	\$7 or \$10
Pet License (replacement)	\$1.00
Wild Animal Permit	\$25.00
Dangerous Dog Yearly Registration	\$50.00
Off Leash Training Permit	\$5.00
Pigeons	
Loft Permit for Pigeons	\$3.00
Renewal of Loft Permit	\$2.00

Exhibit F

Golf Course



	Fee
Green Fee - Weekday	\$20.25
Green Fee - Weekdays after 4:00	\$11.25
Green Fee - Weekend	\$25.25
Green Fee - Weekend after 4:00	\$15.00
Weekend AM - 9 Holes	\$14.00
Green Fee - Senior	\$15.25
Green Fee - Junior	\$9.50
Cart Fee (90%)	\$12.75

Exhibit G

Planning

	Fee
Preliminary Plat Application	
Sketch Plan Application (1st review)	\$225.00
Sketch Plan Application (2nd review)	\$100.00
Preliminary Plat Application (up to 50 acres)	\$350.00
Preliminary Plat Application (over 50 acres)	\$500.00
Final Plat Application	
Standard Plat or Residential Up to 50 acres	\$350.00
Standard Plat or Residential over 50 acres Max	\$500.00
Administrative Plat	\$250.00
Digital File Conversion Fee	\$50.00
Recording Fees- Plats up to 18"x24"	\$61.00
Recording Fees- Plats over 18"x24"	\$81.00
Related Documents	\$26.00
Replat	
Replat with Public Hearing	\$250.00
Replat without Public Hearing	\$250.00
Annexation/Zone Change Application	
Standard Zone Change	\$500.00
Planned District Zone Change	\$650.00
Multiple PD Proposal Basic	\$550.00
Multiple PD Proposal Per Additional District	\$100.00
Additional PD Regulations	\$75.00
Site Plan in PDF Format for City Council	\$50.00
Application Fee	\$500.00
Zoning Board of Appeal Fee	\$600.00
Special Exception Application Fee	\$500.00
Oil and Gas	
Application for Oil and Gas Permit	\$4,000.00
Credit Access Businesses	
Application Fee	\$50.00
Specific Use Permit (SUP) / Specific Use Designation (SUD)	
Application for SUP/SUD with Term for Alcoholic Beverage	\$300.00
Application for General SUP/SUD	\$400.00
Renewal SUP/SUD	\$75.00
Temporary Mobile Home	
Special Temporary Permit for Manufactured Home App (Based on Genuine Hardship Condition)	\$50.00
Special Temporary Permit for Manufactured Home App (For Occupancy by a Caretaker, Manager, or Guard)	\$100.00
Temporary Land Use	
Application Fee	\$300.00
For each additional event date	\$25.00
Clean-Up Deposit	\$500.00

Exhibit G

Planning

	Fee
Damage Deposit	\$500.00
Outside sale of dogs	\$20.00
Site Plan Review	
Single PD Amendment	\$550.00
Multiple PD Amendment	\$650.00
Dedications	
Review Fee	\$400.00
Vacation	
Application Fee	\$400.00
Creation of a Building Site	
Application Fee	\$400.00
Master Sign Plan	
Application Fee	\$300.00
Traffic Impact	
Traffic Impact (Staff Study)	\$350.00
Traffic Impact (Review of Submittal)	\$600.00
Portable Storage Containers	
Freight or Portable storage cont.- permit fee	\$125.00
Each add'l on same property	\$25.00
90- day permit fee for storage container	\$150.00
Each add'l container	\$25.00
45- day permit fee for storage container	\$125.00
Each add'l container	\$25.00
30 day permit fee for storage container	\$75.00
Certificate of occupancy and compliance	
Certificate of occupancy and compliance	\$10.00

Exhibit H

Code Enforcement

	Fee
Building Permits	
Construction Permit Fee	31.5 cents per square foot
Sidewalk/ROW Residential (No building permit)	\$50.00
Sidewalk/ROW Commercial (No building permit)	\$200.00
Street Improvement Fee	23 cents per square foot
Fence Fee	\$50.00
Manufactured Home	\$200.00
Manufactured Home Skirting Deposit	\$100.00
Moving Fee	\$200.00
Non-Profit Residential	\$150.00
Temporary Structure	\$100.00
Detached Assessory (120Sq.ft or less)	\$50.00
Detached Assessory (120Sq.ft to 200 sq.ft.)	\$100.00
Demolition Permits	
Commercial Demo Fee - Building	\$500.00
Commerical Demo Fee - Interior	\$100.00
Residential or Accessory Bldg	\$50.00
Temporary Sign Permits	
Permanent Sign Permits	\$50.00
Temporary sign annual permit fee	\$50.00
Failure to remove sign- hauling fee	\$50.00
Failure to remove sign- daily storage fee	\$10.00
Oil & Gas Drilling Permits	
Amendment Fee	\$1,000.00
Certification Fee & Inspection	\$300.00
Oil & Gas Application Fee	\$4,000.00
Well Tranfer Fee	\$500.00
*TX State HB-40 recognizes Ordinance 8769 including fees and may not be amended	
Mobile Home Park Licenses	
Mobile Home Park Licenses	\$25.00 plus \$1 ea/addl
Certificate of Occupancy	
Certificate of Occupancy	\$50.00
Lot Deposits	
Clearing Deposits (Floor & Foundation) Commercial	\$2,000.00
Clearing Deposits (Floor & Foundation) Residential	\$600.00
Clearing Deposits (Rubbish, Litter, Lot)	\$200.00
Clearing Deposit (Accessory Bldg, Debris, Material)	\$200.00
Lot Clearing	
Administrative Fee	\$100.00
Tree Removal	\$70.00
Debris Charge	\$110 per ton

Exhibit H

Code Enforcement

	Fee
Mow Vacant Lot	\$0.05 per sq. yd.
Mow Lot with Structure	\$0.055 per sq. yd.
Mow Acreage	\$70 per acre
Mowing Fee	\$0.10 per sq. yd.
Special Project	\$165.00
Minimum Lot Charge	\$45.00
Tires	Reimbursement+\$2.00/tire
Electrical Fees	
Minimum Fee	\$50.00
Temporary Service	\$50.00
Temporary Construction Pole	\$50.00
Parking Lot Wiring	\$50.00
Building Wiring	\$0.05 per sq.ft
Service Change	\$50.00
Sign Electrical Fee	\$50.00
Electrical Fixture Fee (for first, \$1.00 each after)	\$15.00
Mobile Home Rewiring (\$5 for each add'l)	\$50.00
Clearance for Elec Connect/Disconnect Residential	\$50.00
Reinspection (Red Tag)	\$50.00
Mechanical Fees (when not part of bldg.permit)	
Minimum Fee	\$50.00
Inspection for Heating, AC,Venting,Ductwork,Fridge (\$5 for each add'l inspection)	\$50.00
Fire Extinguishing Permit	\$50.00
Boiler Inspections (33K to 1165 BTU)	\$50.00
Boiler Inspections (1165K to 3300 BTU)	\$50.00
Boiler Inspections (over 3300 BTU)	\$50.00
Reinspection (Red Tag)	\$50.00
Gas Fees (when not part of bldg.permit)	
Minimum Fee	\$50.00
Floor Furnace, Boiler	\$50.00
Vented Recessed Heater	\$50.00
Gas line service	\$50.00
Vented Appliance (\$10 each add'l)	\$50.00
Temporary Connection	\$50.00
Reinspection (Red Tag)	\$50.00
Plumbing Fees (when not part of bldg.permit)	
Minimum Fee	\$50.00
Furnace, unit or wall heater (\$10 each add'l)	\$50.00
Water heater (\$10 each add'l)	\$50.00
Water softener	\$50.00
Lawn Sprinkler	\$50.00

Exhibit H

Code Enforcement

	Fee
Water Line Service	\$50.00
Sewer Line Service	\$50.00
Replumb Bldg	\$0.05 Sq. Ft.
Fire Sprinkler	\$0.05 Sq. Ft.
Backflow Assembly Device (\$10 each add'l)	\$50.00
Reinspection (Red Tag)	\$30.00
Vendor Permit	
Vendor Permit	\$100.00
Water Well Fee	
Drill new well	\$50.00
Reinspection Fee	
Reinspection (All Permits)	\$100.00
Application to Board of Appeals	
Application	\$200.00
Public Ways and Property	
House moving permit fee	\$25.00
Network Nodes-5 in same application	\$500.00
Each additional node in application	\$250.00
Node Support Pole Application	\$1,000.00
Fee to attach network node to public ROW pole	\$20.00

Exhibit I

Engineering

		Fee
Traffic		
Street Name and Traffic Control Sign Fee		\$500/intersection
Right of Way Use Permit Fee		\$350.00

Exhibit J

Water & Sewer Fees

	Fee (as of July 1, 2020)
Water Rates Inside City:	
Base Rate for All Except Apartments for First 2,000 gallons	\$21.61
Base Rate for Apartments per Unit for first 2,000 gallons per Unit	\$17.60
Rate per 1,000 gallons over base of 2,000 up to 10,000	\$6.11
Rate per 1,000 gallons from 10,001 up to 25,000	\$8.03
Rate per 1,000 gallons from 25,001 up to 50,000	\$10.80
Irrigation)	\$13.50
Sewer Rates Inside City:	
All Customers Base Rate (First 2,000 gallons)	\$21.79
All Customers Rate per 1,000 after Base Rate	\$0.88
Water Rates Outside City:	
Base Rate for All Except Apartments for First 2,000 gallons	\$32.42
Base Rate for Apartments per Unit for first 2,000 gallons per Unit	\$26.40
Rate per 1,000 gallons over base of 2,000 up to 10,000	\$9.17
Rate per 1,000 gallons from 10,001 up to 25,000	\$12.05
Rate per 1,000 gallons from 25,001 up to 50,000	\$16.20
Irrigation)	\$20.25
Sewer Rates Outside City:	
Residential Base Rate (First 2,000 gallons)	\$32.69
Residential Rate per 1,000 after Base Rate	\$1.32
Miscellaneous:	
Septage waste hauler discharges and fees (per gallon)	\$0.30

Exhibit K

Customer Service/Utility Billing

	Fee
Account Billing	
Residential Utility Deposit	\$75.00
Re-read of Water Meter (2nd time)	\$25.00
Test of Water Meter (2nd time)	\$25.00
Non-sufficient fund check	\$30.00
Reconnect-Disconnect fee	\$30.00
Application Fee	\$20.00
Transfer Fee	\$20.00
Tampering/Straight Fee (1st time)	\$200.00
Tampering/Straight Fee (2nd time)	\$300.00
Water Meters & Tap Fees	
3/4" water meter-with existing meter box	\$40.00
1" water meter-with existing meter box	\$100.00
1" water meter tap (no paving cut or meter installation)	\$390.00
1" service charge for tap and meter with meter box	\$425.00
2" water meter- with existing meter box	\$240.00
2" water meter tap (no paving cut or meter installation)	\$564.00
2" service charge for tap and meter with meter box	\$710.00
3" water meter	\$375.00
4" water meter	\$375.00
4" sewer tap	\$350.00
6" sewer tap	\$400.00
Replacement sewer tap (per line)	\$300.00
Fee to abandon line for replacement	\$150.00
Paving cut/Boring & Casing Fee	\$400.00
Fire hydrant meter setting or moving	\$200.00
Fire Hydrant meter deposit setting	\$2,400.00
Drinking Water Testing- Total Coliform (Presence or absence)	\$18.00
Non-Potable H2O testing- Total Coliform & E.Coli (MPN)	\$25.00
Non-Potable H2O testing- Total Coliform & Fecal Coliform (MPN)	\$25.00
Move a service line no more than 5 feet	\$150.00

Exhibit L

Sanitation Fees

Inside City Limits				
# of Containers	Number of pickups per week			
	2X	3X	4X	5X
Residential				
0.25	\$16.45			
0.5	\$32.90			
0.75	\$49.35			
1	\$65.80			
Commercial				
1	\$65.80	\$98.70	\$131.60	\$164.50
2	\$125.02	\$187.53	\$250.04	\$312.55
3	\$184.24	\$276.36	\$368.48	\$460.60
4	\$243.46	\$365.19	\$486.92	\$608.65
5	\$302.68	\$454.02	\$605.36	\$756.70
6	\$361.90	\$542.85	\$723.80	\$904.75
7	\$421.12	\$631.68	\$842.24	\$1,052.80
8	\$480.34	\$720.51	\$960.68	\$1,200.85
9	\$539.56	\$809.34	\$1,079.12	\$1,348.90
10	\$598.78	\$898.17	\$1,197.56	\$1,496.95
11	\$658.00	\$987.00	\$1,316.00	\$1,645.00
12	\$717.22	\$1,075.83	\$1,434.44	\$1,793.05
13	\$776.44	\$1,164.66	\$1,552.88	\$1,941.10
14	\$835.66	\$1,253.49	\$1,671.32	\$2,089.15
15	\$894.88	\$1,342.32	\$1,789.76	\$2,237.20
16	\$954.10	\$1,431.15	\$1,908.20	\$2,385.25
17	\$1,013.32	\$1,519.98	\$2,026.64	\$2,533.30
18	\$1,072.54	\$1,608.81	\$2,145.08	\$2,681.35
19	\$1,131.76	\$1,697.64	\$2,263.52	\$2,829.40
20	\$1,190.98	\$1,786.47	\$2,381.96	\$2,977.45
21	\$1,250.20	\$1,875.30	\$2,500.40	\$3,125.50
22	\$1,309.42	\$1,964.13	\$2,618.84	\$3,273.55
23	\$1,368.64	\$2,052.96	\$2,737.28	\$3,421.60
24	\$1,427.86	\$2,141.79	\$2,855.72	\$3,569.65
25	\$1,487.08	\$2,230.62	\$2,974.16	\$3,717.70
Per Month				
Recycling fee	\$	0.50		
Litter Abatement Fee	\$	1.00		

Exhibit L

Sanitation Fees

Outside City Limits				
# of Containers	Number of pickups per week			
	2X	3X	4X	5X
Residential				
0.25	\$24.68			
0.5	\$49.36			
0.75	\$74.04			
1	\$98.72			
Commercial				
1	\$98.72	\$148.08	\$197.44	\$246.80
2	\$187.57	\$281.35	\$375.14	\$468.92
3	\$276.42	\$414.62	\$552.83	\$691.04
4	\$365.26	\$547.90	\$730.53	\$913.16
5	\$454.11	\$681.17	\$908.22	\$1,135.28
6	\$542.96	\$814.44	\$1,085.92	\$1,357.40
7	\$631.81	\$947.71	\$1,263.62	\$1,579.52
8	\$720.66	\$1,080.98	\$1,441.31	\$1,801.64
9	\$809.50	\$1,214.26	\$1,619.01	\$2,023.76
10	\$898.35	\$1,347.53	\$1,796.70	\$2,245.88
11	\$987.20	\$1,480.80	\$1,974.40	\$2,468.00
12	\$1,076.05	\$1,614.07	\$2,152.10	\$2,690.12
13	\$1,164.90	\$1,747.34	\$2,329.79	\$2,912.24
14	\$1,253.74	\$1,880.62	\$2,507.49	\$3,134.36
15	\$1,342.59	\$2,013.89	\$2,685.18	\$3,356.48
16	\$1,431.44	\$2,147.16	\$2,862.88	\$3,578.60
17	\$1,520.29	\$2,280.43	\$3,040.58	\$3,800.72
18	\$1,609.14	\$2,413.70	\$3,218.27	\$4,022.84
19	\$1,697.98	\$2,546.98	\$3,395.97	\$4,244.96
20	\$1,786.83	\$2,680.25	\$3,573.66	\$4,467.08
21	\$1,875.68	\$2,813.52	\$3,751.36	\$4,689.20
22	\$1,964.53	\$2,946.79	\$3,929.06	\$4,911.32
23	\$2,053.38	\$3,080.06	\$4,106.75	\$5,133.44
24	\$2,142.22	\$3,213.34	\$4,284.45	\$5,355.56
25	\$2,231.07	\$3,346.61	\$4,462.14	\$5,577.68
Removal of Garbage by Other Entity				
Garbage Hauler's Permit	\$500.00			

Exhibit L

Sanitation Fees

Landfill- Dumping and Unloading Charges

Landfill Access Fee	\$25.00
Unlimited Landfill Access Fee-year	\$500.00
Automobiles	\$8.39 ⁽¹⁾
Pickup Trucks 1/2 Ton	\$16.78 ⁽¹⁾
Trucks and Trailers, per ton	\$33.57 ⁽¹⁾
Garbage/Trash/Commercial Hauler	\$33.57 ⁽¹⁾
Materials not contained	\$15.00
Pull off Fee	\$75.00

Special Waste/Minor or TDH permit

Automobiles	\$36.78 ⁽²⁾
Pickup Trucks 1/2 Ton	\$53.56 ⁽²⁾
Trucks and Trailers, per ton	\$87.14 ⁽²⁾
Garbage/Trash/Commercial Hauler	\$87.14 ⁽²⁾

(1) Pursuant to Section 8-6-24 (A), Code of Ordinances, these charges shall increase by two percent on each February 1, unless otherwise modified by the City Council.

