CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL REGULAR MEETING
May 12, 2026 - 10:00 AM
300 North Loraine
Midland, Texas
Council Chamber - City Hall

A quorum of the City Council intends to be physically present at the aforementioned location.

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

OPENING ITEMS

1. Invocation — Pastor David McReynolds, Stonegate Fellowship Church

2. Pledge of Allegiance

PROCLAMATIONS AND RECOGNITIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:

   3.a Presentation of Certificates of Completion to the graduates of Midland 101 2025-2026 class

CONSENT AGENDA

4. MOTION APPROVING THE FOLLOWING MINUTES:

   4.a REGULAR SESSION OF APRIL 28, 2026

   4.b SPECIAL SESSION OF MAY 5, 2026

5. 2026-067 - RESOLUTION APPROVING THE PURCHASE OF A FLATBED TRAILER FROM BRUCKNER'S TRUCK & EQUIPMENT THROUGH CHOICE PARTNERS FOR A TOTAL COST OF $131,379.00 FOR THE GARAGE DIVISION; AND AUTHORIZING PAYMENT **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

6. 2026-068 - RESOLUTION APPROVING A CONTRACT WITH MID-TEX OF MIDLAND, INC. FOR THE INSTALLATION AND REPLACEMENT OF HVAC UNITS AT THE WATER RECLAMATION FACILITY THROUGH THE INTERLOCAL PURCHASING SYSTEM FOR A TOTAL COST OF $249,492.00; AND AUTHORIZING PAYMENT **(DISTRICT: 2) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

7. 2026-069 - RESOLUTION CANCELLING THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR MAY 26, 2026; AND AUTHORIZING THE MAYOR TO ADMINISTRATIVELY CANCEL CITY COUNCIL MEETINGS **(DISTRICT: NONE) (CITY SECRETARY) (TRANSPARENT & CONSISTENT COMMUNICATION)**

8. 040-2026 - MOTION AUTHORIZING THE EXECUTION OF A REVOCABLE LICENSE AGREEMENT WITH THE STRAIGHT LINE FOUNDATION (THE "FOUNDATION") REGARDING CITY-OWNED PROPERTY DESCRIBED AS BLOCK 7, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS; SAID

REVOCABLE LICENSE AGREEMENT ALLOWING THE FOUNDATION TO HOST AN ART AND MUSIC FESTIVAL ON THE PROPERTY ON MAY 30, 2026 **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

9. 041-2026 - MOTION AUTHORIZING THE EXECUTION OF A REVOCABLE LICENSE AGREEMENT WITH CULTURA WEST REGARDING CITY-OWNED PROPERTY DESCRIBED AS (I) BLOCK 7, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS, (II) THE PORTION OF COLORADO STREET LOCATED NORTH OF OHIO AVENUE AND SOUTH OF TENNESSEE AVENUE, (III) THE PORTION OF TENNESSEE AVENUE LOCATED EAST OF COLORADO STREET AND WEST OF LORAINE STREET, (IV) THE PORTION OF LORAINE STREET LOCATED SOUTH OF TENNESSEE AVENUE AND NORTH OF OHIO AVENUE; AND (V) THE PORTION OF OHIO AVENUE LOCATED WEST OF LORAINE STREET AND EAST OF COLORADO STREET; SAID REVOCABLE LICENSE AGREEMENT ALLOWING CULTURA WEST TO HOST AN ART AND MUSIC FESTIVAL ON THE PROPERTY ON JUNE 20, 2026 **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

10. 042-2026 - MOTION AUTHORIZING THE ACCEPTANCE OF REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES IN THE AMOUNT OF $105,462.00 TO ASSIST THE CITY OF MIDLAND WITH THE FUNDING AND DELIVERY OF PUBLIC HEALTH EMERGENCY PREPAREDNESS NECESSITIES AND $150,358.00 TO ASSIST WITH THE FUNDING AND DELIVERY OF IMMUNIZATION SERVICES; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL NECESSARY ACCEPTANCE DOCUMENTS; AND AUTHORIZING AND DIRECTING THE CITY TREASURER TO DEPOSIT SAID FUNDS INTO THE GENERAL FUND **(DISTRICT: ALL) (MIDLAND HEALTH SERVICE) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

11. 043-2026 - MOTION APPROVING THE BYLAWS OF THE CITY OF MIDLAND PARKS AND RECREATION COMMISSION **(DISTRICT: ALL) (PARKS & RECREATION) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

12. 044-2026 - MOTION AUTHORIZING THE EXECUTION OF SPORTS AGREEMENTS WITH THE FOLLOWING ORGANIZATIONS: BOYS AND GIRLS CLUB OF THE PERMIAN BASIN; GREATER MIDLAND FOOTBALL LEAGUE; POW5R SPORTS LEAGUE; MIDLAND JUNIOR BASEBALL ASSOCIATION, INC.; MIDLAND SOCCER ASSOCIATION, INC.; MIDLAND SOFTBALL ASSOCIATION, INC.; MIDLAND UNITED GIRLS SOFTBALL ASSOCIATION; TEXAS CRICKET CLUB; UNDER THE LIGHTS FLAG FOOTBALL LEAGUE; WEST TEXAS BMX; AND THE YMCA OF MIDLAND; SAID AGREEMENTS PROVIDING FOR THE ORGANIZATIONS' ADMINISTRATION OF RECREATIONAL PROGRAMS, SPECIAL EVENTS, AND OTHER RELATED ACTIVITIES THROUGH THE USE OF CERTAIN CITY-OWNED PROPERTY AND FACILITIES **(DISTRICT: ALL) (PARKS & RECREATION) (QUALITY OF LIFE AND PLACE)**

13. 045-2026 - MOTION AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT WITH THE SCHARBAUER FOUNDATION, INC. FOR AN AWARDED $25,000.00 IN GRANT FUNDS TO BE USED FOR THE LIGHTED GINGERBREAD HOUSE DISPLAY WITH FIGURINES AT THE 2026 MIDLAND MERRY LIGHTS **(DISTRICT: 2) (STRATEGIC PARTNERSHIPS OFFICE) (QUALITY OF LIFE AND PLACE)**

14. 046-2026 - MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (26-329-001) WITH PLAINS ORYX PERMIAN BASIN PIPELINE LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 34, BLOCK 38, T-1-N, AND SECTIONS 8 AND 9, BLOCK 38, T-2-S, T&P RR CO. SURVEY,

MIDLAND COUNTY, TEXAS **(DISTRICT: NONE) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

15. 047-2026 - MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (26-329-002) WITH PLAINS ORYX PERMIAN BASIN PIPELINE LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 34, BLOCK 38, T-1-N, AND SECTIONS 5 AND 8, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MARTIN AND MIDLAND COUNTIES, TEXAS **(DISTRICT: NONE) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

SECOND READINGS

16. 10753 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 5,600-SQUARE-FOOT PORTION OF LOT 6A, BLOCK 62, BELMONT ADDITION, SECTION 23, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF EAST INTERSTATE 20, APPROXIMATELY 475 FEET WEST OF SOUTH TERRELL STREET), WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

17. 10754 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 1,933-SQUARE-FOOT PORTION OF LOT 5A, BLOCK 1, GATEWAY PLAZA, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

18. 10755 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE SOUTH 100 FEET OF LOT 4, BLOCK 17, HALEY HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST TAYLOR AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING

PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

19. 10756 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 4.497-ACRE TRACT OF LAND OUT OF LOT 10, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 39, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF DEAUVILLE BOULEVARD, APPROXIMATELY 285 FEET WEST OF GRIFFITH DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

20. 10757 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 25,016-SQUARE FOOT PORTION OF A 4.497-ACRE TRACT OF LAND OUT OF LOT 10, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 39, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF DEAUVILLE BOULEVARD, APPROXIMATELY 285 FEET WEST OF GRIFFITH DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

21. 10758 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE MIDDLE 50 FEET OF LOT 2, BLOCK 73, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LI, LIGHT INDUSTRIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH MARSHALL STREET, APPROXIMATELY 95 FEET NORTH OF EAST MISSOURI AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

22. 10759 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE BLOCK 69, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-2, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF EAST CUTHBERT AVENUE AND NORTH TILDEN STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

23. 10760 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 2 AND 3, BLOCK 92, ORIGINAL TOWN

ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM CB, CENTRAL BUSINESS DISTRICT TO C, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH MARIENFELD STREET, APPROXIMATELY 75 FEET SOUTH OF WEST INDIANA AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

24. 10761 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.578-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK E, JOHNSON-MORAN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LR, LOCAL RETAIL DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ANDREWS HIGHWAY AND WARD STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

25. 10762 - AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE WEST 23.2 FEET OF LOT 5 AND THE EAST 87.6 FEET OF LOT 6, BLOCK 6, MA MAR TERRACE, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SHELL AVENUE AND CESSNA DRIVE), BY PERMITTING A REDUCED MINIMUM FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026) **(DISTRICT: 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

PUBLIC HEARINGS

The City Council will hold public hearings on the following items:

26. 10763 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR AN 8,822-SQUARE-FOOT PORTION OF LOT 1, BLOCK 12, WESTRIDGE PARK ADDITION, SECTION 49, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF DEAUVILLE BOULEVARD AND AVALON DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

27. 10764 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 10 AND 11, BLOCK 2, SOLOMON ESTATES, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE SOUTHEAST

CORNER OF THE INTERSECTION OF NORTH A STREET AND MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

28. 10765 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 3.03-ACRE TRACT OF LAND OUT OF GREEN HILL TERRACE, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF THE INTERSECTION OF HOLIDAY HILL ROAD AND BECKER DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

29. 048-2026 - HOLD A PUBLIC HEARING IN ORDER FOR THE CITY OF MIDLAND TO RECEIVE PUBLIC COMMENTS, GUIDANCE AND RECOMMENDATIONS REGARDING THE 2026-2027 CDBG GRANT APPLICATION SUBMISSIONS AND THE FIRST YEAR ACTION PLAN IN ACCORDANCE WITH THE FIVE-YEAR CONSOLIDATED PLAN 2025-2030 (PUBLIC HEARING ONLY) **(DISTRICT: ALL) (DEVELOPMENT SERVICES - COMMUNITY SERVICES) (TRANSPARENT & CONSISTENT COMMUNICATION)**

30. 2026-070 - RESOLUTION OF THE CITY COUNCIL OF MIDLAND, TEXAS, MAKING CERTAIN FINDINGS, PURSUANT TO CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE, THAT THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO THE USE OF AN APPROXIMATE 1.928-ACRE TRACT LOCATED IN LOT 11A, BLOCK 7, HALEY HEIGHTS, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF GOODE STREET AND GRIFFIN AVENUE); MAKING CERTAIN FINDINGS REGARDING THE LEASE OF SAID PROPERTY TO BOYS & GIRLS CLUB OF THE PERMIAN BASIN; AND AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT WITH BOYS & GIRLS CLUB OF THE PERMIAN BASIN **(DISTRICT: 2) (PARKS & RECREATION) (QUALITY OF LIFE AND PLACE)**

MISCELLANEOUS

31. - MOTION MAKING APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS **(DISTRICT: ALL) (CITY SECRETARY) (TRANSPARENT & CONSISTENT COMMUNICATION)**

STAFF PRESENTATIONS

32. Fiscal Year 2026- Roads Update

PUBLIC COMMENT

33. Receive public comments where individuals may address the City Council on City related issues and projects not on the present agenda. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting. (Please limit comments to three minutes or less.)

EXECUTIVE SESSION

34. 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:

34.a **Section 551.071, Consultation with Attorney**

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.

Discuss pending or contemplated litigation.

34.b **Section 551.072, Deliberation Regarding Real Property**

Discuss the purchase, exchange, lease, or value of real property.

34.c **Section 551.074, Personnel Matters**

Deliberate the employment, evaluation, and duties of the City Manager, City Attorney, City Secretary, Municipal Court Presiding Judge, and Municipal Court Associate Judge.

34.d **Section 551.087, Deliberation Regarding Economic Development Negotiations**

Discuss business prospects that the City seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Respectfully Submitted

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Tommy Gonzalez
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 OF MIDLAND, TEXAS
MINUTES FOR CITY COUNCIL REGULAR MEETING
April 28, 2026 - 10:00 AM

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 AM, April 28, 2026.

Council Members present: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman

Council Members absent: Jack Ladd

Staff members present: City Manager Tommy Gonzalez, City Attorney Nicholas Toulet-Crump, City Governance Officer/City Secretary Marcia Bentley-German, Deputy City Manager Morris Williams Jr., Deputy City Manager Jose Ortiz

OPENING ITEMS

Mayor Blong called the meeting to order at 10:00 a.m.

1. Invocation — Pastor Carlos Rodriguez, Real Church
2. Pledge of Allegiance

PROCLAMATIONS AND RECOGNITIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:

   3.a Presentation of winners for the 2026 Vision Zero Youth Art & Video Contest

CONSENT AGENDA

John Burkholder moved to Approve Consent Agenda items 4-23, excluding items 10, 12, 14, 15, 17, 18, 19 & 20; seconded by Amy Stretcher Burkes.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

4. MOTION APPROVING THE FOLLOWING MINUTES:

   4.a REGULAR SESSION OF APRIL 14, 2026

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5. 2026-052 - RESOLUTION APPROVING THE PURCHASE OF FIRE HYDRANTS OF VARIOUS SIZES AND IN ASSORTED QUANTITIES FROM PREMIER WATERWORKS, INC. FOR A TOTAL COST OF $173,804.00; AND AUTHORIZING PAYMENT **(DISTRICT: NONE) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

6. 2026-053 - RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH KEMP GOLF COURSE DESIGN, LLC IN AN AMOUNT NOT TO EXCEED $475,000.00 FOR PROFESSIONAL SERVICES NECESSARY FOR THE RENOVATION OF THE ROADRUNNER GOLF COURSE AND THE ADDITION OF FIVE (5) PRACTICE HOLES AT THE COURSES AT HOGAN PARK; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT **(DISTRICT: 2) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

7. 2026-054 - RESOLUTION APPROVING THE PURCHASE OF SIX REFUSE TRUCKS FROM BDR PREFERRED HOLDINGS, LLC D/B/A ROBERTS TRUCK CENTER THROUGH SOURCEWELL AT A TOTAL COST OF $1,867,442.26; AND AUTHORIZING PAYMENT **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

8. 2026-055 - RESOLUTION AUTHORIZING THE PURCHASE OF VARIOUS VEHICLES FOR THE GENERAL SERVICES DEPARTMENT FOR A TOTAL COST OF $1,733,792.14; AND AUTHORIZING PAYMENT **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

9. 2026-056 - RESOLUTION AWARDING A CONTRACT FOR THE FISCAL YEAR 2026 MICRO-SURFACING AND SLURRY SEAL PROJECT TO VSS INTERNATIONAL, INC. OF WEST SACRAMENTO, CALIFORNIA, AT A TOTAL COST OF $1,190,120.00; APPROVING $178,518.00 FOR CONTINGENCIES; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT **(DISTRICT: ALL) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

10. 2026-057 - RESOLUTION RATIFYING AND APPROVING EMERGENCY CLEANUP SERVICES ASSOCIATED WITH THE FAILURE OF A CERTAIN WASTEWATER LINE THAT WERE PERFORMED BY BASIN TRUCKING AND OILFIELD SERVICES LLC FOR A TOTAL COST OF $388,080.00; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT **(DISTRICT: 2) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

Public Works Officer & Utilities Director Carl Craigo explained how waste water was able to get into the Draw. An environmental company was called and moved quickly to help resolve the situation. Texas Commission on Environmental Quality (TCEQ) was involved by providing direction for clean-up.

John Norman moved to Approve; seconded by Brian Stubbs.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None

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ABSTAIN: None
ABSENT: Jack Ladd

11. 2026-058 - RESOLUTION REJECTING THE SOLE PROPOSAL RECEIVED FOR THE LOOP 250 NORTH AND BIG SPRING STREET DRAINAGE ENHANCEMENTS PROJECT FOR THE UTILITIES DEPARTMENT **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

12. 2026-059 - RESOLUTION APPROVING A CONTRACT WITH CXT INCORPORATED FOR THE CONSTRUCTION AND INSTALLATION OF A RESTROOM FACILITY ON THE QUAIL COURSE AT THE COURSES AT HOGAN PARK THROUGH SOURCEWELL FOR A TOTAL COST OF $138,006.25; APPROVING $25,000.00 FOR PROJECT-RELATED COSTS; AND AUTHORIZING PAYMENT **(DISTRICT: 2) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

Council Member John Burkholder reported the city came in under budget by $110,000 for this project and thanked Parks & Recreation Director Laurie Williams and her team for the work that was done.

John Burkholder moved to Approve; seconded by Amy Stretcher Burkes.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

13. 2026-060 - RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH FREESE AND NICHOLS, INC. FOR ENGINEERING SUPPORT SERVICES ASSOCIATED WITH THE CHLORINE SCRUBBER REPLACEMENT PROJECT FOR A TOTAL COST OF $263,319.00; TRANSFERRING FUNDS; AND AUTHORIZING PAYMENT **(DISTRICT: 3) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

14. 2026-061 - RESOLUTION AWARDING A CONTRACT FOR THE CONSTRUCTION OF THE MIDLAND AIRPARK ENTRY ROAD ENHANCEMENTS PROJECT TO FNF CONSTRUCTION, INC. AT A TOTAL COST OF $7,710,296.50; APPROVING $1,642,059.10 FOR CONTINGENCIES; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT **(DISTRICT: 4) (AIRPORTS) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

Council Member Robin Poole pulled this item to explain project delays. This project received one bid that was substantially higher than the projected cost. After some re-engineering changes, they went back out for bid and came in under budget. One million dollars will be paid out of the City's general fund for drainage improvement.

Aviation Director Justine Ruff reported the original scope of the project was to redo the entrance to Airpark since it is a low-water crossing. In order to do this, a temporary road costing one million dollars would need to be put in place. After re-engineering the project and adding a

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second entrance there will be no need for a temporary road.

Council Member Robin Poole reported the second entrance will benefit future hanger development. Since the contractor specializes in bridges, the City is also able to have a bridge put in at a reasonable price.

Robin Poole moved to Approve; seconded by John Burkholder.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

15. 036-2026 - MOTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND MIDLAND 2025 MSO, LLC REGARDING THE DEVELOPMENT OF A VETERINARY AND SURGICAL DIAGNOSTIC HOSPITAL **(DISTRICT: 4) (CITY MANAGER) (STRONG ECONOMY WITH MORE QUALITY JOBS)**

Midland Development Corporation (MDC) Executive Director Sara Harris reported that the Economic Development agreement with Midland MSO 2025 is to bring a veterinary diagnostic & surgical hospital to West Midland. Under this agreement, there will be 32 new jobs created, including five new veterinarians.

Mayor Blong reported there is a need for more veterinary care in Midland.

Mrs. Harris reported the North American Industry Classification System (NAICS) code for veterinary hospitals is 541940. This is one of the NAICS codes listed in the Texas Government Code, Chapter 501 as being a primary job, qualified by the State, to receive job creation incentives from Type A corporations.

Council Member Robin Poole pointed out that this is a regional project, so service will be provided to the surrounding areas.

Mrs. Harris reported the entity does have a hospital in Big Spring, so this will help keep services locally while also providing service to those in the surrounding area.

Mayor Pro Tem Amy Stretcher Burkes pointed out that there are claw backs in place.

Mrs. Harris reported the incentive is capped at $160,000 and will be disbursed as jobs are created and maintained. If performance is not maintained, there are claw backs. The agreement is also tied to the construction and maintenance of the facility at a specific location in Midland and a minimum amount of capital investment for that facility.

Robin Campbell (Citizen) reported she attended the MDC meeting when this item was discussed, didn't see veterinary hospitals within the type A portion of the NAICS code and would

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like it shown to her. Mrs. Campbell reported that MDC's job is not to create jobs but to diversify the economy and that the City of Midland has enough jobs. Mrs. Campbell would like her concerns to be looked into.

City Attorney Nicholas Toulet-Crump reported the NAICS code 5419, which relates to other professional scientific and technical services, is the sector for veterinary services and may also be found on Google.

Council Member John Burkholder requested that the NAICS code be expounded upon.

Mrs. Harris reported Texas Local Government Code Chapter 501 list NAICS codes that the State defines as primary jobs that Type A development corporations can incentivize. Sector 5419 is listed, and veterinary hospitals fall under that sector as 541940 which is a permissible use of funds.

Amy Stretcher Burkes moved to Approve; seconded by Brian Stubbs.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

16. 2026-062 - RESOLUTION APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (“TXDOT”) REGARDING THE INSTALLATION OF AN ARTIFICIAL INTELLIGENCE PRODUCT FOR ADAPTIVE SIGNAL TIMING AT FIVE INTERSECTIONS IN MIDLAND AND FIVE INTERSECTIONS IN ODESSA ALONG STATE HIGHWAY 191 (THE “PROJECT”); THE TOTAL ESTIMATED COST OF THE PROJECT BEING $156,250.00, WITH THE CITY OF MIDLAND’S ESTIMATED COST BEING $78,125.00 AND THE CITY OF ODESSA’S ESTIMATED COST BEING $78,125.00; THE TOTAL ESTIMATED COST OF THE PROJECT TO BE REIMBURSED BY A STATE TRANSPORTATION INNOVATION COUNCIL GRANT; AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE CITY OF ODESSA PROVIDING FOR THE CITY OF ODESSA’S COMPLETION OF THE PORTION OF THE PROJECT THAT IS LOCATED IN ODESSA; TRANSFERRING AND APPROPRIATING FUNDS; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY A COPY OF THIS RESOLUTION TO TXDOT **(DISTRICT: 3), (DISTRICT: 4) (ENGINEERING SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

17. 2026-063 - RESOLUTION SUPERSEDING AND REPLACING RESOLUTION 2025-020; AUTHORIZING THE SUBMISSION OF APPLICATION NO. 5362301 TO THE OFFICE OF THE GOVERNOR FOR THE FISCAL YEAR 2026 STATE AND LOCAL CYBERSECURITY GRANT PROGRAM (OBJECTIVE 1 – GOVERNANCE AND PLANNING) FOR GRANT FUNDS TOTALING $24,000.00; SAID GRANT FUNDS, IF AWARDED, SHALL BE USED FOR THE BUSINESS CONTINUITY AND DISASTER RECOVERY PLAN PROJECT; APPROVING LOCAL MATCHING FUNDS IN THE AMOUNT OF $4,800.00; AGREEING THAT IN THE EVENT OF LOSS OR MISUSE

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OF OFFICE OF THE GOVERNOR FUNDS, THAT THE FUNDS WILL BE RETURNED IN FULL TO THE OFFICE OF THE GOVERNOR; DESIGNATING THE CITY COMPTROLLER AS THE AUTHORIZED OFFICIAL REPRESENTING THE CITY; AND AUTHORIZING THE CITY MANAGER, THE FINANCE DIRECTOR, THE CHIEF INFORMATION OFFICER, THE GRANT WRITER, AND THE AUTHORIZED OFFICIAL TO EXECUTE ALL NECESSARY DOCUMENTS TO ACCEPT, DENY, OR MODIFY ALL ASPECTS OF THE GRANT **(DISTRICT: ALL) (IT) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

Item pulled, no action taken by Council.

18. 2026-064 - RESOLUTION SUPERSEDING AND REPLACING RESOLUTION 2025-023; AUTHORIZING THE SUBMISSION OF APPLICATION NO. 5329201 TO THE OFFICE OF THE GOVERNOR FOR THE FISCAL YEAR 2026 STATE AND LOCAL CYBERSECURITY GRANT PROGRAM (OBJECTIVE 2 – ASSESSMENT AND EVALUATION) FOR GRANT FUNDS TOTALING $28,800.00; SAID GRANT FUNDS, IF AWARDED, SHALL BE USED FOR THE CYBER RISK MANAGEMENT AND THREAT MONITORING PROJECT; APPROVING LOCAL MATCHING FUNDS IN THE AMOUNT OF $5,760.00; AGREEING THAT IN THE EVENT OF LOSS OR MISUSE OF OFFICE OF THE GOVERNOR FUNDS, THAT THE FUNDS WILL BE RETURNED IN FULL TO THE OFFICE OF THE GOVERNOR; DESIGNATING THE CITY COMPTROLLER AS THE AUTHORIZED OFFICIAL REPRESENTING THE CITY; AND AUTHORIZING THE CITY MANAGER, THE FINANCE DIRECTOR, THE CHIEF INFORMATION OFFICER, THE GRANT WRITER, AND THE AUTHORIZED OFFICIAL TO EXECUTE ALL NECESSARY DOCUMENTS TO ACCEPT, DENY, OR MODIFY ALL ASPECTS OF THE GRANT **(DISTRICT: ALL) (IT) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

Item pulled, no action taken by Council.

19. 2026-065 - RESOLUTION SUPERSEDING AND REPLACING RESOLUTION 2025-022; AUTHORIZING THE SUBMISSION OF APPLICATION NO. 5362101 TO THE OFFICE OF THE GOVERNOR FOR THE FISCAL YEAR 2026 STATE AND LOCAL CYBERSECURITY GRANT PROGRAM (OBJECTIVE 3 – MITIGATION) FOR GRANT FUNDS TOTALING $132,960.00; SAID GRANT FUNDS, IF AWARDED, SHALL BE USED FOR THE ENDPOINT VULNERABILITY AND PATCH MANAGEMENT PROJECT; APPROVING LOCAL MATCHING FUNDS IN THE AMOUNT OF $26,592.00; AGREEING THAT IN THE EVENT OF LOSS OR MISUSE OF OFFICE OF THE GOVERNOR FUNDS, THAT THE FUNDS WILL BE RETURNED IN FULL TO THE OFFICE OF THE GOVERNOR; DESIGNATING THE CITY COMPTROLLER AS THE AUTHORIZED OFFICIAL REPRESENTING THE CITY; AND AUTHORIZING THE CITY MANAGER, THE FINANCE DIRECTOR, THE CHIEF INFORMATION OFFICER, THE GRANT WRITER, AND THE AUTHORIZED OFFICIAL TO EXECUTE ALL NECESSARY DOCUMENTS TO ACCEPT, DENY, OR MODIFY ALL ASPECTS OF THE GRANT **(DISTRICT: ALL) (IT) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

Item pulled, no action taken by Council.

20. 2026-066 - RESOLUTION SUPERSEDING AND REPLACING RESOLUTION 2025-021; AUTHORIZING THE SUBMISSION OF APPLICATION NO. 5362201 TO THE

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OFFICE OF THE GOVERNOR FOR THE FISCAL YEAR 2026 STATE AND LOCAL CYBERSECURITY GRANT PROGRAM (OBJECTIVE 4 – WORKFORCE DEVELOPMENT) FOR GRANT FUNDS TOTALING $10,000.00; SAID GRANT FUNDS, IF AWARDED, SHALL BE USED FOR THE CYBERSECURITY AND IT SKILLS TRAINING PROGRAM PROJECT; APPROVING LOCAL MATCHING FUNDS IN THE AMOUNT OF $2,000.00; AGREEING THAT IN THE EVENT OF LOSS OR MISUSE OF OFFICE OF THE GOVERNOR FUNDS, THAT THE FUNDS WILL BE RETURNED IN FULL TO THE OFFICE OF THE GOVERNOR; DESIGNATING THE CITY COMPTROLLER AS THE AUTHORIZED OFFICIAL REPRESENTING THE CITY; AND AUTHORIZING THE CITY MANAGER, THE FINANCE DIRECTOR, THE CHIEF INFORMATION OFFICER, THE GRANT WRITER, AND THE AUTHORIZED OFFICIAL TO EXECUTE ALL NECESSARY DOCUMENTS TO ACCEPT, DENY, OR MODIFY ALL ASPECTS OF THE GRANT **(DISTRICT: ALL) (IT) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

Item pulled, no action taken by Council.

21. 037-2026 - MOTION AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE RIGHT-OF-WAY LICENSE (26-329-017) WITH HUGH BRINSON PIPELINE LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 9, BLOCK 37, T-3-S, T&P RR CO. SURVEY, MIDLAND AND GLASSCOCK COUNTIES, TEXAS **(DISTRICT: NONE) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

22. 038-2026 - MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (26-329-015) BETWEEN THE CITY OF MIDLAND AND ET-S PERMIAN PIPELINE COMPANY LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 8 AND 9, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS **(DISTRICT: NONE) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

23. 039-2026 - MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (26-329-016) BETWEEN THE CITY OF MIDLAND AND MID-STATES OPERATING COMPANY REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 15, BLOCK 37, T-2-S, ABSTRACT 1080, ET HOPKINS SURVEY, MIDLAND COUNTY, TEXAS **(DISTRICT: NONE) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

SECOND READINGS

24. 10745 - AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 7, BLOCK 22, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH DALLAS STREET AND EAST MICHIGAN AVENUE), BY PERMITTING A REDUCED MINIMUM LOT WIDTH IN THE EVENT THAT THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND IS AMENDED TO REZONE THE LOT FROM C, COMMERCIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE

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CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; ANDORDERING PUBLICATION (FIRST READING HELD APRIL 14, 2026) **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10745.

John Norman moved to Approve; seconded by Amy Stretcher Burkes.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

25. 10746 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 7, BLOCK 22, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH DALLAS STREET AND EAST MICHIGAN AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 14, 2026) **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10746.

John Norman moved to Approve; seconded by Amy Stretcher Burkes.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

26. 10747 - AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 5 AND THE WEST 36 FEET OF LOT 6, BLOCK 2, THE BEDFORD PLACE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH H STREET AND BEDFORD DRIVE), BY PERMITTING (1) A REDUCED MINIMUM SIDE YARD SETBACK ON THE WEST SIDE OF THE PROPERTY AND (2) A REDUCED MINIMUM REAR YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (FIRST READING HELD APRIL 14, 2026) **(DISTRICT: 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10747.

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Amy Stretcher Burkes moved to Approve; seconded by Robin Poole.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

27. 10751 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOTS 1 THROUGH 4, BLOCK 45, COWDEN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND LIDDON AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 14, 2026) **(DISTRICT: 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10751.

Amy Stretcher Burkes moved to Approve; seconded by John Burkholder.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

28. 10752 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 3,800-SQUARE FOOT PORTION OF LOT 6A, BLOCK 2, AMARON ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF RANKIN HIGHWAY, APPROXIMATELY 250 FEET NORTH OF CRUMP STREET), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 14, 2026) **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

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Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10752.

Amy Stretcher Burkes moved to Approve; seconded by John Norman.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

PUBLIC HEARINGS

The City Council will hold public hearings on the following items:

29. 10753 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 5,600-SQUARE-FOOT PORTION OF LOT 6A, BLOCK 62, BELMONT ADDITION, SECTION 23, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF EAST INTERSTATE 20, APPROXIMATELY 475 FEET WEST OF SOUTH TERRELL STREET), WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10753.

Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is for a Specific Use Designation (SUD) for the sale of alcohol.

Mayor Blong opened the public hearing at 10:37 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to Approve; seconded by Amy Stretcher Burkes.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

30. 10754 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A

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1,933-SQUARE-FOOT PORTION OF LOT 5A, BLOCK 1, GATEWAY PLAZA, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10754.

Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is for a (SUD) for the sale of alcohol.

Mayor Blong opened the public hearing at 10:38 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Burkholder moved to Approve; seconded by Brian Stubbs.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

31. 10755 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE SOUTH 100 FEET OF LOT 4, BLOCK 17, HALEY HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST TAYLOR AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10755.

Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is for a (SUD) for the sale of alcohol.

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Mayor Blong opened the public hearing at 10:40 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to Approve; seconded by Amy Stretcher Burkes.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

32. 10756 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 4.497-ACRE TRACT OF LAND OUT OF LOT 10, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 39, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF DEAUVILLE BOULEVARD, APPROXIMATELY 285 FEET WEST OF GRIFFITH DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10756.

Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is a rezone request. Mrs. Triggs explained the reasoning behind the request to rezone.

Council Member Brian Stubbs inquired at what point will a traffic study be conducted.

Mrs. Triggs reported the next steps will be to have discussions with the builder as there are covenants and deed restrictions that hold developers to design standards that the city does not control.

Mayor Blong opened the public hearing at 10:45 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Angel Robinson and Jill Valachovic (Representatives) were in attendance to speak only if necessary.

John Burkholder moved to Approve; seconded by Brian Stubbs.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

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33. 10757 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 25,016-SQUARE FOOT PORTION OF A 4.497-ACRE TRACT OF LAND OUT OF LOT 10, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 39, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF DEAUVILLE BOULEVARD, APPROXIMATELY 285 FEET WEST OF GRIFFITH DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10757.

Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is for a (SUD) for the sale of alcohol at Dave & Buster's.

Mayor Blong opened the public hearing at 10:47 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Angel Robinson and Jill Valachovic (Representatives) were in attendance to speak only if necessary.

Brian Stubbs moved to Approve; seconded by Robin Poole.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

34. 10758 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE MIDDLE 50 FEET OF LOT 2, BLOCK 73, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LI, LIGHT INDUSTRIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH MARSHALL STREET, APPROXIMATELY 95 FEET NORTH OF EAST MISSOURI AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10758.

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Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is a rezone request.

Mayor Blong opened the public hearing at 10:49 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to Approve; seconded by John Burkholder.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

35. 10759 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE BLOCK 69, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-2, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF EAST CUTHBERT AVENUE AND NORTH TILDEN STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10759.

Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is a request to change from commercial to single family zoning. Mrs. Triggs reported that if 75 percent or more of the block does not have a sidewalk, the property owner, whether it's commercial or residential, is not required to take care of that need.

Council Member John Burkholder inquired if the city has plans to do the sidewalks.

Deputy City Manager Jose Ortiz reported this area is a future candidate for the Compass project to develop platted lots. However, more investigation will be needed due to flood plain issues further south, which does not impact this development.

Council Member Brian Stubbs inquired if the City has the easements between the properties and can enforcements begin.

Mr. Ortiz reported this property is not affected but that some of these lots are owned by Habitat for Humanity. More research will be conducted for future development.

Mayor Pro Tem Amy Stretcher Burkes inquired why sidewalks are not required and suggested the city explore requiring developers to include them as a part of their site plan.

Deputy City Manager Jose Ortiz reported that the reason we cannot add sidewalks for this project is because there is currently no curb and gutter. There is also asphalt that needs to be

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re-paved so it would be to much for one area to take on.

Council Member John Norman reported this has been done on the south side in certain areas. Asphalt was put in first, then curb and gutter and then sidewalks. The asphalt and curb and gutter will need to be in place before requiring the developers to put in sidewalks.

Council Member Robin Poole reported a concern is that the Compass funds only go so far and that the City should find other ways to expedite some of the projects beyond Compass funding.

Mrs. Triggs reported that if the developer chooses to peruse future development, more discussions will be needed to move forward.

Mayor Blong opened the public hearing at 10:57 a.m.

Former Council Member John Love (Representative) thanked Council for their service and noted their concerns. Mr. Love reported it does not make sense to put sidewalks in and have to tear them out later. Mr. Love also addressed the objection that it should remain commercial and that if the block is developed, the developer should participate with water and sewer. However, water and sewer are already in place. Mr. Love then provided a brief history of the area.

Mayor Blong explained why funds came back or are waived. The zone change came about at no fault of the ownership of the area. It only seemed fair to return the fees.

There being no one else wishing to speak, the public hearing was closed at 11:00 a.m.

John Norman moved to Approve; seconded by John Burkholder.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

36. 10760 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 2 AND 3, BLOCK 92, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM CB, CENTRAL BUSINESS DISTRICT TO C, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH MARIENFELD STREET, APPROXIMATELY 75 FEET SOUTH OF WEST INDIANA AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10760.

Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is a rezone request. One letter of objection was received for not aligning with the neighborhood and landscaping. Mrs. Triggs reported that landscaping is required in the area.

DRAFT

Mayor Blong reported that this is revitalizing the area near Susie's South Forty.

Council Member Robin Poole reported landscaping will be nice in the area and that it needs to be enforced.

Council Member John Burkholder reported he too would like to make sure landscaping is completed and pointed out that there is another paint & body shop a block over.

Mayor Blong opened the public hearing at 11:05 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to Approve; seconded by John Burkholder.

The motion Passed by the following vote:
AYE: John Burkholder, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: Amy Stretcher Burkes
ABSTAIN: None
ABSENT: Jack Ladd

37. 10761 - AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.578-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK E, JOHNSON-MORAN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LR, LOCAL RETAIL DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ANDREWS HIGHWAY AND WARD STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION **(DISTRICT: 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10761.

Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is a rezone request. The Long John Silver's property drive-through window is being reconstructed.

Mayor Blong opened the public hearing at 11:07 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Burkholder moved to Approve; seconded by John Norman.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

38. 10762 - AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE WEST

DRAFT

23.2 FEET OF LOT 5 AND THE EAST 87.6 FEET OF LOT 6, BLOCK 6, MA MAR TERRACE, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SHELL AVENUE AND CESSNA DRIVE), BY PERMITTING A REDUCED MINIMUM FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION **(DISTRICT: 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Assistant City Secretary Rachel Guentensberger read the caption of Ordinance No. 10762.

Chief Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting, this is for a special exception to permit a reduced minimum front yard setback.

Mayor Blong opened the public hearing at 11:08 a.m.

Sylvia Elliott, (Homeowner), reported she is looking to add space to the front of the house to expand the closet. The setback request is to make sure they have room to add curb appeal items.

There being no one else wishing to speak, the public hearing was closed at 11:09 a.m.

John Burkholder moved to Approve; seconded by Amy Stretcher Burkes.

The motion Passed by the following vote:
AYE: John Burkholder, Amy Stretcher Burkes, Robin Poole, Lori Blong, Brian Stubbs, John Norman
NAY: None
ABSTAIN: None
ABSENT: Jack Ladd

STAFF PRESENTATIONS

39. Presentation by the Finance Department regarding Investment in Public Safety

Chief Financial Officer Christy Weakland gave a brief presentation/budget update of investment in Public Safety.

The entire presentation may be viewed at https://midlandtx.new.swagit.com/videos/384185.

PUBLIC COMMENT

40. Receive public comments where individuals may address the City Council on City related issues and projects not on the present agenda. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting. (Please limit comments to three minutes or less.)

DRAFT

Nino Rodriquez (Citizen) read comments that former Council Member Scott Dufford posted on social media. Mr. Rodriquez also spoke on crime in Midland, side businesses of City Manager Tommy Gonzalez and the Quality Texas Foundation just to name a few.

Robin Campbell (Citizen) reported on and read about Type A and Type B projects. Mrs. Campbell reported that the Omni Hotel is a Type B project and wants an item on the agenda about this.

Judd Campbell (Citizen) thanked Council Member John Norman for comments he made at the last Council Meeting and raised concerns regarding the legality of the Omni Hotel project.

The entire Council meeting may be viewed/heard at
https://midlandtx.new.swagit.com/videos/384185.

EXECUTIVE SESSION

Mayor Blong recessed the City Council meeting to go into Executive Session at 11:32 a.m.

41. 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:

41.a **Section 551.071, Consultation with Attorney**

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.

Discuss pending or contemplated litigation.

41.b **Section 551.072, Deliberation Regarding Real Property**

Discuss the purchase, exchange, lease, or value of real property.

41.c **Section 551.074, Personnel Matters**

Deliberate the employment, evaluation, and duties of the City Manager, City Attorney, City Secretary, Municipal Court Presiding Judge, and Municipal Court Associate Judge.

41.d **Section 551.087, Deliberation Regarding Economic Development Negotiations**

Discuss business prospects that the City seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

All the business at hand having been completed, the meeting adjourned at 1:45p.m.

DRAFT

PASSED AND APPROVED May 12, 2026.

_____
Lori Blong, Mayor

ATTEST:

_____
Marcia Bentley-German
City Governance Officer/City Secretary

DRAFT

City Council Meeting

Item Number: b.
Meeting Date: May 12, 2026
To: City Council
From:
Subject: SPECIAL SESSION OF MAY 5, 2026

Purpose:

Recommended Action:

Fiscal Impact:

Strategic Priority:

Discussion:

Attachments:
A. Minutes 2026-05-05 Citizens Collection Station

Jan Hamilton, City Secretary — Created/Initiated - 5/5/2026
Jan Hamilton, City Secretary — Final Approval - 5/5/2026

CITY OF MIDLAND, TEXAS
MIDLAND CITY COUNCIL
SPECIAL MINUTES
May 5, 2026

The City Council convened in **Special** Session at the Citizens Collection Station site located at 6400 West Hwy 80, Midland, Tx 79706, at 10:45 AM, Tuesday, May 5, 2026.

Council Members present: Lori Blong, Amy Stretcher Burkes, Brian Stubbs, Robin Poole

Council Members absent: John Norman, Jack Ladd, John Burkholder

Staff members present: Deputy City Manager Morris Williams Jr., City Governance Officer/ City Secretary Marcia Bentley-German, Chief of Staff Taylor Novak, Solid Waste Management Director Jeffery Ahrlett

The meeting was called to order at 10:45 a.m.

SPECIAL SESSION

1. Hold a ribbon cutting ceremony for the Citizens Collection Station. The Midland City Council will take no vote or action on this matter.

   City Council Members, City of Midland staff, community members and media all gathered for the ribbon cutting ceremony for the Citizens Collection Station.

All the business at hand having been completed, the meeting adjourned at 10:56 a.m.

PASSED AND APPROVED May 12, 2026.

_____
Lori Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Governance Officer/City Secretary

City Council Meeting

Item Number: 5.
Meeting Date: May 12, 2026
To: City Council
From: Erika Munoz, Assistant General Services Director
Subject: RESOLUTION APPROVING THE PURCHASE OF A FLATBED TRAILER FROM BRUCKNER'S TRUCK & EQUIPMENT THROUGH CHOICE PARTNERS FOR A TOTAL COST OF $131,379.00 FOR THE GARAGE DIVISION; AND AUTHORIZING PAYMENT

Purpose:
Resolution approving the purchase of one (1) flatbed trailer from Brucker's Truck & Equipment, through Choice Partners contract #24/019TC-01 for a total cost of $131,379.00 from the Garage Fund Operating Budget for the Garage Division.

Recommended Action:
Approve

Fiscal Impact:
Funds are available in the Garage Fund Operating Budget.

Strategic Priority:
PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT

Discussion:
Staff recommends purchasing one (1) flatbed trailer from Brucker's Truck & Equipment, through Choice Partners contract #24/019TC-01. We are members of Choice Partners and Subchapter F, Section 271.102 of the Local Government Code provides that a local government may participate in a cooperative purchasing program and that purchasing goods or services under Subchapter F satisfies any state law requiring the local government to seek competitive bids for those purchases. The budget for this equipment for fiscal year 2026 is $160,000.00. This equipment is a replacement. Please refer to the memo from Manuel Salinas, Garage Superintendent, for additional information.

Therefore, please consider a resolution approving the purchase of one (1) flatbed trailer from Brucker's Truck & Equipment, through Choice Partners contract #24/019TC-01 for a total cost of $131,379.00.

Attachments:
A. 2026 memo for a flatbed trailer for transportation
B. RESOLUTION WITH EXHIBIT - Flatbed Trailer through Choice Partners Reso w Exh
C. Current and New Photos

D. City of Midland New Landoll 950 30K Winch

Erika Munoz, General Services	Created/Initiated - 5/1/2026
Regina Stephenson, General Services	Approved - 5/1/2026
Christy Weakland, Finance	Approved - 5/1/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

Fleet Services Division

INTEROFFICE MEMORANDUM

TO: Regina Stephenson

FROM: Manuel Eloy Salinas

SUBJECT: Choice Partners Contract #24/019TC-01 Flatbed Trailer

DATE: 04/28/2026

Fleet services are requesting the purchase of (1) one new flatbed trailer that will replace a 1992-year model trailer. This 1992-year model trailer no longer serves a purpose, due to the larger and heavier equipment that needs to be transported to different work sites.

The budgeted amount for FY2026 for the purchase of one flatbed trailer is $160,000.

Bruckner's Truck Equipment has submitted a quote through Choice Partners contract #24/019TC-01 in the amount of $131,379.00 for the purchase of one new flatbed trailer.

Fleet services accept this quote from Bruckner's Truck Equipment, which meets all the specifications.

Sincerely,

Manuel Eloy Salinas

City of Midland Fleet Superintendent

RESOLUTION NO. _____

RESOLUTION APPROVING THE PURCHASE OF A FLATBED TRAILER FROM BRUCKNER'S TRUCK & EQUIPMENT THROUGH CHOICE PARTNERS FOR A TOTAL COST OF $131,379.00 FOR THE GARAGE DIVISION; AND AUTHORIZING PAYMENT

WHEREAS, Choice Partners is a cooperative purchasing agency with which the City participates with on purchases through a cooperative purchasing program in accordance with TEX. LOC. GOV'T CODE § 271.102; and

WHEREAS, Bruckner's Truck & Equipment submitted a total cost to the City of $131,379.00 for the purchase of a flatbed trailer through Choice Partners as shown on the quote attached hereto as Exhibit A, which is incorporated herein for all purposes; and

WHEREAS, the City Council finds the price proposed for the purchase of a flatbed trailer to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to authorize the purchase of a flatbed trailer from Bruckner's Truck & Equipment through Choice Partners;

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

SECTION ONE. That the City Manager is hereby authorized and directed to purchase a flatbed trailer from Bruckner's Truck & Equipment through Choice Partners for a total cost of $131,379.00.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay Bruckner's Truck & Equipment $131,379.00 for said flatbed trailer from funds available in the FY 2026 Garage Fund Operating Budget upon receipt of proper invoices or statements approved by the City Manager or his designee.

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., 2026, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

RECOMMENDED AND APPROVED:

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Regina Stephenson, General Services Director

APPROVED AS TO FORM ONLY:

_____
Nicholas Toulet, City Attorney

Bruckner's Truck & Equipment
Retail Proposal

Financing Available!

Scan QR Code to Complete an Application

Date:	**April 28, 2026**

CUSTOMER INFORMATION			
Name:	**City of Midland**		
Name:			
Address:	**1602 Orchard Ln**		
CSZ:	**Midland, TX 79702**		
Phone:	**(432) 685-7147**	Cell:	
Fax:		Contact:	**Jesse Zamora**
Email:			

EQUIPMENT INFORMATION	
Stock #:	
Year:	
Make:	**Landoll**
Model:	**950-51-15**
VIN:	
Salesperson:	**Grant Aschenbeck**

EQUIPMENT SPECIFICATIONS			
Type:	**Traveling Tail Axle**	X Members:	
Length:	**51'**	Floors:	
Width:		Doors:	
Height:		Posts:	
Front Wheel:		GVWR:	
Rear Wheel:		Tires:	
Suspension:		Add'l Specs:	**15' Tail**
Axle Capacity:		Add'l Specs:	

Includes the Following Local Extras:

Freight to Odessa
Make Ready
DOT

Choice Partners Contract # 24/019TC-01

Upgrade to 30K # Winch

			Each		Amount
Trade-In Information:	Trade 1:	Trade 2:	**$131,074.00**		**$131,074.00**
Allowances:			-		
VIN:					
Year:					
Make:					
Model:					
Payoff:			-		
Quantity	1	Price before TTL	131,074.00		
OTHER CHARGES:					
Federal Retail Excise Tax					
eTag Fee:			**5.00**		**5.00**
Purchase Coverage	Type:				-
Insurance	Type:				-
Doc Fees:			**300.00**		**300.00**
Cash Down Payment:					
TOTAL:			**$131,379.00**		**$131,379.00**

Dealer Signature:_____ Customer Signature:_____

Date:_____ Date:_____

A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents and performing services relating to the closing of a sale. A documentary fee may not exceed $50 for a motor vehicle contract or a reasonable amount agreed to by the parties for a heavy commercial vehicle contract. This notice is required by law.

NOT AN INVOICE

Current:



New:



Bruckner's Truck & Equipment
Retail Proposal

Financing Available!

Scan QR Code to Complete an Application

Date: **April 28, 2026**

CUSTOMER INFORMATION			
Name:	**City of Midland**		
Name:			
Address:	**1602 Orchard Ln**		
CSZ:	**Midland, TX 79702**		
Phone:	**(432) 685-7147**	Cell:	
Fax:		Contact:	**Jesse Zamora**
Email:			

EQUIPMENT INFORMATION	
Stock #:	
Year:	
Make:	**Landoll**
Model:	**950-51-15**
VIN:	
Salesperson:	**Grant Aschenbeck**

EQUIPMENT SPECIFICATIONS			
Type:	**Traveling Tail Axle**	X Members:	
Length:	**51'**	Floors:	
Width:		Doors:	
Height:		Posts:	
Front Wheel:		GVWR:	
Rear Wheel:		Tires:	
Suspension:		Add'l Specs:	**15' Tail**
Axle Capacity:		Add'l Specs:	

Includes the Following Local Extras:

Freight to Odessa
Make Ready
DOT

Choice Partners Contract # 24/019TC-01

Upgrade to 30K # Winch

			Each		Amount
Trade-In Information:	Trade 1:	Trade 2:	**$131,074.00**		**$131,074.00**
Allowances:			-		
VIN:					
Year:					
Make:					
Model:					
Payoff:			-		
Quantity 1		Price before TTL	131,074.00		
OTHER CHARGES:					
Federal Retail Excise Tax					
eTag Fee:			**5.00**		**5.00**
Purchase Coverage	Type: _____				-
Insurance	Type: _____				-
Doc Fees:			**300.00**		**300.00**
Cash Down Payment:					
TOTAL:			**$131,379.00**		**$131,379.00**

Dealer Signature:_____ Customer Signature:_____

Date:_____ Date:_____

A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents and performing services relating to the closing of a sale. A documentary fee may not exceed $50 for a motor vehicle contract or a reasonable amount agreed to by the parties for a heavy commercial vehicle contract. This notice is required by law.

NOT AN INVOICE

City Council Meeting

Item Number: 6.
Meeting Date: May 12, 2026
To: City Council
From: Erika Munoz, Assistant General Services Director
Subject: RESOLUTION APPROVING A CONTRACT WITH MID-TEX OF MIDLAND, INC. FOR THE INSTALLATION AND REPLACEMENT OF HVAC UNITS AT THE WATER RECLAMATION FACILITY THROUGH THE INTERLOCAL PURCHASING SYSTEM FOR A TOTAL COST OF $249,492.00; AND AUTHORIZING PAYMENT

Purpose:
Resolution awarding a contract for the installation and replacement of HVAC units at the Water Reclamation Facility from Mid-Tex of Midland, Inc. through TIPS 24010401 for a total cost of $249,492.00 from the Utilities Fund Operating Budget for the Utilities Department.

Recommended Action:
Approve

Fiscal Impact:
Funds are available in the Utilities Fund Operating Budget.

Strategic Priority:
STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE

Discussion:
Staff is recommending awarding a contract to Mid-Tex of Midland, Inc. of Midland, Texas for the installation and replacement of HVAC units at the Water Reclamation Facility from Mid-Tex of Midland, Inc. through TIPS 24010401. We are members of this cooperative and Subchapter F, Section 271.102 of the Local Government Code provides that a local government may participate in a cooperative purchasing program and that purchasing goods or services under Subchapter F satisfies any state law requiring the local government to seek competitive bids for those purchases. Please see attached memo from Alma McCammond, Assistant Director of Utilities, for additional information.

Therefore, please consider a resolution awarding a contract for the installation and replacement of HVAC units at the Water Reclamation Facility from Mid-Tex of Midland, Inc. through TIPS 24010401 for a total cost of $249,492.00.

Attachments:
A. HVAC Replacement at WRF Memo
B. RESOLUTION - TIPS - HVAC Units Water Reclamation Facility Reso

C. Contract 26004401

Carolina Jimenez, General Services	Created/Initiated - 5/1/2026
Regina Stephenson, General Services	Approved - 5/1/2026
Christy Weakland, Finance	Approved - 5/1/2026
Alyssa Coppens, City Secretary	Approved - 5/1/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

INTEROFFICE MEMORANDUM

To: Erika Munoz, Purchasing Manager

From: Alma McCammond
Date: 4/29/2026

Subject: Approval Request – HVAC Replacements at Wastewater Reclamation Facility (WRF).

Purpose:

To request approval to proceed with the purchase and installation of HVAC units for electrical panels at the Wastewater Reclamation Facility (WRF) through Mid-Tex of Midland in the amount of **$249,492.00**, utilizing The Interlocal Purchasing System (TIPS) cooperative purchasing program.

Background:
As seasonal temperatures increase, the Utilities Department has identified a growing risk to critical equipment at the WRF, specifically within the UV system and screw press operations. These systems are essential for maintaining compliance with Texas Commission on Environmental Quality (TCEQ) permit requirements.

Currently, the electrical panels serving this equipment do not have dedicated cooling systems. Elevated temperatures have required panels to remain open to prevent overheating. This condition presents both a **safety concern** and exposes sensitive instrumentation to environmental elements such as dust and moisture.

Without proper cooling, there is an increased risk of equipment failure, which could result in operational disruptions and potential permit compliance issues. Installation of HVAC units is necessary to protect these critical components and ensure continued reliable operation.

Scope of Work:
The proposed project includes the installation of HVAC units to provide adequate cooling for electrical panels associated with critical treatment systems at the WRF.

Mid-Tex of Midland will serve as the primary contractor, with Bosworth Company performing the installation work.

Justification:

Providing proper environmental control for electrical panels is necessary to protect critical treatment equipment and maintain operational reliability. The UV system and screw presses play a key role in meeting regulatory requirements, and ensuring their continued functionality is essential to maintaining compliance with TCEQ permits.

This project supports **Goal 6: Strengthen and Sustain Our Infrastructure**, specifically **Goal 6.1: Provide Reliable and Sustainable Utilities**, by protecting vital infrastructure and reducing the risk of unplanned failures.

Cost and Funding:

- **Total Cost:** $249,492.00
- **Funding Source:** Utilities Department Operating Funds

Request for Approval:
Approval is requested to proceed with the purchase and installation of HVAC units through Mid-Tex of Midland in the amount of **$249,492.00** via the TIPS cooperative purchasing program for the Utilities Department WRF.

Please let me know if you need any additional documentation or information.

Sincerely,

Alma McCammond
Assistant Utilities Director

RESOLUTION NO. _____

RESOLUTION APPROVING A CONTRACT WITH MID-TEX OF MIDLAND, INC. FOR THE INSTALLATION AND REPLACEMENT OF HVAC UNITS AT THE WATER RECLAMATION FACILITY THROUGH THE INTERLOCAL PURCHASING SYSTEM FOR A TOTAL COST OF $249,492.00; AND AUTHORIZING PAYMENT

WHEREAS, The Interlocal Purchasing System ("TIPS") is a cooperative purchasing agency with which the City of Midland (the "City") participates with on purchases through a cooperative purchasing program in accordance with TEX. LOC. GOV'T CODE § 271.102; and

WHEREAS, Mid-Tex of Midland, Inc. ("Contractor") has submitted a total proposed cost to the City of $249,492.00 for the installation and replacement of HVAC units at the Water Reclamation Facility (the "Project") through TIPS; and

WHEREAS, the Council finds the price proposed by Contractor through TIPS for the Project to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to approve a contract with Contractor for the Project through TIPS;

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a contract with Contractor for the Project through TIPS for a total cost of $249,492.00. Said contract shall be kept on file in the City Secretary's Office and referenced by the date and number of this resolution.

SECTION TWO. That funds shall be available in the Utilities Fund Operating Budget.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Contractor pursuant to the terms of said contract and change orders executed in accordance with this resolution from available funds in the Utilities Fund Operating Budget

upon receipt of proper invoices or statements approved by the City Manager or his designee.

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., 2026, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

RECOMMENDED AND APPROVED:

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Regina Stephenson, General Services Director

APPROVED AS TO FORM ONLY:

_____
Nicholas Toulet, City Attorney

THE CITY OF MIDLAND

CONTRACT

Contract No. 26004401

THIS CONTRACT, effective the 13th day of May 2026, by and between the City of Midland, hereinafter referred to as "CITY", and Mid-Tex of Midland, Inc., hereinafter referred to as "COMPANY", is made for the following considerations:

1. **Cost:** Total Proposal: $ 249,492.00 DOLLARS

2. **Scope of Work:** COMPANY shall perform all work described and shall provide labor, materials, equipment and supervision necessary for the installation and replacement of HVAC unit at Water Reclamation Facility. Said work being more particularly described in the following documents, which are attached hereto and incorporated herein for all purposes.

EXHIBIT A..... Specifications, Proposal or Cost Summary
EXHIBIT B.....Intentionally Omitted
EXHIBIT C..... Bonding instructions for Public Works Contract of $50,000 and more
EXHIBIT D..... Wage Scale

3. **City:** The words "CITY's Representative" or "representative" shall mean Carl Craigo or the designee under whose supervision these contract documents, including the plans and specifications, were prepared, or who may inspect work performed under this Contract; or such other representative, supervisor, or inspector as may be authorized by CITY to act in any particular capacity under this Contract.

4. **City's Representative:** CITY's Representative may make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. CITY's representative will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, nor will such representative be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions incident thereto. CITY's representative will not be responsible for COMPANY's failure to perform the work in accordance with the contract.

5. **Company:** Unless otherwise stipulated, COMPANY shall provide and pay for all materials,

supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by the contract documents. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of a good quality. COMPANY shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

5.1. COMPANY shall, at its expense, obtain all permits and licenses necessary for the performance of this contract and pay all fees and taxes required by law, and comply with all laws, ordinances, rules and regulations governing COMPANY's performance of the contract, including all environmental laws and regulations, whether state or federal.

5.2. All work shall be done and all materials furnished in strict conformity with the contract and specifications.

6. **Minor Work Not Mentioned:** All minor detail of the work not specifically mentioned in the Specifications but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are named in the contract. COMPANY will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise the term "extra work" as used in this contract shall mean and include all work that may be required by CITY to be done by COMPANY to accomplish any alteration or addition to the work as shown on the Specifications.

6.1. COMPANY shall perform all extra work under the direction of CITY's Representative when presented with a written work order signed by CITY's Representative, subject, however, to the right of the COMPANY to require written confirmation of such extra work order by CITY. Payment for extra work shall be as agreed in the work order.

7. **Safety:** COMPANY shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws. All machinery and equipment and other physical hazards shall be guarded in accordance with federal, state or municipal laws or regulations.

8. **INDEMNITY: COMPANY 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 DEATH, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING 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 COMPANY, THEIR AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

8.1. **COMPANY 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 DEATH, PROPERTY DAMAGE, LOSSES, AND EXPENSES OF ANY CHARACTER WHATSOEVER INCLUDING 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 COMPANY OR COMPANY'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 CONTRACT, AND COMPANY WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8.1 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.**

8.2. **COMPANY AGREES THAT IT WILL INDEMNIFY AND SAVE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS AND ALL SUPPLIES, INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS CONTRACT. WHEN CITY SO DESIRES, COMPANY SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREINABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED. COMPANY, ITS SURETIES AND**

INSURANCE CARRIERS SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF COMPANY OR ANY SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS CONTRACT, AND WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES. THE OBLIGATIONS CONTAINED IN THIS SECTION 8.2 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

9. **Start of Work:** COMPANY shall commence work no later than ten (10) days after receipt of the execution of this document or other written release to proceed and shall complete such work no later than 80 calendar days after release to proceed.

10. **Clean Up:** COMPANY shall promptly remove from CITY's premises all materials condemned by CITY's Representative on account of failure to conform to the contract, whether actually incorporated in the work or not, and COMPANY shall at its own expense promptly replace such condemned materials with other materials conforming to the requirements of the contract. COMPANY shall also bear the expense of restoring all work of other contractors damaged by any such removal or replacement. If COMPANY does not remove and replace any such condemned materials within a reasonable time after a written notice by CITY, CITY may remove and replace such at COMPANY's expense.

11. **Warranty:** Neither the final payment nor any provision in this contract shall relieve COMPANY of responsibility for faulty materials or workmanship, and he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1) year from the date of substantial completion. CITY shall give notice of observed defects with reasonable promptness.

12. **Remedy:** CITY may, on account of subsequently discovered evidence, withhold whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:

12.1. Defective work not remedied; or

12.2. Claims filed or reasonable evidence indicating possible filing of claims; or

12.3. Failure of COMPANY to make payments promptly to subcontractors or for material or labor which CITY may pay as an agent for the COMPANY; or

12.4. Damages to another contractor or subcontractor.

When the above grounds to withhold payment are removed, or COMPANY provides a surety bond satisfactory to CITY, which will protect CITY in the amount withheld, payment may be released.

13. **Funding Out:** In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal period for contract payments due under the contract, then this contract shall terminate on the last day of the fiscal period for which full appropriations were made, without penalty or expense to CITY of any kind whatsoever.

14. **Wage Scale:** COMPANY agrees to pay all workmen in his employ no less than the generally prevailing wage rate for employees of similar category in the Permian Basin Area, as is depicted in the wage rate scale attached hereto as EXHIBIT D, and incorporated herein by reference for all legal purposes.

14.1. 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 Contract, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Contract, to which the parties to this Contract have agreed to be bound.

15. **Prompt Pay Act:** CITY and COMPANY agree that Texas Government Code, Chapter 2251, Payment for Goods and Services (the "Prompt Pay Act") does not waive governmental immunity.

16. **Payment:** After all work is completed by COMPANY, including all Change Orders altering the original scope and amount of said contract are completed, and CITY has inspected and approved that the work is completed and in compliance with the contract and all subsequent Change Orders, CITY shall thereafter issue payment to COMPANY in the amount of the contract and all Change Orders. CITY shall be the final judge of when the work is completed by COMPANY. CITY, in its sole discretion, shall determine if the work under the contract and under any Change Orders has been done to CITY's requirements. CITY may make periodic payments to COMPANY, however such periodic payments may only be made pursuant to this paragraph, and only after all work and all Change Orders are completed by COMPANY and approved by CITY. For contracts exceeding $25,000 and construction time exceeds ninety days, requests for progress payments may be made to the extent of the materials and labor completed at the end of each month. Upon approval by the Owner's Representative the request and invoice shall be forwarded for payment less 5% retainage. The total of these payments shall not exceed 95% of the total contract amount.

17. **No Third-Party Beneficiary:** CITY's approval of this contract does not create a third-party beneficiary. There is no third-party beneficiary to this contract. No person or entity who is not a party to

this contract shall have any third-party beneficiary or other rights hereunder.

18. WAIVER OF ATTORNEY FEES: BY EXECUTING THIS CONTRACT, COMPANY 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 OR ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS CONTRACT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS CONTRACT, 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, COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

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

COMPANY IS RELYING ON ITS OWN JUDGMENT. COMPANY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION. THE OBLIGATIONS CONTAINED IN THIS SECTION 18 SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

19. **Governmental Immunity:** By executing this contract CITY is not waiving its right of governmental 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 GOVERNMENTAL IMMUNITY.

20. **Insurance:**

COMPANY shall at all times during the term of this Contract maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):	
-Personal Injury:	$1,000,000.00 per person
	$1,000,000.00 per occurrence
-Property Damage:	$500,000.00 per occurrence
Business Automobile Liability:	$250,000.00 combined single limit - Personal Injury and Property Damage
Workers' Compensation:	Statutory limits
Employers' Liability:	$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project aggregate, including completed operations, and shall be on a claims-occurred basis. This insurance shall name CITY as an additional insured and waive subrogation in favor of CITY.

The Business Automobile Liability insurance provided by COMPANY shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-city vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $250,000.00 covering any vehicle used for the execution of the work that is the subject of this Contract. This insurance shall name CITY as an additional insured and waive subrogation in favor of CITY.

The Workers' Compensation coverage provided by COMPANY shall inure to the benefit of employees injured during the course and scope of their employment by COMPANY pursuant to this Contract. The Workers' Compensation shall waive all rights of subrogation in favor of CITY.

All insurance required pursuant to this Contract shall provide for a waiver of subrogation in favor of CITY. All insurance required pursuant to this Contract, except for Workers' Compensation Insurance, shall name CITY as an additional insured on a claims occurred basis. CITY shall be provided the notice by COMPANY's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

COMPANY shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Contract to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of the City of Midland and policies that name the City of Midland as an additional insured on a claims occurred basis (except workers' compensation).

The parties agree that, prior to the execution of the Contract, COMPANY shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of CITY. CITY shall not be required to provide any insurance whatsoever pursuant to this Contract.

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

21. **Assignment**: COMPANY shall not, either directly or indirectly, assign all or any part of this Contract 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.

22. **RELEASE: NOTWITHSTANDING ANY OTHER PROVISION CONTAINED HEREIN, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY AND CITY'S COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER THAT 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. THE OBLIGATIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS CONTRACT**.

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

24. **Independent Contractor:** COMPANY shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of CITY. COMPANY shall have exclusive control of, and the exclusive right to control the details of the services and work to be performed hereunder, and all persons performing the same. COMPANY shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors and the doctrine

of respondeat superior shall not apply as between CITY and COMPANY, its officers, agents, employees, contractors and subcontractors. Nothing in this Contract shall be construed as creating a partnership or joint enterprise between CITY and COMPANY. No person performing any of the work and services described hereunder by COMPANY shall be considered an officer, agent, servant or employee of CITY. Further, it is specifically understood and agreed that nothing in this contract is intended or construed as creating a "Community of Pecuniary Interest" or an "Equal Right of Control" which would give rise to vicarious liability.

COMPANY shall be an independent contractor under this Contract 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 COMPANY's work. COMPANY shall assume exclusive responsibility for the work. COMPANY is entirely free to do the work in its own way.

25. **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 Contract, COMPANY or its legal representative, shall give the City Manager, or any other reasonable official of CITY, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Contract) of such damages, duly verified, within one hundred twenty (120) 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 COMPANY shall settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented and the physical and mailing addresses of COMPANY for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom COMPANY relies to establish its claim; and a failure to provide such written notification 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 COMPANY that COMPANY's notice is insufficient. CITY reserves the right to request 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 to the contrary, COMPANY's failure to comply with the requirements of this Section shall perpetually bar COMPANY'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. COMPANY agrees that the requirements of this entire Contract are reasonable. The provisions and obligations of this Section shall survive the termination of this Contract.

26. **Consideration:** The terms of this Contract are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

27. **Termination At Will:** CITY may terminate this Contract at will for no or any reason upon giving at least one hundred eighty (180) days written notice to COMPANY. The parties to this Contract understand and agree that it is in CITY's sole discretion to cancel the Contract during the term of the Contract without penalty to CITY. COMPANY has no expectation and has received no guarantees that this Contract will not be terminated before the end of the Contract term. The parties have bargained for the flexibility of terminating this Contract upon tender of the requisite notice at any time during the term of the Contract. All work and services under the Contract shall be suspended upon termination of the Contract becoming effective.

28. **Compliance:** COMPANY agrees that it shall comply with Texas Government Code Section 2252.908, *et seq.*, as amended. COMPANY agrees that it shall comply with Texas Local Government Code Section 176.006, *et seq.*, as amended.

29. To the extent that Sections 2271.002 and 2274.002, and 2276.002 of the Texas Government Code (collectively, the "Anti-Boycott Statutes") apply to this Contract, Company hereby verifies:

- that Company does not boycott Israel and will not boycott Israel during the term of this Contract;
- that Company does not boycott energy companies and will not boycott energy companies during the term of this Contract; and
- that Company does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this Contract against a firearm entity or firearm trade association.

To the extent that the Anti-Boycott Statutes do not apply to this Contract, such verification is not required, and Company shall be deemed to have not made such verification.

30. **Records Retention and Production of Information.** To the extent that this Contract constitutes a contract described by Section 552.371 of the Texas Government Code, COMPANY shall: (i) preserve all contracting information related to this Contract as provided by the records retention requirements applicable to CITY for the duration of this Contract; (ii) promptly provide to CITY any contracting information related to the Contract that is in the custody or possession of COMPANY on request of CITY;

and (iii) on completion of the Contract, either: (a) provide at no cost to CITY all contracting information related to the Contract that is in the custody or possession of COMPANY; or (b) preserve the contracting information related to the Contract as provided by the records retention requirements applicable to CITY.

31. **Public Information.** To the extent that this Contract is a contract described by Section 552.371 of the Texas Government Code, COMPANY agrees as follows in accordance with Section 552.372(b) of the Texas Government Code: The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract, and COMPANY agrees that the contract can be terminated if COMPANY knowingly or intentionally fails to comply with a requirement of that subchapter.

32. **Conflict of Terms.** If a conflict of terms or language exists between: (i) any of the provisions of this Contract and (ii) any of the provisions contained in any exhibit(s) attached to this Contract, precedence shall be given to the provisions of this Contract. For the avoidance of any doubt, the provisions contained in this Contract shall supersede any and all conflicting provisions contained in any exhibit(s) attached hereto. Furthermore, the parties acknowledge and agree that any provision contained in an exhibit(s) attached to this Contract that imposes an additional express or implied obligation on CITY is hereby made void and of no force or effect. CITY's sole and exclusive obligations under this Contract are contained in the provisions of this Contract that precede the signature page(s), which evidences the parties' execution.

33. Company agrees that all iron or steel products produced through a manufacturing process and used in the project that is the subject of this Contract shall be produced in the United States in accordance with Government Code § 2252.202, et seq., as amended.

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Tommy Gonzalez, City Manager

ATTEST

_____
Marcia Bentley-German, City Governance Officer/City Secretary

APPROVED ONLY AS TO FORM

_____
Nicholas Toulet, City Attorney

COMPANY:

By: _____

Name:_____

Title: _____

STATE OF _____ §
§
COUNTY OF_____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 2026 personally appeared, _____, an officer of Mid-Tex of Midland, Inc., known to me to be the person and official whose name is subscribed to the forgoing 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 _____, 2026.

_____

Notary Public, State of _____

Exhibit 'A'

Mid-Tex of Midland, Inc.
5206 West Wadley
Midland, Texas 79707
Phone: (432) 697-2282
Fax: 694-9627

BID PROPOSAL

April 14, 2026

Client:
City of Midland
P.O. Box 1152
Midland, Texas 79702

Project:
HVAC Upgrades
Water Treatment Plant
Project Number:

Attention: Ms. Regina Stephenson (432) 685-7233 rstephenson@midlandtexas.gov

Mid-Tex of Midland, Inc. hereby proposes to furnish all labor, material and necessary incidentals to complete the following renovations as requested and as listed below:

1. Bosworth to install/replace (15) enclosure A/C units (3) to have in hand for back (Install 15 Purchase 8) $249,492.00

All units are S.S. cabinets and coated coils R513A REF.

(9) Enclosure A/C (M#T200216G190)
(6) Enclosure A/C (M#G521216G120)
(6) Adapter Plenum
(3) Enclosure A/C (M#CR230216G069)
Cond. Drains Reconnect
Control Wire Harness Reconnect
T-Stats/Controllers Reconnect
Proper Ref Charge
Proper Startup
Labor

*** No EMS Controls or Certified Engineered TAB
*** No Roofing Cutting, Penetrations, Patch or Repairs

TIPS Vendor ID #10326
TIPS Contract #24010401

ALL OF THE ABOVE FOR THE LUMP SUM COST OF: ***$249,492.00***

All material is Guaranteed to be as specified. All work to be completed in a professional workmanlike manner according to standard practices. Deviations from the above specifications involving extra expense, will be executed only upon written orders, and will become an extra charge to this estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.
Invoices due and payable upon completion of work. Finance charges of maximum allowable by law will be levied on all balances 30 days past due.
This estimate is valid for thirty (30) days.

Respectfully;

David Mays

David Mays david@midtexofmidland.com
Estimator

Approved;

Date Approved:

EXHIBIT C

Bonding Requirements

The successful bidder shall be required to furnish a Performance & Payment Bond for bids in excess of $50,000.00, in an amount equal to one hundred percent (100%) of the total contract price, such bond to be executed by a Corporate Surety authorized to do business in the State of Texas and acceptable to the City of Midland. **All bonds must be executed on forms contained in these contract documents**. The form of agreement which the successful bidder, as contractor, will be required to execute is also included herewith. The form of agreement and the form of the bonds should be carefully examined by the bidder.

A certified check, cashier's check, bank money order, or irrevocable letter of credit issued by a bank satisfactory to the City, **or a bidder's bond on the form provided**, in the amount of five percent (5%) of the largest possible lump sum bid submitted, payable without recourse to the City, must accompany the bidder's proposal, as a guaranty that the bidder will enter a contract and execute the required payment bond and guaranty in the forms provided within fifteen (15) days after notice of award of contract to him. Bids or proposals without the required bid guaranty will not be considered. All bid sureties and payment bonds shall name the City of Midland as Obligee.

PAYMENT BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND § SURETY NO _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____ of the City of _____ of the County of _____ and State of Texas as Principal, and _____, as Surety, are held and firmly bound unto the City of Midland, Texas, as Obligee, in the amount of _____ DOLLARS ($ _____) for the payment whereof the said Principal and Surety bind themselves, their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the _____ day of _____, 20__, for the furnishing of materials, equipment to perform all labor and work necessary for _____, hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, the condition of the obligation is that if the said Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

Surety, for value received, stipulates and agrees that no change, extension of time alteration or addition to the terms of the contract, or to the work performed there under, or the plans, specifications of drawings accompanying the same, or any assignment of the contract as may be provided for in the instructions to bidders, shall in anywise affect its obligation on this Bond, and it does waive notice of any such change, extension of

time, alteration or addition to the terms of the contract, assignment thereof, or to the work to be performed there under.

IN WITNESS WHEREOF the said Principal and Surety have signed and sealed this instrument, this _____ day of _____ , 20__ .

_____	_____
Principal	Surety
By _____	By _____
Address _____	Address _____
_____	_____
_____	_____

APPROVED AS TO FORM:

_____

City Attorney

NOTE: Attach Power of Attorney

PERFORMANCE BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND § SURETY NO _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____ (Hereinafter called the Principal[s]), as Principal(s), and _____ (Hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Midland, Texas a home rule municipal corporation of Midland County, Texas, (hereinafter called the Obligee), in the amount of _____ DOLLARS ($ _____) for the payment whereof the said Principal and surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the _____day of _____ , 20___ , for the furnishing of materials and equipment to perform all labor and work necessary for the construction of _____ , specifically including in the scope of this work and bond, the additional maintenance guaranty provisions set forth in the contract conditions, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein, as well as the Principal's primary obligation to perform according to plans and specifications.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform the work in accordance with the plans, specifications, instructions to bidder, general and special conditions and other contract documents, including any addendum thereto, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED further that if any legal action be filed upon this Bond venue shall lie in Midland County, State of Texas.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, or any assignment of the contract as may be provided for in the instructions to bidders, shall in anywise affect its obligation on this Bond, and it does waive notice of any such change, extension of time, alteration or addition to the terms of the contract, assignment thereof, or the work to be performed thereunder.

IN WITNESS WHEREOF, the said Principal and surety do sign and seal this instrument, this _____ day of _____ , 20___.

_____	_____
Principal	Surety
By _____	By _____
Address _____	Address _____
_____	_____
_____	_____

APPROVED AS TO FORM:

_____

City Attorney

NOTE: Attach Power of Attorney

Form Revised August 2012

PerfB 2

"General Decision Number: TX20250261 03/14/2025

Superseded General Decision Number: TX20240261

State: Texas

Construction Type: Building

County: Midland County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least $17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least $13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2025.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at http://www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/03/2025
1	03/14/2025

* BOIL0074-003 01/01/2025

	Rates	Fringes
BOILERMAKER	$ 33.17	24.92

ENGI0178-005 06/01/2020

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
(1) Tower Crane	$ 32.85	13.10
(2) Cranes with Pile Driving or Caisson Attachment and Hydraulic Crane 60 tons and above	$ 28.75	10.60
(3) Hydraulic cranes 59 Tons and under	$ 32.35	13.10

IRON0084-011 06/01/2024

	Rates	Fringes
IRONWORKER, ORNAMENTAL	$ 28.26	8.13

PLUM0404-001 09/01/2022

	Rates	Fringes
PLUMBER	$ 28.64	10.65

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* SUTX2014-037 07/21/2014

	Rates	Fringes
BRICKLAYER	$ 20.00	0.00
CARPENTER	$ 13.82 **	0.00
CEMENT MASON/CONCRETE FINISHER	$ 13.76 **	0.00
ELECTRICIAN	$ 23.18	6.31
INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation)	$ 19.77	7.13
IRONWORKER, REINFORCING	$ 12.27 **	0.00
IRONWORKER, STRUCTURAL	$ 22.16	5.26
LABORER: Common or General	$ 11.80 **	0.00
LABORER: Mason Tender - Brick	$ 11.38 **	0.00
LABORER: Mason Tender - Cement/Concrete	$ 10.58 **	0.00
LABORER: Pipelayer	$ 12.49 **	2.13
LABORER: Roof Tearoff	$ 11.28 **	0.00
OPERATOR: Backhoe/Excavator/Trackhoe	$ 14.25 **	0.00

OPERATOR: Bobcat/Skid Steer/Skid Loader.....$ 13.93 ** 0.00

OPERATOR: Bulldozer.....$ 18.29 1.31

OPERATOR: Drill.....$ 16.22 ** 0.34

OPERATOR: Forklift.....$ 14.83 ** 0.00

OPERATOR: Grader/Blade.....$ 13.37 ** 0.00

OPERATOR: Loader.....$ 13.55 ** 0.94

OPERATOR: Mechanic.....$ 17.52 ** 3.33

OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....$ 16.03 ** 0.00

OPERATOR: Roller.....$ 12.70 ** 0.00

PAINTER (Brush, Roller, and Spray).....$ 15.00 ** 0.73

PIPEFITTER.....$ 25.80 8.55

ROOFER.....$ 14.75 ** 0.00

SHEET METAL WORKER (HVAC Duct Installation Only).....$ 22.73 7.52

SHEET METAL WORKER, Excludes HVAC Duct Installation.....$ 19.50 0.00

TILE FINISHER.....$ 11.22 ** 0.00

TILE SETTER.....$ 14.74 ** 0.00

TRUCK DRIVER: Dump Truck.....$ 12.39 ** 1.18

TRUCK DRIVER: Flatbed Truck.....$ 19.65 8.57

TRUCK DRIVER: Semi-Trailer Truck.....$ 12.50 ** 0.00

TRUCK DRIVER: Water Truck.....$ 12.00 ** 4.11

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 ($17.75) or 13658 ($13.30). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any

solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at https://www.dol.gov/agencies/whd/government-contracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

a) a survey underlying a wage determination
b) an existing published wage determination
c) an initial WHD letter setting forth a position on a wage determination matter
d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210.

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END OF GENERAL DECISION"

City Council Meeting

Item Number: 7.
Meeting Date: May 12, 2026
To: City Council
From: Marcia Bentley-German, City Governance Officer
Subject: RESOLUTION CANCELLING THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR MAY 26, 2026; AND AUTHORIZING THE MAYOR TO ADMINISTRATIVELY CANCEL CITY COUNCIL MEETINGS

Purpose:

Recommended Action:
Approve

Fiscal Impact:

Strategic Priority:
TRANSPARENT & CONSISTENT COMMUNICATION

Discussion:

Attachments:
A. RESOLUTION - Cancel May 26th Meeting; Authorize Admin Cancellation by Mayor Reso

Jan Hamilton, City Secretary	Created/Initiated - 4/30/2026
Marcia Bentley-German, City Secretary	Approved - 4/30/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

RESOLUTION NO. _____

RESOLUTION CANCELLING THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR MAY 26, 2026; AND AUTHORIZING THE MAYOR TO ADMINISTRATIVELY CANCEL CITY COUNCIL MEETINGS

WHEREAS, the City Council finds it to be in the public interest to cancel the regular City Council meeting scheduled for May 26, 2026, and to authorize the Mayor to administratively cancel City Council meetings;

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

SECTION ONE. That the regular City Council meeting scheduled for May 26, 2026, is hereby cancelled.

SECTION TWO. That the Mayor is hereby authorized to administratively cancel City Council meetings.

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., 2026, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

RECOMMENDED AND APPROVED:

_____
Tommy Gonzalez, City Manager

APPROVED AS TO FORM ONLY:

_____

Nicholas Toulet, City Attorney

City Council Meeting

Item Number: 8.
Meeting Date: May 12, 2026
To: City Council
From: Stephanie Delgado, Economic Development Program Manager
Subject: MOTION AUTHORIZING THE EXECUTION OF A REVOCABLE LICENSE AGREEMENT WITH THE STRAIGHT LINE FOUNDATION (THE "FOUNDATION") REGARDING CITY-OWNED PROPERTY DESCRIBED AS BLOCK 7, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS; SAID REVOCABLE LICENSE AGREEMENT ALLOWING THE FOUNDATION TO HOST AN ART AND MUSIC FESTIVAL ON THE PROPERTY ON MAY 30, 2026

Purpose:

The purpose of this item is to consider approval of a Revocable License Agreement between the City of Midland and The Straight Line Foundation to allow the temporary use of City-owned property located at Block 7, Original Town for the limited purpose of hosting an art and music festival on May 30, 2026.

This agreement establishes the terms and conditions for the event, including operational requirements, compliance with City regulations, and responsibilities for site maintenance, safety, and post-event reporting.

Recommended Action:
Approve

Fiscal Impact:
NONE

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
The proposed Revocable License Agreement allows The Straight Line Foundation to utilize City-owned property at Block 7, Original Town for a one-day art and music festival scheduled for May 30, 2026.
The event is intended to activate public space in downtown Midland through arts and cultural programming, contributing to community engagement and placemaking efforts. The agreement outlines the responsibilities of the Licensee, including providing necessary event infrastructure such as portable restrooms and waste disposal, ensuring compliance with all applicable laws

and ordinances, and maintaining the premises in a clean and safe condition before, during, and after the event.
The Licensee is also required to submit a post-event report summarizing attendance and vendor participation, as well as remit collected vendor fees to the City. Additionally, refundable deposits are required to ensure proper cleanup and to cover any potential damages to the property.
The agreement includes standard provisions related to insurance, indemnification, and termination, ensuring that the City is protected from liability and retains the ability to revoke use of the property if necessary. The license is temporary and does not convey any property interest.
Approval of this agreement supports the City's ongoing efforts to encourage community events and enhance the vibrancy of downtown Midland while maintaining appropriate safeguards for public assets.

Attachments:
A. Revocable License Agreement

Stephanie Mata, Development Services	Created/Initiated - 4/27/2026
Landon Ochoa, Development Services	Approved - 5/4/2026
Elizabeth Triggs, Development Services	Approved - 5/4/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

REVOCABLE LICENSE AGREEMENT

THIS REVOCABLE LICENSE AGREEMENT (the "Agreement") is made and effective the _____ day of _____, 20_____ (the "Effective Date"), by and between THE CITY OF MIDLAND, TEXAS ("Licensor"), and THE STRAIGHT LINE FOUNDATION ("Licensee").

Witnesseth:

For and in consideration of the execution of this Agreement and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows:

Article I. Premises; Use

A. Licensor hereby grants to Licensee a nonexclusive license to use the real property described as Block 7, Original Town, City and County of Midland, Texas (the "Premises"), subject to the terms and conditions of this Agreement.

B. The Premises may be used for the limited purpose of hosting an art and music festival (the "Event") on May 30, 2026, from 5:00 p.m. to 11:00 p.m., subject to the following conditions:

1. Licensee shall provide garbage containers and garbage bags during all hours of operation of the Event and shall dispose of all refuse on the Premises in said containers during and immediately after the hours of operation of the Event.

2. Licensee shall provide four portable restrooms on the Premises to be made available to all occupants of the Premises during all hours of operation of the Event. On the date of the Event, said portable restrooms may be located on the Premises no earlier than 5:00 p.m. on the date of the Event and shall be removed from the Premises no later than 12:00 a.m. (midnight).

3. Licensor will not provide set-up, tear-down, or clean-up support. Licensee shall thoroughly clean the Premises immediately after the hours of operation of the Event.

4. Licensee shall not sell or consume alcoholic beverages on the Premises or allow the sale or consumption of alcoholic beverages on the Premises.

5. Licensee shall ensure that all vendors and guests comply with all applicable laws, ordinances, rules, and regulations.

6. On or before the date of the Event, Licensee shall collect a fee of $10.00 (the "Vendor Fee") from each vendor in attendance at the Event. Within 15 days following the date of the Event, Licensee shall remit to Licensor all Vendor Fees collected for the Event. This paragraph shall survive the termination of this Agreement.

7. Within 15 days following the end of the Event, Licensee shall provide a post-Event report (the "Report") to Licensor as follows:

   a. The Report shall be sent to Licensor via email to etriggs@midlandtexas.gov. Licensor may designate a different email address to which Reports shall be sent by giving written notice thereof to Licensee.

   b. The Report shall contain (i) the number of vendors who attended the Event on each day of operation that month and (ii) the total amount of Vendor Fees collected on each day of operation that month.

   c. The Report requirements herein shall survive the termination of this Agreement.

8. Prior to commencing operation of the Event, Licensee shall post with Licensor:

   a. a cleanup deposit in the amount of $500.00, which shall be refunded to Licensee within 10 business days following the conclusion of the Event if Licensee leaves the Premises in a safe, neat, clean and presentable condition; and

   b. a damage deposit in the amount of $500.00, which shall be refunded to Licensee within 10 business days following the conclusion of the Event if Licensee leaves the Premises and all facilities and improvements thereon in the same condition in which they existed immediately prior to commencement of the Event.

9. Licensee shall fully comply with all other terms and conditions of this Agreement.

C. This Agreement, including the license granted hereunder, is a privilege to go on the Premises for a certain, limited purpose and does not confer on, or vest in Licensee, any title, interest or estate to such property. This is a personal, revocable and unassignable privilege and is not an interest in the land itself.

Article II. Term

The term of this Agreement shall commence on the Effective Date and shall terminate at the end of the Event, unless terminated earlier as otherwise provided in this Agreement.

Article III. Consideration

As consideration for the license granted hereunder, Licensee shall pay to Licensor a fee in the amount of $300.00 prior to commencing operation of the Event.

Article IV. Reservations & Prior Rights

A. Licensor reserves to itself, its employees, agents and contractors the right to enter the Premises at all times.

B. Licensor reserves the right to construct, maintain and operate new and existing facilities upon, over, or under the Premises, and to grant to others such rights, so long as such construction, maintenance and operation does not unreasonably interfere with or create an unreasonable security risk to Licensee's use of the Premises during the term of this Agreement.

C. This Agreement is made subject to all outstanding rights, whether or not of record, Licensor reserves the right to renew such outstanding rights.

Article V. Care & Use of the Premises

A. Licensee shall use reasonable care and caution against damage or destruction to the Premises. Licensee shall not use or permit the use of the Premises for any unlawful purpose, maintain any nuisance, permit any waste, or use or permit the use of the Premises in any way that creates a hazard to persons or property. Licensee shall keep the Premises in a safe, neat, clean and presentable condition and in good condition and repair.

B. Licensee shall comply with all laws, ordinances, rules, regulations and orders relating to Licensee's use of the Premises.

C. If the Premises or any facilities or improvements thereon are damaged in any way by Licensee, any officer, employee, agent, or contractor of Licensee, or any vendor, Event attendee, or other guest of Licensee, Licensee shall be liable to Licensor for the cost of repairing such damage. This paragraph shall survive the termination of this Agreement.

Article VI. Utilities

Licensor shall provide electricity to the Premises.

Article VII. Liens

Licensee shall not allow any liens to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from Licensee's use of the Premises.

Article VIII. Improvements

No alterations, improvements or installations shall be made on the Premises.

Article IX. Acceptance of Premises

Licensee accepts the Premises in its present condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Licensee acknowledges that Licensor shall have no duty to maintain, repair or improve the Premises during the term of this Agreement; provided, however, that Licensor agrees to maintain the landscaping of the Premises. Licensee acknowledges having been given the full right to inspect and review the Premises and Licensee accepts the Premises "AS IS" with any and all faults.

Article X. Release & Indemnity

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, LICENSOR'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE 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 LICENSOR'S NEGLIGENCE.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, LOSSES, ATTORNEY'S FEES AND EXPENSES OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY, ON ACCOUNT OF ANY ACT OF LICENSEE, LICENSEE'S OFFICERS, AGENTS AND EMPLOYEES, LICENSEE'S CONTRACTORS OR SUBCONTRACTORS OR THEIR AGENTS OR EMPLOYEES, OR VENDORS, GUESTS OR OTHER INVITEES OF LICENSEE ARISING DIRECTLY OR INDIRECTLY OR IN ANY WAY CONNECTED WITH LICENSEE'S OPERATIONS UNDER THIS AGREEMENT. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES INCLUDING ATTORNEY'S FEES.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING 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 LICENSOR, LICENSOR'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 LICENSEE OR LICENSEE'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. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Article XI. Compliance With Laws, Ordinances, And Orders

Licensee shall comply with all applicable state and federal laws and City ordinances.

Licensee certifies that it understands that the Premises were acquired for public use and, thus, further certifies that it understands that it may be necessary or appropriate for Licensor to terminate this Agreement or to otherwise vacate the Premises or order the vacation of the Premises. Licensee shall promptly comply with any such order to vacate the Premises.

Licensee hereby acknowledges and agrees that it does not have a property interest, and shall not be deemed to have a property interest, in the Premises or in any approval that is granted by or in connection with this Agreement. Licensee's use of the Premises in accordance with this Agreement is a privilege that Licensor has no obligation to allow. Licensee further acknowledges and agrees that it does not have, and shall not be deemed to have, any investment-backed expectations with respect to the use of the Premises, with respect to any approval that is granted by or in connection with this Agreement, or with respect to any approval that Licensee anticipates being granted in connection with this Agreement.

Licensee shall not be entitled to compensation from Licensor or from any of Licensor's officers, employees, or agents in the event of Licensor's termination of this Agreement, vacation of the Premises, or order to vacate the Premises.

LICENSEE HEREBY WAIVES ANY RIGHT IT MAY HAVE TO APPEAL OR CONTEST LICENSOR'S TERMINATION OF THIS AGREEMENT, VACATION OF THE PREMISES, OR ORDER TO VACATE THE PREMISES. LICENSEE HEREBY WAIVES AND RELEASES ANY CLAIM OF ANY NATURE LICENSEE HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR OR LICENSOR'S OFFICERS, AGENTS, OR EMPLOYEES REGARDING LICENSOR'S TERMINATION OF THIS AGREEMENT, VACATION OF THE PREMISES, OR ORDER TO VACATE THE PREMISES. LICENSEE HEREBY WAIVES AND RELEASES ANY CLAIM OF ANY NATURE LICENSEE HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR OR LICENSOR'S OFFICERS, AGENTS, AND EMPLOYEES REGARDING OR RELATED TO THE FAILURE TO GRANT AN APPROVAL OR PERMIT OR REGARDING OR RELATED TO THE CONDITIONS OF AN APPROVAL OR PERMIT IN CONNECTION WITH THIS AGREEMENT. LICENSEE HEREBY WAIVES AND RELEASES ANY CLAIM OF ANY NATURE LICENSEE HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR AND LICENSOR'S OFFICERS, AGENTS, AND EMPLOYEES REGARDING OR RELATED TO THE SUSPENSION OR REVOCATION OF ANY APPROVAL OR PERMIT THAT WAS GRANTED IN CONNECTION WITH THIS AGREEMENT. THE OBLIGATIONS CONTAINED IN THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Article XII. Termination

A. If Licensee violates any provision of this Agreement, or if Licensor determines that Licensor needs the use of the Premises at a time that conflicts with Licensee's use hereunder, Licensor may terminate this Agreement by giving Licensee written notice thereof. Upon receiving such notice of termination, Licensee shall immediately cease use of the Premises and vacate the premises.

B. By mutual written agreement, Licensor and Licensee may terminate this Agreement without cause.

C. Upon termination of this Agreement, Licensee shall immediately vacate the Premises and restore the Premises to the same condition in which the Premises existed on the Effective Date except to the extent that any improvements, facilities, additions, alterations, or fixtures were constructed or affixed on any part of the Premises by Licensor after the Effective Date. This paragraph shall survive the termination of this Agreement.

Article XIII. Insurance

Licensee shall at all times during the term of this Agreement maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

-Personal Injury:	$1,000,000.00 per person $1,000,000.00 per occurrence
-Property Damage:	$1,000,000.00 per occurrence
Business Automobile Liability:	$250,000.00 combined single limit - Personal Injury and Property Damage
Workers' Compensation:	Statutory limits

The Commercial General Liability coverage shall be on a per project or policy aggregate, and shall be on an occurrence basis. The Workers' Compensation coverage shall inure to the benefit of employees injured during the course and scope of their employment by Licensee.

Copies of the policies of insurance that have been issued or certificates evidencing proof of said policies shall be deposited with Licensor's City Manager or City Manager's designee prior to Licensee commencing activities on the Premises. Licensor shall be provided notice by Licensee's insurance provider(s) not later than thirty (30) days prior to any reduction or termination of such coverage.

Notwithstanding the foregoing, the City Manager, in the City Manager's sole discretion, may modify the insurance requirements of this Article upon giving written notice of such modification to Licensee.

Article XIV. Notices

Any notice, consent or approval to be given under this Agreement shall be sent by certified mail, return receipt requested, addressed as follows:

If to Licensor:

City of Midland
P.O. Box 1152
Midland, Texas 79702
Attn: City Manager

If to Licensee:

Straight Line Foundation
P.O. Box 9011
Midland, TX 79708
Attn: Tealighn Jacee Harvey

Article XV. Assignment

Licensee shall not assign this Agreement or the license granted hereunder, in whole or in part. Any purported transfer or assignment by Licensee shall be void.

Article XVI. Independent Contractor

It is expressly understood and agreed that Licensee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee 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 respondeat superior shall not apply as between Licensor and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licensor and Licensee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of Licensor. 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. Licensee shall be an independent contractor under this License and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. Licensor does not have the power to direct the order in which the work is

done. Licensor shall not have the right to control the means, methods or details of Licensee's work. Licensee shall assume exclusive responsibility for the work. Licensee is entirely free to do the work in its own way.

Article XVII. Third-Party Beneficiary

Licensor'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.

Article XVIII. Governing Law & Venue

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 been performed in Midland County, Texas.

Article XIX. Waiver of Attorney's Fees

In the event of any conflict between the parties hereto such that either party brings or commences any legal action or proceeding related to this Agreement, including but not limited to any action pursuant to the provisions of the Texas Uniform Declaratory Judgments Act (Tex. Civ. Prac. & Rem. Code §37.001 et seq., as amended), the parties hereto agree to waive any and all rights to recovery of attorney's fees to which the prevailing party might otherwise be entitled.

BY EXECUTING THIS AGREEMENT, LICENSEE AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR, 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. LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE 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, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

LICENSEE AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. LICENSEE ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND

CONDITIONS OF THE AGREEMENT. LICENSEE FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN LICENSOR AND LICENSEE. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

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

THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Article XX. No Waiver of Governmental Immunity

By executing this Agreement the City is not waiving its right of governmental immunity. The City is retaining its immunity from suit. This Agreement is not a contract for goods or services, and the City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

Article XXI. Entire Agreement

This Agreement is the entire agreement between the parties and supersedes all other oral or written agreements between the parties pertaining to this transaction. This Agreement may be amended only by a written instrument signed by Licensor and Licensee.

[Signature page follows]

THE CITY OF MIDLAND, TEXAS

By: _____
Jose Ortiz
Deputy City Manager

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO FORM ONLY:

_____
Nicholas Toulet, City Attorney

THE STRAIGHT LINE FOUNDATION

By: Tealighn Jacee Harvey
Tealighn Jacee Harvey
Fundraiser Coordinator

THE STATE OF TEXAS §
§
COUNTY OF Midland §

BEFORE ME, the undersigned authority, on this day personally appeared Tealighn Jacee Harvey, known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as the act and deed of The Straight Line Foundation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 24th day of April, 2026.

Donna Gray
Notary Public, State of Texas

DONNA GRAY
Notary ID #10633558
My Commission Expires
November 7, 2023

DONNA GRAY
Notary ID #10633558
My Commission Expires
November 7, 2028

City Council Meeting

Item Number: 9.
Meeting Date: May 12, 2026
To: City Council
From: Stephanie Delgado, Economic Development Program Manager
Subject: MOTION AUTHORIZING THE EXECUTION OF A REVOCABLE LICENSE AGREEMENT WITH CULTURA WEST REGARDING CITY-OWNED PROPERTY DESCRIBED AS (I) BLOCK 7, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS, (II) THE PORTION OF COLORADO STREET LOCATED NORTH OF OHIO AVENUE AND SOUTH OF TENNESSEE AVENUE, (III) THE PORTION OF TENNESSEE AVENUE LOCATED EAST OF COLORADO STREET AND WEST OF LORAINE STREET, (IV) THE PORTION OF LORAINE STREET LOCATED SOUTH OF TENNESSEE AVENUE AND NORTH OF OHIO AVENUE; AND (V) THE PORTION OF OHIO AVENUE LOCATED WEST OF LORAINE STREET AND EAST OF COLORADO STREET; SAID REVOCABLE LICENSE AGREEMENT ALLOWING CULTURA WEST TO HOST AN ART AND MUSIC FESTIVAL ON THE PROPERTY ON JUNE 20, 2026

Purpose:
The purpose of this item is to consider approval of a Revocable License Agreement between the City of Midland and Cultura West to allow the temporary use of City-owned property located at Block 7, Original Town for the limited purpose of hosting an art and music festival on June 20, 2026.

This agreement establishes the terms and conditions for the event, including operational requirements, compliance with City regulations, and responsibilities for site maintenance, safety, and post-event reporting.

Recommended Action:
Approve

Fiscal Impact:

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:

The proposed Revocable License Agreement allows Cultura West to utilize City-owned property at Block 7, Original Town for a one-day art and music festival scheduled for June 20, 2026.

The event is intended to activate public space in downtown Midland through arts and cultural programming, contributing to community engagement and place-making efforts. The agreement outlines the responsibilities of the Licensee, including providing necessary event infrastructure such as portable restrooms and waste disposal, ensuring compliance with all applicable laws and ordinances, and maintaining the premises in a clean and safe condition before, during, and after the event.

The Licensee is also required to submit a post-event report summarizing attendance and vendor participation, as well as remit collected vendor fees to the City. Additionally, refundable deposits are required to ensure proper cleanup and to cover any potential damages to the property.

The agreement includes standard provisions related to insurance, indemnification, and termination, ensuring that the City is protected from liability and retains the ability to revoke use of the property if necessary. The license is temporary and does not convey any property interest.

Approval of this agreement supports the City’s ongoing efforts to encourage community events and enhance the vibrancy of downtown Midland while maintaining appropriate safeguards for public assets.

Attachments:

A. 2026.05.04 - Revocable License Agreement

Rachel Guentensberger, City Secretary	Created/Initiated - 5/1/2026
Stephanie Delgado, City Secretary	Approved - 5/1/2026
Landon Ochoa, Development Services	Approved - 5/4/2026
Elizabeth Triggs, Development Services	Approved - 5/4/2026
Linda Ochoa, Legal	Approved - 5/6/2026
Morris Williams, City Manager	Approved - 5/6/2026
Jose Ortiz, City Manager	Approved - 5/6/2026
Jan Hamilton, City Secretary	Final Approval - 5/6/2026

REVOCABLE LICENSE AGREEMENT

THIS REVOCABLE LICENSE AGREEMENT (the "Agreement") is made and effective the _____ day of _____, 20_____ (the "Effective Date"), by and between THE CITY OF MIDLAND, TEXAS ("Licensor"), and CULTURA WEST ("Licensee").

Witnesseth:

For and in consideration of the execution of this Agreement and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows:

Article I. Premises; Use

A. Licensor hereby grants to Licensee a nonexclusive license to use the real property described as (i) Block 7, Original Town, City and County of Midland, Texas, (ii) the portion of Colorado Street located north of Ohio Avenue and south of Tennessee Avenue, (iii) the portion of Tennessee Avenue located east of Colorado Street and west of Loraine Street, (iv) the portion of Loraine Street located south of Tennessee Avenue and north of Ohio Avenue; and (v) the portion of Ohio Avenue located west of Loraine Street and east of Colorado Street (collectively, the "Premises"), subject to the terms and conditions of this Agreement.

B. The Premises may be used for the limited purpose of hosting an art and music festival (the "Event") on June 20, 2026 (the "Event Date") from 12:00 p.m. (noon) to 11:30 p.m., subject to the following conditions:

1. Prior to commencing operation of the Event, Licensee shall cause a temporary traffic control plan to be submitted by a qualified barricade company and approved by the City's Engineering Services Department. Licensee shall be responsible for coordinating with businesses or property owners whose access will be impacted. Licensee shall operate the Event in accordance with the approved temporary traffic control plan.

2. Licensee shall provide garbage containers and garbage bags during all hours of operation of the Event and shall dispose of all refuse on the Premises in said containers during and immediately after the hours of operation of the Event.

3. Licensee shall provide four portable restrooms on the Premises to be made available to all occupants of the Premises during all hours of operation of the Event. Said portable restrooms shall be removed from the Premises no later than 12:00 p.m. (noon) on June 21, 2026.

4. Licensor will not provide set-up, tear-down, or clean-up support. Licensee shall thoroughly clean the Premises immediately after the hours of operation of the Event.

5. During all hours of operation of the Event, Licensee may:

a. sell or allow the sale of alcoholic beverages in sealed containers for consumption off the Premises;

b. sell or allow the sale of alcoholic beverages for consumption on the Premises; and

c. provide or allow the provision of samples of alcoholic beverages, each having a volume no greater than 60 milliliters, for consumption on the Premises.

Licensee shall comply with, and ensure that vendors and guests comply with, all applicable laws and regulations related to the sale and consumption of alcoholic beverages.

6. During all hours of operation of the Event, Licensee, at Licensee's cost, shall provide a minimum of 13 peace officers as security guards on the Premises.

7. Licensee shall ensure that all vendors and guests comply with all applicable laws, ordinances, rules, and regulations.

8. On or before the Event Date, Licensee shall collect a fee of $10.00 (the "Vendor Fee") from each vendor in attendance at the Event. Within 15 days following the Event Date, Licensee shall remit to Licensor all Vendor Fees collected for the Event. This paragraph shall survive the termination of this Agreement.

9. Within 15 days following the Event Date, Licensee shall provide a post-Event report (the "Report") to Licensor as follows:

   a. The Report shall be sent to Licensor via email to etriggs@midlandtexas.gov. Licensor may designate a different email address to which Reports shall be sent by giving written notice thereof to Licensee.

   b. The Report shall contain (i) the number of vendors who attended the Event and (ii) the total amount of Vendor Fees collected.

   c. The Report requirements herein shall survive the termination of this Agreement.

10. Prior to commencing operation of the Event, Licensee shall post with Licensor:

    a. a cleanup deposit in the amount of $500.00, which shall be refunded to Licensee within 10 business days following the conclusion of the Event if Licensee leaves the Premises in a safe, neat, clean and presentable condition; and

    b. a damage deposit in the amount of $500.00, which shall be refunded to Licensee within 10 business days following the conclusion of the Event if Licensee leaves the Premises and all facilities and improvements thereon in the same condition in which they existed immediately prior to commencement of the Event.

11. Licensee shall fully comply with all other terms and conditions of this Agreement.

C. This Agreement, including the license granted hereunder, is a privilege to go on the Premises for a certain, limited purpose and does not confer on, or vest in Licensee, any title, interest or estate to such property. This is a personal, revocable and unassignable privilege and is not an interest in the land itself.

Article II. Term

The term of this Agreement shall commence on the Effective Date and shall terminate at the end of the Event, unless terminated earlier as otherwise provided in this Agreement.

Article III. Consideration

As consideration for the license granted hereunder, Licensee shall pay to Licensor a fee in the amount of $300.00 prior to commencing operation of the Event.

Article IV. Reservations & Prior Rights

A. Licensor reserves to itself, its employees, agents and contractors the right to enter the Premises at all times.

B. Licensor reserves the right to construct, maintain and operate new and existing facilities upon, over, or under the Premises, and to grant to others such rights, so long as such construction, maintenance and operation do not unreasonably interfere with or create an unreasonable security risk to Licensee's use of the Premises during the term of this Agreement.

C. This Agreement is made subject to all outstanding rights, whether or not of record, and Licensor reserves the right to renew such outstanding rights.

Article V. Care & Use of the Premises

A. Licensee shall use reasonable care and caution against damage or destruction to the Premises. Licensee shall not use or permit the use of the Premises for any unlawful purpose, maintain any nuisance, permit any waste, or use or permit the use of the Premises in any way that creates a hazard to persons or property. Licensee shall keep the Premises in a safe, neat, clean and presentable condition and in good condition and repair.

B. Licensee shall comply with all laws, ordinances, rules, regulations and orders relating to Licensee's use of the Premises.

C. If the Premises or any facilities or improvements thereon are damaged in any way by Licensee, any officer, employee, agent, or contractor of Licensee, or any vendor, Event attendee, or other guest of Licensee, Licensee shall be liable to Licensor for the cost of repairing such damage. This paragraph shall survive the termination of this Agreement.

Article VI. Utilities

Licensor shall provide electricity to the Premises.

Article VII. Liens

Licensee shall not allow any liens to attach to the Premises for any services, labor or materials furnished to the Premises or otherwise arising from Licensee's use of the Premises.

Article VIII. Improvements

No alterations, improvements or installations shall be made on the Premises.

Article IX. Acceptance of Premises

Licensee accepts the Premises in its present condition with all faults, whether patent or latent, and without warranties or covenants, express or implied. Licensee acknowledges that Licensor shall have no duty to maintain, repair or improve the Premises during the term of this Agreement; provided, however, that Licensor agrees to maintain the landscaping of the Premises. Licensee acknowledges having been given the full right to inspect and review the Premises and Licensee accepts the Premises "AS IS" with any and all faults.

Article X. Release & Indemnity

NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, LICENSOR'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE 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 LICENSOR'S NEGLIGENCE.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, LOSSES, ATTORNEY'S FEES AND EXPENSES OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY, ON ACCOUNT OF ANY ACT OF LICENSEE, LICENSEE'S OFFICERS, AGENTS AND EMPLOYEES, LICENSEE'S CONTRACTORS OR SUBCONTRACTORS OR THEIR AGENTS OR EMPLOYEES, OR VENDORS, GUESTS OR OTHER INVITEES OF LICENSEE ARISING DIRECTLY OR INDIRECTLY OR IN ANY WAY CONNECTED WITH LICENSEE'S OPERATIONS UNDER THIS AGREEMENT. LICENSEE WILL BE REQUIRED TO PAY ANY

JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES INCLUDING ATTORNEY'S FEES.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING 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 LICENSOR, LICENSOR'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 LICENSEE OR LICENSEE'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. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Article XI. Compliance With Laws, Ordinances, And Orders

Licensee shall comply with all applicable state and federal laws and City ordinances.

Licensee certifies that it understands that the Premises were acquired for public use and, thus, further certifies that it understands that it may be necessary or appropriate for Licensor to terminate this Agreement or to otherwise vacate the Premises or order the vacation of the Premises. Licensee shall promptly comply with any such order to vacate the Premises.

Licensee hereby acknowledges and agrees that it does not have a property interest, and shall not be deemed to have a property interest, in the Premises or in any approval that is granted by or in connection with this Agreement. Licensee's use of the Premises in accordance with this Agreement is a privilege that Licensor has no obligation to allow. Licensee further acknowledges and agrees that it does not have, and shall not be deemed to have, any investment-backed expectations with respect to the use of the Premises, with respect to any approval that is granted by or in connection with this Agreement, or with respect to any approval that Licensee anticipates being granted in connection with this Agreement.

Licensee shall not be entitled to compensation from Licensor or from any of Licensor's officers, employees, or agents in the event of Licensor's termination of this Agreement, vacation of the Premises, or order to vacate the Premises.

LICENSEE HEREBY WAIVES ANY RIGHT IT MAY HAVE TO APPEAL OR CONTEST LICENSOR'S TERMINATION OF THIS AGREEMENT, VACATION OF THE PREMISES, OR ORDER TO VACATE THE PREMISES. LICENSEE HEREBY WAIVES AND RELEASES ANY CLAIM OF ANY NATURE LICENSEE HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR OR LICENSOR'S OFFICERS, AGENTS, OR EMPLOYEES REGARDING LICENSOR'S TERMINATION OF THIS AGREEMENT, VACATION OF THE PREMISES, OR ORDER TO VACATE THE PREMISES. LICENSEE HEREBY WAIVES AND RELEASES ANY CLAIM OF ANY NATURE LICENSEE HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR OR LICENSOR'S OFFICERS, AGENTS, AND EMPLOYEES REGARDING OR RELATED TO THE FAILURE TO GRANT AN APPROVAL OR PERMIT OR REGARDING OR RELATED TO THE CONDITIONS OF AN APPROVAL OR PERMIT IN CONNECTION WITH THIS AGREEMENT. LICENSEE HEREBY WAIVES AND RELEASES ANY CLAIM OF ANY NATURE LICENSEE HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR AND LICENSOR'S OFFICERS, AGENTS, AND EMPLOYEES REGARDING OR RELATED TO THE SUSPENSION OR REVOCATION OF ANY APPROVAL OR PERMIT THAT WAS GRANTED IN CONNECTION WITH THIS AGREEMENT. THE OBLIGATIONS CONTAINED IN THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Article XII. Termination

A. If Licensee violates any provision of this Agreement, or if Licensor determines that Licensor needs the use of the Premises at a time that conflicts with Licensee's use hereunder, Licensor may terminate this Agreement by giving Licensee written notice thereof. Upon receiving such notice of termination, Licensee shall immediately cease use of the Premises and vacate the Premises.

B. By mutual written agreement, Licensor and Licensee may terminate this Agreement without cause.

C. Upon termination of this Agreement, Licensee shall immediately vacate the Premises and restore the Premises to the same condition in which the Premises existed on the Effective Date except to the extent that any improvements, facilities, additions, alterations, or fixtures were constructed or affixed on any part of the Premises by Licensor after the Effective Date. This paragraph shall survive the termination of this Agreement.

Article XIII. Insurance

Licensee shall at all times during the term of this Agreement maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

-Personal Injury:	$1,000,000.00 per person $1,000,000.00 per occurrence
-Property Damage:	$1,000,000.00 per occurrence
-Liquor Liability:	$1,000,000.00 per occurrence
Business Automobile Liability:	$250,000.00 combined single limit - Personal Injury and Property Damage
Workers' Compensation:	Statutory limits

The Commercial General Liability coverage shall be on a per project or policy aggregate, and shall be on an occurrence basis. The Workers' Compensation coverage shall inure to the benefit of employees injured during the course and scope of their employment by Licensee.

Copies of the policies of insurance that have been issued or certificates evidencing proof of said policies shall be deposited with Licensor's City Manager or City Manager's designee prior to Licensee commencing activities on the Premises. Licensor shall be provided notice by Licensee's insurance provider(s) not later than thirty (30) days prior to any reduction or termination of such coverage.

Additionally, Licensee shall require each vendor conducting activities on the Premises to comply with the insurance requirements of this Article; provided, however, that a vendor who does not sell or offer samples of alcoholic beverages is not required to maintain Liquor Liability coverage.

Notwithstanding the foregoing, the City Manager, in the City Manager's sole discretion, may modify the insurance requirements of this Article upon giving written notice of such modification to Licensee.

Article XIV. Notices

Any notice, consent or approval to be given under this Agreement shall be sent by certified mail, return receipt requested, addressed as follows:

If to Licensor:

City of Midland
P.O. Box 1152
Midland, Texas 79702
Attn: City Manager

If to Licensee:

Cultura West
200 N. Loraine St., Ste. 1325
Midland, Texas 79701
Attn: Stacy Livingston, President

Article XV. Assignment

Licensee shall not assign this Agreement or the license granted hereunder, in whole or in part. Any purported transfer or assignment by Licensee shall be void.

Article XVI. Independent Contractor

It is expressly understood and agreed that Licensee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee 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 respondeat superior shall not apply as between Licensor and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licensor and Licensee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of Licensor. 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. Licensee 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. Licensor does not have the power to direct the order in which the work is done. Licensor shall not have the right to control the means, methods or details of Licensee's work. Licensee shall assume exclusive responsibility for the work. Licensee is entirely free to do the work in its own way.

Article XVII. Third-Party Beneficiary

Licensor'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.

Article XVIII. Governing Law & Venue

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Article XIX. Waiver of Attorney's Fees

In the event of any conflict between the parties hereto such that either party brings or commences any legal action or proceeding related to this Agreement, including but not limited to any action pursuant to the provisions of the Texas Uniform Declaratory Judgments Act (Tex. Civ. Prac. & Rem. Code §37.001 et seq., as amended), the parties hereto agree to waive any and all rights to recovery of attorney's fees to which the prevailing party might otherwise be entitled.

BY EXECUTING THIS AGREEMENT, LICENSEE AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR, 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. LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE 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, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

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

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By executing this Agreement, the City is not waiving its right of governmental immunity. The City is retaining its immunity from suit. This Agreement is not a contract for goods or

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Article XXI. Entire Agreement

This Agreement is the entire agreement between the parties and supersedes all other oral or written agreements between the parties pertaining to this transaction. This Agreement may be amended only by a written instrument signed by Licensor and Licensee.

[Signature page follows]

THE CITY OF MIDLAND, TEXAS

By:_____
Jose Ortiz, Deputy City Manager

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO FORM ONLY:

_____
Nicholas Toulet, City Attorney

CULTURA WEST

By:_____
Stacy Livingston, President

THE STATE OF TEXAS §
§
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this day personally appeared Stacy Livingston, known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same as the act and deed of Cultura West, 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 _____, 20___.

_____
Notary Public, State of Texas

City Council Meeting

Item Number: 10.
Meeting Date: May 12, 2026
To: City Council
From: Whitney Craig, Health Services Manager
Subject: MOTION AUTHORIZING THE ACCEPTANCE OF REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES IN THE AMOUNT OF $105,462.00 TO ASSIST THE CITY OF MIDLAND WITH THE FUNDING AND DELIVERY OF PUBLIC HEALTH EMERGENCY PREPAREDNESS NECESSITIES AND $150,358.00 TO ASSIST WITH THE FUNDING AND DELIVERY OF IMMUNIZATION SERVICES; AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL NECESSARY ACCEPTANCE DOCUMENTS; AND AUTHORIZING AND DIRECTING THE CITY TREASURER TO DEPOSIT SAID FUNDS INTO THE GENERAL FUND

Purpose:
Motion authorizing the acceptance of reimbursement funds from the Texas Department of State Health Services in the following amounts for the following purposes: $105,462.00 to assist the City of Midland Health Services Division (City) with the funding and delivery of Public Health Emergency Preparedness necessities; $150,358.00 to assist the City with the funding and delivery of immunization services; authorizing the City Manager or his designee to execute all necessary acceptance documents; and authorizing and directing the City Treasurer to deposit said funds into the general fund.

Recommended Action:
Approve

Fiscal Impact:
$255,820.00 will be appropriated from General Fund unappropriated fund balance and transferred to grant projects for these purposes.

Strategic Priority:
PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT

Discussion:
City of Midland Health Services is seeking approval for the acceptance of two grants from the state. These funds are instrumental in allowing the City to provide services to the community. The grants are accepted annually.

Attachments:
A. PHEP Contract FY27

B. IMMLocals Contract FY27

Whitney Craig, Midland Health Service	Created/Initiated - 4/24/2026
Charles Blumenauer, Public Safety	Approved - 4/24/2026
Christy Weakland, Finance	Approved - 5/5/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

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DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS001439500040
AMENDMENT NO. 5

The **DEPARTMENT OF STATE HEALTH SERVICES** ("System Agency" or "DSHS") and **CITY OF MIDLAND** ("Grantee"), who are collectively referred to as the "Parties" to that certain Public Health Emergency Preparedness ("PHEP") grant agreement, effective July 1, 2024, and denominated DSHS Contract No. HHS001439500040 ("Contract"), as amended, now desire to further amend the Contract.

WHEREAS, the Parties desire to extend the term of the Contract to exercise the second of four (4) available one-year extension options under the Contract;

WHEREAS, the Parties desire to add funds to the Contract associated with the FY2027 extension period; and

WHEREAS, the Parties desire to revise certain terms for compliance with applicable law and DSHS policy;

NOW, THEREFORE, the Parties hereby amend the Contract as follows:

1. **SECTION III** of the Contract, **DURATION**, is amended to reflect a revised termination date of **June 30, 2027.**

2. **SECTION V** of the Contract**, BUDGET**, is amended to increase funding for FY2027 in the amount of $116,008.00. The total amount of this Grant Agreement will not exceed **$348,024.00**. This includes the System Agency share of $316,386.00 and Grantee's required match amount of $31,638.00.

   The total not-to-exceed amount includes the following:

   Total Federal Funds: $316,386.00
   Total State Funds: $0.00

   Funds will be allocated for each Project Fiscal Year ("FY"), which means the period beginning July 1 and ending June 30 each year, under this Grant Agreement. All expenditures under the Grant Agreement must be within the identified FY, and in accordance with **ATTACHMENT B.4, REVISED BUDGET.**

3. **SECTION VI** of the Contract, **NOTICE TO PROCEED,** is hereby deleted in its entirety and replaced with the following:

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Funding for this Grant Agreement is available each FY, which is the period of July 1, through June 30, for the contract term in Section III, Duration, and is dependent on the award of the applicable federal grant. No work may begin, and no charges may be incurred until DSHS issues a written Notice to Proceed ("NTP") to Grantee for each FY. Although the NTP may issue a budget amount less than the total not to exceed amount of the Grant Agreement, the NTP must not effectuate a total budget of the Grant Agreement that results in a total not to exceed Grant Agreement amount that exceeds the amount specified in **Section V, Budget,** of the Grant Agreement. Such changes to total not to exceed amount specified in the Grant Agreement must be effectuated by amendment. Any expenditures made beyond the dollar amounts specified in the NTP(s) will be at Grantee's sole risk. Notwithstanding the preceding, at DSHS's discretion, Grantee may be eligible to receive reimbursement for eligible expenses incurred during the period of performance as defined by 2 CFR § 200.309.

4. **SECTION VII** of the Contract, **REPORTING REQUIREMENTS,** is hereby supplemented with the addition of the following:

Grantee shall submit the reports for FY2027, as identified in the table below, and as outlined in **ATTACHMENT A.5, FY2027 STATEMENT OF WORK**, by the due dates and submission methods specified therein. DSHS may add contractual requirements and revise reporting due dates throughout the term of this Grant Agreement to comply with modifications made to the federal grant award.

Report	**Frequency**	**Project FY2027 Due Date(s)**	**DSHS Email or System to Submit Report**
Financial Status Report - Biannual (See **SECTION I(U)(10)** of **ATTACHMENT A.5, FY 2027 STATEMENT OF WORK**)	FSRs are due biannually. The first FSR is due on the last day of the month following the first FSR period. The second FSR is due on the last day of the month, thirty (30) calendar days after the Contract end date and following the second FSR period.	January 31, 2027 July 30, 2027	invoices@dshs.texas.gov; fsrgrants@dshs.texas.gov; copy to the System Agency representative identified in **SECTION VIII, CONTRACT REPRESENTATIVES**, of the Grant Agreement
Invoices/Requests for Reimbursement **(See SECTION III(A) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	The last business day of the month following the month in which expenses were incurred AND thirty (30) calendar days following the expiration date of the Grant Agreement.	August 31, 2026 September 30, 2026 October 30, 2026 November 30, 2026 December 31, 2026 January 29, 2027 February 26, 2027 March 31, 2027 April 30, 2027 May 31, 2027 June 30, 2027 July 30, 2027	invoices@dshs.texas.gov; CMSinvoices@dshs.texas.gov; copy to the System Agency representative identified in **SECTION VIII, CONTRACT REPRESENTATIVES**, of the Grant Agreement
Property Inventory Report (Form GC-11)	Once per FY	October 15, 2026	FSOequip@dshs.texas.gov; copy to the System Agency representative identified in

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(See SECTION I(T)(3) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)			**SECTION VIII, CONTRACT REPRESENTATIVES**, of the Grant Agreement
Initial Work Plan **(See SECTION I(U)(1) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	Once per FY	July 31, 2026	Qualtrics System
Jurisdictional Risk Assessment (JRA) **(See SECTION I(U)(2) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	Once per FY	June 15, 2027	Qualtrics System
Capacity Indicators **(See Section I(U)(3) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	Once per FY	July 31, 2026	Qualtrics System
Multi-Year Integrated Preparedness Plan ("MYIPP") **(See SECTION I(U)(4) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	Once per FY	May 1, 2027	Qualtrics System
After-Action Review/Improvement Plan ("AAR/IP") **(See SECTION I(U)(5) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	Once per FY	No later than 120 days after the exercise or thirty (30) days following the Contract expiration (6/30/2027).	Qualtrics System
Programmatic Mid-Year Performance Report **(See SECTION I(U)(6) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	Once per FY	January 31, 2027	Qualtrics System
Programmatic End-of-Year Performance Report **(See SECTION I(U)(7) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	Once per FY	July 30, 2027	Qualtrics System

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Jurisdictional Evaluation Tool (JET) – Only for Regions 2/3 & 4/5N **(See Section I(U)(8) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	Once per FY	June 30, 2027	Qualtrics System
Capacity Indicators Survey **(See SECTION I(U)(9) of ATTACHMENT A.5, FY2027 STATEMENT OF WORK)**	Once per FY	July 31, 2026	Qualtrics System

5. The Contract is amended to add **ATTACHMENT A.5, FY2027 STATEMENT OF WORK**, which is attached to this Amendment and incorporated into the Contract for all purposes.

6. **ATTACHMENT B.3** of the Contract, **REVISED BUDGET (NOV. 2025),** is hereby deleted in its entirety and replaced with **ATTACHMENT B.4, REVISED BUDGET**, which is attached to this Amendment and incorporated into the Contract for all purposes.

7. **ATTACHMENT C.1** of the Contract, **HHS CONTRACT AFFIRMATIONS, VERSION 2.5, EFFECTIVE NOVEMBER 2024,** is hereby deleted in its entirety and replaced with **ATTACHMENT C.2, HHS CONTRACT AFFIRMATIONS, VERSION 2.8, EFFECTIVE DECEMBER 2025**, which is attached to this Amendment and incorporated into the Contract for all purposes.

8. **ATTACHMENT F.1** of the Contract, **FY2026 FFATA,** is hereby supplemented with the addition of **ATTACHMENT F.2, FY2027 FFATA**, which is attached to this Amendment and incorporated into the Contract for all purposes.

9. This Amendment is effective immediately upon execution by the last Party to sign below. Operations and funding for Fiscal Year 2027 begin on July 1, 2026. Except as modified by this Amendment, all existing terms of the Contract, including the current Statement of Work, shall remain in full force and effect until and unless modified by written agreement of the Parties.

10. Except as modified by this Amendment, all terms and conditions of the Contract, as amended, shall remain in effect.

11. Any further revisions to the Contract shall be by written agreement of the Parties.

12. Each Party represents and warrants that the person executing this Amendment on its behalf has full power and authority to enter into this Amendment.

SIGNATURE PAGE FOLLOWS

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SIGNATURE PAGE FOR AMENDMENT NO. 5
DEPARTMENT OF STATE HEALTH SERVICES CONTRACT NO. HHS001439500040

DEPARTMENT OF STATE HEALTH SERVICES	**CITY OF MIDLAND**
By: _____	By: _____
Name: _____	Name: Tommy Gonzalez
Title: _____	Title: City Manager
Date of Signature: _____	Date of Signature: _____

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ATTACHMENT A.5
FY2027 STATEMENT OF WORK

I. GRANTEE RESPONSIBILITIES

A. Grantee shall perform activities in support of the Public Health Emergency Preparedness ("PHEP") Cooperative Agreement between the Centers for Disease Control and Prevention ("CDC") and the Department of State Health Services ("System Agency") to advance public health emergency preparedness.

B. Grantee shall perform the activities required under this Grant Agreement in the following cities, counties, or groups of counties (cumulatively, Grantee's "Jurisdiction"): Midland County.

C. Grantee shall provide System Agency with situational awareness data generated through interoperable networks of electronic data systems.

D. Grantee shall coordinate with System Agency program staff to develop a preparedness activity plan for the Grantee's Jurisdiction. At minimum, the Grantee shall ensure the following public health emergency preparedness capabilities are all addressed in its workplan:

1. Capability 1 – Community preparedness is the ability of communities to prepare for, withstand, and recover from public health incidents in both the short-term and long-term.
2. Capability 2 – Community recovery is the ability of communities to identify critical assets, facilities, and other services within public health, emergency management, health care, human services, mental/behavioral health, and environmental health sectors that can guide and prioritize recovery operations.
3. Capability 3 – Emergency operations coordination is the ability to coordinate with emergency management and to direct and support an incident or event with public health or health care implications by establishing a standardized, scalable system of oversight, organization, and supervision that is consistent with jurisdictional standards and practices and the National Incident Management System ("NIMS").
4. Capability 4 – Emergency public information and warning is the ability to develop, coordinate, and disseminate information, alerts, warnings, and notifications to the public and incident management personnel.
5. Capability 5 – Fatality management is the ability to coordinate with partner organizations and agencies to provide fatality management services to ensure the proper recovery and preservation of remains; identification of the deceased; determination of cause and manner of death; release of remains to an authorized individual; and provision of mental/behavioral health assistance for the grieving. The role also may include supporting activities for the identification, collection, documentation, retrieval, and transportation of human remains, personal effects, and evidence to the examination location or incident morgue.
6. Capability 6 – Information sharing is the ability to conduct multijurisdictional and multidisciplinary exchange of health-related information and situational awareness data among federal, state, local, tribal, and territorial levels of government and the private sector. This capability includes the routine sharing of information, as well as the issuing of public health alerts to all levels of government and the private sector in preparation for,

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and in response to, events or incidents of public health significance.

7. Capability 7 – Mass care is the ability of public health agencies to coordinate with and support partner agencies to address, within a congregate location (excluding shelter-in-place locations), the public health, health care, mental/behavioral health, and human services needs of those impacted by an incident. This capability includes coordinating ongoing surveillance and public health assessments to ensure that health needs continue to be met as the incident evolves.
8. Capability 8 – Medical countermeasure dispensing and administration is the ability to provide medical countermeasures to targeted population(s) to prevent, mitigate, or treat the adverse health effects of a public health incident, according to public health guidelines. This capability focuses on dispensing and administering medical countermeasures, such as vaccines, antiviral drugs, antibiotics, and antitoxins.
9. Capability 9 – Medical materiel management and distribution is the ability to acquire, manage, transport, and track medical materiel during a public health incident or event and the ability to recover and account for unused medical materiel, such as pharmaceuticals, vaccines, gloves, masks, ventilators, or medical equipment after an incident.
10. Capability 10 – Medical surge is the ability to provide adequate medical evaluation and care during events that exceed the limits of the normal medical infrastructure of an affected community. It encompasses the ability of the health care system to endure a hazard impact, maintain or rapidly recover operations that were compromised, and support the delivery of medical care and associated public health services, including disease surveillance, epidemiological inquiry, laboratory diagnostic services, and environmental health assessments.
11. Capability 11 – Non-pharmaceutical interventions are actions that people and communities can take to help slow the spread of illness or reduce the adverse impact of public health emergencies. This capability focuses on communities, community partners, and stakeholders recommending and implementing non-pharmaceutical interventions in response to the needs of an incident, event, or threat. Non-pharmaceutical interventions may include isolation; quarantine; restrictions on movement and travel advisories or warnings; social distancing; external decontamination; hygiene; and precautionary protective behaviors.
12. Capability 12 – Public health laboratory testing is the ability to implement and perform methods to detect, characterize, and confirm public health threats. It also includes the ability to report timely data, provide investigative support, and use partnerships to address actual or potential exposure to threat agents in multiple matrices, including clinical specimens, and food, water, and other environmental samples. This capability supports passive and active surveillance when preparing for, responding to, and recovering from biological, chemical, and radiological (if a Radiological Laboratory Response Network is established) public health threats and emergencies.
13. Capability 13 – Public health surveillance and epidemiological investigation is the ability to create, maintain, support, and strengthen routine surveillance and detection systems and epidemiological investigation processes. It also includes the ability to expand these systems and processes in response to incidents of public health significance.
14. Capability 14 – Responder safety and health is the ability to protect public health and other emergency responders during pre-deployment, deployment, and post-deployment.
15. Capability 15 – Volunteer management is the ability to coordinate with emergency management and partner agencies to identify, recruit, register, verify, train, and engage

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volunteers to support the jurisdictional public health agency's preparedness, response, and recovery activities during pre-deployment, deployment, and post-deployment.

E. Grantee shall coordinate with System Agency program staff to develop a preparedness activity plan for the Grantee's Jurisdiction. CDC released the Public Health Response Readiness Framework that defines excellence in response operations. The Grantee shall be knowledgeable of the following items and ensure the items are addressed throughout the deliverables in Section I (U):

1. Prioritize a risk-based approach – to all-hazards planning that addresses evolving threats and supports medical countermeasure logistics;
2. Enhance partnerships – (federal and nongovernmental organizations) to effectively support community preparedness efforts;
3. Expand local support – to improve jurisdictional readiness to effectively manage public health emergencies;
4. Improve administrative and budget preparedness systems – to ensure timely access to resources for supporting jurisdictional responses;
5. Build workforce capacity – to meet jurisdictional surge management needs and support staff recruitment, retention, resilience, and mental health;
6. Modernize data collection and systems – to improve situational awareness and information sharing with healthcare systems and other partners;
7. Strengthen risk communications activities – to improve proficiency in disseminating critical public health information and warnings and address mis/disinformation;
8. Incorporate practices – to enhance preparedness and response support for communities experiencing differences in health status due to structural barriers;
9. Advance capacity and capability of public health laboratories – to characterize emerging public health threats through testing and surveillance; and
10. Prioritize community recovery efforts – to support health department reconstitution and incorporate lessons learned from public health emergency responses.

F. Grantee shall match funds awarded under this Grant Agreement with costs or third-party contributions that are not paid by the federal government under another award, except where authorized by federal statute to be used for cost-sharing or matching. The non-federal contributions ("match") may be provided directly or through donations from public or private entities and may be in cash or in-kind donations, fairly evaluated, including plant, equipment, or services. The costs that the Grantee incurs in fulfilling the matching or cost-sharing requirement are subject to the same requirements, including the cost principles, that apply to the use of federal funds, including prior approval requirements and other rules for allowable costs as described in 45 Code of Federal Regulations ("CFR") 74.23 and 45 CFR 92.24, as amended.

Grantee shall provide matching funds in the amount of ten percent (10%) of the DSHS Direct Costs and Indirect Costs amount as outlined in **ATTACHMENT B.4, REVISED BUDGET**. "Cash match" is defined as an expenditure of cash by the Grantee on allowable costs under this Grant Agreement that are borne by the Grantee. "In-kind match" is defined as the dollar value of non-cash contributions by a third party given in goods, commodities, or services that are used in activities that benefit this Grant Agreement's project, and that are contributed by non-federal

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third parties without charge to the Grantee. The criteria for a match must:

1. Be an allowable cost under the applicable federal cost principle;
2. Be necessary and reasonable for the efficient accomplishment of project or program objectives;
3. Be verifiable within the Grantee's (or subgrantee's) records;
4. Be documented, including methods and sources, in the approved budget (applies only to cost reimbursement contracts);
5. Not be included as contributions toward any other federally assisted project or program (match can count only once);
6. Not be paid by the federal government under another award, except where authorized by federal statute to be used for cost-sharing or match;
7. Conform to other provisions of governing circulars/statutes/regulations as applicable for the Grant Agreement;
8. Be adequately documented;
9. Follow procedures for generally accepted accounting practices as well as meet audit requirements; and
10. Value the in-kind contributions reported and be supported by documentation reflecting the use of goods and/or services during the Grant Agreement term.

G. Grantee shall, in the event of a public health emergency involving a portion of the state, mobilize and dispatch staff or equipment purchased with funds from previous PHEP cooperative agreements, and not currently performing critical duties in the Grantee's Jurisdiction, to the affected area of the state upon receipt of a written request from System Agency.

H. Grantee shall, in the event of a local, state, or federal incident, emergency or disaster, have the option to request from System Agency the United States Department of Health and Human Services ("HHS") emPower Individual Data Set (hereinafter, the "CMS data") for PHEP services. To access CMS data, Grantee shall submit to System Agency a written request that describes how the CMS data will be used to perform emergency planning for identifying and/or conducting outreach to at-risk Medicare beneficiaries to ensure they have the necessary medical resources and assistance throughout and during recovery from the incident, emergency or disaster. System Agency reserves the right to request additional information from Grantee. System Agency will review Grantee's request and provide a written approval or denial.

Grantee's access to and use of the CMS data and any derivative data is provided to allow Grantee to perform specified and System Agency-approved public health activities under the Grant Agreement.

When accessing the CMS data or derivative data, Grantee shall:

1. Ensure Confidential Information is handled in compliance with the HHS Data Use Agreement and the Centers for Medicare and Medicaid Services Data Use Agreement and any associated DUA Addendum;
2. Employ appropriate administrative, technical, and physical safeguards to protect the confidentiality of the CMS data and/or derivative data. Such protections shall include, but

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not be limited to measures that prevent unauthorized use of or access to such data; logon protocols and passwords for electronic access to such data; encryption of such data at rest and in transit; permanent deletion of internet histories when using third-party resources; redaction of information when fully identifiable information is not required; and the use of sufficient overwriting to ensure permanent deletion of electronic copies of such data or the physical destruction of such data in accordance with terms of this section;

3. Only utilize CMS data and derivative data to perform public health activities and only for the purposes specifically requested and approved by System Agency and not for any other purpose;
4. Ensure CMS data or derivative data is not entered into any type of registry, unless approved in writing by System Agency;
5. Destroy all source data and derivative data within thirty (30) calendar days from the date of disclosure. In the event the incident, emergency, or disaster extends past the thirty (30) calendar days, Grantee may request a thirty (30)-day extension to continue the response and outreach by submitting a written request to System Agency with justification for the continued use of the data. Grantee shall submit written attestation to System Agency certifying that destruction of all data was completed;
6. Ensure Grantee staff who have access to CMS data or any derivative data complete HIPAA training prior to accessing any data set. Grantee shall produce evidence of completed training to System Agency upon request;
7. Ensure Grantee staff who have access to CMS data or any derivative data obtain role-based access to the CMS data or any derivative data; and
8. Attest that each staff member accessing the CMS data does not have a criminal background or disqualifying criminal history record information or is not otherwise prohibited from accessing the CMS data as set forth in state or federal law or rule, including CMS requirements.

I. Grantee shall coordinate activities and response plans within Grantee's Jurisdiction with the state, regional, and other local jurisdictions, among local agencies, and with hospitals and major health care entities, and Councils of Government.

J. Grantee shall inform System Agency in writing if Grantee will not continue performance under this Grant Agreement within thirty (30) calendar days of receipt of System Agency's notification of an amended standard(s) or guideline(s). In such event, System Agency may terminate this Grant Agreement immediately or within a reasonable period of time, as determined by System Agency.

K. Grantee shall develop, implement, and maintain a timekeeping system for accurately documenting staff time and salary expenditures for all staff funded through this Grant Agreement, including partial full-time employees and temporary staff.

L. Grantee shall complete and submit programmatic reports as directed by System Agency in a format specified by System Agency and as needed to satisfy information-sharing requirements set forth in Texas Government Code Sections 421.071 and 421.072(b) and (c). Grantee must provide System Agency with other reports, including financial reports, that System Agency determines necessary to accomplish the objectives of this Grant Agreement and to monitor compliance.

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M. Grantee shall conduct all exercises in accordance with Homeland Security Exercise Evaluation Program ("HSEEP") guidance, and have plans, processes, and training in place to meet NIMS compliance requirements.

N. Grantee shall coordinate all planning, training, and exercises performed under this Grant Agreement with other Local Health Entities, the Texas Division of Emergency Management ("TDEM"), or other points of contact at the discretion of System Agency, to ensure consistency and coordination of requirements at the local level and eliminate duplication of effort between the various domestic preparedness funding sources in the state.

O. Grantee shall coordinate preparedness risk communication activities as needed with the System Agency Communications Unit.

P. Grantee shall work with the DSHS Public Health Region and their Regional Health Care Coalition to develop comprehensive preparedness strategies by participating in meetings, trainings, and exercises.

Q. Grantee shall comply with all state and System Agency guidance and standards, including the following:

Texas Grant Management Standards, located at the following URL: https://comptroller.texas.gov/purchasing/grant-management/.

R. Grantee shall comply with all applicable federal and state laws, rules, and regulations, as amended, including, but not limited to, the following:

1. Texas Government Code Chapter 418;
2. Public Law 116-22, Pandemic and All-Hazards Preparedness and Advancing Innovation Act ("PAHPAI").
3. Public Law 109-417, Pandemic and All-Hazards Preparedness Act ("PAHPA");
4. Texas Health and Safety Code Chapter 81;
5. Section 319 C-1 of the Public Health Service ("PHS") Act (47 USC § 247d-3a), as amended; and
6. 2 CFR Part 200.

S. Grantee shall comply with all requirements related to purchases made with grant funds and uses of grant funds under this Grant Agreement. The requirements regarding purchases made with grant funds and uses of grant funds under this Grant Agreement include the following:

1. Grantee may not use funds for research, clinical care, fundraising activities or lobbying, construction or major renovations, reimbursement of pre-award costs, to supplant existing state or federal funds for activities, payment or reimbursement of backfilling costs for staff, purchase of vehicles of any kind, uniforms, buildings or real property, or funding an award to another party or provider who is ineligible.
2. Grantee may not use funds made available under this Grant Agreement to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the

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preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

3. Grantee must initiate the purchase of all equipment approved in writing by System Agency, as applicable. Failure to timely initiate the purchase of equipment may result in the loss of availability of funds for the purchase of equipment. Requests to purchase equipment must be submitted to the assigned System Agency Contract Representative.
4. At the expiration or termination of this Grant Agreement for any reason, title to any remaining equipment and supplies purchased with funds under this Grant Agreement reverts to System Agency. Title may be transferred to another party at the sole discretion of System Agency. System Agency may, at its option and to the extent allowed by law, transfer the reversionary interest to such property to Grantee.
5. Grantee shall not use System Agency funds to lease buildings or real property without prior written approval from System Agency. Further, Grantee shall not use System Agency funds for the purchase of buildings or real property under any circumstance.
6. System Agency reserves the right, where allowed by legal authority, to redirect funds in the event of financial shortfalls.
7. System Agency will monitor Grantee's expenditures on a monthly basis. If expenditures are below the amount projected in Grantee's total FY amount, Grantee's budget may be subject to a decrease for the remainder of the FY.

T. Grantee shall comply with requirements related to the cost reimbursement budget under this Grant Agreement. The cost reimbursement budget requirements include the following:

1. Grantee's approved cost reimbursement budget must document all approved and allowable expenditures.
2. Grantee shall only utilize funding under this Grant Agreement for approved and allowable costs. If Grantee requests to utilize funds for an expense not documented in the approved cost reimbursement budget, Grantee shall notify the System Agency Contract Representative, in writing, and request approval prior to utilizing the funds. System Agency shall provide written notification whether the requested expense is approved or denied.
3. DSHS-approved budget may be revised by Grantee in accordance with the following requirements:
4. For any transfer between budget categories, Grantee shall submit a revised Categorical Budget using the Budget Template to the DSHS Contract Representative, highlighting the areas affected by the budget transfer and written justification for the transfer request. After DSHS review, the designated DSHS Contract Representative will provide notification of acceptance, rejection, or the need for a Contract Amendment to the Grantee by email.
5. For transfer of funds between direct budget categories, other than the 'Equipment' and 'Indirect Cost' categories, for less than or equal to a cumulative twenty-five (25) percent of the total value of the respective Contract budget period, Grantee shall submit timely written notification to DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If a budget revision for less than or equal to the cumulative twenty-five (25) percent is approved for transfer of funds between direct budget categories, DSHS Contract Representative will provide notification of acceptance to Grantee by email, upon receipt of which, the funds can be utilized by the Grantee.

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6. For transfer of funds between direct budget categories, other than the 'Equipment' and 'Indirect Cost' categories, that cumulatively exceeds twenty-five (25) percent of the total value of the respective Contract budget period, Grantee shall submit timely written notification to DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized until an amendment is executed by the Parties.
7. Any transfer between budget categories that includes 'Equipment' and/or 'Indirect Cost' categories must be approved by amendment to the Contract. Grantee shall submit timely written notification to DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized until an amendment is executed by the Parties.
8. Grantee shall maintain an inventory of equipment, supplies defined as Controlled Assets, and real property. Submit an annual cumulative report of the equipment and other property on HHS System Agency Grantee's Property Inventory Report to **FSOequip@dshs.texas.gov**, with a copy to the assigned System Agency Contract Representative by email not later than October 15 of each year. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of $500 or more, but less than $10,000: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets are considered Supplies.

U. Grantee shall comply with the reporting requirements and due dates established in this **STATEMENT OF WORK** and **SECTION VII, REPORTING REQUIREMENTS**, of the Grant Agreement. Unless stated otherwise in this Grant Agreement, Grantee must submit the reports via Qualtrics, a web-based system, according to instructions provided by System Agency. Programmatic reports satisfy the information-sharing requirements set forth in Texas Government Code, Sections 421.071 and 421.072(b) and (c). The reporting requirements include the following:

1. Grantee must prepare an **Initial Work Plan** each FY and submit it to System Agency via Qualtrics, using a URL provided by System Agency. For FY2027, Grantee must submit the Initial Work Plan to System Agency by **July 31, 2026**. This requirement must be reviewed and approved by System Agency to receive credit.
2. Grantee must prepare and submit a **Jurisdictional Risk Assessment ("JRA")** to System Agency via Qualtrics, using a URL provided by System Agency. For FY2027, Grantee must submit a Jurisdictional Risk Assessment to System Agency by **June 15, 2027**. Must include disproportionately impacted populations or access and functional needs. Previously completed JRAs can be submitted if they are not more than five (5) years old. The next JRA will be due within the next five (5) years from the submitted JRA date. This requirement must be reviewed and approved by System Agency to receive credit.
3. Grantee must prepare and submit a self-assessment on **Capacity Indicators** each FY via Qualtrics. For FY2027, Grantee must submit the Capacity Indicators Form to System Agency by **July 31, 2026**. System Agency will provide a template to Grantee, which will identify the information that Grantee must provide in its Capacity Indicators Survey. This requirement must be reviewed and approved by System Agency to receive credit.

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4. Grantee must prepare and submit a current **Multi-Year Integrated Preparedness Plan ("MYIPP")** each FY, which must include at least five (5) years of progressive exercise, planning and training, to System Agency via Qualtrics. For FY2027, Grantee must submit the MYIPP to System Agency by **May 1, 2027**. The MYIPP must be based on the results of the Grantee's training needs assessment and the evaluations of previous exercises and responses, including the After-Action Review/Improvement Plan. The MYIPP must include a description of:
    a) Summary of the MYIPP Workshop;
    b) The proposed location, month(s), and year(s) of future exercise(s);
    c) The type(s) of future exercise(s) that will take place; and
    d) The partnering entities.

    MYIPP must include one access and functional needs or underserved populations (FEMA Definition), training to support a ready responder workforce (WHF-B, AHA-G, LOC-B), and recovery operations (REC-A). This requirement must be reviewed and approved by System Agency to receive credit.
5. Grantee must implement an exercise program to include three (3) discussion-based exercises and one (1) Functional or Full-Scale Operational Exercise over the five (5)-year Performance Period. Real world incidents can count as a full-scale exercise with prior approval from the System Agency. This includes completing After-Action Reports (AAR), Corrective Action and Improvement Plans. The exercises should utilize scenarios that meet the priority jurisdictional risks identified in the JRA. Submit the **After-Action Review/Improvement Plan ("AAR/IP")** for each exercise no later than 120 days after the exercise or thirty (30) days following the Contract expiration, via Qualtrics. This requirement must be reviewed and approved by System Agency to receive credit.
6. For FY2027, the Grantee must submit the **Programmatic Mid-Year Performance Report** to the System Agency by **January 31, 2027**, via Qualtrics. The System Agency will provide a template to the Grantee, which will identify the information that the Grantee must provide in its Programmatic Mid-Year Performance Report. This requirement must be reviewed and approved by System Agency to receive credit.
7. For FY2027, the Grantee must submit the **Programmatic End-of-Year Performance Report** to the System Agency by **July 30, 2027**. The System Agency will provide a template to the Grantee to identify the information that the Grantee must provide in its Programmatic End-of-Year Performance Report. This requirement must be reviewed and approved by System Agency to receive credit.
8. For FY2027, if the Grantee is located in DSHS Public Health Regions **2/3** and **4/5N**, Grantee must submit the **Jurisdictional Evaluation Tool ("JET")** to the System Agency by **June 30, 2027**. The System Agency will provide a template to the Grantee to be completed using Qualtrics. This requirement must be reviewed and approved by System Agency to receive credit. If the Grantee is Project Public Health Ready ("PPHR") accredited, they may submit supporting PPHR documentation in lieu of completing applicable sections of the JET survey, as determined by System Agency.
9. Grantee must complete and submit the **Capacity Indicators Survey** in Qualtrics by **July 31, 2026**. The System Agency will provide a template to the Grantee to be completed using Qualtrics. This requirement must be reviewed and approved by System Agency to receive credit.
10. Grantee must submit biannual **Financial Status Reports ("FSRs)"**. Grantee's FSRs are due biannually. The first FSR is due on the last day of the month following the first FSR

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period. The second FSR is due on the last day of the month, thirty (30) days after the Contract end date and following the second FSR period. The first FSR, for the period July 1, 2026, through December 31, 2026, is due by **January 31, 2027**. The second FSR, for the period January 1, 2027, through June 30, 2027, is due by **July 30, 2027**. Grantee shall electronically submit FSRs to invoices@dshs.texas.gov and fsrgrants@dshs.texas.gov, with a copy to the System Agency Contract Representative identified in **SECTION VIII, CONTRACT REPRESENTATIVES**, of this Grant Agreement. As directed by System Agency, Grantee must submit FSR reports by mail or fax as follows:

a. For submission by mail, use address below:
   Department of State Health Services
   Claims Processing Unit
   P.O. Box 149347, MC 1940
   Austin, TX 78714-9347

b. For submission by fax, use the number below:
   (512) 458-7442

11. Grantee must maintain an inventory of equipment, supplies defined as "Controlled Assets" (see definition in the form titled, "DSHS Contractor's Property Inventory Report (Form GC-11)," link below), and real property. Grantee shall submit an annual cumulative report of the above-stated items on Form GC-11, located at the following URL:https://www.dshs.texas.gov/hiv-std-program/dshs-tb-hiv-std-section-thisis/contract-management-section-prevention. Grantee will submit the Form GC-11, via email, to FSOequip@dshs.texas.gov, with a copy to the System Agency Contract Representative identified in **SECTION VIII, CONTRACT REPRESENTATIVES**, of this Grant Agreement, no later than October 15th of each calendar year.
12. Grantee shall provide System Agency with other reports, including financial reports, that System Agency determines necessary to accomplish the objectives of this Grant Agreement and to monitor compliance.
13. The Grantee must immediately notify the System Agency in writing if the Grantee is legally prohibited from providing any report required under this Grant Agreement.

II. PERFORMANCE MEASURES

A. System Agency will monitor the Grantee's performance of the requirements in this Statement of Work and compliance with the Grant Agreement's terms and conditions.

B. Grantee's failure to meet certain requirements, including, but not limited to the following, may result in the System Agency withholding a portion of the current Fiscal Year PHEP award: adherence to PHEP reporting deadlines and the capability to receive, stage, store, distribute, and dispense materiel during a public health emergency.

C. Upon request by the System Agency, the Grantee shall reasonably revise any performance measure to the System Agency's satisfaction and with the requirements outlined in this Grant Agreement.

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III. INVOICE AND PAYMENT

A. Grantee shall request monthly payments by the last business day of the month following the month in which expenses were incurred and shall use the State of Texas Purchase Vouchers (Form B-13 and Form B-13A) located at https://www.dshs.texas.gov/contractor-forms. Grantee's final invoice will be due thirty (30) calendar days following the expiration date of the Grant Agreement. The System Agency will issue reimbursement payments to the Grantee monthly for reported actual cash disbursements supported by adequate documentation.

Invoice approval and payment is contingent upon receipt of adequate supporting documentation that is submitted by electronic mail to invoices@dshs.texas.gov and CMSInvoices@dshs.texas.gov, with a copy to the assigned System Agency Contract Representative identified in the Grant Agreement.

At a minimum, every invoice should include:

1. Grantee name, address, email address, vendor identification number, and telephone number;
2. DSHS Contract or Purchase Order number;
3. Identification of service(s) provided;
4. The total invoice amount; and
5. Any additional supporting documentation that is required by this Statement of Work or as requested by System Agency.

B. System Agency will pay Grantee monthly on a cost reimbursement basis and in accordance with **ATTACHMENT B.4, REVISED BUDGET**, of this Grant Agreement. System Agency will reimburse Grantee only for allowable expenses incurred within the FY and in accordance with the Statement of Work.

C. System Agency reserves the right, where allowed by legal authority, to redirect funds in the event of financial shortfall. System Agency will monitor Grantee's expenditures on a periodic basis. If expenditures are below the amount projected in Grantee's total Grant Agreement amount, Grantee's budget may be subject to a decrease for the remainder of the Grant Agreement term. Vacant positions existing after ninety (90) days may result in a decrease in funds. Grantee must report position vacancies to their assigned Contract Manager each month until the position is filled.

D. Grantee may request a one-time working capital advance not to exceed twelve percent (12%) of the total funds allotted per FY. All advances must be expended by the end of the FY. Advances not expended by the end of the Grant Agreement term must be refunded to the System Agency. System Agency may require the Grantee to repay all or part of advanced funds at any time during the Grant Agreement term. However, if the advance has not been repaid before the last three (3) months of the Grant Agreement term, the Grantee must deduct at least one-third (1/3) of the remaining advance from each of the last three (3) months' reimbursement requests. If the advance is not repaid prior to the last three (3) months of the Grant Agreement term, System Agency will reduce the reimbursement request by one-third (1/3) of the remaining balance of the advance.

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ATTACHMENT B.4

REVISED BUDGET

BUDGET CATEGORIES	DSHS FUNDING FOR FY2025 (July 1, 2024 – June 30, 2025)	DSHS FUNDING FOR FY2026 (July 1, 2025 – June 30, 2026)	DSHS FUNDING FOR FY2027 (July 1, 2026 – June 30, 2027)	TOTAL DSHS FUNDING
Personnel	$40,200.00	$40,200.00	$40,200.00	$120,600.00
Fringe Benefits	$17,286.00	$17,286.00	$17,286.00	$51,858.00
Travel	$4,157.00	$5,717.00	$5,717.00	$15,591.00
Equipment	$0.00	$0.00	$0.00	$0.00
Supplies	$31,593.00	$30,033.00	$30,033.00	$91,659.00
Contractual	$0.00	$0.00	$0.00	$0.00
Other	$12,226.00	$12,226.00	$12,226.00	$36,678.00
Sum of DSHS Direct Costs	**$105,462.00**	**$105,462.00**	**$105,462.00**	**$316,386.00**
Indirect Costs	$0.00	$0.00	$0.00	$0.00
Sum of DSHS Direct Costs and Indirect Costs	**$105,462.00**	**$105,462.00**	**$105,462.00**	**$316,386.00**
Plus Required Match (Cash or In-Kind)	$10,546.00	$10,546.00	$10,546.00	$31,638.00
Total Contract Amount	**$116,008.00**	**$116,008.00**	**$116,008.00**	**$348,024.00**

FY is defined as the period of July 1 through June 30.

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HEALTH AND HUMAN SERVICES
Contract Number HHS001439500040

Attachment C.2 CONTRACT AFFIRMATIONS

For purposes of these Contract Affirmations, HHS includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). System Agency refers to HHSC, DSHS, or both, that will be a party to this Contract. These Contract Affirmations apply to all Contractors and Grantees (referred to as "Contractor") regardless of their business form (e.g., individual, partnership, corporation).

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

1. Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.

2. Complete and Accurate Information

Contractor represents and warrants that all statements and information provided to HHS are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.

3. Public Information Act

Contractor understands that HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

4. Contracting Information Requirements

Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

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5. Assignment

A. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from System Agency. Any attempted assignment in violation of this provision is void and without effect.

B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity.

6. Terms and Conditions

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from HHS' terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

7. HHS Right to Use

Contractor agrees that HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHS deems necessary to complete the procurement process or comply with state or federal laws.

8. Release from Liability

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

9. Dealings with Public Servants

Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.

10. Financial Participation Prohibited

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

11. Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract

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and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

12. Child Support Obligation

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate. If the certification is shown to be false, Contractor may be liable for additional costs and damages set out in 231.006(f).

13. Suspension and Debarment

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM*) maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.

14. Excluded Parties

Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, *"Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism,"* published by the United States Department of the Treasury, Office of Foreign Assets Control.'

15. Foreign Terrorist Organizations

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

16. Executive Head of a State Agency

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

17. Human Trafficking Prohibition

Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

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18. Franchise Tax Status

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

19. Debts and Delinquencies

Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

20. Lobbying Prohibition

Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

21. Buy Texas

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

22. Disaster Recovery Plan

Contractor agrees that upon request of System Agency, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

23. Computer Equipment Recycling Program

If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.

24. Television Equipment Recycling Program

If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

25. Cybersecurity Training

A. Contractor represents and warrants that it will comply with the requirements of Section 2063.104 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.

B. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2063.104.

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26. Restricted Employment for Certain State Personnel

Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

27. No Conflicts of Interest

A. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to System Agency under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

B. Contractor agrees that, if after execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to System Agency. In addition, Contractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Contractor or by System Agency as a potential conflict. System Agency reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by System Agency's decision.

28. Fraud, Waste, and Abuse

Contractor understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Grantee officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027.

A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: http://sao.fraud.state.tx.us/

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All reports made to the OIG must be made through one of the following avenues:

- OIG Toll Free Hotline 1-800-436-6184
- OIG Website: ReportTexasFraud.com
- Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us
- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us.
- OIG Mailing Address: Office of Inspector General
  Attn: Fraud Hotline
  MC 1300
  P.O. Box 85200
  Austin, Texas 78708-5200

29. Antitrust

The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and

C. neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

30. Legal and Regulatory Actions

Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify System Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update System Agency shall constitute breach of contract and may result in immediate contract termination.

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31. No Felony Criminal Convictions

Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

32. Unfair Business Practices

Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings**.**

33. Entities that Boycott Israel

Contractor represents and warrants that (1) it does not, and shall not for the duration of the Contract, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

34. E-Verify

Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:

1. all persons employed by Contractor to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.

35. Former Agency Employees – Certain Contracts

If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, in accordance with Section 2252.901 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the Contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the Contract.

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36. Disclosure of Prior State Employment – Consulting Services

If this Contract is for consulting services,

A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:

1. Name of individual(s) (Contractor or employee(s));
2. Status;
3. The nature of the previous employment with HHSC or the other State of Texas agency;
4. The date the employment was terminated and the reason for the termination; and
5. The annual rate of compensation for the employment at the time of its termination.

B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by System Agency or any other State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services.

37. Abortion Funding Limitation

Contractor understands, acknowledges, and agrees that, pursuant to Article IX of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act:

1. performs an abortion procedure that is not reimbursable under the state's Medicaid program;
2. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program; or
3. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program.

The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(a)(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX.

38. Funding Eligibility

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2273 of the Texas Government Code, except as exempted under that Chapter, HHSC cannot (1) contract with (a) an abortion provider or an affiliate of an abortion provider; or (b) an abortion assistance entity for the purpose of providing an abortion or abortion assistance;

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or (2) contract or appropriate or spend money to provide any person logistical support for the express purpose of assisting a woman with procuring an abortion or the services of an abortion provider. Respondent certifies that it is not ineligible to contract with System Agency under the terms of Chapter 2273 of the Texas Government Code and certifies that the contract is not a taxpayer resource transaction, appropriation, or expenditure of money prohibited by Chapter 2273 of the Texas Government Code.