(2) Pursuant to Section 8-6-24 (B)(3), Code of Ordinances, these charges shall be double the respective Landfill charges above plus a \$20 administrative charge.

Exhibit M

Airport

	Fee
Landing Fees (per 1000 pounds of gross landing weight)	\$0.70
Air carrier fees (per 1000 pounds of gross landing weight)	\$0.70
Public Aircraft parking – locally based aircraft (month)	\$25.00
Public Aircraft parking – transient aircraft (day)	\$1.50
Public Parking – CI (Covered)	
0-30 minutes	Free
31-60 minutes	\$3.00
Every additional hour	\$2.00
Maximum per 24-hour period	\$15.00
Public Parking – P1 & P3 (Close-In)	
0-30 minutes	Free
31-60 minutes	\$2.00
Every additional hour	\$1.00
Maximum per 24-hour period	\$12.00
Public Parking – P2 & P4 (Economy)	
0-30 minutes	Free
31-60 minutes	\$2.00
Every additional hour	\$1.00
Maximum per 24-hour period	\$9.00
Public Parking – C2 (Remote Covered)	
0-30 minutes	Free
31-60 minutes	\$2.00
Every additional hour	\$1.00
Maximum per 24-hour period	\$11.00
Public Parking – P5 (Remote Economy)	
0-30 minutes	Free
31-60 minutes	\$2.00
Every additional hour	\$1.00
Maximum per 24-hour period	\$7.00
Ground Transportation Permits -per month, per vehicle	
Taxicab	\$25.00
Buses	\$25.00
Courtesy vehicles for off-airport hotel	\$25.00
Courtesy vehicles for off-airport car rental (plus 10% airport revenue)	\$25.00
Courtesy vehicles for off-airport parking lot (plus 10% airport revenue)	\$25.00
Employee Parking	
Annual Employee Parking media (prorated monthly)	\$40.00

Exhibit M

Airport

Fee

Special assessments

1. Should any person upon driving a vehicle from the paid parking areas of the airport not be able to present an officially issued ticket indicating where that person's vehicle was parked and at what time, then the charge assessed for the parking of that vehicle shall be at least \$12.00. In addition to that fee, there shall also be a fee assessed for the parking of that vehicle equal to the amount of the daily rate, times number of days, for the area in which that vehicle was parked as is indicated by the daily lot inventory taken by the airport administration.
2. Whenever a person or an entity shall pay for the parking fees assessed by this Section with a check or draft, and that check or draft is dishonored, then there shall be an additional \$25.00 assessed against that person or entity.

Exhibit N

Sports Complex

	Fee
Grande Stadium - Football/Soccer Field-Events	
Schools that are Members of the Texas Association of Private and Parochial Schools	\$500.00
Up to 3A Schools	\$500.00
4A and 5A	\$1,500.00
Per 5000+ attendees after	\$500.00
Security Bank Ballpark - Baseball Field	
Baseball Events-Flat Rate	\$500.00
Grande Stadium - Stadium Rental	
Non-profits Deposit	\$500.00
Non-profits Daily Rate	\$1,000.00
Commercial Deposit	\$1,000.00
Commercial Daily Rate vs. 1.5% of gross gate receipts	\$1,500.00
SSC - Parking Lot Rental	
Multiple Day Events- Deposit	\$1,000.00
Multiple Day Events- Daily Rate	\$1,000.00
Light Use- Single Day- Deposit	\$500.00
Light Use- Single Day- Daily Rate	\$500.00
SSC - Auxiliary Fields	
Field Per Hour	\$50.00
Lights Per Hour	\$25.00
Deposit	\$100.00
Auxiliary Fields - Tournament Fee Per Game (Includes Lights)	
Game	\$30.00
Depost/Clean Up Fee (per day per field. Half deposit is refundable is field is left in good condition)	\$250.00
Field Alteration (per field)	\$75.00

Exhibit O

Miscellaneous

	Fee
Court Fees	
Municipal Court Building Security Fee	\$3.00
Municipal Court Technology Fee	\$4.00
Municipal Court Copy Fee	\$1.00 per page
Business Regulations	
Closing out sale license fees - 30 days	\$100.00
Closing out sale license fees - 60 days	\$125.00
Closing out sale license fees - 90 days	\$150.00
Peddler license	\$4.00
Mobile Home/Travel Trailer Park App Fee	\$10.00
Mobile Home/Travel Trailer Park License	\$25 plus \$1 ea.space
Mobile Home Mini Park location app	\$10.00
Mobile Home Mini Park revised site plan	\$10.00
City Chauffeur's license app fee	\$25.00
Airport Cabstand Permit fee (per month)	\$25.00
Special police officer license fee (individual)	\$10.00
Special police officer license fee (firm)	\$50.00
Carnival operator's license	\$50.00
Carnival employee's license	\$6.00
Side walk sale application fee	\$4.00
Police Regulations	
Ambulance Services- Basic Life Support	\$399 plus \$8 per mile
Ambulance Services- Advanced Life Support	\$432 plus \$8 per mile
Ambulance Services- Advanced Level II	\$609 plus \$8 per mile
Ambulance Waiting Charge	\$200 per hour
Ambulance Service- Outside Midland County	\$100.00
Alarm Permit Application Fee-Commercial	\$25.00
Alarm Permit Application Fee-Residential	\$20.00
Alarm Permit Renewal Fee -Commercial	\$20.00
Alarm Permit Renewal Fee - Residential	\$15.00
Alarm Permit Service fee	\$50.00
Franchises	
Telecomm Carrier on public ROW Reg. Fee-	\$25.00
Franchise application and review fee	\$500.00
Franchise renewal application and review fee	\$500.00



City Council Meeting

Item Number: 4
Meeting Date: November 23, 2020
To: City Council / City Manager
From: Robert Patrick, Interim City Manager
Subject: RESOLUTION APPROVING A GRANT OF FUNDS TO THE MIDLAND COUNTY HOSPITAL DISTRICT IN THE AMOUNT OF \$1,376,572.00 FOR THE PURPOSE OF FUNDING PROJECTS RELATED TO THE HOSPITAL DISTRICT'S RESPONSE TO THE COVID-19 PANDEMIC; AUTHORIZING THE MAYOR AND INTERIM CITY MANAGER TO EXECUTE ALL RELATED DOCUMENTS NECESSARY AND APPROPRIATE TO EFFECTUATE THE ADMINISTRATION OF SAID FUNDS; AND AUTHORIZING PAYMENT OF SAID FUNDS

Purpose:

Council Member Robnett asked that this item be placed on your agenda for consideration.

Recommended City Council Action:

Approve

Fiscal Impact:

TBD

Discussion:

To discuss providing the hospital with additional funds to mitigate COVID-19.

City Manager's Office

RESOLUTION NO. _____

RESOLUTION APPROVING A GRANT OF FUNDS TO THE MIDLAND COUNTY HOSPITAL DISTRICT IN THE AMOUNT OF \$1,376,572.00 FOR THE PURPOSE OF FUNDING PROJECTS RELATED TO THE HOSPITAL DISTRICT'S RESPONSE TO THE COVID-19 PANDEMIC; AUTHORIZING THE MAYOR AND INTERIM CITY MANAGER TO EXECUTE ALL RELATED DOCUMENTS NECESSARY AND APPROPRIATE TO EFFECTUATE THE ADMINISTRATION OF SAID FUNDS; AND AUTHORIZING PAYMENT OF SAID FUNDS

WHEREAS, the Midland County Hospital District ("Midland Health") has requested a grant of funds from the City of Midland in the amount of \$1,376,572.00 for the purpose of funding projects related to Midland Health's response to the COVID-19 pandemic; and

WHEREAS, the City Council of the City of Midland, Texas, finds it to be in the public interest to approve a grant of funds to Midland Health in the amount of \$1,376,572.00 for the purpose of funding projects related to Midland Health's response to the COVID-19 pandemic;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS;

SECTION ONE. That a grant of funds to Midland Health in the amount of \$1,376,572.00 for the purpose of funding projects related to Midland Health's response to the COVID-19 pandemic is hereby approved.

SECTION TWO. That the Mayor and Interim City Manager are hereby authorized and directed to execute all related documents necessary and appropriate to effectuate the administration of said funds.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay \$1,376,572.00 to Midland Health, in accordance with this resolution and any documents executed in accordance with Section Two, upon receipt of proper invoice or statement approved by the Interim City Manager.

On motion of Council member _____, seconded by Council member

_____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Robert Patrick, Interim City Manager

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

**Midland Health COVID Response
Options for Cooperative Projects with City of Midland
November 18, 2020**

1. Additional Testing Site

\$294,100

The City's initial grant of \$100,000 has funded expansion of the hours of operation at Midland Health's existing COVID testing site at our West Campus. Historically, billing third party payers, where available, has covered the cost of the tests themselves. If the City could cover the staffing and other supply costs, we could establish a second testing center, located in the underserved community in southeast Midland, most likely at the MLK Center. This funding request would cover 6 months of operations.

2. Bamlanivimab Infusion Center

\$181,072

Bamlanivimab is Eli Lilly's new monoclonal antibody treatment for patients newly diagnosed with COVID-19. It is being distributed under an Emergency Use Authorization (EUA) from the FDA, and clinical testing has indicated that it can stop the progression of the disease and prevent hospitalization among certain high-risk patients. Because the medication is given exclusively to COVID-positive outpatients, Midland Memorial Hospital will dedicate a treatment area for the exclusive use of this population. The drug is given as a one-hour intravenous infusion, with preparation and post-infusion monitoring bringing the patient's total time in the Center to 3 hours. The medication is being provided free of charge, but extensive nursing support is required to administer the infusion. This cost estimate would cover staffing and supplies for 10 patients per day for six months.

3. Vaccination Program

\$TBD

Vaccines developed by Pfizer and Moderna are showing promise and expected to receive EUAs before the end of 2020. Both vaccines will require strict compliance with the manufacturers' protocols for storage and administration, including ultra-low temperature storage for the Pfizer product. Once vaccines are available in sufficient quantity, Midland Health is prepared to lead a mass vaccination effort for the community. The vaccine itself will be provided free of charge. When we have more information, we may request the City's assistance to fund the expected staffing required for the program.

4. Capital Equipment to Maximize Bed Capacity

\$181,400

Grants provided by the FMH Foundation and the Scharbauer Foundation funded the buildout of the 9th floor of the Scharbauer Tower, adding 48 beds to the hospital's operating capacity. The original expectation was that 36 of those 48 beds would be relocated from the 6th floor, which would be converted to a day surgery and outpatient treatment facility and no longer used for inpatients. The recent COVID spike has forced us to maintain inpatient capacity on the 6th floor, but the 9th floor buildout plan assumed relocation of much of the 6th floor's equipment. In order to keep the 6th floor

unit operational for inpatients, as well as expanding into various non-traditional patient care spaces, we will require rental beds, IV pumps, portable phones and other patient care equipment. The City's assistance with these unexpected capital purchases would be very helpful.

5. Intensivist Relief Staffing

\$720,000

Midland Memorial has one full-time critical care physician, or intensivist, and a relief team that splits time with Medical Center in Odessa. These specialists are caring for unprecedented numbers of patients with very high acuity, and need additional support to relieve some of the burden. These are among the most highly sought-after specialists in the country, with locum tenens rates running as high as \$4000 per 12-hour shift. Very little professional fee revenue is generated by these physicians, so the vast majority of their cost is borne by the hospital. A grant of \$720,000 would fund additional intensivist coverage for six months.

TOTAL FUNDING REQUEST:

\$1,376,572



City Council Meeting

Item Number: 5
Meeting Date: November 23, 2020
To: City Council / City Manager
From: Isaac Garnett, Manager, Community Development
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE YOUNG MENS CHRISTIAN ASSOCIATION OF MIDLAND, TEXAS FOR THE FACILITY IMPROVEMENT PROGRAM IN THE AMOUNT OF \$244,303.00 (DEVELOPMENT SERVICES) (DEFERRED FROM NOVEMBER 17, 2020)

Purpose:

RESOLUTION AUTHORIZING THE EXECUTION OF THE CITY OF MIDLAND EMERGENCY AID, RELIEF, and ECONOMIC SECURITY FUNDS CONTRACTS WITH YOUNG MENS CHRISTIAN ASSOCIATION OF MIDLAND TEXAS FOR FACILITY IMPROVEMENT PROGRAM; APPROVING FUNDS FOR SAID CONTRACTS IN THE AMOUNT OF \$244,303.00. (DEVELOPMENT SERVICES) (DEVELOPMENT SERVICES)

Recommended City Council Action:

Approve

Fiscal Impact:

Recovered funds from the Cares Grant are available in Fund 065 – Cares Grant for this purpose.

Discussion:

The consequences of COVID19 resulted in substantial membership loss (approx. 50%). YMCA membership supports many of the mission-driven programming offered at the YMCA. In efforts to recruit, retain, and recapture membership, the YMCA is looking to modernize youth spaces and commons area. The Transformation of School Age Child Care areas to a versatile space to promote learning, and provide educational support while also engaging in fun activities as a primary goal. The YMCA is the leading childcare provider in Midland which services more than

600 children annually. The YMCA provided emergency childcare to over 150 children during the COVID shutdown, which allowed essential workers to continue their great work. Post shut down, MISD opted for an at-home learning model, and the YMCA provided virtual learning care that enabled parents to continue working so they could provide for their family.



City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A
CONTRACT WITH THE YOUNG MENS CHRISTIAN
ASSOCIATION OF MIDLAND, TEXAS FOR THE
FACILITY IMPROVEMENT PROGRAM IN THE
AMOUNT OF \$244,303.00**

WHEREAS, the City of Midland, Texas, has heretofore allocated \$244,303.00 to the Young Mens Christian Association of Midland, Texas (“YMCA”) for facility improvements;
and

WHEREAS, the City Council finds it to be in the public interest to enter into a contract with the YMCA to provide this service with such funds;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF MIDLAND, TEXAS:**

SECTION ONE. That the Interim City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a contract with the YMCA to administer and operate the Facility Improvement Program, said contract to be substantially in the form of that attached hereto as Exhibit “1” and made a part hereof for all legal purposes.

SECTION TWO. Recovered funds from the Cares Grant are available in Fund 065 - Cares Grant for this purpose.

SECTION THREE. That the City Comptroller is hereby authorized and directed to make payment to the YMCA pursuant to terms of the contract, not to exceed a total amount of \$244,303.00, upon receipt of proper invoice or statement approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting “AYE”:

Council members voting "NAY":

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Robert Patrick, Interim City Manager

Mark Mason, Director of Finance

APPROVED AS TO CONTENT
AND COMPLETENESS:

Isaac Garnett, Community Development
Administrator

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

**AGREEMENT BETWEEN CITY OF MIDLAND, TEXAS AND
THE YOUNG MENS CHRISTIAN ASSOCIATION OF MIDLAND, TEXAS,
REGARDING THE
FACILITY IMPROVEMENT PROGRAM**

This Agreement made by and between the **CITY OF MIDLAND**, a Texas home rule municipal corporation, herein called “City”, and **THE YOUNG MENS CHRISTIAN ASSOCIATION OF MIDLAND, TEXAS**, hereinafter called “Corporation”;

I. PURPOSE

The purpose of this Agreement is to state the terms and conditions by which Corporation will carry out the Facility Improvement Program utilizing City’s Emergency Aid, Relief and Economic Security Fund as described in Exhibit “A”, attached hereto and incorporated herein for all legal purposes. Any change in the performance schedule, purpose or the location of the operation must be approved in advance by the City.

II. PAYMENT

Upon and after the receipt of a notice to proceed from the City, Corporation is authorized to incur costs against a total amount of TWO HUNDRED FORTY-FOUR THOUSAND THREE HUNDRED THREE DOLLARS and No/100 (\$244,303.00). Payments shall be made on a reimbursement basis to Corporation for services and expenses as shown in Exhibit “A”, attached hereto and made a part hereof for all legal purposes. All payments shall be made to Corporation upon certification by Corporation and approval by the Community Development Division of the City’s Development Services Department and the City Manager. When reimbursements for personnel services are requested, time sheets must be presented by Corporation to the City, in a form suitable to City. Final payment on the project must be at least THREE THOUSAND DOLLARS (\$3,000.00), and will not be made until all final project reporting is completed.

III. PROCUREMENT STANDARDS

Corporation will make project procurement in accordance with 24 CFR Part 84 and Part 85 and applicable Texas Statutes. At least ten (10) days before Corporation seeks competitive bids on procurement of over TEN THOUSAND DOLLARS (\$10,000.00) and for any work contracts of over TWO THOUSAND DOLLARS (\$2,000.00) of the above described project, the plans and specifications and other bid documents shall be submitted to the City and reviewed by the City’s Community Development Division for conformance with federal and City requirements.

IV. INDEMNITY

CORPORATION WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CORPORATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, CORPORATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND CORPORATION WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

CORPORATION SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH CORPORATION OR CORPORATION'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND CORPORATION WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF CITY'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

CORPORATION AGREES THAT IT WILL INDEMNIFY AND SAVE THE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN

THE FURTHERANCE OF THE PERFORMANCE OF THIS AGREEMENT. WHEN CITY SO DESIRES, CORPORATION SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREIN ABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED.

V. INSURANCE

A. Corporation shall carry insurance in the following types and amounts for the duration of this Agreement and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence hereof to City:

1. Statutory Workers' Compensation; said insurance shall provide for a waiver of subrogation in favor of the City;
2. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000. The policy must provide contractual liability coverage for liability assumed under this Agreement, products and completed operations coverage, independent contractors coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of the City. If this coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. Corporation shall maintain coverage for the duration of this Agreement and for six months following completion of the construction improvements associated with this Agreement. Corporation shall pay for this extended reporting period coverage. This insurance shall name the City as an additional insured and shall provide a waiver of subrogation in favor of the City.

B. If insurance policies are not written for amounts specified in Subsection A, above, Corporation shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

C. Corporation shall provide City at least thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit coverage.

D. Corporation shall provide all provisions of this Agreement concerning liability, duty, standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.

E. Corporation shall not commence work under this Agreement until it has obtained all required insurance and until such insurance has been reviewed by the City Attorney's Office of the City of Midland.

F. Corporation shall produce an endorsement to each affected policy that contains language similar to the following:

1. That names City of Midland, Texas, Attn.: Isaac Garnett, 300 N. Loraine, P. O. Box 1152, Midland, Texas, 79702, as additional insured (except for Workers' Compensation and Employee's Liability coverage), with right of subrogation against City waived on each affected policy including Worker's Compensation.
2. That obligates the insurance company to notify City of any non-renewal, cancellation, or material change to the policy, at least thirty (30) calendar days before the change or cancellation;
3. That the "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in this Agreement, covering both City and Corporation, shall be considered primary coverage, as applicable.

G. Corporation shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Agreement or the six-month period following completion, in the case of a claims-made policy.

H. City reserves the right to review the insurance requirements of this Article V during the effective period of this Agreement and to make reasonable adjustments to insurance coverages, their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company as well as that of Corporation. City shall be entitled to review, upon request, and without expense to City, to receive copies of the requisite insurance policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

I. All certificates shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after City has received written notice of such cancellation or change. During the term of this Agreement, Corporation shall have in effect a general liability insurance policy in an amount of not less than \$1,000,000 combined single limit for bodily injury and property damage. This liability policy shall be

endorsed to name the City of Midland as an additional insured. Corporation shall provide City with a Certificate of Insurance evidencing the required coverage upon execution of this Agreement.

J. Corporation certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Corporation shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Corporation.

VI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Corporation shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City; that Corporation shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents employees, contractors, and subcontractors; that the doctrine of respondent superior shall not apply as between City and Corporation, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Corporation. No person performing any work hereunder shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Corporation shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of Corporation's work. Corporation shall assume exclusive responsibility for the work. Corporation is entirely free to do the work in its own way.

VII. APPLICABLE LAWS, ORDINANCES

Corporation shall comply with all applicable laws, ordinances and codes of the United States, State of Texas and the City and shall require all contractors and subcontractors to comply with the same. Corporation hereby agrees as follows:

A. Corporation will comply with the policies, guidelines and requirements of 24 CFR Part 84 and 85 and OMB Circulars A-87 and A-122, as they relate to the application, acceptance and use of federal funds for this federally assisted program. Corporation will also comply with the Single Audit provisions of OMB Circular A-133 and make the all audits for fiscal years in which program funds are expended available to the City.

B. Corporation will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the applicant received federal financial assistance.

C. Corporation will comply with Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR 570.602), which provides that no person in the United States shall, on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds. Corporation will comply even if the program or activity is not funded wholly or partly with CDBG funds. Additionally, Corporation will comply with regulations at 24 CFR 570.613 concerning eligibility restrictions for certain resident aliens.

D. Corporation will comply with Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), which provides that it is the policy of the United States to provide for fair housing throughout the United States. It prohibits particular discriminatory acts regarding housing if the discrimination is based on race, color, religion, sex, national origin, family status, or mental and physical disability.

E. Corporation will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, and the regulations issued pursuant thereto (24 CFR Part 135) which provides that to the greatest extent feasible opportunities for employment and other economic opportunities be directed to low and very low income City residents and to business concerns which provide economic opportunity to low and very low income persons.

F. Corporation will obtain and maintain documentation evidencing that program beneficiaries meet program income eligibility criteria, specifically as required by 24 CFR 570.208. Corporation shall further comply with the retention of records provisions of 24 CFR 570.502.

G. Corporation will insure that subcontractors for work or construction activity under this Agreement shall comply with the equal opportunity requirements of Executive Order 11246, as amended.

H. Corporation will insure that subcontractors for work or construction activity under this Agreement shall comply with 24 CFR Part 84 and 85 and Section 110 of the Housing and Community Development Act of 1974 and the regulations issued pursuant thereto (24 CFR 570.603), which provide for adherence to certain labor standards.

I. No officer, employee or board member of Corporation shall have a financial interest, direct or indirect, in this Agreement or the monies transferred hereunder, or be financially interested, directly or indirectly in the sale to Corporation of any land, materials, supplies or services purchased with any funds transferred hereunder, except on behalf of Corporation as an officer, employee, member, or program participant. Corporation shall further comply with the conflict of interest provisions of 24 CFR 570.611 and 24 CFR Part 84 and Part 85.

J. Corporation will insure that funds will not be used to directly or indirectly employ, award contracts to or otherwise engage the services of or fund any subcontractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

K. Corporation shall follow the provisions of 24 CFR Part 84 and Part 85 concerning standards for financial management systems.

L. Corporation will comply with the property management and disposition requirements of 24 CFR Part 84 and 85 including copyright provisions therein.

M. Corporation certifies that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of Corporation, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Corporation shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

N. Corporation shall comply with and shall ensure that its subcontractors comply with the provisions of the Drug-Free Workplace Act, 41 U.S.C, 701, et seq.

O. Corporation shall follow the provisions of 24 CFR 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

P. Corporation shall make available to the City, as determined by the City information and/or data which document compliance, in all phases of its work, with the above paragraphs A through O. Corporation shall fully cooperate with City when City monitors the services and work performed under this Agreement, which the City may do at any time during the term of this Agreement. Corporation shall maintain accounts and records adequate to identify and account for all cost pertaining to the Agreement. Records are to be retained in accordance with 24 CFR Part 84 and Part 85.

VIII. PROGRAM INCOME

It is agreed and understood that except in the disposition of program acquired assets that there will be no program income generated as a result of this Agreement which requires compliance with 24 CFR 570.504.

IX. TRANSFER OF ASSETS

Corporation shall upon termination or expiration of this Agreement transfer to the City all program funds and all loans and accounts receivable attributable to the use of program funds that Corporation has on hand at the time of termination. If Corporation ceases to use any asset acquired with program funds for the purposes described in this Agreement, Corporation shall either pay to the City the fair market value of the asset or transfer control of the asset to the City.

X. RECOGNITION OF FUNDING

Corporation shall provide recognition of program funding in its procurement announcements. Corporation shall post, in a publicly visible location where program assisted activity is provided, an acknowledgment that the City of Midland Community Development Block Grant Program is contributing to the project. The City's Community Development Office will determine if posting is adequate given the scale of the program assisted activity.

XI. PROJECT REPORTS

Monthly status reports are to be prepared by Corporation and submitted in a timely fashion to the City. A final performance report shall be prepared and submitted promptly after project completion. An inventory of program acquired assets shall be submitted to the City, in a form suitable to the City, on an annual basis and at the end of the Agreement.

XII. TERM OF AGREEMENT

The term of this Agreement shall begin November 4, 2020, and end September 30, 2021, unless an extension of time is granted by the City Council.

XIII. RELEASE

CORPORATION HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

XIV. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, CORPORATION AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. CORPORATION SPECIFICALLY AGREES THAT IF CORPORATION BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, CORPORATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH CORPORATION MIGHT OTHERWISE BE ENTITLED.

CORPORATION AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. CORPORATION ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. CORPORATION FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY

AND CORPORATION. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

CORPORATION AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

XV. DEFAULT PROVISION

In the event that either Corporation or the City fails to perform or is unable to perform substantially its obligations under the terms of this Agreement, the nondefaulting party shall notify the defaulting party in writing of such default. Within five (5) days after receipt of such notification, Corporation and City shall meet to discuss the default, the reasons thereof and the methods to cure default. If the defaulting party has not substantially cured the default within ten (10) days after receipt of such notification, or the City and Corporation have not agreed within such time upon a solution to the default, the nondefaulting party may, at its option, pursue any remedies at law or in equity.

In any event this Agreement may be terminated by the mutual consent of Corporation and City in writing.

XVI. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Corporation or its legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred and fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Corporation will settle, the physical and mailing addresses of Corporation at the time and date the claim was presented and the physical and mailing addresses of Corporation for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Corporation relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the City from any liability whatsoever. The City is under no obligation to provide notice to Corporation that its notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Corporation's failure to comply with the requirements herein shall perpetually bar Corporation's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if City has actual or constructive notice or knowledge of said claim or alleged damages. Corporation agrees that the requirements of this entire agreement are reasonable.

XVII. SOVEREIGN IMMUNITY

By executing this Agreement the City is not waiving its right of sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

XIII. THIRD-PARTY BENEFICIARY

The City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

XIX. ASSIGNMENT

Corporation shall not, either directly or indirectly, assign all or any part of this agreement or any interest, right or privilege herein, without the prior written consent of the City. The issue on whether or not to grant consent to an assignment is in the sole discretion of the City.

XX. TERMINATION WITHOUT CAUSE

The City shall have the right, at its sole option, to terminate this Agreement at any time, with or without cause, by giving 90 days written notice to Corporation of City's election to so terminate.

XXI. VENUE AND GOVERNING LAW

This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in

Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas. This agreement shall be governed by, interpreted, enforced and construed under the law of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

XXII. PROCUREMENT SUSPENSION AND DEBARMENT

The City has found that Corporation has not been suspended or debarred from performing work on Federal contracts.

XXIII. FEDERAL WAGE REQUIREMENTS

If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Agreement, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Agreement, to which the parties to this Agreement have agreed to be bound.

XXIV. COMPLIANCE

Corporation agrees that it shall comply with Texas Government Code Section 2252.908, as amended. Corporation agrees that it shall comply with Texas Local Government Code Section 176.006, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this the _____ day of _____, 2020.

CITY OF MIDLAND, TEXAS

THE YOUNG MENS CHRISTIAN
ASSOCIATION OF MIDLAND, TEXAS

By _____
Robert Patrick,
Interim City Manger

By _____
Name _____
Title _____

ATTEST:

Amy M. Turner, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of THE YOUNG MENS CHRISTIAN ASSOCIATION OF MIDLAND, TEXAS known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2020.

Notary Public, State of Texas

**SCOPE OF SERVICE- CITY OF MIDLAND EMERGENCY AID, RELIEF, AND
ECONOMIC SECURITY FUND PROGRAM**

The YMCA of Midland is requesting funds from the City of Midland to update and repair facility spaces in the youth services area. The consequences of the oil downturn and COVID -19 resulted in substantial YMCA membership loss (approx.50%). YMCA membership support many mission driven programming offered at the center. In an effort to recruit, retain and recapture memberships the YMCA is looking to modernize the youth spaces.

The YMCA is the leading Childcare provider in Midland with over 600 children receiving service annually. In 2019/2020, the YMCA awarded \$216,418 in program scholarships to 283 individuals and families. The YMCA knows that the ever-changing needs in our area will require solidarity and collaboration within the community to continue adapting and creating programs that will serve a noble purpose for Midland's.