39. Gender Transitioning and Gender Reassignment Procedures and Treatments for Certain Children – Prohibited Use of Public Money; Prohibited State Health Plan Reimbursement.

Contractor understands, acknowledges, and agrees that, pursuant to Section 161.704 of the Texas Health and Safety Code (eff. Sept. 1, 2023), public money may not directly or indirectly be used, granted, paid, or distributed to any health care provider, medical school, hospital, physician, or any other entity, organization, or individual that provides or facilitates the provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor also understands, acknowledges, and agrees that, pursuant to Section 161.705 of the Texas Health and Safety Code (eff. Sept. 1, 2023), HHSC may not provide Medicaid reimbursement and the child health plan program established under Chapter 62 may not provide reimbursement to a physician or health care provider for provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor certifies that it is not ineligible to contract with System Agency under the terms of Chapter 161, Subchapter Y, of the Texas Health and Safety Code.

40. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)

Contractor certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract or funding pursuant to 2 CFR 200.216.

41. COVID-19 Vaccine Passports

Pursuant to Texas Health and Safety Code, Section 161.0085(c), Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.

42. Entities that Boycott Energy Companies

Pursuant to Section 2276.002 of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Contractor represents and warrants that: (1) it does not, and will not for the duration of the Contract, boycott energy companies or (2) the verification required by Section 2276.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this

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provision change during the course of the Contract, Contractor shall promptly notify System Agency.

43. Entities that Discriminate Against Firearm and Ammunition Industries

In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Contractor verifies that: (1) it does not, and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

44. Security Controls for State Agency Data

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.138, Contractor understands, acknowledges, and agrees that if, pursuant to this Contract, Contractor is or will be authorized to access, transmit, use, or store data for System Agency, Contractor is required to meet the security controls the System Agency determines are proportionate with System Agency's risk under the Contract based on the sensitivity of System Agency's data and that Contractor must periodically provide to System Agency evidence that Contractor meets the security controls required under the Contract.

45. Cloud Computing State Risk and Authorization Management Program (TX-RAMP)

Pursuant to Texas Government Code, Section 2063.408, Contractor acknowledges and agrees that, if providing cloud computing services for System Agency, Contractor must comply with the requirements of the state risk and authorization management program and that System Agency may not enter or renew a contract with Contractor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless Contractor demonstrates compliance with program requirements. If providing cloud computing services for System Agency that are subject to the state risk and authorization management program, Contractor certifies it will maintain program compliance and certification throughout the term of the Contract.

46. Contract for Professional Services of Physicians, Optometrists, and Registered Nurses

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2254.008(a)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

47. Foreign-Owned Companies in Connection with Critical Infrastructure

If Texas Government Code, Section 2275.0102(a)(1) (relating to prohibition on contracts with certain foreign-owned companies in connection with critical infrastructure) is applicable to this Contract, pursuant to Government Code Section 2275.0102, Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of

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China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2275.0103 or (2) headquartered in any of those countries.

48. Critical Infrastructure Subcontracts

For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 117.002 of the Business and Commerce Code, Contractor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 117.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Contractor will notify the System Agency before entering into any subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 117.001 of the Texas Business & Commerce Code, in this state.

49. Enforcement of Certain Federal Firearms Laws Prohibited

In accordance with House Bill 957, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2.101 is applicable to Contractor, Contractor certifies that it is not ineligible to receive state grant funds pursuant to Texas Government Code, Section 2.103.

50. Prohibition on Abortions

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article II.

51. Hardening of State Government

Pursuant to Executive Order GA-48, relating to hardening of state government, issued November 19, 2024, Contractor certifies it is not and, if applicable, any of its holding companies or subsidiaries is not:

a. Listed in Section 889 of the 2019 National Defense Authorization Act (NDAA); or

b. Listed in Section 1260H of the 2021 NDAA; or

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c. Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or

d. Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

52. Artificial Intelligence Disclosure.

Contractor certifies that it has disclosed in writing to System Agency each artificial intelligence system it may use to complete any deliverable or a portion of any deliverable under the Contract. "Artificial intelligence system" means a machine-based system that for explicit or implicit objectives infers from provided information a method to generate outputs, such as predictions, content, recommendations, or decisions, to influence a physical or virtual environment with varying levels of autonomy and adaptiveness after deployment. Contractor promises not to use an artificial intelligence system to perform the Contract without the prior written consent of System Agency.

53. Surveillance, Intimidation, and Related Acts.

Contractor certifies that it (and its subcontractors) have not, and if awarded a contract, will not, either directly or indirectly through a third party, engage in surveillance targeting or engage in an act of intimidation, coercion, extortion, undue influence, or other similar conduct intended to influence, silence, or retaliate against:

(1) a member of the state legislature or person employed to support the state legislature in any capacity;

(2) a family member of a person described by (1);

(3) a state agency employee; or

(4) an individual making a complaint or raising concerns regarding state agency operations or contracting.

Contractor certifies that it and its subcontractors have not, and if awarded a contract will not, either directly or indirectly through a third party, use private or confidential information to manipulate or influence a state contracting decision or proceeding. Contractor acknowledges that it, its executives and directors, and other associated entities and individuals could be terminated, barred from state contracts, and penalized up to $2 million for a violation of Government Code, Section 2261.302.

54. False Representation

Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

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55. False Statements

Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

56. Permits and License

Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.

57. Equal Employment Opportunity

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

58. Federal Occupational Safety and Health Law

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

59. Signature Authority

Contractor represents and warrants that the individual signing this Contract Affirmations document is authorized to sign on behalf of Contractor and to bind the Contractor.

Signature Page Follows

Docusign Envelope ID: 46F0A27B-63F1-44C1-8F51-BAC79A1451E3

Authorized representative on behalf of Contractor must complete and sign the following:

City of Midland Health Department

Legal Name of Contractor

City of Midland Health Department

Assumed Business Name of Contractor, if applicable (d/b/a or 'doing business as')

City of Midland Health Department

Texas County(s) for Assumed Business Name (d/b/a or 'doing business as')
Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.

Signature of Authorized Representative Tommy Gonzalez	**Date Signed** City Manager
Printed Name of Authorized Representative First, Middle Name or Initial, and Last Name 3303 W. Illinois Ave Sp. 22	**Title of Authorized Representative** Midland, TX 79703
Physical Street Address 300 N. Loraine St	**City, State, Zip Code** Midland, TX 79701
Mailing Address, if different 432-685-7471	**City, State, Zip Code** 432-699-6290
Phone Number cblumenauer@midlandtexas.gov	**Fax Number** 073186579
Email Address 17560006086016	**DUNS Number** 17560006086
Federal Employer Identification Number 17560006086	**Texas Identification Number (TIN)** 000
Texas Franchise Tax Number CPZ1T3B85A64	**Texas Secretary of State Filing Number**
SAM.gov Unique Entity Identifier (UEI)	

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TEXAS Health and Human Services | Texas Department of State Health Services

Fiscal Federal Funding Accountability and Transparency Act (FFATA)

The certifications enumerated below represent material facts upon which DSHS relies when reporting information to the federal government required under federal law. If the Department later determines that the Contractor knowingly rendered an erroneous certification, DSHS may pursue all available remedies in accordance with Texas and U.S. law. Signor further agrees that it will provide immediate written notice to DSHS if at any time Signor learns that any of the certifications provided for below were erroneous when submitted or have since become erroneous by reason of changed circumstances. ***If the Signor cannot certify all of the statements contained in this section, Signor must provide written notice to DSHS detailing which of the below statements it cannot certify and why*.**

Legal Name of Contractor:	**FFATA Contact: (Name, Email and Phone Number):**
City of Midland Health Department	Amy Grindstaff agrindstaff@midlandtexas.gov 432-685-7280
Primary Address of Contractor: 3303 W. Illinois Ave Sp. 22 Midland, TX 79703	**Zip Code: 9-digits required www.usps.com** 79703-6213
Unique Entity ID (UEI): This number replaces the DUNS www.sam.gov CPZ1T3B85A64	**State of Texas Comptroller Vendor Identification Number (VIN) – 14 digits:** 17560006086016

Printed Name of Authorized Representative:	**Signature of Authorized Representative**
Tommy Gonzalez	
Title of Authorized Representative City Manager	**Date Signed**

Fiscal Federal Funding Accountability and Transparency Act (FFATA) CERTIFICATION

As the duly authorized representative (Signor) of the Contractor, I hereby certify that the statements made by me in this certification form are true, complete, and correct to the best of my knowledge.

Did your organization have a gross income, from all sources, of less than $300,000 in your previous tax year? Yes [ ] No [X]

If your answer is "Yes", skip questions "A", "B", and "C" and finish the certification. If your answer is "No", answer questions "A" and "B".

A. Certification Regarding % of Annual Gross from Federal Awards.
Did your organization receive 80% or more of its annual gross revenue from federal awards during the preceding fiscal year? Yes [ ] No [X]

B. Certification Regarding Amount of Annual Gross from Federal Awards.
Did your organization receive $25 million or more in annual gross revenues from federal awards in the preceding fiscal year? Yes [ ] No [X]

If your answer is "Yes" to both question "A" and "B", you must answer question "C".
If your answer is "No" to either question "A" or "B", skip question "C" and finish the certification.

C. Certification Regarding Public Access to Compensation Information.
Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? Yes [X] No [ ]

If your answer is "Yes" to this question, where can this information be accessed?

This information can be accessed through an FOIA request.

If your answer is "No" to this question, you must provide the names and total compensation of the top five highly compensated officers below.

Provide compensation information here:

This information can be accessed through an FOIA request.

Certificate Of Completion

Envelope Id: 46F0A27B-63F1-44C1-8F51-BAC79A1451E3
Status: Sent
Subject: HHS001439500040-PHEP City of Midland A.5-FY27 Amendment
Source Envelope:
Document Pages: 33
Signatures: 0
Certificate Pages: 2
Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-06:00) Central Time (US & Canada)

Envelope Originator:
CMS Internal Routing Mailbox
11493 Sunset Hills Road
#100
Reston, VA 20190
CMS.InternalRouting@dshs.texas.gov
IP Address: 167.137.1.11

Record Tracking

Status: Original
3/11/2026 2:36:45 PM
Holder: CMS Internal Routing Mailbox
CMS.InternalRouting@dshs.texas.gov
Location: DocuSign

Signer Events	Signature	Timestamp
Whitney Craig wcraig@midlandtexas.gov Health Services Manager City of Midland Health & Senior Services Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign	**Completed** Using IP Address: 209.209.75.79	Sent: 3/11/2026 2:54:50 PM Resent: 3/24/2026 1:11:41 PM Resent: 4/2/2026 10:57:52 AM Viewed: 4/7/2026 10:53:56 AM Signed: 4/7/2026 11:15:07 AM
Tommy Gonzalez tgonzalez@midlandtexas.gov City Manager Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		Sent: 4/7/2026 11:15:11 AM Resent: 4/14/2026 10:54:05 AM Viewed: 4/16/2026 1:52:45 PM
Michael Montgomery Michael.Montgomery1@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Patty Melchior Patty.Melchior@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
David Gruber David.Gruber@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

In Person Signer Events	Signature	Timestamp

Editor Delivery Events	Status	Timestamp

Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp

Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
CMS Internal Routing Mailbox CMS.InternalRouting@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Jennifer Silva Jennifer.Silva@dshs.texas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		
Whitney Craig wcraig@midlandtexas.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via Docusign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	3/11/2026 2:54:50 PM
Envelope Updated	Security Checked	4/14/2026 10:54:04 AM
Envelope Updated	Security Checked	4/14/2026 10:54:04 AM

Payment Events	Status	Timestamps

DEPARTMENT OF STATE HEALTH SERVICES
CONTRACT NO. HHS001331300032
AMENDMENT NO. 3

The **DEPARTMENT OF STATE HEALTH SERVICES** ("DSHS" or "System Agency") and **CITY OF MIDLAND HEALTH DEPARTMENT** ("Grantee"), Parties to that certain Immunization/Locals Grant Program Contract, effective September 1, 2023, and denominated DSHS Contract No. HHS001331300032 (the "Contract"), as amended, now want to further amend the Contract.

WHEREAS, DSHS has chosen to exercise the third of four (4) one-year extension options available under the Contract;

WHEREAS, DSHS desires to add funds to the Contract to pay for authorized services to be provided by Grantee during the extended term, and revise the Budget accordingly; and

WHEREAS, the Parties desire to update certain Contract terms and conditions to comply with applicable law and DSHS policy.

NOW, THEREFORE, the Parties amend and modify the Contract as follows:

1. **SECTION III, DURATION,** of the Contract is amended to reflect a revised termination date of August 31, 2027.

2. **SECTION IV, STATEMENT OF WORK**, of the Contract is deleted in its entirety and replaced with the following:

   IV. STATEMENT OF WORK

   The Scope of Grant Project to which Grantee is bound is incorporated into and made a part of this Grant Agreement for all purposes and included as **ATTACHMENT A, STATEMENT OF WORK, ATTACHMENT A-1, FY 2025 STATEMENT OF WORK, ATTACHMENT A-2, FY 2026 STATEMENT OF WORK** and **ATTACHMENT A-3, FY 2027 STATEMENT OF WORK**, which are attached to this Amendment and incorporated into and made part of the Contract for all purposes.

3. **SECTION V, BUDGET AND INDIRECT COST RATE**, of the Contract is amended to increase funding in the amount of $150,358.00 for State Fiscal Year ("FY") FY2027. The total not-to-exceed amount of this Contract is increased to $601,432.00. All expenditures under the Contract shall be in accordance with **ATTACHMENT B-3, REVISED BUDGET**.

4. **SECTION V, BUDGET AND INDIRECT COST RATE**, of the Contract is deleted in its entirety and replaced with the following:

V. BUDGET AND INDIRECT COST RATE

Grantee is not required to provide matching funds. The total not-to-exceed amount includes the following:

Increase in Federal Funds: $66,899.00	Total Federal Funds: $267,596.00
Increase in State Funds: $83,459.00	Total State Funds: $333,836.00

5. **ATTACHMENT B-2, REVISED BUDGET**, is deleted in its entirety and replaced with **ATTACHMENT B-3, REVISED BUDGET**, which is attached to this Amendment and incorporated into and made part of the Contract for all purposes.

6. **ATTACHMENT C-1, HHS CONTRACT AFFIRMATIONS V. 2.3 (AUGUST 2023)**, is deleted in its entirety and replaced with **ATTACHMENT C-2, HHS CONTRACT AFFIRMATIONS V. 2.8 (DECEMBER 2025)**, which is attached to this Amendment and incorporated into and made part of the Contract for all purposes.

7. **ATTACHMENT D-1, HHS UNIFORM TERMS AND CONDITIONS – GRANT V. 3.3 (NOVEMBER 2023)**, is deleted in its entirety and replaced with **ATTACHMENT D-2, HHS UNIFORM TERMS AND CONDITIONS – GRANT V. 3.5 (SEPTEMBER 2024)**, which is attached to this Amendment and incorporated into and made part of the Contract for all purposes.

8. **ATTACHMENT J-3, FISCAL FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) CERTIFICATION FORM,** is attached to this Amendment and incorporated into and made part of the Contract for all purposes.

9. This Amendment No. 3 shall be effective on August 31, 2026.

10. Except as modified by this Amendment No. 3, all terms and conditions of the Contract shall remain in full force and effect.

11. Any further revisions to the Contract shall be by written agreement of the Parties.

12. Each Party represents and warrants that the person executing this Amendment No. 3 on its behalf has full power and authority to enter into this Amendment.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR AMENDMENT NO. 3
DSHS CONTRACT NO. HHS001331300032

DEPARTMENT OF STATE HEALTH SERVICES	**CITY OF MIDLAND HEALTH DEPARTMENT**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date of Signature: _____	Date of Signature_____

ATTACHMENT A-3
FY 2027 STATEMENT OF WORK

I. GRANTEE RESPONSIBILITIES

A. Grantee shall implement and operate an immunization program for children, adolescents, and adults with special emphasis on accelerating interventions to improve the immunization coverage of children under five (5) years of age (birth to 59 months of age). Grantee shall incorporate traditional and non-traditional systematic approaches designed to eliminate barriers, expand immunization capacity, and establish uniform operating policies, as described herein.

B. Grantee shall enroll as a provider in the Texas Vaccines for Children (TVFC) and the Adult Safety Net (ASN) programs by the effective date of this Contract. This includes a signed *Deputization Addendum Form* annually.

C. Grantee shall maintain staffing levels to meet required activities of the Contract and ensure staff funded by this Contract attend required training.

D. Grantee shall report all notifiable conditions as specified in Chapter 97, Title 25 of the Texas Administrative Code, and as otherwise required by law.

E. Grantee shall report all vaccine adverse events in accordance with the 1986 National Childhood Vaccine Injury Act 42 U.S.C. § 300aa-25, located at vaers.hhs.gov or 800-822-7967.

F. Grantee shall sustain a network of TVFC and ASN providers to administer vaccines to program-eligible populations through the following activities:

1. Ensuring a New Provider Checklist is completed;
2. Conducting quality assurance reviews;
3. Ensuring an annual influenza pre-book survey is completed;
4. Conducting compliance site visits;
5. Conducting unannounced storage and handling visits; and
6. Ensuring providers adhere to the vaccine borrowing procedure.

G. Grantee shall participate in audits and assessments through the following activities:

1. Completing and submitting all audits and assessments conducted on childcare facilities and Head Start Centers through Child Health Reporting System (CHRS);
2. Completing audits, assessments, and retrospective surveys of public and private schools;
3. Reviewing monthly reports to ensure data quality;

4. Reviewing monthly Provider Activity Reports;
5. Reviewing quarterly Consent Accepted Rate Evaluations; and
6. Conducting ImmTrac2 Support Reviews of Texas Immunization Registry organizations.

H. Grantee shall provide education and outreach activities regarding vaccines and vaccine-preventable diseases, Texas Immunization Registry, and TVFC and ASN Programs to the following:

1. American Indian Tribes;
2. Schools and childcare facilities;
3. Healthcare workers; and
4. Community and general public.

I. Grantee shall not deny vaccinations to recipients because they do not reside within Grantee's jurisdiction, inability to pay an administration fee, or because of denial to consent to Texas Immunization Registry.

J. Grantee shall identify and provide case management for infants born to hepatitis B surface antigen-positive pregnant women and pregnant women of unknown hepatitis B status through ensuring the following activities:

1. Newborn post-exposure prophylaxis with hepatitis B vaccine and hepatitis B immune globulin administered to infants within twelve (12) hours of birth;
2. Timely administration of doses two and three of hepatitis B vaccine according to Advisory Committee on Immunization Practices (ACIP) recommendations for the infant;
3. Timely completion of post-vaccination serologic testing according to Centers for Disease Control and Prevention (CDC) recommendations for the infant; and
4. Immediately documenting mother and infant information in Texas Perinatal Hepatitis B Prevention Program (PHBPP) database and completing all "In Progress" or "Not Started" tasks.

K. Grantee shall assess and audit vaccination rates and compliance with vaccine requirements at assigned schools and childcare facilities in accordance with the Population Assessment Manual, which is distributed annually by DSHS.

L. Grantee shall transfer overstocked vaccines and vaccines approaching expiration within the next ninety (90) days, short-dated, to alternate providers for immediate use when instructed by the DSHS Public Health Region Immunization Program Manager, DSHS Central Office, or designee to avoid vaccine waste.

M. Grantee shall comply with the following DSHS guides and manuals:

1. DSHS Immunization Contractor's Guide for Local Health Departments and Public Health Regions located at:

dshs.texas.gov/immunizations/health-departments/contracts

2. TVFC and ASN Operations Manual for Responsible Entities (RE) located at: dshs.texas.gov/immunizations/health-departments/materials
3. TVFC and ASN Operations Manual for Providers located at: dshs.texas.gov/immunizations/health-departments/materials
4. Immunization Quality Improvement for Provider Manual and Resources located at: dshs.texas.gov/immunizations/health-departments/materials
5. Population Assessment Manual located at: dshs.texas.gov/immunizations/health-departments/materials
6. Texas Perinatal Hepatitis B Prevention Program Manual located at: dshs.texas.gov/immunizations/health-departments/materials

N. Grantee shall request written approval from DSHS before varying from applicable policies, procedures, protocols, or work plans outlined above. Grantee shall then update and disseminate implementation documentation to staff involved in activities under this Contract within forty-eight (48) hours of making approved changes.

O. Grantee shall review monthly Contract funding expenditures and salary savings from any Contract-paid staff vacancies. Grantee shall then revise spending plan(s) and submit timely budget revision(s) to ensure that all funds under this Contract will be expended in alignment with approved budgets before the end of the Contract term.

P. The DSHS-approved budget may be revised by Grantee in accordance with the following requirements.

1. For any transfer between budget categories, Grantee shall submit a revised Categorical Budget using the Budget Template to the DSHS Contract Representative, highlighting the areas affected by the budget transfer and written justification for the transfer request. After DSHS review, the designated DSHS Contract Representative will provide notification of acceptance, rejection, or the need for a Contract Amendment to the Grantee by email.
2. For transfer of funds between direct budget categories, other than the 'Equipment' and 'Indirect Cost' categories, for less than or equal to a cumulative twenty-five (25) percent of the total value of the respective Contract budget period, Grantee shall submit timely written notification to the DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If a budget revision for less than or equal to the cumulative twenty-five (25) percent is approved for transfer of funds between direct budget categories, the DSHS Contract Representative will provide notification of acceptance to Grantee by email, upon receipt of which, the funds can be utilized by the Grantee.
3. For transfer of funds between direct budget categories, other than the 'Equipment' and 'Indirect Cost' categories, that cumulatively exceeds twenty-five (25) percent of the total value of the respective Contract budget period, Grantee shall submit timely written notification to the DSHS Contract

Representative using the Revised Budget Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized until an amendment is executed by the Parties.

4. Any transfer between budget categories that includes 'Equipment' and/or 'Indirect Cost' categories must be approved by amendment to the Contract. Grantee shall submit timely written notification to the DSHS Contract Representative using the Revised Budget Form and request DSHS approval. If the revision is approved, the budget revision is not authorized, and the funds cannot be utilized until an amendment is executed by the Parties.

Q. Grantee shall not use funds allocated under this Contract to purchase buildings or real property without prior written approval from DSHS. Also, any costs related to the acquisition of buildings or real property are not allowable without DSHS written pre-approval.

R. At the expiration or termination of this Contract for any reason, title to any remaining equipment and supplies purchased with funds under this Contract will revert to DSHS. Title may be transferred to another party as designated in writing by DSHS. DSHS may, at its option and to the extent allowed by law, transfer the reversionary interest to such property to Grantee. For any real property, Grantee shall dispose of the property in accordance with written instructions provided by DSHS.

II. REPORTING REQUIREMENTS

A. Grantee shall report the number of doses administered to underinsured children monthly, as directed by DSHS.

B. Grantee shall report the number of unduplicated underinsured clients served, as directed by DSHS.

C. Grantee shall complete and submit the Immunization Interlocal Agreement Quarterly Report by the report due date, utilizing the format provided by DSHS and available at dshs.texas.gov/immunizations/health-departments/contracts. If the due date falls on a weekend or state approved holiday, the report is due the next business day.

Report Type	Reporting Period	Report Due Date
Programmatic	09/01/2026 to 11/30/2026	12/31/2026
Programmatic	12/01/2026 to 02/28/2027	03/31/2027
Programmatic	03/01/2027 to 05/31/2027	06/30/2027
Programmatic	06/01/2027 to 08/31/2027	09/30/2027

D. Grantee shall submit quarterly reports electronically utilizing the format provided by DSHS according to the timeframes stated above. Supplemental report documents must be sent to dshsimmunizationcontracts@dshs.texas.gov. If there are any changes

to the reporting process, DSHS will provide updated instructions by either email or phone call.

E. Grantee shall submit the Financial Status Report (FSR-269A) biannually as outlined below. Grantee shall email the FSR-269A to the following email address: FSRgrants@dshs.texas.gov.

Period Covered	Due Dates
September 1, 2026 – February 28, 2027	March 31, 2027
March 1, 2027 – August 31, 2027	September 30, 2027

F. Grantee shall maintain an inventory of equipment, supplies, and real property. Grantee shall submit an annual cumulative report on DSHS Grantee's Property Inventory Report to the DSHS Contract Representative and FSOequip@dshs.texas.gov by email not later than October 15th of each year.

1. Controlled Assets include firearms, regardless of the acquisition cost, and the following assets with an acquisition cost of $500.00 or more, but less than $10,000.00: desktop and laptop computers (including notebooks, tablets and similar devices), non-portable printers and copiers, emergency management equipment, communication devices and systems, medical and laboratory equipment, and media equipment. Controlled Assets do not include a capitalized asset, real property, an improvement to real property, or infrastructure. Controlled Assets are considered Supplies.
2. Equipment includes items with an acquisition cost of $10,000.00 or more.

G. Grantee shall submit out-of-state travel requests to the DSHS Contract Management Section (CMS) for approval when utilizing Contract funds or program income.

III. PERFORMANCE MEASURES

DSHS will monitor the Grantee's performance of the requirements in this **ATTACHMENT A-3, STATEMENT OF WORK**, and compliance with the Contract's terms and conditions.

IV. INVOICE AND PAYMENT

Grantee shall request monthly payments by the 30th day following the service month using the State of Texas Purchase Voucher (Form B-13) located at http://www.dshs.texas.gov/grants/forms.shtm. DSHS will issue reimbursement payments to Grantees on a monthly basis for reported actual cash disbursements which are supported by adequate documentation. Invoices must be submitted monthly to prevent delays in subsequent months. Grantees that do not incur expenses within a month are required to submit a "zero dollar" invoice on a monthly basis. Grantee must submit a final close-out invoice and final financial status report no later than thirty (30) days following the end of the Contract term. Invoices received more than thirty (30) days after the end of the Contract term are subject to denial of payment. Grantee shall electronically submit all invoices with supporting documentation to: invoices@dshs.texas.gov and CMSinvoices@dshs.texas.gov

with a copy to the assigned DSHS Contract Representative identified in the Signature Document.

At a minimum, the voucher must include:

1. Grantee's name, address, email address, vendor identification number, and telephone number;
2. DSHS Contract or Purchase Order number;
3. Dates services were completed and/or products were delivered;
4. The total invoice amount; and
5. Any additional supporting documentation which is required by the Statement of Work or as requested by DSHS.

DSHS will pay Grantee monthly on a cost reimbursement basis and in accordance with **ATTACHMENT B-3, REVISED BUDGET**, of this Contract. DSHS will reimburse Grantee only for allowable and reported expenses incurred within the Grant term.

Failure to submit required information may result in delay of payment or return of invoice. Billing invoices must be legible. Illegible or incomplete invoices which cannot be verified will be disallowed for payment.

ATTACHMENT B-3

REVISED BUDGET

Budget Categories	**Budget for FY 2024** September 1, 2023 - August 31, 2024	**Budget for FY 2025** September 1, 2024- August 31, 2025	**Budget for FY 2026** September 1,2025 - August 31, 2026	**Budget for FY 2027** September 1,2026 - August 31, 2027	**Category Totals**
Personnel	$105,000.00	$105,000.00	$105,000.00	$105,000.00	**$420,000.00**
Fringe	$45,150.00	$45,150.00	$45,150.00	$45,150.00	**$180,600.00**
Travel	$0.00	$0.00	$0.00	$0.00	**$0.00**
Equipment	$0.00	$0.00	$0.00	$0.00	**$0.00**
Supplies	$208.00	$0.00	$208.00	$208.00	**$624.00**
Contractual	$0.00	$208.00	$0.00	$0.00	**$208.00**
Other	$0.00	$0.00	$0.00	$0.00	**$0.00**
Total Direct	$150,358.00	$150,358.00	$150,358.00	$150,358.00	**$601,432.00**
Indirect	$0.00	$0.00	$0.00	$0.00	**$0.00**
Total	**$150,358.00**	**$150,358.00**	**$150,358.00**	**$150,358.00**	**$601,432.00**

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HEALTH AND HUMAN SERVICES
Contract Number HHS001331300032

Attachment C-2 CONTRACT AFFIRMATIONS

For purposes of these Contract Affirmations, HHS includes both the Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). System Agency refers to HHSC, DSHS, or both, that will be a party to this Contract. These Contract Affirmations apply to all Contractors and Grantees (referred to as "Contractor") regardless of their business form (e.g., individual, partnership, corporation).

By entering into this Contract, Contractor affirms, without exception, understands, and agrees to comply with the following items through the life of the Contract:

1. Contractor represents and warrants that these Contract Affirmations apply to Contractor and all of Contractor's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this Contract and any related Solicitation.

2. Complete and Accurate Information

Contractor represents and warrants that all statements and information provided to HHS are current, complete, and accurate. This includes all statements and information in this Contract and any related Solicitation Response.

3. Public Information Act

Contractor understands that HHS will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material prepared and submitted in connection with this Contract or any related Solicitation may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Contractor is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

4. Contracting Information Requirements

Contractor represents and warrants that it will comply with the requirements of Section 552.372(a) of the Texas Government Code. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J (Additional Provisions Related to Contracting Information), Chapter 552 of the Government Code, may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

5. Assignment

A. Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from System Agency. Any attempted assignment in violation of this provision is void and without effect.

B. Contractor understands and agrees the System Agency may in one or more transactions assign, pledge, or transfer the Contract. Upon receipt of System Agency's notice of assignment, pledge, or transfer, Contractor shall cooperate with System Agency in giving effect to such assignment, pledge, or transfer, at no cost to System Agency or to the recipient entity.

6. Terms and Conditions

Contractor accepts the Solicitation terms and conditions unless specifically noted by exceptions advanced in the form and manner directed in the Solicitation, if any, under which this Contract was awarded. Contractor agrees that all exceptions to the Solicitation, as well as terms and conditions advanced by Contractor that differ in any manner from HHS' terms and conditions, if any, are rejected unless expressly accepted by System Agency in writing.

7. HHS Right to Use

Contractor agrees that HHS has the right to use, produce, and distribute copies of and to disclose to HHS employees, agents, and contractors and other governmental entities all or part of this Contract or any related Solicitation Response as HHS deems necessary to complete the procurement process or comply with state or federal laws.

8. Release from Liability

Contractor generally releases from liability and waives all claims against any party providing information about the Contractor at the request of System Agency.

9. Dealings with Public Servants

Contractor has not given, has not offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract or any related Solicitation, or related Solicitation Response.

10. Financial Participation Prohibited

Under Section 2155.004, Texas Government Code (relating to financial participation in preparing solicitations), Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

11. Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract

and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

12. Child Support Obligation

Under Section 231.006(d) of the Texas Family Code regarding child support, Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate. If the certification is shown to be false, Contractor may be liable for additional costs and damages set out in 231.006(f).

13. Suspension and Debarment

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM*) maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor's subcontracts, if any, if payment in whole or in part is from federal funds.

14. Excluded Parties

Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, *"Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism,"* published by the United States Department of the Treasury, Office of Foreign Assets Control.'

15. Foreign Terrorist Organizations

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

16. Executive Head of a State Agency

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency.

17. Human Trafficking Prohibition

Under Section 2155.0061 of the Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

18. Franchise Tax Status

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

19. Debts and Delinquencies

Contractor agrees that any payments due under this Contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

20. Lobbying Prohibition

Contractor represents and warrants that payments to Contractor and Contractor's receipt of appropriated or other funds under this Contract or any related Solicitation are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code (relating to use of appropriated money or state funds to employ or pay lobbyists, lobbying expenses, or influence legislation).

21. Buy Texas

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

22. Disaster Recovery Plan

Contractor agrees that upon request of System Agency, Contractor shall provide copies of its most recent business continuity and disaster recovery plans.

23. Computer Equipment Recycling Program

If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.

24. Television Equipment Recycling Program

If this Contract is for the purchase or lease of covered television equipment, then Contractor certifies that it is compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

25. Cybersecurity Training

A. Contractor represents and warrants that it will comply with the requirements of Section 2063.104 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.

B. Contractor represents and warrants that if Contractor or Subcontractors, officers, or employees of Contractor have access to any state computer system or database, the Contractor, Subcontractors, officers, and employees of Contractor shall complete cybersecurity training pursuant to and in accordance with Government Code, Section 2063.104.

26. Restricted Employment for Certain State Personnel

Contractor acknowledges that, pursuant to Section 572.069 of the Texas Government Code, a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving Contractor may not accept employment from Contractor before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

27. No Conflicts of Interest

A. Contractor represents and warrants that it has no actual or potential conflicts of interest in providing the requested goods or services to System Agency under this Contract or any related Solicitation and that Contractor's provision of the requested goods and/or services under this Contract and any related Solicitation will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

B. Contractor agrees that, if after execution of the Contract, Contractor discovers or is made aware of a Conflict of Interest, Contractor will immediately and fully disclose such interest in writing to System Agency. In addition, Contractor will promptly and fully disclose any relationship that might be perceived or represented as a conflict after its discovery by Contractor or by System Agency as a potential conflict. System Agency reserves the right to make a final determination regarding the existence of Conflicts of Interest, and Contractor agrees to abide by System Agency's decision.

28. Fraud, Waste, and Abuse

Contractor understands that HHS does not tolerate any type of fraud, waste, or abuse. Violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Pursuant to Texas Government Code, Section 321.022, if the administrative head of a department or entity that is subject to audit by the state auditor has reasonable cause to believe that money received from the state by the department or entity or by a client or contractor of the department or entity may have been lost, misappropriated, or misused, or that other fraudulent or unlawful conduct has occurred in relation to the operation of the department or entity, the administrative head shall report the reason and basis for the belief to the Texas State Auditor's Office (SAO). All employees or contractors who have reasonable cause to believe that fraud, waste, or abuse has occurred (including misconduct by any HHS employee, Grantee officer, agent, employee, or subcontractor that would constitute fraud, waste, or abuse) are required to immediately report the questioned activity to the Health and Human Services Commission's Office of Inspector General. Contractor agrees to comply with all applicable laws, rules, regulations, and System Agency policies regarding fraud, waste, and abuse including, but not limited to, HHS Circular C-027.

A report to the SAO must be made through one of the following avenues:

- SAO Toll Free Hotline: 1-800-TX-AUDIT
- SAO website: http://sao.fraud.state.tx.us/

All reports made to the OIG must be made through one of the following avenues:

- OIG Toll Free Hotline 1-800-436-6184
- OIG Website: ReportTexasFraud.com
- Internal Affairs Email: InternalAffairsReferral@hhsc.state.tx.us
- OIG Hotline Email: OIGFraudHotline@hhsc.state.tx.us.
- OIG Mailing Address: Office of Inspector General
  Attn: Fraud Hotline
  MC 1300
  P.O. Box 85200
  Austin, Texas 78708-5200

29. Antitrust

The undersigned affirms under penalty of perjury of the laws of the State of Texas that:

A. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm. Code Chapter 15;

B. in connection with this Contract and any related Solicitation Response, neither I nor any representative of the Contractor has violated any federal antitrust law; and

C. neither I nor any representative of the Contractor has directly or indirectly communicated any of the contents of this Contract and any related Solicitation Response to a competitor of the Contractor or any other company, corporation, firm, partnership or individual engaged in the same line of business as the Contractor.

30. Legal and Regulatory Actions

Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency proceeding, investigation, or other action pending or threatened against Contractor or any of the individuals or entities included in numbered paragraph 1 of these Contract Affirmations within the five (5) calendar years immediately preceding execution of this Contract or the submission of any related Solicitation Response that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has provided to System Agency a complete, detailed disclosure of any such court or governmental agency proceeding, investigation, or other action that would or could impair Contractor's performance under this Contract, relate to the contracted or similar goods or services, or otherwise be relevant to System Agency's consideration of entering into this Contract. In addition, Contractor acknowledges this is a continuing disclosure requirement. Contractor represents and warrants that Contractor shall notify System Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update System Agency shall constitute breach of contract and may result in immediate contract termination.

31. No Felony Criminal Convictions

Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised System Agency in writing of the facts and circumstances surrounding the convictions.

32. Unfair Business Practices

Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings**.**

33. Entities that Boycott Israel

Contractor represents and warrants that (1) it does not, and shall not for the duration of the Contract, boycott Israel or (2) the verification required by Section 2271.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

34. E-Verify

Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of this Contract to determine the eligibility of:

1. all persons employed by Contractor to perform duties within Texas; and
2. all persons, including subcontractors, assigned by Contractor to perform work pursuant to this Contract within the United States of America.

35. Former Agency Employees – Certain Contracts

If this Contract is an employment contract, a professional services contract under Chapter 2254 of the Texas Government Code, or a consulting services contract under Chapter 2254 of the Texas Government Code, in accordance with Section 2252.901 of the Texas Government Code, Contractor represents and warrants that neither Contractor nor any of Contractor's employees including, but not limited to, those authorized to provide services under the Contract, were former employees of an HHS Agency during the twelve (12) month period immediately prior to the date of the execution of the Contract.

36. Disclosure of Prior State Employment – Consulting Services

If this Contract is for consulting services,

A. In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services must disclose the following information in its offer to provide services. Contractor hereby certifies that this information was provided and remains true, correct, and complete:

1. Name of individual(s) (Contractor or employee(s));
2. Status;
3. The nature of the previous employment with HHSC or the other State of Texas agency;
4. The date the employment was terminated and the reason for the termination; and
5. The annual rate of compensation for the employment at the time of its termination.

B. If no information was provided in response to Section A above, Contractor certifies that neither Contractor nor any individual employed by Contractor was employed by System Agency or any other State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services.

37. Abortion Funding Limitation

Contractor understands, acknowledges, and agrees that, pursuant to Article IX of the General Appropriations Act (the Act), to the extent allowed by federal and state law, money appropriated by the Texas Legislature may not be distributed to any individual or entity that, during the period for which funds are appropriated under the Act:

1. performs an abortion procedure that is not reimbursable under the state's Medicaid program;
2. is commonly owned, managed, or controlled by an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program; or
3. is a franchise or affiliate of an entity that performs an abortion procedure that is not reimbursable under the state's Medicaid program.

The provision does not apply to a hospital licensed under Chapter 241, Health and Safety Code, or an office exempt under Section 245.004(a)(2), Health and Safety Code. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article IX.

38. Funding Eligibility

Contractor understands, acknowledges, and agrees that, pursuant to Chapter 2273 of the Texas Government Code, except as exempted under that Chapter, HHSC cannot (1) contract with (a) an abortion provider or an affiliate of an abortion provider; or (b) an abortion assistance entity for the purpose of providing an abortion or abortion assistance;

or (2) contract or appropriate or spend money to provide any person logistical support for the express purpose of assisting a woman with procuring an abortion or the services of an abortion provider. Respondent certifies that it is not ineligible to contract with System Agency under the terms of Chapter 2273 of the Texas Government Code and certifies that the contract is not a taxpayer resource transaction, appropriation, or expenditure of money prohibited by Chapter 2273 of the Texas Government Code.

39. Gender Transitioning and Gender Reassignment Procedures and Treatments for Certain Children – Prohibited Use of Public Money; Prohibited State Health Plan Reimbursement.

Contractor understands, acknowledges, and agrees that, pursuant to Section 161.704 of the Texas Health and Safety Code (eff. Sept. 1, 2023), public money may not directly or indirectly be used, granted, paid, or distributed to any health care provider, medical school, hospital, physician, or any other entity, organization, or individual that provides or facilitates the provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor also understands, acknowledges, and agrees that, pursuant to Section 161.705 of the Texas Health and Safety Code (eff. Sept. 1, 2023), HHSC may not provide Medicaid reimbursement and the child health plan program established under Chapter 62 may not provide reimbursement to a physician or health care provider for provision of a procedure or treatment to a child that is prohibited under Section 161.702 of the Texas Health and Safety Code. Contractor certifies that it is not ineligible to contract with System Agency under the terms of Chapter 161, Subchapter Y, of the Texas Health and Safety Code.

40. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (2 CFR 200.216)

Contractor certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract or funding pursuant to 2 CFR 200.216.

41. COVID-19 Vaccine Passports

Pursuant to Texas Health and Safety Code, Section 161.0085(c), Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.

42. Entities that Boycott Energy Companies

Pursuant to Section 2276.002 of the Texas Government Code (relating to prohibition on contracts with companies boycotting certain energy companies), Contractor represents and warrants that: (1) it does not, and will not for the duration of the Contract, boycott energy companies or (2) the verification required by Section 2276.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this

provision change during the course of the Contract, Contractor shall promptly notify System Agency.

43. Entities that Discriminate Against Firearm and Ammunition Industries

In accordance with Senate Bill 19, Acts 2021, 87th Leg., R.S., pursuant to Section 2274.002 of the Texas Government Code (relating to prohibition on contracts with companies that discriminate against firearm and ammunition industries), Contractor verifies that: (1) it does not, and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify System Agency.

44. Security Controls for State Agency Data

In accordance with Senate Bill 475, Acts 2021, 87th Leg., R.S., pursuant to Texas Government Code, Section 2054.138, Contractor understands, acknowledges, and agrees that if, pursuant to this Contract, Contractor is or will be authorized to access, transmit, use, or store data for System Agency, Contractor is required to meet the security controls the System Agency determines are proportionate with System Agency's risk under the Contract based on the sensitivity of System Agency's data and that Contractor must periodically provide to System Agency evidence that Contractor meets the security controls required under the Contract.

45. Cloud Computing State Risk and Authorization Management Program (TX-RAMP)

Pursuant to Texas Government Code, Section 2063.408, Contractor acknowledges and agrees that, if providing cloud computing services for System Agency, Contractor must comply with the requirements of the state risk and authorization management program and that System Agency may not enter or renew a contract with Contractor to purchase cloud computing services for the agency that are subject to the state risk and authorization management program unless Contractor demonstrates compliance with program requirements. If providing cloud computing services for System Agency that are subject to the state risk and authorization management program, Contractor certifies it will maintain program compliance and certification throughout the term of the Contract.

46. Contract for Professional Services of Physicians, Optometrists, and Registered Nurses

In accordance with Senate Bill 799, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2254.008(a)(2) is applicable to this Contract, Contractor affirms that it possesses the necessary occupational licenses and experience.

47. Foreign-Owned Companies in Connection with Critical Infrastructure

If Texas Government Code, Section 2275.0102(a)(1) (relating to prohibition on contracts with certain foreign-owned companies in connection with critical infrastructure) is applicable to this Contract, pursuant to Government Code Section 2275.0102, Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of

China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2275.0103 or (2) headquartered in any of those countries.

48. Critical Infrastructure Subcontracts

For purposes of this Paragraph, the designated countries are China, Iran, North Korea, Russia, and any countries lawfully designated by the Governor as a threat to critical infrastructure. Pursuant to Section 117.002 of the Business and Commerce Code, Contractor shall not enter into a subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 117.001 of the Texas Business and Commerce Code, in this state, other than access specifically allowed for product warranty and support purposes to any subcontractor unless (i) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is majority owned or controlled by citizens or governmental entities of a designated country; and (ii) neither the subcontractor nor its parent company, nor any affiliate of the subcontractor or its parent company, is headquartered in a designated country. Contractor will notify the System Agency before entering into any subcontract that will provide direct or remote access to or control of critical infrastructure, as defined by Section 117.001 of the Texas Business & Commerce Code, in this state.

49. Enforcement of Certain Federal Firearms Laws Prohibited

In accordance with House Bill 957, Acts 2021, 87th Leg., R.S., if Texas Government Code, Section 2.101 is applicable to Contractor, Contractor certifies that it is not ineligible to receive state grant funds pursuant to Texas Government Code, Section 2.103.

50. Prohibition on Abortions

Contractor understands, acknowledges, and agrees that, pursuant to Article II of the General Appropriations Act, (1) no funds shall be used to pay the direct or indirect costs (including marketing, overhead, rent, phones, and utilities) of abortion procedures provided by contractors of HHSC; and (2) no funds appropriated for Medicaid Family Planning, Healthy Texas Women Program, or the Family Planning Program shall be distributed to individuals or entities that perform elective abortion procedures or that contract with or provide funds to individuals or entities for the performance of elective abortion procedures. Contractor represents and warrants that it is not ineligible, nor will it be ineligible during the term of this Contract, to receive appropriated funding pursuant to Article II.

51. Hardening of State Government

Pursuant to Executive Order GA-48, relating to hardening of state government, issued November 19, 2024, Contractor certifies it is not and, if applicable, any of its holding companies or subsidiaries is not:

a. Listed in Section 889 of the 2019 National Defense Authorization Act (NDAA); or

b. Listed in Section 1260H of the 2021 NDAA; or

c. Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or

d. Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

52. Artificial Intelligence Disclosure.

Contractor certifies that it has disclosed in writing to System Agency each artificial intelligence system it may use to complete any deliverable or a portion of any deliverable under the Contract. "Artificial intelligence system" means a machine-based system that for explicit or implicit objectives infers from provided information a method to generate outputs, such as predictions, content, recommendations, or decisions, to influence a physical or virtual environment with varying levels of autonomy and adaptiveness after deployment. Contractor promises not to use an artificial intelligence system to perform the Contract without the prior written consent of System Agency.

53. Surveillance, Intimidation, and Related Acts.

Contractor certifies that it (and its subcontractors) have not, and if awarded a contract, will not, either directly or indirectly through a third party, engage in surveillance targeting or engage in an act of intimidation, coercion, extortion, undue influence, or other similar conduct intended to influence, silence, or retaliate against:

(1) a member of the state legislature or person employed to support the state legislature in any capacity;

(2) a family member of a person described by (1);

(3) a state agency employee; or

(4) an individual making a complaint or raising concerns regarding state agency operations or contracting.

Contractor certifies that it and its subcontractors have not, and if awarded a contract will not, either directly or indirectly through a third party, use private or confidential information to manipulate or influence a state contracting decision or proceeding. Contractor acknowledges that it, its executives and directors, and other associated entities and individuals could be terminated, barred from state contracts, and penalized up to $2 million for a violation of Government Code, Section 2261.302.

54. False Representation

Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

55. False Statements

Contractor represents and warrants that all statements and information prepared and submitted by Contractor in this Contract and any related Solicitation Response are current, complete, true, and accurate. Contractor acknowledges any false statement or material misrepresentation made by Contractor during the performance of this Contract or any related Solicitation is a material breach of contract and may void this Contract. Further, Contractor understands, acknowledges, and agrees that any false representation or any failure to comply with a representation, warranty, or certification made by Contractor is subject to all civil and criminal consequences provided at law or in equity including, but not limited to, immediate termination of this Contract.

56. Permits and License

Contractor represents and warrants that it will comply with all applicable laws and maintain all permits and licenses required by applicable city, county, state, and federal rules, regulations, statutes, codes, and other laws that pertain to this Contract.

57. Equal Employment Opportunity

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

58. Federal Occupational Safety and Health Law

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

59. Signature Authority

Contractor represents and warrants that the individual signing this Contract Affirmations document is authorized to sign on behalf of Contractor and to bind the Contractor.

Signature Page Follows

Authorized representative on behalf of Contractor must complete and sign the following:

Legal Name of Contractor
Assumed Business Name of Contractor, if applicable (d/b/a or 'doing business as')
Texas County(s) for Assumed Business Name (d/b/a or 'doing business as') **Attach Assumed Name Certificate(s) filed with the Texas Secretary of State and Assumed Name Certificate(s), if any, for each Texas County Where Assumed Name Certificate(s) has been filed.**

Signature of Authorized Representative	**Date Signed**
Printed Name of Authorized Representative **First, Middle Name or Initial, and Last Name**	**Title of Authorized Representative**
Physical Street Address	**City, State, Zip Code**
Mailing Address, if different	**City, State, Zip Code**
Phone Number	**Fax Number**
Email Address	**DUNS Number**
Federal Employer Identification Number	**Texas Identification Number (TIN)**
Texas Franchise Tax Number	**Texas Secretary of State Filing Number**
SAM.gov Unique Entity Identifier (UEI)	



TEXAS
Health and Human Services

Health and Human Services (HHS)

Uniform Terms and Conditions - Grant

Version 3.5

Published and Effective – September 2024

Responsible Office: Chief Counsel

ABOUT THIS DOCUMENT

In this document, Grantees (also referred to in this document as subrecipients or contractors) will find requirements and conditions applicable to grant funds administered and passed through by both the Texas Health and Human Services Commission (HHSC) and the Department of State Health Services (DSHS). These requirements and conditions are incorporated into the Grant Agreement through acceptance by Grantee of any funding award by HHSC or DSHS.

The terms and conditions in this document are in addition to all requirements listed in the RFA, if any, under which applications for this grant award are accepted, as well as all applicable federal and state laws and regulations. Applicable federal and state laws and regulations may include, but are not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; requirements of the entity that awarded the funds to HHS; Chapter 783 of the Texas Government Code; Texas Comptroller of Public Accounts' agency rules; the Texas Grant Management Standards (TxGMS) developed by the Texas Comptroller of Public Accounts; and the Funding Announcement, Solicitation, or other instrument/documentation under which HHS was awarded funds. HHS, in its sole discretion, reserves the right to add requirements, terms, or conditions.

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ARTICLE I. DEFINITIONS AND INTERPRETIVE PROVISIONS

1.1 DEFINITIONS

As used in this Grant Agreement, unless a different definition is specified, or the context clearly indicates otherwise, the following terms and conditions have the meanings assigned below:

"Amendment" means a written agreement, signed by the Parties, which documents changes to the Grant Agreement.

"Contract" or "Grant Agreement" means the agreement entered into by the Parties, including the Signature Document, these Uniform Terms and Conditions, along with any attachments and amendments that may be issued by the System Agency.

"Deliverables" means the goods, services, and work product, including all reports and project documentation, required to be provided by Grantee to the System Agency.

"DSHS" means the Department of State Health Services.

"Effective Date" means the date on which the Grant Agreement takes effect.

"Federal Fiscal Year" means the period beginning October 1 and ending September 30 each year, which is the annual accounting period for the United States government.

"GAAP" means Generally Accepted Accounting Principles.

"GASB" means the Governmental Accounting Standards Board.

"Grantee" means the Party receiving funds under this Grant Agreement. May also be referred to as "subrecipient" or "contractor" in this document.

"HHSC" means the Texas Health and Human Services Commission.

"Health and Human Services" or "HHS" includes HHSC and DSHS.

"Intellectual Property Rights" means the worldwide proprietary rights or interests, including patent, copyright, trade secret, and trademark rights, as such right may be evidenced by or embodied in:

i. any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement;
ii. any work of authorship, including any compilation, computer code, website or web page design, literary work, pictorial work, or graphic work;
iii. any trademark, service mark, trade dress, trade name, branding, or other indicia of source or origin;
iv. domain name registrations; and
v. any other proprietary or similar rights. The Intellectual Property Rights of a Party include all worldwide proprietary rights or interests that the Party may have acquired by assignment, by exclusive license, or by license with the right to grant sublicenses.

"Parties" means the System Agency and Grantee, collectively.

"Party" means either the System Agency or Grantee, individually.

"Project" means specific activities of the Grantee that are supported by funds provided under this Grant Agreement.

"Signature Document" means the document executed by all Parties for this Grant Agreement.

"Solicitation," "Funding Announcement" or "Request for Applications (RFA)" means the document (including all exhibits, attachments, and published addenda), issued by the System Agency under which applications for grant funds were requested, which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

"Solicitation Response" or "Application" means Grantee's full and complete Solicitation response (including any attachments and addenda), which is incorporated by reference in the Grant Agreement for all purposes in its entirety.

"State Fiscal Year" means the period beginning September 1 and ending August 31 each year, which is the annual accounting period for the State of Texas.

"State of Texas *Textravel*" means the Texas Comptroller of Public Accounts' website relative to travel reimbursements under this Contract, if any.

"Statement of Work" means the description of activities Grantee must perform to complete the Project, as specified in the Grant Agreement, and as may be amended.

"System Agency" means HHSC or DSHS, as applicable.

"Work Product" means any and all works, including work papers, notes, materials, approaches, designs, specifications, systems, innovations, improvements, inventions, software, programs, source code, documentation, training materials, audio or audiovisual recordings, methodologies, concepts, studies, reports, whether finished or unfinished, and whether or not included in the deliverables, that are developed, produced, generated or provided by Grantee in connection with Grantee's performance of its duties under the Grant Agreement or through use of any funding provided under this Grant Agreement.

"Texas Grant Management Standards" or "TxGMS" means uniform grant and contract administration procedures, developed under the authority of Chapter 783 of the Texas Government Code, to promote the efficient use of public funds in local government and in programs requiring cooperation among local, state, and federal agencies. Under this Grant Agreement, TxGMS applies to Grantee except as otherwise provided by applicable law or directed by System Agency. Additionally, except as otherwise provided by applicable law, in the event of a conflict between TxGMS and applicable federal or state law, federal law prevails over state law and state law prevails over TxGMS.

1.2 INTERPRETIVE PROVISIONS

A. The meanings of defined terms include the singular and plural forms.
B. The words "hereof," "herein," "hereunder," and similar words refer to this Grant Agreement as a whole and not to any particular provision, section, attachment, or schedule of this Grant Agreement unless otherwise specified.
C. The term "including" is not limiting and means "including without limitation" and, unless otherwise expressly provided in this Grant Agreement, (i) references to contracts (including this Grant Agreement) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Grant Agreement, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation.

D. Any references to agreements, contracts, statutes, or administrative rules or regulations in the Grant Agreement are references to these documents as amended, modified, or supplemented during the term of the Grant Agreement.
E. The captions and headings of this Grant Agreement are for convenience of reference only and do not affect the interpretation of this Grant Agreement.
F. All attachments, including those incorporated by reference, and any Amendments are considered part of the terms of this Grant Agreement.
G. This Grant Agreement may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative.
H. Unless otherwise expressly provided, reference to any action of the System Agency or by the System Agency by way of consent, approval, or waiver will be deemed modified by the phrase "in its sole discretion."
I. Time is of the essence in this Grant Agreement.
J. Prior to execution of the Grant Agreement, Grantee must notify System Agency's designated contact in writing of any ambiguity, conflict, discrepancy, omission, or other error. If Grantee fails to notify the System Agency designated contact of any ambiguity, conflict, discrepancy, omission, or other error in the Grant Agreement prior to Grantee's execution of the Grant Agreement, Grantee:
    i. Shall have waived any claim of error or ambiguity in the Grant Agreement; and
    ii. Shall not contest the interpretation by the System Agency of such provision(s).

    No grantee will be entitled to additional reimbursement, relief, or time by reason of any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error or its later correction.

ARTICLE II. PAYMENT PROVISIONS

2.1 PROMPT PAYMENT

Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

2.2 TAXES

Grantee represents and warrants that it shall pay all taxes or similar amounts resulting from the Grant Agreement, including, but not limited to, any federal, State, or local income, sales or excise taxes of Grantee or its employees. System Agency shall not be liable for any taxes resulting from the Grant Agreement.

2.3 ANCILLARY AND TRAVEL EXPENSES

A. Except as otherwise provided in the Grant Agreement, no ancillary expenses incurred by the Grantee in connection with its provision of the services or deliverables will be reimbursed by the System Agency. Ancillary expenses include, but are not limited to, costs associated with transportation, delivery, and insurance for each deliverable.
B. Except as otherwise provided in the Grant Agreement, when the reimbursement of travel expenses is authorized by the Grant Agreement, all such expenses will be reimbursed in accordance with the rates set by the Texas Comptroller's *Textravel* guidelines, which can currently be accessed at: https://fmx.cpa.texas.gov/fmx/travel/textravel/

2.4 BILLING

Unless otherwise provided in the Grant Agreement, Grantee shall bill the System Agency in accordance with the Grant Agreement. Unless otherwise specified in the Grant Agreement, Grantee shall submit requests for reimbursement or payment monthly by the last business day of the month following the month in which expenses were incurred or services provided. Grantee shall maintain all documentation that substantiates invoices and make the documentation available to the System Agency upon request.

2.5 USE OF FUNDS

Grantee shall expend funds under this Grant Agreement only for approved services and for reasonable and allowable expenses directly related to those services.

2.6 USE FOR MATCH PROHIBITED

Grantee shall not use funds provided under this Grant Agreement for matching purposes in securing other funding without the written approval of the System Agency.

2.7 PROGRAM INCOME

Program income refers to gross income directly generated by a supporting activity during the period of performance. Unless otherwise required under the Grant Agreement, Grantee shall use Program Income, as provided in TxGMS, to further the Project, and Grantee shall spend the Program Income on the Project. Grantee shall identify and report Program Income in accordance with the Grant Agreement, applicable law, and any programmatic guidance. Grantee shall expend Program Income during the Grant Agreement term, when earned, and may not carry Program Income forward to any succeeding term. Grantee shall refund Program Income to the System Agency if the Program Income is not expended in the term in which it is earned. The System Agency may base future funding levels, in part, upon Grantee's proficiency in identifying, billing, collecting, and reporting Program Income, and in using Program Income for the purposes and under the conditions specified in this Grant Agreement.

2.8 NONSUPPLANTING

Grant funds must be used to supplement existing, new or corresponding programming and related activities. Grant funds may not be used to supplant (replace) existing funds that have been appropriated, allocated, or disbursed for the same purpose. System Agency may conduct Grant monitoring or audits may be conducted to review, among other things, Grantee's compliance with this provision.

2.9 INDIRECT COST RATES

The System Agency may acknowledge an indirect cost rate for Grantees that is utilized for all applicable Grant Agreements. For subrecipients receiving federal funds, indirect cost rates will be determined in accordance with applicable law including, but not limited to, 2 CFR 200.414(f). For recipients receiving state funds, indirect costs will be determined in accordance with applicable law including, but not limited to, TxGMS. Grantees funded with blended federal and state funding will be subject to both state and federal requirements when determining indirect costs. In the event of a conflict between TxGMS and applicable federal law or regulation, the provisions of federal law or regulation will apply. Grantee will provide any necessary financial documents to determine the indirect cost rate in accordance with the Uniform Grant Guidance (UGG) and TxGMS.

ARTICLE III. STATE AND FEDERAL FUNDING

3.1 EXCESS OBLIGATIONS PROHIBITED

This Grant Agreement is subject to termination or cancellation, without penalty to System Agency, either in whole or in part, subject to the availability and actual receipt by System Agency of state or federal funds. System Agency is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If System Agency becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either System Agency's or Grantee's delivery or performance under the Grant Agreement impossible or unnecessary, the Grant Agreement will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, System Agency will not be liable to Grantee for any damages that are caused or associated with such termination or cancellation, and System Agency will not be required to give prior notice. Additionally, System Agency will not be liable to Grantee for any remaining unpaid funds under this Grant Agreement at time of termination.

3.2 NO DEBT AGAINST THE STATE

This Grant Agreement will not be construed as creating any debt by or on behalf of the State of Texas.

3.3 DEBTS AND DELINQUENCIES

Grantee agrees that any payments due under the Grant Agreement shall be directly applied towards eliminating any debt or delinquency it has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support during the entirety of the Grant Agreement term.

3.4 REFUNDS AND OVERPAYMENTS

A. At its sole discretion, the System Agency may (i) withhold all or part of any payments to Grantee to offset overpayments, unallowable or ineligible costs made to the Grantee, or if any required financial status report(s) is not submitted by the due date(s); or (ii) require Grantee to promptly refund or credit - within thirty (30) calendar days of written notice – to System Agency any funds erroneously paid by System Agency which are not expressly authorized under the Grant Agreement.

B. "Overpayments" as used in this Section include payments (i) made by the System Agency that exceed the maximum allowable rates; (ii) that are not allowed under applicable laws, rules, or regulations; or (iii) that are otherwise inconsistent with this Grant Agreement, including any unapproved expenditures. Grantee understands and agrees that it shall be liable to the System Agency for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this Grant Agreement. Grantee further understands and agrees that reimbursement of such disallowed costs shall be paid by Grantee from funds which were not provided or otherwise made available to Grantee under this Grant Agreement.

ARTICLE IV. ALLOWABLE COSTS AND AUDIT REQUIREMENTS

4.1 ALLOWABLE COSTS

A. Allowable Costs are restricted to costs that are authorized under Texas Uniform Grant Management Standards (TxGMS) and applicable state and federal rules and laws. This Grant Agreement is subject to all applicable requirements of TxGMS, including the

criteria for Allowable Costs. Additional federal requirements apply if this Grant Agreement is funded, in whole or in part, with federal funds.

B. System Agency will reimburse Grantee for actual, allowable, and allocable costs incurred by Grantee in performing the Project, provided the costs are sufficiently documented. Grantee must have incurred a cost prior to claiming reimbursement and within the applicable term to be eligible for reimbursement under this Grant Agreement. At its sole discretion, the System Agency will determine whether costs submitted by Grantee are allowable and eligible for reimbursement. The System Agency may take repayment (recoup) from remaining funds available under this Grant Agreement in amounts necessary to fulfill Grantee's repayment obligations. Grantee and all payments received by Grantee under this Grant Agreement are subject to applicable cost principles, audit requirements, and administrative requirements including applicable provisions under 2 CFR 200, 48 CFR Part 31, and TxGMS.

C. OMB Circulars will be applied with the modifications prescribed by TxGMS with effect given to whichever provision imposes the more stringent requirement in the event of a conflict.

4.2 AUDITS AND FINANCIAL STATEMENTS

A. Audits

i. Grantee understands and agrees that Grantee is subject to any and all applicable audit requirements found in state or federal law or regulation or added by this Grant Agreement.

ii. HHS Single Audit Unit will notify Grantee to complete the Single Audit Determination Form. If Grantee fails to complete the form within thirty (30) calendar days after receipt of notice, Grantee may be subject to sanctions and remedies for non-compliance.

iii. If Grantee, within Grantee's fiscal year, expends federal funds awarded of at least $750,000 for audit periods beginning before October 1, 2024 (beginning on or after October 1, 2024, at least $1,000,000), Grantee shall have a single audit or program-specific audit in accordance with 2 CFR 200. The federal threshold amount includes federal funds passed through by way of state agency awards.

iv. If Grantee, within Grantee's fiscal year, expends at least $750,000 in state funds awarded or other amount specified in the TxGMS, Grantee shall have a single audit or program-specific audit in accordance with TxGMS. The audit must be conducted by an independent certified public accountant and in accordance with 2 CFR 200, Government Auditing Standards, and TxGMS.

v. For-profit Grantees whose expenditures meet or exceed the federal or state expenditure thresholds stated above shall follow the guidelines in 2 CFR 200 or TxGMS, as applicable, for their program-specific audits.

vi. Each Grantee required to obtain a single audit must competitively re-procure single audit services once every six years. Grantee shall procure audit services in compliance with this section, state procurement procedures, as well as with applicable provisions of 2 CFR 200 and TxGMS.

B. Financial Statements.

Each Grantee that does not meet the expenditure threshold for a single audit or program-specific audit, must provide financial statements for the audit period.

4.3 Submission of Audits and Financial Statements

A. Audits.
Due the earlier of 30 days after receipt of the independent certified public accountant's report or nine months after the end of the fiscal year, Grantee shall submit one electronic copy of the single audit or program-specific audit to the System Agency via:
i. HHS portal at https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau or,
ii. Email to: single_audit_report@hhsc.state.tx.us.

B. Financial Statements.
Due no later than nine months after the Grantee's fiscal year-end, Grantees not required to submit an audit, shall submit one electronic copy of their financial statements via:
i. HHS portal at https://hhsportal.hhs.state.tx.us/heartwebextr/hhscSau; or,
ii. Email to: single_audit_report@hhsc.state.tx.us.

ARTICLE V. Warranty, Affirmations, Assurances and Certifications

5.1 Warranty

Grantee warrants that all work under this Grant Agreement shall be completed in a manner consistent with standards under the terms of this Grant Agreement, in the applicable trade, profession, or industry; shall conform to or exceed the specifications set forth in the Grant Agreement; and all deliverables shall be fit for ordinary use, of good quality, and with no material defects. If System Agency, in its sole discretion, determines Grantee has failed to complete work timely or to perform satisfactorily under conditions required by this Grant Agreement, the System Agency may require Grantee, at its sole expense, to:

i. Repair or replace all defective or damaged work;
ii. Refund any payment Grantee received from System Agency for all defective or damaged work and, in conjunction therewith, require Grantee to accept the return of such work; and,
iii. Take necessary action to ensure that Grantee's future performance and work conform to the Grant Agreement requirements.

5.2 General Affirmations

Grantee certifies that, to the extent affirmations are incorporated into the Grant Agreement, the Grantee has reviewed the affirmations and that Grantee is in compliance with all requirements.

5.3 Federal Assurances

Grantee further certifies that, to the extent federal assurances are incorporated into the Grant Agreement, the Grantee has reviewed the federal assurances and that Grantee is in compliance with all requirements.

5.4 Federal Certifications

Grantee further certifies that, to the extent federal certifications are incorporated into the Grant Agreement, the Grantee has reviewed the federal certifications and that Grantee is in compliance with all requirements. In addition, Grantee certifies that it is in compliance with all applicable federal laws, rules, and regulations, as they may pertain to this Grant Agreement.

5.5 STATE ASSURANCES

Except to the extent of any conflict under applicable law or requirements or guidelines of any federal awarding agency from which funding for this Grant Agreement originated, the Grantee must comply with the applicable state assurances included within the TxGMS which are incorporated here by reference.

ARTICLE VI. INTELLECTUAL PROPERTY

6.1 OWNERSHIP OF WORK PRODUCT

A. All right, title, and interest in the Work Product, including all Intellectual Property Rights therein, is exclusively owned by System Agency. Grantee and Grantee's employees will have no rights in or ownership of the Work Product or any other property of System Agency.
B. Any and all Work Product that is copyrightable under United States copyright law is deemed to be "work made for hire" owned by System Agency, as provided by Title 17 of the United States Code. To the extent that Work Product does not qualify as a "work made for hire" under applicable federal law, Grantee hereby irrevocably assigns and transfers to System Agency, its successors and assigns, the entire right, title, and interest in and to the Work Product, including any and all Intellectual Property Rights embodied therein or associated therewith, and in and to all works based upon, derived from, or incorporating the Work Product, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing.
C. Grantee agrees to execute all papers and to perform such other acts as System Agency may deem necessary to secure for System Agency or its designee the rights herein assigned.
D. In the event that Grantee has any rights in and to the Work Product that cannot be assigned to System Agency, Grantee hereby grants to System Agency an exclusive, worldwide, royalty-free, transferable, irrevocable, and perpetual license, with the right to sublicense, to reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, make, have made, use, sell and offer for sale the Work Product and any products developed by practicing such rights.
E. The foregoing does not apply to Incorporated Pre-existing Works or Third Party IP that are incorporated in the Work Product by Grantee. Grantee shall provide System Agency access during normal business hours to all Grantee materials, premises, and computer files containing the Work Product.

6.2 GRANTEE'S PRE-EXISTING WORKS

A. To the extent that Grantee incorporates into the Work Product any works of Grantee that were created by Grantee or that Grantee acquired rights in prior to the Effective Date of this Grant Agreement ("**Incorporated Pre-existing Works**"), Grantee retains ownership of such Incorporated Pre-existing Works.
B. Grantee hereby grants to System Agency an irrevocable, perpetual, non-exclusive, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, modify, copy, create derivative works of, publish, publicly perform and display, sell, offer to sell, make and have made, the Incorporated Pre-existing Works, in any medium, with or without the associated Work Product.

C. Grantee represents, warrants, and covenants to System Agency that Grantee has all necessary right and authority to grant the foregoing license in the Incorporated Pre-existing Works to System Agency.

6.3 THIRD PARTY IP

A. To the extent that any Third Party IP is included or incorporated in the Work Product by Grantee, Grantee hereby grants to System Agency, or shall obtain from the applicable third party for System Agency's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for System Agency's internal business or governmental purposes only, to use, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Third Party IP and any derivative works thereof embodied in or delivered to System Agency in conjunction with the Work Product, and to authorize others to do any or all of the foregoing.
B. Grantee shall obtain System Agency's advance written approval prior to incorporating any Third Party IP into the Work Product, and Grantee shall notify System Agency on delivery of the Work Product if such materials include any Third Party IP.
C. Grantee shall provide System Agency all supporting documentation demonstrating Grantee's compliance with this Section 6.3, including without limitation documentation indicating a third party's written approval for Grantee to use any Third Party IP that may be incorporated in the Work Product.

6.4 AGREEMENTS WITH EMPLOYEES AND SUBCONTRACTORS

Grantee shall have written, binding agreements with its employees and subcontractors that include provisions sufficient to give effect to and enable Grantee's compliance with Grantee's obligations under this Article VI, Intellectual Property.

6.5 DELIVERY UPON TERMINATION OR EXPIRATION

No later than the first calendar day after the termination or expiration of the Grant Agreement or upon System Agency's request, Grantee shall deliver to System Agency all completed, or partially completed, Work Product, including any Incorporated Pre-existing Works, and any and all versions thereof. Grantee's failure to timely deliver such Work Product is a material breach of the Grant Agreement. Grantee will not retain any copies of the Work Product or any documentation or other products or results of Grantee's activities under the Grant Agreement without the prior written consent of System Agency.

6.6 SURVIVAL

The provisions and obligations of this Article survive any termination or expiration of the Grant Agreement.

6.7 SYSTEM AGENCY DATA

A. As between the Parties, all data and information acquired, accessed, or made available to Grantee by, through, or on behalf of System Agency or System Agency contractors, including all electronic data generated, processed, transmitted, or stored by Grantee in the course of providing data processing services in connection with Grantee's performance hereunder (the "System Agency Data"), is owned solely by System Agency.
B. Grantee has no right or license to use, analyze, aggregate, transmit, create derivatives of, copy, disclose, or process the System Agency Data except as required for Grantee to fulfill its obligations under the Grant Agreement or as authorized in advance in writing by System Agency.

C. For the avoidance of doubt, Grantee is expressly prohibited from using, and from permitting any third party to use, System Agency Data for marketing, research, or other non-governmental or commercial purposes, without the prior written consent of System Agency.
D. Grantee shall make System Agency Data available to System Agency, including to System Agency's designated vendors, as directed in writing by System Agency. The foregoing shall be at no cost to System Agency.
E. Furthermore, the proprietary nature of Grantee's systems that process, store, collect, and/or transmit the System Agency Data shall not excuse Grantee's performance of its obligations hereunder.

ARTICLE VII. PROPERTY

7.1 USE OF STATE PROPERTY

A. Grantee is prohibited from using State Property for any purpose other than performing Services authorized under the Grant Agreement.
B. State Property includes, but is not limited to, System Agency's office space, identification badges, System Agency information technology equipment and networks (*e.g.,* laptops, portable printers, cell phones, iPads or tablets, external hard drives, data storage devices, any System Agency-issued software, and the System Agency Virtual Private Network (VPN client)), and any other resources of System Agency.
C. Grantee shall not remove State Property from the continental United States. In addition, Grantee may not use any computing device to access System Agency's network or e-mail while outside of the continental United States.
D. Grantee shall not perform any maintenance services on State Property unless the Grant Agreement expressly authorizes such Services.
E. During the time that State Property is in the possession of Grantee, Grantee shall be responsible for:
    i. all repair and replacement charges incurred by State Agency that are associated with loss of State Property or damage beyond normal wear and tear, and
    ii. all charges attributable to Grantee's use of State Property that exceeds the Grant Agreement scope. Grantee shall fully reimburse such charges to System Agency within ten (10) calendar days of Grantee's receipt of System Agency's notice of amount due. Use of State Property for a purpose not authorized by the Grant Agreement shall constitute breach of contract and may result in termination of the Grant Agreement and the pursuit of other remedies available to System Agency under contract, at law, or in equity.

7.2 DAMAGE TO STATE PROPERTY

A. In the event of loss, destruction, or damage to any System Agency or State of Texas owned, leased, or occupied property or equipment by Grantee or Grantee's employees, agents, Subcontractors, or suppliers, Grantee shall be liable to System Agency and the State of Texas for the full cost of repair, reconstruction, or replacement of the lost, destroyed, or damaged property.
B. Grantee shall notify System Agency of the loss, destruction, or damage of equipment or property within one (1) business day. Grantee shall reimburse System Agency and the State of Texas for such property damage within ten (10) calendar days after Grantee's receipt of System Agency's notice of amount due.

7.3 Property Rights upon Termination or Expiration of Contract

In the event the Grant Agreement is terminated for any reason or expires, State Property remains the property of the System Agency and must be returned to the System Agency by the earlier of the end date of the Grant Agreement or upon System Agency's request.

7.4 Equipment and Property

All equipment and property acquired by Grantee, with funds awarded under this Grant Agreement, are subject to all applicable laws and governing authority including, but not limited to, applicable provisions of 2 CFR 200 and TxGMS. System Agency funds must not be used to purchase buildings or real property without prior written approval from System Agency. Any costs related to the initial acquisition of the buildings or real property are not allowable without written pre-approval.

ARTICLE VIII. Record Retention, Audit, And Confidentiality

8.1 Record Maintenance and Retention

A. Grantee shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the System Agency, the Texas State Auditor's Office, the United States Government, and their authorized representatives all information required to determine compliance with the terms and conditions of this Grant Agreement and all state and federal rules, regulations, and statutes. Grantee shall ensure these same requirements are included in all subcontracts.

B. Grantee shall maintain and retain legible copies of this Grant Agreement and all records relating to the performance of the Grant Agreement, including supporting fiscal documents adequate to ensure that claims for grant funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by the Grantee for a minimum of seven (7) years after the Grant Agreement expiration date or seven (7) years after all audits, claims, litigation, or disputes involving the Grant Agreement are resolved, whichever is later. Grantee shall ensure these same requirements are included in all subcontracts.

8.2 Agency's Right to Audit

A. Grantee shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, supporting documents kept current by Grantee pertaining to the Grant Agreement for purposes of inspecting, monitoring, auditing, or evaluating by System Agency and the State of Texas. Grantee shall ensure these same requirements are included in all subcontracts.

B. In addition to any right of access arising by operation of law, Grantee and any of Grantee's affiliate or subsidiary organizations, or Subcontractors shall permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Grant Agreement. Grantee shall permit the System Agency or any of its duly authorized federal, state, or local authorities unrestricted access to and the right to examine all external contracts and or pricing models or methodologies related to the Grant Agreement. Grantee shall ensure these same requirements are included in all subcontracts. If the Grant Agreement includes federal funds, federal agencies that shall have a right of access to records as described in this section include: the federal agency

providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that shall have a right of access to records as described in this section include: the System Agency, HHS's contracted examiners, the State Auditor's Office, the Office of the Texas Attorney General, and any successor agencies. Each of these entities may be a duly authorized authority.

C. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of oversight, including, but not limited to, reviews, inspections, audits and investigations, Grantee shall produce original documents related to this Grant Agreement.

D. The System Agency and any duly authorized authority shall have the right to audit billings both before and after payment, and all documentation that substantiates the billings and payments related to the Grant Agreement, including those related to a Subcontractor.

E. Grantee shall include the System Agency's and any of its duly authorized representatives', as well as duly authorized federal, state, or local authorities, unrestricted right of access to, and examination of, sites and information related to this Grant Agreement in any Subcontract it awards.

8.3 Response/Compliance with Audit or Inspection Findings

A. Grantee must act to ensure its and its Subcontractors' compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, inspection or investigation of the Grant Agreement and the services and Deliverables provided. Any such correction will be at Grantee's or its Subcontractor's sole expense. Whether Grantee's action corrects the noncompliance shall be solely the decision of the System Agency.

B. As part of the services, Grantee must provide to HHS upon request a copy of those portions of Grantee's and its Subcontractors' internal audit reports relating to the services and Deliverables provided to the State under the Grant Agreement.

C. Grantee shall include the requirement to provide to System Agency (and any of its duly authorized federal, state, or local authorities) internal audit reports related to this Grant Agreement in any Subcontract it awards. Upon request by System Agency, Grantee shall enforce this requirement against its Subcontractor. Further, Grantee shall include in any Subcontract it awards a requirement that all Subcontractor Subcontracts must also include these provisions.

8.4 State Auditor's Right to Audit

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement. The acceptance of funds directly under the Grant Agreement or indirectly through a subcontract under the Grant Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Grantee shall ensure the authority to audit funds received indirectly by subcontractors through the contract and the requirement to cooperate is included in any subcontract it awards.

8.5 CONFIDENTIALITY

Grantee shall maintain as confidential and shall not disclose to third parties without System Agency's prior written consent, any System Agency information including but not limited to System Agency's business activities, practices, systems, conditions and services. This Article VIII will survive termination or expiration of this Grant Agreement. Further, the obligations of Grantee under this Article VIII will survive termination or expiration of this Grant Agreement. This requirement must be included in all subcontracts awarded by Grantee.

ARTICLE IX. GRANT REMEDIES, TERMINATION AND PROHIBITED ACTIVITIES

9.1 REMEDIES

A. To ensure Grantee's full performance of the Grant Agreement and compliance with applicable law, System Agency reserves the right to hold Grantee accountable for breach of contract or substandard performance and may take remedial or corrective actions, including, but not limited to the following:
   i. temporarily withholding cash disbursements or reimbursements pending correction of the deficiency;
   ii. disallowing or denying use of funds for the activity or action deemed not to be in compliance;
   iii. disallowing claims for reimbursement that may require a partial or whole return of previous payments or reimbursements;
   iv. suspending all or part of the Grant Agreement;
   v. requiring the Grantee to take specific actions in order to remain in compliance with the Grant Agreement;
   vi. recouping payments made by the System Agency to the Grantee found to be in error;
   vii. suspending, limiting, or placing conditions on the Grantee's continued performance of the Project;
   viii. prohibiting the Grantee from receiving additional funds for other grant programs administered by the System Agency until satisfactory compliance resolution is obtained;
   ix. withholding release of new grant agreements; and
   x. imposing any other remedies, sanctions or penalties authorized under this Grant Agreement or permitted by federal or state statute, law, regulation or rule.

B. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended.