BUDGET:

\$244,303



City Council Meeting

Item Number: 6
Meeting Date: November 23, 2020
To: City Council / City Manager
From: Isaac Garnett, Manager, Community Development
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH ST. VINCENT DE PAUL SOCIETY FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM IN THE AMOUNT OF \$99,000.00 (DEVELOPMENT SERVICES) (DEFERRED FROM NOVEMBER 17, 2020)

Purpose:

RESOLUTION AUTHORIZING THE EXECUTION OF THE CITY OF MIDLAND EMERGENCY AID, RELIEF, and ECONOMIC SECURITY FUNDS CONTRACTS WITH ST. VINCENT DE PAUL SOCIETY OF MIDLAND FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM; APPROVING FUNDS FOR SAID CONTRACT IN THE AMOUNT OF \$99,000.00. (DEVELOPMENT SERVICES)

Recommended City Council Action:

Approve

Fiscal Impact:

Recovered funds from the Cares Grant are available in Fund 065 – Cares Grant for this purpose.

Discussion:

In 2019, St. Vincent de Paul paid out approximately \$180,000 to assist the poor and needy of Midland. The majority of the assistance was for rent and temporary housing. Total expenditures were \$188,000 in 2019, with close to 96% of that amount going directly into serving the most vulnerable of our community. Their primary source of revenue comes from monthly "St. Vincent de Paul Collections" from St. Ann's Parish, which accounted for approximately \$145,000. They received a \$10,000 grant from the Abell Hanger Foundation and another \$6,000 in donations directly from St. Vincent de Paul volunteers. They primarily

helped people with their rent and utilities. Over the last few years, rent has become the most common request for help-with over 80% of the 2019 budget going towards rent or temporary shelter. They also work with the Midland Crisis intervention Unit by providing their agents with hotel vouchers for distressed families that are transitioning to new homes, oftentimes because of traumatic events. They have the flexibility to assist with other needs, including food, medicines, transportation, and other misc. items. The City of Midland funds will assist will with rent and utilities for qualified low-income families only based upon agreed-upon terms of the contract and the CDBG office.



City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A
CONTRACT WITH ST. VINCENT DE PAUL SOCIETY
FOR THE SOCIAL SERVICES RENTAL AND UTILITY
ASSISTANCE PROGRAM IN THE AMOUNT OF
\$99,000.00**

WHEREAS, the City of Midland, Texas, has heretofore allocated \$99,000.00 to St. Vincent de Paul Society (“St. Vincent”) for the Social Services Rental and Utility Assistance Program; and

WHEREAS, the City Council finds it to be in the public interest to enter into a contract with St. Vincent to provide this service with such funds;

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

SECTION ONE. That the Interim City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a contract with St. Vincent to administer and operate the Social Service Rental and Utility Assistance Program, said contract to be substantially in the form of that attached hereto as Exhibit “1” and made a part hereof for all legal purposes.

SECTION TWO. Recovered funds from the Cares Grant are available in Fund 065 - Cares Grant for this purpose.

SECTION THREE. That the City Comptroller is hereby authorized and directed to make payment to St. Vincent pursuant to terms of the contract, not to exceed a total amount of \$99,000.00, upon receipt of proper invoice or statement approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting “AYE”:

Council members voting "NAY":

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Robert Patrick, Interim City Manager

Mark Mason, Director of Finance

APPROVED AS TO CONTENT
AND COMPLETENESS:

Isaac Garnett, Community Development
Administrator

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

**AGREEMENT BETWEEN CITY OF MIDLAND, TEXAS AND
ST. VINCENT DE PAUL SOCIETY
FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE
PROGRAM**

This Agreement made by and between the **CITY OF MIDLAND**, a Texas home rule municipal corporation, herein called “City”, and **ST. VINCENT DE PAUL SOCIETY**, hereinafter called “St. Vincent”;

I. PURPOSE

The purpose of this Agreement is to state the terms and conditions by which St. Vincent will carry out the Social Services Rental and Utility Assistance Program utilizing City’s Emergency Aid, Relief and Economic Security Fund as described in Exhibit “A”, attached hereto and incorporated herein for all legal purposes. Any change in the performance schedule, purpose or the location of the operation must be approved in advance by City.

II. PAYMENT

Upon and after the receipt of a notice to proceed from City, St. Vincent is authorized to incur costs against a total amount of NINETY-NINE THOUSAND DOLLARS (\$99,000.00). Payments shall be made on a reimbursement basis to St. Vincent for services and expenses as shown in Exhibit “A”, attached hereto and made a part hereof for all legal purposes. All payments shall be made to St. Vincent upon certification by St. Vincent and approval by the Community Development Division of City’s Development Services Department and the City Manager. When reimbursements for personnel services are requested, time sheets must be presented by St. Vincent to City, in a form suitable to City. Final payment on the project must be at least THREE THOUSAND DOLLARS (\$3,000.00), and will not be made until all final project reporting is completed.

III. PROCUREMENT STANDARDS

St. Vincent will make project procurement in accordance with 24 CFR Part 84 and Part 85 and applicable Texas Statutes. At least ten (10) days before St. Vincent seeks competitive bids on procurement of over TEN THOUSAND DOLLARS (\$10,000.00) and for any work contracts of over TWO THOUSAND DOLLARS (\$2,000.00) of the above described project, the plans and specifications and other bid documents shall be submitted to City and reviewed by City’s Community Development Division for conformance with federal and City requirements.

IV. INDEMNITY

ST. VINCENT WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF ST. VINCENT, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, ST. VINCENT'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ST. VINCENT WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

ST. VINCENT SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH ST. VINCENT OR ST. VINCENT'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND ST. VINCENT WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF CITY'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

ST. VINCENT AGREES THAT IT WILL INDEMNIFY AND SAVE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN

THE FURTHERANCE OF THE PERFORMANCE OF THIS AGREEMENT. WHEN CITY SO DESIRES, ST. VINCENT SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREIN ABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED.

V. INSURANCE

A. St. Vincent shall carry insurance in the following types and amounts for the duration of this Agreement and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence hereof to City:

1. Statutory Workers' Compensation; said insurance shall provide for a waiver of subrogation in favor of City;
2. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000. The policy must provide contractual liability coverage for liability assumed under this Agreement, products and completed operations coverage, independent contractors coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of City. If this coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. St. Vincent shall maintain coverage for the duration of this Agreement and for six months following completion of the construction improvements associated with this Agreement. St. Vincent shall pay for this extended reporting period coverage. This insurance shall name City as an additional insured and shall provide a waiver of subrogation in favor of City.

B. If insurance policies are not written for amounts specified in Subsection A, above, St. Vincent shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

C. St. Vincent shall provide City at least thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit coverage.

D. St. Vincent shall provide all provisions of this Agreement concerning liability, duty, standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.

E. St. Vincent shall not commence work under this Agreement until it has obtained all required insurance and until such insurance has been reviewed by the City Attorney's Office of the City of Midland.

F. St. Vincent shall produce an endorsement to each affected policy that contains language similar to the following:

1. That names City of Midland, Texas, Attn.: Isaac Garnett, 300 N. Loraine, P. O. Box 1152, Midland, Texas, 79702, as additional insured (except for Workers' Compensation and Employee's Liability coverage), with right of subrogation against City waived on each affected policy including Worker's Compensation.
2. That obligates the insurance company to notify City of any non-renewal, cancellation, or material change to the policy, at least thirty (30) calendar days before the change or cancellation;
3. That the "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in this Agreement, covering both City and St. Vincent, shall be considered primary coverage, as applicable.

G. St. Vincent shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Agreement or the six-month period following completion, in the case of a claims-made policy.

H. City reserves the right to review the insurance requirements of this Article V during the effective period of this Agreement and to make reasonable adjustments to insurance coverages, their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company as well as that of St. Vincent. City shall be entitled to review, upon request, and without expense to City, to receive copies of the requisite insurance policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

I. All certificates shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after City has received written notice of such cancellation or change. During the term of this Agreement, St. Vincent shall have in effect a general liability insurance policy in an amount of not less than \$1,000,000 combined single limit for bodily injury and property damage. This liability policy shall be

endorsed to name the City of Midland as an additional insured. St. Vincent shall provide City with a Certificate of Insurance evidencing the required coverage upon execution of this Agreement.

J. St. Vincent certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. St. Vincent shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of St. Vincent.

VI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that St. Vincent shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that St. Vincent shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents employees, contractors, and subcontractors; that the doctrine of respondent superior shall not apply as between City and St. Vincent, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and St. Vincent. No person performing any work hereunder shall be considered an officer, agent, servant or employee of City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. St. Vincent shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of St. Vincent's work. St. Vincent shall assume exclusive responsibility for the work. St. Vincent is entirely free to do the work in its own way.

VII. APPLICABLE LAWS, ORDINANCES

St. Vincent shall comply with all applicable laws, ordinances and codes of the United States, State of Texas and City and shall require all contractors and subcontractors to comply with the same. St. Vincent hereby agrees as follows:

A. St. Vincent will comply with the policies, guidelines and requirements of 24 CFR Part 84 and 85 and OMB Circulars A-87 and A-122, as they relate to the application, acceptance and use of federal funds for this federally assisted program. St. Vincent will also comply with the Single Audit provisions of OMB Circular A-133 and make the all audits for fiscal years in which program funds are expended available to City.

B. St. Vincent will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-

352), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the applicant received federal financial assistance.

C. St. Vincent will comply with Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR 570.602), which provides that no person in the United States shall, on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds. St. Vincent will comply even if the program or activity is not funded in whole or in part with CDBG funds. Additionally, St. Vincent will comply with regulations at 24 CFR 570.613 concerning eligibility restrictions for certain resident aliens.

D. St. Vincent will comply with Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), which provides that it is the policy of the United States to provide for fair housing throughout the United States. It prohibits particular discriminatory acts regarding housing if the discrimination is based on race, color, religion, sex, national origin, family status, or mental and physical disability.

E. St. Vincent will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, and the regulations issued pursuant thereto (24 CFR Part 135) which provides that to the greatest extent feasible opportunities for employment and other economic opportunities be directed to low and very low income City residents and to business concerns which provide economic opportunity to low and very low income persons.

F. St. Vincent will obtain and maintain documentation evidencing that program beneficiaries meet program income eligibility criteria, specifically as required by 24 CFR 570.208. St. Vincent shall further comply with the retention of records provisions of 24 CFR 570.502.

G. St. Vincent will insure that subcontractors for work or construction activity under this Agreement shall comply with the equal opportunity requirements of Executive Order 11246, as amended.

H. St. Vincent will insure that subcontractors for work or construction activity under this Agreement shall comply with 24 CFR Part 84 and 85 and Section 110 of the Housing and Community Development Act of 1974 and the regulations issued pursuant thereto (24 CFR 570.603), which provide for adherence to certain labor standards.

I. No officer, employee or board member of St. Vincent shall have a financial interest, direct or indirect, in this Agreement or the monies transferred hereunder, or be financially interested, directly or indirectly in the sale to St. Vincent of any land, materials, supplies or services purchased with any funds transferred hereunder, except on behalf of St. Vincent as an officer, employee, member, or program participant. St. Vincent shall further comply with the conflict of interest provisions of 24 CFR 570.611 and 24 CFR Part 84 and Part 85.

J. St. Vincent will insure that funds will not be used to directly or indirectly employ, award contracts to or otherwise engage the services of or fund any subcontractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

K. St. Vincent shall follow the provisions of 24 CFR Part 84 and Part 85 concerning standards for financial management systems.

L. St. Vincent will comply with the property management and disposition requirements of 24 CFR Part 84 and 85 including copyright provisions therein.

M. St. Vincent certifies that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of St. Vincent, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, St. Vincent shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

N. St. Vincent shall comply with and shall ensure that its subcontractors comply with the provisions of the Drug-Free Workplace Act, 41 U.S.C, 701, et seq.

O. St. Vincent shall follow the provisions of 24 CFR 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

P. St. Vincent shall make available to City, as determined by City, information and/or data which document compliance, in all phases of its work, with the above paragraphs A through O. St. Vincent shall fully cooperate with City when City monitors the services and work performed under this Agreement, which City may do at any time during the term of this Agreement. St. Vincent shall maintain accounts and records adequate to identify and account for all cost pertaining to the Agreement. Records are to be retained in accordance with 24 CFR Part 84 and Part 85.

VIII. PROGRAM INCOME

It is agreed and understood that except in the disposition of program acquired assets that there will be no program income generated as a result of this Agreement which requires compliance with 24 CFR 570.504.

IX. TRANSFER OF ASSETS

St. Vincent shall upon termination or expiration of this Agreement transfer to City all program funds and all loans and accounts receivable attributable to the use of program funds that St. Vincent has on hand at the time of termination. If St. Vincent ceases to use any asset acquired with program funds for the purposes described in this Agreement, St. Vincent shall either pay to City the fair market value of the asset or transfer control of the asset to City.

X. RECOGNITION OF FUNDING

St. Vincent shall provide recognition of program funding in its procurement announcements. St. Vincent shall post, in a publicly visible location where program assisted activity is provided, an acknowledgment that the City of Midland Community Development Block Grant Program is contributing to the project. City's Community Development Office will determine if posting is adequate given the scale of the program assisted activity.

XI. PROJECT REPORTS

Monthly status reports are to be prepared by St. Vincent and submitted in a timely fashion to City. A final performance report shall be prepared and submitted promptly after project completion. An inventory of program acquired assets shall be submitted to City, in a form suitable to City, on an annual basis and at the end of the Agreement.

XII. TERM OF AGREEMENT

The term of this Agreement shall begin November 4, 2020, and end September 30, 2021, unless an extension of time is granted by the City Council.

XIII. RELEASE

ST. VINCENT HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

XIV. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ST. VINCENT AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. ST. VINCENT SPECIFICALLY AGREES THAT IF ST. VINCENT BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, ST. VINCENT AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ST. VINCENT MIGHT OTHERWISE BE ENTITLED.

ST. VINCENT AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. ST. VINCENT ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. ST. VINCENT FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN CITY AND ST. VINCENT. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

ST. VINCENT AND CITY ARE RELYING ON THEIR OWN JUDGMENT.

EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

XV. DEFAULT PROVISION

In the event that either St. Vincent or City fails to perform or is unable to perform substantially its obligations under the terms of this Agreement, the nondefaulting party shall notify the defaulting party in writing of such default. Within five (5) days after receipt of such notification, St. Vincent and City shall meet to discuss the default, the reasons thereof and the methods to cure default. If the defaulting party has not substantially cured the default within ten (10) days after receipt of such notification, or City and St. Vincent have not agreed within such time upon a solution to the default, the nondefaulting party may, at its option, pursue any remedies at law or in equity.

In any event this Agreement may be terminated by the mutual consent of St. Vincent and City in writing.

XVI. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, St. Vincent or its legal representative, shall give the City Manager, or any other reasonable official of City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred and fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which St. Vincent will settle, the physical and mailing addresses of St. Vincent at the time and date the claim was presented and the physical and mailing addresses of St. Vincent for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom St. Vincent relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except City from any liability whatsoever. City is under no obligation to provide notice to St. Vincent that its notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, St. Vincent's failure to comply with the requirements herein shall perpetually bar St. Vincent's claim for damages

under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if City has actual or constructive notice or knowledge of said claim or alleged damages. St. Vincent agrees that the requirements of this entire agreement are reasonable.