C. No action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as a waiver of any other rights or remedies available to System Agency under the Grant Agreement or pursuant to law. Additionally, no action taken by System Agency in exercising remedies or imposing sanctions will constitute or operate as an acceptance, waiver, or cure of Grantee's breach. Unless expressly authorized by System Agency, Grantee may not be entitled to reimbursement for expenses incurred while the Grant Agreement is suspended or after termination.

9.2 TERMINATION FOR CONVENIENCE

The System Agency may terminate the Grant Agreement, in whole or in part, at any time when, in its sole discretion, the System Agency determines that termination is in the best interests of the State of Texas. The termination will be effective on the date specified in the System Agency's notice of termination.

9.3 TERMINATION FOR CAUSE

A. Except as otherwise provided by the U.S. Bankruptcy Code, or any successor law, the System Agency may terminate the Grant Agreement, in whole or in part, upon either of the following conditions:

i. Material Breach

The System Agency may terminate the Grant Agreement, in whole or in part, if the System Agency determines, in its sole discretion, that Grantee has materially breached the Grant Agreement or has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, whether or not such violation prevents or substantially impairs performance of Grantee's duties under the Grant Agreement. Grantee's misrepresentation in any aspect including, but not limited to, of Grantee's Solicitation Application, if any, or Grantee's addition to the SAM exclusion list (identification in SAM as an excluded entity) may also constitute a material breach of the Grant Agreement.

ii. Failure to Maintain Financial Viability

The System Agency may terminate the Grant Agreement if the System Agency, in its sole discretion, determines that Grantee no longer maintains the financial viability required to complete the services and deliverables, or otherwise fully perform its responsibilities under the Grant Agreement.

B. System Agency will specify the effective date of such termination in the notice to Grantee. If no effective date is specified, the Grant Agreement will terminate on the date of the notification.

9.4 GRANTEE RESPONSIBILITY FOR SYSTEM AGENCY'S TERMINATION COSTS

If the System Agency terminates the Grant Agreement for cause, the Grantee shall be responsible to the System Agency for all costs incurred by the System Agency and the State of Texas to replace the Grantee. These costs include, but are not limited to, the costs of procuring a substitute grantee and the cost of any claim or litigation attributable to Grantee's failure to perform any work in accordance with the terms of the Grant Agreement.

9.5 INHERENTLY RELIGIOUS ACTIVITIES

Grantee may not use grant funding to engage in inherently religious activities, such as proselytizing, scripture study, or worship. Grantees may engage in inherently religious activities; however, these activities must be separate in time or location from the grant-funded program. Moreover, grantees must not compel program beneficiaries to participate in inherently religious activities. These requirements apply to all grantees, not just faith-based organizations.

9.6 POLITICAL ACTIVITIES

Grant funds cannot be used for the following activities:

A. Grantees and their relevant sub-grantees or subcontractors are prohibited from using grant funds directly or indirectly for political purposes, including lobbying, advocating for legislation, campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties, and voter registration campaigns. Grantees may use private, or non-System Agency money or contributions for political purposes but may not charge to, or be reimbursed from, System Agency contracts or grants for the costs of such activities.

B. Grant-funded employees may not use official authority or influence to achieve any political purpose and grant funds cannot be used for the salary, benefits, or any other compensation of an elected official.

C. Grant funds may not be used to employ, in any capacity, a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist. Additionally, grant funds cannot be used to pay membership dues to an organization that partially or wholly pays the salary of a person who is required by Chapter 305 of the Texas Government Code to register as a lobbyist.

D. As applicable, Grantee will comply with 31 USC § 1352, relating to the limitation on use of appropriated funds to influence certain Federal contracting and financial transactions.

ARTICLE X. INDEMNITY

10.1 GENERAL INDEMNITY

A. GRANTEE SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND SYSTEM AGENCY, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES ARISING OUT OF OR RESULTING FROM ANY ACTS OR OMISSIONS OF GRANTEE OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE GRANT AGREEMENT AND ANY PURCHASE ORDERS ISSUED UNDER THE GRANT AGREEMENT.

B. THIS PARAGRAPH IS NOT INTENDED TO AND WILL NOT BE CONSTRUED TO REQUIRE GRANTEE TO INDEMNIFY OR HOLD HARMLESS THE STATE OR THE SYSTEM AGENCY FOR ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE SYSTEM AGENCY OR ITS EMPLOYEES.

C. FOR THE AVOIDANCE OF DOUBT, SYSTEM AGENCY SHALL NOT INDEMNIFY GRANTEE OR ANY OTHER ENTITY UNDER THE GRANT AGREEMENT.

10.2 INTELLECTUAL PROPERTY

GRANTEE SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE SYSTEM AGENCY AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM:

i. THE PERFORMANCE OR ACTIONS OF GRANTEE PURSUANT TO THIS GRANT AGREEMENT;

ii. ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR

iii. SYSTEM AGENCY'S AND/OR GRANTEE'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO SYSTEM AGENCY BY GRANTEE OR OTHERWISE TO WHICH SYSTEM AGENCY HAS ACCESS AS A RESULT OF GRANTEE'S PERFORMANCE UNDER THE GRANT AGREEMENT.

10.3 Additional Indemnity Provisions

A. GRANTEE AND SYSTEM AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY INDEMNITY CLAIM. GRANTEE SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES.

B. THE DEFENSE SHALL BE COORDINATED BY THE GRANTEE WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND GRANTEE MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL.

C. GRANTEE SHALL REIMBURSE SYSTEM AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE SYSTEM AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF GRANTEE OR IF SYSTEM AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, SYSTEM AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND GRANTEE SHALL PAY ALL REASONABLE COSTS OF SYSTEM AGENCY'S COUNSEL.

ARTICLE XI. General Provisions

11.1 Amendments

Except as otherwise expressly provided, the Grant Agreement may only be amended by a written Amendment executed by both Parties.

11.2 No Quantity Guarantees

The System Agency makes no guarantee of volume or usage of work under this Grant Agreement. All work requested may be on an irregular and as needed basis throughout the Grant Agreement term.

11.3 Child Abuse Reporting Requirements

A. Grantees shall comply with child abuse and neglect reporting requirements in Texas Family Code Chapter 261. This section is in addition to and does not supersede any other legal obligation of the Grantee to report child abuse.

B. Grantee shall use the Texas Abuse Hotline Website located at https://www.txabusehotline.org/Login/Default.aspx as required by the System Agency. Grantee shall retain reporting documentation on site and make it available for inspection by the System Agency.

11.4 Certification of Meeting or Exceeding Tobacco-Free Workplace Policy Minimum Standards

A. Grantee certifies that it has adopted and enforces a Tobacco-Free Workplace Policy that meets or exceeds all of the following minimum standards of:

i. Prohibiting the use of all forms of tobacco products, including but not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic cigarettes, smokeless tobacco, snuff and chewing tobacco;
ii. Designating the property to which this Policy applies as a "designated area," which must at least comprise all buildings and structures where activities funded under this Grant Agreement are taking place, as well as Grantee owned, leased, or controlled sidewalks, parking lots, walkways, and attached parking structures immediately adjacent to this designated area;
iii. Applying to all employees and visitors in this designated area; and
iv. Providing for or referring its employees to tobacco use cessation services.

B. If Grantee cannot meet these minimum standards, it must obtain a waiver from the System Agency.

11.5 INSURANCE AND BONDS

Unless otherwise specified in this Contract, Grantee shall acquire and maintain, for the duration of this Contract, insurance coverage necessary to ensure proper fulfillment of this Contract and potential liabilities thereunder with financially sound and reputable insurers licensed by the Texas Department of Insurance, in the type and amount customarily carried within the industry as determined by the System Agency. Grantee shall provide evidence of insurance as required under this Contract, including a schedule of coverage or underwriter's schedules establishing to the satisfaction of the System Agency the nature and extent of coverage granted by each such policy, upon request by the System Agency. In the event that any policy is determined by the System Agency to be deficient to comply with the terms of this Contract, Grantee shall secure such additional policies or coverage as the System Agency may reasonably request or that are required by law or regulation. If coverage expires during the term of this Contract, Grantee must produce renewal certificates for each type of coverage. In addition, if required by System Agency, Grantee must obtain and have on file a blanket fidelity bond that indemnifies System Agency against the loss or theft of any grant funds, including applicable matching funds. The fidelity bond must cover the entirety of the grant term and any subsequent renewals. The failure of Grantee to comply with these requirements may subject Grantee to remedial or corrective actions detailed in section 10.1, General Indemnity, above.

These and all other insurance requirements under the Grant apply to both Grantee and its Subcontractors, if any. Grantee is responsible for ensuring its Subcontractors' compliance with all requirements.

11.6 LIMITATION ON AUTHORITY

A. Grantee shall not have any authority to act for or on behalf of the System Agency or the State of Texas except as expressly provided for in the Grant Agreement; no other authority, power, or use is granted or implied. Grantee may not incur any debt, obligation, expense, or liability of any kind on behalf of System Agency or the State of Texas.
B. Grantee may not rely upon implied authority and is not granted authority under the Grant Agreement to:
i. Make public policy on behalf of the System Agency;
ii. Promulgate, amend, or disregard administrative regulations or program policy decisions made by State and federal agencies responsible for administration of a System Agency program; or
iii. Unilaterally communicate or negotiate with any federal or state agency or the Texas Legislature on behalf of the System Agency regarding System Agency programs or

the Grant Agreement. However, upon System Agency request and with reasonable notice from System Agency to the Grantee, the Grantee shall assist the System Agency in communications and negotiations regarding the Work under the Grant Agreement with state and federal governments.

11.7 Change in Laws and Compliance with Laws

Grantee shall comply with all laws, regulations, requirements, and guidelines applicable to a Grantee providing services and products required by the Grant Agreement to the State of Texas, as these laws, regulations, requirements, and guidelines currently exist and as amended throughout the term of the Grant Agreement. Notwithstanding Section 11.1, Amendments, above, System Agency reserves the right, in its sole discretion, to unilaterally amend the Grant Agreement to incorporate any modifications necessary for System Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

11.8 Subcontractors

Grantee may not subcontract any or all of the Work and/or obligations under the Grant Agreement without prior written approval of the System Agency. Subcontracts, if any, entered into by the Grantee shall be in writing and be subject to the requirements of the Grant Agreement. Should Grantee subcontract any of the services required in the Grant Agreement, Grantee expressly understands and acknowledges System Agency is in no manner liable to any subcontractor(s) of Grantee. In no event shall this provision relieve Grantee of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Grant Agreement.

11.9 Permitting and Licensure

At Grantee's sole expense, Grantee shall procure and maintain for the duration of this Grant Agreement any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Grant Agreement. Grantee shall be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Grantee shall be responsible for payment of any such government obligations not paid by its Subcontractors during performance of this Grant Agreement.

11.10 Independent Contractor

Grantee and Grantee's employees, representatives, agents, Subcontractors, suppliers, and third-party service providers shall serve as independent contractors in providing the services under the Grant Agreement. Neither Grantee nor System Agency is an agent of the other and neither may make any commitments on the other party's behalf. The Grantee is not a "governmental body" solely by virtue of this Grant Agreement or receipt of grant funds under this Grant Agreement. Grantee shall have no claim against System Agency for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The Grant Agreement shall not create any joint venture, partnership, agency, or employment relationship between Grantee and System Agency.

11.11 Governing Law and Venue

The Grant Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit

arising under the Grant Agreement is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the System Agency.

11.12 SEVERABILITY

If any provision contained in this Grant Agreement is held to be unenforceable by a court of law or equity, such construction will not affect the legality, validity, or enforceability of any other provision or provisions of this Grant Agreement. It is the intent and agreement of the Parties this Grant Agreement shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this Grant Agreement will continue in full force and effect.

11.13 SURVIVABILITY

Expiration or termination of the Grant Agreement for any reason does not release Grantee from any liability or obligation set forth in the Grant Agreement that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the Grant Agreement, including without limitation the provisions regarding return of grant funds, audit requirements, records retention, public information, warranty, indemnification, confidentiality, and rights and remedies upon termination.

11.14 FORCE MAJEURE

Neither Grantee nor System Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in the Grant Agreement caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome.

11.15 NO IMPLIED WAIVER OF PROVISIONS

The failure of the System Agency to object to or to take affirmative action with respect to any conduct of the Grantee which is in violation or breach of the terms of the Grant Agreement shall not be construed as a waiver of the violation or breach, or of any future violation or breach.

11.16 FUNDING DISCLAIMERS AND LABELING

A. Grantee shall not use System Agency's name or refer to System Agency directly or indirectly in any media appearance, public service announcement, or disclosure relating to this Grant Agreement including any promotional material without first obtaining written consent from System Agency. The foregoing prohibition includes, without limitation, the placement of banners, pop-up ads, or other advertisements promoting Grantee's or a third party's products, services, workshops, trainings, or other commercial offerings on any website portal or internet-based service or software application hosted or managed by Grantee. This does not limit the Grantee's responsibility to comply with obligations related to the Texas Public Information Act or Texas Open Meetings Act.

B. In general, no publication (including websites, reports, projects, etc.) may convey System Agency's recognition or endorsement of the Grantee's project without prior written approval from System Agency. Publications funded in part or wholly by HHS grant funding must include a statement that "HHS and neither any of its components operate, control, are responsible for, or necessarily endorse, this publication (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)" at HHS's request.

11.17 MEDIA RELEASES

A. Grantee shall not use System Agency's name, logo, or other likeness in any press release, marketing material or other announcement without System Agency's prior written approval. System Agency does not endorse any vendor, commodity, or service. Grantee is not authorized to make or participate in any media releases or public announcements pertaining to this Grant Agreement or the Services to which they relate without System Agency's prior written consent, and then only in accordance with explicit written instruction from System Agency.

B. Grantee may publish, at its sole expense, results of Grantee performance under the Grant Agreement with the System Agency's prior review and approval, which the System Agency may exercise at its sole discretion. Any publication (written, visual, or sound) will acknowledge the support received from the System Agency and any Federal agency, as appropriate.

11.18 PROHIBITION ON NON-COMPETE RESTRICTIONS

Grantee shall not require any employees or Subcontractors to agree to any conditions, such as non-compete clauses or other contractual arrangements, that would limit or restrict such persons or entities from employment or contracting with the State of Texas.

11.19 SOVEREIGN IMMUNITY

Nothing in the Grant Agreement will be construed as a waiver of the System Agency's or the State's sovereign immunity. This Grant Agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the System Agency or the State of Texas under the Grant Agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. System Agency does not waive any privileges, rights, defenses, or immunities available to System Agency by entering into the Grant Agreement or by its conduct prior to or subsequent to entering into the Grant Agreement.

11.20 ENTIRE CONTRACT AND MODIFICATION

The Grant Agreement constitutes the entire agreement of the Parties and is intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any future document incorporated into the Grant Agreement will be harmonized with this Grant Agreement to the extent possible.

11.21 COUNTERPARTS

This Grant Agreement may be executed in any number of counterparts, each of which will be an original, and all such counterparts will together constitute but one and the same Grant Agreement.

11.22 PROPER AUTHORITY

Each Party represents and warrants that the person executing this Grant Agreement on its behalf has full power and authority to enter into this Grant Agreement.

11.23 E-VERIFY PROGRAM

Grantee certifies that it utilizes and will continue to utilize the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

A. all persons employed to perform duties within Texas during the term of the Grant Agreement; and
B. all persons, (including subcontractors) assigned by the Grantee to perform work pursuant to the Grant Agreement within the United States of America.

11.24 CIVIL RIGHTS

A. Grantee agrees to comply with state and federal anti-discrimination laws, including:
   i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.);
   ii. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794);
   iii. Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.);
   iv. Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107);
   v. Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688);
   vi. Food and Nutrition Act of 2008 (7 U.S.C. §2011 et seq.); and
   vii. The System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Grant Agreement.
B. Grantee agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination.
C. Grantee agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Grantee agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.
D. Grantee agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at: https://hhs.texas.gov/about-hhs/your-rights/civil-rights-office/civil-rights-posters
E. Grantee agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

F. Upon request, Grantee shall provide HHSC's Civil Rights Office with copies of the Grantee's civil rights policies and procedures.

G. Grantee must notify HHSC's Civil Rights Office of any complaints of discrimination received relating to its performance under this Grant Agreement. This notice must be delivered no more than ten (10) calendar days after receipt of a complaint. Notice provided pursuant to this section must be directed to:

HHSC Civil Rights Office
701 W. 51st Street, Mail CodeW206
Austin, Texas 78751
Phone Toll Free: (888) 388-6332
Phone: (512) 438-4313
Fax: (512) 438-5885
Email: HHSCivilRightsOffice@hhsc.state.tx.us

11.25 Enterprise Information Management Standards

Grantee shall conform to HHS standards for data management as described by the policies of the HHS Office of Data, Analytics, and Performance. These include, but are not limited to, standards for documentation and communication of data models, metadata, and other data definition methods that are required by HHS for ongoing data governance, strategic portfolio analysis, interoperability planning, and valuation of HHS System data assets.

11.26 Disclosure of Litigation

A. The Grantee must disclose in writing to the contract manager assigned to this Grant Agreement any material civil or criminal litigation or indictment either threatened or pending involving the Grantee. "Threatened litigation" as used herein shall include governmental investigations and civil investigative demands. "Litigation" as used herein shall include administrative enforcement actions brought by governmental agencies. The Grantee must also disclose any material litigation threatened or pending involving Subcontractors, consultants, and/or lobbyists. For purposes of this section, "material" refers, but is not limited, to any action or pending action that a reasonable person knowledgeable in the applicable industry would consider relevant to the Work under the Grant Agreement or any development such a person would want to be aware of in order to stay fully apprised of the total mix of information relevant to the Work, together with any litigation threatened or pending that may result in a substantial change in the Grantee's financial condition.

B. This is a continuing disclosure requirement; any litigation commencing after Grant Agreement Award must be disclosed in a written statement to the assigned contract manager within seven calendar days of its occurrence.

11.27 No Third Party Beneficiaries

The Grant Agreement is made solely and specifically among and for the benefit of the Parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the Grant Agreement as a third-party beneficiary or otherwise.

11.28 Binding Effect

The Grant Agreement shall inure to the benefit of, be binding upon, and be enforceable against each Party and their respective permitted successors, assigns, transferees, and delegates.

Fiscal Federal Funding Accountability and Transparency Act (FFATA)

The certifications enumerated below represent material facts upon which DSHS relies when reporting information to the federal government required under federal law. If the Department later determines that the Contractor knowingly rendered an erroneous certification, DSHS may pursue all available remedies in accordance with Texas and U.S. law. Signor further agrees that it will provide immediate written notice to DSHS if at any time Signor learns that any of the certifications provided for below were erroneous when submitted or have since become erroneous by reason of changed circumstances. ***If the Signor cannot certify all of the statements contained in this section, Signor must provide written notice to DSHS detailing which of the below statements it cannot certify and why*.**

Legal Name of Contractor:	**FFATA Contact: (Name, Email and Phone Number):**
Primary Address of Contractor:	**Zip Code: 9-digits required www.usps.com**
Unique Entity ID (UEI): This number replaces the DUNS www.sam.gov	**State of Texas Comptroller Vendor Identification Number (VIN) – 14 digits:**

Printed Name of Authorized Representative:	**Signature of Authorized Representative**
Title of Authorized Representative	**Date Signed**

Fiscal Federal Funding Accountability and Transparency Act (FFATA) CERTIFICATION

As the duly authorized representative (Signor) of the Contractor, I hereby certify that the statements made by me in this certification form are true, complete, and correct to the best of my knowledge.

Did your organization have a gross income, from all sources, of less than $300,000 in your previous tax year? Yes ☐ No ☐

If your answer is "Yes", skip questions "A", "B", and "C" and finish the certification. If your answer is "No", answer questions "A" and "B".

A. Certification Regarding % of Annual Gross from Federal Awards.
Did your organization receive 80% or more of its annual gross revenue from federal awards during the preceding fiscal year? Yes ☐ No ☐

B. Certification Regarding Amount of Annual Gross from Federal Awards.
Did your organization receive $25 million or more in annual gross revenues from federal awards in the preceding fiscal year? Yes ☐ No ☐

If your answer is "Yes" to both question "A" and "B", you must answer question "C".
If your answer is "No" to either question "A" or "B", skip question "C" and finish the certification.

C. Certification Regarding Public Access to Compensation Information.
Does the public have access to information about the compensation of the senior executives in your business or organization (including parent organization, all branches, and all affiliates worldwide) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? Yes ☐ No ☐

If your answer is "Yes" to this question, where can this information be accessed?

If your answer is "No" to this question, you must provide the names and total compensation of the top five highly compensated officers below.

Provide compensation information here:

City Council Meeting

Item Number: 11.
Meeting Date: May 12, 2026
To: City Council
From: Laurie Williams, Director of Parks and Recreation
Subject: MOTION APPROVING THE BYLAWS OF THE CITY OF MIDLAND PARKS AND RECREATION COMMISSION

Purpose:
Motion to approve the Bylaws of the City of Midland Parks and Recreation Commission.

Recommended Action:
Approve

Fiscal Impact:
No Fiscal Impact

Strategic Priority:
PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT

Discussion:
The City of Midland Parks and Recreation Commission is a Council appointed advisory board that meets six times each year to provide feedback and insight into the developments and operations of the Parks and Recreation Department. In order to standardize the meeting procedures, the Commission researched other similar boards and set a priority to develop Bylaws that would standardize the procedures for the meetings and elections within the Commission. The Bylaws have been reviewed, revised, and approved unanimously for submittal to City Council for approval.

Attachments:
A. Bylaws FINAL2026

Rachel Guentensberger, City Secretary	Created/Initiated - 4/29/2026
Elizabeth Triggs, Development Services	Approved - 5/1/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

CITY OF MIDLAND
PARKS & RECREATION ADVISORY COMMISSION
BYLAWS

ARTICLE I
Purpose

The purpose of the Parks & Recreation Advisory Commission is to advise the City Council and Parks and Recreation Department concerning all matters pertaining to public parks and recreation in the City of Midland. The Commission is purely advisory in nature and shall not exercise any final decision-making authority or control over any public business. The sole and exclusive decision-making authority concerning all matters of public parks and recreation in the City of Midland is vested in the City Council.

ARTICLE II
Members

The Commission is comprised of nine members who are appointed by the City Council. Members to serve three-year terms beginning October 1 and ending September 30.

Members of the Parks and Recreation Department serve the Commission in an advisory capacity and without final decision-making authority.

ARTICLE III
Officers

Officer Positions

1. Chair – The Chair shall preside at all meetings of the commission, coordinate meeting agendas with the Director of Parks and Recreation Department, shall lead the commission in consensus decision-making whenever possible, and shall perform such other duties and acts as usually pertain to this office.

2. Vice Chair - Upon death, resignation, during the disability of the Chair or upon the Chair's refusal to act, the Vice Chair shall perform the duties of the Chair for the remainder of the Chair's term except in the case of the Chair's disability, then only so much of the term as the disability continues. The Vice Chair shall be responsible for and perform those tasks and

functions assigned by the Chair and shall generally attend to the business of the Commission. The Vice Chair shall act as the parliamentarian.

Elections

Officers shall be elected by a majority vote of the members. Elections shall be held in November of each year. Elections shall be by ballot unless there is only one person nominated for each office, in which case a voice vote shall be permissible. Officers shall serve for one year and may be reelected for the duration of the member's term.

Vacancies

If the position of Chair becomes vacant, the Vice Chair will assume the position of Chair. If the position of Vice Chair becomes vacant, the position will be filled by a member elected by Commission members.

ARTICLE IV
Meetings and Policies

Regular Meetings

The Commission shall hold regular meetings at least six times per year. Meetings shall be held at the Martin Luther King, Jr. Community Center, 2300 Butternut Ln, Midland, Texas, or at such other location, including by electronic platform, as may be determined by the Chair and Director of the Parks and Recreation Department. The time and date of each meeting will be determined by the Chair and Director of the Parks and Recreation Department.

Special Meetings

Special meetings may be called by (i) the Chair, (ii) at the request of four (4) or more members, or (iii) at the request of the Director of the Parks and Recreation Department.

Quorum

Five (5) voting members shall constitute a quorum for the conduct of official business of the Commission. All binding actions of the Commission shall be by a majority vote of the members present.

Attendance at Meetings

A member of a board or commission that has a regular monthly or semi-monthly meeting shall be expected to maintain a suitable attendance record. If a board member is absent from more than twenty-five percent (25%) of the duly called meetings in any period of twelve consecutive months or absent from more than two (2) duly called meetings in any period of twelve consecutive months,

whichever is greater, for any reason other than a medical reason, the member shall be disqualified and automatically removed from serving as a board member. The term "duly called meetings" includes all meetings of the board and all meetings of subcommittees of the board on which the board member serves. The Parks and Recreation Administrative Assistant is responsible for keeping track of the members' attendance. The Administrative Assistant of Parks and Recreation shall provide Midland City Council, through the City Secretary's Office, with a quarterly attendance report.

ARTICLE V
Miscellaneous Provisions

1. No salary or compensation shall be paid to any Officer or Commission member.

2. Any action or policy recommendation of the Commission shall not be construed to represent the official actions or policy of the City of Midland. Such action or policy recommendation of the Commission shall reflect City of Midland action or policy only if the same is acted on and approved by the City Council or by the voters in response to a ballot measure. Otherwise, any action or policy recommendation of the Commission is merely informative and represents only the views of the Commission.

3. The Commission does not discriminate on the basis of race, color, religion, disability, gender, sexual orientation, age, national origin, or any other protected class recognized by law.

4. No position may be taken by the Commission or its members in the name of the Commission or the City Council or the City that advocates or advances a political or social policy position in violation of City ordinances or any applicable state or federal law. No Officer or Commission member may endorse any candidate in his or her official capacity as an officer or member of the Commission.

5. All Commission members shall treat other members, City staff, elected officials and meeting visitors with respect.

6. The Commission may establish policies governing the conduct of members and other Commission matters by a majority vote of a quorum at a regular meeting, subject to the final consent and approval of the City Council.

7. A document listing all Commission policies will be maintained and made available to all members.

ARTICLE VI
Amendments

These Bylaws may be amended at any meeting of the Commission by a majority vote of the members of the Commission present and voting, provided that members have at least seven (7) business days of notice to review the proposed amendment. Notwithstanding the foregoing or any conflicting provision of these Bylaws, any such amendments to these Bylaws shall not become effective unless approved by the City Council.

These Bylaws, as amended, shall be effective following the consent and approval of the City Council.

City Council Meeting

Item Number: 12.
Meeting Date: May 12, 2026
To: City Council
From: Laurie Williams, Director of Parks and Recreation
Subject: MOTION AUTHORIZING THE EXECUTION OF SPORTS AGREEMENTS WITH THE FOLLOWING ORGANIZATIONS: BOYS AND GIRLS CLUB OF THE PERMIAN BASIN; GREATER MIDLAND FOOTBALL LEAGUE; POW5R SPORTS LEAGUE; MIDLAND JUNIOR BASEBALL ASSOCIATION, INC.; MIDLAND SOCCER ASSOCIATION, INC.; MIDLAND SOFTBALL ASSOCIATION, INC.; MIDLAND UNITED GIRLS SOFTBALL ASSOCIATION; TEXAS CRICKET CLUB; UNDER THE LIGHTS FLAG FOOTBALL LEAGUE; WEST TEXAS BMX; AND THE YMCA OF MIDLAND; SAID AGREEMENTS PROVIDING FOR THE ORGANIZATIONS' ADMINISTRATION OF RECREATIONAL PROGRAMS, SPECIAL EVENTS, AND OTHER RELATED ACTIVITIES THROUGH THE USE OF CERTAIN CITY-OWNED PROPERTY AND FACILITIES

Purpose:
Motion authorizing the execution of sports agreements with the following organizations: Boys and Girls Club of the Permian Basin; Greater Midland Football League; Pow5r Sports League; Midland Junior Baseball Association, Inc.; Midland Soccer Association, Inc.; Midland Softball Association, Inc.; Midland United Girls Softball Association; Texas Cricket Club; Under the Lights Flag Football League; West Texas BMX; and the YMCA of Midland. Said agreements providing for the organizations' administration of recreational programs, special events, and other related services through the use of city-owned property and facilities.

Recommended Action:
Approve

Fiscal Impact:
Maintenance of the City's athletic facilities is carried in the current operating budgets of the Parks and Sports Complex Divisions. The city, if funds are available and budgeted, can match an association's funds for capital improvement projects, as provided by the sports agreements.

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Through the annual sports agreements, the associations agree to provide recreational sports programs to the citizens of Midland. The associations handle advertisement, sign-ups, and

scheduling of seasonal competition and tournaments. City staff is responsible for the long-term maintenance and safe conditions of the sporting facilities.

The sports agreements will again require $1 million liability insurance naming the City of Midland as an additional insured.

Attachments:

A. Boys and Girls Club 2026
B. Greater Midland Football 2026
C. Midland Junior Baseball Association 2026
D. Midland Soccer Association 2026
E. Midland Softball Association 2026
F. Midland United Girls Softball Association 2026
G. Pow5r Sports League 2026
H. Texas Cricket Club 2026
I. Under the Lights Flag Football 2026
J. West Texas BMX Sports 2026
K. YMCA of Midland 2026

Jan Hamilton, City Secretary	Created/Initiated - 4/29/2026
Elizabeth Triggs, Development Services	Approved - 5/1/2026
Christy Weakland, Finance	Approved - 5/5/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

BOYS AND GIRLS CLUB OF THE PERMIAN BASIN
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation (City), and Boys and Girls Club of the Permian Basin (Association).

PURPOSE

Association shall be the sponsoring organization responsible for administering Association's programs, special events, and other services related to flag football and soccer activities for youth and adult participants at Taylor Park on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's activities. This Agreement does not preclude City or Association from soliciting and hosting national flag football/soccer events and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I - DEFINITIONS

A. **Park Property** - any property owned by the City of Midland and designated or deemed by City to be Park Property.

B. **Playing Field** - any single area of Park Property which has been improved in any way so as to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **City Manager** - the City Manager of the City of Midland, Texas.

D. **Director of Parks and Recreation** - the Director of Parks and Recreation for the City of Midland, Texas.

ARTICLE II - DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Allow Association nonexclusive use of Park Property for the sole purpose of conducting games and practice sessions.

E. Provide general field maintenance which shall include:

1. Mowing of playing fields area once a week during the growing season, adjustments may be made for tournaments;
2. Fertilizing in April and September with a third application if feasible as determined by City;
3. Filling significant holes in fields;
4. Making major repairs to City-owned equipment and fixtures.

F. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

G. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled practices taking place during the month preceding the start of the season.

H. Provide all maintenance for trees and shrubs surrounding playing field as applicable.

I. Respond to emergency maintenance requests on a priority basis as determined by City.

J. Apply fertilizer, herbicide, and seed purchased by Association and at Association's

expense or oversee applications applied by Association's contractor. Any fertilizer or other chemicals or treatment must be approved by City.

K. Coordinate with Association regarding provision and permitting/licensing of vendors.

L. Allow Association first priority, as appropriate, in the scheduling of Association's scheduled flag games and practice sessions. Appropriateness shall be determined by City.

ARTICLE III - DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two weeks prior to the start of the activities contemplated by this Agreement, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games and practices to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and/or teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and/or officials needed to conduct

the games.

E. Prepare playing fields prior to games, including:

1. Marking or cutting any and all necessary lines on playing fields;

2. Providing any and all necessary markers; and

3. Providing personnel, equipment and materials necessary to prepare flag football facility; and

4. Preparing playing field for all games.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with the Parks and Recreation Manager, or his or her designee, to

review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one (1) officer of Association, known as the "Facilities Director," who shall be responsible for all communications with the Parks and Recreation Division with regard to facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on Association's Board of Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (i.e., all-terrain vehicles, golf carts, mowers, etc.).

M. Agree to pay electrical costs for field light use at a rate of $25.00 per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Pesticides and herbicides shall be applied only by a licensed applicator which is licensed by The Texas Department of Agriculture. Further, Association shall supply labels and MSDS to City three (3) working days prior to application. Pesticides, herbicides or other chemicals may not be applied upon Park Property without prior approval of City.

P. Notify City of intent to apply fertilizer three (3) working days prior to application and furnish to City labels and any application MSDS for fertilizer. Any fertilizer or chemicals or treatment must be approved by City.

Q. Association agrees to keep Park Property and surrounding area clean and orderly by picking up trash after Association's events and shall store equipment off site after

season ends.

R. Ensure that all vending operations are properly permitted by City.

S. Abide by all requirements and obligations as set out in this Agreement.

T. City reserves the right to declare the fields "unplayable" for games or practice due to wet or adverse weather conditions.

U. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to the City of Midland no later than seven (7) days following the completion of the tournament.

V. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

W. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to immediately

terminate this Agreement upon receiving notice of the same. City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

X. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

Y. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV - TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V - INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association 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. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI - BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII – ANNUAL REPORTING

Association shall provide City with an annual report by the 1st day of December, during the term of this Agreement, stating the number of teams and players which participated during the

reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII - INSURANCE

A. General Liability. At all times during the term of this Agreement, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured with Association. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. If Association maintains equipment on City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period of time that Association maintains equipment on City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Section shall be in an amount not less than $1,000,000.00 combined single limit, per occurrence. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per occurrence basis and shall name City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate prior

to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's office. Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this paragraph. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, premises shall encompass all property used by Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all Park Property, and personal property owned by Association which is located on City property.

E. Certification. Association certifies that the one or more certificates of insurance provided

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

ARTICLE IX - INDEMNITY

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X - NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and (ii) in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI - LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal,

state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII – ASSIGNMENT

Association 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 to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII - TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon a non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation

and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV - GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	Boys and Girls Club of the Permian Basin Taylor Park Facility 1321 S. Goode St. Midland, Texas 79701

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

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

E. Use of Language. Words in the singular shall be held to include the plural unless the context

otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property during scheduled flag football events and practice sessions only.

ARTICLE XV - SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling and Association agrees to be bound by that determination.

ARTICLE XVI - ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, THE ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION MIGHT OTHERWISE BE ENTITLED.

ASSOCIATION AGREES THAT THIS IS THE VOLUNTARY AND

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

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII - GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII - NO THIRD-PARTY BENEFICIARIES

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

ARTICLE XIX - RELEASE

NOTWITHSTANDING ANY OTHER PROVISION, ASSOCIATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES, AND OFFICERS, FROM ANY AND ALL DEMANDS,

CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH ASSOCIATION HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF AGREEMENT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS OR CITY'S NEGLIGENCE.

ARTICLE XX - CONSIDERATION

City and Association agree that this Agreement is supported by and has good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI - NOTICE OF ALLEGED BREACH STATUTORY PREREQUISITES

As a prerequisite for Association filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Association or its legal representative, shall give the City Manager, or any other reasonable official of City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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 Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether City has actual or constructive notice or knowledge of said claim or alleged damages.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

BOYS AND GIRLS CLUB
OF THE PERMIAN
BASIN

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of_____, 2026, personally appeared _____, _____ of the Boys and Girls Club of the Permian Basin, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of the Boys and Girls Club of the Permian Basin.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this_____day of _____, 2026.

_____
Notary Public, State of Texas


MIDLAND
Be the Energy!

GREATER MIDLAND FOOTBALL LEAGUE
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and the Greater Midland Football League ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering the Association's programs, special events, organized sanctioned teams and other services related to football activities for youth ages four (4) to twelve (12) at the Scharbauer Sports Complex's Blue and White Fields and Reyes Mashburn Nelms Park's Football Fields on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's football activities for youth ages four (4) to twelve (12). This Agreement does not preclude City or Association from soliciting and hosting national tournaments and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I - DEFINITIONS

A. **Park Property** - any property owned by City and designated or deemed by City to be park property.

B. **Playing Field** - any single area of park property which has been improved in any way so as to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **City Manager** - the City Manager of the City of Midland, Texas.

D. **Director of Parks and Recreation** - the Director of Parks and Recreation for the City of Midland, Texas.

ARTICLE II - DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Allow Association nonexclusive use of Park Property for the sole purpose of conducting games.

E. Provide general field maintenance which shall include making major repairs to City-owned equipment, grooming of turf fields at least once biweekly during Association's football season, and fixtures.

F. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

G. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled camp taking place during the month preceding the start of the season.

H. Provide all maintenance for trees and shrubs surrounding playing fields as applicable.

I. Respond to emergency maintenance requests on a priority basis as determined by City.

J. Coordinate with Association regarding provision and permitting/licensing of vendors.

K. Allow Association first priority, as appropriate, in the scheduling of Association's scheduled games and Camp sessions. Appropriateness shall be determined by City.

L. Provide Association with non-exclusive access and use of certain designated concession facilities during Association's scheduled events. The scheduling of such non-exclusive access shall at all times be subject to the sole and absolute discretion of the City and the Director of Parks and Recreation or her designee.

ARTICLE III - DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of Association play, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games and camp to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and game officials needed to conduct the games.

E. Prepare playing fields prior to games, including:

1. Marking any and all necessary lines on playing fields;

2. Providing any and all necessary bases, chains, markers, goals and pylons;

3. Providing personnel, equipment and materials necessary to prepare playing fields; and

4. Preparing playing fields for all games if applicable.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with City's Parks and Recreation Manager, or his or her designee, to review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one (1) officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division with regard to facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on the Association Board of Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (i.e., all-terrain vehicles, golf carts, line cutters, etc.).

M. Agree to pay electrical costs for field light use at a rate of twenty-five dollars ($25.00) per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Keep Park Property and surrounding area clean and orderly by picking up trash after Association's events and shall store equipment off site after season ends.

R. Ensure that all vending operations are properly permitted by City.

S. Abide by all requirements and obligations as set out in this Agreement.

T. City reserves the right to declare the fields "unplayable" for games or practice due to wet or adverse weather conditions.

U. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to City no later than seven (7) days following the completion of the tournament.

V. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

W. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to immediately terminate this Agreement upon receiving notice of the same. City's termination of this

Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

X. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

Y. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV - TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V - INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association shall be an independent contractor under this Agreement and shall assume all 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 Association's work. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI - BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its

officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII - ANNUAL REPORTING

Association shall provide City with an annual report by December 1st, stating the number of teams and players which participated during the reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII - INSURANCE

A. General Liability. At all times during the term of this Agreement, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured with Association. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. If Association maintains equipment on City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period that Association maintains equipment on City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Section shall be in an amount not less than $1,000,000.00 combined single limit, per project aggregate and on an occurrence basis. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose

property damage or personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per project aggregate and on an occurrence basis and shall name the City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate prior to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's office. Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this paragraph. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days' prior written notice before any change or cancellation of the policy.

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ARTICLE IX - INDEMNITY

ASSOCIATION 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, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR,

ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION 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, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X - NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and (ii) in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI - LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII – ASSIGNMENT

Association 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 of whether to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII - TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV - GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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 contract 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official

depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	Greater Midland Football League 2510 Regency Oaks Midland, Texas 79705

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

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

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property during scheduled games sessions only.

ARTICLE XV - SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the

Director of Parks and Recreation or her designee, shall make a final determination of scheduling and the Association agrees to be bound by that determination.

ARTICLE XVI - ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION MIGHT OTHERWISE BE ENTITLED.

ASSOCIATION AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY

EXISTING KNOWN RIGHT. ASSOCIATION ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. ASSOCIATION FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN CITY AND ASSOCIATION. THIS ARTICLE SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII - GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII - NO THIRD-PARTY BENEFICIARIES

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

ARTICLE XIX - RELEASE

NOTWITHSTANDING ANY OTHER PROVISION, ASSOCIATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES, AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH

ASSOCIATION 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..

ARTICLE XX - CONSIDERATION

City and Association agree that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI - NOTICE OF ALLEGED BREACH STATUTORY PREREQUISITES

Before the Association may file suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Association or its legal representative, shall give the City Manager, or any other reasonable official of City notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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. City is under no obligation to provide notice to Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether City has actual or constructive notice or knowledge of said claim or alleged damages.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

GREATER MIDLAND FOOTBALL LEAGUE

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of the Greater Midland Football League.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas


MIDLAND
Be the Energy!

MIDLAND JUNIOR BASEBALL ASSOCIATION, INC.
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and Midland Junior Baseball Association, Inc., ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering the Association's programs, special events, organized sanctioned teams and other services related to baseball activities for young men ages nineteen (19) and younger at Beal Park, Butler Park, CJ Kelly Park, Hogan Park, Reyes/Mashburn/Nelms Park, and Windlands Park Fields on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's baseball activities for young men ages nineteen (19) and younger. This Agreement does not preclude City or Association from soliciting and hosting national tournaments and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I.
DEFINITIONS

A. **Park Property** - any property owned by the City of Midland and designated or deemed by the City to be park property.

B. **Playing Field** - any single area of park property which has been improved in any way so as to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **Championship Field(s)** - nine (9) playing fields, as agreed by Association, the City

Manager, Parks and Recreation Director and the Parks and Recreation Manager, reserved for Association's championship games or tournaments, comprised of Little League Fields #1 and #2 at Beal Park, Little League Fields #1 and #2 at Butler Park, Little League Field #1 at C.J. Kelly Park, Little League Fields #1 and #2 at Reyes/Mashburn/Nelms Park, and Little League Fields #1 and #2 at Windlands Park.

D. **City Manager** - the City Manager of the City of Midland, Texas.

E. **Director of Parks and Recreation** - the Director of Parks and Recreation for the City of Midland, Texas.

ARTICLE II. DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Allow Association nonexclusive use of the nine (9) Championship Fields for the sole purpose of conducting games and practice sessions. Said Championship Field(s) may be enclosed by an approved fence and locked, when not in use by either Association or City, so as to preserve the playing surface, provided all of the following requirements are met:

1. Selection of Championship Field(s) must be approved in writing, and in advance, by the City Manager;

2. If applicable, a proposed fence plan for said Championship Field(s) must be

approved by the City Manager, with Association paying all costs associated with said fence;

3. Association shall deposit with the Director of Parks and Recreation one (1) copy of any and all keys necessary to gain access to said Championship Field(s);

4. Association understands and agrees that the City retains an unlimited right of entry upon said Championship Field(s), as well as any other Park Property, at any time and for any purpose whatsoever;

5. Association understands and agrees that City owns all Park Property that is in any way effected by this Agreement, and that City's allowance of the designation and locking of any Championship Field(s) in no way conveys to Association or any other party any right of ownership whatsoever in either said Championship Field(s) or any other Park Property;

6. Association understands and agrees that the right to designate and lock any such Championship Field(s) is temporary and subject to the discretion of the City Manager, and in any event shall terminate with the expiration of this Agreement unless terminated earlier by the City Manager;

7. Association shall abide by all conditions and requirements as set out in this Agreement; and

8. Association understands and agrees that placement of any lock on any Park Property so as to exclude the public without the express written approval of the City Manager constitutes grounds for immediate termination of this Agreement.

E. Provide general field maintenance which shall include:

1. Mowing of playing fields once a week during the growing season, adjustments may be made for tournaments;
2. Fertilizing in April and September with a third application if feasible as determined by City;
3. Filling significant holes in fields;
4. Cutting necessary field lines prior to each Association season and prior to national tournaments if applicable;
5. Making major repairs to City-owned equipment and fixtures; and
6. Grooming of turf fields at least once biweekly during Association's baseball season.

F. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

G. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled practices taking place during the month preceding the start of the season.

H. Provide all maintenance for trees and shrubs surrounding playing fields as applicable.

I. Respond to emergency maintenance requests on a priority basis as determined by City.

J. Apply fertilizer, herbicide, and seed purchased by Association and at Association's expense or oversee applications applied by Association's contractor. Any fertilizer or other chemicals or treatment must be approved by City.

K. Coordinate with Association regarding provision and permitting/licensing of vendors.

L. Allow Association first priority, as appropriate, in the scheduling of Associations scheduled games and practice sessions. Appropriateness shall be determined by City.

M. Provide Association with non-exclusive access and use of certain designated concession facilities during Association's scheduled events. The scheduling of such non-exclusive access shall at all times be subject to the sole and absolute discretion of the City and the Director of Parks and Recreation or her designee.

ARTICLE III. DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of Association play, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games and practices to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and game officials needed to conduct the games.

E. Prepare playing fields prior to games, including:

1. Marking or cutting any and all necessary lines on playing fields;

2. Providing any and all necessary bases, markers or goals;

3. Providing personnel, equipment and materials necessary to drag infields, foul lines or batter boxes if applicable; and

4. Dragging skinned infields for all games if applicable.

5. Ensure no competitor wears metal spikes on turf fields.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with the Parks and Recreation Manager, or his or her designee, to

review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one (1) officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division about facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on the Association Board of Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (e.g., all-terrain vehicles, golf carts, line cutters, etc.).

M. Agree to pay electrical costs for field light use at a rate of twenty-five dollars ($25.00) per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Pesticides and herbicides shall be applied only by a licensed applicator which is licensed by the Texas Department of Agriculture. Further, Association shall supply labels and MSDS to City three (3) working days prior to application. Pesticides, herbicides or other chemicals may not be applied upon Park Property without prior approval of City.

P. Notify City of intent to apply fertilizer three (3) working days prior to application and furnish to City labels and any application MSDS for fertilizer. Any fertilizer or other chemicals or treatment must be approved by City.

Q. Association agrees to keep park property, parking lots, and surrounding area clean and orderly by picking up trash after Association's events and shall store equipment off site after season ends.

R. Ensure that all vending operations are properly permitted by City.

S. Abide by all requirements and obligations as set out in this Agreement.

T. City reserves the right to declare the fields "unplayable" for games or practice due to wet or adverse weather conditions.

U. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to the City of Midland no later than seven (7) days following the completion of the tournament.

V. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of the City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

W. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to immediately terminate this Agreement upon receiving notice of the same.

City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

X. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

Y. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV. TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association shall be an independent contractor under this Agreement and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI. BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII – ANNUAL REPORTING

Association shall provide City with an annual report by the 1st day of December, during the term of this Agreement, stating the number of teams and players which participated during the reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII. INSURANCE

A. General Liability. At all times during the term of this Agreement, including but not limited to any time where Association either (i) uses Park Property for the performance of the sport activity pursuant to this Agreement, (ii) maintains equipment on any Playing Field, or (iii) excludes the general public from any Championship Field, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. In the event that Association maintains equipment on any Playing Field or other City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period of time that Association maintains equipment on any Playing Field or other City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Article shall be in an amount not less than $1,000,000.00 combined single limit, per occurrence. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per occurrence basis and shall name the City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate prior to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's office. Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this Article. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days' prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, the premises shall encompass all property used by Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all park property, and personal property owned by Association which is located on City property.

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

ARTICLE IX. INDEMNITY

ASSOCIATION 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, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION 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, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X. NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and, (ii) in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI. LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII. ASSIGNMENT

Association 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 to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII. TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement

understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association

ARTICLE XIV. GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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 contract 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	Midland Junior Baseball Association, Inc. P.O. Box 52101 Midland, Texas 79710

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

D. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision

had never been contained herein.

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property pursuant to

the terms of this Agreement during scheduled games and practice sessions only.

ARTICLE XV. SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling and Association agrees to be bound by that determination.

ARTICLE XVI. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION MIGHT OTHERWISE BE ENTITLED.

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

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII. GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII. NO THIRD-PARTY BENEFICIARIES

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

ARTICLE XIX. RELEASE

NOTWITHSTANDING ANY OTHER PROVISION, ASSOCIATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY,

CITY'S EMPLOYEES, AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH ASSOCIATION 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.

ARTICLE XX. CONSIDERATION

City and Association agree that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI. 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, Association or its legal representative shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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 Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether City has actual or constructive notice or knowledge of said claim or alleged damages. Association agrees that the requirements of this entire Agreement are reasonable.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

MIDLAND JUNIOR BASEBALL
ASSOCIATION, INC.

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Midland Junior Baseball Association, Inc.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas


MIDLAND
Be the Energy!

MIDLAND SOCCER ASSOCIATION, INCORPORATED
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and Midland Soccer Association, Inc., ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering Association's programs, special events, organized sanctioned teams and other services related to recreational soccer for adults at the Scharbauer Sports Complex and youth at Butler Park and Hogan Park Fields on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's soccer activities for adults and youth. This Agreement does not preclude City or Association from soliciting and hosting national tournaments and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I.
DEFINITIONS

A. **Park Property** - any property owned by the City of Midland, Texas, and designated or deemed by the City to be park property.

B. **Playing Field** - any single area of park property which has been improved in any way to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **City Manager** - the City Manager of the City of Midland, Texas.

D. **Director of Parks and Recreation** - the Director of Parks and Recreation for the City

of Midland, Texas.

ARTICLE II. DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Provide general field maintenance which shall include:

1. Mowing of playing fields once a week during the growing season, adjustments may be made for tournaments;
2. Fertilizing in April and September with a third application if feasible as determined by City;
3. Filling significant holes in fields; and
4. Making major repairs to City-owned equipment and fixtures.

E. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

F. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled practices taking place during the month preceding the start of the season.

G. Provide all maintenance for trees and shrubs surrounding playing fields as applicable.

H. Respond to emergency maintenance requests on a priority basis as determined by City.

I. Apply fertilizer, herbicide, and seed purchased by Association and at Association's expense or oversee applications applied by Association's contractor. Any fertilizer or other

chemicals or treatment must be approved by City.

J. Coordinate with Association regarding provision and permitting/licensing of vendors.

K. Allow Association first priority, as appropriate, in the scheduling of Association's scheduled recreational games and practice sessions. Appropriateness shall be determined by City.

L. Provide Association with non-exclusive access and use of certain designated concession facilities during Association's scheduled events. The scheduling of such non-exclusive access shall at all times be subject to the sole and absolute discretion of the City and the Director of Parks and Recreation or her designee.

ARTICLE III. DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of Association play, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games and practices to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two (2) working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and game officials needed to conduct the games.

E. Prepare playing fields prior to games, including:

1. Marking any and all necessary lines on playing fields; and

2. Providing any and all necessary bases, markers or goals.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to the City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with the Parks and Recreation Manager, or his or her designee, to review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one (1) officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division regarding facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on the Association Board of Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (e.g., all-terrain vehicles, golf carts, line cutters, etc.).

M. Agree to pay electrical costs for field light use at a rate of twenty-five dollars ($25.00) per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Pesticides and herbicides shall be applied only by a licensed applicator which is licensed by the Texas Department of Agriculture. Further, Association shall supply labels and MSDS to the City three (3) working days prior to application. Pesticides, herbicides or other chemicals may not be applied upon Park Property without prior approval of City.

P. Notify City of intent to apply fertilizer three (3) working days prior to application and furnish to City labels and any application MSDS for fertilizer. Any fertilizer or other chemicals or treatment must be approved by City.

Q. Keep Park Property and surrounding area clean and orderly by picking up trash after

Association's events and shall store equipment off site after season ends.

R. Ensure that all vending operations are properly permitted by City.

S. Abide by all requirements and obligations as set out in this Agreement.

T. City reserves the right to declare fields "unplayable" for games and practice due to wet or adverse weather.

U. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to the City of Midland no later than seven (7) days following the completion of the tournament.

V. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

W. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by third parties under this Agreement. For the avoidance of doubt, the term "third party" as used herein shall apply to non-recreational teams, including, but not limited to, select teams and academy teams. Association's administration, scheduling, or apportionment of

the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to immediately terminate this Agreement upon receiving notice of the same. City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

X. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

Y. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV. TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee

of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association shall be an independent contractor under this Agreement and shall assume all rights, obligations and liabilities, applicable to it as such independent contractor hereunder. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI. BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII – ANNUAL REPORTING

Association shall provide City with an annual report by the 1st day of December, during the term of this Agreement, stating the number of teams and players which participated during the reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII. INSURANCE

A. General Liability. At all times during the term of this Agreement, including but not limited to any time where Association either (i) uses Park Property for the performance of the sport activity pursuant to this Agreement, (ii) maintains equipment on any Playing Field, or (iii) excludes the general public from any Championship Field, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. In the event that Association maintains equipment on any Playing Field or other City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period of time that Association maintains equipment on any Playing Field or other City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Section shall be in an amount not less than $1,000,000.00 combined single limit, per occurrence. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose property damage or

personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per occurrence basis and shall name the City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate prior to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's Office. Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this paragraph. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days' prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, premises shall encompass all property used by Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all park property, and personal property owned by Association which is located on City property.

E. Certification. Association certifies that the one or more certificates of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. The Association shall not use an unapproved certificate of i nsurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Association.

ARTICLE IX. INDEMNITY

ASSOCIATION 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, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION 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, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X. NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and, (ii) in the construction of any improvements on, over, or under such premises

and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI. LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII. ASSIGNMENT

Association 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 decision regarding whether to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII. TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon the non-defaulting party's election to terminate, this Agreement shall cease and come to an end. The non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of the non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV. GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	Midland Soccer Association, Inc. 3500 N. A Street Suite 1600 Midland, TX 79705

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

D. Severability. In case any one or more of the provisions contained in this Agreement shall

for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

E. Use of Language. Words in the singular shall be held to include the plural unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated after the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any

other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property during scheduled games and practice sessions only.

ARTICLE XV. SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling and Association agrees to be bound by that determination.

ARTICLE XVI. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION MIGHT OTHERWISE BE ENTITLED.

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

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII. GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII. NO THIRD-PARTY BENEFICIARIES

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

ARTICLE XIX.
RELEASE

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

ARTICLE XX. CONSIDERATION

City and Association agree that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI. 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, Association, or its legal representative, shall give the City Manager notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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 Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether City has actual or constructive notice or knowledge of said claim or alleged damages. Association agrees that the requirements of this entire Agreement are reasonable.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

MIDLAND SOCCER ASSOCIATION, INC.

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Midland Soccer Association, Inc.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas


MIDLAND
Be the Energy!

MIDLAND SOFTBALL ASSOCIATION, INCORPORATED
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and Midland Softball Association, Inc., ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering Association's programs, special events, organized sanctioned teams and other services related to softball activities for persons ages fifteen (15) and older at the Bill Williams Softball Complex at Hogan Park Fields on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's softball activities for persons ages fifteen (15) and older. This Agreement does not preclude City or Association from soliciting and hosting national tournaments and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I. DEFINITIONS

A. **Park Property** - any property owned by City and designated or deemed by City to be park property.

B. **Playing Field** - any single area of park property which has been improved in any way so as to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **Championship Field(s)** - six (6) playing fields, as agreed by Association, the City Manager and the Parks and Recreation Manager, reserved for Association's championship

games or tournaments, comprised of the six (6) adult softball fields within the Bill Williams Softball Complex at Hogan Park.

D. **City Manager** - the City Manager of the City of Midland, Texas.

E. **Director of Community Services** - the Director of Parks and Recreation for the City of Midland, Texas.

ARTICLE II. DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Allow Association nonexclusive use of the six (6) Championship Fields for the sole purpose of conducting games and practice sessions with one blackout date being the Thursday before easter. Said Championship Field(s) may be enclosed by an approved fence and locked, when not in use by either Association or City, so as to preserve the playing surface, provided all of the following requirements are met:

1. Selection of Championship Field(s) must be approved in writing, and in advance, by the City Manager;
2. If applicable, a proposed fence plan for said Championship Field(s) must be approved by the City Manager, with Association paying all costs associated with said fence;
3. Association shall deposit with the Director of Parks and Recreation one (1) copy

of any and all keys necessary to gain access to said Championship Field(s);

4. Association understands and agrees that City retains an unlimited right of entry upon said Championship Field(s), as well as any other Park Property, at any time and for any purpose whatsoever;

5. Association understands and agrees that City owns all Park Property that is in any way effected by this Agreement, and that City's allowance of the designation and locking of any Championship Field(s) in no way conveys to Association or any other party any right of ownership whatsoever in either said Championship Field(s) or any other Park Property;

6. Association understands and agrees that the right to designate and lock any such Championship Field(s) is temporary and subject to the discretion of the City Manager, and in any event shall terminate with the expiration of this Agreement unless terminated earlier by the City Manager;

7. Association shall abide by all conditions and requirements as set out in this Agreement; and

8. Association understands and agrees that placement of any lock on any Park Property so as to exclude the public without the express written approval of the City Manager constitutes grounds for immediate termination of this Agreement.

E. Provide general field maintenance which shall include:

1. Mowing of playing fields once a week during the growing season, adjustments may be made for tournaments;

2. Fertilizing in April and September with a third application if feasible as

determined by City;

3. Filling significant holes in fields;

4. Marking necessary field lines prior to each Association season and prior to national tournaments if applicable;

5. Dragging infields prior to tournaments;

6. Making major repairs to City-owned equipment and fixtures;

7. Picking up fencing after tournaments; and

8. Grooming of turf fields at least once biweekly during Association's softball season.

9. Set up and take down of temporary fences on playing fields for $200/field.

F. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

G. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled practices taking place during the month preceding the start of the season.

H. Provide all maintenance for trees and shrubs surrounding playing fields as applicable.

I. Respond to emergency maintenance requests on a priority basis as determined by City.

J. Apply fertilizer, herbicide, and seed purchased by Association and at Association's expense or oversee applications applied by Association's contractor. Any fertilizer or other chemicals or treatment must be approved by City.

K. Coordinate with Association regarding provision and permitting/licensing of vendors.

L. Allow Association first priority, as appropriate, in the scheduling of Associations scheduled games and practice sessions. Appropriateness shall be determined by City.

M. Provide Association with exclusive access and use of certain designated concession and

umpire facilities during Association's scheduled events; provided, however, that City may rent or otherwise provide access and use of said designated concession and umpire facilities to other persons or entities when Association is not using the concession or umpire facilities during a scheduled event. The decision regarding which concession and umpire facilities are to be designated for Association's exclusive access and use shall be in the sole and absolute discretion of the Director of Parks and Recreation or her designee.

ARTICLE III. DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of Association play, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games and practices to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two (2) working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, game officials, and custodial staff

needed to conduct the games.

E. Prepare playing fields prior to games, including:

1. Marking any and all necessary lines on playing fields;

2. Providing any and all necessary bases, markers or goals;

3. Providing personnel, equipment and materials necessary to drag infields and set pitching mounds, foul lines or batter boxes if applicable;

4. Setting pitching mounds for all games if applicable; and

5. Erecting temporary fencing as needed or pay the City $200/field for set up and tear down.

6. Ensure no competitor wears metal spikes on turf fields.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City

and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with the Parks and Recreation Manager, or his or her designee, to review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one (1) officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division with regard to facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on Association's Board of Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) to operate any power machinery on Park Property (i.e., all-terrain vehicles, golf carts, line cutters, etc.).

M. Agree to pay electrical costs for field light use at a rate of twenty-five dollars ($25.00) per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Pesticides and herbicides shall be applied only by a licensed applicator which is licensed by the Texas Department of Agriculture. Further, Association shall supply labels and MSDS to City three (3) working days prior to application. Pesticides, herbicides or other chemicals may not be applied upon Park Property without prior approval of City.

P. Notify City of intent to apply fertilizer three (3) working days prior to application and furnish to City labels and any application MSDS for fertilizer. Any fertilizer or other chemicals or treatment must be approved by City.

Q. Association agrees to keep park property, parking lots, and surrounding area clean and

orderly by picking up trash after Association's events. For the avoidance of doubt, "Park Property and surrounding area" as referenced in the preceding sentence shall include the fields, dugouts, common areas and the parking lot. Association also agrees to place its equipment in storage off site following the end of the softball season.

R. Ensure that all vending operations are properly permitted by City.

S. Abide by all requirements and obligations as set out in this Agreement.

T. City reserves the right to declare the field "unplayable" for games or practice due to wet and adverse weather conditions.

U. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to the City of Midland no later than seven (7) days following the completion of the tournament.

V. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

W. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by

third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to immediately terminate this Agreement upon receiving notice of the same. City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

X. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

Y. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV. TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services

described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association shall be an independent contractor under this Agreement and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI. BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII – ANNUAL REPORTING

Association shall provide City with an annual report by the 1st day of December, during the term of this Agreement, stating the number of teams and players which participated during the reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII. INSURANCE

A. General Liability. At all times during the term of this Agreement, including but not limited to any time where Association either (i) uses Park Property for the performance of the sport activity pursuant to this Agreement, (ii) maintains equipment on any Playing Field, or (iii) excludes the general public from any Championship Field, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. In the event that Association maintains equipment on any Playing Field or other City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period of time that Association maintains equipment on any Playing Field or other City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Article shall be in an amount not less than $1,000,000.00 combined single limit, per occurrence. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other

person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per occurrence basis and shall name City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate prior to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's office. Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this paragraph. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days' prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, premises shall encompass all property used by Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all park property, and personal property owned by Association which is located on City property.

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

ARTICLE IX. INDEMNITY

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X. NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and (ii) in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual

orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI. LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII. ASSIGNMENT

Association 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 decision regarding whether or not to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII. TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV. GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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 contract 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	Midland Softball Association, Inc. 4487 Hackberry Ct. Midland, Texas 79707

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

D. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and

this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall

have the right to control said Park Property during scheduled games and practice sessions only.

ARTICLE XV. SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling and Association agrees to be bound by that determination.

ARTICLE XVI. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION

MIGHT OTHERWISE BE ENTITLED.

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

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII. GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII. NO THIRD-PARTY BENEFICIARIES

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

ARTICLE XIX. RELEASE

NOTWITHSTANDING ANY OTHER PROVISION, ASSOCIATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY,

CITY'S EMPLOYEES, AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH ASSOCIATION 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.

ARTICLE XX. CONSIDERATION

City and Association agree that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI. 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, Association or its legal representative, shall give the City Manager, or any other reasonable official of City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Association 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 Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether City has actual or constructive notice or knowledge of said claim or alleged damages. Association agrees that the requirements of this entire Agreement are reasonable.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

MIDLAND SOFTBALL ASSOCIATION, INC.

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Midland Softball Association, Inc.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas


MIDLAND
Be the Energy!

MIDLAND UNITED GIRLS SOFTBALL ASSOCIATION,
INCORPORATED SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and Midland United Girls Softball Association, Inc., ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering Association's programs, special events, organized sanctioned teams and other services related to softball for young women ages eighteen (18) and younger at MUGS Softball Complex at Ulmer Park Fields on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's activities for young women ages eighteen (18) and younger. This Agreement does not preclude City or Association from soliciting and hosting national tournaments and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I.
DEFINITIONS

A. **Park Property** - any property owned by the City of Midland and designated or deemed by City to be park property.

B. **Playing Field** - any single area of Park Property which has been improved in any way so as to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **Championship Field(s)** - eleven (11) playing fields, as agreed by Association, the City Manager and the Parks and Recreation Manager, reserved for Association's championship games or

tournaments, comprised of the nine (9) softball fields and two (2) tee ball fields within the Freddie Ezell Complex at Ulmer Park.

D. **City Manager** - the City Manager of the City of Midland, Texas.

E. **Director of Parks and Recreation** - the Director of Parks and Recreation for the City of Midland, Texas.

ARTICLE II. DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Allow Association nonexclusive use of the eleven (11) Championship Fields for the sole purpose of conducting recreational games and practice sessions. Said Championship Field(s) may be enclosed by an approved fence and locked, when not in use by either Association or City, so as to preserve the playing surface, provided all of the following requirements are met:

1. Association shall deposit with the Director of Parks and Recreation one (1) copy of any and all keys necessary to gain access to said Championship Field(s);

2. Association understands and agrees that City retains an unlimited right of entry upon said Championship Field(s), as well as any other Park Property, at any time and for any purpose whatsoever;

3. Association understands and agrees that City owns all Park Property that is in any way effected by this Agreement, and that City's allowance of the designation and locking of any Championship Field(s) in no way conveys to Association or any other party any right of ownership whatsoever in either said Championship Field(s) or any other Park Property;

4. Association understands and agrees that the right to designate and lock any such Championship Field(s) is temporary and subject to the discretion of the City Manager, and in any event shall terminate with the expiration of this Agreement unless terminated earlier by the City Manager.

E. Provide general field maintenance which shall include:

1. Mowing of playing fields once a week during the growing season, adjustments may be made for tournaments;

2. Fertilizing in April and September with a third application if feasible as determined by City;

3. Filling significant holes in fields;

4. Cutting necessary field lines prior to each Association season and prior to national tournaments if applicable;

5. Making major repairs to City-owned equipment and fixtures; and

6. Grooming of turf fields at least once biweekly during Association's softball

season.

F. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

G. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled practices taking place during the month preceding the start of the season.

H. Provide all maintenance for trees and shrubs surrounding playing fields as applicable.

I. Respond to emergency maintenance requests on a priority basis as determined by City.

J. Apply fertilizer, herbicide, and seed purchased by Association and at Association's expense or oversee applications applied by Association's contractor. Any fertilizer or other chemicals or treatment must be approved by City.

K. Coordinate with Association regarding provision and permitting/licensing of vendors.

L. Allow Association first priority, as appropriate, in the scheduling of Association's scheduled games and practice sessions. Appropriateness shall be determined by City.

M. Provide Association with exclusive access and use of certain designated concession and umpire facilities during Association's scheduled events; provided, however, that City may rent or otherwise provide access and use of said designated concession and umpire facilities to other persons or entities when Association is not using the concession or umpire facilities during a scheduled event. The decision regarding which concession and umpire facilities are to be designated for Association's exclusive access and use shall be in the sole and absolute discretion of the Director of Parks and Recreation or her designee.

ARTICLE III. DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of Association play, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games and practices to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two (2) working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and game officials needed to conduct the games.

E. Prepare playing fields prior to games, including:

1. Marking or cutting any and all necessary lines on playing fields;
2. Providing any and all necessary bases, markers or goals;
3. Providing personnel, equipment and materials necessary to drag infields, foul lines or batter boxes if applicable; and
4. Dragging skinned infields for all games if applicable.

5. Ensure no competitor wears metal spikes on an artificially turfed field.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with the Parks and Recreation Manager, or his or her designee, to review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one (1) officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division with regard to facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on the Association's Board of

Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (e.g., all-terrain vehicles, golf carts, line cutters, etc.).

M. Agree to pay electrical costs for field light use at a rate of twenty-five dollars ($25.00) per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Pesticides and herbicides shall be applied only by a licensed applicator which is licensed by the Texas Department of Agriculture. Further, Association shall supply labels and MSDS to City three (3) working days prior to application. Pesticides, herbicides or other chemicals may not be applied upon Park Property without prior approval of City.

P. Notify City of intent to apply fertilizer three (3) working days prior to application and furnish to City labels and any application MSDS for fertilizer. Any fertilizer or other chemicals or treatment must be approved by City.

Q. Association agrees to keep park property, parking lot, and surrounding area clean and orderly by picking up trash after Association's events and shall store equipment off site after season ends.

R. Ensure that all vending operations are properly permitted by City.

S. Abide by all requirements and obligations as set out in this Agreement.

T. City reserves the right to declare the fields "unplayable" for games or practice due to wet or adverse weather conditions.

U. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to City no later than seven (7) days following the completion of the tournament.

V. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

W. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to immediately terminate this Agreement upon receiving notice of the same. City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

X. Association shall not limit the eligibility of any person from participation in a program or

activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

Y. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV. TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing

herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association 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. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI. BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII -ANNUAL REPORTING

Association shall provide City with an annual report by the 1st day of December, during the term of this Agreement, stating the number of teams and players which participated during the reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII. INSURANCE

A. General Liability. At all times during the term of this Agreement, including but not limited to any time where Association either (i) uses Park Property for the performance of the sport activity pursuant to this Agreement, (ii) maintains equipment on any Playing Field, or (iii) excludes the general public from any Championship Field, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. In the event that Association maintains equipment on any Playing Field or other City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period of time that Association maintains equipment on any Playing Field or other City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Article shall be in an amount not less than $1,000,000.00 combined single limit, per occurrence. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per occurrence basis and shall name City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance

required by this Agreement. Association shall provide City with insurance certificate prior to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's office. Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this Article. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days' prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, premises shall encompass all property used by Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all Park Property, and personal property owned by

Association which is located on City property.

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

ARTICLE IX.
INDEMNITY

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS,

ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X. NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and (ii) in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the

benefit of, or otherwise be subjected to discrimination.

ARTICLE XI. LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII. ASSIGNMENT

Association 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 of whether to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII. TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV. GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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 contract 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	Midland United Girls Softball Association, Inc. P.O. Box 10574 Midland, Texas 79702

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

D. Severability. In case any one or more of the provisions contained in this Agreement shall

for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or

to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property during scheduled games and practice sessions only.

ARTICLE XV. SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling and Association agrees to be bound by that determination.

ARTICLE XVI. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION MIGHT OTHERWISE BE ENTITLED.

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

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII. GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII. NO THIRD-PARTY BENEFICIARIES

City's approval of this Agreement does not create a third-party beneficiary. There are no

third-party beneficiaries to this Agreement. No person or entity who is not a party to this Agreement shall have any third-party beneficiary or any other rights hereunder.

ARTICLE XIX. RELEASE

NOTWITHSTANDING ANY OTHER PROVISION, ASSOCIATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES, AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH ASSOCIATION 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.

ARTICLE XX. CONSIDERATION

City and Association agree that this Agreement is supported by good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI. 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, Association or its legal representative, shall give the City Manager, or any other reasonable official of City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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 Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association'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. Association agrees that the requirements of this entire Agreement are reasonable.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

MIDLAND UNITED GIRLS SOFTBALL ASSOCIATION, INC.

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Midland United Girls Softball Association, Inc.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas


MIDLAND
Be the Energy!

POW5R SPORTS LEAGUE
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and the Pow5r Sports League ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering the Association's programs, special events, organized sanctioned teams and other services related to football activities for youth ages four (4) to twelve (12) at the Reyes Mashburn Nelms Park's Football Fields and the Scharbauer Sports Complex's Blue, Red, White, and Yellow Fields on an open-enrollment basis. Association's practices will be held at Reyes Mashburn Nelms Park's Football Fields and Association's games will be held at the Scharbauer Sports Complex's Blue, Red, White, and Yellow Fields. Association shall have the right to collect fees and income generated by Association's football activities for youth ages four (4) to twelve (12). This Agreement does not preclude City or Association from soliciting and hosting national tournaments and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I - DEFINITIONS

A. **Park Property** - any property owned by City and designated or deemed by City to be park property.

B. **Playing Field** - any single area of park property which has been improved in any way so as to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **City Manager** - the City Manager of the City of Midland, Texas.

D. **Director of Parks and Recreation** - the Director of Parks and Recreation for the City of Midland, Texas.

ARTICLE II - DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Allow Association nonexclusive use of Park Property for the sole purpose of conducting games.

E. Provide general field maintenance which shall include making major repairs to City-owned equipment, grooming of turf fields at least once biweekly during Association's football season, and fixtures.

F. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

G. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled camp taking place during the month preceding the start of the season.

H. Provide all maintenance for trees and shrubs surrounding playing fields as applicable.

I. Respond to emergency maintenance requests on a priority basis as determined by City.

J. Coordinate with Association regarding provision and permitting/licensing of vendors.

K. Allow Association first priority, as appropriate, in the scheduling of Association's scheduled games, practices, and Camp sessions. Appropriateness shall be determined by City.

L. Provide Association with non-exclusive access and use of certain designated concession facilities during Association's scheduled events. The scheduling of such non-exclusive access shall at all times be subject to the sole and absolute discretion of the City and the Director of Parks and Recreation or her designee.

ARTICLE III - DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of Association play, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games, practices, and camp(s) to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City

property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and game officials needed to conduct the games.

E. Prepare playing fields prior to games, including:

1. Marking any and all necessary lines on playing fields;

2. Providing any and all necessary bases, chains, markers, goals and pylons;

3. Providing personnel, equipment and materials necessary to prepare playing fields; and

4. Preparing playing fields for all games if applicable.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association

further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with City's Parks and Recreation Manager, or his or her designee, to review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one (1) officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division with regard to facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on the Association Board of Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (i.e., all-terrain vehicles, golf carts, line cutters, etc.).

M. Agree to pay electrical costs for field light use at a rate of twenty-five dollars ($25.00) per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Keep Park Property and surrounding area clean and orderly by picking up trash after Association's events and shall store equipment off site after season ends.

P. Ensure that all vending operations are properly permitted by City.

Q. Abide by all requirements and obligations as set out in this Agreement.

R. City reserves the right to declare the fields "unplayable" for games or practice due to wet or adverse weather conditions.

S. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to City no later than seven (7) days following the completion of the tournament.

T. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

U. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall

constitute a material breach of this Agreement, and City shall be entitled to immediately terminate this Agreement upon receiving notice of the same. City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

V. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

W. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV - TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V - INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association shall be an independent contractor under this Agreement and shall assume all 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 Association's work. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI - BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII - ANNUAL REPORTING

Association shall provide City with an annual report by December 1st, stating the number of teams and players which participated during the reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII - INSURANCE

A. General Liability. At all times during the term of this Agreement, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured with Association. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. If Association maintains equipment on City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period that Association maintains equipment on City property. This insurance shall be carried by one or more insurance companies duly

authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Section shall be in an amount not less than $1,000,000.00 combined single limit, per project aggregate and on an occurrence basis. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per project aggregate and on an occurrence basis and shall name the City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate prior to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's office. Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this paragraph. The parties agree that, prior to the execution of the Agreement, Association

shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days' prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, premises shall encompass all property used by Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all park property, and personal property owned by Association which is located on City property.

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

ARTICLE IX - INDEMNITY

ASSOCIATION 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, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION 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, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X - NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and (ii) in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI - LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with

the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII – ASSIGNMENT

Association 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 of whether to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII - TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the

Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV - GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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 contract 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	Pow5r Sports League PO Box 11085 Midland, Texas 79702

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

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

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property during scheduled games sessions only.

ARTICLE XV - SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling and the Association agrees to be bound by that determination.

ARTICLE XVI - ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL

RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION MIGHT OTHERWISE BE ENTITLED.

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

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII - GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII - NO THIRD-PARTY BENEFICIARIES

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

ARTICLE XIX - RELEASE

NOTWITHSTANDING ANY OTHER PROVISION, ASSOCIATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES, AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH ASSOCIATION 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.

ARTICLE XX - CONSIDERATION

City and Association agree that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI - NOTICE OF ALLEGED BREACH STATUTORY PREREQUISITES

Before the Association may file suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Association or its legal representative, shall give the City Manager, or any other reasonable official of City notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the

time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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. City is under no obligation to provide notice to Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless of whether City has actual or constructive notice or knowledge of said claim or alleged damages.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

Pow5r Sports League

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of the Pow5r Sports League

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas



Exhibit "A"

TEXAS CRICKET CLUB
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and the Texas Cricket Club ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering Association's programs, special events, organized sanctioned teams and other services related to cricket at Beal Park Fields on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's cricket activities. This Agreement does not preclude City or Association from soliciting and hosting national tournaments and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I - DEFINITIONS

A. **Park Property** - any property owned by the City of Midland and designated or deemed by City to be Park Property.

B. **Playing Field** - any single area of Park Property which has been improved in any way to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **Championship Field** - one playing field, as agreed by Association and the City Manager, reserved for Association's championship games or tournaments, comprised of one (1) cricket field at Beal Park.

D. **City Manager** - the City Manager of the City of Midland, Texas.

E. **Director of Parks and Recreation** - the Director of Parks and Recreation for the City of Midland, Texas.

ARTICLE II - DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

1. Allow Association nonexclusive use of Park Property for the sole purpose of conducting games and practice sessions. Association shall deposit with the Director of Parks and Recreation one (1) copy of any and all keys necessary to gain access to said Championship Field;
2. Association understands and agrees that City retains an unlimited right of entry upon said Championship Field, as well as any other Park Property, at any time and for any purpose whatsoever;
3. Association shall abide by all conditions and requirements as set out in this Agreement;
4. Association understands and agrees that placement of any lock on any Park Property so as to exclude the public without the express written approval of the City Manager constitutes grounds for immediate termination of this

Agreement; and

5. Association understands that in the event of construction at said championship field, Association shall work with the Director of Parks and Recreation and the Parks and Recreation Manager to find an alternative field during the construction project.

D. Provide general field maintenance which shall include:

1. Mowing of playing fields once a week during the growing season, adjustments may be made for tournaments;

2. Fertilizing in April and September with a third application if feasible as determined by City;

3. Filling significant holes in fields;

4. Cutting necessary field lines prior to each Association season and prior to national tournaments if applicable; and

5. Making major repairs to City-owned equipment and fixtures.

E. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways, and parking areas as applicable.

F. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled practices taking place during the month preceding the start of the season.

G. Provide all maintenance for trees and shrubs surrounding playing fields as applicable.

H. Respond to emergency maintenance requests on a priority basis as determined by City.

I. Apply fertilizer, herbicide, and seed purchased by Association and at Association's expense or oversee applications applied by Association's contractor. Any fertilizer or other chemicals or treatment must be approved by City.

J. When feasible, coordinate with Association at least thirty (30) days in advance of any closure of the playing fields due to construction for the purpose of identifying alternative playing fields for Association's use during said construction.

K. Coordinate with Association regarding provision and permitting/licensing of vendors. Allow Association first priority, as appropriate, in the scheduling of Association's scheduled games and practice sessions. Appropriateness shall be determined by City.

ARTICLE III - DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of Association play, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games and practices to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and game officials needed to conduct

the games.

E. Prepare playing fields prior to games, including:

1. Marking any and all necessary lines on playing fields;

2. Providing any and all necessary bases, markers or goals;

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with the Parks and Recreation Manager, or his or her designee, to review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one (1) officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division

regarding facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on Association's Board of Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (e.g., all-terrain vehicles, golf carts, line cutters, etc.).

M. Agree to pay electrical costs for field light use at a rate of $25.00 per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Pesticides and herbicides shall be applied only by a licensed applicator which is licensed by the Texas Department of Agriculture. Further, Association shall supply labels and MSDS to City three (3) working days prior to application. Pesticides, herbicides or other chemicals may not be applied upon Park Property without prior approval of City.

P. Notify City of intent to apply fertilizer three (3) working days prior to application and furnish to City labels and any application MSDS for fertilizer. Any fertilizer or other chemicals or treatment must be approved by City.

Q. Association agrees to keep park property, parking lot, and surrounding area clean and orderly by picking up trash after Association's events and shall store equipment off site after season ends.

R. Ensure that all vending operations are properly permitted by City.

S. Abide by all requirements and obligations as set out in this Agreement.

T. City reserves the right to declare the fields "unplayable" for games and practice due to wet

and adverse weather conditions.

U. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to the City of Midland no later than seven (7) days following the completion of the tournament.

V. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

W. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to immediately terminate this Agreement upon receiving notice of the same. City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

X. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

Y. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV - TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V - INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein

shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association 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. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI - BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII – ANNUAL REPORTING

Association shall provide City with an annual report by the 1st day of December, during the term of this Agreement, stating the number of teams and players which participated during the reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII - INSURANCE

A. General Liability. At all times during the term of this Agreement, Association shall provide

and keep in force commercial general liability insurance covering Association which names City as an additional insured with Association. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. In the event that Association maintains equipment on City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period of time that Association maintains equipment on City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Section shall be in an amount not less than $1,000,000.00 combined single limit, per occurrence. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per occurrence basis and shall name City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate prior to the execution of this Agreement, or City will lock facilities down and no events or practices will take place until insurance is provided to the City Secretary's office. Association agrees that if it does not keep this insurance in full force and effect as required

by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this paragraph. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, "premises" shall encompass all property used by Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all Park Property, and personal property owned by Association which is located on City property.

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

ARTICLE IX - INDEMNITY

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X - NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and (ii) in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI - LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with

the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII - ASSIGNMENT

Association 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 to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII - TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV - GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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 contract 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	Texas Cricket Club 5200 Sunshine Parkway Midland, TX 79701

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

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

E. Use of Language. Words in the singular shall be held to include the plural unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this

Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property during scheduled games and practice sessions only.

ARTICLE XV - SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling and Association agrees to be bound by that determination.

ARTICLE XVI - ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION MIGHT OTHERWISE BE ENTITLED.

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

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE

EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII - GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII - NO THIRD-PARTY BENEFICIARIES

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

ARTICLE XIX - RELEASE

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

ARTICLE XX - CONSIDERATION

City and Association agree that this Agreement is supported by and has good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by City and

Association.

ARTICLE XXI - NOTICE OF ALLEGED BREACH STATUTORY PREREQUISITES

As a prerequisite for Association filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Association or its legal representative, shall give the City Manager, or any other reasonable official of City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this Agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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 Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association'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.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

TEXAS CRICKET CLUB

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Texas Cricket Club.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas


MIDLAND
Be the Energy!

UNDER THE LIGHTS FLAG FOOTBALL LEAGUE
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and Under the Lights Flag Football League ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering Association's programs, special events, and other services related to flag football activities for youth participants at CJ Kelly Park and the Scharbauer Sports Complex Fields on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's activities. This Agreement does not preclude City or Association from soliciting and hosting national flag football events and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I-
DEFINITIONS

A. **Park Property** - any property owned by the City of Midland and designated or deemed by City to be Park Property.

B. **Playing Field** - any single area of Park Property which has been improved in any way to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **City Manager** - the City Manager of the City of Midland, Texas.

D. **Director of Parks and Recreation** - the Parks and Recreation for the City of Midland,

Texas.

ARTICLE II - DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Allow Association nonexclusive use of Park Property for the sole purpose of conducting games and practice sessions.

E. Provide general field maintenance which shall include:

1. Mowing of playing fields area once a week during the growing season, adjustments may be made for tournaments;
2. Fertilizing in April and September with a third application if feasible as determined by City;
3. Filling significant holes in fields;
4. Making major repairs to City-owned equipment and fixtures.

F. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

G. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled practices taking place during the month preceding the start of the season.

H. Provide all maintenance for trees and shrubs surrounding playing field as applicable.

I. Respond to emergency maintenance requests on a priority basis as determined by City.

J. Apply fertilizer, herbicide, and seed purchased by Association and at Association's expense or oversee applications applied by Association's contractor. Any fertilizer or other chemicals or treatment must be approved by City.

K. Coordinate with Association regarding provision and permitting/licensing of vendors.

L. Allow Association first priority, as appropriate, in the scheduling of Association's scheduled games and practice sessions. Appropriateness shall be determined by City.

ARTICLE III - DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of flag football events, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games and practices to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and/or teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and/or officials needed to conduct the games.

E. Prepare playing fields prior to games, including:

1. Marking any and all necessary lines on playing fields;

2. Providing any and all necessary markers; and

3. Providing personnel, equipment and materials necessary to prepare flag football facility; and

4. Preparing playing field for all flag football events.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with the Parks and Recreation Manager, or his or her designee, to review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division regarding facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on Association's Board of Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (e.g., all-terrain vehicles, golf carts, mowers, etc.).

M. Pay electrical costs for field light use at a rate of $25.00 per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Pesticides and herbicides shall be applied only by a licensed applicator which is licensed by the Texas Department of Agriculture. Further, Association shall supply labels and MSDS to City three (3) working days prior to application. Pesticides, herbicides or other chemicals may not be applied upon Park Property without prior approval of City.

P. Notify City of intent to apply fertilizer three (3) working days prior to application and furnish to City labels and any application MSDS for fertilizer. Any fertilizer or other chemicals or treatment must be approved by City.

Q. Keep Park Property, parking lots, and surrounding area clean and orderly by picking

up trash after Association's events and shall store equipment off site after season ends.

R. Ensure that all vending operations are properly permitted by City.

S. Abide by all requirements and obligations as set out in this Agreement.

T. City reserves the right to declare the fields "unplayable" for games or practice due to wet or adverse weather conditions.

U. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to the City of Midland no later than seven (7) days following the completion of the tournament.

V. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

W. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to

immediately terminate this Agreement upon receiving notice of the same. City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

X. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

Y. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV - TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V - INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association shall be an independent contractor under this Agreement and shall assume all the rights, obligations, and liabilities, applicable to it as such independent contractor hereunder. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI - BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII – ANNUAL REPORTING

Association shall provide City with an annual report by the 1st day of December, during the term of this Agreement, stating the number of teams and players which participated during the

reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII - INSURANCE

A. General Liability. At all times during the term of this Agreement, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured with Association. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. If Association maintains equipment on City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period of time that Association maintains equipment on City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Section shall be in an amount not less than $1,000,000.00 combined single limit, per occurrence. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per occurrence basis and shall name City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate

prior to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's office. Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this paragraph. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days' prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, premises shall encompass all property used by Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all Park Property, and personal property owned by Association which is located on City property.

E. Certification. Association certifies that the one or more certificates of insurance provided

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

ARTICLE IX - INDEMNITY

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X - NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and (ii) in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI - LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal,

state, and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation, and police departments, for the correction, prevention, and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII - ASSIGNMENT

Association 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 to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII - TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation

and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV - GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	Under the Lights Flag Football 6007 Oak Creek Drive Midland, TX 79707

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

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

E. Use of Language. Words in the singular shall be held to include the plural unless the context

otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property during scheduled flag football events and practice sessions only.

ARTICLE XV - SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling and Association agrees to be bound by that determination.

ARTICLE XVI - ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION MIGHT OTHERWISE BE ENTITLED.

ASSOCIATION AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY

EXISTING KNOWN RIGHT. ASSOCIATION ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. ASSOCIATION FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN CITY AND ASSOCIATION. THIS ARTICLE SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII - GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII - NO THIRD-PARTY BENEFICIARIES

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

ARTICLE XIX - RELEASE

NOTWITHSTANDING ANY OTHER PROVISION, ASSOCIATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES, AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER

WHICH ASSOCIATION HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF AGREEMENT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS OR CITY'S NEGLIGENCE.

ARTICLE XX - CONSIDERATION

City and Association agree that this Agreement is supported by and has good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI - NOTICE OF ALLEGED BREACH STATUTORY PREREQUISITES

As a prerequisite for Association filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Association or its legal representative, shall give the City Manager, or any other reasonable official of City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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 Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association'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.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

UNDER THE LIGHTS
FLAG FOOTBALL LEAGUE

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of Under The Lights Flag Football League.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas



Exhibit "A"

WEST TEXAS BMX
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and West Texas BMX ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering Association's programs, special events, and other services related to BMX riding and racing at Reyes/Mashburn/Nelms Park Fields on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's activities. This Agreement does not preclude City or Association from soliciting and hosting national BMX events and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I - DEFINITIONS

A. **Park Property** - any property owned by the City of Midland and designated or deemed by City to be Park Property.

B. **Racetrack** - any single area of Park Property, located at Reyes/Mashburn/Nelms Park, which has been improved in any way so as to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **Championship Field** - one racetrack, as agreed by Association and the City Manager, reserved for Association's championship BMX events or tournaments.

D. **City Manager** - the City Manager of the City of Midland, Texas.

E. **Director of Parks and Recreation** - the Director of Parks and Recreation for the City of Midland, Texas.

ARTICLE II - DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Allow Association nonexclusive use of Park Property for the sole purpose of conducting BMX events and practice sessions. In addition, at the discretion of the City Manager and with advice from the Parks and Recreation Manager, Association may be allowed to designate one (1) racetrack as a Championship Field. Said Championship Field may be enclosed by an approved fence and locked, when not in use by either Association or City, so as to preserve its playing surface, provided all of the following requirements are met:

1. Selection of the one (1) Championship Field must be approved in writing, and in advance, by the City Manager;
2. If applicable, a proposed fence plan for said Championship Field must be approved by the City Manager;
3. Association shall deposit with the Director of Parks and Recreation one (1) copy of any and all keys necessary to gain access to said Championship Field;
4. Association understands and agrees that City retains an unlimited right of entry

upon said Championship Field, as well as any other Park Property, at any time and for any purpose whatsoever;

5. Association understands and agrees that City owns all Park Property that is in any way effected by this Agreement, and City's allowance of the designation and locking of any Championship Field in no way conveys to Association or any other party any right of ownership whatsoever in either said Championship Field or any other Park Property;

6. Association understands and agrees that the right to designate and lock any such Championship Field is temporary and subject to the discretion of the City Manager, and in any event shall terminate with the expiration of this Agreement unless terminated earlier by the City Manager at his sole discretion;

7. Association shall abide by all conditions and requirements as set out in this Agreement; and

8. Association understands and agrees that placement of any lock on any Park Property so as to exclude the public without the express written approval of the City Manager constitutes grounds for immediate termination of this Agreement.

E. Provide general field maintenance which shall include:

1. Mowing of Racetrack area once a week during the growing season, adjustments may be made for BMX events;

2. Fertilizing in April and September with a third application if feasible as determined by City;

3. Filling significant holes in track areas;

4. Making major repairs to City-owned equipment and fixtures; and

5. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

F. Provide water, electricity and sewer service for scheduled BMX events, and electricity for scheduled practices.

G. Provide all maintenance for trees and shrubs surrounding Racetrack as applicable.

H. Respond to emergency maintenance requests on a priority basis as determined by City.

I. Apply fertilizer, herbicide, and seed purchased by Association and at Association's expense or oversee applications applied by Association's contractor. Any fertilizer or other chemicals or treatment must be approved by City.

J. Coordinate with Association regarding provision and permitting/licensing of vendors.

K. Allow Association first priority, as appropriate, in the scheduling of Association's scheduled BMX events and practice sessions. Appropriateness shall be determined by City.

ARTICLE III - DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of BMX events, Association shall furnish the Parks and Recreation Division of City a complete schedule of all BMX events and practices to occur during the season, including all races and special BMX events. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in

accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and/or teams registered with Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and/or officials needed to conduct the BMX events.

E. Prepare racetracks prior to BMX events, including:

1. Marking any and all necessary lines on racetracks;

2. Providing any and all necessary markers; and

3. Providing personnel, equipment and materials necessary to prepare BMX facility; and

4. Preparing racing surface for all BMX events.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association

further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

G. Hold an annual meeting with the Parks and Recreation Manager, or his or her designee, to review this Agreement and to make any necessary changes or adjustments.

H. Appoint or elect one (1) officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division with regard to facility maintenance and special events.

I. Designate a Parks and Recreation Staff person to serve on Association's Board of Directors as a non-voting member known as the City Liaison.

J. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

K. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (e.g., all-terrain vehicles, golf carts, mowers, etc.).

L. Agree to pay electrical costs for field light use at a rate of twenty-five dollars ($25.00) per hour for all unscheduled events or practices that are held after season starts.

M. Post an Association lightning policy on site at all locations and provide a lightning detector.

N. Pesticides and herbicides shall be applied only by a licensed applicator which is licensed by the Texas Department of Agriculture. Further, Association shall supply labels and MSDS

to City three (3) working days prior to application. Pesticides, herbicides or other chemicals may not be applied upon Park Property without prior approval of City.

O. Notify City of intent to apply fertilizer three (3) working days prior to application and furnish to City labels and any application MSDS for fertilizer. Any fertilizer or other chemicals or treatment must be approved by City.

P. Keep Park Property, parking lot, and surrounding area clean and orderly by picking up trash after Association's events and shall store equipment off site after season ends.

Q. Ensure that all vending operations are properly permitted by City.

R. Abide by all requirements and obligations as set out in this Agreement.

S. City reserves the right to declare the fields "unplayable" for games or practice due to wet or adverse weather conditions.

T. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

U. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s)

by third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to immediately terminate this Agreement upon receiving notice of the same. City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

V. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

W. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV - TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V - INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association shall be an independent contractor under this Agreement and shall assume all the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI - BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least

three (3) years.

ARTICLE VII – ANNUAL REPORTING

Association shall provide City with an annual report by the 1st day of December, during the term of this Agreement, stating the number of teams and players which participated during the reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII - INSURANCE

A. General Liability. At all times during the term of this Agreement, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured with Association. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. If Association maintains equipment on City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period of time that Association maintains equipment on City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Section shall be in an amount not less than $1,000,000.00 combined single limit, per occurrence. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or

condition of the premises. The Commercial General Liability insurance shall be on a per occurrence basis and shall name City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate prior to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's office. Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this paragraph. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days' prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, premises shall encompass all property used by

Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all Park Property, and personal property owned by Association which is located on City property.

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

ARTICLE IX - INDEMNITY

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X - NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and (ii) in the construction of any improvements on, over, or under such premises and

the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI - LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII – ASSIGNMENT

Association 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 to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII - TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion,

allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV - GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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 contract 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	West Texas BMX PO Box 9602 Midland, TX 79708

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

D. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity,

illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association

any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property during scheduled BMX events and practice sessions only.

ARTICLE XV - SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling and Association agrees to be bound by that determination.

ARTICLE XVI - ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, ASSOCIATION 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. ASSOCIATION SPECIFICALLY AGREES THAT IF ASSOCIATION 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, ASSOCIATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL

RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH ASSOCIATION MIGHT OTHERWISE BE ENTITLED.

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

ASSOCIATION IS RELYING ON ITS OWN JUDGMENT REGARDING THE EXECUTION OF THIS AGREEMENT. ASSOCIATION HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

ARTICLE XVII - GOVERNMENTAL IMMUNITY

By executing this Agreement, City is not waiving its governmental immunity and retains all immunity from suit. City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

ARTICLE XVIII - NO THIRD-PARTY BENEFICIARIES

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

ARTICLE XIX - RELEASE

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

ARTICLE XX - CONSIDERATION

City and Association agree that this Agreement is supported by and has good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI - NOTICE OF ALLEGED BREACH STATUTORY PREREQUISITES

As a prerequisite for Association filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Association or its legal representative, shall give the City Manager, or any other reasonable official of City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing

addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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 Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association'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.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

_____
Marcia Bentley-German, City Secretary

CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Director

WEST TEXAS BMX

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of West Texas BMX.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas


MIDLAND
Be the Energy!

YMCA OF MIDLAND
SPORTS AGREEMENT

This Agreement entered into and effective this 12th day of May, 2026, is by and between the City of Midland, Texas, a home rule municipal corporation ("City"), and YMCA of Midland ("Association").

PURPOSE

Association shall be the sponsoring organization responsible for administering Association's programs, special events, and other services related to flag football, kickball, and soccer activities for youth and adult participants at Hogan Park Fields on an open-enrollment basis. Association shall have the right to collect fees and income generated by Association's activities. This Agreement does not preclude City or Association from soliciting and hosting national flag football events and collecting the proceeds therefrom. THIS AGREEMENT SHALL NOT BE EXECUTED BY ANY CITY PERSONNEL UNTIL THE COMMERCIAL GENERAL LIABILITY INSURANCE IS APPROVED BY THE CITY ATTORNEY'S OFFICE.

ARTICLE I - DEFINITIONS

A. **Park Property** - any property owned by the City of Midland and designated or deemed by City to be Park Property.

B. **Playing Field** - any single area of Park Property which has been improved in any way so as to facilitate the performance of the sport activity conducted by Association pursuant to this Agreement.

C. **City Manager** - the City Manager of the City of Midland, Texas.

D. **Director of Parks and Recreation** - the Director of Parks and Recreation for the City of

Midland, Texas.

ARTICLE II - DUTIES OF CITY

City agrees to perform the following:

A. Respond to calls for information concerning Association and make referrals to Association when necessary.

B. Meet with Association upon its request.

C. Review all requests for capital improvements which are made according to the procedures set out in this Agreement.

D. Allow Association nonexclusive use of Park Property for the sole purpose of conducting games and practice sessions.

E. Provide general field maintenance which shall include:

1. Mowing of playing fields area once a week during the growing season, adjustments may be made for tournaments;

2. Fertilizing in April and September with a third application if feasible as determined by City;

3. Filling significant holes in fields;

4. Making major repairs to City-owned equipment and fixtures.

F. Repair and maintain bleachers, water fountains, irrigation systems, lighting, fencing, roadways and parking areas as applicable.

G. Provide water, electricity and sewer service for scheduled games, and electricity for scheduled practices taking place during the month preceding the start of the season.

H. Provide all maintenance for trees and shrubs surrounding playing field as applicable.

I. Respond to emergency maintenance requests on a priority basis as determined by City.

J. Apply fertilizer, herbicide, and seed purchased by Association and at Association's expense or oversee applications applied by Association's contractor. Any fertilizer or other chemicals or treatment must be approved by City.

K. Coordinate with Association regarding provision and permitting/licensing of vendors.

L. Allow Association first priority, as appropriate, in the scheduling of Association's scheduled games and practice sessions. Appropriateness shall be determined by City.

ARTICLE III - DUTIES OF ASSOCIATION

Association agrees to perform the following:

A. Two (2) weeks prior to the start of youth sporting events, Association shall furnish the Parks and Recreation Division of City a complete schedule of all games and practices to be played during the season, including all tournaments and special games. Such schedule shall be supplemented if changes occur during the season, with the supplement submitted to City two working days prior to the effected event(s). Notwithstanding any contrary provision contained herein, nothing in this Agreement shall be interpreted as an authorization for Association to utilize City property/facilities at a specific time, on a specific date, or in accordance with the schedule referenced in this Section. Association hereby acknowledges and agrees that City's execution of this Agreement shall not be considered or interpreted as an authorization for Association to utilize City property/facilities at any specific time, on any particular date, or in accordance with the schedule referenced in this Section.

B. Furnish City a list showing the total number of individuals and/or teams registered with

Association at the end of each season.

C. Train all volunteers and assign volunteers to appropriate duties.

D. Recruit, pay, and schedule all referees, score keepers, and/or officials needed to conduct the games.

E. Prepare playing fields prior to games, including:

1. Marking any and all necessary lines on playing fields;

2. Providing any and all necessary markers; and

3. Providing personnel, equipment and materials necessary to prepare for youth sporting activities; and

4. Preparing playing field for all games.

F. If Association wishes to request that City make a capital improvement that exceeds a total cost of Five Thousand and No/100 Dollars ($5,000.00), Association shall submit (i) a written request on or before the 15th day of November of each year during the term of this Agreement, and (ii) funding in an amount equal to fifty percent (50%) of the capital improvement cost. Upon City's receipt of said request, City may consider and evaluate the proposed capital improvement for potential funding based on the approved budget of City. Association acknowledges and agrees that City is under no obligation to consider or approve a capital improvement request submitted pursuant to this Section. Association further acknowledges and agrees that a decision to approve or fund a capital improvement request is in the sole and absolute discretion of City. Capital improvement requests submitted after the November 15th deadline of each year shall not be considered by City.

G. Submit any other request to City in writing and no less than fifteen (15) days before the subject of the request is needed. All such requests shall be subject to the approval of City and shall be responded to on a priority basis as determined by City.

H. Hold an annual meeting with the Parks and Recreation Manager, or his or her designee, to review this Agreement and to make any necessary changes or adjustments.

I. Appoint or elect one (1) officer of Association, known as the Facilities Director, who shall be responsible for all communications with the Parks and Recreation Division with regard to facility maintenance and special events.

J. Designate a Parks and Recreation Staff person to serve on Association's Board of Directors as a non-voting member known as the City Liaison.

K. Agree to explore increased participation that is representative of all socio-economic levels throughout the City of Midland.

L. Not allow any person under the age of seventeen (17) years to operate any power machinery on Park Property (e.g., all-terrain vehicles, golf carts, mowers, etc.).

M. Pay electrical costs for field light use at a rate of twenty-five dollars ($25.00) per hour for all unscheduled events or practices that are held after season starts.

N. Post an Association lightning policy on site at all locations and provide a lightning detector.

O. Pesticides and herbicides shall be applied only by a licensed applicator which is licensed by The Texas Department of Agriculture. Further, Association shall supply labels and MSDS to City three (3) working days prior to application. Pesticides, herbicides or other chemicals may not be applied upon Park Property without prior approval of City.

P. Notify City of intent to apply fertilizer three (3) working days prior to application and furnish to City labels and any application MSDS for fertilizer. Any fertilizer or chemicals or treatment must be approved by City.

Q. Association agrees to keep Park Property, parking lot, and surrounding area clean and orderly by picking up trash after Association's events and shall store equipment off site after season ends.

R. Ensure that all vending operations are properly permitted by City.

S. Abide by all requirements and obligations as set out in this Agreement.

T. City reserves the right to declare the fields "unplayable" for games or practice due to wet or adverse weather conditions.

U. Pay to City a tournament fee in the amount of twenty-five dollars ($25.00) for each team that participates in a tournament, excluding any league playoffs and championships. Said fee shall be due and payable to the City of Midland no later than seven (7) days following the completion of the tournament.

V. If Association chooses to use outside food vendors in connection with any activity contemplated under this Agreement, Association shall obtain the permission and approval of City's Parks and Recreation Manager no later than seventy-two (72) hours prior to the scheduled time of said activity. The decision whether to approve Association's use of an outside food vendor is in the sole and absolute discretion of City's Parks and Recreation Manager.

W. Notwithstanding any contrary provision contained herein, Association acknowledges and agrees that it is expressly prohibited from administering or scheduling third-party

use/access to Park Property and/or the Playing Field(s), or otherwise apportioning the use of Park Property or the Playing Field(s) by third parties. Association shall have no right to administer, schedule, or apportion the use of Park Property and/or the Playing Field(s) by third parties under this Agreement. Association's administration, scheduling, or apportionment of the use of Park Property and/or the Playing Field(s) by third parties shall constitute a material breach of this Agreement, and City shall be entitled to immediately terminate this Agreement upon receiving notice of the same. City's termination of this Agreement pursuant to this Section shall become effective upon Association's receipt of City's written termination notice.

X. Association shall not limit the eligibility of any person from participation in a program or activity contemplated under this Agreement based on ability or skill unless such participation poses an unusual or undue risk to the safety of such person or any other participant. All of Association's operations shall be open to the public and conducted on an open-enrollment basis. Association shall not require participants to provide additional justification or documentation to participate in Association's programs or activities.

Y. Association shall use City's logo on all advertising materials and literature related to the programs and activities contemplated in this Agreement. City's logo is more particularly depicted on Exhibit A, which is attached hereto and incorporated herein for all purposes. Such advertising materials and literature mediums shall include but not be limited to print, television, packaging, websites, mobile apps, social media platforms, and all other forms of digital media.

ARTICLE IV - TERM OF AGREEMENT

The term of this Agreement shall commence on May 12, 2026, and terminate on May 11, 2027.

ARTICLE V - INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Association shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of City; that Association 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 *respondeat superior* shall not apply as between City and Association, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Association. No person performing any of the work and services described 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. City does not have the right to control the means, methods, or details of Association's work. City does not have the power to direct the order in which Association's work should be done. Association 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. Association shall assume exclusive responsibility for the work. Association is entirely free to do the work in its own way.

ARTICLE VI - BOOKS AND RECORDS

If Association receives any money from City, Association shall keep records, including supporting documentation, of any expenditures made with this money. Association shall make these records and supporting documentation available for inspection and copying by City, its officers or authorized agents. Association shall keep these records and documentation for at least three (3) years.

ARTICLE VII – ANNUAL REPORTING

Association shall provide City with an annual report by the 1st day of December, during the term of this Agreement, stating the number of teams and players which participated during the reporting year, gross receipts collected, and capital improvements completed.

ARTICLE VIII - INSURANCE

A. General Liability. At all times during the term of this Agreement, Association shall provide and keep in force commercial general liability insurance covering Association which names City as an additional insured with Association. Said insurance shall protect City and Association against any and all liability for death, injury, loss or damage arising out of, or connected with the condition, occupation, or use of the premises by Association, its employees, agents, contractors, licensees, invitees, guests, participants, assigns or other persons admitted by Association to the premises. In the event that Association maintains equipment on City property beyond the term of this Agreement, the insurance must also cover Association and City throughout the entire period of time that Association maintains equipment on City property. This insurance shall be carried by one or more insurance companies duly authorized to transact business in Texas, selected by Association and approved by City and shall be paid for by Association. The insurance provided pursuant to this Section shall be in an amount not less than $1,000,000.00 combined-single limit, per occurrence. This insurance shall protect City and Association against liability to any employees or servants of Association and to any other person or persons whose property damage or personal injury arises out of or in connection with the occupation, use, or condition of the premises. The Commercial General Liability insurance shall be on a per occurrence basis and shall name City as an additional insured.

B. Certificates of Insurance. Association shall furnish City with certificates of all insurance required by this Agreement. Association shall provide City with insurance certificate prior to the execution of this Agreement, or City will lock facilities down and no events or practices shall take place until insurance is provided to the City Secretary's office.

Association agrees that if it does not keep this insurance in full force and effect as required by this Article, City may notify Association of this failure, and if Association does not deliver City certificates showing all such insurance to be in full force and effect within ten (10) days after this notice, City may, at its option and with full disclosure to Association, take out and/or pay the premiums on the insurance needed to fulfill Association's obligations under the provisions of this Article. Upon demand from City, Association shall reimburse City the full amount of any insurance premiums paid by City pursuant to this paragraph. The parties agree that, prior to the execution of the Agreement, Association shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, language similar to the following endorsement:

The City of Midland is included as an additional insured on all policies of insurance.

C. Notice. All insurance policies required by this Agreement must provide that City shall receive thirty (30) days' prior written notice before any change or cancellation of the policy.

D. Premises. For purposes of this Agreement, premises shall encompass all property used by Association to conduct its activities including, but not limited to, real property owned by City, including but not limited to all Park Property, and personal property owned by Association which is located on City property.

E. Certification. Association certifies that the one or more certificates of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Association shall not use an unapproved certificate of insurance or insert

inappropriate language on a certificate. Compliance with state law is the sole responsibility of Association.

ARTICLE IX - INDEMNITY

ASSOCIATION SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, 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 ASSOCIATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM ASSOCIATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND ASSOCIATION SHALL 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.

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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 ASSOCIATION OR ASSOCIATION'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 ASSOCIATION SHALL 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.

ARTICLE X - NONDISCRIMINATION

Association, for itself, its legal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby agree that: (i) no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of the premises; and (ii) in the construction of any improvements on, over, or under such premises and the furnishing of services thereon, no person on the grounds of race, color, national origin, sexual orientation, religious affiliation or disability shall be excluded from participation in, denied the benefit of, or otherwise be subjected to discrimination.

ARTICLE XI - LAWS AND REGULATIONS

Association shall operate and maintain the premises in compliance with all federal, state and local laws and regulations including but not limited to regulations with respect to access to people with disabilities promulgated pursuant to the Americans with Disabilities Act. Association shall comply with all ordinances of the City of Midland applicable to the premises. Association

shall comply with all orders and requirements imposed by the health, sanitation and police departments, for the correction, prevention and abatement of nuisances in, upon, or connected with the premises during the term of this Agreement. City makes no delegation of nor diminishment of its police powers pursuant to this Agreement.

ARTICLE XII – ASSIGNMENT

Association 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 to grant consent to an assignment is in the sole discretion of City.

ARTICLE XIII - TERMINATION

A. Default. Should either party default in the performance of any provision of this Agreement, and not correct the default within thirty (30) days after receipt of written notice from non-defaulting party, the non-defaulting party may declare this Agreement, and all rights and interests created by it, to be terminated. Upon non-defaulting party's electing to terminate, this Agreement shall cease and come to an end. Non-defaulting party may, in its discretion, allow defaulting party more than thirty (30) days to cure defaults if such time is, in the opinion of non-defaulting party, reasonably necessary.

B. No Cause. City may terminate this Agreement at will for no or any reason upon giving at least sixty (60) days' written notice to Association. The parties to this Agreement understand and agree that it is in City's sole discretion to cancel the Agreement during the term of the Agreement without penalty to City. Association has no expectation and has received no guarantees that the Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the

Agreement. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

C. Removal of Equipment. Upon termination of this Agreement, Association shall have thirty (30) days to remove from City property all personal property owned by Association.

ARTICLE XIV - GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail

shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City of Midland P.O. Box 1152 Midland, Texas 79702 Attention: City Manager
with copies to:	City Attorney and Director of Parks and Recreation and Parks and Recreation Manager (same address as above)
If to Association:	YMCA of Midland 800 N. Big Spring Street Midland, Texas 79701

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

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

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

H. Force Majeure. If either party is prohibited from performing its obligations under this Agreement due to war, civil commotion, act of God, governmental restrictions, regulations, fire, or other casualty or circumstances beyond the control of the party obligated or permitted to do or perform the same, it shall be relieved of its obligations to perform under this Agreement to the extent it is so prohibited.

I. Ownership. Association understands and agrees that ownership of said Park Property remains with City throughout the term of this Agreement, that initiation of this Agreement conveys absolutely no right of ownership whatsoever to Association, and that Association does not have the right to exclude members of the public from Park Property other than by locking the designated Championship Field(s). Regardless of the designation and/or locking of any Championship Field(s), Association shall not have the authority to evict, or to cause to be evicted, members of the public from any Championship Field(s) or any other Park Property. Any provisions in the Agreement which may appear to give Association any right of control or ownership of said Park Property shall be deemed to mean that Association shall have the right to control said Park Property during scheduled flag football events and practice sessions only.

ARTICLE XV - SCHEDULING CONFLICTS

In the event of any conflict of scheduling of events, Association agrees to work with all parties in a spirit of mutual cooperation. In the event any conflict cannot be so resolved, the Director of Parks and Recreation or her designee, shall make a final determination of scheduling

and Association agrees to be bound by that determination.

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NOTWITHSTANDING ANY OTHER PROVISION, ASSOCIATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES, AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH ASSOCIATION HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF AGREEMENT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED

STATES CONSTITUTIONS, TORT CLAIMS OR CITY'S NEGLIGENCE.

ARTICLE XX - CONSIDERATION

City and Association agree that this Agreement is supported by and has good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by City and Association.

ARTICLE XXI - NOTICE OF ALLEGED BREACH STATUTORY PREREQUISITES

As a prerequisite for Association filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Association or its legal representative, shall give the City Manager, or any other reasonable official of City, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred twenty (120) 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 Association will settle, the physical and mailing addresses of Association at the time and date the claim was presented and the physical and mailing addresses of Association for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Association 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 Association that Association's notice is insufficient. City reserves the right to request 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 Chapter 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Association's failure to comply with the requirements herein shall perpetually bar Association'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.

[Signature Pages Follow]

IN WITNESS HEREOF, the parties hereto have executed this Agreement to be effective the day and year set forth above.

ATTEST:

CITY OF MIDLAND, TEXAS

_____
Marcia Bentley-German, City Secretary

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Laurie Williams, Parks and Recreation Services Director

YMCA OF MIDLAND

By: _____

Name: _____

Title: _____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this _____ day of _____ personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of YMCA of Midland.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2026.

_____
Notary Public, State of Texas



Exhibit "A"

City Council Meeting

Item Number: 13.
Meeting Date: May 12, 2026
To: City Council
From: Taylor Novak, Chief of Staff
Subject: MOTION AUTHORIZING THE EXECUTION OF A GRANT AGREEMENT WITH THE SCHARBAUER FOUNDATION, INC. FOR AN AWARDED $25,000.00 IN GRANT FUNDS TO BE USED FOR THE LIGHTED GINGERBREAD HOUSE DISPLAY WITH FIGURINES AT THE 2026 MIDLAND MERRY LIGHTS

Purpose:
The approved motion will allow the City of Midland to execute a grant agreement with Scharbauer Foundation Inc. and accept grant funds in the amount of $25,000.00 to be used for the rental of the lighted gingerbread house display with figurines during the 2026 Midland Merry Lights event.

Recommended Action:
Approve

Fiscal Impact:
Upon receipt, funds will be transferred and appropriated into the Merry Lights Project.

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Staff applied for grant funding to support the rental and installation of attractions and features at 2026 Midland Merry Lights planned for the winter of 2026. Funds have been awarded in the amount of $25,000.00 pending the execution of the grant agreement.

Attachments:
A. 2026_Scharbauer Foundation Grant Agreement_Midland Merry Lights

Michele Hagemann, Development Services	Created/Initiated - 5/5/2026
Christy Weakland, Finance	Approved - 5/5/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

Docusign Envelope ID: EF328ADA-CAC4-8040-82F5-2735A86CEFE1

SCHARBAUER FOUNDATION

May 1, 2026

Mr. Tommy Gonzales
City of Midland
300 N. Loraine
Midland, TX 79701

Dear Mr. Gonzales,

I am pleased to inform you that Scharbauer Foundation has approved a grant of $25,000.00 in support of the Midland Merry Lights 2026 holiday event. The Foundation requests that these funds be allocated for the lighted gingerbread house display with figurines. This letter describes the terms of such a grant and the process by which the City of Midland may receive the funds.

By accepting this grant, the City of Midland agrees to: 1) use the funds solely for the purpose as stated in this agreement and not expend them for any other purpose without our express, written approval; 2) give the Foundation the right of advance approval of any public announcement regarding this grant; and 3) submit a final report no later than April 15, 2027. Information and forms related to such reports are available through the grantee portal on the Foundation website.

If you agree to these conditions, please secure the required signatures below and return this letter to us as soon as possible. Once we receive your signed acceptance of the terms and conditions as recited above, we will send a check.

Communications acknowledging receipt of this grant may be addressed to the Board of Directors, Scharbauer Foundation, Inc., 300 N. Marienfeld, Ste. 900, Midland, TX 79701-4387.

The Scharbauer Foundation is pleased to offer this grant in support of your organization, but this award should in no way be construed as establishing a precedent for, or committing to, any future support beyond that described above. We thank you for the work you do in positively impacting the lives of those you serve.

Sincerely,

Signed by:
Mary Ann Beninati
E66D7365106B48E...

Mary Ann Beninati
CEO & President

City of Midland

By: _____
Lori Blong, Mayor

By: _____
Tommy Gonzalez, City Manager

City Council Meeting

Item Number: 14.
Meeting Date: May 12, 2026
To: City Council
From: John Simmons, Right of Way Manager
Subject: MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (26-329-001) WITH PLAINS ORYX PERMIAN BASIN PIPELINE LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 34, BLOCK 38, T-1-N, AND SECTIONS 8 AND 9, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

Purpose:
This motion will provide a 10-year renewal of a 30' wide right of way for an existing Sixteen inch (16") Common Carrier, steel construction, oil pipeline on City of Midland owned property. Current Right of Way License 2016-8490 dated March 23, 2016 with Oryx Southern Delaware Oil Gathering and Transport, LLC is paid up to date and the "as-built" pipeline survey provided.

This Right-of-Way License is proposed for a single ten-year term. Terms are consistent with the City's standard license for facilities of this nature.

Recommended Action:

Fiscal Impact:
The following fees will be collected:

Application fee (one time): $1,000.00 (pd)

10-Years Paid In advance:

16" pipeline (352.12 rods x $400/rod): $140,848.00

Total Collected: $141,848.00

Strategic Priority:
PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT

Discussion:
This pipeline has been safely operating for 10 years on City of Midland Plant Farm land.

The pipeline is a Sixteen Inch (16”) Common Carrier, ERW-HF Steel Oil line and is buried Forty-Eight inches deep.

Certificates of Insurance are on file.

City Secretary to record all documents

Attachments:
A. Plains Oryx Permian Basin LLC ROW License 26-329-001
B. Exhibit A
C. Council Map Plains_CranetoMidland_021226-compressed
D. 2025-26 Plains - City of Midland COI

John Simmons, Utilities	Created/Initiated - 4/29/2026
Carl Craigo, Utilities	Approved - 5/1/2026
Alma McCammond, Utilities	Approved - 5/1/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

RIGHT OF WAY LICENSE

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

Date:	May 13, 2026
Licensor:	CITY OF MIDLAND, TEXAS, a home-rule municipal corporation
Licensor's Representative:	Tommy Gonzalez, City Manager
Licensor's Mailing Address:	P.O. Box 1152 Midland, Texas 79702
Licensee:	**Plains Oryx Permian Basin Pipeline LLC**
Licensee's Representative:	**George N. Polydoros**
Licensee's Mailing Address:	333 Clay Street, Suite 1600 Houston, Texas 77002
Property:	As described in Article III below
License Number:	**26-329-001**

Licensee desires use of certain Property (as defined below) in Midland County, Texas for purposes set forth below. Licensor hereby authorizes Licensee to act as described in this license (this "License") limited to any and all rights Licensor may have to the Property and subject to any and all validly existing encumbrances, conditions, and restrictions relating to the Property.

W I T N E S S E T H:

For and in consideration of the execution of this License and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows:

I. Term

A. Term. This License shall be for a term of ten (10) years commencing on the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

Additionally, Licensor may terminate this License at will for any or no reason upon giving at least three hundred sixty-five (365) days' written notice to Licensee. The parties to this License understand and agree that it is in Licensor's sole discretion to terminate this License during the term of this License without penalty to Licensor. Licensee has no expectation and has received no guarantees that this License will not be terminated before the end of the License term. The parties have bargained for the flexibility of terminating this License upon tender of the requisite notice at any time during the term of this License. All work and services under this License shall be suspended upon termination of this License.

Upon expiration or termination of this License, Licensee shall remove all equipment and structures associated with the undertakings contemplated by this License. After removal of all equipment and structures associated with the undertakings contemplated by this License, the surface of the Property shall be restored at the expense of Licensee to its original condition, as close thereto as may be practical, subject to the approval of Licensor upon inspection by Licensor's Representative, which approval shall not be unreasonably withheld. All of said work shall be completed within one hundred eighty (180) days after the expiration or termination of this License. All of the terms, provisions and requirements of this paragraph shall survive the expiration or termination of this License.

II. Financial Consideration

A. License Fee. A license fee in the amount of ONE HUNDRED FORTY THOUSAND EIGHT HUNDRED FORTY-EIGHT and No/100 Dollars ($140,848.00) ("License Fee") shall be due and payable on or prior to the Commencement Date.

In the event Licensor terminates this License pursuant to the provisions of Section I.B., Licensor agrees to refund to Licensee a pro rata share of the License Fee actually paid by Licensee to Licensor for that portion of the remaining term that is being terminated. For the avoidance of doubt, the amount of any refund payable to Licensee pursuant to this paragraph shall be determined net of any costs or expenses incurred by Licensor in connection with Licensee's unfulfilled obligations under this License (if any).

B. Application Fee. On or prior to the Commencement Date of this License, Licensee shall pay a non-refundable one-time fee of One Thousand and No/100 Dollars ($1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for this License.

C. Delivery of Payment. Payment of the above fees shall be made to Licensor at the office of Licensor's Representative, Attn: Right of Way Manager, P.O. Box 1152, Midland, Texas, 79702. Payment of the above fees shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes and special taxes and assessments for public improvements.

D. Late Payment. Licensee's failure to make payment of any of the above fees within thirty (30) days after such fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%) of such fee.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being thirty (30) feet in width of the locations with operations limited to areas as shown on **Exhibit A** attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described locations, a ERW-HF steel construction pipeline, not to exceed sixteen (16) inches in diameter, for the transportation of oil and to have the right of ingress and egress at convenient points for such purpose (the "Property"). **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline described herein. The parties agree Licensee's failure to provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline described herein may result in the termination of this License. The decision to accept a complete as-built survey after the sixty-day deadline prescribed herein, or, conversely, to terminate this License shall be in the sole and absolute discretion of Licensor.**

B. **Road Repair.** Licensee covenants and agrees that it will repair, at its own expense, any of Licensor's roads that Licensee, its employees, contractors, representatives, agents or assigns damage on Licensor's property, so that such roads will comply with Licensor's standard specifications.

C. Utility Repair. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines, water meters and other utility lines owned by Licensor that Licensee, its employees, contractors, representatives, agents or assigns, damage so that such water lines, sewer lines, water meters and other utility lines shall comply with Licensor's standard specifications.

D. Pipeline Depth. Licensee covenants and agrees that it will bury the pipeline to be constructed hereunder no less than forty-eight (48) inches in depth. All backfill used in burying such pipeline shall be compacted to a density of ninety percent (90%), except where such pipeline crosses under a paved or traveled portion of any City of Midland right of way where such backfill shall be compacted to a density of ninety-five percent (95%). Licensor shall be afforded the opportunity to test the density on all backfill. Notwithstanding any provision to the contrary contained herein, Licensee covenants and agrees that, at any point that Licensee's pipeline intersects with a City of Midland utility line location, the pipeline shall be bored at a depth of at least (i) nine (9) feet under all City of Midland water utility lines and (ii) two (2) feet under all City of Midland sewer utility lines. Licensee agrees that it shall comply with 30 Tex. Admin. Code § 290.44(e), as amended, to the extent applicable to this License.

E. Approval of Bids. Before Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, Licensee shall first obtain written approval of the specifications therefor from Licensor's Representative, which approval shall be at Licensor's Representative's sole discretion.

F. Reservation of Rights. Licensor expressly reserves the right to install, repair, or reconstruct streets or roads and all ancillary public uses usual and customary in connection with streets and roads, expressly including but not limited to drainage facilities and related structures in the rights of way used and occupied by Licensee.

Licensor reserves the right to lay and permit to be laid, sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground or overhead installation or improvement that may be deemed necessary or proper by the governing body of Licensor, in, on, across, along, over, under, and through any property occupied by Licensee. In permitting such work to be done, Licensor shall not be liable to Licensee for any damage so caused to Licensee's system or property, **NOR SHALL LICENSOR BE LIABLE TO LICENSEE FOR ANY DAMAGES TO LICENSEE'S PIPELINE OR OTHER PERMITTED FACILITIES ARISING OUT OF THE NEGLIGENCE BY LICENSOR, ITS EMPLOYEES, OFFICERS OR AGENTS, OR LICENSOR'S CONTRACTORS OR SUBCONTRACTORS**. If Licensor requires Licensee to remove, alter, change, adapt, or conform Licensee's facilities because of changes in the grade or construction of a street or in the location or manner of constructing a water pipe, sewer pipe, or other surface, underground or aboveground structure owned by Licensor, Licensee shall make the alterations or changes as soon as practicable, and in no event longer than one hundred eighty (180) days, when ordered in writing by Licensor, without claim for reimbursement for the cost of the relocation or for damages against Licensor. If these requirements impose a financial hardship upon Licensee, Licensee shall have the right to present alternative proposals for Licensor's consideration.

G. Non-exclusive. Licensor expressly reserves the full right to grant other easements or rights of way crossing or running parallel with the rights of way used by Licensee.

H. Abandonment. It is especially provided, however, that as an express condition of this License, and not as a mere covenant, in the event Licensee abandons any equipment or appurtenances associated with the undertakings contemplated by this License, or the Property ceases to be used for the purposes enumerated herein for any period of twelve (12) consecutive months, or longer, other than the time elapsing between the date hereof and construction, and upon giving Licensee one hundred and twenty (120) days' written notice, then and in that event, this License shall automatically terminate and revert to Licensor, its successors or assigns, free and clear of any right, title, or interest of Licensee.

I. Approval of Specifications. In the event Licensee desires to reconstruct, repair, alter, replace or remove any pipeline or other permitted facilities built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads and the rebuilding or repairs of any of Licensor's public utilities to Licensor's Representative for his or her prior written approval, which approval shall be at Licensor's Representative's sole discretion. In the event of emergency repairs necessary to restore service, Licensee shall notify Licensor's Representative before making any repairs if during a Licensor workday. If not on a workday, Licensee shall notify Licensor's Representative on the first workday after repairs have begun.

J. Gates and Fences. Without altering or expanding the limitations on ingress, egress and access to the Property set forth in Paragraph A. of Article III above, Licensee agrees to use existing gates and roadways where available, to enter, leave and cross the Property; provided that Licensee shall not use any road marked "Closed". Licensee and all persons entering or leaving the Property in connection with Licensee's operations hereunder shall keep all outside and interior gates securely closed except during operations related to this License. Licensee shall keep all outside gates, and all other gates designated by Licensor, securely locked except during operations related to this License. At any gate that is to be locked, Licensor may install its own lock in addition to Licensee's lock.

Licensee agrees that Licensee shall not cut or go over any fence at any time or in connection with any operations on the Property without first obtaining Licensor's express prior consent thereto in writing. All gates or openings in fences shall be at mutually agreeable location(s) between Licensee and Licensor and shall be constructed as reasonably required by Licensor. Upon the termination of this License, at Licensor's election, gates in fences shall be left in place and shall thereafter be owned by Licensor or Licensee shall remove such gates and restore the fence to its original condition as nearly as reasonably practicable. The terms, provisions and requirements of this provision shall survive the termination or expiration of this License.

K. Trash. Licensee shall keep the Property free of trash and debris at all times. Under no circumstances, will Licensee be allowed to bury any trash, debris or foreign material of any kind on or under the Property. Licensor shall have the right to expel and permanently ban from the Property any person observed disposing of trash on the Property. Upon the completion of any operations, all ribbons, flags, stakes and similar items shall by promptly removed from the Property.

L. Hunting, Fishing and Alcohol Prohibited. No agent, employee, representative, contractor or subcontractor of Licensee or any other person allowed to enter the Property by Licensee shall be permitted to hunt, fish, trap, camp, picnic, ride motorcycles or four-wheelers or otherwise conduct any social gathering on the Property, nor shall any such persons be permitted to bring firearms, archery equipment, dogs, alcoholic beverages or illegal drugs on the Property at any time. Violations of this provision shall cause the violator to be regarded as a trespasser and subject to prosecution under trespass laws of the State of Texas. Licensor shall have the right to expel and permanently ban from the Property any person observed on the Property in violation of this provision.

M. Storage of Machinery and Equipment. Licensee shall use no part of the Property to store machinery, equipment, or other property of Licensee while it is not being used.

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace on, below or above the land covered by this License for any purpose allowed by law and deemed necessary or proper by Licensor and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by Licensor in, on, across, along, over, under, and through any portion of the Property. In the event of such work in connection with said purposes it shall be deemed necessary or proper by Licensor, at Licensor's sole discretion, to alter, change, or relocate any pipeline, property, or casing of Licensee, such alteration or change or relocation shall be commenced and completed by Licensee within one hundred eighty (180) days after being ordered in writing by Licensor pursuant to directions from Licensor without any claim for reimbursement for the cost of the alteration, change or relocation or damages against Licensor. The relocation, change, or alteration shall be at the sole cost of Licensee. Provided, however, that Licensee shall at all times be entitled to receive from appropriate governmental bodies, excluding Licensor, payment for alteration, change or relocation of its system to which it may be lawfully entitled to under applicable federal or state laws with respect to relocation payments. Without limiting the foregoing, Licensor expressly reserves the full right to grant other licenses, easements and/or rights-of-way in, on, across, along, over, under or through all or any portion of the Property. Licensor expressly reserves the right to use and grant to third parties the right to use all or any portion of the Property and the surface, subsurface or airspace on, below or above the Property for

any purpose.

O. Remediation. Licensee shall be responsible for any leaks or spills resulting from its operations which may occur on the Property and Licensee shall undertake all commercially reasonable efforts to ensure leaks and spills will be properly remediated with work on the affected area commencing within seven (7) days of initial discovery of an incident and continuing in good faith to its completion. Licensee shall report all spills and leaks to Licensor or it's representatives within twenty-four (24) hours of initial discovery. Any portion of the Property affected by leaks, spills, re-entry, repairs, maintenance, or other related damages will be subject to remediation. During remediation, all contaminated soil shall be removed and replaced with fresh soil, free of contaminants, chemicals, or deleterious materials that may impair the growth of vegetation or pose risk to human health and safety. The affected area will be returned to pre-remediation grades and conditions to the extent reasonably practicable. A minimum of five inches (5") of topsoil shall be uniformly spread over the newly prepared surface and Licensee shall plant the disturbed area with the type and quantity of native grass or other reasonable landscaping designated by Licensor so that the disturbed area shall be generally restored to its original condition. Acceptance of remediation work shall be in Licensor's sole discretion and contingent upon final inspection and verification of completion by Licensor or its representatives. All contaminated soil removed from the Property will be charged at rate set forth in the then most current University of Texas System Rate and Damage Schedule published by the University of Texas System for caliche.

IV. Standard General Conditions

A. Insurance. Licensee shall at all times during the term of this License maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):	
■ Personal Injury:	$1,000,000.00 per person $1,000,000.00 per occurrence
■ Property Damage:	$100,000.00 per occurrence
Business Automobile Liability:	$1,000,000.00 combined single limit-- Personal Injury and Property Damage
Workers' Compensation:	Statutory limits
Employers' Liability:	$1,000,000.00 per accident or occurrence
Umbrella Liability:	$10,000,000.00 each occurrence $10,000,000.00 aggregate

The Commercial General Liability shall be on an occurrence basis. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

The Workers' Compensation coverage provided by Licensee shall inure to the benefit of employees injured during the course and scope of their employment by Licensee pursuant to this License. The Workers' Compensation insurance shall waive all rights of subrogation against

Licensor.

The Business Automobile Liability insurance provided by Licensee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this License. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

All insurance required pursuant to this License, except for Worker's Compensation Insurance, shall name Licensor as an additional insured. All insurance required pursuant to this License, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to Licensor. The parties agree that, prior to the execution of this License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. Licensor shall determine, in its sole discretion, whether such requirements have been satisfied.

Licensor shall be provided written notice by Licensee's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Licensor shall not be required to provide any insurance whatsoever pursuant to this License.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this License to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required herein and name the City of Midland as an additional insured (except as to Worker's Compensation Insurance). Licensee certifies that the one or more certificates of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Licensee shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Licensee.

B. Indemnity. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE, ITS SUCCESSORS AND ASSIGNS, AGREE TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S REPRESENTATIVES, AGENTS, ATTORNEYS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) THIS LICENSE, LICENSEE'S USE OF OR ACTIVITIES ON THE PROPERTY OR ANY OTHER PROPERTY OWNED BY LICENSOR, OR ANY ACT OR OMISSION OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE

CONTROL OVER (COLLECTIVELY, "LIABILITIES"), EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED, IN WHOLE OR IN PART, TO THE NEGLIGENCE OF ANY INDEMNITEE. LICENSEE SHALL PROMPTLY ADVISE LICENSOR OF ANY ACTION, ADMINISTRATIVE OR LEGAL PROCEEDING OR INVESTIGATION TO WHICH THIS INDEMNIFICATION MAY APPLY, AND OF WHICH LICENSEE HAS RECEIVED NOTICE, AND LICENSEE, AT LICENSEE'S EXPENSE, SHALL ASSUME ON BEHALF OF LICENSOR (AND THE OTHER INDEMNITEES) AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE THEREOF WITH COUNSEL REASONABLY SATISFACTORY TO LICENSOR; PROVIDED, HOWEVER, THAT ANY INDEMNITEE SHALL HAVE THE RIGHT, AT ITS OPTION, TO BE REPRESENTED THEREIN BY COUNSEL OF ITS OWN SELECTION AND AT ITS OWN EXPENSE. IN THE EVENT OF FAILURE BY LICENSEE TO ASSUME THE DEFENSE OF LICENSOR IN ACCORDANCE WITH THIS INDEMNIFICATION, LICENSOR, AT ITS OPTION, AND WITHOUT RELIEVING LICENSEE OF ITS OBLIGATION HEREUNDER, MAY ASSUME SUCH DEFENSE, AFTER WRITTEN NOTICE THEREOF TO LICENSEE AND LICENSEE'S FAILURE TO RESPOND THERETO WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF SUCH NOTICE (SAID TEN (10) DAY PERIOD SHALL NOT APPLY IN ANY CASE WHERE IMMEDIATE ANSWERS, RESPONSES, OR OTHER AFFIRMATIVE ACTION IS REQUIRED TO PRESERVE THE RIGHTS OF LICENSOR) BUT ALL REASONABLE COSTS AND EXPENSES SO INCURRED BY LICENSOR IN THAT EVENT SHALL BE REIMBURSED BY LICENSEE TO LICENSOR, TOGETHER WITH INTEREST ON THE SAME FROM THE DATE ANY SUCH EXPENSE WAS PAID BY LICENSOR UNTIL REIMBURSED BY LICENSEE, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS, BY THE LAWS OF THE STATE OF TEXAS.

WITHOUT LIMITING THE FOREGOING, LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY, PROTECT, DEFEND AND SAVE LICENSOR HARMLESS FROM ANY AND ALL CLAIMS, LIENS, JUDGMENTS, SUITS, CAUSES OF ACTION, AND DEMANDS OF ANY SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, OR FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, OR SUPPLIES, IN CONNECTION WITH THE CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE OR OTHER PERMITTED FACILITIES DESCRIBED HEREIN.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE SHALL INDEMNIFY, PROTECT AND HOLD HARMLESS AND DEFEND EACH INDEMNITEE FROM ALL LIABILITIES, SUITS, ACTIONS, CLAIMS, DAMAGES, CAUSES OF ACTION, CHARGES, JUDGMENTS, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, 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 ANY INDEMNITEE, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR

LICENSEE'S EMPLOYEES', REPRESENTATIVES', AGENTS', CONTRACTORS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE, INCLUDING, WITHOUT LIMITATION, SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE OR PERMITTED FACILITIES ON LICENSOR'S PROPERTY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY INDEMNITEE, INCLUDING RELATED ATTORNEY'S FEES.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE, ITS SUCCESSORS AND ASSIGNS, SHALL INDEMNIFY, PROTECT, DEFEND AND HOLD INDEMNITEES HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) (i) FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, THE "INDEMNIFYING PARTIES"), TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY INDEMNIFYING PARTY'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR (ii) ANY INDEMNIFYING PARTY'S HANDLING, STORING, RELEASING OR TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE PROVISIONS OF THIS INDEMNIFICATION SHALL APPLY TO AND PROTECT EACH INDEMNITEE FROM THE CONSEQUENCES OF STRICT LIABILITY IMPOSED OR THREATENED TO BE IMPOSED ON SUCH INDEMNITEE, AS WELL AS FROM THE CONSEQUENCES OF THE NEGLIGENCE OF ANY INDEMNITEE, WHETHER OR NOT THAT NEGLIGENCE IS A CONTRIBUTING OR CONCURRING CAUSE OF ANY LIABILITY INDEMNIFIED AGAINST IN THIS ARTICLE IV.B.

THE TERMS, PROVISIONS, REQUIREMENTS AND OBLIGATIONS OF THIS ARTICLE IV.B. SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS LICENSE, AND SHALL NOT BE LIMITED BY OR TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS.

C. Assignment. The provisions of this License shall inure to the benefit of and be binding upon Licensor and Licensee and their respective successors and permitted assigns. The rights and privileges granted by Licensor under this License inure to the benefit of Licensee. No rights, privileges or obligations hereunder shall be assignable by Licensee without the express prior written consent of Licensor. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee shall have exclusive control of and the exclusive right to control the details of the 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 respondeat superior shall not apply as between Licensor and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licensor and Licensee. No person performing any of the work described hereunder shall be considered an officer, agent, servant or employee of Licensor. Further, it is specifically understood and agreed that nothing in this License 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. Licensee shall be an independent contractor under this License and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. Licensor does not have the power to direct the order in which the work is done. Licensor shall not have the right to control the means, methods or details of Licensee's work. Licensee shall assume exclusive responsibility for the work. Licensee is entirely free to do the work in its own way. The provisions of this subparagraph (D.) shall not be deemed or construed as contradicting, limiting or conflicting with the provisions of subparagraph (M.) below.

E. Attorney Fees. SHOULD LICENSOR BE REQUIRED TO RESORT TO EMPLOYMENT OF ATTORNEYS TO ENFORCE THIS LICENSE, OR ANY OF ITS RIGHTS UNDER THIS LICENSE, LICENSOR SHALL BE ENTITLED TO REIMBURSEMENT FROM LICENSEE FOR LICENSOR'S ATTORNEYS' FEES. LICENSEE SHALL REIMBURSE LICENSOR FOR LICENSOR'S ATTORNEYS' FEES INCURRED IN CONNECTION WITH THE PREPARATION AND NEGOTIATION OF THIS LICENSE. BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE, AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE, ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LICENSE, OR THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE. WITHOUT LIMITING THE FOREGOING, LICENSEE SPECIFICALLY AGREES THAT IF

LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, OR TO THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, 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, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

LICENSEE AND LICENSOR ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS LICENSE WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

F. Governing Law & Venue. All performance and payments made pursuant to this License 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 License, or the performance of this License shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this License shall be deemed to have been performed in Midland County, Texas. This License shall be construed, interpreted and enforced under the laws 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 other claims or disputes, arising from or relating in any way to the subject matter of this License, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

G. Release. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS LICENSE, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, AND LICENSOR'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE 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 LICENSOR'S NEGLIGENCE.

H. Governmental Immunity. By executing this License, Licensor is not waiving its right of governmental immunity. Licensor is retaining its immunity from suit. Licensor is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

I. Third-Party Beneficiary. Except as provided in Article IV.B. above with respect to Indemnitees, (i) Licensor's granting of this License does not create any third-party beneficiary, (ii) there is no third-party beneficiary to this License, and (iii) no person or entity who is not a party to this License shall have any third-party beneficiary or other rights hereunder.

J. Notices. Any notice or communication required in the administration of this License shall be sent by certified mail, return receipt requested, to the parties' respective mailing addresses as set forth hereinabove.

K. Notice of Alleged Breach; Statutory Prerequisite. Without limiting the provisions of Article IV.G. above, as a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) 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 Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager or other such official of Licensor within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor 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, Licensee's failure to comply with the requirements herein shall perpetually bar Licensee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Licensor has actual or constructive notice or knowledge of said claim or alleged damages. Licensee agrees that the requirements of this entire License are reasonable.

L. Consideration. The terms of this License are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

M. Waiver of Governmental Immunity; Chapter 271, TEX. LOC. GOV'T CODE. The parties hereto agree that this License does not constitute a "Contract" for providing goods and/or services to Licensor as discussed in Subchapter I of Chapter 271 of the Texas Local Government Code, and Licensor does not waive, to the maximum extent allowed by law, any constitutional, statutory or common law right to sovereign immunity or governmental immunity from liability or suit. Licensor expressly does not consent to be sued or be liable. To the maximum extent allowed by law, nothing in this License constitutes a waiver of Licensor's governmental immunity and the parties hereto expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licensor's governmental immunity under Subchapter I of Chapter 271 of the Texas Local Government Code, nor shall it constitute nor be interpreted as a waiver of Licensor's governmental

immunity for the benefit of any third-party lacking privity to this License.

This License does not obligate Licensee to use the Property to construct, repair, operate, replace, or maintain Licensor's facilities or structures described herein, rather, it merely prohibits Licensee from using the Property for any other purpose. This License restricts the use of the Property to a specific purpose but does not require the use of the Property for a specific purpose. Licensee is not providing a service to Licensor. Licensee is paying Licensor for temporary rights in real property, not for a service. Any such provision shall be deemed to be a covenant against noncomplying use, not a covenant to use. Licensee's use of the Property in compliance with a restriction shall not constitute a service, and such complying use shall not operate to waive Licensor's governmental immunity.

N. Compliance. Licensee agrees that it shall comply with Texas Government Code Section 2252.908, as amended, to the extent that this statute applies to this License. Licensee agrees that it shall comply with Texas Local Government Code Section 176.006, as amended, to the extent that this statute applies to this License.

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191 of the Texas Natural Resources Code. By executing this License, Licensee represents that it has contacted the Texas Historical Commission (the "Commission") for the purpose of determining whether the Commission will request that an archaeological survey be completed before Licensee commences operations on the Property, as contemplated herein. Licensee agrees that it shall complete or cause to be completed an archaeological survey before commencing any operations on the Property if the Commission so requests and deliver the same to Licensor. Notwithstanding any provision contained herein, in the event that any site, object, artifact, or other feature of archaeological, scientific, educational, cultural, or historical interest is encountered during the operations authorized by this License, Licensee will immediately notify Licensor and the Commission so that adequate measures may be undertaken to protect or recover such discoveries or findings, as deemed appropriate by Licensor or the Commission.

P. Waiver. No waiver of any of the provisions of this License shall be deemed or constitute a waiver of any other provisions of this License, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. Likewise, the failure of Licensor to enforce any provision of this License shall not be deemed nor shall constitute a waiver of the right of Licensor to enforce such provision.

Q. Counterpart Execution. This License may be executed in several counterparts, and any such agreement shall be deemed an original for all intents and purposes.

R. No Release of Liability. Notwithstanding anything to the contrary contained in this License, the termination or expiration of this License shall not relieve Licensee of any liability, duty or obligation under this License, nor shall it preclude Licensor from asserting any right to specific performance, damages or any other rights or remedies to which Licensor may be entitled. Upon termination or expiration of this License for any reason, Licensee shall execute and deliver a recordable release of this License to Licensor in form and substance satisfactory to Licensor.

S. Entire Agreement. This License constitutes the entire agreement between Licensor and Licensee concerning the subject matter hereof, superseding all negotiations, prior discussions,

prior licenses and prior agreements and understandings related to the subject matter hereof. This License may only be amended by written instrument executed by Licensor and Licensee.

LICENSOR:
CITY OF MIDLAND, TEXAS

By:_____
Tommy Gonzalez, City Manager

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT AND COMPLETENESS:

_____
Carl Craigo, Director of Utilities

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

[Signature Page Follows]

LICENSEE:
PLAINS ORYX PERMIAN BASIN PIPELINE LLC

By:_____
Printed Name: George N. Polydoros
Title: Vice President

THE STATE OF _____ §
§
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this ___ day of _____, 2026 personally appeared George N. Polydoros an officer of Plains Oryx Permian Basin Pipeline LLC 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 entity, 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 _____, 2026.

_____
Notary Public, State of _____

EXHIBIT "A"

SECTION 8, BLOCK 38 T2S,
T. & P. R.R. CO. SURVEY, A-931
MIDLAND COUNTY, TEXAS
RIGHT-OF-WAY PLAT

AS-BUILT

TOTAL LENGTH CENTERLINE: 2,762.04 FEET OR 167.40 RODS
RIGHT-OF-WAY LIMITS: 3.80 ACRES
AS-BUILT PIPE LENGTH: 2,762.04 FEET OR 167.40 RODS

PLAINS ORYX PERMIAN

SCALE: 1" = 1000'
0' 500' 1000'

LINE TABLE

LINE	BEARING	DISTANCE
1	S 78°12'24" W	1394.97'
2	S 37°17'26" W	90.98'
3	S 12°23'39" E	31.82'
4	S 13°59'44" E	266.66'
5	S 14°18'21" E	614.29'
6	S 10°57'56" E	26.76'
7	S 16°52'01" W	29.12'
8	S 19°38'44" W	307.44'

1/2" IRON ROD FOUND

P.O.R.
N 31°58'57.83"
W 102°01'27.53"

RR SPIKE FOUND

P.O.C.
N 31°59'11.41"
W 102°00'27.94"

S 14°09'10" E
2750.31'

DETAIL VIEW A
SCALE: 1" = 100'

THE CITY OF MIDLAND, TEXAS
TRACT 2
CALLED 291.34 ACRES OUT OF
SECTION 8, BLOCK 38, T-2-S
VOLUME 2813, PAGE 2308
O.R.M.C.T

N 56°47'58" W
5403.21'

SEE DETAIL A

P.O.B.
N 31°58'45.12"
W 102°00'19.67"

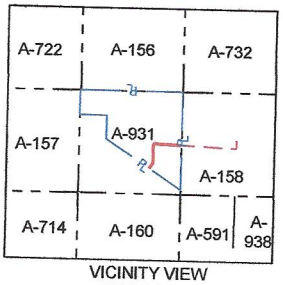
SEE DETAIL B

P.O.T.
N 31°58'29.24"
W 102°00'34.53"

DETAIL VIEW B
SCALE: 1" = 100'

LEGEND

- SECTION LINE
- TRACT BORDER
- SURVEYED BASELINE
- EDGE OF RIGHT-OF-WAY
- CONTINUED BASELINE
- ROAD WAY
- FENCE LINE
- EXISTING PIPELINE
- POINT OF INTERSECTION
- MONUMENT FOUND
- IRON ROD FOUND



VICINITY VIEW
NOT TO SCALE

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
481 WINSCOTT ROAD, Ste. 200 • BENBROOK, TEXAS 76126
TELEPHONE: (817) 744-7512 • FAX (817) 744-7554
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.

Thomas Lee Howell, R.P.L.S., No. 7005
SURVEYED ON THE GROUND: December 18, 2025
Field note description of even date accompanies this plat.

CRANE TO MIDLAND AS-BUILT	REVISION:	
	LR	02/11/2026
DATE: 02/04/2026		
FILE: EP_CRANE_TO_MIDLAND_SEC_8_AB_REV1		
DRAWN BY: MLW		
SHEET: 1 OF 2		

NOTES:
1. ORIGINAL DOCUMENT SIZE: 8.5" X 14"
2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GRID BASED UPON THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE, U.S. SURVEY FEET.
3. CERTIFICATION IS MADE ONLY TO THE LOCATION OF THIS RIGHT-OF-WAY, IN RELATION TO THE EVIDENCE FOUND DURING A FIELD SURVEY, MADE ON THE GROUND, UNDER MY SUPERVISION, AND USING DOCUMENTATION PROVIDED BY PLAINS ORYX PERMIAN. ONLY UTILITIES/RIGHT-OF-WAYS THAT WERE VISIBLE ON THE DATE OF THIS SURVEY, WITHIN/ADJOINING THIS RIGHT-OF-WAY, HAVE BEEN LOCATED AS SHOWN HEREON OF WHICH I HAVE KNOWLEDGE. THIS CERTIFICATION IS LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NON-TRANSFERABLE, AND MADE FOR THIS TRANSACTION ONLY.
4. ADJOINER INFORMATION SHOWN FOR INFORMATIONAL PURPOSES ONLY.
5. B.O.L./P.O.B./P.O.C. = BEGINNING OF LINE/POINT OF BEGINNING/POINT OF COMMENCEMENT
6. E.O.L./P.O.E./P.O.T. = END OF LINE/POINT OF EXIT/POINT OF TERMINATION
7. O.R.M.C.T. = OFFICIAL RECORDS, MIDLAND COUNTY, TEXAS

S:\SURVEY\PLAINS\CRANE_TO_MIDLAND_AB\FINAL_PRODUCTS\EP_CRANE_TO_MIDLAND_SEC_8_AB_REV1.DWG 2/11/2026 8:42:24 AM leonel.reyes

EXHIBIT "A"
AS-BUILT
MIDLAND COUNTY, TEXAS
RIGHT-OF-WAY DESCRIPTION

February 11, 2026

Being a centerline description of a sixty (60) foot wide right-of-way, 30 feet each side of a surveyed baseline as shown on sheet 1 of 2 of this Exhibit "A", being situated in the T. & P. RR. CO. Survey, Section 8, Abstract No. 931, Midland County, Texas, out of a tract of land, called 291.34 acres, described in deed to The City of Midland, Tract 2, recorded in Volume 2813, Page 2308, Official Records, Midland County, Texas, (O.R.M.C.T.), said 60 foot wide right-of-way being more particularly described by centerline description as follows:

COMMENCING (P.O.C., N 31°59'11.41", W 102°00'27.94") from a found railroad spike marking the Northeast corner of said Section 8;

THENCE South 14°09'10" East, a distance of 2,750.31 feet to the POINT OF BEGINNING (P.O.B., N 31°58'45.12", W 102°00'19.67") of the herein described centerline, at a point on the east line of said 291.34 acres;

THENCE South 78°12'24" West, a distance of 1,394.97 feet;
THENCE South 37°17'26" West, a distance of 90.98 feet;
THENCE South 12°23'39" East, a distance of 31.82 feet;
THENCE South 13°59'44" East, a distance of 266.66 feet;
THENCE South 14°18'21" East, a distance of 614.29 feet;
THENCE South 10°57'56" East, a distance of 26.76 feet;
THENCE South 16°52'01" West, a distance of 29.12 feet;

THENCE South 19°38'44" West, a distance of 307.44 feet to the POINT OF TERMINATION (P.O.T., N 31°58'29.24", W 102°00'34.53") to a point on the south line of said 291.34 acre tract, and END OF THIS DESCRIPTION, from which an 1/2-inch iron rod found for the Northwest corner of said Section 8, bears: North 56°47'58" West, a distance of 5,403.21 feet.

The above surveyed baseline traverses said Section 8 for a total distance of 2,762.04 feet or 167.40 rods.

All bearings, distances, and coordinates contained herein are grid, based upon the Texas Coordinate System of 1983 (commonly, Texas State Plane Coordinate System), Central Zone, in U.S. Survey Feet.

Plat of even date accompanies this field note description.

Topographic, Co.
481 Winscott Road
Suite 200
Benbrook, TX 76126

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.

Thomas Lee Howell, R.P.L.S., No. 7005
SURVEYED ON THE GROUND: December 18, 2025

S:\SURVEY\PLAINS\CRANE_TO_MIDLAND_AB\FINAL_PRODUCTS\EP_CRANE_TO_MIDLAND_SEC_8_AB_REV1.DWG 2/11/2026 8:42:25 AM leonel.reyes

EXHIBIT "A"

SECTION 9, BLOCK 38 T2S,
T. & P. R.R. CO. SURVEY, A-158
MIDLAND COUNTY, TEXAS
RIGHT-OF-WAY PLAT

AS-BUILT

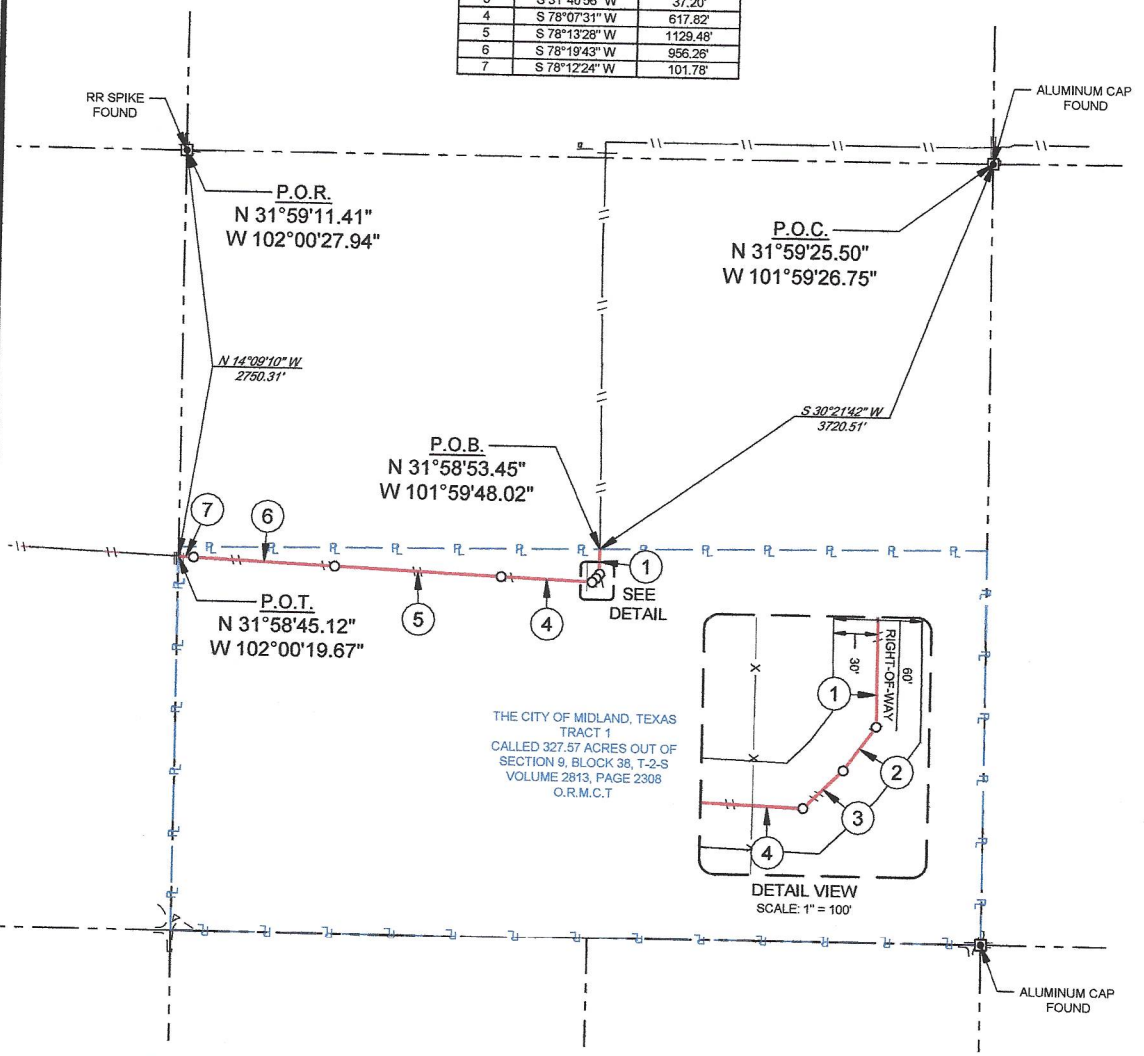
TOTAL LENGTH CENTERLINE: 3,047.88 FEET OR 184.72 RODS
RIGHT-OF-WAY LIMITS: 4.20 ACRES
AS-BUILT PIPE LENGTH: 3,047.89 FEET OR 184.72 RODS

PLAINS ORYX PERMIAN

SCALE: 1" = 1000'
0' 500' 1000'

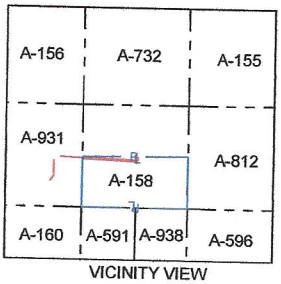
LINE TABLE

LINE	BEARING	DISTANCE
1	S 14°23'37" E	168.20'
2	S 22°03'44" W	37.14'
3	S 31°40'56" W	37.20'
4	S 78°07'31" W	617.82'
5	S 78°13'28" W	1129.48'
6	S 78°19'43" W	956.26'
7	S 78°12'24" W	101.78'



LEGEND

- SECTION LINE
- TRACT BORDER
- SURVEYED BASELINE
- EDGE OF RIGHT-OF-WAY
- CONTINUED BASELINE
- ROAD WAY
- FENCE LINE
- EXISTING PIPELINE
- POINT OF INTERSECTION
- MONUMENT FOUND
- CALCULATED CORNER



VICINITY VIEW
NOT TO SCALE

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
481 WINSCOTT ROAD, Ste. 200 - BENBROOK, TEXAS 76126
TELEPHONE: (817) 744-7512 - FAX (817) 744-7554
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.

Thomas Lee Howell, R.P.L.S., No. 7005
SURVEYED ON THE GROUND: December 18, 2025
Field note description of even date accompanies this plat.