XVII. SOVEREIGN IMMUNITY

By executing this Agreement City is not waiving its right of sovereign immunity. City is retaining its immunity from suit. City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

XIII. THIRD-PARTY BENEFICIARY

City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

XIX. ASSIGNMENT

St. Vincent shall not, either directly or indirectly, assign all or any part of this agreement or any interest, right or privilege herein, without the prior written consent of City. The issue on whether or not to grant consent to an assignment is in the sole discretion of City.

XX. TERMINATION WITHOUT CAUSE

City shall have the right, at its sole option, to terminate this Agreement at any time, with or without cause, by giving 90 days written notice to St. Vincent of City's election to so terminate.

XXI. VENUE AND GOVERNING LAW

This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas. This agreement shall be governed by, interpreted, enforced and construed under the law of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes,

arising from or relating in any way to the subject matter of this agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

XXII. PROCUREMENT SUSPENSION AND DEBARMENT

City has found that St. Vincent has not been suspended or debarred from performing work on Federal contracts.

XXIII. FEDERAL WAGE REQUIREMENTS

If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Agreement, and all terms and requirements under said laws, by such in St. Vincent, are made terms and requirements of this Agreement, to which the parties to this Agreement have agreed to be bound.

XXIV. COMPLIANCE

St. Vincent agrees that it shall comply with Texas Government Code Section 2252.908, as amended. St. Vincent agrees that it shall comply with Texas Local Government Code Section 176.006, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this the _____ day of _____, 2020.

CITY OF MIDLAND, TEXAS

ST. VINCENT DE PAUL SOCIETY

By _____
Robert Patrick,
Interim City Manager

By _____
Name _____
Title _____

ATTEST:

Amy M. Turner, City Secretary

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of ST. VINCENT DE PAUL SOCIETY known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2020.

Notary Public, State of Texas

EXHIBIT-A

SCOPE OF SERVICE- CITY OF MIDLAND EMERGENCY AID, RELIEF, AND ECONOMIC SECURITY FUND PROGRAM

ST. Vincent de Paul Society through its social ministry coordinator Services (SMC) will provide food boxes, rental, utilities and Misc. products for household needs. The services are for senior citizens, low-moderate income households and handicapped households on a periodic basis. Once (SMC) finds that, an individual qualifies for assistance. Service is available throughout the city. (SMC) accepts clients on a referral basis for emergency/urgent need. Requested funds will go 100% to clients and they are updated in the local Charity Tracker Systems.

A minimum 51% of all participants will be low and moderate income and meet the HUD income criteria as documented and verified by ST. Vincent de Paul Society and the City of Midland CDBG office.

On a monthly basis, ST. Vincent de Paul Society will provide program performance and financial reports. Kevin Harrington, president is responsible for administration of the program.

BUDGET:

\$99,000



City Council Meeting

Item Number: 7
Meeting Date: November 23, 2020
To: City Council / City Manager
From: Isaac Garnett, Manager, Community Development
Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH SAINT ANN'S CHURCH FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM IN THE AMOUNT OF \$100,000.00 (DEVELOPMENT SERVICES) (DEFERRED FROM NOVEMBER 17, 2020)

Purpose:

RESOLUTION AUTHORIZING THE EXECUTION OF THE CITY OF MIDLAND EMERGENCY AID, RELIEF, and ECONOMIC SECURITY FUNDS CONTRACTS WITH ST. ANN'S CATHOLIC CHURCH OF MIDLAND FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM; APPROVING FUNDS FOR SAID CONTRACT IN THE AMOUNT OF \$100,000.00. (DEVELOPMENT SERVICES)

Recommended City Council Action:

Approve

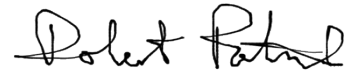
Fiscal Impact:

Recovered funds from the Cares Grant are available in Fund 065 – Cares Grant for this purpose.

Discussion:

St. Ann's Catholic Church through Sister's Charity direct service project consists of a Social Ministries Coordinator (SMC) who attends requests from people who need food, shelter, or other needs. The recent oil industry slow-down and the Covid-19 Pandemic have stressed families and many would become homeless or vulnerable without assistance in paying rent, mortgages, utility bills, and medication. Sister's Charity has limited ability to assist a family or individual on an as-needed basis. Information about local resources is given to clients. Sister's

Charity does not discriminate against any person applying for assistance nor does it impose any religious condition. From July 2019 through June 2020 63 families/individuals were assisted. Clients came from all parts of Midland, especially from disadvantaged neighborhoods. The City of Midland funds will assist will with rent and utilities for qualified low-income families based upon agreed-upon terms of the contract and the CDBG office.



City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A
CONTRACT WITH SAINT ANN’S CHURCH FOR THE
SOCIAL SERVICES RENTAL AND UTILITY
ASSISTANCE PROGRAM IN THE AMOUNT OF
\$100,000.00**

WHEREAS, the City of Midland, Texas, has heretofore allocated \$100,000.00 to Saint Ann’s Church for the Social Services Rental and Utility Assistance Program; and

WHEREAS, the City Council finds it to be in the public interest to enter into a contract with Saint Ann’s Church to provide this service with such funds;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF MIDLAND, TEXAS:**

SECTION ONE. That the Interim City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a contract with Saint Ann’s Church to administer and operate the Social Service Rental and Utility Assistance Program, said contract to be substantially in the form of that attached hereto as Exhibit “1” and made a part hereof for all legal purposes.

SECTION TWO. Recovered funds from the Cares Grant are available in Fund 065 - Cares Grant for this purpose.

SECTION THREE. That the City Comptroller is hereby authorized and directed to make payment to Saint Ann’s Church pursuant to terms of the contract, not to exceed a total amount of \$100,000.00, upon receipt of proper invoice or statement approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting “AYE”:

Council members voting "NAY":

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Robert Patrick, Interim City Manager

Mark Mason, Director of Finance

APPROVED AS TO CONTENT
AND COMPLETENESS:

Isaac Garnett, Community Development
Administrator

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

**AGREEMENT BETWEEN CITY OF MIDLAND, TEXAS AND
SAINT ANN'S CHURCH
FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE
PROGRAM**

This Agreement made by and between the **CITY OF MIDLAND**, a Texas home rule municipal corporation, herein called "City", and **SAINT ANN'S CHURCH**, hereinafter called "Saint Ann";

I. PURPOSE

The purpose of this Agreement is to state the terms and conditions by which Saint Ann will carry out the Social Services Rental and Utility Assistance Program utilizing City's Emergency Aid, Relief and Economic Security Fund as described in Exhibit "A", attached hereto and incorporated herein for all legal purposes. Any change in the performance schedule, purpose or the location of the operation must be approved in advance by City.

II. PAYMENT

Upon and after the receipt of a notice to proceed from City, Saint Ann is authorized to incur costs against a total amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00). Payments shall be made on a reimbursement basis to Saint Ann for services and expenses as shown in Exhibit "A", attached hereto and made a part hereof for all legal purposes. All payments shall be made to Saint Ann upon certification by Saint Ann and approval by the Community Development Division of City's Development Services Department and the City Manager. When reimbursements for personnel services are requested, time sheets must be presented by Saint Ann to City, in a form suitable to City. Final payment on the project must be at least THREE THOUSAND DOLLARS (\$3,000.00), and will not be made until all final project reporting is completed.

III. PROCUREMENT STANDARDS

Saint Ann will make project procurement in accordance with 24 CFR Part 84 and Part 85 and applicable Texas Statutes. At least ten (10) days before Saint Ann seeks competitive bids on procurement of over TEN THOUSAND DOLLARS (\$10,000.00) and for any work contracts of over TWO THOUSAND DOLLARS (\$2,000.00) of the above described project, the plans and specifications and other bid documents shall be submitted to City and reviewed by City's Community Development Division for conformance with federal and City requirements.

IV. INDEMNITY

SAINT ANN WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF SAINT ANN, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, SAINT ANN'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND SAINT ANN WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

SAINT ANN SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH SAINT ANN OR SAINT ANN'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND SAINT ANN WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF CITY'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

SAINT ANN AGREES THAT IT WILL INDEMNIFY AND SAVE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN

THE FURTHERANCE OF THE PERFORMANCE OF THIS AGREEMENT. WHEN CITY SO DESIRES, SAINT ANN SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREIN ABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED.

V. INSURANCE

A. Saint Ann shall carry insurance in the following types and amounts for the duration of this Agreement and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence hereof to City:

1. Statutory Workers' Compensation; said insurance shall provide for a waiver of subrogation in favor of City;
2. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000. The policy must provide contractual liability coverage for liability assumed under this Agreement, products and completed operations coverage, independent contractors coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of City. If this coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. Saint Ann shall maintain coverage for the duration of this Agreement and for six months following completion of the construction improvements associated with this Agreement. Saint Ann shall pay for this extended reporting period coverage. This insurance shall name City as an additional insured and shall provide a waiver of subrogation in favor of City.

B. If insurance policies are not written for amounts specified in Subsection A, above, Saint Ann shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

C. Saint Ann shall provide City at least thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit coverage.

D. Saint Ann shall provide all provisions of this Agreement concerning liability, duty, standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.

E. Saint Ann shall not commence work under this Agreement until it has obtained all required insurance and until such insurance has been reviewed by the City Attorney's Office of the City of Midland.

F. Saint Ann shall produce an endorsement to each affected policy that contains language similar to the following:

1. That names City of Midland, Texas, Attn.: Isaac Garnett, 300 N. Loraine, P. O. Box 1152, Midland, Texas, 79702, as additional insured (except for Workers' Compensation and Employee's Liability coverage), with right of subrogation against City waived on each affected policy including Worker's Compensation.
2. That obligates the insurance company to notify City of any non-renewal, cancellation, or material change to the policy, at least thirty (30) calendar days before the change or cancellation;
3. That the "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in this Agreement, covering both City and Saint Ann, shall be considered primary coverage, as applicable.

G. Saint Ann shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Agreement or the six-month period following completion, in the case of a claims-made policy.

H. City reserves the right to review the insurance requirements of this Article V during the effective period of this Agreement and to make reasonable adjustments to insurance coverages, their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company as well as that of Saint Ann. City shall be entitled to review, upon request, and without expense to City, to receive copies of the requisite insurance policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

I. All certificates shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after City has received written notice of such cancellation or change. During the term of this Agreement, Saint Ann shall have in effect a general liability insurance policy in an amount of not less than \$1,000,000 combined single limit for bodily injury and property damage. This liability policy shall be

endorsed to name the City of Midland as an additional insured. Saint Ann shall provide City with a Certificate of Insurance evidencing the required coverage upon execution of this Agreement.

J. Saint Ann certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Saint Ann shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Saint Ann.

VI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Saint Ann shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Saint Ann shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents employees, contractors, and subcontractors; that the doctrine of respondent superior shall not apply as between City and Saint Ann, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Saint Ann. No person performing any work hereunder shall be considered an officer, agent, servant or employee of City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Saint Ann shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of Saint Ann's work. Saint Ann shall assume exclusive responsibility for the work. Saint Ann is entirely free to do the work in its own way.

VII. APPLICABLE LAWS, ORDINANCES

Saint Ann shall comply with all applicable laws, ordinances and codes of the United States, State of Texas and City and shall require all contractors and subcontractors to comply with the same. Saint Ann hereby agrees as follows:

A. Saint Ann will comply with the policies, guidelines and requirements of 24 CFR Part 84 and 85 and OMB Circulars A-87 and A-122, as they relate to the application, acceptance and use of federal funds for this federally assisted program. Saint Ann will also comply with the Single Audit provisions of OMB Circular A-133 and make the all audits for fiscal years in which program funds are expended available to City.

B. Saint Ann will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-

352), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the applicant received federal financial assistance.

C. Saint Ann will comply with Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR 570.602), which provides that no person in the United States shall, on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds. Saint Ann will comply even if the program or activity is not funded in whole or in part with CDBG funds. Additionally, Saint Ann will comply with regulations at 24 CFR 570.613 concerning eligibility restrictions for certain resident aliens.

D. Saint Ann will comply with Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), which provides that it is the policy of the United States to provide for fair housing throughout the United States. It prohibits particular discriminatory acts regarding housing if the discrimination is based on race, color, religion, sex, national origin, family status, or mental and physical disability.

E. Saint Ann will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, and the regulations issued pursuant thereto (24 CFR Part 135) which provides that to the greatest extent feasible opportunities for employment and other economic opportunities be directed to low and very low income City residents and to business concerns which provide economic opportunity to low and very low income persons.

F. Saint Ann will obtain and maintain documentation evidencing that program beneficiaries meet program income eligibility criteria, specifically as required by 24 CFR 570.208. Saint Ann shall further comply with the retention of records provisions of 24 CFR 570.502.

G. Saint Ann will insure that subcontractors for work or construction activity under this Agreement shall comply with the equal opportunity requirements of Executive Order 11246, as amended.

H. Saint Ann will insure that subcontractors for work or construction activity under this Agreement shall comply with 24 CFR Part 84 and 85 and Section 110 of the Housing and Community Development Act of 1974 and the regulations issued pursuant thereto (24 CFR 570.603), which provide for adherence to certain labor standards.

I. No officer, employee or board member of Saint Ann shall have a financial interest, direct or indirect, in this Agreement or the monies transferred hereunder, or be financially

interested, directly or indirectly in the sale to Saint Ann of any land, materials, supplies or services purchased with any funds transferred hereunder, except on behalf of Saint Ann as an officer, employee, member, or program participant. Saint Ann shall further comply with the conflict of interest provisions of 24 CFR 570.611 and 24 CFR Part 84 and Part 85.

J. Saint Ann will insure that funds will not be used to directly or indirectly employ, award contracts to or otherwise engage the services of or fund any subcontractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

K. Saint Ann shall follow the provisions of 24 CFR Part 84 and Part 85 concerning standards for financial management systems.

L. Saint Ann will comply with the property management and disposition requirements of 24 CFR Part 84 and 85 including copyright provisions therein.

M. Saint Ann certifies that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of Saint Ann, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Saint Ann shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

N. Saint Ann shall comply with and shall ensure that its subcontractors comply with the provisions of the Drug-Free Workplace Act, 41 U.S.C, 701, et seq.

O. Saint Ann shall follow the provisions of 24 CFR 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

P. Saint Ann shall make available to City, as determined by City, information and/or data which document compliance, in all phases of its work, with the above paragraphs A through

O. Saint Ann shall fully cooperate with City when City monitors the services and work performed under this Agreement, which City may do at any time during the term of this Agreement. Saint Ann shall maintain accounts and records adequate to identify and account for all cost pertaining to the Agreement. Records are to be retained in accordance with 24 CFR Part 84 and Part 85.

VIII. PROGRAM INCOME

It is agreed and understood that except in the disposition of program acquired assets that there will be no program income generated as a result of this Agreement which requires compliance with 24 CFR 570.504.

IX. TRANSFER OF ASSETS

Saint Ann shall upon termination or expiration of this Agreement transfer to City all program funds and all loans and accounts receivable attributable to the use of program funds that Saint Ann has on hand at the time of termination. If Saint Ann ceases to use any asset acquired with program funds for the purposes described in this Agreement, Saint Ann shall either pay to City the fair market value of the asset or transfer control of the asset to City.

X. RECOGNITION OF FUNDING

Saint Ann shall provide recognition of program funding in its procurement announcements. Saint Ann shall post, in a publicly visible location where program assisted activity is provided, an acknowledgment that the City of Midland Community Development Block Grant Program is contributing to the project. City's Community Development Office will determine if posting is adequate given the scale of the program assisted activity.

XI. PROJECT REPORTS

Monthly status reports are to be prepared by Saint Ann and submitted in a timely fashion to City. A final performance report shall be prepared and submitted promptly after project completion. An inventory of program acquired assets shall be submitted to City, in a form suitable to City, on an annual basis and at the end of the Agreement.

XII. TERM OF AGREEMENT

The term of this Agreement shall begin November 4, 2020, and end September 30, 2021, unless an extension of time is granted by the City Council.

XIII. RELEASE

SAINT ANN HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

XIV. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, SAINT ANN AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. SAINT ANN SPECIFICALLY AGREES THAT IF SAINT ANN BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, SAINT ANN AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH SAINT ANN MIGHT OTHERWISE BE ENTITLED.

SAINT ANN AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. SAINT ANN ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. SAINT ANN FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN CITY AND SAINT ANN. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

SAINT ANN AND CITY ARE RELYING ON THEIR OWN JUDGMENT.

EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

XV. DEFAULT PROVISION

In the event that either Saint Ann or City fails to perform or is unable to perform substantially its obligations under the terms of this Agreement, the nondefaulting party shall notify the defaulting party in writing of such default. Within five (5) days after receipt of such notification, Saint Ann and City shall meet to discuss the default, the reasons thereof and the methods to cure default. If the defaulting party has not substantially cured the default within ten (10) days after receipt of such notification, or City and Saint Ann have not agreed within such time upon a solution to the default, the nondefaulting party may, at its option, pursue any remedies at law or in equity.

In any event this Agreement may be terminated by the mutual consent of Saint Ann and City in writing.

XVI. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Saint Ann or its legal representative, shall give the City Manager, or any other reasonable official of City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred and fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Saint Ann will settle, the physical and mailing addresses of Saint Ann at the time and date the claim was presented and the physical and mailing addresses of Saint Ann for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Saint Ann relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except City from any liability whatsoever. City is under no obligation to provide notice to Saint Ann that its notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Saint Ann's failure to comply with the requirements herein shall perpetually bar Saint Ann's claim for damages

under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if City has actual or constructive notice or knowledge of said claim or alleged damages. Saint Ann agrees that the requirements of this entire agreement are reasonable.

XVII. SOVEREIGN IMMUNITY

By executing this Agreement City is not waiving its right of sovereign immunity. City is retaining its immunity from suit. City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

XIII. THIRD-PARTY BENEFICIARY

City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

XIX. ASSIGNMENT

Saint Ann shall not, either directly or indirectly, assign all or any part of this agreement or any interest, right or privilege herein, without the prior written consent of City. The issue on whether or not to grant consent to an assignment is in the sole discretion of City.

XX. TERMINATION WITHOUT CAUSE

City shall have the right, at its sole option, to terminate this Agreement at any time, with or without cause, by giving 90 days written notice to Saint Ann of City's election to so terminate.

XXI. VENUE AND GOVERNING LAW

This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas. This agreement shall be governed by, interpreted, enforced and construed under the law of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes,

arising from or relating in any way to the subject matter of this agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

XXII. PROCUREMENT SUSPENSION AND DEBARMENT

City has found that Saint Ann has not been suspended or debarred from performing work on Federal contracts.

XXIII. FEDERAL WAGE REQUIREMENTS

If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Agreement, and all terms and requirements under said laws, by such in Saint Ann, are made terms and requirements of this Agreement, to which the parties to this Agreement have agreed to be bound.

XXIV. COMPLIANCE

Saint Ann agrees that it shall comply with Texas Government Code Section 2252.908, as amended. Saint Ann agrees that it shall comply with Texas Local Government Code Section 176.006, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this the _____ day of _____, 2020.

CITY OF MIDLAND, TEXAS

SAINT ANN'S CHURCH

By _____
Robert Patrick,
Interim City Manager

By _____
Name _____
Title _____

ATTEST:

Amy M. Turner, City Secretary

THE STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of SAINT ANN'S CHURCH known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2020.

Notary Public, State of Texas

EXHIBIT-A

SCOPE OF SERVICE- CITY OF MIDLAND EMERGENCY AID, RELIEF, AND ECONOMIC SECURITY FUND PROGRAM

ST. Ann's Catholic Church through its social ministry coordinator Services (SMC) will provide food boxes, rental, utilities and Misc. products for household needs. The services are for senior citizens, low-moderate income households and handicapped households on a periodic basis. Once (SMC) finds that, an individual qualifies for assistance. Service is available throughout the city. (SMC) accepts clients on a referral basis for emergency/urgent need. Requested funds will go 100% to clients and they are updated in the local Charity Tracker Systems.

A minimum 51% of all participants will be low and moderate income and meet the HUD income criteria as documented and verified by ST. Ann's Catholic Church and the City of Midland CDBG office.

On a monthly basis, St. Ann's Catholic Church will provide program performance and financial reports. Sr. Elsa E Garcia, CDP social work director is responsible for administration of the program.

BUDGET:

\$100,000



City Council Meeting

Item Number: 8
Meeting Date: November 23, 2020
To: City Council / City Manager
From: Robert Patrick, Interim City Manager
Subject: RESOLUTION AUTHORIZING THE MIDLAND POLICE DEPARTMENT TO ENFORCE GOVERNOR GREG ABBOTT'S EXECUTIVE ORDER NO. GA-29

Purpose:

Council Member Norman asked that this item be placed on your agenda for consideration.

Recommended City Council Action:

Approve

Fiscal Impact:

None

Discussion:

To discuss enforcing the Governor's Order.

City Manager's Office

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE MIDLAND POLICE
DEPARTMENT TO ENFORCE GOVERNOR GREG
ABBOTT'S EXECUTIVE ORDER NO. GA-29**

WHEREAS, numerous cases of COVID-19, which is a respiratory illness caused by the novel coronavirus designated SARS-CoV-2, have been reported in the City of Midland; and

WHEREAS, many cases of COVID-19 result in mild symptoms or no symptoms, enabling SARS-CoV-2 to be carried and transmitted by individuals who appear to be healthy; and

WHEREAS, many cases of COVID-19 have resulted in damage to bodily organs and death; and

WHEREAS, on March 13, 2020, the Governor of the State of Texas issued a proclamation declaring a state of disaster for all counties in Texas due to the imminent threat posed by COVID-19, and the disaster declaration remains in effect today, having been renewed multiple times by the Governor; and

WHEREAS, the Centers for Disease Control and Prevention and the Texas Department of State Health Services recommend that individuals wear face coverings over their noses and mouths in order to slow the spread of SARS-CoV-2; and

WHEREAS, on July 2, 2020, the Governor issued Executive Order No. GA-29, which, subject to certain exceptions, requires every person in Texas to “wear a face covering over the nose and mouth when inside a commercial entity or other building or space open to the public, or when in an outdoor public space, wherever it is not feasible to maintain six feet of social distancing from another person not in the same household”; and

WHEREAS, Midland Memorial Hospital and other hospitals throughout West Texas are being inundated with patients suffering from COVID-19; and

WHEREAS, the City Council finds that it is in the interest of the health and safety of the public to authorize the Midland Police Department to enforce Executive Order No.

GA-29;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF MIDLAND, TEXAS:**

THAT the Midland Police Department is hereby authorized to enforce Executive
Order No. GA-29.

On motion of Council member _____, seconded by Council member
_____, the above and foregoing resolution was adopted by the City Council of the
City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by
the following vote:

Council members voting "AYE":

Council members voting "NAY":

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Robert Patrick, Interim City Manager

APPROVED AS TO FORM ONLY:

John Ohnemiller, City Attorney



City Council Meeting

Item Number: 9
Meeting Date: November 23, 2020
To: City Council / City Manager
From: Robert Patrick, Interim City Manager
Subject: AN ORDINANCE DIRECTING OWNERS AND OPERATORS OF COMMERCIAL ENTITIES, BUILDINGS, AND OTHER ENCLOSED SPACES THAT ARE OPEN TO THE PUBLIC (1) TO POST NOTICES THAT FACE COVERINGS MUST BE WORN AND (2) TO REQUIRE INDIVIDUALS TO WEAR FACE COVERINGS; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00) FOR A VIOLATION OF THE NOTICE POSTING REQUIREMENT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Purpose:

Council Member Ladd asked that this item be placed on your agenda for consideration.

Recommended City Council Action:

Approve

Fiscal Impact:

None

Discussion:

To discuss a Mask Ordinance.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE DIRECTING OWNERS AND OPERATORS OF COMMERCIAL ENTITIES, BUILDINGS, AND OTHER ENCLOSED SPACES THAT ARE OPEN TO THE PUBLIC (1) TO POST NOTICES THAT FACE COVERINGS MUST BE WORN AND (2) TO REQUIRE INDIVIDUALS TO WEAR FACE COVERINGS; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00) FOR A VIOLATION OF THE NOTICE POSTING REQUIREMENT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

WHEREAS, numerous cases of COVID-19, which is a respiratory illness caused by the novel coronavirus designated SARS-CoV-2, have been reported in the City of Midland; and

WHEREAS, many cases of COVID-19 result in mild symptoms or no symptoms, enabling SARS-CoV-2 to be carried and transmitted by individuals who appear to be healthy; and

WHEREAS, many cases of COVID-19 have resulted in damage to bodily organs and death; and

WHEREAS, on March 13, 2020, the Governor of the State of Texas issued a proclamation declaring a state of disaster for all counties in Texas due to the imminent threat posed by COVID-19, and the disaster declaration remains in effect today, having been renewed multiple times by the Governor; and

WHEREAS, the Centers for Disease Control and Prevention and the Texas Department of State Health Services recommend that individuals wear face coverings over their noses and mouths in order to slow the spread of SARS-CoV-2; and

WHEREAS, on July 2, 2020, the Governor issued Executive Order No. GA-29, which, subject to certain exceptions, requires every person in Texas to “wear a face covering over the nose and mouth when inside a commercial entity or other building or space open to

the public, or when in an outdoor public space, wherever it is not feasible to maintain six feet of social distancing from another person not in the same household”; and

WHEREAS, Midland Memorial Hospital and other hospitals throughout West Texas are being inundated with patients suffering from COVID-19; and

WHEREAS, the City Council finds that it is in the interest of the health and safety of the public to direct owners and operators of commercial entities, buildings, and other enclosed spaces that are open to the public (1) to post notices that face coverings must be worn and (2) to require individuals to wear face coverings;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS:

SECTION ONE. *Definitions.* As used in this ordinance:

- A. *Business* means a commercial entity, building, or other enclosed space, including a motor vehicle, that is open to the public.
- B. *Face covering* means a mask or face covering of a type recommended by the Centers for Disease Control and Prevention or the Texas Department of State Health Services for the purpose of slowing the spread of the virus that causes COVID-19.
- C. *Operator* means a manager or other person who has decision-making authority over the maintenance or operation of a business.
- D. *Owner* means a person or entity who owns a business, or an agent who is authorized to act on behalf of such person or entity. A person or entity identified as the owner of real property in the records of an appraisal district shall be deemed to be an owner of a business located on the real property.

SECTION TWO. *Business regulations.* Each owner and operator of a business (i) shall maintain and operate the business in accordance with the requirements of this Section

Two and (ii) shall ensure that all agents and employees who assist with the maintenance and operation of the business do so in accordance with the requirements of this Section Two.

A. *Notice.*

1. *Posting.* A notice described in this Subsection A shall be prominently posted at each public entrance to the business.
2. *Description of notice.*
 - a. *Language.* A notice required by this Subsection A shall contain language informing the viewer that an individual who enters the business must wear a face covering. The language of a notice shall be deemed sufficient if it is substantially similar to the following: “FACE COVERING REQUIRED PER CITY ORDINANCE.”
 - b. *Appearance.* The text of a notice required by this Subsection A shall be conspicuous and clearly and legibly printed in capital letters. The text of a notice shall be deemed conspicuous if it contrasts with the background of the notice and is in bold lettering no less than two inches in height.
 - c. *Prohibited language and symbols.* A notice required by this Subsection A shall not contain language or symbols that would cause a reasonable person viewing the notice to believe that an individual who enters the business is not required to wear a face covering.

B. *Face covering required.*

1. Except as otherwise provided in this Subsection B, every individual located in a business shall be required to wear a face covering over the

individual's nose and mouth wherever it is not feasible to maintain six feet of social distancing from another person not in the same household.

2. An individual need not be required to wear a face covering if:
 - a. the individual is younger than 10 years of age;
 - b. the individual has a medical condition or disability that prevents the individual from wearing a face covering;
 - c. the individual is consuming food or drink, or is seated for the purpose of consuming food or drink;
 - d. the individual is driving alone or with passengers who are part of the same household as the driver;
 - e. the individual is obtaining a service that requires temporary removal of the face covering for security surveillance, screening, or a need for specific access to the face, such as while visiting a bank or while obtaining a personal care service involving the face, but only to the extent necessary for the temporary removal;
 - f. the individual is swimming;
 - g. the individual is voting, assisting a voter, serving as a poll watcher, or actively administering an election, but wearing a face covering is strongly encouraged;
 - h. the individual is actively providing or obtaining access to religious worship, but wearing a face covering is strongly encouraged; or
 - i. the individual is giving a speech for a broadcast or to an audience.

3. This Subsection B does not prohibit owners and operators of businesses from imposing stricter face covering requirements than those contained herein.
- C. *Prohibited entry.* An individual who is not wearing a face covering in accordance with Subsection B above shall be prohibited from entering a business.
- D. *Verbal notice.* An individual located in a business who is not wearing a face covering in accordance with Subsection B above shall be verbally notified that the individual must either wear a face covering over the individual's nose and mouth or leave the business.

SECTION THREE. *Warning; penalty; culpable mental state not required.*

- A. If no owner or operator of a business has received a verbal or written warning for a violation of Section Two, Subsection A, an owner or operator of the business who violates any notice provision of Section Two, Subsection A shall receive a verbal or written warning.
- B. If an owner or operator of a business has received a verbal or written warning for a violation of Section Two, Subsection A, an owner or operator of the same business who violates any notice provision of Section Two, Subsection A shall be guilty of a misdemeanor and fined in a sum not to exceed \$500.00. It is not a defense or an exception to prosecution that an owner or operator of a business did not have knowledge that another owner or operator of the same business received a verbal or written warning.
- C. An owner or operator of a business commits a separate and distinct offense for each separate violation of a notice provision of Section Two, Subsection A. Each day that an owner or operator maintains or operates a business in

violation of a notice provision of Section Two, Subsection A shall constitute a separate and distinct violation.

- D. Evidence of a culpable mental state is not required to prove a criminal offense under this ordinance. It is hereby declared that, for all offenses under this ordinance, the culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.
- E. An owner or operator of a business who violates a provision of Section Two, Subsection B, C or D shall not be guilty of a criminal offense or subject to a penalty for such violation.

SECTION FOUR. That in accordance with applicable state laws and executive orders issued by the Governor of the State of Texas, the Midland Police Department is authorized to enforce trespassing laws and remove an individual from a business at the request of an owner or operator of the business.