CRANE TO MIDLAND AS-BUILT	REVISION:	
	LR	02/11/2026
DATE: 02/04/2026		
FILE: EP_CRANE_TO_MIDLAND_SEC_9_AB_REV1		
DRAWN BY: MLW		
SHEET: 1 OF 2		

NOTES:
1. ORIGINAL DOCUMENT SIZE: 8.5" X 14"
2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GRID BASED UPON THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE, U.S. SURVEY FEET.
3. CERTIFICATION IS MADE ONLY TO THE LOCATION OF THIS RIGHT-OF-WAY, IN RELATION TO THE EVIDENCE FOUND DURING A FIELD SURVEY, MADE ON THE GROUND, UNDER MY SUPERVISION, AND USING DOCUMENTATION PROVIDED BY PLAINS ORYX PERMIAN. ONLY UTILITIES/RIGHT-OF-WAYS THAT WERE VISIBLE ON THE DATE OF THIS SURVEY, WITHIN/ADJOINING THIS RIGHT-OF-WAY, HAVE BEEN LOCATED AS SHOWN HEREON OF WHICH I HAVE KNOWLEDGE. THIS CERTIFICATION IS LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NON-TRANSFERABLE, AND MADE FOR THIS TRANSACTION ONLY.
4. ADJOINER INFORMATION SHOWN FOR INFORMATIONAL PURPOSES ONLY.
5. B.O.L./P.O.B./P.O.C. = BEGINNING OF LINE/POINT OF BEGINNING/POINT OF COMMENCEMENT
6. E.O.L./P.O.E./P.O.T. = END OF LINE/POINT OF EXIT/POINT OF TERMINATION
7. D.R.M.C.T. = DEED RECORDS, MIDLAND COUNTY, TEXAS
8. O.R.M.C.T. = OFFICIAL RECORDS, MIDLAND COUNTY, TEXAS

S:\SURVEY\PLAINS\CRANE_TO_MIDLAND_AB\FINAL_PRODUCTS\EP_CRANE_TO_MIDLAND_SEC_9_AB_REV1.DWG 2/11/2026 8:42:54 AM leonel.reyes

Plains Oryx Permian

EXHIBIT "A"
AS-BUILT
MIDLAND COUNTY, TEXAS
RIGHT-OF-WAY DESCRIPTION

February 11, 2026
Sheet 2 of 2

Being a centerline description of a sixty (60) foot wide right-of-way, 30 feet each side of a surveyed baseline as shown on sheet 1 of 2 of this Exhibit "A", being situated in the T. & P. RR. CO. Survey, Section 9, Abstract No. 158, Midland County, Texas, out of a tract of land, described in deed to The City of Midland, Tract 1 called 327.57 acres, recorded Volume 2813, Page 2308, Official Records, Midland County, Texas, (O.R.M.C.T.), said 60 foot wide right-of-way being more particularly described by centerline description as follows:

COMMENCING (P.O.C., N 31°59'25.50", W 101°59'26.75") from a found aluminum cap marking the Northeast corner of said Section 9;

THENCE South 30°21'42" West, a distance of 3,720.51 feet to the POINT OF BEGINNING (P.O.B., N 31°58'53.45", W 101°59'48.02") of the herein described centerline, at a point on the North line of said 327.57 acre tract of said Section 9,

THENCE South 14°23'37" East, a distance of 168.20 feet;
THENCE South 22°03'44" West, a distance of 37.14 feet;
THENCE South 31°40'56" West, a distance of 37.20 feet;
THENCE South 78°07'31" West, a distance of 617.82 feet;
THENCE South 78°13'28" West, a distance of 1,129.48 feet;
THENCE South 78°19'43" West, a distance of 956.26 feet;

THENCE South 78°12'24" West, a distance of 101.78 feet to the POINT OF TERMINATION (P.O.T., N 31°58'45.12", W 102°00'19.67") to a point on the west line of said Section 9, and END OF THIS DESCRIPTION, from which a railroad spike found for the Northwest corner of said Section 9, bears: North 14°09'10" West, a distance of 2,750.31 feet.

The above surveyed baseline traverses said Section 9 for a total distance of 3,047.88 feet or 184.72 rods.

All bearings, distances, and coordinates contained herein are grid, based upon the Texas Coordinate System of 1983 (commonly, Texas State Plane Coordinate System), Central Zone, in U.S. Survey Feet.

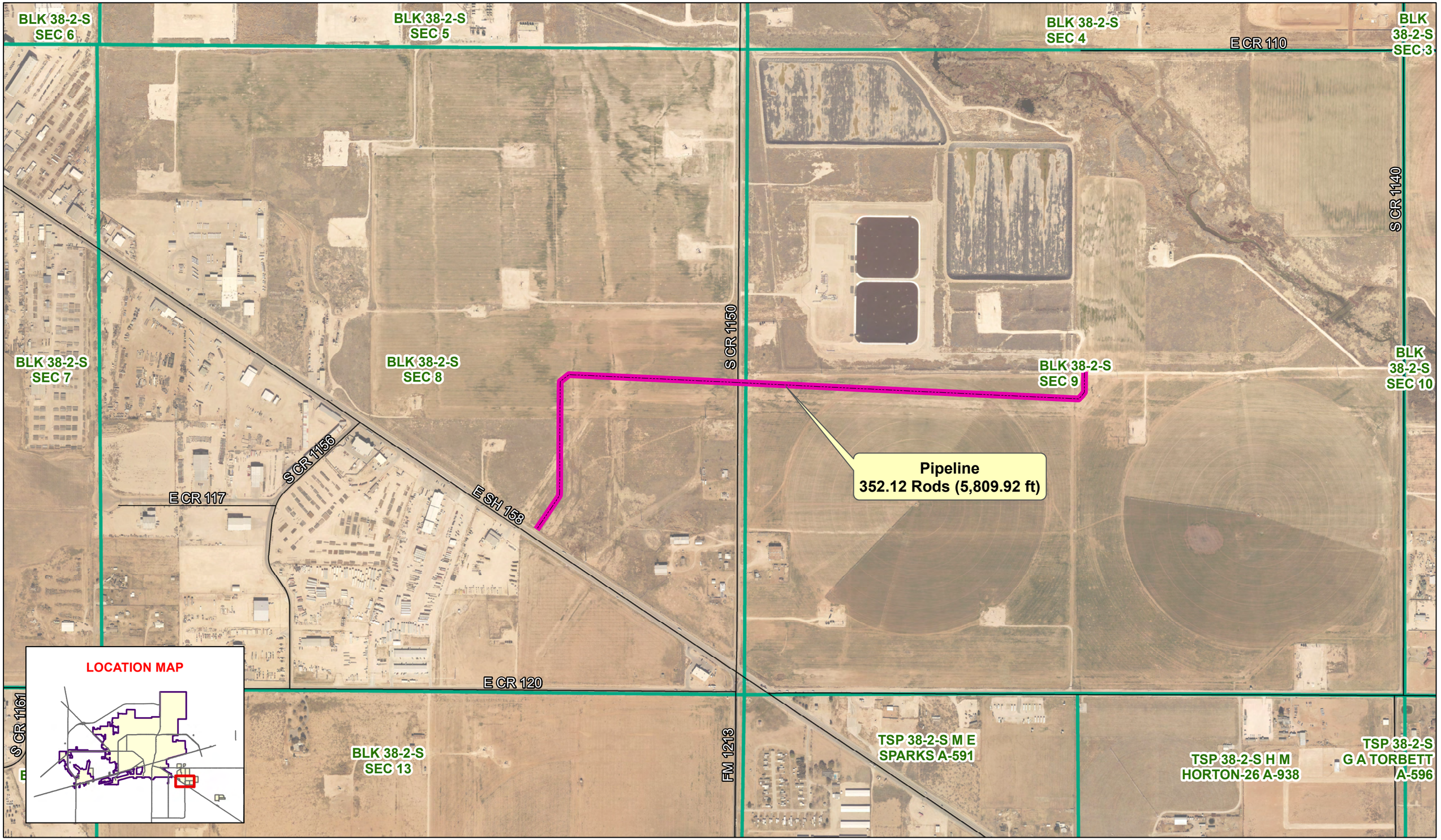
Plat of even date accompanies this field note description.

Topographic, Co.
481 Winscott Road
Suite 200
Benbrook, TX 76126

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.

Thomas Lee Howell, R.P.L.S., No. 7005
SURVEYED ON THE GROUND: December 18, 2025

S:\SURVEY\PLAINS\CRANE_TO_MIDLAND_AB\FINAL_PRODUCTS\EP_CRANE_TO_MIDLAND_SEC_9_AB_REV1.DWG 2/11/2026 8:42:54 AM leonel.reyes



Date: 2/17/2026

As-Built ROW Pipeline
Street
Survey Section

Plains Crane to Midland
As-Built Pipeline ROW

0 250 500 Feet

©THE CITY OF MIDLAND - 2026
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED ON THIS DATA.

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
10/27/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

Holder Identifier :

PRODUCER
Aon Risk Services Southwest, Inc.
Houston TX Office
1300 Post Oak Blvd., Suite 1400
Houston TX 77056 USA

CONTACT NAME:
PHONE (A/C. No. Ext): (866) 283-7122 **FAX (A/C. No.):** (800) 363-0105
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Ironshore Specialty Insurance Company	25445
INSURER B:	Old Republic Insurance Company	24147
INSURER C:	Old Republic General Ins Corp	24139
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
Plains All American Pipeline, L.P.
Plains Marketing, L.P
Plains Pipeline, L.P.
333 Clay St, Suite 1600
Houston TX 77002 USA

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:			MWZY31886525 SIR applies per policy terms & conditions	11/01/2025	11/01/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$15,000,000 $500,000 $5,000 $15,000,000 $15,000,000 $15,000,000
B	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY			MWTB 318866 25 SIR applies per policy terms & conditions	11/01/2025	11/01/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$15,000,000
	UMBRELLA LIAB OCCUR **EXCESS LIAB** CLAIMS-MADE DED RETENTION						EACH OCCURRENCE AGGREGATE	
B	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N N	N / A	MWC31886325 SIR applies per policy terms & conditions	11/01/2025	11/01/2026	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT	 $2,000,000 $2,000,000 $2,000,000
A	Environmental Site Liability			ISPILLSCBNZB005 Claims Made Coverage	11/01/2025	11/01/2026	Each Event Limit Aggregate Limit	$10,000,000 $10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Pollution policy contains both gradual and Sudden & Accidental Pollution Discharge, for any Pollution discovered in 30 days or less. The City of Midland is included as Additional Insured in accordance with the policy provisions of the General Liability, and Automobile Liability policies. A Waiver of Subrogation is granted in favor of The City Of Midland in accordance with the policy provisions of the General Liability, Automobile Liability, Environmental Site Liability and Workers' Compensation policies.

Certificate No :

CERTIFICATE HOLDER

The City of Midland
PO Box 1152
Midland TX 79702 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Southwest, Inc.

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AGENCY CUSTOMER ID: 440000000289
LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Aon Risk Services Southwest, Inc.	Plains All American Pipeline, L.P.
POLICY NUMBER: See Certificate Number:	
CARRIER: See Certificate Number: / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	OTHER							
C	Excess Workers Compensation			MWXS31886425 Statutory XS - ND, OH SIR applies per policy terms & conditions	11/01/2025	11/01/2026	Retention	$2,000,000

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City Council Meeting

Item Number: 15.
Meeting Date: May 12, 2026
To: City Council
From: John Simmons, Right of Way Manager
Subject: MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (26-329-002) WITH PLAINS ORYX PERMIAN BASIN PIPELINE LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 34, BLOCK 38, T-1-N, AND SECTIONS 5 AND 8, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MARTIN AND MIDLAND COUNTIES, TEXAS

Purpose:
This motion will provide a 10-year renewal of a 30' wide right of way for an existing sixteen-inch (16") Common Carrier, steel construction, oil pipeline on City of Midland-owned property. The current Right of Way License 2015-369, dated November 17, 2015 with Plains Pipeline, L.P. by Plains GP LLC, Its General Partner, is paid up to date and the "as-built" pipeline survey provided.

This Right-of-Way License is proposed for a single ten-year term. Terms are consistent with the City's standard license for facilities of this nature.

Recommended Action:
Approve

Fiscal Impact:
The following fees will be collected:
Application fee (one time): $1,000.00 (pd)
10-Years Paid In advance:
16" pipeline (1,040.64 rods x $400/rod): $416,256.00
Total Collected: $417,256.00

Strategic Priority:
PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT

Discussion:
This pipeline has been safely operated for 10 years on Martin and Midland County land. The pipeline is a Sixteen Inch (16") Common Carrier, ERW-HF Steel Oil line and is buried Forty-Eight inches deep.
Certificates of Insurance are on file.

City Secretary to record all documents.

Attachments:

A. Plains Oryx Permian Basin LLC ROW License 26-317-002
B. Exhibit A
C. Council map Plains_MartinCo_021226
D. 2025-26 Plains - City of Midland COI

Jan Hamilton, City Secretary	Created/Initiated - 4/30/2026
Carl Craigo, Utilities	Approved - 5/1/2026
Alma McCammond, Utilities	Approved - 5/1/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

RIGHT OF WAY LICENSE

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

Date: May 13, 2026

Licensor: CITY OF MIDLAND, TEXAS, a home-rule municipal corporation

Licensor's Representative: Tommy Gonzalez, City Manager

Licensor's Mailing Address: P.O. Box 1152
Midland, Texas 79702

Licensee: **Plains Oryx Permian Basin Pipeline LLC**

Licensee's Representative: **George N. Polydoros**

Licensee's Mailing Address: 333 Clay Street, Suite 1600
Houston, Texas 77002

Property: As described in Article III below

License Number: **26-317-002**

Licensee desires use of certain Property (as defined below) in Martin and Midland Counties, Texas for purposes set forth below. Licensor hereby authorizes Licensee to act as described in this license (this "License") limited to any and all rights Licensor may have to the Property and subject to any and all validly existing encumbrances, conditions, and restrictions relating to the Property.

W I T N E S S E T H:

For and in consideration of the execution of this License and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows:

I. Term

A. Term. This License shall be for a term of ten (10) years commencing on the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee

commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

Additionally, Licensor may terminate this License at will for any or no reason upon giving at least three hundred sixty-five (365) days' written notice to Licensee. The parties to this License understand and agree that it is in Licensor's sole discretion to terminate this License during the term of this License without penalty to Licensor. Licensee has no expectation and has received no guarantees that this License will not be terminated before the end of the License term. The parties have bargained for the flexibility of terminating this License upon tender of the requisite notice at any time during the term of this License. All work and services under this License shall be suspended upon termination of this License.

Upon expiration or termination of this License, Licensee shall remove all equipment and structures associated with the undertakings contemplated by this License. After removal of all equipment and structures associated with the undertakings contemplated by this License, the surface of the Property shall be restored at the expense of Licensee to its original condition, as close thereto as may be practical, subject to the approval of Licensor upon inspection by Licensor's Representative, which approval shall not be unreasonably withheld. All of said work shall be completed within one hundred eighty (180) days after the expiration or termination of this License. All of the terms, provisions and requirements of this paragraph shall survive the expiration or termination of this License.

II. Financial Consideration

A. License Fee. A license fee in the amount of FOUR HUNDRED SIXTEEN THOUSAND TWO HUNDRED FIFTY-SIX and No/100 Dollars ($416,256.00) ("License Fee") shall be due and payable on or prior to the Commencement Date.

In the event Licensor terminates this License pursuant to the provisions of Section I.B., Licensor agrees to refund to Licensee a pro rata share of the License Fee actually paid by Licensee to Licensor for that portion of the remaining term that is being terminated. For the avoidance of doubt, the amount of any refund payable to Licensee pursuant to this paragraph shall be determined net of any costs or expenses incurred by Licensor in connection with Licensee's unfulfilled obligations under this License (if any).

B. Application Fee. On or prior to the Commencement Date of this License, Licensee shall pay a non-refundable one-time fee of One Thousand and No/100 Dollars ($1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for this License.

C. Delivery of Payment. Payment of the above fees shall be made to Licensor at the office of Licensor's Representative, Attn: Right of Way Manager, P.O. Box 1152, Midland, Texas, 79702. Payment of the above fees shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes and special taxes and assessments for public improvements.

D. Late Payment. Licensee's failure to make payment of any of the above fees within thirty (30) days after such fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%) of such fee.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being thirty (30) feet in width of the locations with operations limited to areas as shown on **Exhibit A** attached hereto and incorporated herein for the purpose of operating, repairing, maintaining, replacing and removing, thereon, along the herein described locations, a ERW-HF steel construction pipeline, not to exceed sixteen (16) inches in diameter, for the transportation of oil and to have the right of ingress and egress at convenient points for such purpose (the "Property"). **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline described herein. The parties agree Licensee's failure to provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline described herein may result in the termination of this License. The decision to accept a complete as-built survey after the sixty-day deadline prescribed herein, or, conversely, to terminate this License shall be in the sole and absolute discretion of Licensor.**

B. **Road Repair.** Licensee covenants and agrees that it will repair, at its own expense, any of Licensor's roads that Licensee, its employees, contractors, representatives, agents or assigns damage on Licensor's property, so that such roads will comply with Licensor's standard specifications.

C. Utility Repair. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines, water meters and other utility lines owned by Licensor that Licensee, its employees, contractors, representatives, agents or assigns, damage so that such water lines, sewer lines, water meters and other utility lines shall comply with Licensor's standard specifications.

D. Pipeline Depth. Licensee covenants and agrees that it will bury the pipeline to be constructed hereunder no less than forty-eight (48) inches in depth. All backfill used in burying such pipeline shall be compacted to a density of ninety percent (90%), except where such pipeline crosses under a paved or traveled portion of any City of Midland right of way where such backfill shall be compacted to a density of ninety-five percent (95%). Licensor shall be afforded the opportunity to test the density on all backfill. Notwithstanding any provision to the contrary contained herein, Licensee covenants and agrees that, at any point that Licensee's pipeline intersects with a City of Midland utility line location, the pipeline shall be bored at a depth of at least (i) nine (9) feet under all City of Midland water utility lines and (ii) two (2) feet under all City of Midland sewer utility lines. Licensee agrees that it shall comply with 30 Tex. Admin. Code § 290.44(e), as amended, to the extent applicable to this License.

E. Approval of Bids. Before Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, Licensee shall first obtain written approval of the specifications therefor from Licensor's Representative, which approval shall be at Licensor's Representative's sole discretion.

F. Reservation of Rights. Licensor expressly reserves the right to install, repair, or reconstruct

streets or roads and all ancillary public uses usual and customary in connection with streets and roads, expressly including but not limited to drainage facilities and related structures in the rights of way used and occupied by Licensee.

Licensor reserves the right to lay and permit to be laid, sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground or overhead installation or improvement that may be deemed necessary or proper by the governing body of Licensor, in, on, across, along, over, under, and through any property occupied by Licensee. In permitting such work to be done, Licensor shall not be liable to Licensee for any damage so caused to Licensee's system or property, **NOR SHALL LICENSOR BE LIABLE TO LICENSEE FOR ANY DAMAGES TO LICENSEE'S PIPELINE OR OTHER PERMITTED FACILITIES ARISING OUT OF THE NEGLIGENCE BY LICENSOR, ITS EMPLOYEES, OFFICERS OR AGENTS, OR LICENSOR'S CONTRACTORS OR SUBCONTRACTORS**. If Licensor requires Licensee to remove, alter, change, adapt, or conform Licensee's facilities because of changes in the grade or construction of a street or in the location or manner of constructing a water pipe, sewer pipe, or other surface, underground or aboveground structure owned by Licensor, Licensee shall make the alterations or changes as soon as practicable, and in no event longer than one hundred eighty (180) days, when ordered in writing by Licensor, without claim for reimbursement for the cost of the relocation or for damages against Licensor. If these requirements impose a financial hardship upon Licensee, Licensee shall have the right to present alternative proposals for Licensor's consideration.

G. Non-exclusive. Licensor expressly reserves the full right to grant other easements or rights of way crossing or running parallel with the rights of way used by Licensee.

H. Abandonment. It is especially provided, however, that as an express condition of this License, and not as a mere covenant, in the event Licensee abandons any equipment or appurtenances associated with the undertakings contemplated by this License, or the Property ceases to be used for the purposes enumerated herein for any period of twelve (12) consecutive months, or longer, other than the time elapsing between the date hereof and construction, and upon giving Licensee one hundred and twenty (120) days' written notice, then and in that event, this License shall automatically terminate and revert to Licensor, its successors or assigns, free and clear of any right, title, or interest of Licensee.

I. Approval of Specifications. In the event Licensee desires to reconstruct, repair, alter, replace or remove any pipeline or other permitted facilities built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads and the rebuilding or repairs of any of Licensor's public utilities to Licensor's Representative for his or her prior written approval, which approval shall be at Licensor's Representative's sole discretion. In the event of emergency repairs necessary to restore service, Licensee shall notify Licensor's Representative before making any repairs if during a Licensor workday. If not on a workday, Licensee shall notify Licensor's Representative on the first workday after repairs have begun.

J. Gates and Fences. Without altering or expanding the limitations on ingress, egress and access to the Property set forth in Paragraph A. of Article III above, Licensee agrees to use existing gates and roadways where available, to enter, leave and cross the Property; provided that Licensee shall not use any road marked "Closed". Licensee and all persons entering or leaving the Property in connection with Licensee's operations hereunder shall keep all outside and interior gates securely

closed except during operations related to this License. Licensee shall keep all outside gates, and all other gates designated by Licensor, securely locked except during operations related to this License. At any gate that is to be locked, Licensor may install its own lock in addition to Licensee's lock.

Licensee agrees that Licensee shall not cut or go over any fence at any time or in connection with any operations on the Property without first obtaining Licensor's express prior consent thereto in writing. All gates or openings in fences shall be at mutually agreeable location(s) between Licensee and Licensor and shall be constructed as reasonably required by Licensor. Upon the termination of this License, at Licensor's election, gates in fences shall be left in place and shall thereafter be owned by Licensor or Licensee shall remove such gates and restore the fence to its original condition as nearly as reasonably practicable. The terms, provisions and requirements of this provision shall survive the termination or expiration of this License.

K. Trash. Licensee shall keep the Property free of trash and debris at all times. Under no circumstances, will Licensee be allowed to bury any trash, debris or foreign material of any kind on or under the Property. Licensor shall have the right to expel and permanently ban from the Property any person observed disposing of trash on the Property. Upon the completion of any operations, all ribbons, flags, stakes and similar items shall by promptly removed from the Property.

L. Hunting, Fishing and Alcohol Prohibited. No agent, employee, representative, contractor or subcontractor of Licensee or any other person allowed to enter the Property by Licensee shall be permitted to hunt, fish, trap, camp, picnic, ride motorcycles or four-wheelers or otherwise conduct any social gathering on the Property, nor shall any such persons be permitted to bring firearms, archery equipment, dogs, alcoholic beverages or illegal drugs on the Property at any time. Violations of this provision shall cause the violator to be regarded as a trespasser and subject to prosecution under trespass laws of the State of Texas. Licensor shall have the right to expel and permanently ban from the Property any person observed on the Property in violation of this provision.

M. Storage of Machinery and Equipment. Licensee shall use no part of the Property to store machinery, equipment, or other property of Licensee while it is not being used.

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace on, below or above the land covered by this License for any purpose allowed by law and deemed necessary or proper by Licensor and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by Licensor in, on, across, along, over, under, and through any portion of the Property. In the event of such work in connection with said purposes it shall be deemed necessary or proper by Licensor, at Licensor's sole discretion, to alter, change, or relocate any pipeline, property, or casing of Licensee, such alteration or change or relocation shall be commenced and completed by Licensee within one hundred eighty (180) days after being ordered in writing by Licensor pursuant to directions from Licensor without any claim for reimbursement for the cost of the alteration, change or relocation or damages against Licensor. The relocation, change, or alteration shall be at the sole cost of Licensee. Provided, however, that Licensee shall at all times be entitled to receive from appropriate governmental bodies, excluding Licensor, payment for alteration, change or relocation of its system to which it may be lawfully entitled to under applicable federal or state laws with respect to relocation payments. Without

limiting the foregoing, Licensor expressly reserves the full right to grant other licenses, easements and/or rights-of-way in, on, across, along, over, under or through all or any portion of the Property. Licensor expressly reserves the right to use and grant to third parties the right to use all or any portion of the Property and the surface, subsurface or airspace on, below or above the Property for any purpose.

O. Remediation. Licensee shall be responsible for any leaks or spills resulting from its operations which may occur on the Property and Licensee shall undertake all commercially reasonable efforts to ensure leaks and spills will be properly remediated with work on the affected area commencing within seven (7) days of initial discovery of an incident and continuing in good faith to its completion. Licensee shall report all spills and leaks to Licensor or it's representatives within twenty-four (24) hours of initial discovery. Any portion of the Property affected by leaks, spills, re-entry, repairs, maintenance, or other related damages will be subject to remediation. During remediation, all contaminated soil shall be removed and replaced with fresh soil, free of contaminants, chemicals, or deleterious materials that may impair the growth of vegetation or pose risk to human health and safety. The affected area will be returned to pre-remediation grades and conditions to the extent reasonably practicable. A minimum of five inches (5") of topsoil shall be uniformly spread over the newly prepared surface and Licensee shall plant the disturbed area with the type and quantity of native grass or other reasonable landscaping designated by Licensor so that the disturbed area shall be generally restored to its original condition. Acceptance of remediation work shall be in Licensor's sole discretion and contingent upon final inspection and verification of completion by Licensor or its representatives. All contaminated soil removed from the Property will be charged at rate set forth in the then most current University of Texas System Rate and Damage Schedule published by the University of Texas System for caliche.

IV. Standard General Conditions

A. Insurance. Licensee shall at all times during the term of this License maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

- Personal Injury: $1,000,000.00 per person
  $1,000,000.00 per occurrence
- Property Damage: $100,000.00 per occurrence

Business Automobile Liability: $1,000,000.00 combined single limit--
Personal Injury and Property Damage

Workers' Compensation: Statutory limits

Employers' Liability: $1,000,000.00 per accident or occurrence

Umbrella Liability: $10,000,000.00 each occurrence
$10,000,000.00 aggregate

The Commercial General Liability shall be on an occurrence basis. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

The Workers' Compensation coverage provided by Licensee shall inure to the benefit of employees injured during the course and scope of their employment by Licensee pursuant to this License. The Workers' Compensation insurance shall waive all rights of subrogation against Licensor.

The Business Automobile Liability insurance provided by Licensee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this License. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

All insurance required pursuant to this License, except for Worker's Compensation Insurance, shall name Licensor as an additional insured. All insurance required pursuant to this License, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to Licensor. The parties agree that, prior to the execution of this License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. Licensor shall determine, in its sole discretion, whether such requirements have been satisfied.

Licensor shall be provided written notice by Licensee's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Licensor shall not be required to provide any insurance whatsoever pursuant to this License.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this License to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required herein and name the City of Midland as an additional insured (except as to Worker's Compensation Insurance). Licensee certifies that the one or more certificates of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Licensee shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Licensee.

B. Indemnity. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, LICENSEE, ITS SUCCESSORS AND ASSIGNS, AGREE TO INDEMNIFY, PROTECT, DEFEND AND HOLD HARMLESS LICENSOR AND LICENSOR'S REPRESENTATIVES, AGENTS, ATTORNEYS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, "INDEMNITEES") FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) THIS LICENSE,

LICENSEE'S USE OF OR ACTIVITIES ON THE PROPERTY OR ANY OTHER PROPERTY OWNED BY LICENSOR, OR ANY ACT OR OMISSION OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "LIABILITIES"), EVEN IF SUCH LIABILITIES ARISE FROM OR ARE ATTRIBUTED, IN WHOLE OR IN PART, TO THE NEGLIGENCE OF ANY INDEMNITEE. LICENSEE SHALL PROMPTLY ADVISE LICENSOR OF ANY ACTION, ADMINISTRATIVE OR LEGAL PROCEEDING OR INVESTIGATION TO WHICH THIS INDEMNIFICATION MAY APPLY, AND OF WHICH LICENSEE HAS RECEIVED NOTICE, AND LICENSEE, AT LICENSEE'S EXPENSE, SHALL ASSUME ON BEHALF OF LICENSOR (AND THE OTHER INDEMNITEES) AND CONDUCT WITH DUE DILIGENCE AND IN GOOD FAITH THE DEFENSE THEREOF WITH COUNSEL REASONABLY SATISFACTORY TO LICENSOR; PROVIDED, HOWEVER, THAT ANY INDEMNITEE SHALL HAVE THE RIGHT, AT ITS OPTION, TO BE REPRESENTED THEREIN BY COUNSEL OF ITS OWN SELECTION AND AT ITS OWN EXPENSE. IN THE EVENT OF FAILURE BY LICENSEE TO ASSUME THE DEFENSE OF LICENSOR IN ACCORDANCE WITH THIS INDEMNIFICATION, LICENSOR, AT ITS OPTION, AND WITHOUT RELIEVING LICENSEE OF ITS OBLIGATION HEREUNDER, MAY ASSUME SUCH DEFENSE, AFTER WRITTEN NOTICE THEREOF TO LICENSEE AND LICENSEE'S FAILURE TO RESPOND THERETO WITHIN TEN (10) BUSINESS DAYS AFTER RECEIPT OF SUCH NOTICE (SAID TEN (10) DAY PERIOD SHALL NOT APPLY IN ANY CASE WHERE IMMEDIATE ANSWERS, RESPONSES, OR OTHER AFFIRMATIVE ACTION IS REQUIRED TO PRESERVE THE RIGHTS OF LICENSOR) BUT ALL REASONABLE COSTS AND EXPENSES SO INCURRED BY LICENSOR IN THAT EVENT SHALL BE REIMBURSED BY LICENSEE TO LICENSOR, TOGETHER WITH INTEREST ON THE SAME FROM THE DATE ANY SUCH EXPENSE WAS PAID BY LICENSOR UNTIL REIMBURSED BY LICENSEE, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS, BY THE LAWS OF THE STATE OF TEXAS.

WITHOUT LIMITING THE FOREGOING, LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY, PROTECT, DEFEND AND SAVE LICENSOR HARMLESS FROM ANY AND ALL CLAIMS, LIENS, JUDGMENTS, SUITS, CAUSES OF ACTION, AND DEMANDS OF ANY SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, OR FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, OR SUPPLIES, IN CONNECTION WITH THE CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE OR OTHER PERMITTED FACILITIES DESCRIBED HEREIN.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE SHALL INDEMNIFY, PROTECT AND HOLD HARMLESS AND DEFEND EACH INDEMNITEE FROM ALL LIABILITIES, SUITS, ACTIONS, CLAIMS, DAMAGES, CAUSES OF ACTION, CHARGES, JUDGMENTS, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, 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 ANY INDEMNITEE, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', REPRESENTATIVES', AGENTS', CONTRACTORS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE, INCLUDING, WITHOUT LIMITATION, SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE OR PERMITTED FACILITIES ON LICENSOR'S PROPERTY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY INDEMNITEE, INCLUDING RELATED ATTORNEY'S FEES.

WITHOUT LIMITING ANY OF THE FOREGOING, LICENSEE, ITS SUCCESSORS AND ASSIGNS, SHALL INDEMNIFY, PROTECT, DEFEND AND HOLD INDEMNITEES HARMLESS FROM AND AGAINST ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, PERSONAL INJURIES, PROPERTY DAMAGE, AND ALL COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) (i) FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, THE "INDEMNIFYING PARTIES"), TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY INDEMNIFYING PARTY'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR (ii) ANY INDEMNIFYING PARTY'S HANDLING, STORING, RELEASING OR TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

IT IS THE INTENTION OF THE PARTIES HERETO THAT THE PROVISIONS OF THIS INDEMNIFICATION SHALL APPLY TO AND PROTECT EACH INDEMNITEE FROM THE CONSEQUENCES OF STRICT LIABILITY IMPOSED OR THREATENED TO BE IMPOSED ON SUCH INDEMNITEE, AS WELL AS FROM THE

CONSEQUENCES OF THE NEGLIGENCE OF ANY INDEMNITEE, WHETHER OR NOT THAT NEGLIGENCE IS A CONTRIBUTING OR CONCURRING CAUSE OF ANY LIABILITY INDEMNIFIED AGAINST IN THIS ARTICLE IV.B.

THE TERMS, PROVISIONS, REQUIREMENTS AND OBLIGATIONS OF THIS ARTICLE IV.B. SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS LICENSE, AND SHALL NOT BE LIMITED BY OR TO DAMAGES, COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEES' BENEFIT ACTS.

C. Assignment. The provisions of this License shall inure to the benefit of and be binding upon Licensor and Licensee and their respective successors and permitted assigns. The rights and privileges granted by Licensor under this License inure to the benefit of Licensee. No rights, privileges or obligations hereunder shall be assignable by Licensee without the express prior written consent of Licensor. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee shall have exclusive control of and the exclusive right to control the details of the 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 respondeat superior shall not apply as between Licensor and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licensor and Licensee. No person performing any of the work described hereunder shall be considered an officer, agent, servant or employee of Licensor. Further, it is specifically understood and agreed that nothing in this License 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. Licensee shall be an independent contractor under this License and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. Licensor does not have the power to direct the order in which the work is done. Licensor shall not have the right to control the means, methods or details of Licensee's work. Licensee shall assume exclusive responsibility for the work. Licensee is entirely free to do the work in its own way. The provisions of this subparagraph (D.) shall not be deemed or construed as contradicting, limiting or conflicting with the provisions of subparagraph (M.) below.

E. Attorney Fees. SHOULD LICENSOR BE REQUIRED TO RESORT TO EMPLOYMENT OF ATTORNEYS TO ENFORCE THIS LICENSE, OR ANY OF ITS RIGHTS UNDER THIS LICENSE, LICENSOR SHALL BE ENTITLED TO REIMBURSEMENT FROM LICENSEE FOR LICENSOR'S ATTORNEYS' FEES. LICENSEE SHALL REIMBURSE LICENSOR FOR LICENSOR'S ATTORNEYS' FEES INCURRED IN CONNECTION WITH THE PREPARATION AND NEGOTIATION OF THIS LICENSE. BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE, AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE, ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE

AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LICENSE, OR THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE. WITHOUT LIMITING THE FOREGOING, LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, OR TO THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, 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, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

LICENSEE AND LICENSOR ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS LICENSE WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

F. Governing Law & Venue. All performance and payments made pursuant to this License 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 License, or the performance of this License shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this License shall be deemed to have been performed in Midland County, Texas. This License shall be construed, interpreted and enforced under the laws 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 other claims or disputes, arising from or relating in any way to the subject matter of this License, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

G. Release. NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS LICENSE, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, AND LICENSOR'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE 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 LICENSOR'S NEGLIGENCE.

H. Governmental Immunity. By executing this License, Licensor is not waiving its right of

governmental immunity. Licensor is retaining its immunity from suit. Licensor is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY**.

I. Third-Party Beneficiary. Except as provided in Article IV.B. above with respect to Indemnitees, (i) Licensor's granting of this License does not create any third-party beneficiary, (ii) there is no third-party beneficiary to this License, and (iii) no person or entity who is not a party to this License shall have any third-party beneficiary or other rights hereunder.

J. Notices. Any notice or communication required in the administration of this License shall be sent by certified mail, return receipt requested, to the parties' respective mailing addresses as set forth hereinabove.

K. Notice of Alleged Breach; Statutory Prerequisite. Without limiting the provisions of Article IV.G. above, as a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) 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 Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager or other such official of Licensor within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor 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, Licensee's failure to comply with the requirements herein shall perpetually bar Licensee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Licensor has actual or constructive notice or knowledge of said claim or alleged damages. Licensee agrees that the requirements of this entire License are reasonable.

L. Consideration. The terms of this License are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

M. Waiver of Governmental Immunity; Chapter 271, TEX. LOC. GOV'T CODE. The parties hereto agree that this License does not constitute a "Contract" for providing goods and/or services to Licensor as discussed in Subchapter I of Chapter 271 of the Texas Local Government Code, and Licensor does not waive, to the maximum extent allowed by law, any constitutional, statutory or common law right to sovereign immunity or governmental immunity from liability or suit. Licensor expressly does not consent to be sued or be liable. To the maximum extent allowed by

law, nothing in this License constitutes a waiver of Licensor's governmental immunity and the parties hereto expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licensor's governmental immunity under Subchapter I of Chapter 271 of the Texas Local Government Code, nor shall it constitute nor be interpreted as a waiver of Licensor's governmental immunity for the benefit of any third-party lacking privity to this License.

This License does not obligate Licensee to use the Property to construct, repair, operate, replace, or maintain Licensor's facilities or structures described herein, rather, it merely prohibits Licensee from using the Property for any other purpose. This License restricts the use of the Property to a specific purpose but does not require the use of the Property for a specific purpose. Licensee is not providing a service to Licensor. Licensee is paying Licensor for temporary rights in real property, not for a service. Any such provision shall be deemed to be a covenant against noncomplying use, not a covenant to use. Licensee's use of the Property in compliance with a restriction shall not constitute a service, and such complying use shall not operate to waive Licensor's governmental immunity.

N. Compliance. Licensee agrees that it shall comply with Texas Government Code Section 2252.908, as amended, to the extent that this statute applies to this License. Licensee agrees that it shall comply with Texas Local Government Code Section 176.006, as amended, to the extent that this statute applies to this License.

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191 of the Texas Natural Resources Code. By executing this License, Licensee represents that it has contacted the Texas Historical Commission (the "Commission") for the purpose of determining whether the Commission will request that an archaeological survey be completed before Licensee commences operations on the Property, as contemplated herein. Licensee agrees that it shall complete or cause to be completed an archaeological survey before commencing any operations on the Property if the Commission so requests and deliver the same to Licensor. Notwithstanding any provision contained herein, in the event that any site, object, artifact, or other feature of archaeological, scientific, educational, cultural, or historical interest is encountered during the operations authorized by this License, Licensee will immediately notify Licensor and the Commission so that adequate measures may be undertaken to protect or recover such discoveries or findings, as deemed appropriate by Licensor or the Commission.

P. Waiver. No waiver of any of the provisions of this License shall be deemed or constitute a waiver of any other provisions of this License, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. Likewise, the failure of Licensor to enforce any provision of this License shall not be deemed nor shall constitute a waiver of the right of Licensor to enforce such provision.

Q. Counterpart Execution. This License may be executed in several counterparts, and any such agreement shall be deemed an original for all intents and purposes.

R. No Release of Liability. Notwithstanding anything to the contrary contained in this License, the termination or expiration of this License shall not relieve Licensee of any liability, duty or obligation under this License, nor shall it preclude Licensor from asserting any right to specific performance, damages or any other rights or remedies to which Licensor may be entitled. Upon termination or expiration of this License for any reason, Licensee shall execute and deliver a

recordable release of this License to Licensor in form and substance satisfactory to Licensor.

S. Entire Agreement. This License constitutes the entire agreement between Licensor and Licensee concerning the subject matter hereof, superseding all negotiations, prior discussions, prior licenses and prior agreements and understandings related to the subject matter hereof. This License may only be amended by written instrument executed by Licensor and Licensee.

LICENSOR:
CITY OF MIDLAND, TEXAS

By:_____
Tommy Gonzalez, City Manager

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT AND COMPLETENESS:

_____
Carl Craigo, Director of Utilities

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

[Signature Page Follows]

LICENSEE:
PLAINS ORYX PERMIAN BASIN PIPELINE LLC

By:_____
Printed Name: George N. Polydoros
Title: Vice President

THE STATE OF _____ §
§
COUNTY OF _____ §

BEFORE ME, the undersigned authority, on this ___ day of _____, 2026 personally appeared George N. Polydoros an officer of Plains Oryx Permian Basin Pipeline LLC 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 entity, 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 _____, 2026.

_____
Notary Public, State of _____

EXHIBIT "A"

SECTION 34, BLOCK 38 T1N,
T. & P. R.R. CO. SURVEY, A-672
MARTIN COUNTY, TEXAS
RIGHT-OF-WAY PLAT

AS-BUILT

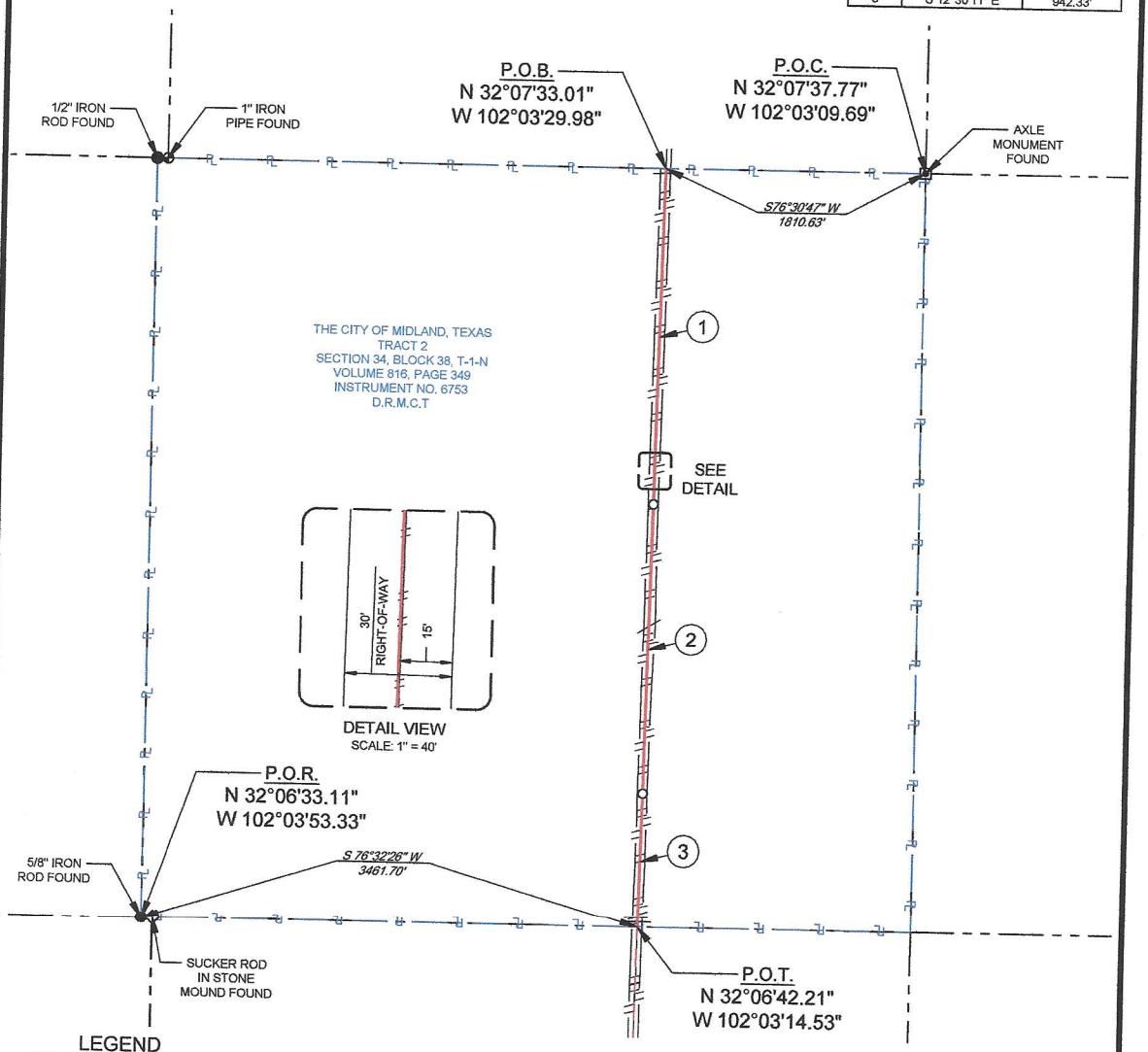
TOTAL LENGTH CENTERLINE: 5,302.81 FEET OR 321.38 RODS
RIGHT-OF-WAY LIMITS: 3.65 ACRES
AS-BUILT PIPE LENGTH: 5,302.82 FEET OR 321.38 RODS

PLAINS ORYX PERMIAN

SCALE: 1" = 1000'
0' 500' 1000'

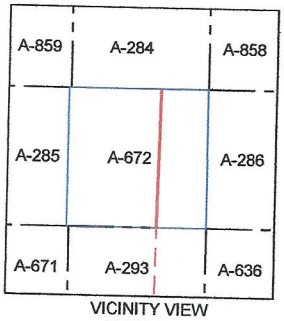
LINE TABLE

LINE	BEARING	DISTANCE
1	S 12°33'32" E	2341.47'
2	S 12°37'16" E	2019.01'
3	S 12°30'11" E	942.33'



LEGEND

- SECTION LINE
- TRACT BORDER
- SURVEYED BASELINE
- CONTINUED BASELINE
- EDGE RIGHT-OF-WAY
- EXISTING PIPELINE
- POINT OF INTERSECTION
- IRON ROD FOUND
- IRON PIPE FOUND
- MONUMENT FOUND
- STONE FOUND



VICINITY VIEW
NOT TO SCALE

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
481 WINSCOTT ROAD, Ste. 200 • BENBROOK, TEXAS 76126
TELEPHONE: (817) 744-7512 • FAX (817) 744-7554
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.

Thomas Lee Howell, R.P.L.S., No. 7005
SURVEYED ON THE GROUND: December 18, 2025
Field note description of even date accompanies this plat.

MUNGER REPLACEMENT PIPELINE AS-BUILT	REVISION:	
	LR	02/11/2026
DATE: 02/04/2026		
FILE: EP_MUNGER_REPLACEMENT_PIPELINE_SEC_34_AB_REV1		
DRAWN BY: CSG		
SHEET: 1 OF 2		

NOTES:
1. ORIGINAL DOCUMENT SIZE: 8.5" X 14"
2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GRID BASED UPON THE TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE, U.S. SURVEY FEET.
3. CERTIFICATION IS MADE ONLY TO THE LOCATION OF THIS RIGHT-OF-WAY, IN RELATION TO THE EVIDENCE FOUND DURING A FIELD SURVEY, MADE ON THE GROUND, UNDER MY SUPERVISION, AND USING DOCUMENTATION PROVIDED BY PLAINS ORYX PERMIAN. ONLY UTILITIES/RIGHT-OF-WAYS THAT WERE VISIBLE ON THE DATE OF THIS SURVEY, WITHIN/ADJOINING THIS RIGHT-OF-WAY, HAVE BEEN LOCATED AS SHOWN HEREON OF WHICH I HAVE KNOWLEDGE. THIS CERTIFICATION IS LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NON-TRANSFERABLE, AND MADE FOR THIS TRANSACTION ONLY.
4. ADJOINER INFORMATION SHOWN FOR INFORMATIONAL PURPOSES ONLY.
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6. E.O.L./P.O.E./P.O.T. = END OF LINE/POINT OF EXIT/POINT OF TERMINATION
7. D.R.M.C.T. = DEED RECORDS, MARTIN COUNTY, TEXAS

S:\SURVEY\PLAINS\MUNGER_REPLACEMENT_PIPELINE_AB\FINAL_PRODUCTS\EP_MUNGER_REPLACEMENT_PIPELINE_SEC_34_AB_REV1.DWG 2/11/2026 8:49:41 AM leonel.reyes

EXHIBIT "A"
AS-BUILT
MARTIN COUNTY, TEXAS
RIGHT-OF-WAY DESCRIPTION

February 11, 2026

Being a centerline description of a thirty (30) foot wide right-of-way, 15 feet each side of a surveyed baseline as shown on sheet 1 of 2 of this Exhibit "A", being situated in the T. & P. R.R. CO. Survey, Section 34, Block 38, Township 1 North, Abstract No. 672, Martin County, Texas, out of a tract of land, described as Tract 2, in deed to The City of Midland, Texas, recorded in Volume 816, Page 349, Instrument No. 6753, Deed Records, Martin County, Texas, (D.R.M.C.T.), said 30 foot wide right-of-way being more particularly described by centerline description as follows:

COMMENCING (P.O.C., N 32°07'37.77", W 102°03'09.69") marking the Northeast corner of said Section 34,

THENCE South 76°30'47" West, a distance of 1,810.63 feet to the POINT OF BEGINNING (P.O.B., N 32°07'33.01", W 102°03'29.98"), at a point on the North line of said Section 34,

THENCE South 12°33'32" East, a distance of 2,341.47 feet;
THENCE South 12°37'16" East, a distance of 2,019.01 feet;

THENCE South 12°30'11" East, a distance of 942.33 feet to the POINT OF TERMINATION (P.O.T., N 32°06'42.21", W 102°03'14.53") to a point on the South line of said Section 34, and END OF THIS DESCRIPTION, from which a 5/8-inch iron rod found for the Southwest corner of said Section 34, bears: South 76°32'26" West, a distance of 3,461.70 feet.

The above surveyed baseline traverses said Section 34 for a total distance of 5,302.81 feet or 321.38 rods.

All bearings, distances, and coordinates contained herein are grid, based upon the Texas Coordinate System of 1983 (commonly, Texas State Plane Coordinate System), North Central Zone, in U.S. Survey Feet.

Plat of even date accompanies this field note description.

Topographic, Co.
481 Winscott Road
Suite 200
Benbrook, TX 76126

PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.

Thomas Lee Howell, R.P.L.S., No. 7005
SURVEYED ON THE GROUND: December 18, 2025

S:\SURVEY\PLAINS\MUNGER_REPLACEMENT_PIPELINE_AB\FINAL_PRODUCTS\EP_MUNGER_REPLACEMENT_PIPELINE_SEC_34_AB_REV1.DWG 2/11/2026 8:49:41 AM leonel.reyes

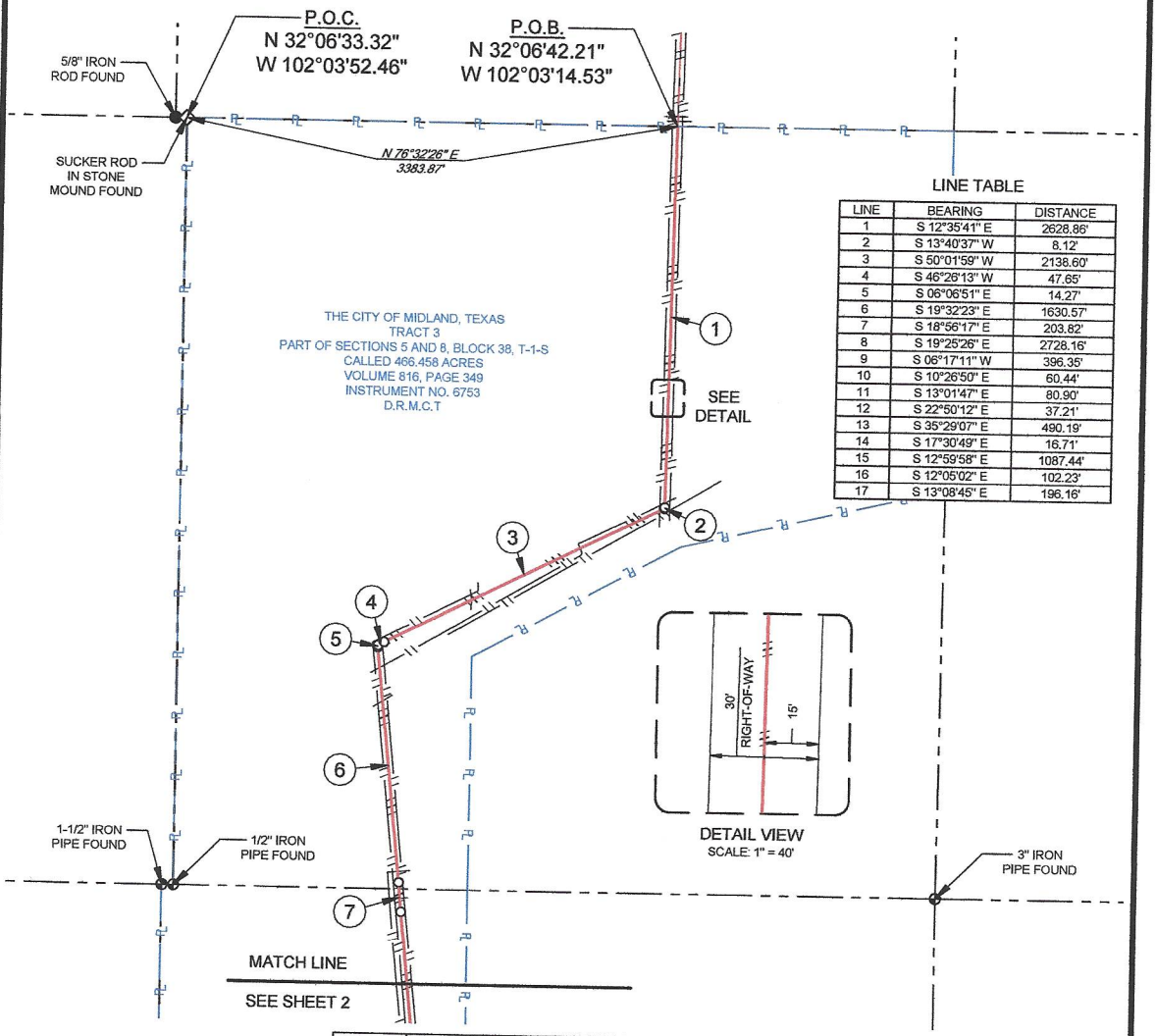
EXHIBIT "A"

SECTIONS 5 & 8, BLOCK 38 T1N,
T. & P. R.R. CO. SURVEY, A-293, A-637, A-1213
MARTIN COUNTY, TEXAS
RIGHT-OF-WAY PLAT
AS-BUILT

TOTAL LENGTH CENTERLINE: 11,867.68 FEET OR 719.25 RODS
RIGHT-OF-WAY LIMITS: 8.17 ACRES
AS-BUILT PIPE LENGTH: 11,867.83 FEET OR 719.26 RODS

PLAINS ORYX PERMIAN

SCALE: 1" = 1000'
0' 500' 1000'



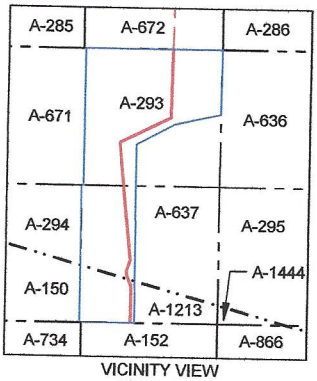
LINE TABLE

LINE	BEARING	DISTANCE
1	S 12°35'41" E	2628.86'
2	S 13°40'37" W	8.12'
3	S 50°01'59" W	2138.60'
4	S 46°26'13" W	47.65'
5	S 06°06'51" E	14.27'
6	S 19°32'23" E	1630.57'
7	S 18°56'17" E	203.82'
8	S 19°25'26" E	2728.16'
9	S 06°17'11" W	396.35'
10	S 10°26'50" E	60.44'
11	S 13°01'47" E	80.90'
12	S 22°50'12" E	37.21'
13	S 35°29'07" E	490.19'
14	S 17°30'49" E	16.71'
15	S 12°59'58" E	1087.44'
16	S 12°05'02" E	102.23'
17	S 13°08'45" E	196.16'

DETAIL VIEW
SCALE: 1" = 40'

LEGEND

- COUNTY LINE
- SECTION LINE
- TRACT BORDER
- SURVEYED BASELINE
- CONTINUED BASELINE
- EDGE OF RIGHT-OF-WAY
- EXISTING PIPELINE
- POINT OF INTERSECTION
- IRON ROD FOUND
- IRON PIPE FOUND
- STONE FOUND



VICINITY VIEW
NOT TO SCALE

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
481 WINSCOTT ROAD, Ste. 200 • BENBROOK, TEXAS 76126
TELEPHONE: (817) 744-7512 • FAX (817) 744-7554
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

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Thomas Lee Howell, R.P.L.S., No. 7005
SURVEYED ON THE GROUND: December 18, 2025
Field note description of even date accompanies this plat.

MUNGER REPLACEMENT PIPELINE AS-BUILT	REVISION:	
	LR	02/11/2026
DATE: 02/04/2026		
FILE: EP_MUNGER_REPLACEMENT_PIPELINE_SEC_5-8_AB_REV1		
DRAWN BY: CSG		
SHEET: 1 OF 3		

NOTES:
1. ORIGINAL DOCUMENT SIZE: 8.5" X 14"
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7. D.R.M.C.T. = DEED RECORDS, MARTIN COUNTY, TEXAS

S:\SURVEY\PLAINS\MUNGER_REPLACEMENT_PIPELINE_AB\FINAL_PRODUCTS\EP_MUNGER_REPLACEMENT_PIPELINE_SEC_5-8_AB_REV1.DWG 2/11/2026 8:55:32 AM leonel.reyes

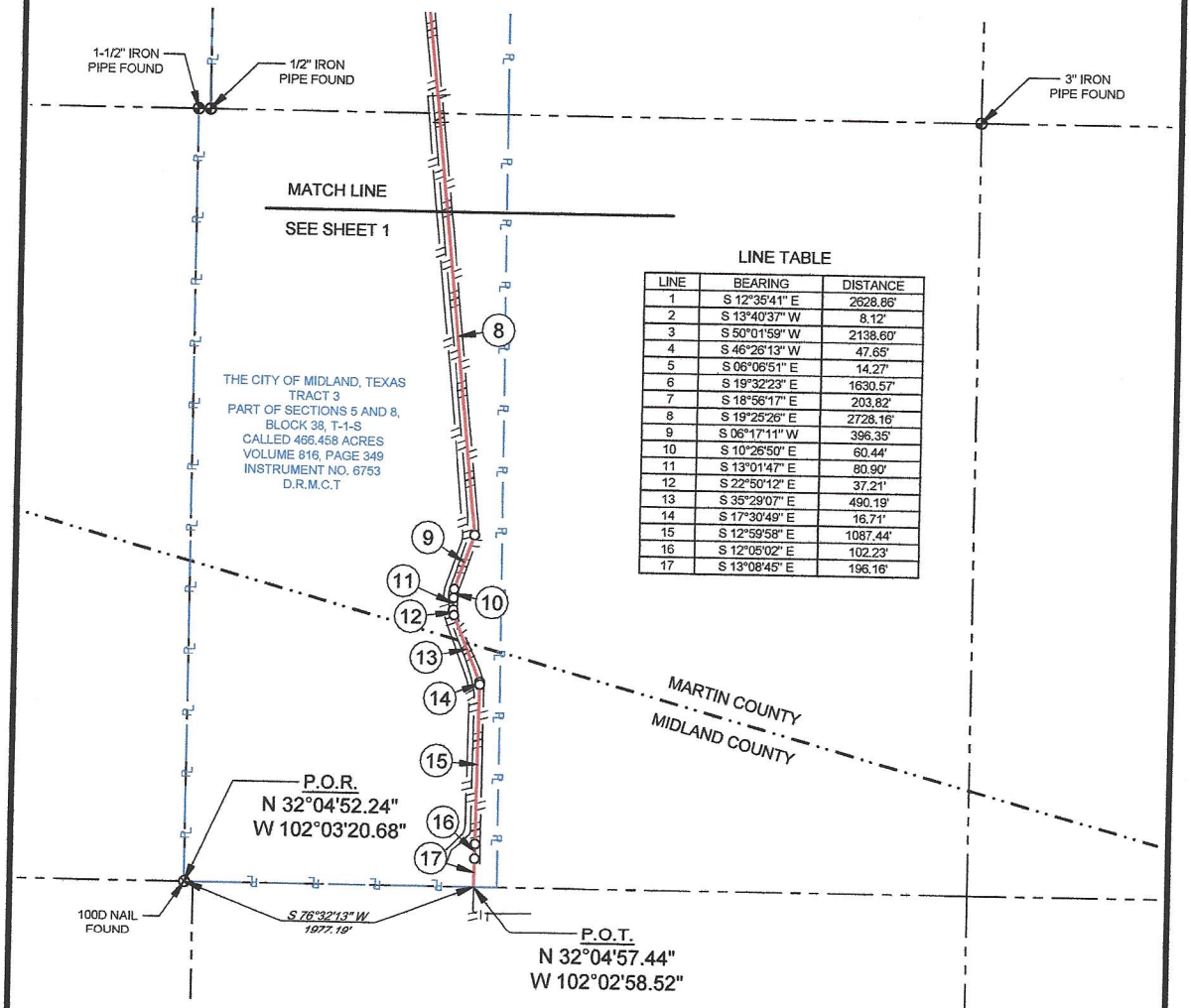
EXHIBIT "A"

SECTIONS 5 & 8, BLOCK 38 T1N,
T. & P. R.R. CO. SURVEY, A-293, A-637, A-1213
MARTIN COUNTY, TEXAS
RIGHT-OF-WAY PLAT
AS-BUILT

TOTAL LENGTH: 11,867.68 FEET OR 719.25 RODS
RIGHT-OF-WAY LIMITS: 8.17 ACRES
AS-BUILT PIPE LENGTH: 11,867.83 FEET OR 719.26 RODS

PLAINS ORYX PERMIAN

SCALE: 1" = 1000'
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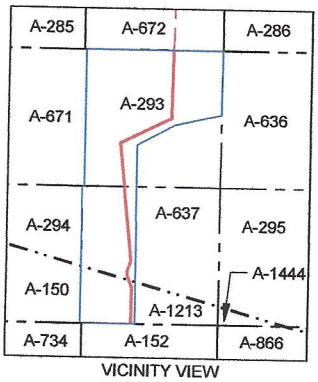


LINE TABLE

LINE	BEARING	DISTANCE
1	S 12°35'41" E	2628.86'
2	S 13°40'37" W	8.12'
3	S 50°01'59" W	2138.60'
4	S 46°26'13" W	47.65'
5	S 06°06'51" E	14.27'
6	S 19°32'23" E	1630.57'
7	S 18°56'17" E	203.82'
8	S 19°25'26" E	2728.16'
9	S 06°17'11" W	396.35'
10	S 10°26'50" E	60.44'
11	S 13°01'47" E	80.90'
12	S 22°50'12" E	37.21'
13	S 35°29'07" E	490.19'
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LEGEND

- COUNTY LINE
- SECTION LINE
- TRACT BORDER
- SURVEYED BASELINE
- CONTINUED BASELINE
- EDGE OF RIGHT-OF-WAY
- EXISTING PIPELINE
- POINT OF INTERSECTION
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- IRON PIPE FOUND
- STONE FOUND



VICINITY VIEW
NOT TO SCALE

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Thomas Lee Howell, R.P.L.S., No. 7005
SURVEYED ON THE GROUND: December 18, 2025
Field note description of even date accompanies this plat.

MUNGER REPLACEMENT PIPELINE AS-BUILT	REVISION:	
	LR	02/11/2026
DATE: 02/04/2026		
FILE: EP_MUNGER_REPLACEMENT_PIPELINE_SEC_5-8_AB_REV1		
DRAWN BY: CSG		
SHEET: 2 OF 3		

NOTES:
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7. D.R.M.C.T. - DEED RECORDS, MARTIN COUNTY, TEXAS

S:\SURVEY\PLAINS\MUNGER_REPLACEMENT_PIPELINE_AB\FINAL_PRODUCTS\EP_MUNGER_REPLACEMENT_PIPELINE_SEC_5-8_AB_REV1.DWG 2/11/2026 8:55:32 AM leonel.reyes

EXHIBIT "A"
AS-BUILT
MARTIN COUNTY, TEXAS
RIGHT-OF-WAY DESCRIPTION

February 11, 2026

A centerline description of a thirty (300 foot wide right-of-way, 15 feet each side of a surveyed baseline as shown on sheets 1 & 2 of 3 of this Exhibit "A", being situated in the T. & P. R.R. CO. Survey, Sections 5 & 8, Block 38, Township 1 North, Abstract No. 293, Abstract No. 637, and Abstract No. 1213, Martin and Midland Counties, Texas, out of a called 466.458 acre tract of land, described as Tract 3, in deed to The City of Midland, Texas, recorded in Volume 816, Page 349, Instrument No. 6753, Deed Records, Martin County, Texas, (D.R.M.C.T.), said 30 foot wide right-of-way being more particularly described by centerline description as follows:

COMMENCING (P.O.C., N 32°06'33.32", W 102°03'52.46") from a found sucker rod in stone mound for the Northwest corner of said Section 5;

THENCE North 76°32'26" East, a distance of 3,383.87 feet to the POINT OF BEGINNING (P.O.B., N 32°06'42.21", W 102°03'14.53"), at a point on the North line of said Section 5;

THENCE South 12°35'41" East, a distance of 2,628.86 feet;
THENCE South 13°40'37" West, a distance of 8.12 feet;
THENCE South 50°01'59" West, a distance of 2,138.60 feet;
THENCE South 46°26'13" West, a distance of 47.65 feet;
THENCE South 06°06'51" East, a distance of 14.27 feet;
THENCE South 19°32'23" East, a distance of 1,630.57 feet;
THENCE South 18°56'17" East, a distance of 203.82 feet;
THENCE South 19°25'26" East, a distance of 2,728.16 feet;
THENCE South 06°17'11" West, a distance of 396.35 feet;
THENCE South 10°26'50" East, a distance of 60.44 feet;
THENCE South 13°01'47" East, a distance of 80.90 feet;
THENCE South 22°50'12" East, a distance of 37.21 feet;
THENCE South 35°29'07" East, a distance of 490.19 feet;
THENCE South 17°30'49" East, a distance of 16.71 feet;
THENCE South 12°59'58" East, a distance of 1,087.44 feet;
THENCE South 12°05'02" East, a distance of 102.23 feet;

THENCE South 13°08'45" East, a distance of 196.16 feet to the POINT OF TERMINATION (P.O.T., N 32°04'57.44", W 102°02'58.52") to a point on the South line of said Section 8, and END OF THIS DESCRIPTION, from which a 100D nail found for the Southwest corner of said Section 8, bears: South 76°32'13" West, a distance of 1,977.19 feet.

The above surveyed baseline traverses said Sections 5 & 8 for a total distance of 11,867.68 feet or 719.25 rods.

All bearings, distances, and coordinates contained herein are grid, based upon the Texas Coordinate System of 1983 (commonly, Texas State Plane Coordinate System), North Central Zone, in U.S. Survey Feet.

Plat of even date accompanies this field note description.

Topographic, Co.
481 Winscott Road
Suite 200
Benbrook, TX 76126

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Thomas Lee Howell, R.P.L.S., No. 7005
SURVEYED ON THE GROUND: December 18, 2025

S:\SURVEY\PLAINS\MUNGER_REPLACEMENT_PIPELINE_AB\FINAL_PRODUCTS\EP_MUNGER_REPLACEMENT_PIPELINE_SEC_5-8_AB_REV1.DWG 2/11/2026 8:55:33 AM leonol.reyes

BLK 39-1-N SEC 26
BLK 39-1-N SEC 25
BLK 38-1-N SEC 32
BLK 38-1-N SEC 31
BLK 38-1-N SEC 30
BLK 39-1-N SEC 35
BLK 39-1-N SEC 36
BLK 38-1-N SEC 33
BLK 38-1-N SEC 34
BLK 38-1-N SEC 35
BLK 39-1-S SEC 2
BLK 39-1-S SEC 1
BLK 38-1-S SEC 6
BLK 38-1-S SEC 5
BLK 38-1-S SEC 4
Replacement Pipeline ROW
1,040.64 Rods (17,170.49 ft)
Martin County
Midland County
BLK 39-1-S SEC 11
BLK 39-1-S SEC 12
BLK 38-1-S SEC 7
BLK 38-1-S SEC 8
BLK 38-1-S SEC 9
BLK X H P HILLIARD SEC 11
BLK X H P HILLIARD SEC 12
BLK 38-1-S SEC 18
BLK 38-1-S SEC 17
BLK 38-1-S SEC 16
BLK 38-1-S SEC 15
BLK 38-1-S SEC 14

LOCATION MAP

Date: 2/13/2026

Replacement Pipeline ROW
County Boundary
Survey Section

Plains in Midland and Martin Co.
Munger Replacement Pipeline (As-Built)

N W E S

0 1,000 2,000 Feet

©THE CITY OF MIDLAND - 2026
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED U

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 10/27/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

Holder Identifier :

PRODUCER
Aon Risk Services Southwest, Inc.
Houston TX Office
1300 Post Oak Blvd., Suite 1400
Houston TX 77056 USA

CONTACT NAME:
PHONE (A/C. No. Ext): (866) 283-7122 **FAX (A/C. No.):** (800) 363-0105
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Ironshore Specialty Insurance Company	25445
INSURER B:	Old Republic Insurance Company	24147
INSURER C:	Old Republic General Ins Corp	24139
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
Plains All American Pipeline, L.P.
Plains Marketing, L.P
Plains Pipeline, L.P.
333 Clay St, Suite 1600
Houston TX 77002 USA

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X **COMMERCIAL GENERAL LIABILITY** CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:			MWZY31886525 SIR applies per policy terms & conditions	11/01/2025	11/01/2026	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$15,000,000 $500,000 $5,000 $15,000,000 $15,000,000 $15,000,000
B	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY			MWTB 318866 25 SIR applies per policy terms & conditions	11/01/2025	11/01/2026	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$15,000,000
	UMBRELLA LIAB OCCUR **EXCESS LIAB** CLAIMS-MADE DED RETENTION						EACH OCCURRENCE AGGREGATE	
B	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N N	N / A	MWC31886325 SIR applies per policy terms & conditions	11/01/2025	11/01/2026	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT	 $2,000,000 $2,000,000 $2,000,000
A	Environmental Site Liability			ISPILLSCBNZB005 Claims Made Coverage	11/01/2025	11/01/2026	Each Event Limit Aggregate Limit	$10,000,000 $10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Pollution policy contains both gradual and Sudden & Accidental Pollution Discharge, for any Pollution discovered in 30 days or less. The City of Midland is included as Additional Insured in accordance with the policy provisions of the General Liability, and Automobile Liability policies. A Waiver of Subrogation is granted in favor of The City Of Midland in accordance with the policy provisions of the General Liability, Automobile Liability, Environmental Site Liability and Workers' Compensation policies.

Certificate No :

CERTIFICATE HOLDER

The City of Midland
PO Box 1152
Midland TX 79702 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Southwest, Inc.

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AGENCY CUSTOMER ID: 440000000289
LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY	NAMED INSURED
Aon Risk Services Southwest, Inc.	Plains All American Pipeline, L.P.
POLICY NUMBER: See Certificate Number:	
CARRIER: See Certificate Number: / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 **FORM TITLE:** Certificate of Liability Insurance

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

ADDITIONAL POLICIES If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	OTHER							
C	Excess Workers Compensation			MWXS31886425 Statutory XS - ND, OH SIR applies per policy terms & conditions	11/01/2025	11/01/2026	Retention	$2,000,000

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City Council Meeting

Item Number: 16.
Meeting Date: May 12, 2026
To: City Council
From: Alexis Martinez, Associate Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 5,600-SQUARE-FOOT PORTION OF LOT 6A, BLOCK 62, BELMONT ADDITION, SECTION 23, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF EAST INTERSTATE 20, APPROXIMATELY 475 FEET WEST OF SOUTH TERRELL STREET), WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:
Juan Felipe Viva Celis, on behalf of Belmont Realty, LLC, is requesting a Specific Use Designation with term, for the sale of all alcoholic beverages for on-premises consumption in a restaurant called La Barra Catracha, LLC located at 503 East Intersection 20.

Recommended Action:
Approve

Fiscal Impact:
None

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

BP, Business Park District

Surrounding Zoning and Land Use:

The properties to the north are zoned PD, Planned Development District for a Shopping Center and is the location of houses. The properties to the east, south, and west are zoned BP, I-20 Business Park District and is the location of hotels, restaurants, a church, an education lab, and other various businesses.

Analysis:

The property is zoned BP, Business Park District. The BP zoning allows for Alcoholic Beverages Sales for On-Premises Consumption in a Restaurant with the approval of an SUD. The property does have an existing SUD. Per the approved plans, the site will have adequate parking and circulation. The total area of the restaurant is 5,600 square feet and the proposed alcohol serviceable area is 3,295 square feet.

The proposed days and hours of operation are:

Sunday through Thursday from 11 a.m. to 12 a.m.
Friday and Saturday from 11 a.m. to 1 a.m.

The applicant is requesting the following alcohol serviceable hours.

Sunday through Thursday from 11 a.m. to 12 a.m.
Friday and Saturday from 11 a.m. to 1 a.m.

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public-school, public-school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of the property using the front door to door distance measurement.

This request has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

Contact the Fire Marshal's Office for a fire inspection before opening the business.

Engineering: (Approved)

No objection. [For Applicant’s Information Only.]

Transportation: (Approved)

No objections. [For the Applicant’s information only.]

Building Code: (Approved)

The SUD for La Barra Catracha LLC is acceptable. The property must adhere to the maximum occupant load of 63 persons for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code. A Certificate of Occupancy shall be required prior to occupancy of the restaurant.

Planning:

The request is in compliance with the Tall City Tomorrow Comprehensive Plan, Chapter 6-Character Plan Goal 4, which is to “Encourage the development of places where Midland residents can gather and socialize to build connections.” (Tall City Tomorrow page 137) La Barra Catracha, LLC is an establishment that will provide Midland residents with a unique social gathering experience. Staff recommends approval of this Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in restaurant, subject to conditions A through G.

Conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 3,295 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Sunday through Thursday from 11 a.m. to 12 a.m.
Friday and Saturday from 11 a.m. to 1 a.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance

Letters of Objection:

As of April 17, 2026, staff has not received any letters of objections.

Attachments:
A. ORD W EXH - SUD-26-0224.La Barra Catracha, LLC - Alcohol Sales Ord w Exh

B. SUD-26-0224, Combined Docs
C. SUD-26-0224, Alcohol SUD La Barra Catracha

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 5,600-SQUARE-FOOT PORTION OF LOT 6A, BLOCK 62, BELMONT ADDITION, SECTION 23, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF EAST INTERSTATE 20, APPROXIMATELY 475 FEET WEST OF SOUTH TERRELL STREET), WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 5,600-square-foot portion of Lot 6A, Block 62, Belmont Addition, Section 23, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages in a restaurant (the "Establishment") for on-premises consumption, together with the uses permitted in the present BP, I-20 Business Park District.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 3,295 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Sunday through Thursday from 11:00 a.m. to 12:00 a.m. (midnight); and
Friday and Saturday from 11:00 a.m. to 1:00 a.m. of the following day.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

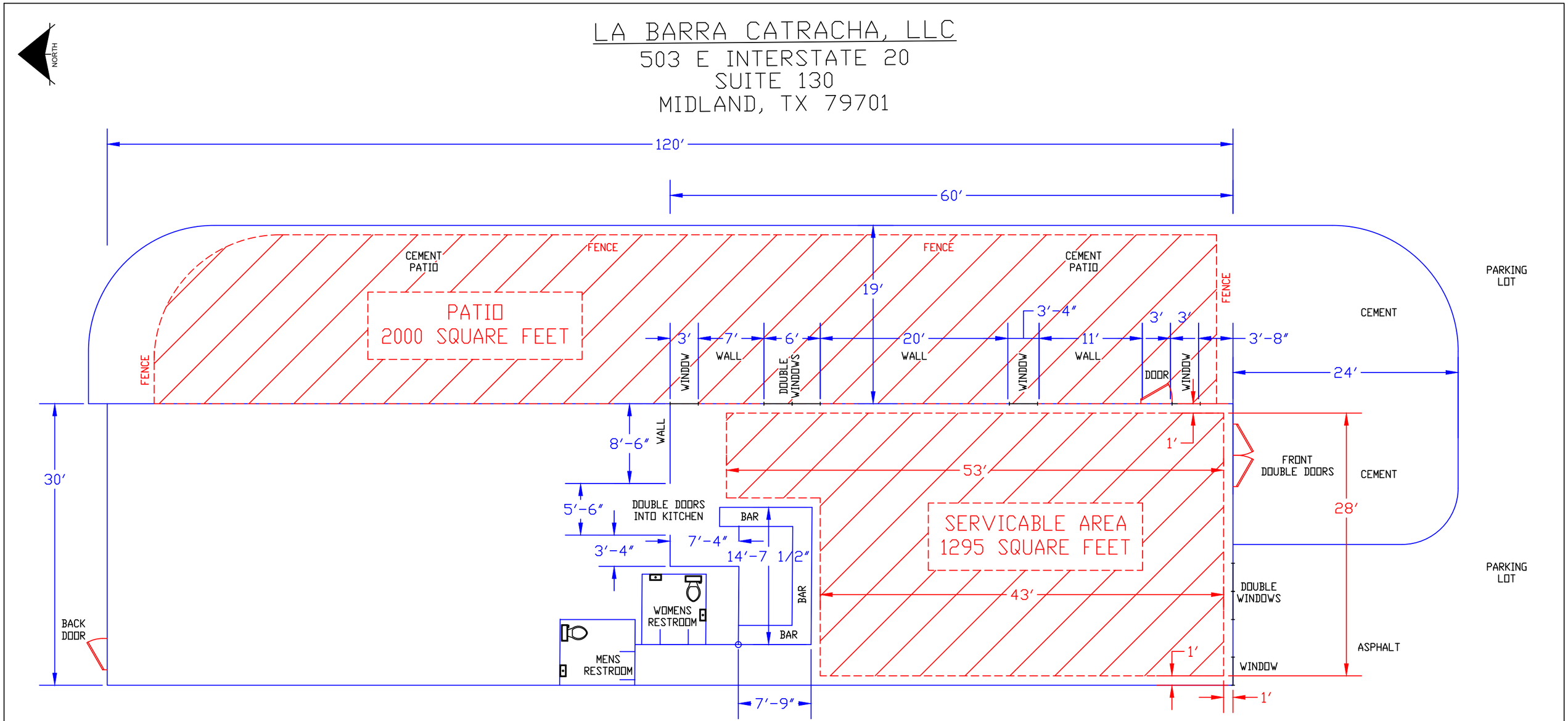
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

EXHIBIT A

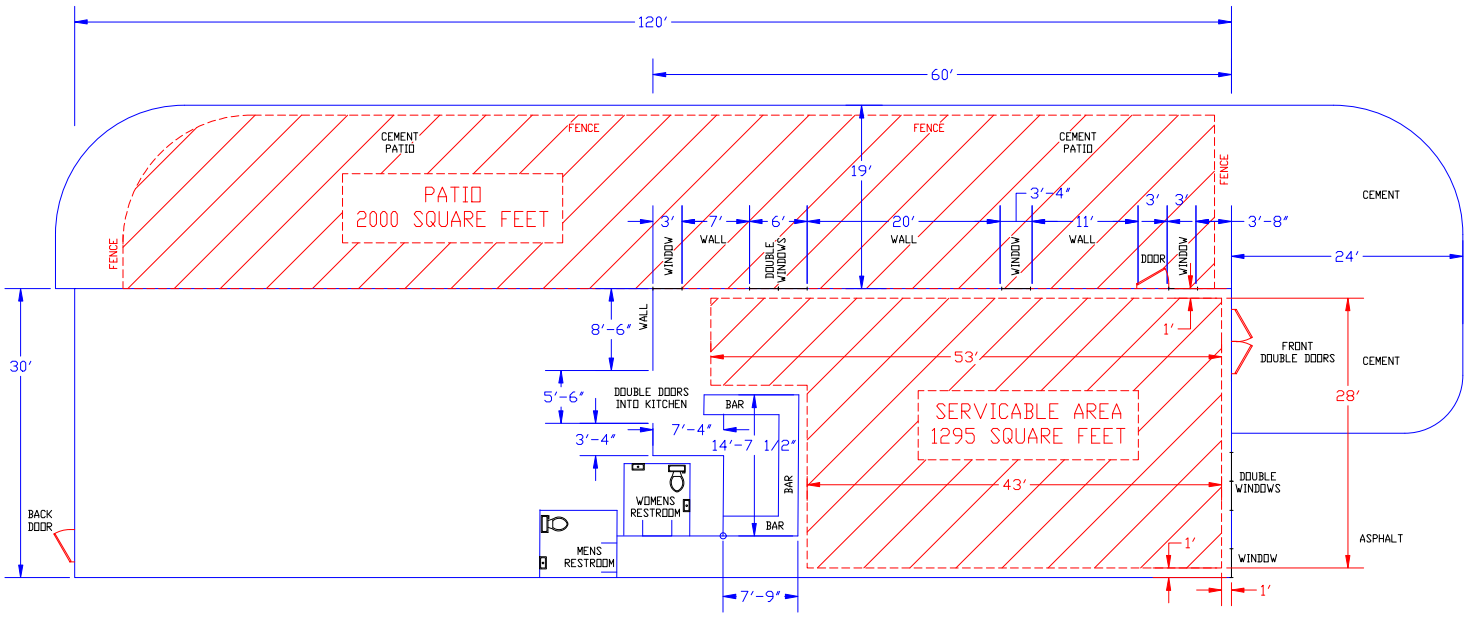


NOTE: TOTAL SUD SERVICABLE AREA = 3295 SQ. FT.

3/19/26

LA BARRA CATRACHA, LLC

503 E INTERSTATE 20
SUITE 130
MIDLAND, TX 79701



NOTE: TOTAL SUD SERVICABLE AREA = 3295 SQ. FT.

3/19/26



Location Map

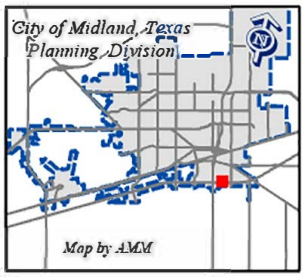
SUD-26-0224 **Scale: 1" = 157'**

Consider a request by Juan Felipe Viva Celis, on behalf of Belmont Realty, LLC, for a Specific Use Designation with Term for the sale of all alcoholic beverages for on premises consumption in a restaurant, on a 5,600 square foot portion of Lot 6A, Block 62, Belmont Addition, Section 23, City and County of Midland, Texas.

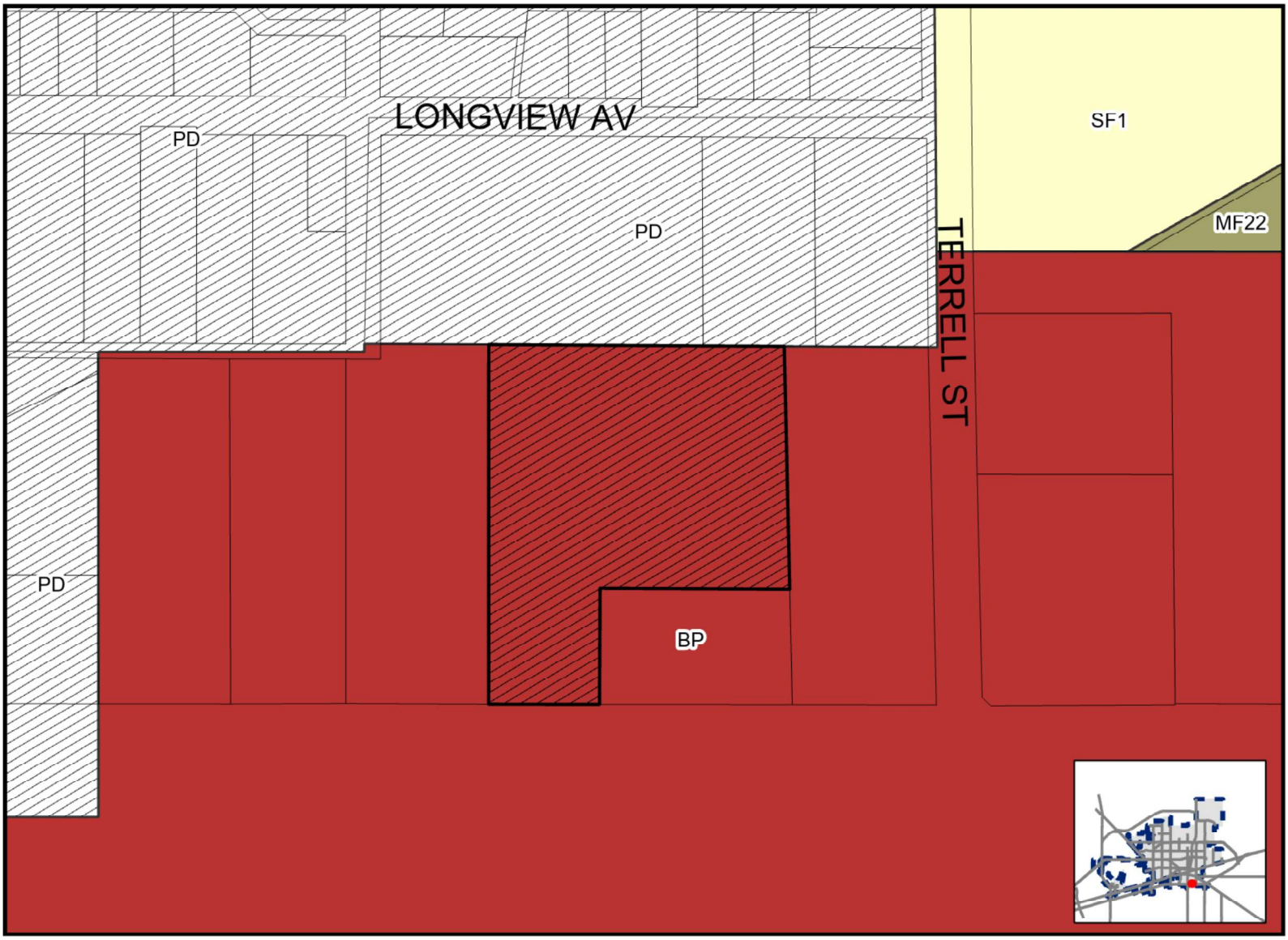
Generally located on the north side of East Interstate 20, approximately 475 feet west of South Terrell Street. (Council District 2).

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT. NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Created: 3/23/2026 **SUD-26-0224** **Scale: 1" = 157'** **ZONING MAP**

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

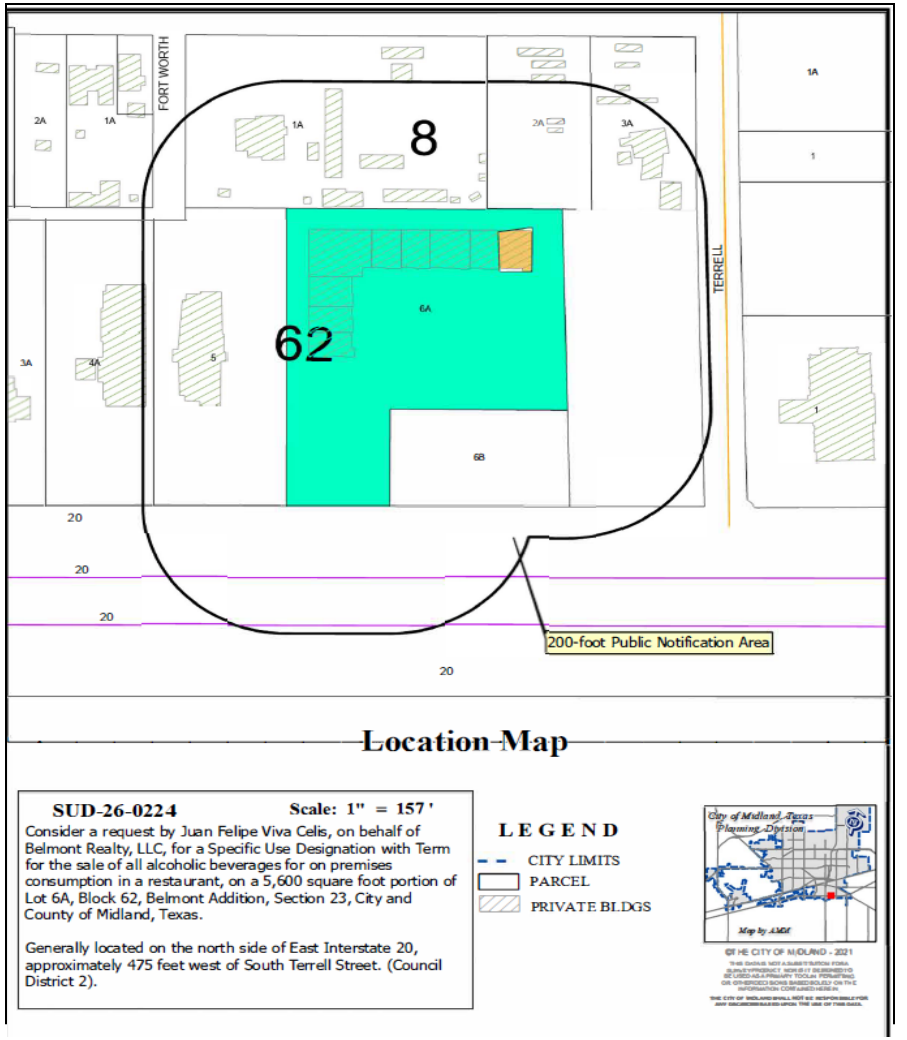

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62


GARCIA'S
TEXAS PUB
BAR & GRILL


MIDLAND
Be the Energy!
ITEM
SPECIFIC USE DESIGNATION
LA BARRA CATRACHA
Visit Our Website
MIDLANDTEXAS.GOV

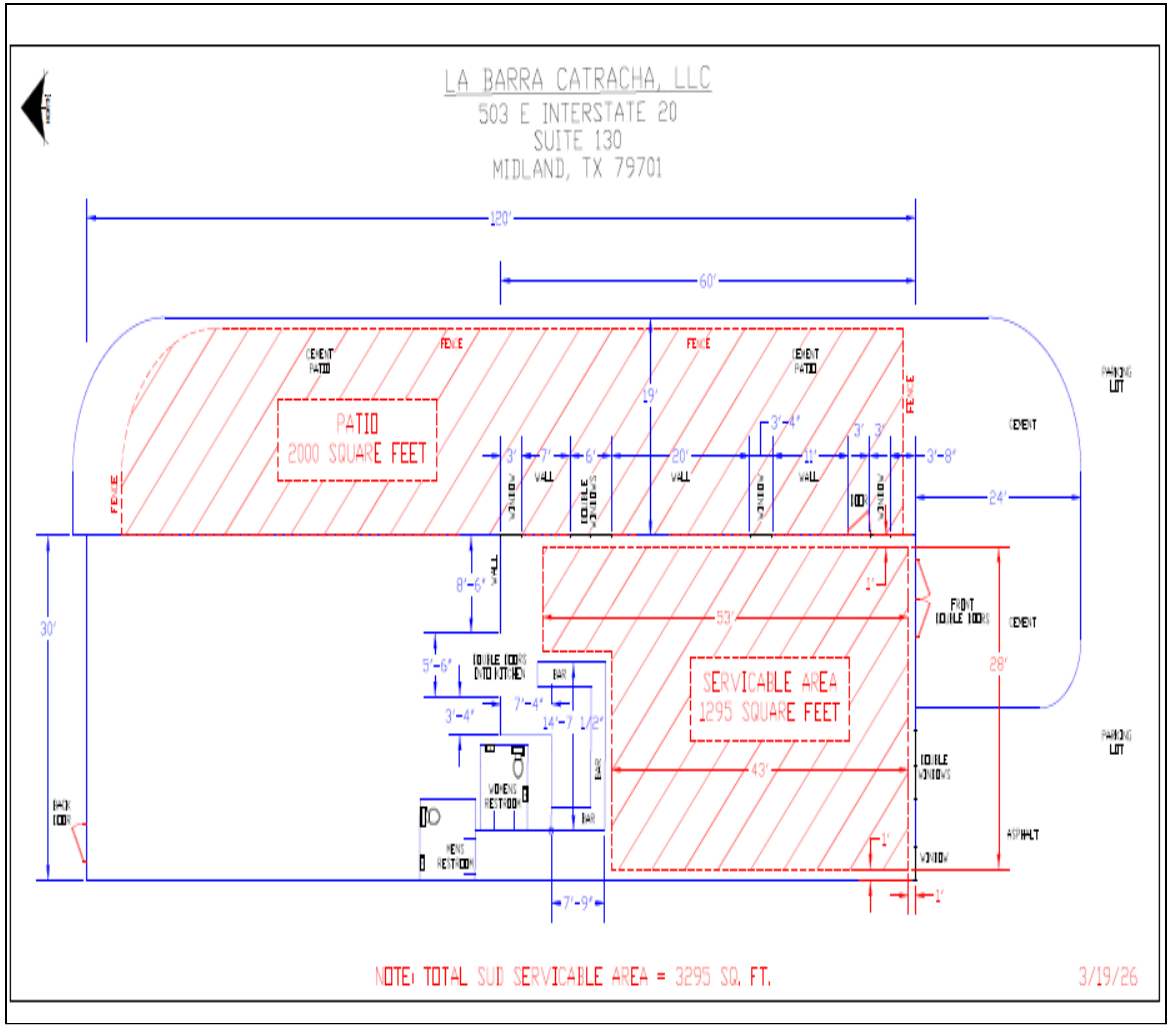
APPLICATION SUMMARY

- **Applicant:** Juan Felipe Viva Celis
- **Property Owner:** Belmont Realty, LLC
- **Location:** 503 E-I20 (Council District 2)
- **Reason for Request:** For the sale and on-premises consumption of alcohol in a restaurant.



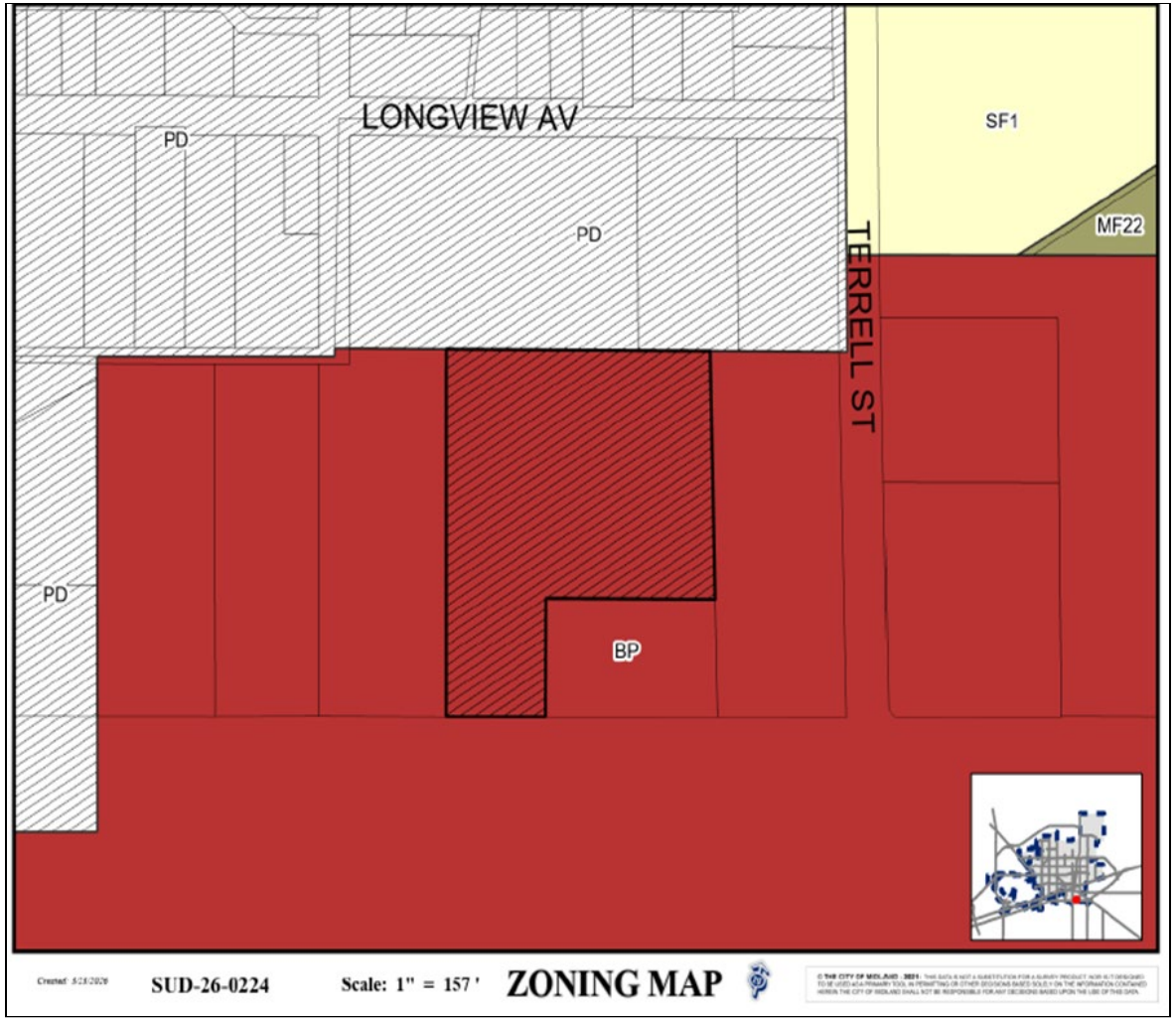
DETAILS OF REQUEST

- **For a new restaurant.**
- **Area of Business:** 5,600 SF
- **Serviceable Area:** 3,295 SF
- **Hours of Operation and Sales of Alcohol:** Sunday through Thursday 11:00 a.m. to 12:00 a.m. Friday and Saturday 11:00 a.m. to 1:00 a.m.



ZONING

- **Current Zoning**: BP, Business Park District
- **Surrounding Zoning:**
  - **North:** PD, Planned District for a Single Family Homes
  - **East, South and West:** BP, Business Park District
- The use of an SUD for the sale and on-premises consumption is allowed in this zoning.

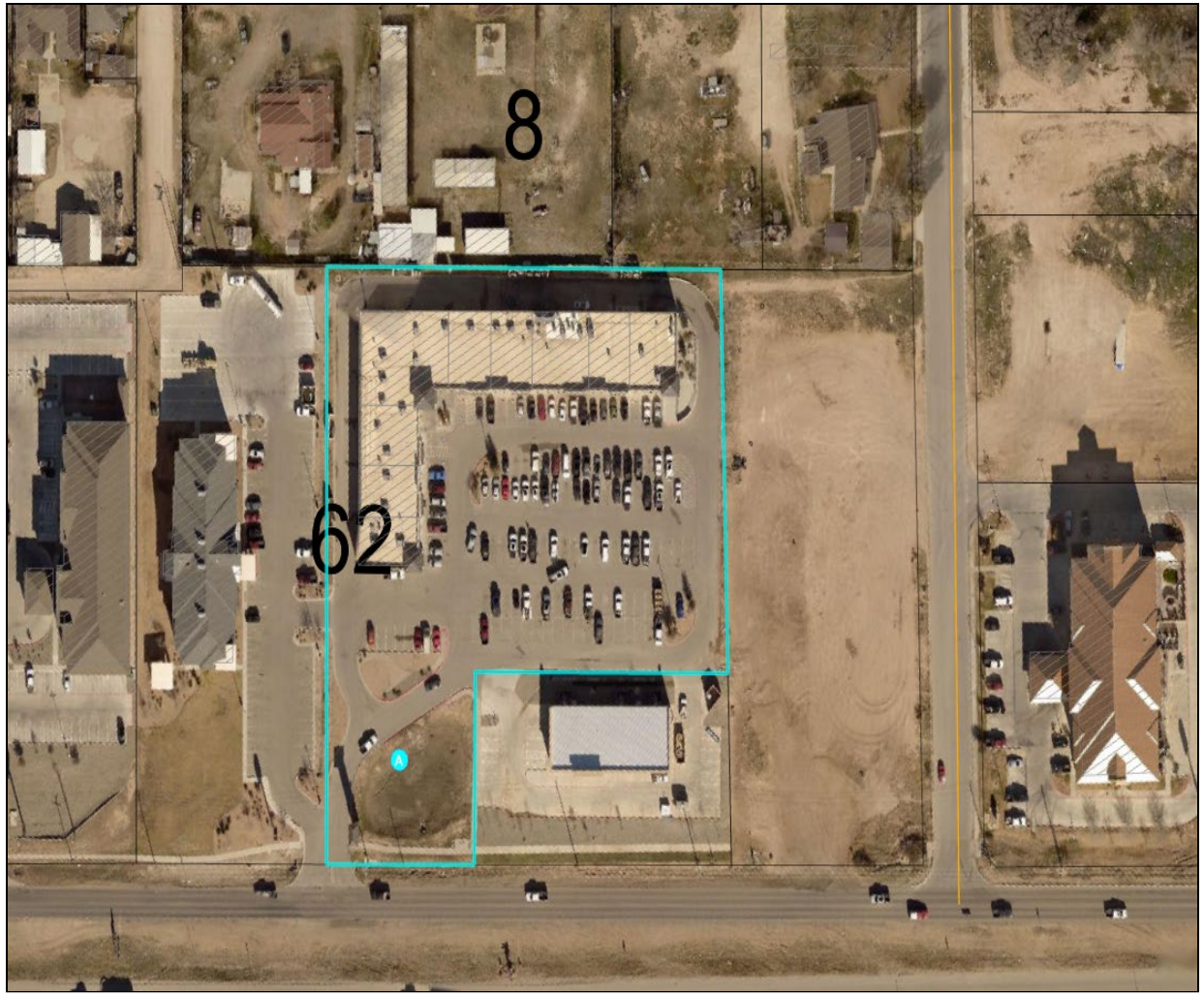


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MIDLAND
Be the Energy!

LAND USE

- **Current Use:** Restaurant
- **Surrounding Uses:**
  - **North:** Single Family Homes
  - **West:** Hotel
  - **East:** Vacant Land
  - **South:** Retail Shop
  - **Proposed Use:** Restaurant



MIDLAND
Be the Energy!



On East Interstate 20, Looking North

6

MIDLAND
Be the Energy!

COMPREHENSIVE PLAN

This request is compatible with the *Tall City Tomorrow Comprehensive Plan* as it is consistent *Chapter 6-Character Plan, Goal 4*, which is to “Encourage the development of places where Midland residents can gather and socialize to build connections.”



PROHIBITED PLACES OF BUSINESS

There is no church, public school, public school ground, athletic stadium used by any public school, or public hospital within 300 feet of the building of the subject property as required by *Section 5-4-4 Prohibited Places of Business.*



STAFF'S RECOMMENDATION

- No objections were received.
- Staff recommends approval of this request with the following conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 3,295 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.



STAFF'S RECOMMENDATION

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Sunday through Thursday 11:00 a.m. to 12:00 p.m.

Friday and Saturday 11:00 a.m. to 1:00 a.m.



STAFF'S RECOMMENDATION

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

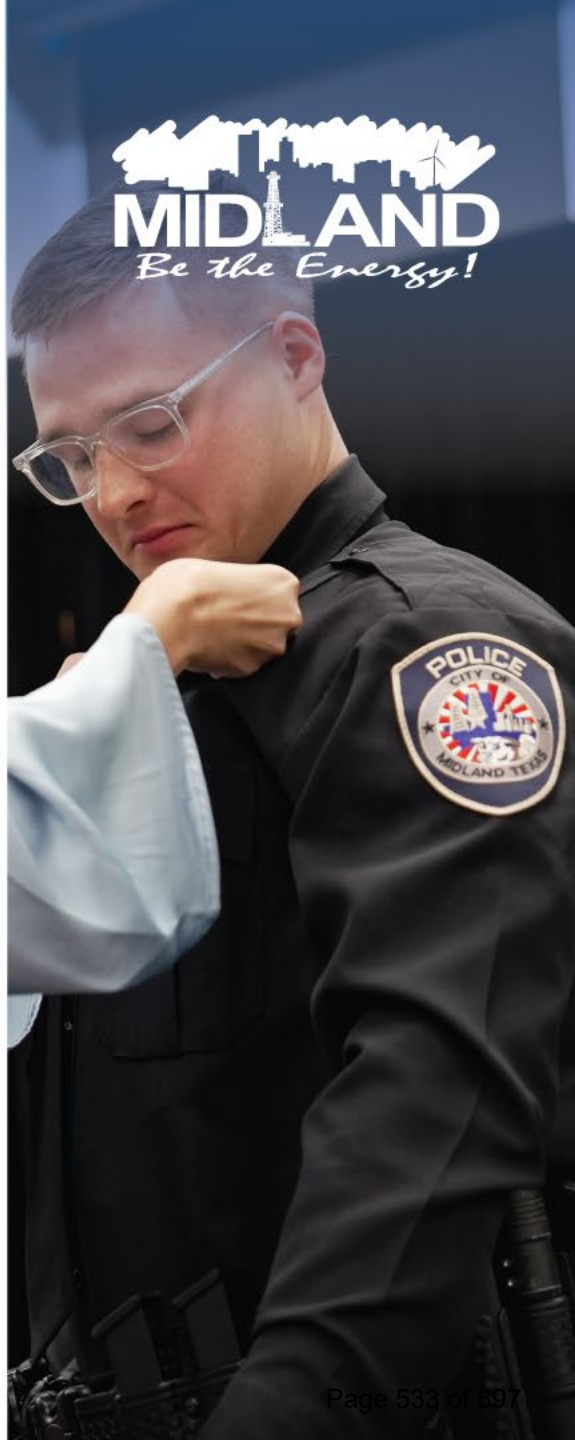
E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.



STAFF'S RECOMMENDATION

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 17.
Meeting Date: May 12, 2026
To: City Council
From: Alexis Martinez, Associate Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 1,933-SQUARE-FOOT PORTION OF LOT 5A, BLOCK 1, GATEWAY PLAZA, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:
Mathew Atchison, on behalf of Crimson Sky Capital, LTD, is requesting a Specific Use Designation with term, for the sale of all alcoholic beverages for on-premises consumption in a restaurant called Via Roma located on 5701 Starboard Drive.

Recommended Action:
Approve

Fiscal Impact:
None

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

RR, Regional Retail District

Surrounding Zoning and Land Use:

The property to the north, east and west are zoned PD, Planned District for Housing Development and shopping Center and is the location of apartment, vacant land and movie theater. The properties to the south are not zoned and are in the ETJ.

Analysis:

The property is zoned RR, Regional Retail District. The RR zoning allows for Alcoholic Beverages Sales for On-Premises Consumption in a Restaurant with the approval of an SUD. The property does not have an existing SUD. Per the approved plans, the site will have adequate parking and circulation. The total area of the restaurant is 1,933 square feet and the proposed alcohol serviceable area is 1,000 square feet.

The proposed days and hours of operation are:

Tuesday through Sunday from 10 a.m. to 12 a.m.

The applicant is requesting the following alcohol serviceable hours:

Tuesday through Sunday from 10 a.m. to 12 a.m.

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public-school, public-school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of the property using the front door to door distance measurement.

This request has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objections. Contact the Fire Marshal Office for an annual inspection.

Engineering: (Approved)

No objection. [For Applicant’s Information Only.]

Transportation: (Approved)

No objections. [For the Applicant’s information only.]

Building Code: (Approved)

The SUD for Via Roma is acceptable. The property must adhere to the maximum occupant load of 77 persons for the alcohol serviceable area. Occupancy loads must be posted in

accordance with section 1004.3 of the 2015 International Fire Code. Certificate of Occupancy has already been issued.

Planning:

The request is in compliance with the Tall City Tomorrow Comprehensive Plan, Chapter 6-Character Plan Goal 4, which is to “Encourage the development of places where Midland residents can gather and socialize to build connections.” (Tall City Tomorrow page 137) Via Roma is an establishment that will provide Midland residents with a unique social gathering experience. Staff recommends approval of this Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in restaurant, subject to conditions A through G.

Conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 1,000 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:
Tuesday through Sunday from 10 a.m. to 12 a.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance

Letters of Objection:

As of April 17, 2026, staff has not received any letters of objections.

Attachments:
A. ORD W EXH - SUD-26-0226.Crimson Sky Capital (Via Roma) - Alcohol Sales Ord w Exh
B. SUD-26-0226, Combined Docs
C. SUD-26-0226, Alcohol SUD Via Roma

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 1,933-SQUARE-FOOT PORTION OF LOT 5A, BLOCK 1, GATEWAY PLAZA, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 1,933-square-foot portion of Lot 5A, Block 1, Gateway Plaza, Section 12, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages in a restaurant (the "Establishment") for on-premises consumption, together with the uses permitted in the present RR, Regional Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 1,000 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to Tuesday through Sunday from 10:00 a.m. to 12:00 a.m. (midnight).

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

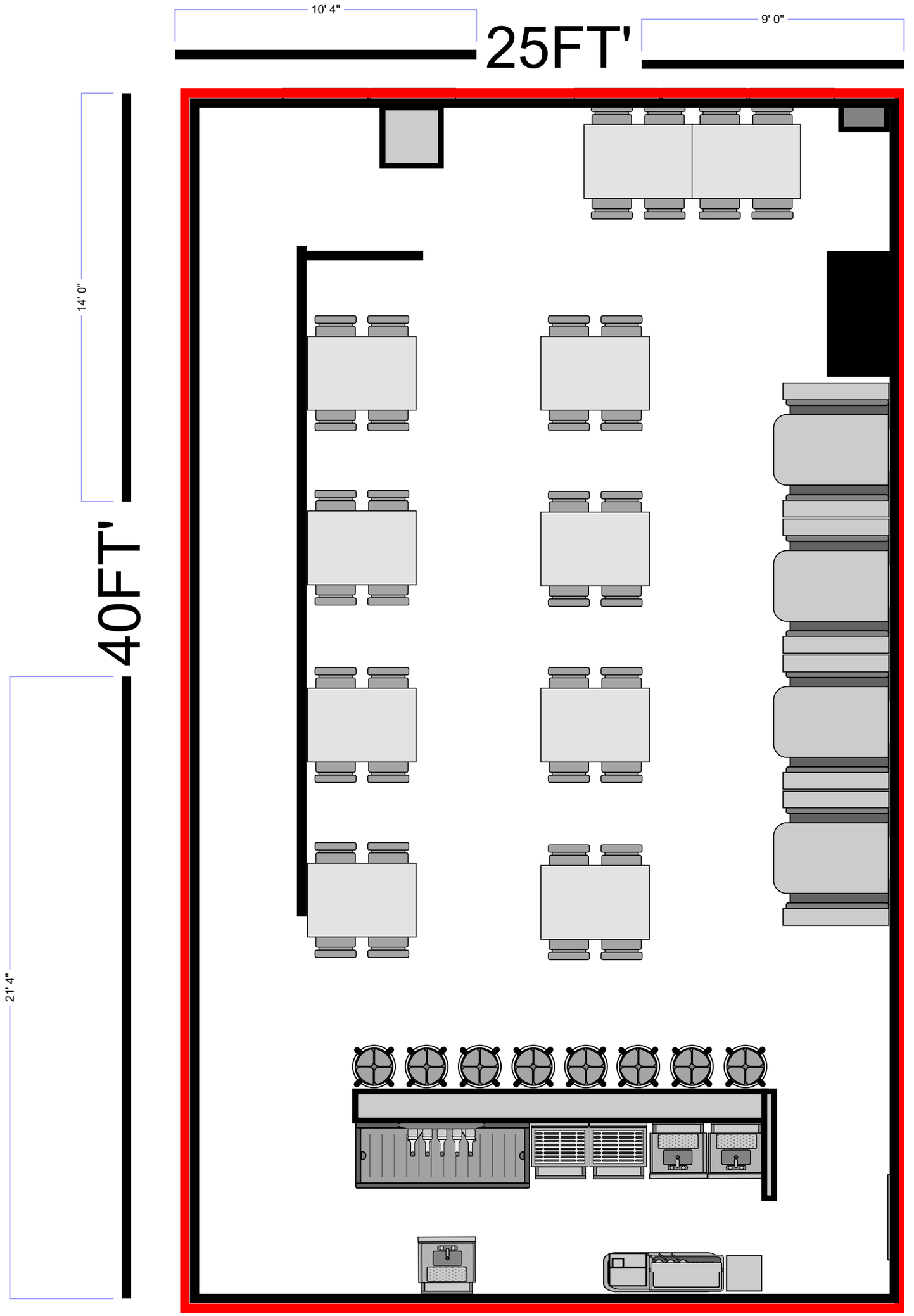
APPROVED AS TO CONTENT
AND COMPLETENESS:

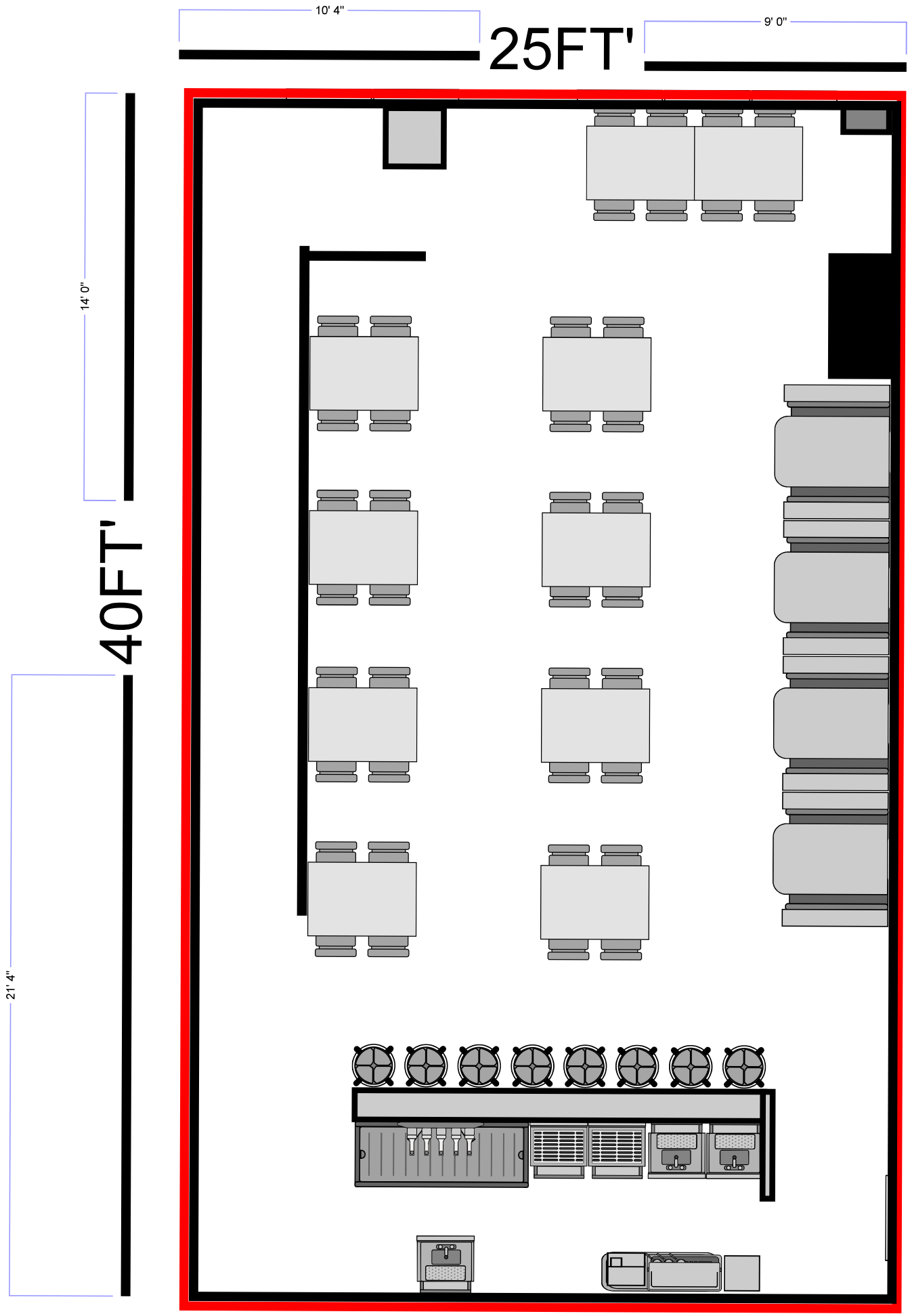
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Elizabeth Triggs, Planning and Development Officer

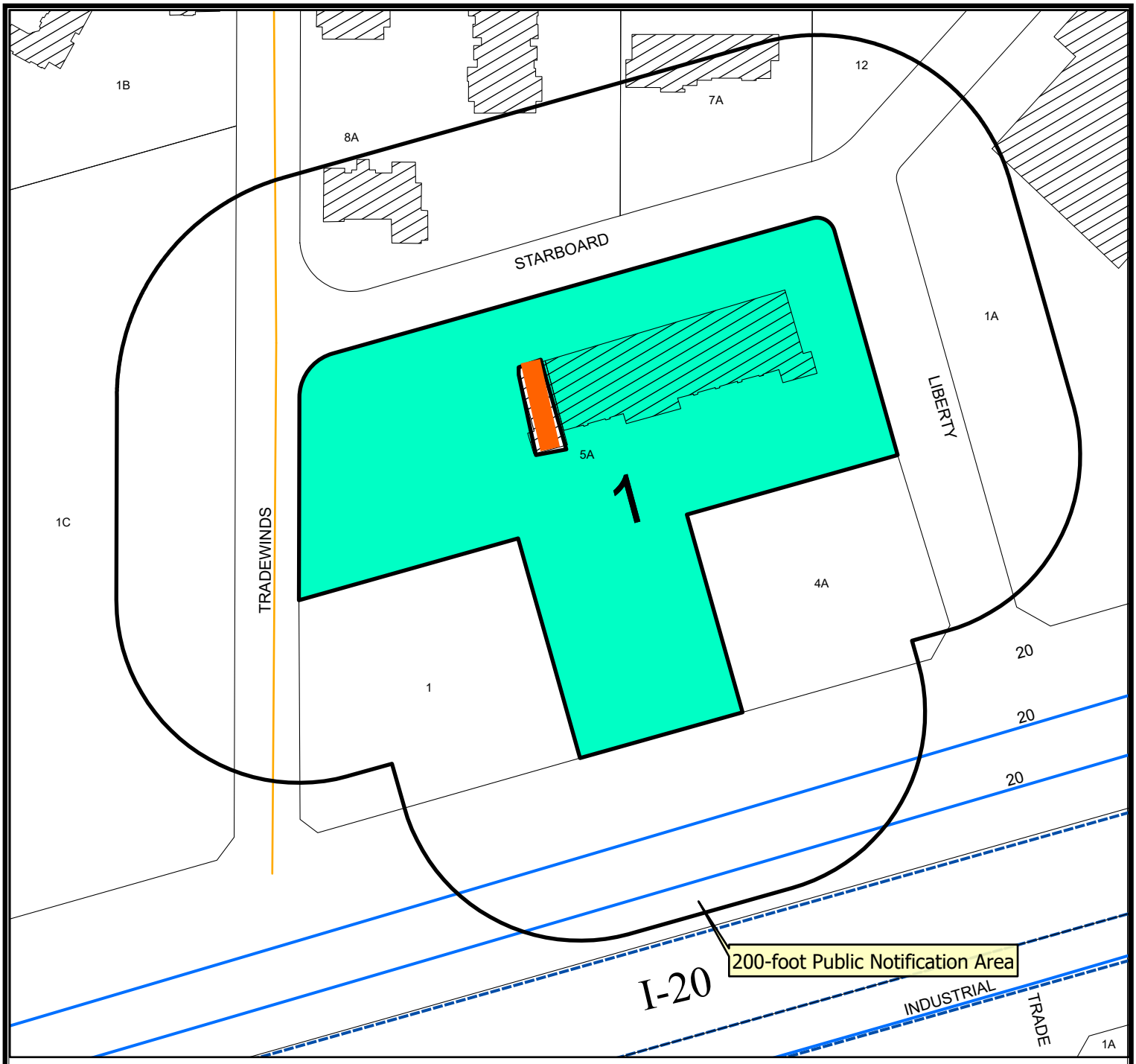
APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

EXHIBIT A




10' 4"
25FT'
9' 0"
14' 0"
40FT'
21' 4"



Location Map

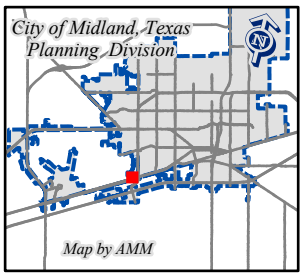
SUD-26-0226 **Scale: 1" = 157 '**

Consider a request by Matthew Atchison, on behave of Crimson Sky Capital, LTD, for a Specific Use Designation with Term for the sale of all alcoholic beverages for on premises consumption, in a restaurant, for a 1,933 square foot portion of Lot 5A, Block 1, Gateway Plaza, Section 12, City and County of Midland, Texas.

Generally located at the southwest corner of the intersection of Starboard Drive and Liberty Drive. (Council District 4)

LEGEND

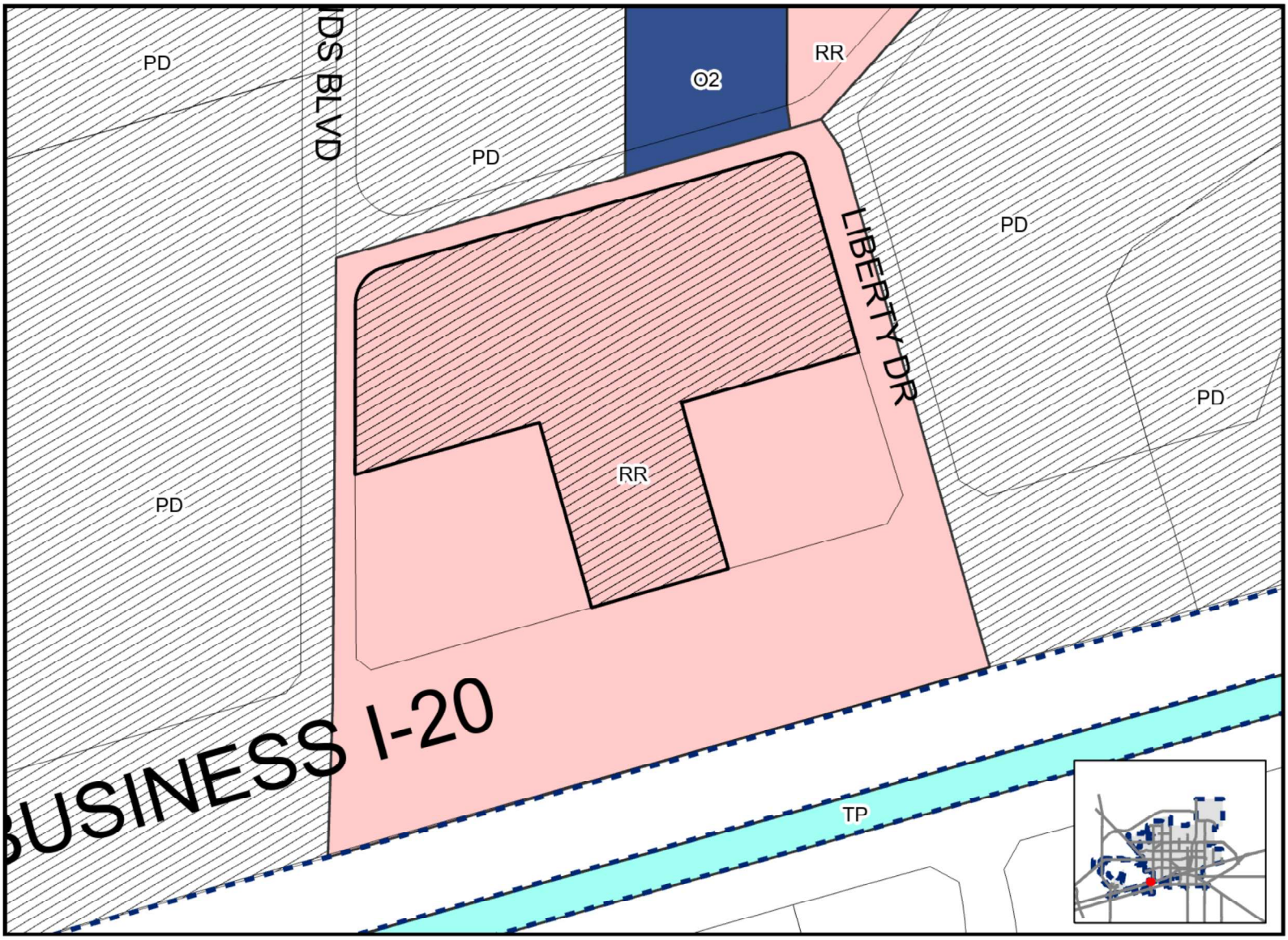
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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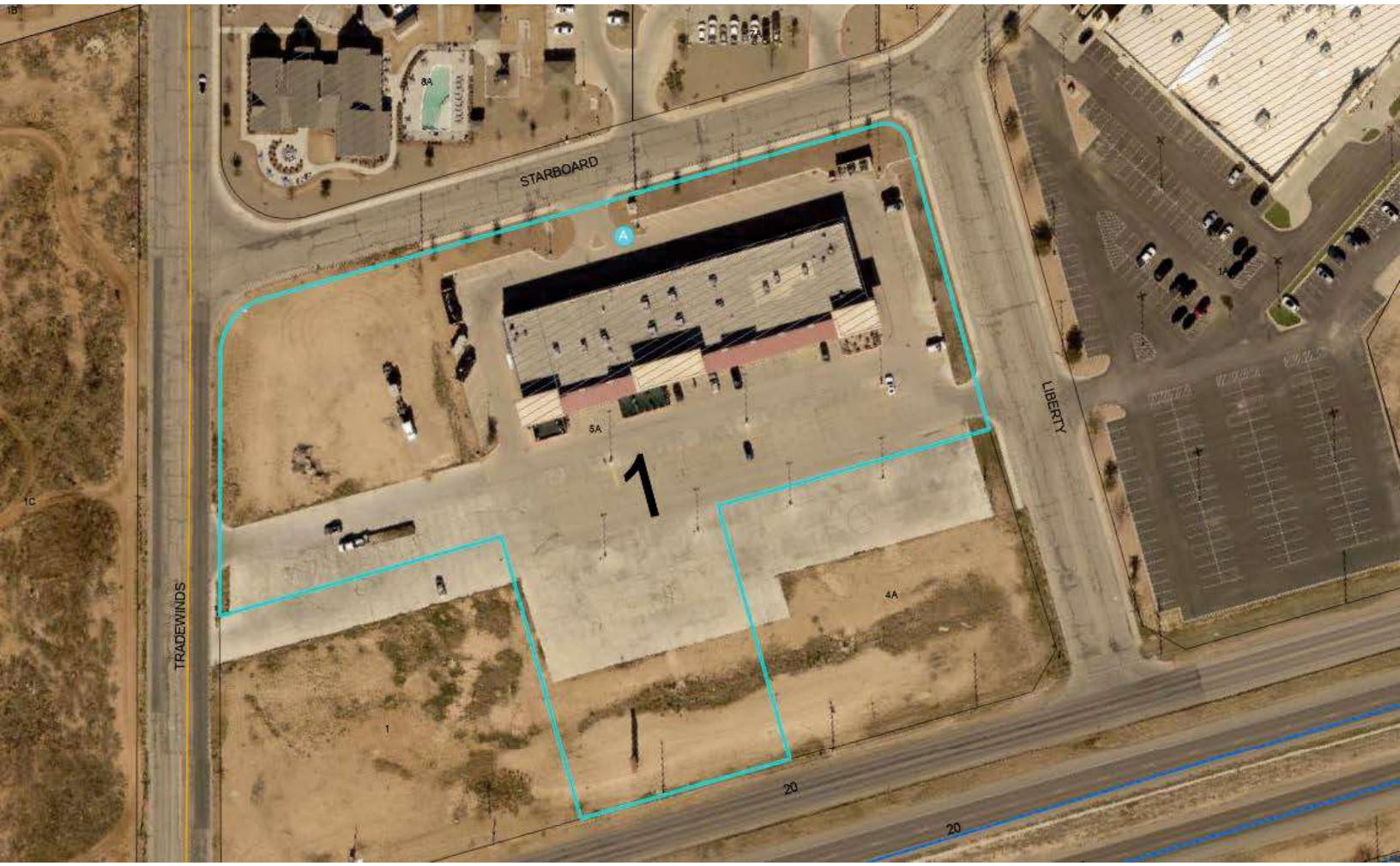
THIS DATA S NOT A SUBSTITUT ON FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITT NG OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Created: 3/31/2026 SUD-26-0226 Scale: 1" = 157 ' ZONING MAP

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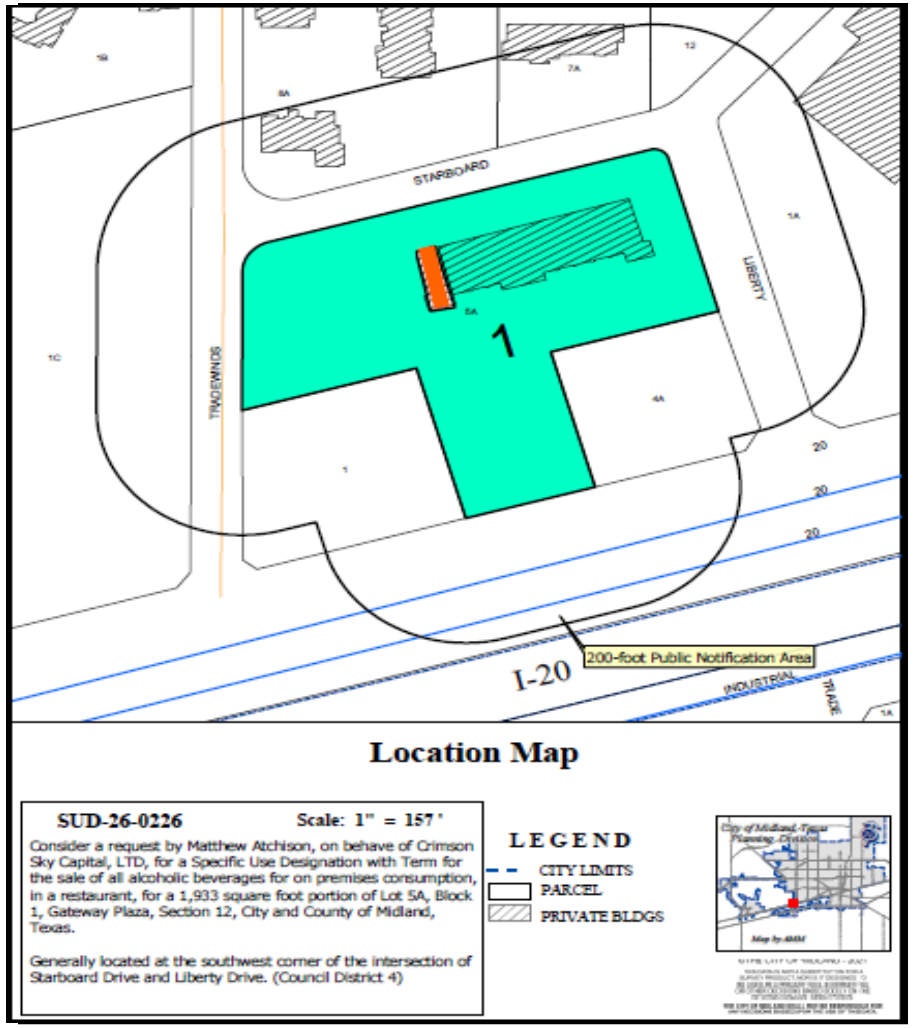

STARBOARD
LIBERTY
TRADEWINDS
1
5A
4A
8A
20
20


Marty G's
Cajun Restaurant
5701
MARACUCHO
RESTAURANT
Venezuelan Food
FIRE LANE
NO PARKING


MIDLAND
Be the Energy!
ITEM
SPECIFIC USE DESIGNATION
VIA ROMA
Visit Our Website
MIDLANDTEXAS.GOV

APPLICATION SUMMARY

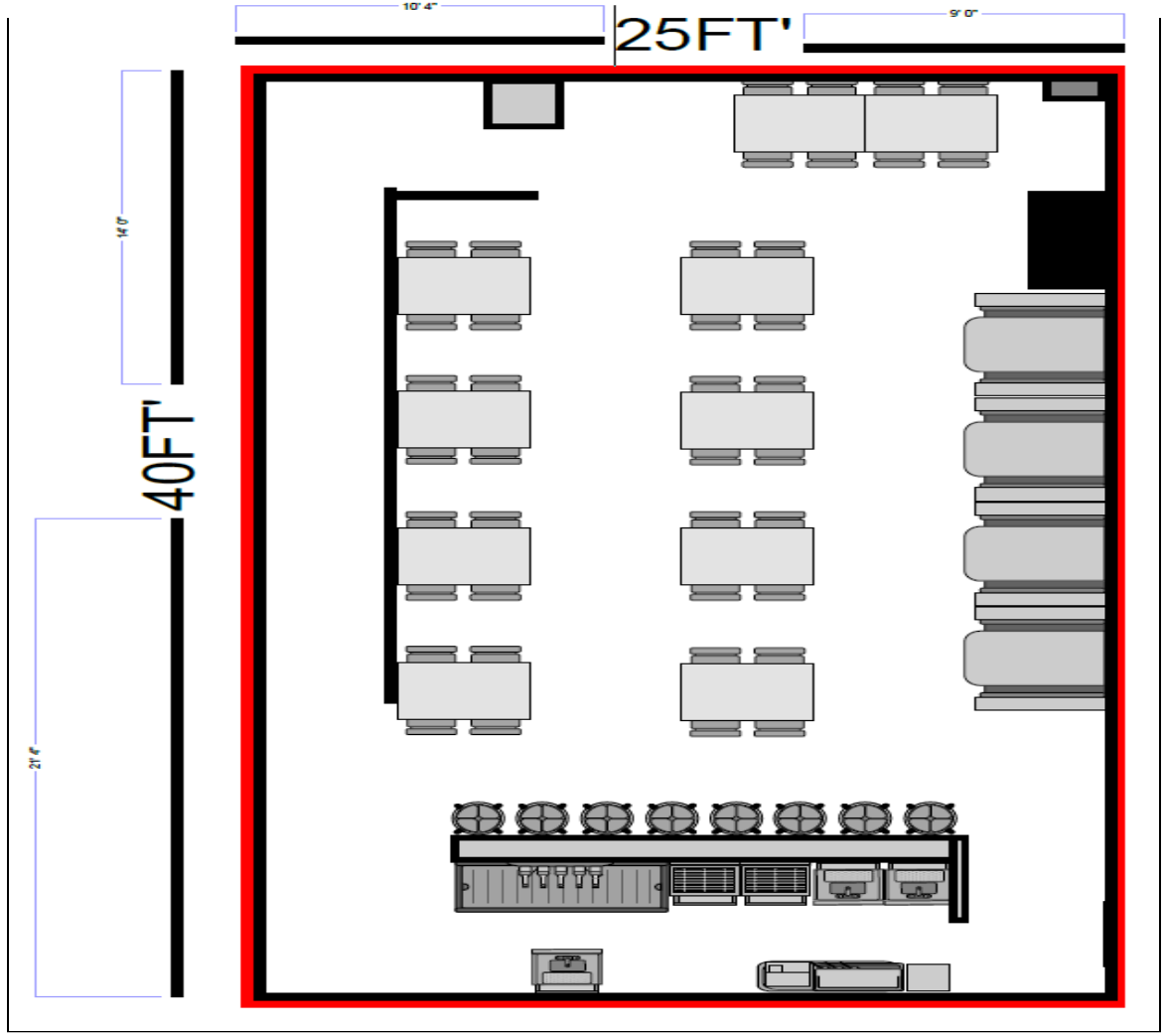
- **Applicant:** Via Roma
- **Property Owner:** Crimson Sky Capital, LTD
- **Location:** 5701 Starboard Drive (Council District 4)
- **Reason for Request:** For the sale and on-premises consumption of alcohol in a restaurant.



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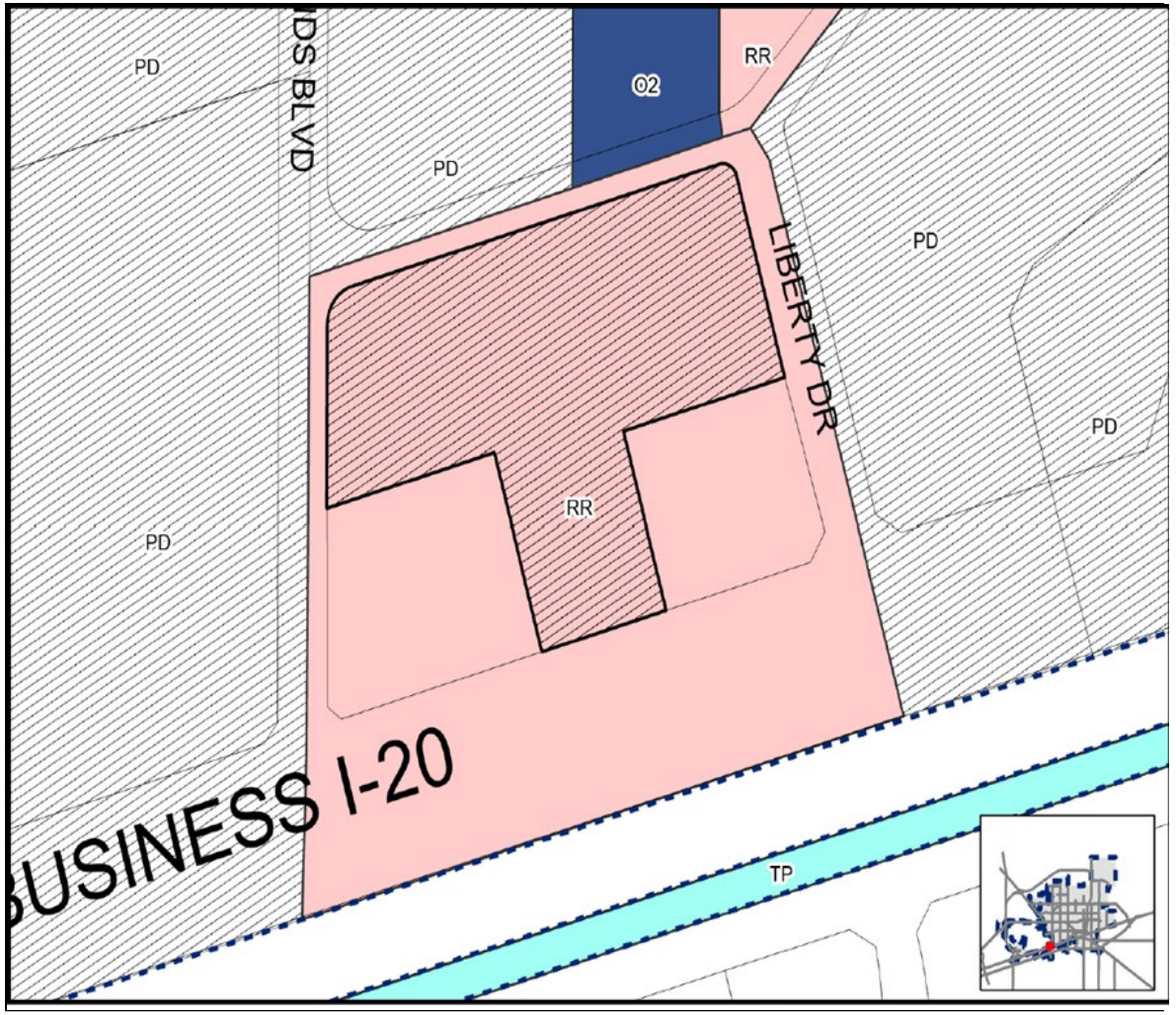
DETAILS OF REQUEST

- **For a new restaurant.**
- **Area of Business:** 1,933 SF
- **Serviceable Area:** 1,008 SF
- **Hours of Operation and Sales of Alcohol:** Tuesday through Sunday from 10:00 a.m. to 12:00 a.m.



ZONING

- **Current Zoning**: RR, Regional Retail District
- **Surrounding Zoning:**
  - **North and West:** PD, Planned Development District for Housing Development
  - **East:** PD, Planned Development for Shopping Center.
  - **South:** Business I-20, ETJ
- The use of an SUD for the sale and on-premises consumption is allowed in this zoning.



4

LAND USE

- **Current Use: Vacant**
- **Surrounding Uses:**
  - **North:** Apartment Complex
  - **West:** Vacant Land
  - **East**: Movie Theater
  - **South:** Industrial Use
- **Proposed Use:** Restaurant



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On I-20, Looking North

MIDLAND
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COMPREHENSIVE PLAN

This request is compatible with the *Tall City Tomorrow Comprehensive Plan* as it is consistent *Chapter 6-Character Plan, Goal 4*, which is to "Encourage the development of places where Midland residents can gather and socialize to build connections."



PROHIBITED PLACES OF BUSINESS

There is no church, public school, public school ground, athletic stadium used by any public school, or public hospital within 300 feet of the building of the subject property as required by *Section 5-4-4 Prohibited Places of Business.*



STAFF'S RECOMMENDATION

- No objections were received.
- Staff recommends approval of this request with the following conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 1,000 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.



STAFF'S RECOMMENDATION

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Tuesday through Sunday from 10:00 a.m. to 12:00 a.m.



STAFF'S RECOMMENDATION

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

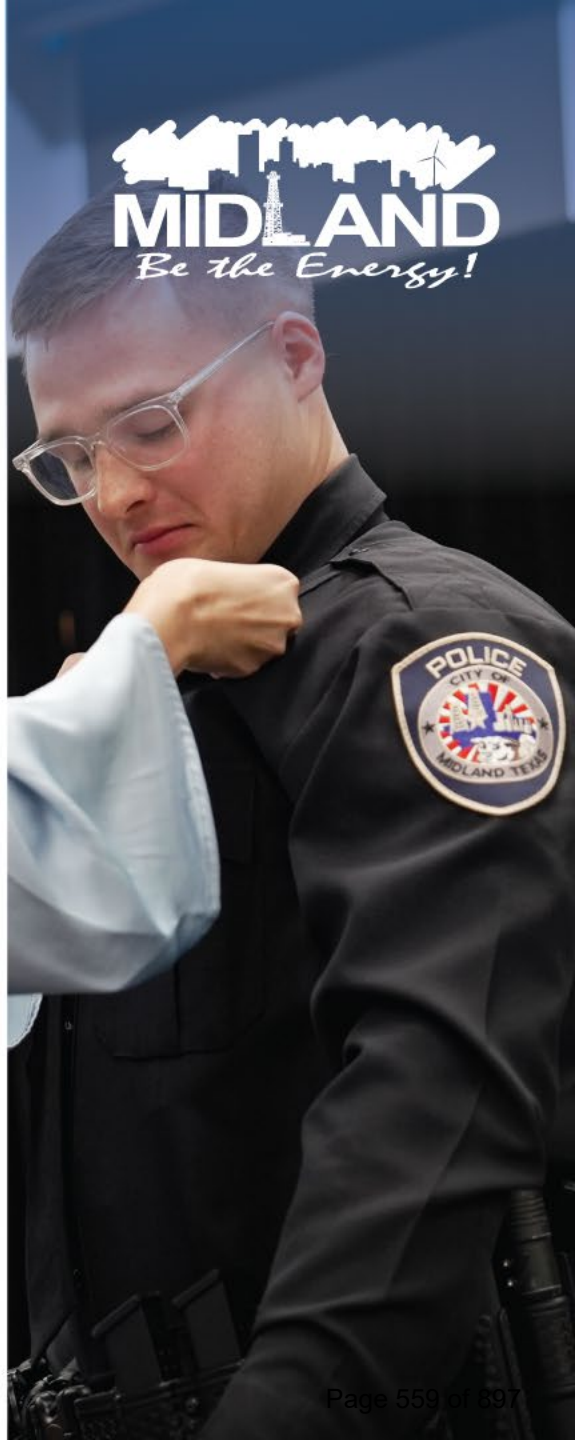
E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.



STAFF'S RECOMMENDATION

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 18.
Meeting Date: May 12, 2026
To: City Council
From: Alexis Martinez, Associate Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE SOUTH 100 FEET OF LOT 4, BLOCK 17, HALEY HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST TAYLOR AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:
Jose Arambula, on behalf of Pablo Villela, is requesting a Specific Use Designation with term, for the sale of all alcoholic beverages for on-premises consumption in a restaurant called Taqueria El Gallo located on 1422 Rankin Highway.

Recommended Action:
Approve

Fiscal Impact:
None

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

RR, Regional Retail District

Surrounding Zoning and Land Use:

The property to the north, east and south are zoned RR, Regional Retail and is the location of retail businesses. The properties to the west are zoned C, Commercial District and welding shop.

Analysis:

The property is zoned RR, Regional Retail District. The RR zoning allows for Alcoholic Beverages Sales for On-Premises Consumption in a Restaurant with the approval of an SUD. The property does not have an existing SUD. Per the approved plans, the site will have adequate parking and circulation. The total area of the restaurant is 3,171 square feet and the proposed alcohol serviceable area is 2,054 square feet.

The proposed days and hours of operation are:

Monday through Sunday from 8 a.m. to 11 p.m.

The applicant is requesting the following alcohol serviceable hours.

Monday through Saturday from 8 a.m. to 11 p.m.
Sunday from 10 a.m. to 11 p.m.

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public-school, public-school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of the property using the front door to door distance measurement.

This request has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

Contact the Fire Marshal's Office for a fire inspection before opening the business.

Engineering: (Approved)

No objection. [For Applicant’s Information Only.]

Transportation: (Approved)

No objections. [For the Applicant’s information only.]

Building Code: (Approved)

The SUD for Taqueria El Gallo is acceptable. The property must adhere to the maximum

occupant load of 95 persons for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning:

The request is in compliance with the Tall City Tomorrow Comprehensive Plan, Chapter 6-Character Plan Goal 4, which is to “Encourage the development of places where Midland residents can gather and socialize to build connections.” (Tall City Tomorrow page 137) Taqueria El Gallo is an establishment that will provide Midland residents with a unique social gathering experience. Staff recommends approval of this Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in restaurant, subject to conditions A through G.

Conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 2,054 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Saturday from 8 a.m. to 11 p.m.
Sunday from 10 a.m. to 11 p.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

Letters of Objection:

As of April 17, 2026, staff has not received any letters of objections.

Attachments:

A. ORD W EXH - SUD-26-0227.Jose Arambula (Taqueria El Gallo) - Alcohol Sales Order w Exh
B. SUD-26-0227, Combined Docs
C. SUD-26-0227, Alcohol SUD Taqueria El Gallo

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE SOUTH 100 FEET OF LOT 4, BLOCK 17, HALEY HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST TAYLOR AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for the south 100 feet of Lot 4, Block 17, Haley Heights Addition, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages in a restaurant (the "Establishment") for on-premises consumption, together with the uses permitted in the present RR, Regional Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 2,054 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Saturday from 8:00 a.m. to 11:00 p.m.; and
Sunday from 10:00 a.m. to 11:00 p.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

Total Square Footage= 3,171
Serviceable Square Footage= 2,054
Parking Square Footage= 6,650

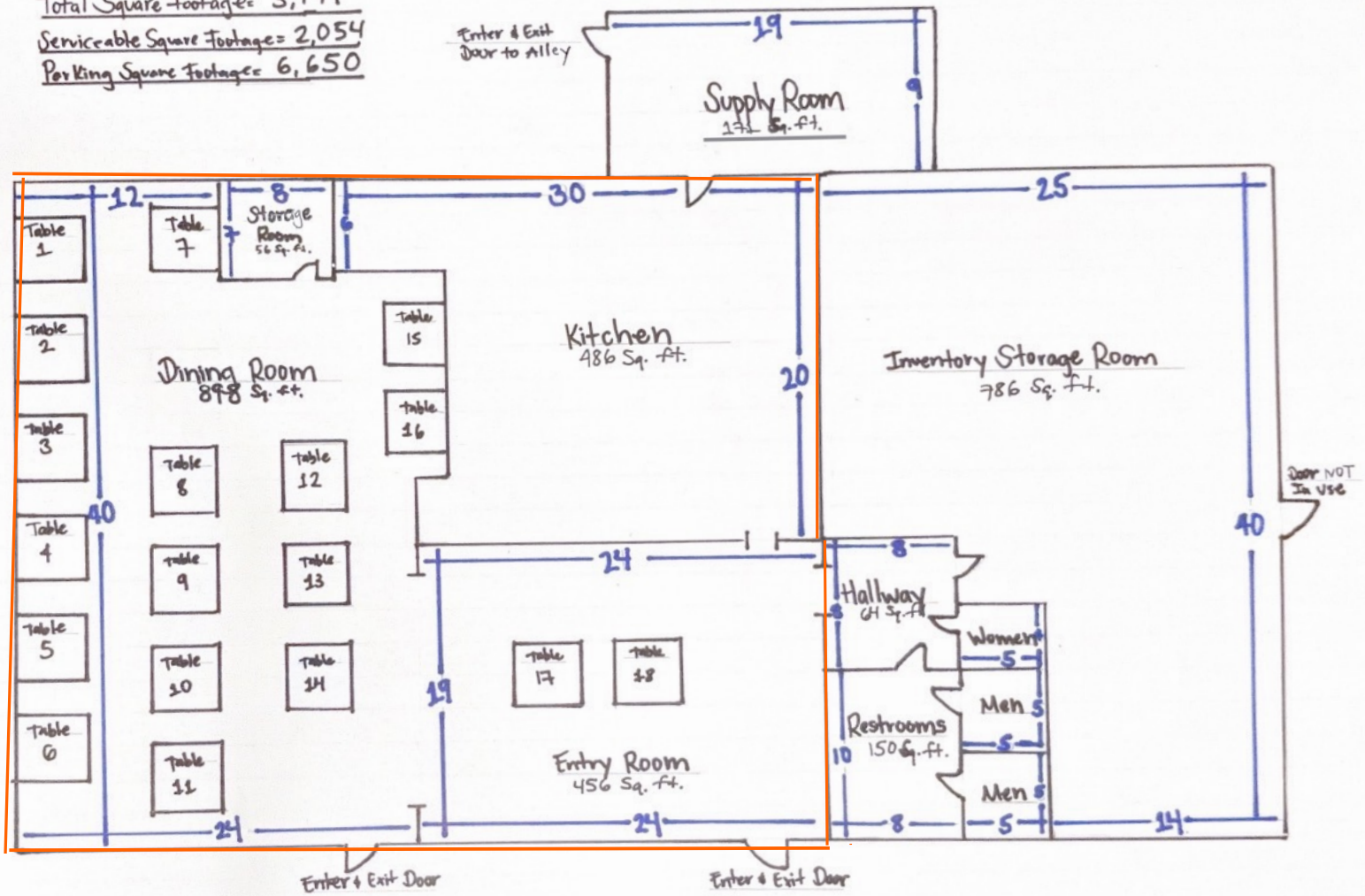
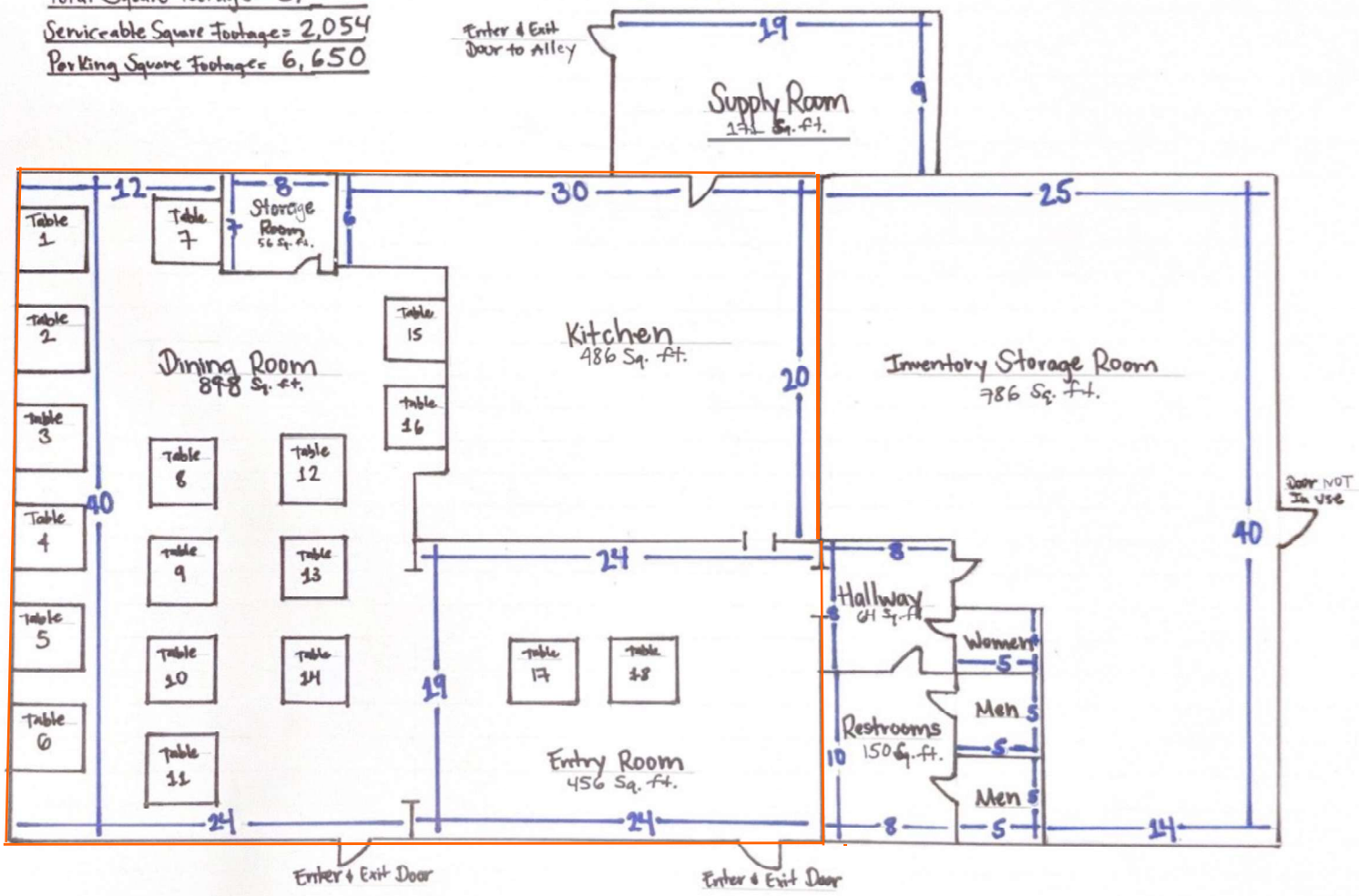
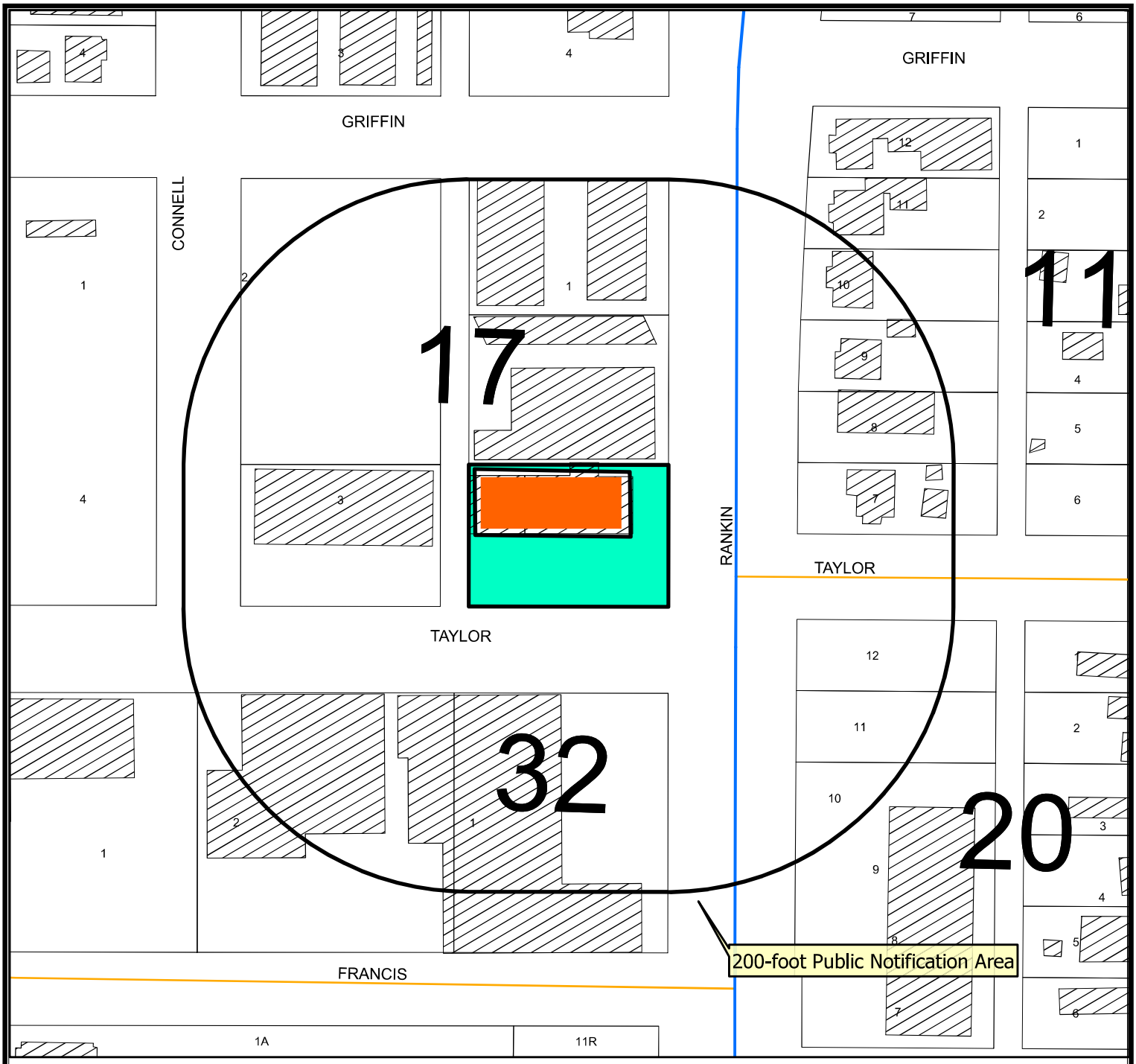


EXHIBIT A

Total Square Footage= 3,171
Serviceable Square Footage= 2,054
Parking Square Footage= 6,650





Location Map

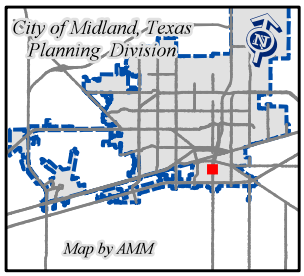
SUD-26-0227 **Scale: 1" = 100 '**

Consider a request by Jose Arambula, on behalf of Pablo Villela, for a Specific Use Designation with Term for the sale of all alcoholic beverages for on premises consumption, in a restaurant, on the south 100 feet of Lot 4, Block 17, Haley Heights, City and County of Midland, Texas.