SECTION FIVE. That this ordinance shall terminate and be of no further force or effect on a date to be established by resolution of the City Council; provided, however, that if no such resolution is adopted by the City Council on or before June 1, 2021, this ordinance shall terminate and be of no further force or effect at 11:59 p.m. on June 1, 2021.

SECTION SIX. That the provisions of any ordinance which are inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION SEVEN. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION EIGHT. That the penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding five hundred dollars (\$500.00) pursuant to State law. The definition of all offenses under this ordinance does not require a culpable mental state. The definition of all offenses under this ordinance plainly dispenses with any mental element as authorized by Section 6.02 of the Texas Penal Code. It is hereby declared, that for all offenses under this ordinance, that the culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.

SECTION NINE. That the City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney



City Council Meeting

Item Number: 10
Meeting Date: November 23, 2020
To: City Council / City Manager
From: Robert Patrick, Interim City Manager
Subject: Motion approving a COVID-19 Seven-Point Mitigation Plan (the "Mitigation Plan"); and authorizing the Interim City Manager or his designee to take all action necessary and appropriate to implement the Mitigation Plan

Purpose:

Council Member Trost asked that this item be placed on your agenda for consideration.

Recommended City Council Action:

Approve

Fiscal Impact:

None

Discussion:

To discuss a 7-Point COVID-19 Mitigation Plan.

City Manager's Office

City of Midland
COVID-19
7 POINT MITIGATION PLAN
November 16, 2020

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RECOMMENDATION:7

BUDGET:7

City of Midland
COVID-19
7 POINT MITIGATION PLAN
November 16, 2020

FORWARD

1. COVID TASK FORCE

SITUATION:

The Mayor of Midland, working with Midland Health and Midland County has periodic press conferences to update the community on the state of COVID in Midland. In spite of these informative briefings, the virus continues to spread at alarming rates.

RECOMMENDATION:

Expand the number of voices who convey messages about COVID by establishing an official COVID Task Force. Select 20 – 25 prominent members of the community to receive information and advise elected leaders on approaches for mitigating the spread of the virus across all sectors of the local economy. These might include the President of the Home Builder's Association, the President of the Restaurant Association, the President of the PTA, the President of the Ministerial Alliance the President of the Midland Chamber of Commerce, leaders in the medical community, Meals on Wheels, Community and Senior Services, leaders in the education community, etc. appointed by the Midland City Council and Midland County.

The members of the task force will receive reports from Health Officials, monitor the success of the City's mitigation plan, obtain input from the community, and make recommendations to the elected leaders. The task force should be co-chaired by two prominent members of the community like Grant Billingsly and Laura Roman.

BUDGET:

\$1,000 per month or less.

2. MASK ORDINANCE

SITUATION:

The CDC and the State of Texas have embraced mitigation strategies used all around the world; social distancing, hand washing and wearing a mask. In Texas, *"Every person in Texas shall wear a face covering over the nose and mouth when inside a commercial entity or other building or space open to the public, or when in an outdoor public space, wherever it is not feasible to maintain six feet of social distancing from another person not in the same household."*

RECOMMENDATION:

A mask ordinance should be implemented with a graduated penalty. The first violation should be issued a citation. The second violation is a \$500 fine. The third violation is a \$2,500 fine. The final violation is a revocation of the businesses license if licensed by the City of Midland. If not, the fine shall increase to \$5,000. The mask ordinance for businesses should be in line with the State of Texas and the CDC guidelines.

BUDGET:

To be determined.

3. TESTING and TRACING

SITUATION:

Contract tracing in the City of Midland is two weeks behind making effectiveness of a contract tracing system impossible and ineffective. Medical Health professionals believe that contact tracing is critical to slowing the spread.

RECOMMENDATION:

A testing regimen should be deployed by the City of Midland. ECISD just received 10,000 rapid tests from the State of Texas. The City of Odessa has been offering periodic testing at least once per month free to anyone who wants it. The City of Midland shall work with the State of Texas to obtain thousands of rapid tests and work with the hospital to coordinate a drive thru testing regiment.

BUDGET:

The City of Midland should allocate \$250,000 of available CARES act funding to immediately hire contact tracers to assist the health department in strengthening this activity. It is likely that this expense is reimbursable under the emergency management provisions in the State of Texas.

4. METRICS

SITUATION:

Arguably the citizens in the City of Midland do not gauge the severity of the Pandemic using consistent metrics.

RECOMMENDATION:

The COVID Task force should work with Midland Memorial Hospital and the City of Midland Health Department to establish metrics appropriate to evaluating our progress at slowing the spread. These metrics should be consistent with the medical community, State of Texas guidelines and the CDC.

A tightening or loosening of restrictions or emergency management declarations should be based on these metrics. The public should be made aware of these metrics and the related restrictions. This information should be shared, monitored, and publicized frequently so that the public is not surprised by actions elected leaders have to take.

Currently Midland Health uses the following metrics.

- a. Testing % Positive should be less than 5%. (Currently we are at 30% according to Midland Health.)
- b. Hospitalizations should be less than 10%. We currently see numbers higher than this.

BUDGET:

N/A

5. PUBLICITY and ENGAGEMENT

SITUATION:

COVID Fatigue has worn on everyone all around the country. The rising cases can be attributed to many things. Information is certainly one of them. The community has tuned out the traditional sources of COVID information.

RECOMMENDATION:

In light of the alarming increase in COVID positivity rates and hospitalizations rates the community's messaging strategy must be more aggressive so as to overcome the COVID message hypnosis that has set in.

- a. **ADVERTISING AGENCY:** The City of Midland should allocate appropriate resources and utilize a professional advertising agency to develop and execute a comprehensive promotions strategy to message the public. The agency should be skilled in crisis messaging and should be a local agency selected by the COVID Task Force. The City of Odessa began a campaign in late summer.
- b. **CHAT:** The City of Midland should join Midland County in reinstituting the CHAT system. According to the Midland County Judge and Dr. Wilson of Midland Memorial Hospital, the system was effective at predicting the spikes we saw last summer approximately 2 weeks before they happened. This system should be relaunched to help the Task Force monitor the decline in cases.

BUDGET:

- c. **Advertising Agency:** It is estimated that a team of agencies skilled in messaging, content creation and placement will be needed for a campaign of this magnitude. Estimated \$75,000. *(NOTE: Odessa budgeted \$125,000 for a similar narrowly focused campaign.)*
- d. **CHAT:** According to the Midland Reporter Telegram, the county spent \$15,000 over 90 days to cover the cost of development, implementation, and utilization of the CHAT system. By promoting the system more broadly, it is likely that these costs would increase but the increase is estimated to be minimal. The City could work with the County to share in the costs. Midland County will be considering reinstating this at their next meeting. The City of Midland should match Midland County's budget for reinstituting the system up to \$15,000. The Advertising Agency should also be responsible for promoting the system to encourage utilization.

6. HOSPITAL VISITS:

SITUATION:

Both Midland Health is reaching its capacity and 68-NURSE is overwhelmed with scheduling tests. These leaves little capacity for suspected COVID patients to speak with a Nurse or Doctor.

RECOMMENDATION:

The City of Midland Task Force should work with Midland Health to fully promote utilization of the BASINMD app as the alternative to calling 68-Nurse or going to the Emergency Room for those who suspect they are COVID positive.

BUDGET: N/A

7. BUSINESS SAFETY GRANT:

SITUATION:

Many small businesses struggle with equipping their facilities and their employees with the proper equipment to keep themselves and others safe during the pandemic. With the addition of a mask ordinance many businesses may need added supplies and equipment.

RECOMMENDATION:

Reimbursement matching grants up to 1,000 for \$2,000 worth of expenses dedicated to equipping businesses with PPE and supplies to minimize the risk to their patrons and their employees. These grants would be administered by the funding entity or the Task Force working with the Midland Chamber of Commerce.

BUDGET:

\$150,000 from CARES ACT FUNDING or the Midland Development Corporation unused business aid funds.



City Council Meeting

Item Number: 11

Meeting Date: November 23, 2020

To: City Council / City Manager

From: Robert Patrick, Interim City Manager

Subject: RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, IN SUPPORT OF MIDLAND RESIDENTS PRACTICING EFFECTIVE HEALTH PROTOCOLS IN ORDER TO REDUCE THE SPREAD OF COVID-19; IN SUPPORT OF THE EXCEPTIONAL WORK OF MIDLAND HEALTH CARE PROFESSIONALS, INCLUDING EMPLOYEES OF MIDLAND MEMORIAL HOSPITAL AND THE CITY OF MIDLAND HEALTH DEPARTMENT; IN SUPPORT OF THE GOVERNOR'S ORDER REQUIRING INDIVIDUALS TO WEAR A FACE COVERING; AND IN SUPPORT OF BUSINESS OWNERS AND OPERATORS POSTING SIGNAGE THAT WEARING A FACE COVERING IS REQUIRED WHEN INSIDE THE BUSINESS

Purpose:

Council members Lori Blong, Spencer Robnett, and Scott Dufford asked that this item be placed on your agenda for consideration.

Recommended City Council Action:

Approve

Fiscal Impact:

None

Discussion:

This is a resolution in support of: (1) practicing effective health protocols in order to reduce the spread of Covid-19; (2) the exceptional work of Midland health care professionals; (3) the Governor's order requiring individuals to wear a face covering; and (4) businesses posting signage that wearing a face covering is required.

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, IN SUPPORT OF MIDLAND RESIDENTS PRACTICING EFFECTIVE HEALTH PROTOCOLS IN ORDER TO REDUCE THE SPREAD OF COVID-19; IN SUPPORT OF THE EXCEPTIONAL WORK OF MIDLAND HEALTH CARE PROFESSIONALS, INCLUDING EMPLOYEES OF MIDLAND MEMORIAL HOSPITAL AND THE CITY OF MIDLAND HEALTH DEPARTMENT; IN SUPPORT OF THE GOVERNOR'S ORDER REQUIRING INDIVIDUALS TO WEAR A FACE COVERING; AND IN SUPPORT OF BUSINESS OWNERS AND OPERATORS POSTING SIGNAGE THAT WEARING A FACE COVERING IS REQUIRED WHEN INSIDE THE BUSINESS

WHEREAS, the City Council believes that the residents of Midland know best how to care for themselves and one another; and

WHEREAS, the City Council believes that the residents of Midland are socially responsible and are capable of and willing to practice effective health protocols; and

WHEREAS, the City Council finds it to be in the public interest to support residents of Midland practicing effective health protocols such as social distancing, wearing a face covering, and practicing good hygiene in order to reduce the spread of Covid-19; and

WHEREAS, the City Council finds it to be in the public interest to support the exceptional work of Midland health care professionals, including employees of Midland Memorial Hospital and the City of Midland Health Department, during this unprecedented public health threat; and

WHEREAS, the City Council finds it to be in the public interest to support Executive Order No. GA-29 issued by Governor Greg Abbott, which requires individuals to wear a face covering subject to certain exceptions; and

WHEREAS, the City Council finds it to be in the public interest to support owners and operators of businesses posting signage notifying the public that wearing a face covering is required when an individual is located inside the business;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS;

SECTION ONE. The City Council of the City of Midland, Texas, hereby supports residents of Midland practicing effective health protocols in order to reduce the spread of Covid-19.

SECTION TWO. The City Council of the City of Midland, Texas, hereby supports the exceptional work of Midland health care professionals, including employees of Midland Memorial Hospital and the City of Midland Health Department, during this unprecedented public health threat.

SECTION THREE. The City Council of the City of Midland, Texas, hereby supports Executive Order No. GA-29 issued by Governor Greg Abbott, which requires individuals to wear a face covering subject to certain exceptions.

SECTION FOUR. The City Council of the City of Midland, Texas, hereby supports owners and operators of businesses posting signage notifying the public that wearing a face covering is required when an individual is located inside the business.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM ONLY:

John Ohnemiller, City Attorney



City Council Meeting

Item Number: 12
Meeting Date: November 23, 2020
To: City Council / City Manager
From: Robert Patrick, Interim City Manager
Subject: RESOLUTION ADDING ONE (1) REGULAR CITY COUNCIL MEETING ON DECEMBER 1, 2020, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2020 CALENDAR YEAR (CITY MANAGER'S OFFICE)

Purpose:

To add one (1) regular City Council meeting on December 1, 2020 to the City Council meetings schedule for the 2020 calendar year.

Recommended City Council Action:

Approve

Fiscal Impact:

None

Discussion:

To discuss COVID-19 related mitigation strategies.

City Manager's Office

RESOLUTION NO.

**RESOLUTION ADDING ONE (1) REGULAR CITY
COUNCIL MEETING ON DECEMBER 1, 2020, TO THE
CITY COUNCIL MEETINGS SCHEDULED FOR THE
2020 CALENDAR YEAR**

WHEREAS, the City of Midland finds it to be in the public interest to add one (1) regular City Council meeting on December 1, 2020, to the City Council meetings scheduled for the 2020 calendar year;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF MIDLAND, TEXAS:**

THAT one (1) regular City Council meeting on December 1, 2020, is hereby added to the City Council meetings scheduled for the 2020 calendar year.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Robert Patrick, Interim City Manager

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

BOARDS AND COMMISSIONS OF THE CITY OF MIDLAND

November 23, 2020

AIRPORT PLANNING AND DEVELOPMENT BOARD

(Advisory)

(Membership-10; Terms - 3 Years expiring 3-3-4.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Nick Hood	09/15	Sept 30 2021	Sept 30 2021
Armand "Chip" Smith	09/18	Sept 30 2021	Sept 30 2024
Scooter Brown	09/16	Sept 30 2022	Sept 30 2022
Wes Reeves	08/15*	Sept 30 2023	Sept 30 2023
Justin Kuethe	09/19	Sept 30 2022	Sept 30 2025
Nick McClure	09/19	Sept 30 2022	Sept 30 2025
Gena Linebarger	09/20	Sept 30 2023	Sept 30 2026
Butch Morgan	09/20	Sept 30 2023	Sept 30 2026
Benjamin Fietz	09/20	Sept 30 2023	Sept 30 2026
Joshua Lorenz	09/20	Sept 30 2023	Sept 30 2026

Justine Ruff (Liaison)

Ex-Officio members are Earl Erdman and Harry Spannaus, the City Manager and the City Attorney. The Secretary is the Director of Aviation.

ANIMAL SERVICES ADVISORY COMMISSION

(Advisory)

(Membership - 7; Terms - 4 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Leah Lewis	09/17	Sept 30 2021	Sept 30 2025
Robert "Robin" Donnelly	11/13	Sept 30 2021	Sept 30 2021
Dr. (Erickson) Lee (Veterinarian)	05/14	Sept 30 2022	Sept 30 2022
Alyson Dial	09/18	Sept 30 2022	Sept 30 2026
Dr. J. Annette Jensen (Veterinarian)	04/20	Sept 30 2024	Sept 30 2028
Tasha Sport	04/20	Sept 30 2024	Sept 30 2028
Sharla Hotchkiss	04/20	Sept 30 2024	Sept 30 2028

Leah Lewis (Liasion)

**BUILDING AND FIRE CODE REVIEW COMMITTEE/CONSTRUCTION BOARD OF
ADJUSTMENTS & APPEALS**

(Membership – 9; Terms – 6 Years)

Shall consist of two architects, a fire protection contractor or specialist, a general contractor, an electrical contractor, a homebuilder, a plumbing and mechanical contractor, a structural engineer, a City Council Liaison

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Ryan Almand (Electrical Contractor)	12/18	Sept 30 2024	Sept 30 2030
Jay Bradford (Architect)	12/18	Sept 30 2024	Sept 30 2030
Ron Ainsworth (Plumbing & Mechanical Contractor)	12/18	Sept 30 2024	Sept 30 2030
T.J. McClure (Architect)	12/18	Sept 30 2024	Sept 30 2030
Laurence Oeth (Structural Engineer)	12/18	Sept 30 2024	Sept 30 2030
David Hickman (Fire Protection)	12/18	Sept 30 2024	Sept 30 2030
Gary Glasscock (General Contractor)	12/18	Sept 30 2024	Sept 30 2030
Robert Anderson (Homebuilder)	12/18	Sept 30 2024	Sept 30 2030
Jeff Pinkstaff (Liaison)	12/18	Sept 30 2024	Sept 30 2030

CAPITAL IMPROVEMENT ADVISORY COMMITTEE

(Advisory)

(Membership – 7)

A minimum of 40% must be representative of real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity.)

	<u>Appt Date</u>
Carl Craig	10/19
Walter Pate	06/18
Mark Payne	06/18
Courtney Black	06/18
Brian Sales	06/18
Chuck Harrington	06/18
Jose Ortiz	06/18

CITIZENS DEVELOPMENT AND HOTEL/MOTEL ADVISORY BOARD

(Advisory)

(Membership - 7; Terms - 2 Years Staggered)

4 2020, 3 -2021

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Ellen K. Ramsey	10/18	Sept 30 2021	Sept 30 2023
Kate Williamson	10/18	Sept 30 2021	Sept 30 2023
David Blackketter	10/18	Sept 30 2021	Sept 30 2023
Joey Hopkins	10/18	Sept 30 2022	Sept 30 2022
Alex Singh	10/18	Sept 30 2022	Sept 30 2022
Becky Wisdom	10/18	Sept 30 2022	Sept 30 2022
Brandon Ofield	09/20	Sept 30 2022	Sept 30 2024

Lori Blong (Council Liasion)
PACKET

13.89

November 23, 2020

* Indicates appointment to an unexpired term.

MANAGED COMPETITION COMMITTEE

(Ad Hoc)

	<u>Appt. Date</u>
Jon Morgan	01/02
Wes Perry	01/02
Roy Nelson	01/02
Hugh "Andy" Shaffer	12/03
Scott Dufford	01/02
Ted Tipton	04/04
Kevin Sparks	11/07
Scott Lovett	04/10
P. Lourcey Sams	04/10

Ex-Officio members are the Mayor and the City Manager.

MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS

Five Directors, Elected by Local Taxing Entities.
City Nominates/Cast Vote for one Director
(Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>
Robert McNaughton	11/15	Dec 31 2021

MIDLAND DEVELOPMENT CORPORATION

(Membership - 7; Terms -3 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Chase Gardaphe	01/19	Jan 14 2022	Jan 14 2025
Wesley Bownds	07/15*	Jan 14 2022	Jan 14 2022
Barry Simpson	01/19	Jan 14 2022	Jan 14 2025
Stephen Lowery	01/17	Jan 14 2023	Jan 14 2023
P Lourcey Sams	04/20	Jan 14 2023	Jan 14 2026
Jill Pennington	04/20	Jan 14 2023	Jan 14 2026
Elaine Bedell	04/20	Jan 14 2023	Jan 14 2026

MIDLAND FRESH WATER SUPPLY DISTRICT #1

(Ad Hoc)

(3 Non Voting Members)

	<u>Appt Date</u>
Wes Perry	05/12
Gary Harris	05/12
Wayne Merritt	05/12

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Steve Jones	09/08*	Jan 1 2010	Jan 1 2012
Cathy Oestmann	11/05*	Jan 1 2010	Jan 1 2010
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2009	
Curt Kamradt	11/05*	Jan 1 2014	Jan 1 2014

Sharla Hotchkiss (Liaison)

MIDLAND HOUSING AUTHORITY COMMISSION

(Membership - 5; Terms - 2 Years expiring 2 even & 3 odd.)

Appointments Made by Mayor (LGC 392.031)

	<u>Appt Date</u>	<u>Term Expires</u>
Sylvester Cantu	09/18*	Oct 2021
Cheryl Wadley (Resident Commissioner)	11/19	Oct 2021
Wes Gotcher	09/20	Oct 2022
Robert Lehrer	09/20	Oct 2022
Dennis Bade	09/12	Oct 2022

Isaac Garnett (Staff Liasion)

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD

(Ad Hoc)

	<u>Appt. Date</u>
Vacancy	
W. L. "Scooter" Brown	09/04
Vacancy	
Richard Hatchett	11/08
Vacancy	
Ted H. Jones	09/04
Mitch Malouf	11/08
Christi Newton	09/04
Dan Rush	09/04

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD

(Decision Making)

(Membership - 6; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
VACANT (Westmoreland)	06/18*	Sept 30 2020	Sept 30 2022
E. J. Baldrige	10/18	Sept 30 2022	Sept 30 2022
Iris Foster	06/18*	Sept 30 2022	Sept 30 2022
Joseph Sanchez	12/19	Sept 30 2021	Sept 30 2023
Jack Ladd	07/20	Sept 30 2022	Sept 30 2024
John Norman	07/20	Sept 30 2022	Sept 30 2024

OIL AND GAS ADVISORY COMMITTEE

(Advisory)

(Membership – 5; Terms – 3 Years expiring 2-2-1)

2 real property developer, real estate sales, or developer; 3 Lic. petroleum engineer, engineer w/ bachelor, or geologist

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Stephen Brumley (Petroleum Eng.)	11/15	Sept 30 2021	Sept 30 2021
Bill Lanier (Real Estate)	09/18	Sept 30 2021	Sept 30 2024
Scott Bowden (Real Estate)	10/19	Sept 30 2022	Sept 30 2025
Ross Klabon (Petroleum Eng.)	10/19	Sept 30 2022	Sept 30 2025
Court Adkins (Petroleum Eng.)	09/17	Sept 30 2023	Sept 30 2023

PARKS AND RECREATION COMMISSION

(Advisory)

(Membership - 9; Terms - 3 Years expiring 3-3-3.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Shirley Howard	02/16*	Sept 30 2021	Sept 30 2024
Connie Ferguson	09/16	Sept 30 2022	Sept 30 2022
Stephanie Martin	10/16	Sept 30 2022	Sept 30 2022
Laura Smith	10/19	Sept 30 2022	Sept 30 2025
Francis Schammel	10/19	Sept 30 2022	Sept 30 2025
Susannah Prucka	04/20	Sept 30 2023	Sept 30 2026
Lynn Rogers	04/20	Sept 30 2023	Sept 30 2026
Dal Watson	09/20	Sept 30 2023	Sept 30 2026
Ron Stroman	09/20	Sept 30 2023	Sept 30 2026

Tina Juaz (Liaison)

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November 23, 2020

* Indicates appointment to an unexpired term.

John Norman (Council Liaison)

**PERMIAN BASIN COMMUNITY CENTER FOR MENTAL HEALTH
AND MENTAL RETARDATION**

(Decision Making)

(Membership - 2 (City); Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>
Larry Edgerton (City)	07/10*	June 2021
Ryan Peckham (City)	08/20	June 2022

PERSONNEL BOARD OF APPEALS

(Decision Making)

(Membership - 3; No designated terms. Mayor appoints.)

	<u>Appt. Date</u>
Scott Dufford	01/14
John B. Love III	01/14
Hugh A. "Andy" Shaffer	09/05

PLANNING AND ZONING COMMISSION

(Advisory & Decision Making)

(Membership - 7; Terms - 3 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Reggie Lawrence	09/14*	Sept 30 2021	Sept 30 2021
Chase Gardaphe	01/14*	Sept 30 2022	Sept 30 2022
Karmen Bryant	02/19*	Sept 30 2022	Sept 30 2025
Diane Williams	09/17	Sept 30 2023	Sept 30 2023
Lucy Sisniega	09/20	Sept 30 2023	Sept 30 2026
Stacey Jo Grosse	09/20	Sept 30 2023	Sept 30 2026
Zachary Deck	09/20	Sept 30 2023	Sept 30 2026

ALTERNATES:

Emily Holeva	09/20	Sept 30 2023	Sept 30 2026
Adrian Carrasco	09/20	Sept 30 2323	Sept 30 2026

ZONING BOARD OF ADJUSTMENT
AND
AIRPORT ZONING BOARD OF ADJUSTMENT

(Decision Making)

(Membership - 5; Terms - 2 Years expiring 3 odd & 2 even.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Matthew Wallace	07/15*	Sept 30 2020	Sept 30 2020
Derek Whiting	01/18*	Sept 30 2021	Sept 30 2023
E.J. Baldrige	02/18	Sept 30 2021	Sept 30 2023
VACANT (Rittenhouse)	02/19*	Sept 30 2022	Sept 30 2024
Reed Claybrook	03/19*	Sept 30 2022	Sept 30 2024

ALTERNATES: (not applicable to Airport Zoning)

James Robert Franklin Sept 30 2021

VACANCY **Sept 30 2020**

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD
(Advisory; Membership - 6: Terms - 2 Years Staggered)

MEMBER	TERM EXPIRES	ATTENDANCE	MEETINGS ATTENDED	TOTAL MTGS	ELIGIBLE	NOTES
VACANT (Westmoreland)	Sept 30 2019	0%		10	Yes	
E.J. Baldrige	Sept 30 2019	90%	9	10	Yes	Still Intrested in Serving
Iris Foster	Sept 30 2019	90%	9	10	Yes	Still Intrested in Serving
Joseph Sanchez	Sept 30 2020	70%	7	10	Yes	Appointed Dec 2019
Jack Ladd	Sept 30 2020	10%	1	10	Yes	Appointed July 2020
John Norman	Sept 30 2021	0%	0	10	Yes	Appointed July 2020
Applicants Name	Additional Boards Applying to	COUNCIL NOTES				
James "Jim" Murphy						

ZONING BOARD OF ADJUSTMENT AND AIRPORT ZONING BOARD OF ADJUSTMENT
(Advisory; Membership - 5: Terms - 2 Years Expiring 3 Odd & 2 Even)

MEMBER	TERM EXPIRES	ATTENDANCE	MEETINGS ATTENDED	TOTAL MTGS	ELIGIBLE	NOTES
Matthew Wallace	Sept 30 2020	75%	3	4	No	
Derek Whiting	Sept 30 2021	100%	4	4	Yes	
E.J. Baldrige	Sept 30 2021	100%	4	4	Yes	
VACANT (Rittenhouse)	Sept 30 2022	25%	1	4	Yes	
Reed Claybrook	Sept 30 2022	50%	2	4	Yes	
ALTERNATES: (not applicable to Airport Zoning)						
James Robert Franklin	Sept 30 2021					
VACANCY	Sept 30 2019					
VACANCY	Sept 30 2020					
Applicants Name	Additional Boards Applying to	COUNCIL NOTES				
James Gerety						
James "Jim" Murphy						
Khris O'Grady						



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Khris O'Grady

Address: 6306 Homestead Blvd

Midland Tx 79707

(City)

(State)

(Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 34 years.

Professional and/or Community Activities:

Employed @ Leslie Hendrix Wood Interiors, Member St Ann's Church (volunteer Faith Formation, Life Teen) Member & office Lee High Rebel Volleyball Booster Club 2012-2019), Member DAR (Colonel Thanneius Dei Chapter)

What is your personal vision for the City?

Thriving Economy, low taxes, good & safe roads, low crime, great schools

Please specify any time constraints you may have.

NONE

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Zoning Board of Adjustments & Airport Zoning Board of Adjustments

Please tell us why you are interested in serving on this board or commission.

There is an opening on this board and I want to get involved in city government and learn new things.

Date: 10-14-2020

Phone: 432-634-6352 (Home)

432-684-4465 (Business)

Email: Ogratont@suddenlink.net

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Office Manager, Blog Manager

What contribution would you most like to make?

Make the best decisions for the City of Midland
Become more involved in city

Additional pertinent information or references:

Texas A+M Graduate BBA in Marketing
Worked in Advertising & Marketing before having children.
Returned to work in 2018.

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant

Khari O. Brady

Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433

Submit Via Email

Print Application



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: James Gerety

Address: 6404 Homestead Blvd

Midland CA 79707

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland ²¹ years.

Professional and/or Community Activities:

Board Member Midland Community Theater 2007-2008

Board Member Breaking Bread Kitchen 2003-2009, 2018 to present Treasurer

Board Member Domino's Franchisee Association 2007- Present, Board Presidnet 2012-2019

What is your personal vision for the City?

To continue the growth of our city into a more diverse business community by attracting new businesses

and provide a business friendly environment.

Please specify any time constraints you may have.

None

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Zoning Board of Adjustment and Airport Zoning Board of Adjustment

Please tell us why you are interested in serving on this board or commission.

Would like to improve the attractiveness of businesses coming to the city/airport area for space and aeronautical related purposes

and distribution services

Date: 9/28/2020

Phone: 432-967-3030 (Home)

432-570-1990 (Business)

Email: james.gerety@att.net

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Domino's Pizza Franchisee

What contribution would you most like to make?

Provide viewpoints and feedback from a business perspective that can improve our community.

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

Asa Franchisee of Domino's Pizza I employ over 700 people from Abilene to Pecos. We are proud to own 6 stores in Midland employing over 150 people. I have a desire to serve and give back to the community that has provided our family an opportunity to serve them.

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant

James Gerety

Digitally signed by James Gerety
Date: 2020.09.28 13:04:18 -05'00'

Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433

Submit Via Email

Print Application



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: James "Jim" Murphy

Address: 6300 Chickasaw

Midland TX 79705

(City)

(State)

(Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 29 years.

Professional and/or Community Activities:

Servant leader at Stonegate Fellowship, Troop Dad for daughters Girl Scout Troop, and enjoy helping youth learn more about aviation

What is your personal vision for the City?

My vision for Midland is to help people feel at home in our town as opposed to just being here for work. Also to make our aviation and public transportation infrastructure convenient and safe for all that live in or pass through our city.

Please specify any time constraints you may have.

I am on call 24-7 so things do pop up that are out of my control. Most of the time I can make arrangements that allow me to attend scheduled events.

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Zoning Board of Adjustments & Airport Zoning Board of Adjustments

Please tell us why you are interested in serving on this board or commission.

I have always had an interest in the aviation community and I enjoy serving others. I believe that my experience as a pilot and knowledge of the industry would help our airports better serve the community.

Date: 10/14/2020

Phone: (432) 557-1833 (Home)

(432) 631-2745 (Business)

Email: Jimm.murf@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Assistant District Manager - GNL Crude Transportat

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November 23, 2020

What contribution would you most like to make?

I would like to be a voice for the continued growth of our Air and Spaceport. I believe that we have many people in the community that can fill these roles in the future and help to deversify our economy.

Additional pertinent information or references:

(2) Name of Board/Commission:

Midland Odessa Urban Transit District Board

What contribution would you most like to make?

I would like to help the public transportation system serve the people of Midland in the most effecient and safe manor possible.

Additional pertinent information or references:

I currently work in the transportation industry and have been to several MOTRAN meetings.

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant



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City of Midland

City Secretary's Office

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Midland, TX 79702

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