Generally located at the northwest corner of the intersection of Rankin Highway and West Taylor Avenue. (Council District 2)

LEGEND

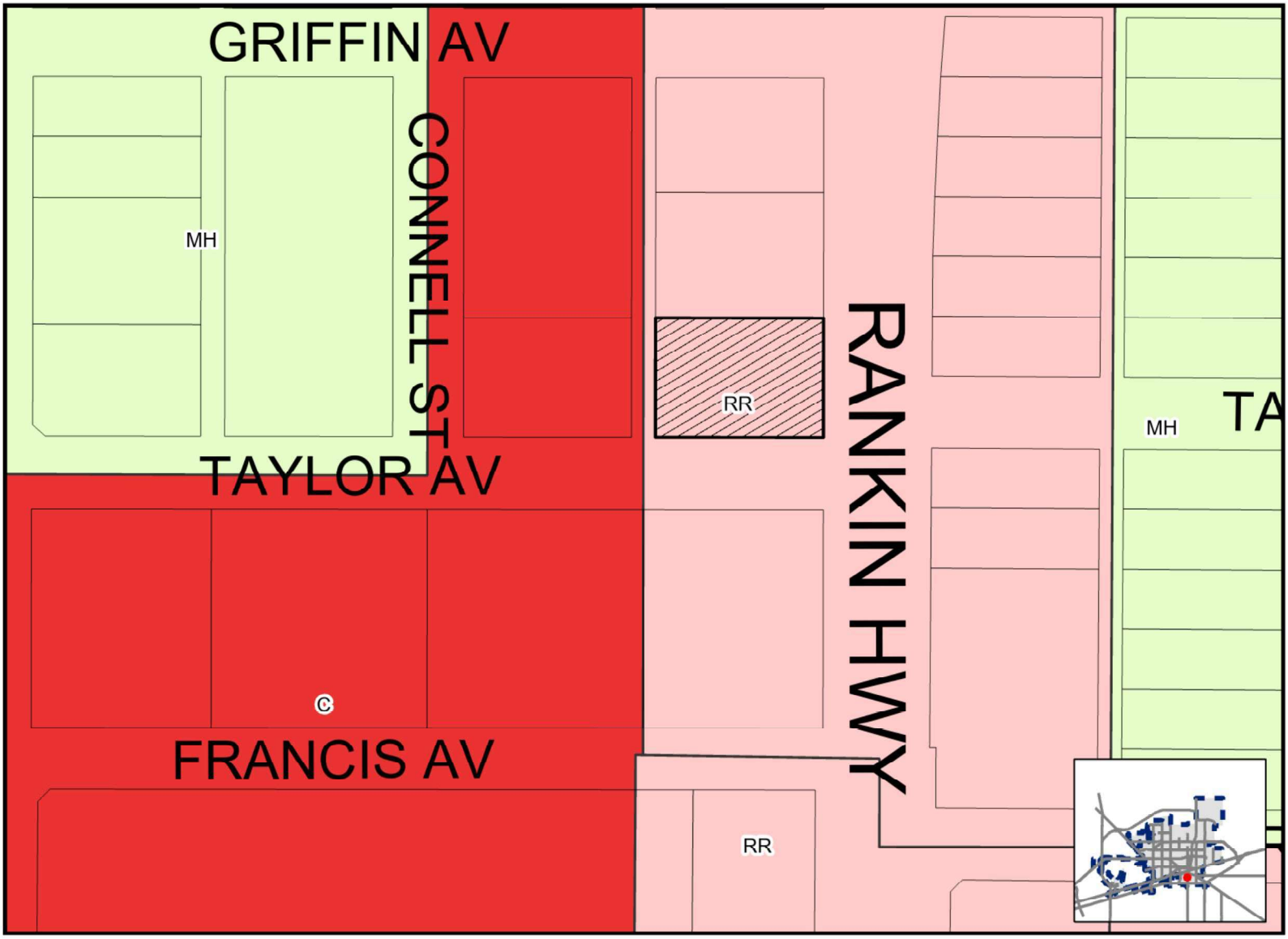
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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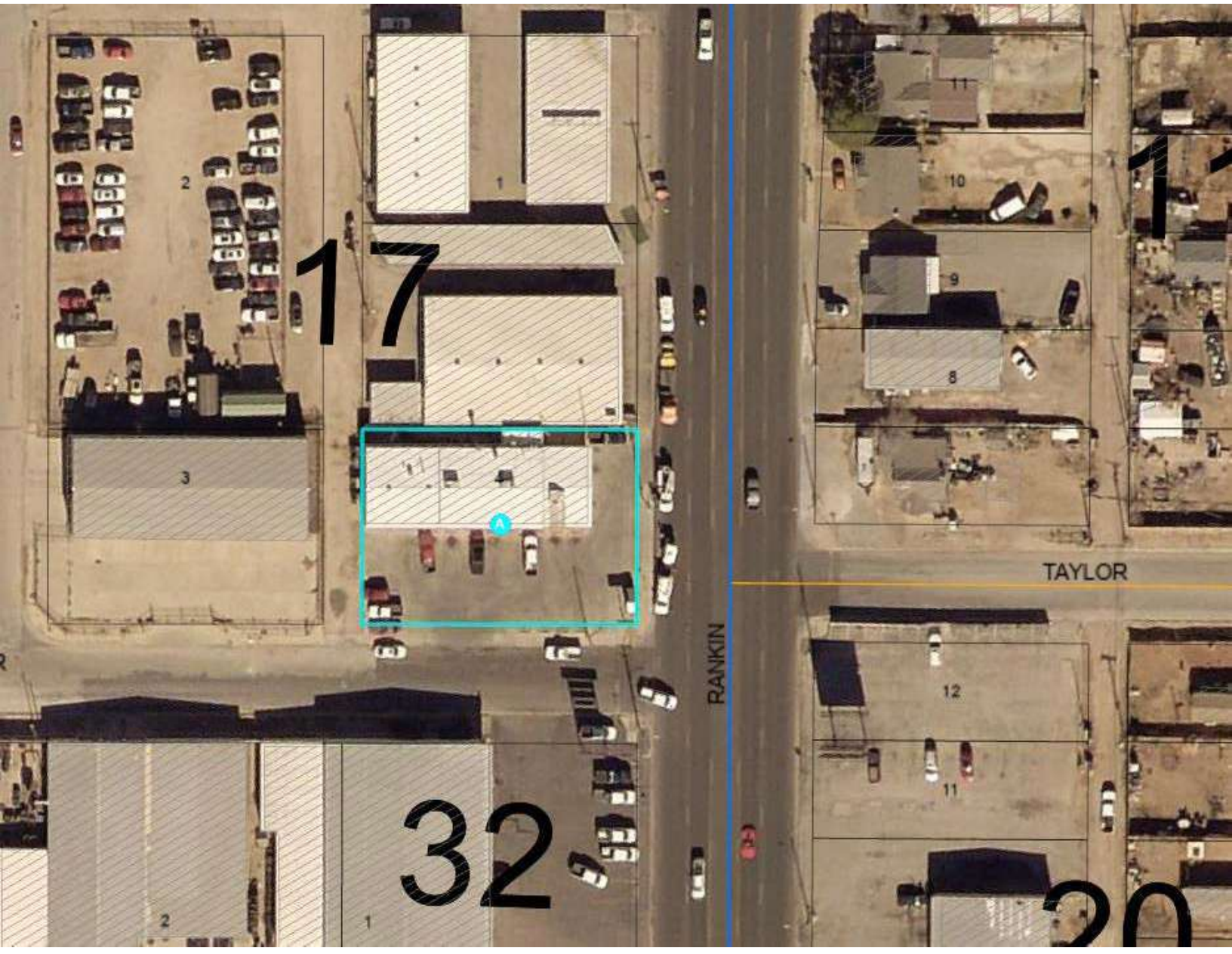
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Created: 3/31/2026 **SUD-26-0227** **Scale: 1" = 100'** **ZONING MAP**

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17
32
RANKIN
TAYLOR
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3
8
9
10
11
12


TAQUERIA EL GALLO
1422
OPEN
Midland
CLINICA LATINA
432-347-1260

ITEM

SPECIFIC USE DESIGNATION

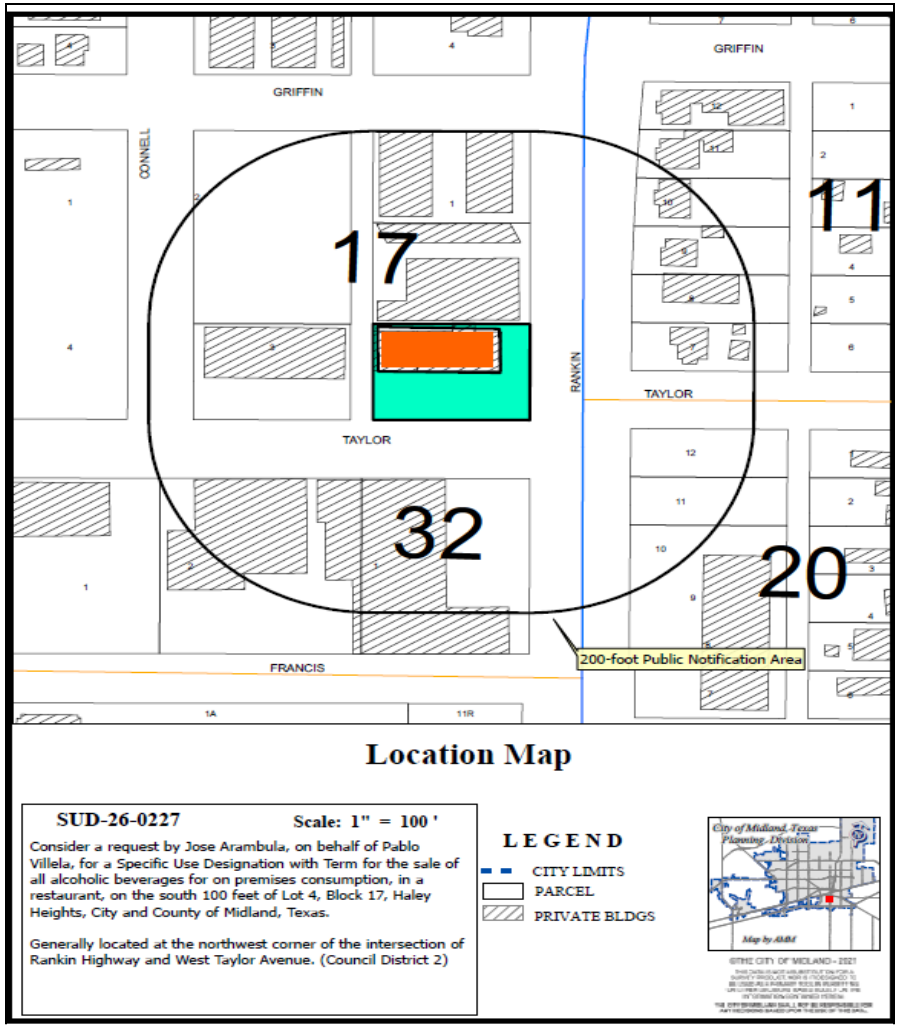
TAQUERIA EL GALLO

Visit Our Website

MIDLANDTEXAS.GOV

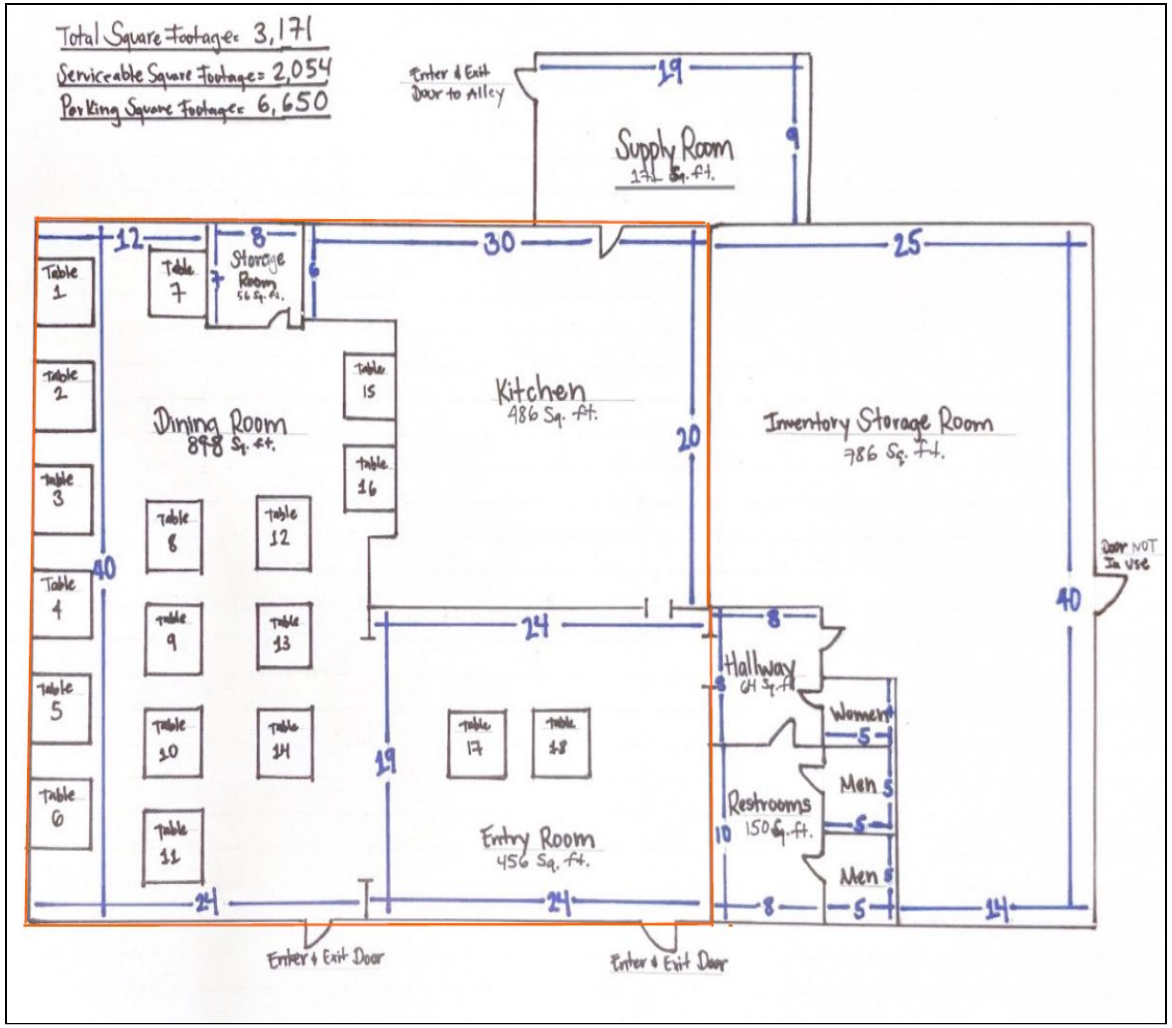
APPLICATION SUMMARY

- **Applicant:** Jose Arambula
- **Property Owner:** Pablo Villela
- **Location:** 1422 Rankin Highway (Council District 2)
- **Reason for Request:** For the sale and on-premises consumption of alcohol in a restaurant



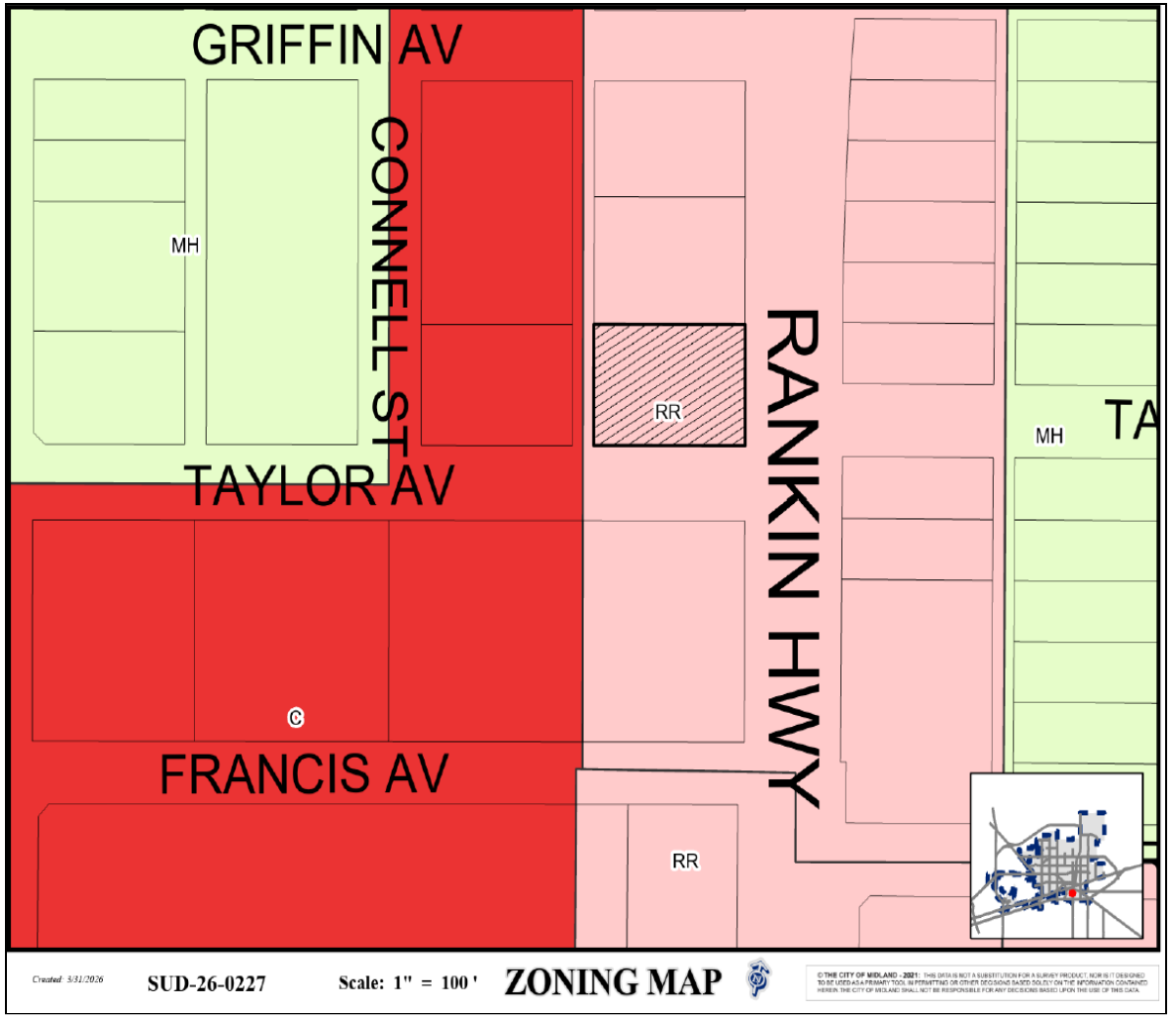
DETAILS OF REQUEST

- **For an existing restaurant**
- **Area of Business:** 3,171 SF
- **Serviceable Area:** 2,054 SF
- **Hours of Operation:** Monday through Sunday from 8:00 a.m. to 11:00 p.m.
- **Sales of Alcohol:** Monday through Saturday 8:00 a.m. to 11:00 p.m. Sunday from 10:00 a.m. to 11:00 p.m.



ZONING

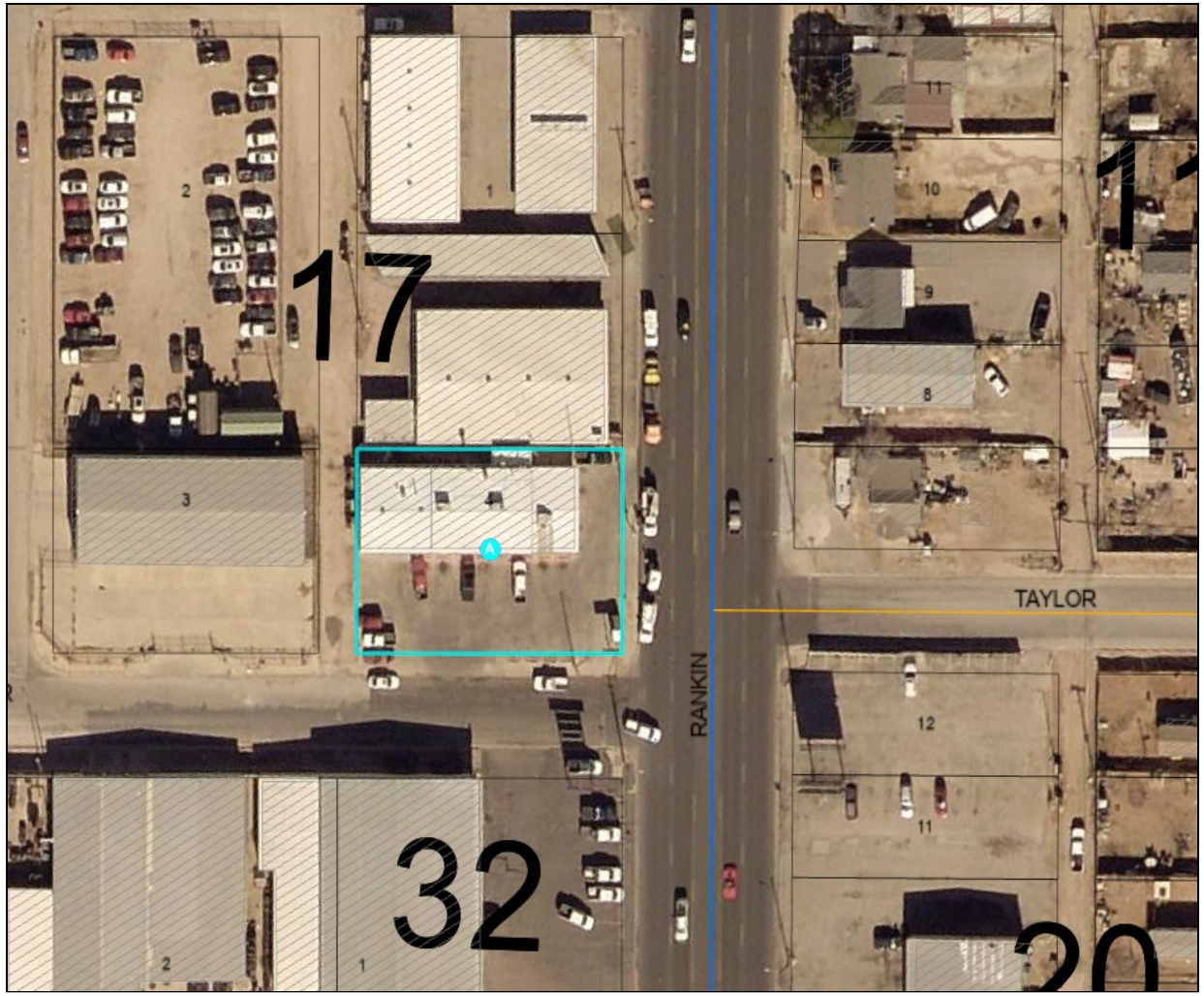
- **Current Zoning**: RR, Regional Retail District
- **Surrounding Zoning:**
  - **South/North/East:** RR, Regional Retail District
  - **West:** C, Commercial District
- The use of an SUD for the sale and on-premises consumption is allowed in this zoning.



4

LAND USE

- **Current Use:** Restaurant
- **Surrounding Uses:**
  - **North:** Clinic
  - **West:** Commercial Use
  - **East:** Retail Shops
  - **South:** Automotive Shop



MIDLAND
Be the Energy!



On Rankin Highway, Looking West

6

MIDLAND
Be the Energy!

COMPREHENSIVE PLAN

This request is compatible with the *Tall City Tomorrow Comprehensive Plan* as it is consistent *Chapter 6-Character Plan, Goal 4*, which is to "Encourage the development of places where Midland residents can gather and socialize to build connections."



PROHIBITED PLACES OF BUSINESS

There is no church, public school, public school ground, athletic stadium used by any public school, or public hospital within 300 feet of the building of the subject property as required by *Section 5-4-4 Prohibited Places of Business.*



STAFF'S RECOMMENDATION

- No objections were received.
- Staff recommends approval of this request with the following conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 2,054 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.



STAFF'S RECOMMENDATION

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following: Monday through Saturday from 8:00 a.m. to 11:00 p.m.; and Sunday from 10:00 a.m. to 11:00 p.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.



STAFF'S RECOMMENDATION

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 19.
Meeting Date: May 12, 2026
To: City Council
From: Britton Murry, Senior Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 4.497-ACRE TRACT OF LAND OUT OF LOT 10, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 39, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF DEAUVILLE BOULEVARD, APPROXIMATELY 285 FEET WEST OF GRIFFITH DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:

Angel Robinson, on behalf of Midland Westridge, LLC, is requesting a zone change from PD, Planned Development District for a Shopping Center to RR, Regional Retail District for future commercial development for property located on the north side of Deauville Boulevard.

Recommended Action:
Approve

Fiscal Impact:
None

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:

Current Zoning:

PD, Planned Development District for a Shopping Center

Surrounding Zoning and Land Use:

The properties to the north, east, and west are zoned PD, Planned Development District for a

Shopping Center, to the east is a daycare, and the properties to the north and west consist of vacant land. The property to the south is zoned PD, Planned Development District for an Office Center and is an office building.

Analysis:

The subject property is located on the north side of Deaville Boulevard and is presently zoned PD, Planned Development District for a Shopping Center. Angel Robinson, on behalf of Midland Westridge, LLC, is requesting a zone change to RR, Regional Retail District for future commercial development. Though the proposed commercial use for this property is presently allowed within the PD, the industry standard design for their building will not conform to the strict building material and elevation standards within the PD. Changing this property's zoning to RR, Regional Retail District, would allow for the proposed commercial use to develop within the standards of the RR straight zoning. The proposed use would align with the surrounding area.

This request is consistent with the Tall City Tomorrow Comprehensive Plan, which designated this area as Urban-High (U-H). This designation calls for a mix of complementary uses, including multi-family residential, large offices, medical buildings, regional commercial, limited industrial, institutional uses such as churches, schools, or hospitals, and other regional attractions. Parking garages or public parking lots may be found in these areas. Higher levels of urban amenities are used to offset the area's intensity level.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objections or comments.

Engineering: (Approved)

No objections to zone change. [For Applicant's Information Only.]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For Applicant's Information Only.]

Code: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2023 NEC requirements, the 2015 International Fire Codes, local city ordinances, planning/zoning requirements, established setbacks, Health department regulations, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on the time of new code editions adopted in the City of Midland and date of permit application.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For the Applicant’s information only.]

Planning: (Approved)

Staff recommends approval of this Zone Change from PD, Planned Development District for a Shopping Center to RR, Regional Retail District.

Letters of Objection:

Staff has not received any letters of objection as of April 17, 2026.

Attachments:
A. ORD W EXH - Z-26-0470.PDSC to RR Ord w Exh
B. Z-26-0470, Combined Docs
C. CC - - 6023 Andrews ZC

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 4.497-ACRE TRACT OF LAND OUT OF LOT 10, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 39, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF DEAUVILLE BOULEVARD, APPROXIMATELY 285 FEET WEST OF GRIFFITH DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning a 4.497-acre tract of land out of Lot 10, Block 7, Westridge Park Addition, Section 39, City and County of Midland, Texas (the "Property"), said Property being more specifically described by metes and bounds in Exhibit A, which is attached hereto and incorporated herein, to RR, Regional Retail District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from PD, Planned Development District for a Shopping Center to RR, Regional Retail District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

EXHIBIT A

ZONING DESCRIPTION

BEING a tract of land situated in the Texas & Pacific Railway Survey, Abstract No. 258, City of Midland, Midland County, Texas, being a portion of Lot 10, Block 7 of Westridge Park Addition, Section 39, an addition to the City of Midland, Midland County, Texas, according to the plat thereof recorded in Cabinet L, Page 63, Plat Records, Midland County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod with yellow cap stamped "PLS 1974" found for the southwest corner of Lot 6A, Block 7 of said Westridge Park Addition, and the southeast corner of said Lot 10, Block 7, and being in the north right-of-way line of Deauville Boulevard (a 110-foot public right-of-way), from which a punch hole in concrete found for the southeast corner of said Lot 6A, Block 7 bears North 75°13'55" East, a distance of 308.72 feet;

THENCE South 75°13'55" West with said north right-of-way line of Deauville Boulevard and the south line of said Lot 10, Block 7, a distance of 468.11 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner, from which a 1/2-inch iron rod found for the southwest corner of said Lot 10, Block 7 bears South 75°13'55" West, a distance of 313.95 feet;

THENCE over and across said Lot 10, Block 7, the following courses and distances:

North 14°45'21" West, a distance of 418.44 feet to a point for corner;

North 75°13'55" East, a distance of 468.11 feet to a point for corner;

South 14°45'21" East, passing at a distance of 228.82 feet a Mag Nail with washer stamped "Dunaway Associates" found for the northwest corner of said Lot 6A, Block 7, continuing with the west line of said Lot 6A, Block 7, in all a distance of 418.44 feet to the **POINT OF BEGINNING** and containing a computed area of 195,874 square feet or 4.497 acres of land.

Bearings based on the State Plane Coordinate System, Texas Central Zone 4203, North American Datum of 1983. Adjustment Realization 2011.

THIS DOCUMENT WAS PREPARED UNDER 22 TEXAS ADMINISTRATIVE CODE §138.95, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.



2/11/2026

ZONING DESCRIPTION

BEING a tract of land situated in the Texas & Pacific Railway Survey, Abstract No. 258, City of Midland, Midland County, Texas, being a portion of Lot 10, Block 7 of Westridge Park Addition, Section 39, an addition to the City of Midland, Midland County, Texas, according to the plat thereof recorded in Cabinet L, Page 63, Plat Records, Midland County, Texas, and being more particularly described as follows:

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THENCE South 75°13'55" West with said north right-of-way line of Deauville Boulevard and the south line of said Lot 10, Block 7, a distance of 468.11 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner, from which a 1/2-inch iron rod found for the southwest corner of said Lot 10, Block 7 bears South 75°13'55" West, a distance of 313.95 feet;

THENCE over and across said Lot 10, Block 7, the following courses and distances:

North 14°45'21" West, a distance of 418.44 feet to a point for corner;

North 75°13'55" East, a distance of 468.11 feet to a point for corner;

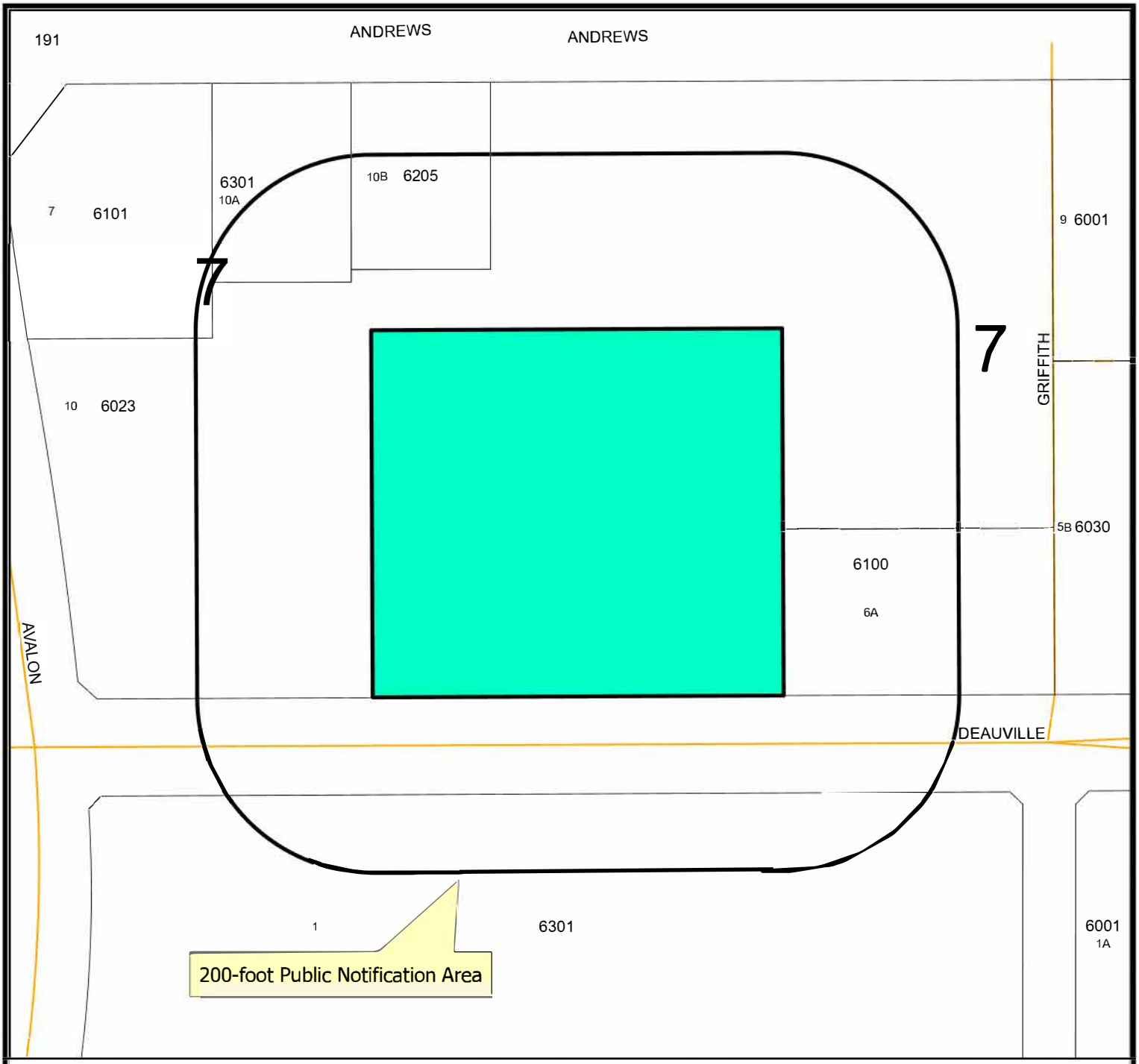
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Bearings based on the State Plane Coordinate System, Texas Central Zone 4203, North American Datum of 1983. Adjustment Realization 2011.

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2/11/2026



Location Map

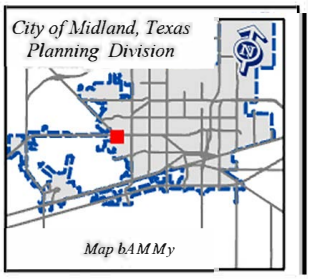
Z-26-0470 **Scale: 1" = 163 '**

Consider a request by Angel Robinson, on behalf of Midland Westridge, LLC, for a Zone Change from PD, Planned Development District for a Shopping Center to RR, Regional Retail District on a 4.497-acre tract of land out of Lot 10, Block 7, Westridge Park Addition, Section 39, City and County of Midland, Texas.

Generally located on the north side of Deauville Boulevard, approximately 285 feet west of Griffith Drive. (Council District 4)

LEGEND

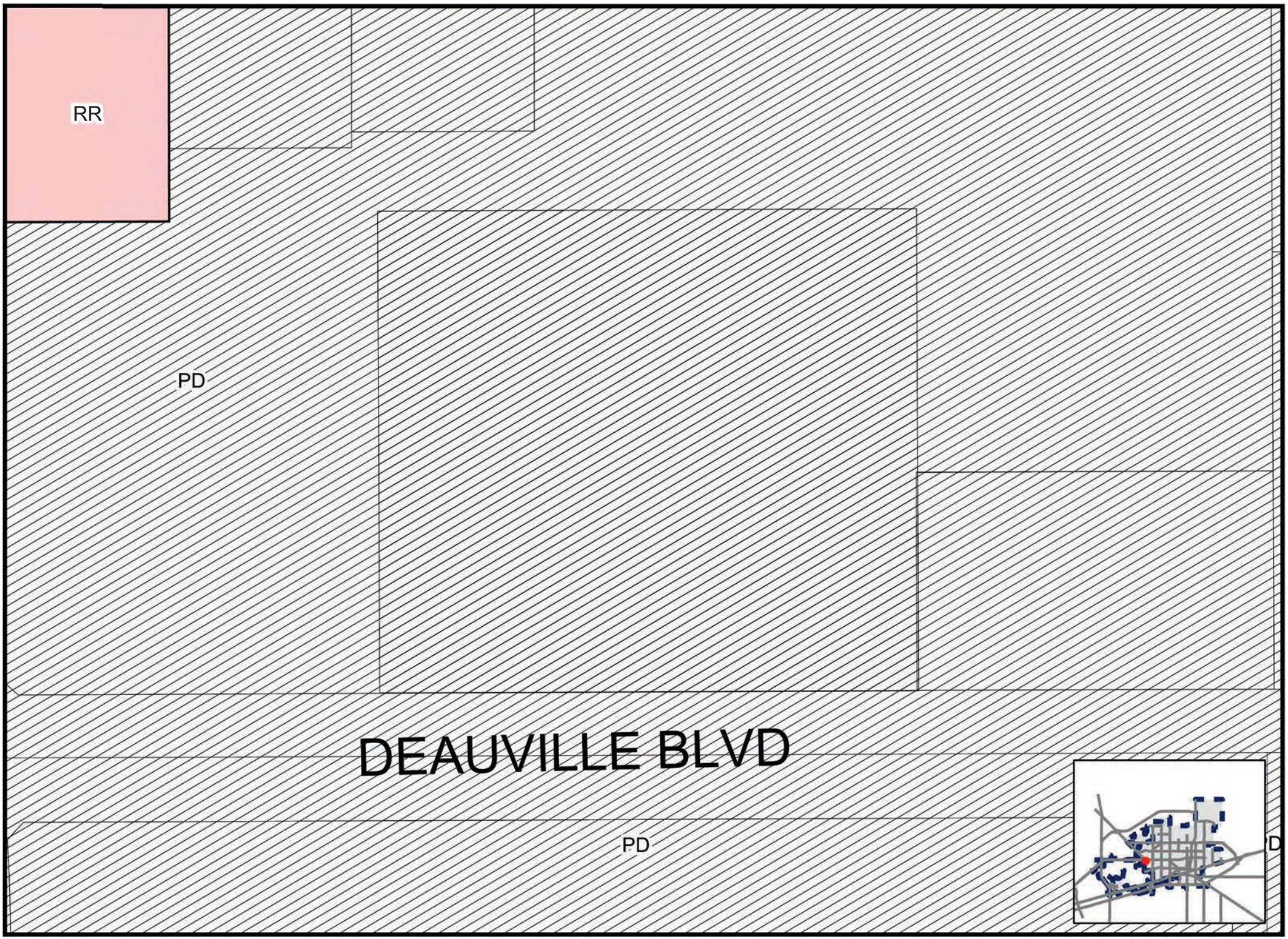
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Created: 3/6/2026

Z-26-0470

Scale: 1" = 104 '

ZONING MAP

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISION MADE OR ACTION TAKEN BASED ON THE INFORMATION CONTAINED HEREIN.

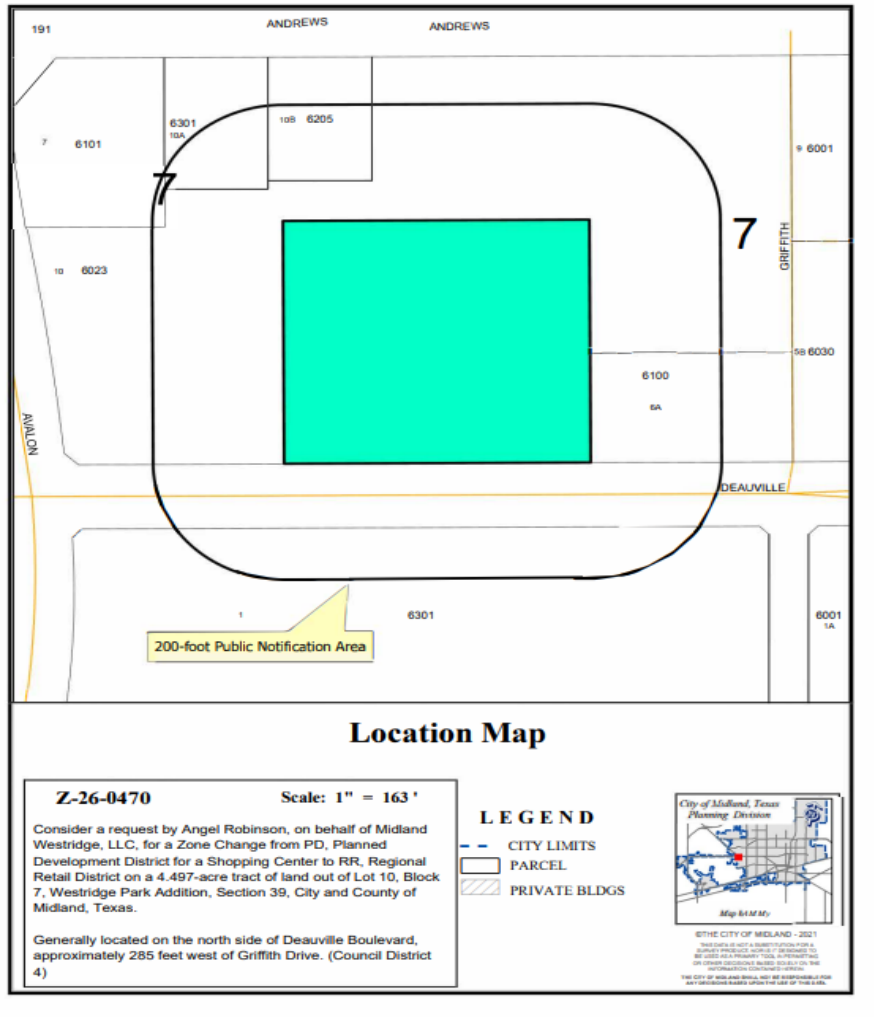

7
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6001
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AVALON
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DEAUVILLE




MIDLAND
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ZONE CHANGE
6023 ANDREWS HIGHWAY
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MIDLANDTEXAS.GOV

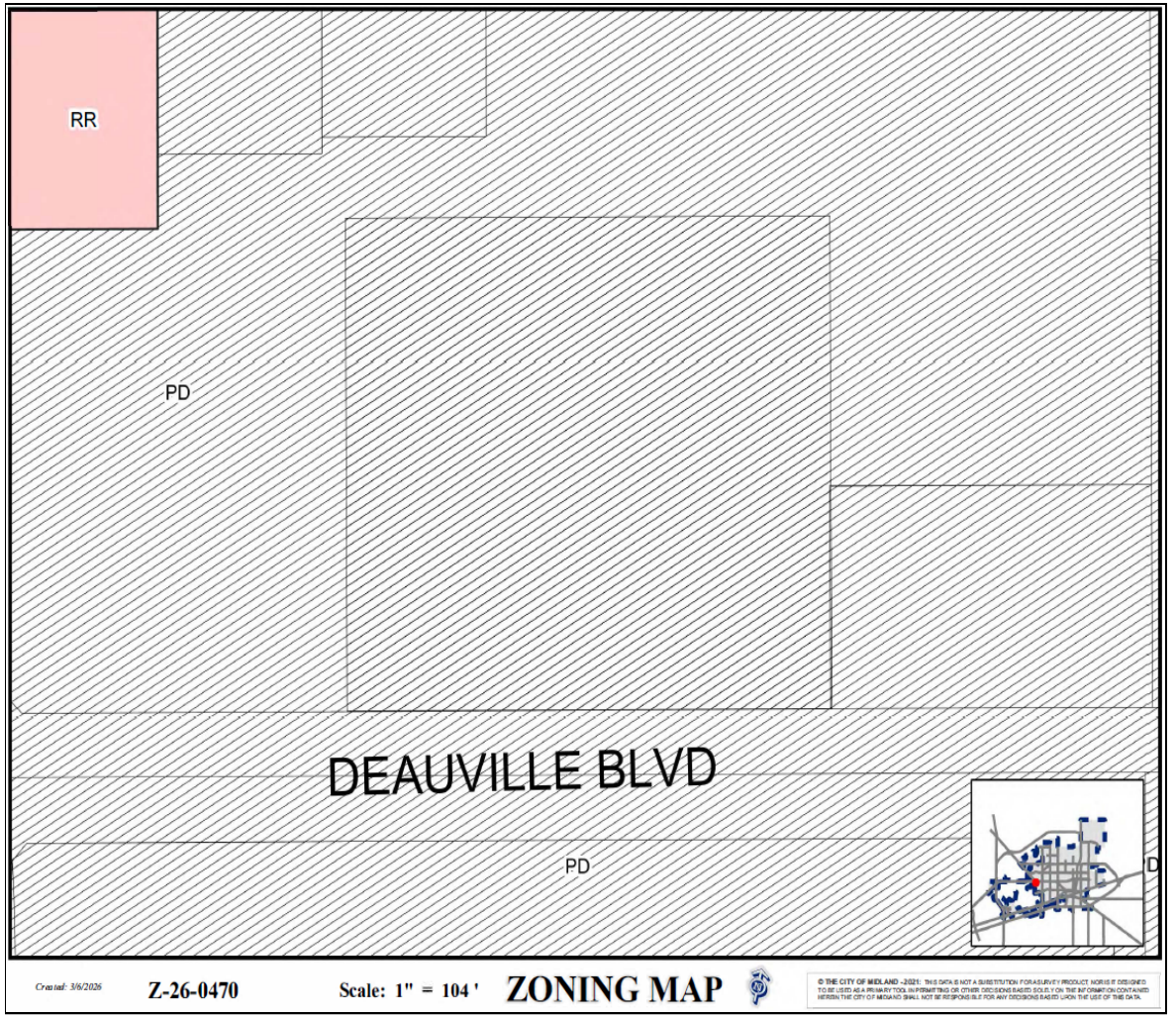
APPLICATION SUMMARY

- **Property Owner:** Midland Westridge, LLC
- **Location:** Generally located on the north side of Deauville Boulevard, approximately 285 feet west of Griffith Drive. (Council District 4)
- **Reason for Request:** Indoor amusement & restaurant



ZONING

- **Current Zoning:** PD, Planned Development District for a Shopping Center
- **Surrounding Zoning:**
  - **North/East/West/South:** PD, Planned Development District for a Shopping Center
- **Proposed Zoning:** RR, Regional Retail District



LAND USE

- **Current Use:** Vacant Land
- **Surrounding Uses:**
  - **North/West:** Vacant Land
  - **East:** Vacant Land and a School
  - **South:** Office Building
- **Proposed Use:** Indoor Amusement & Restaurant



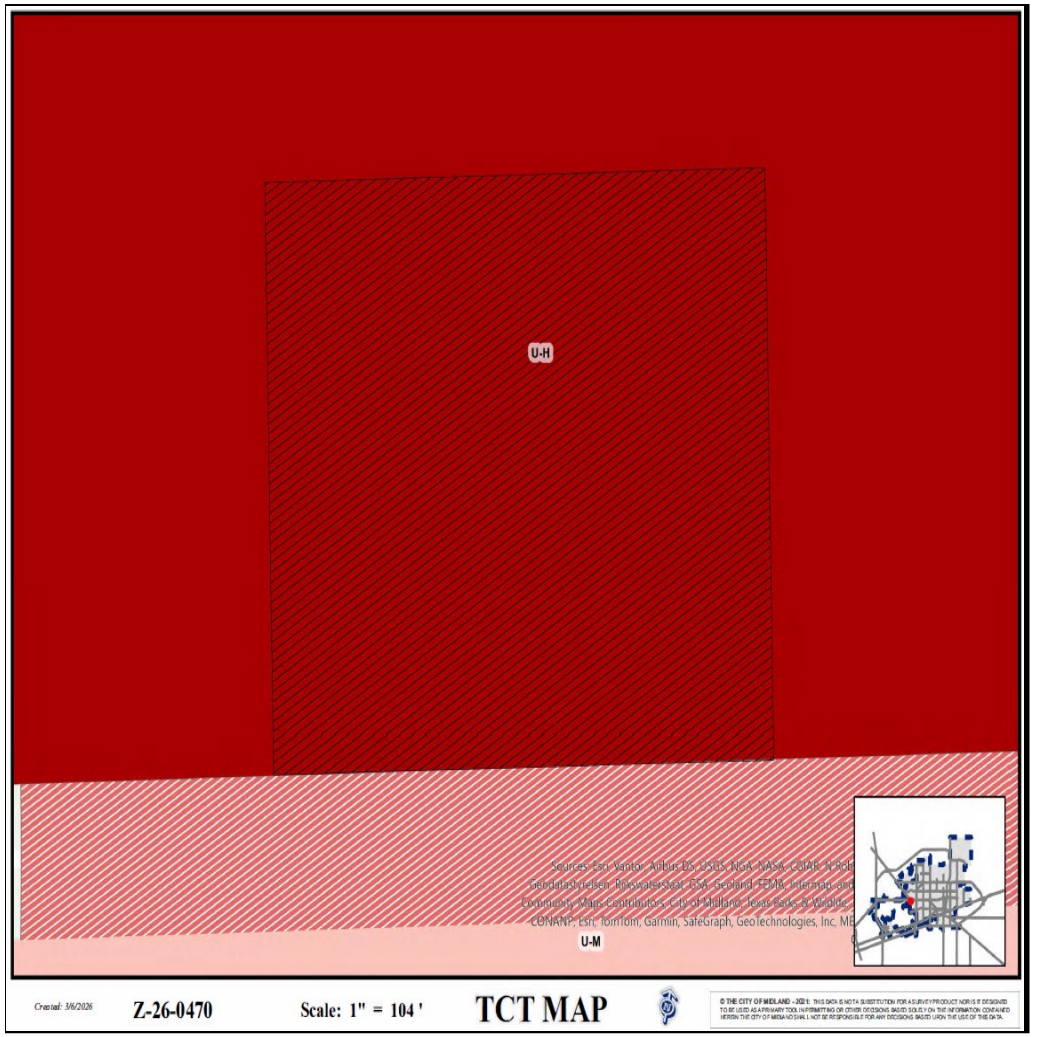
MIDLAND
Be the Energy!



On Deauville Boulevard, Looking East

COMPREHENSIVE PLAN

- **Land Use Designation:** Urban-High, (U-H)
- **Supported Uses:** A mix of complementary uses, including multi-family residential, large offices, medical buildings, regional commercial, limited industrial, institutional uses such as churches, schools, or hospitals, and other regional attractors.
- The request is compatible with the *Tall City Tomorrow Comprehensive Plan.*



RELATED ITEMS

- In addition to the zone change request, this property is also in the process of obtaining an SUD for alcohol sales for on-premise consumption.



STAFF'S RECOMMENDATION

- No objections were received.
- The Planning and Zoning Commission recommended approval of this request on April 6, 2026.
- Staff recommends approval of this request.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 20.
Meeting Date: May 12, 2026
To: City Council
From: Alexis Martinez, Associate Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 25,016-SQUARE FOOT PORTION OF A 4.497-ACRE TRACT OF LAND OUT OF LOT 10, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 39, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF DEAUVILLE BOULEVARD, APPROXIMATELY 285 FEET WEST OF GRIFFITH DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:
Midland Westridge LLC is requesting a Specific Use Designation with term, for the sale of all alcoholic beverages for on-premises consumption in a restaurant located at 6023 Andrews Highway.

Recommended Action:
Approve

Fiscal Impact:
This proposal does not have a significant financial impact to the City.

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

RR, Regional Retail District

Surrounding Zoning and Land Use:

The property to the north is zoned PD, Planned District for Shopping Center and is the location of a Starbucks and gas station. The properties to the east are zoned PD, Planned Development District and are the locations of vacant property. The properties to the south are zoned PD, Planned District and is the location of Chevron. The properties to the west are zoned RR, Regional Retail District and of is vacant.

Analysis:

The property is zoned RR, Regional Retail District. The RR zoning allows for Alcoholic Beverages Sales for On-Premises Consumption in a Restaurant with the approval of an SUD. The property does not have an existing SUD. Per the approved plans, the site will have adequate parking and circulation. The total area of the restaurant is 25,016 square feet and the proposed alcohol serviceable area is 14,580-square feet.

The proposed days and hours of operation are:

Monday and Tuesday from 11 a.m. to 12 a.m.
Wednesday and Thursday from 11 a.m. to 1 a.m.
Friday from 11 a.m. to 2 a.m.
Saturday from 10 a.m. to 2 a.m.
Sunday from 10 a.m. to 12 a.m.

The applicant is requesting the following alcohol serviceable hours.

Monday and Tuesday from 11 a.m. to 12 a.m.
Wednesday and Thursday from 11 a.m. to 1 a.m.
Friday from 11 a.m. to 2 a.m.
Saturday from 10 a.m. to 2 a.m.
Sunday from 10 a.m. to 12 a.m.

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public-school, public-school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of the property using the front door to door distance measurement.

This request has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

Contact the Fire Marshal's Office for a fire inspection before opening the business.

Engineering: (Approved)

No objection. [For Applicant's Information Only.]

Transportation: (Approved)

No objections. [For the Applicant's information only.]

Building Code: (Approved)

The SUD is acceptable. The property must adhere to the maximum occupant load of 972 persons for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning:

The request is in compliance with the Tall City Tomorrow Comprehensive Plan, Chapter 6-Character Plan Goal 4, which is to "Encourage the development of places where Midland residents can gather and socialize to build connections." (Tall City Tomorrow page 137) This establishment that will provide Midland residents with a unique social gathering experience. Staff recommends approval of this Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in restaurant, subject to conditions A through G.

Conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 14,580 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday and Tuesday from 11 a.m. to 12 a.m.
Wednesday and Thursday from 11 a.m. to 1 a.m.
Friday from 11 a.m. to 2 a.m.
Saturday from 10 a.m. to 2 a.m.
Sunday from 10 a.m. to 12 a.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance

Letters of Objection:

As of April 17, 2026 staff has not received any letters of objections.

Attachments:
A. SUD-26-0221, Combined Docs
B. SUD-26-0221, Alcohol SUD 6023 Andrew Hwy
C. SUD-26-0221.Alcohol Sales Ord w Exh

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ZONING DESCRIPTION

BEING a tract of land situated in the Texas & Pacific Railway Survey, Abstract No. 258, City of Midland, Midland County, Texas, being a portion of Lot 10, Block 7 of Westridge Park Addition, Section 39, an addition to the City of Midland, Midland County, Texas, according to the plat thereof recorded in Cabinet L, Page 63, Plat Records, Midland County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod with yellow cap stamped "PLS 1974" found for the southwest corner of Lot 6A, Block 7 of said Westridge Park Addition, and the southeast corner of said Lot 10, Block 7, and being in the north right-of-way line of Deauville Boulevard (a 110-foot public right-of-way), from which a punch hole in concrete found for the southeast corner of said Lot 6A, Block 7 bears North 75°13'55" East, a distance of 308.72 feet;

THENCE South 75°13'55" West with said north right-of-way line of Deauville Boulevard and the south line of said Lot 10, Block 7, a distance of 468.11 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner, from which a 1/2-inch iron rod found for the southwest corner of said Lot 10, Block 7 bears South 75°13'55" West, a distance of 313.95 feet;

THENCE over and across said Lot 10, Block 7, the following courses and distances:

North 14°45'21" West, a distance of 418.44 feet to a point for corner;

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South 14°45'21" East, passing at a distance of 228.82 feet a Mag Nail with washer stamped "Dunaway Associates" found for the northwest corner of said Lot 6A, Block 7, continuing with the west line of said Lot 6A, Block 7, in all a distance of 418.44 feet to the **POINT OF BEGINNING** and containing a computed area of 195,874 square feet or 4.497 acres of land.

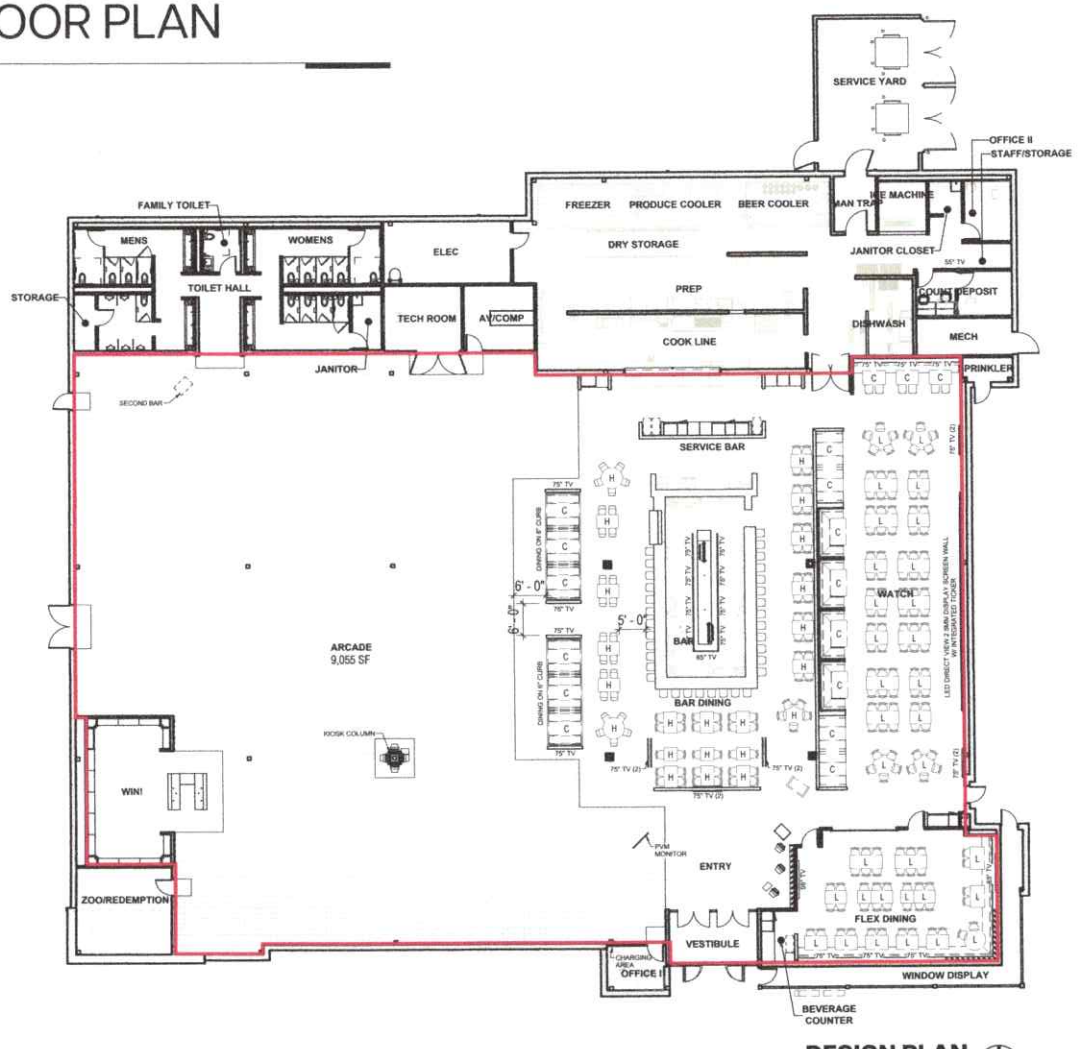
Bearings based on the State Plane Coordinate System, Texas Central Zone 4203, North American Datum of 1983. Adjustment Realization 2011.

THIS DOCUMENT WAS PREPARED UNDER 22 TEXAS ADMINISTRATIVE CODE §138.95, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.



2/11/2026

MIDLAND, TX
SUD - FLOOR PLAN



DESIGN PLAN
NOT TO SCALE

SEAT COUNTS			25K
FLEX DINING	15	60	
WATCH	29	134	
BAR/BAR DINING	28	155	
GAME SUITES	–	–	
TOTAL	**72**	**349**	

(TABLES / SEATS)

SQUARE FOOTAGE	25K
ENTRY (INCLUDES VESTIBULE)	621
FLEX DINING	735
WATCH	1,778
BAR/BAR DINING	1,804
GAME SUITES	–
SPECIAL EVENTS	–
VIP	–
ARCADE	9,055
WIN! & ZOO	743
TECH	178
BACK OF HOUSE	3,043
MECH/ELEC	414
OFFICES	352
TOILET ROOMS	1,111
DISPLAY WINDOW	335
MISC./CIRCULATION	2,317
TOTAL INTERIOR	**24,268**
TOTAL GROSS	**25,016**

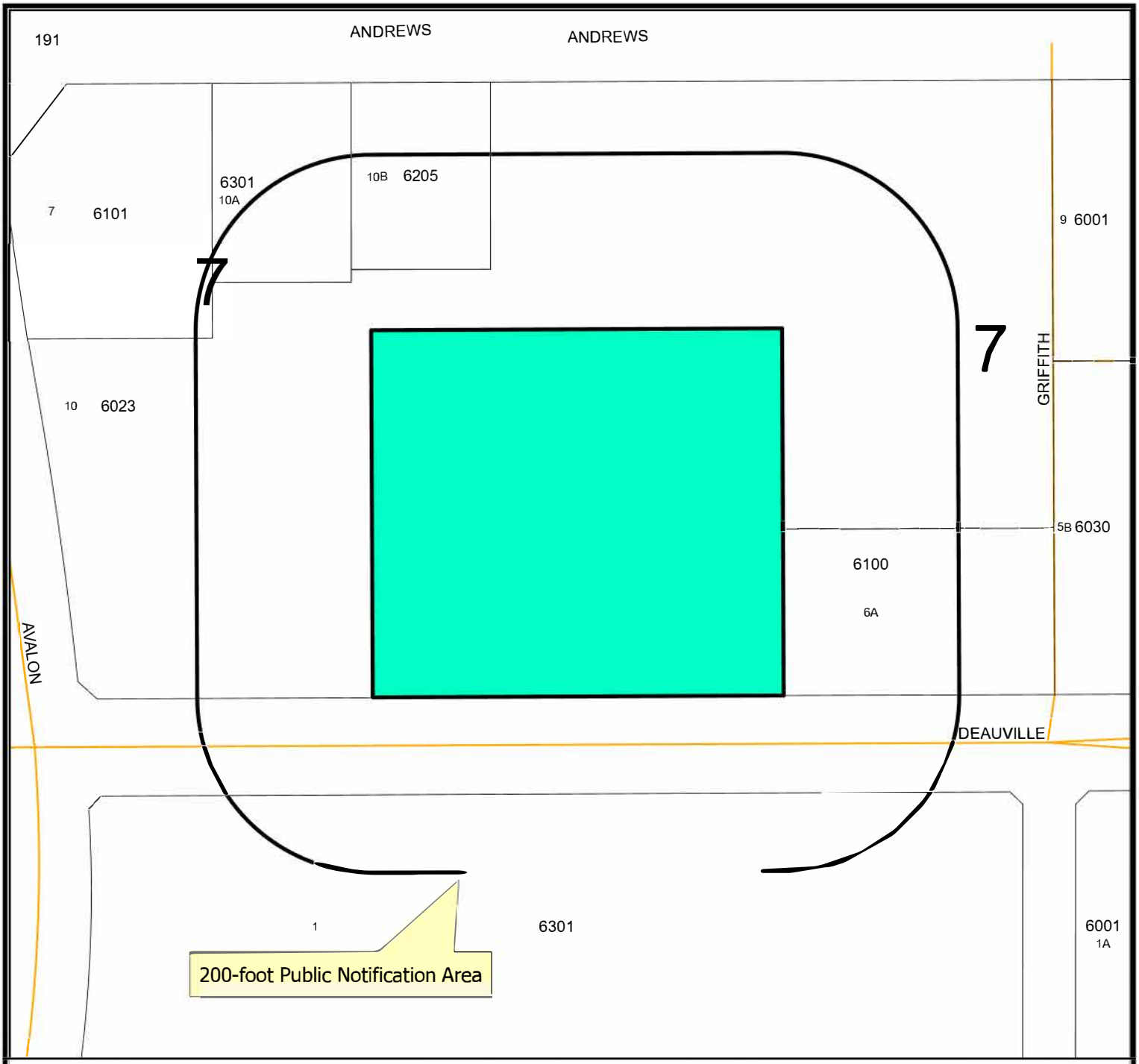
(SQUARE FOOTAGE)

PUBLIC FACING AREAS SERVING ALCOHOL
(OUTLINED IN RED)

ENTRY	621 **SF**
FLEX DINING	735 **SF**
WATCH	1,778 **SF**
BAR/BAR DINING	1,804 **SF**
SECOND BAR (PORTABLE)	6 **SF**
ARCADE	9,055 **SF**
WIN!	581 **SF**
TOTAL	**14,580 SF**

TOILET REQUIREMENTS

FIXTURE TYPE	MEN	WOMEN	FAMILY	EMPLOYEE
	PROVIDED			
W.C. (1 PER 75)	5	9	1	-
LAV. (1 PER 200)	5	5	1	-
URINALS	5	-	-	-



Location Map

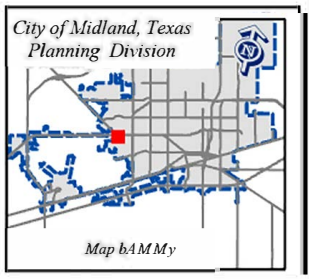
SU D-26-0221 **Scale: 1" = 163 '**

Consider a request by Midland Westridge, LLC, for a Specific Use Designation with Term for the sale of all alcoholic beverages for on premises consumption in a restaurant, for a 25,016-square foot portion of a 4.497-acre tract of land out of Lot 10, Block 7, Westridge Park Addition, Section 39, City and County of Midland, Texas.

Generally located at the north side of Deauville Boulevard, approximately 285 feet west of Griffith Drive. (Council District 4)

LEGEND

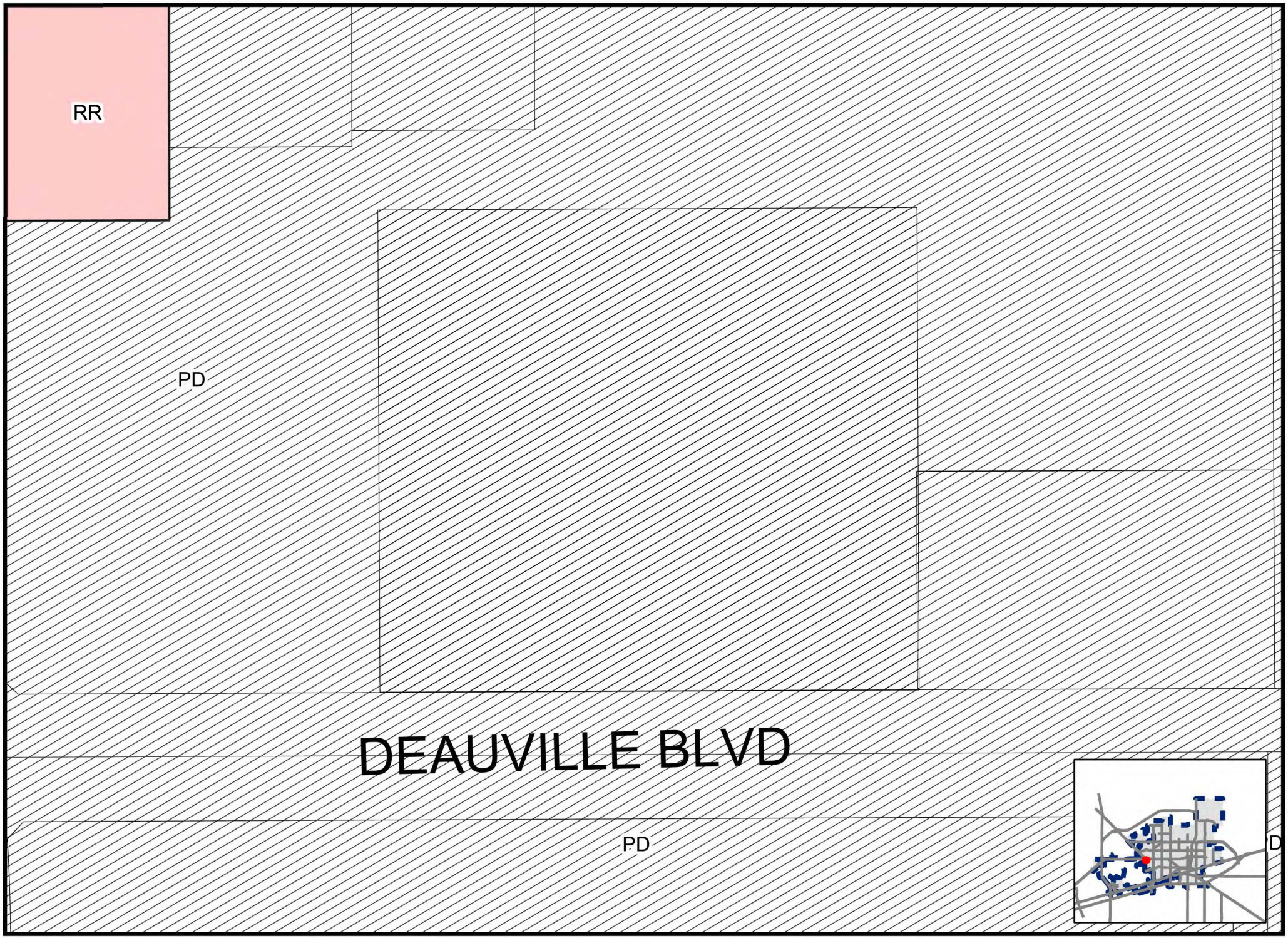
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT. NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Created: 3/6/2026

SUD-26-0221

Scale: 1" = 104 '

ZONING MAP

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISION MADE OR ACTION TAKEN BASED ON THIS DATA.

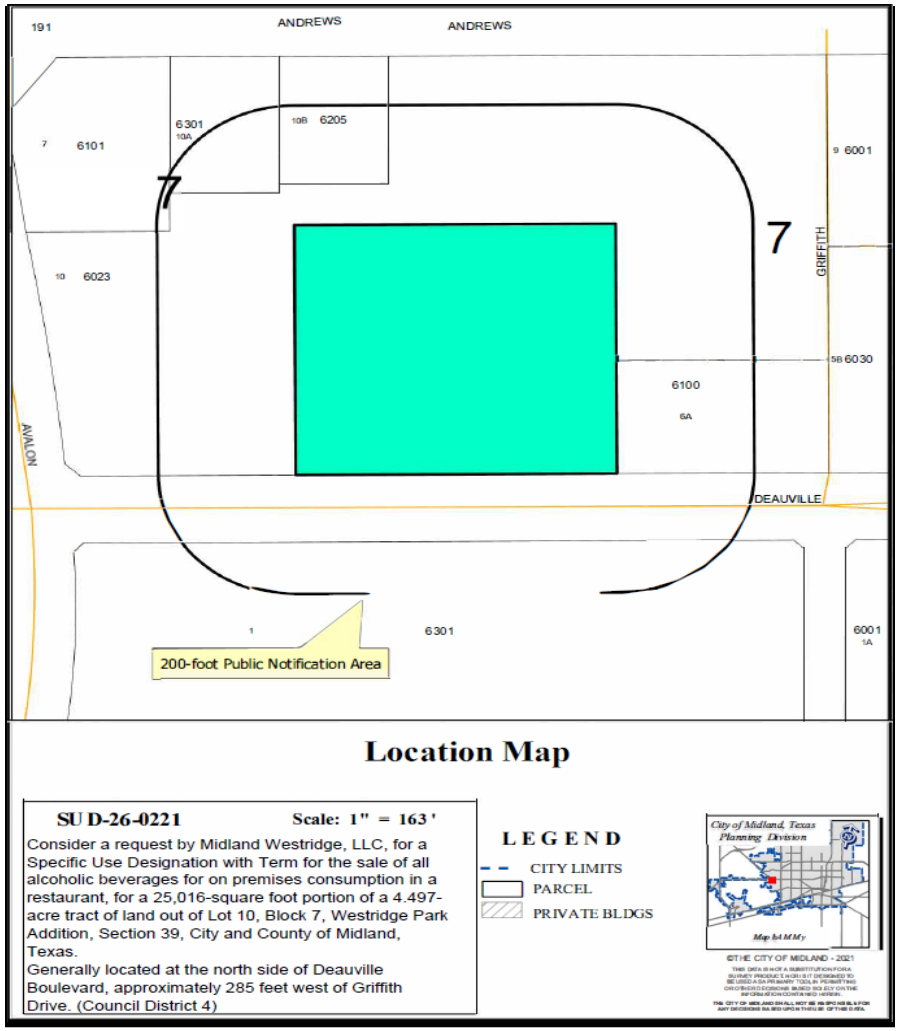

7
6301
6205
7
6001
WESTRIDGE
6023
10
GRIFFITH
6030
AVALON
6100
6A
DEAUVILLE




MIDLAND
Be the Energy!
ITEM
SPECIFIC USE DESIGNATION
6023 ANDREWS HWY
Visit Our Website
MIDLANDTEXAS.GOV

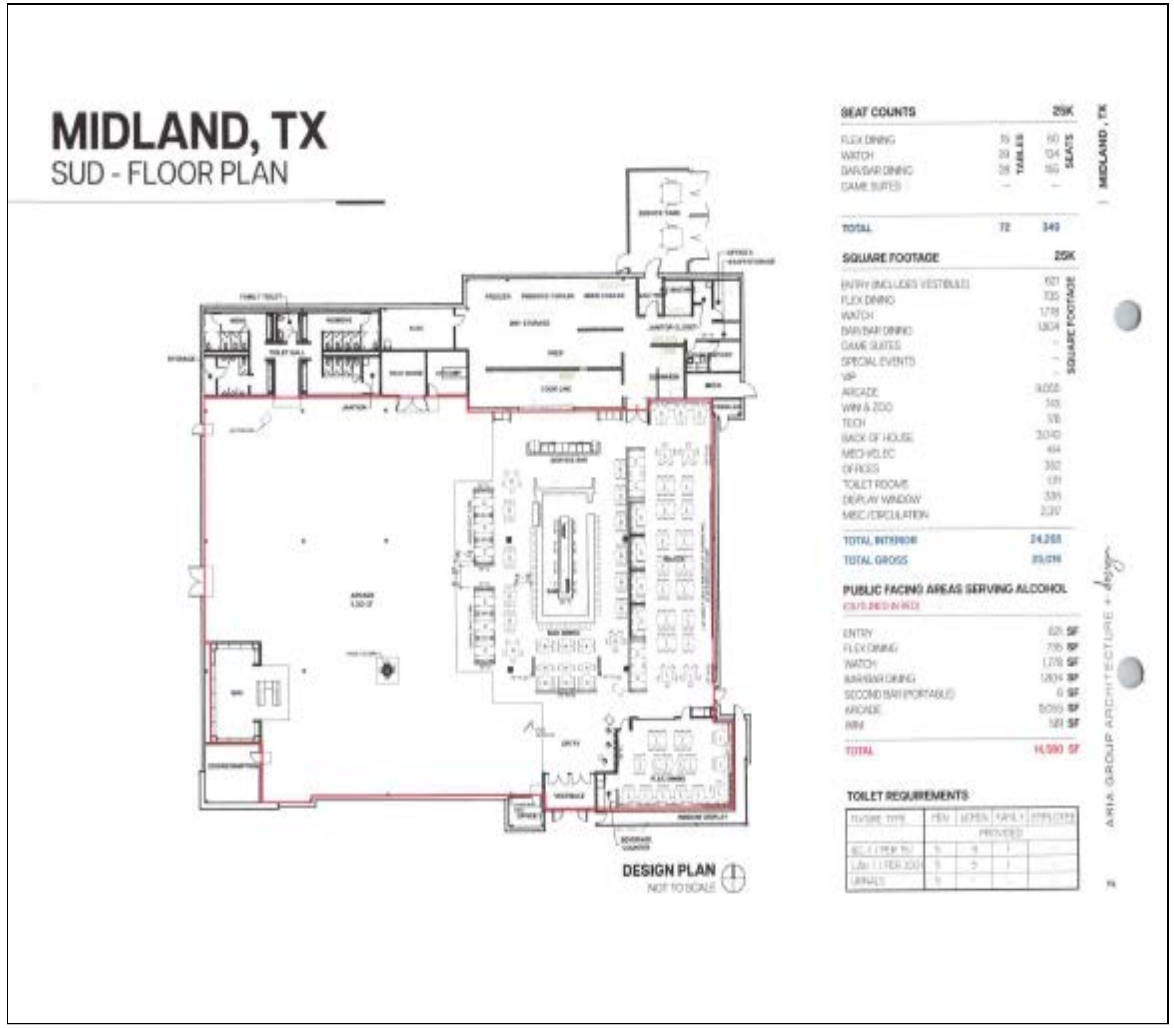
APPLICATION SUMMARY

- **Property Owner:** Midland Westridge LLC
- **Location:** Generally located on the north side of Deauville Boulevard, approximately 285 feet west of Griffith Drive (Council District 4)
- **Reason for Request:** For the sale and on-premises consumption of alcohol in a restaurant.



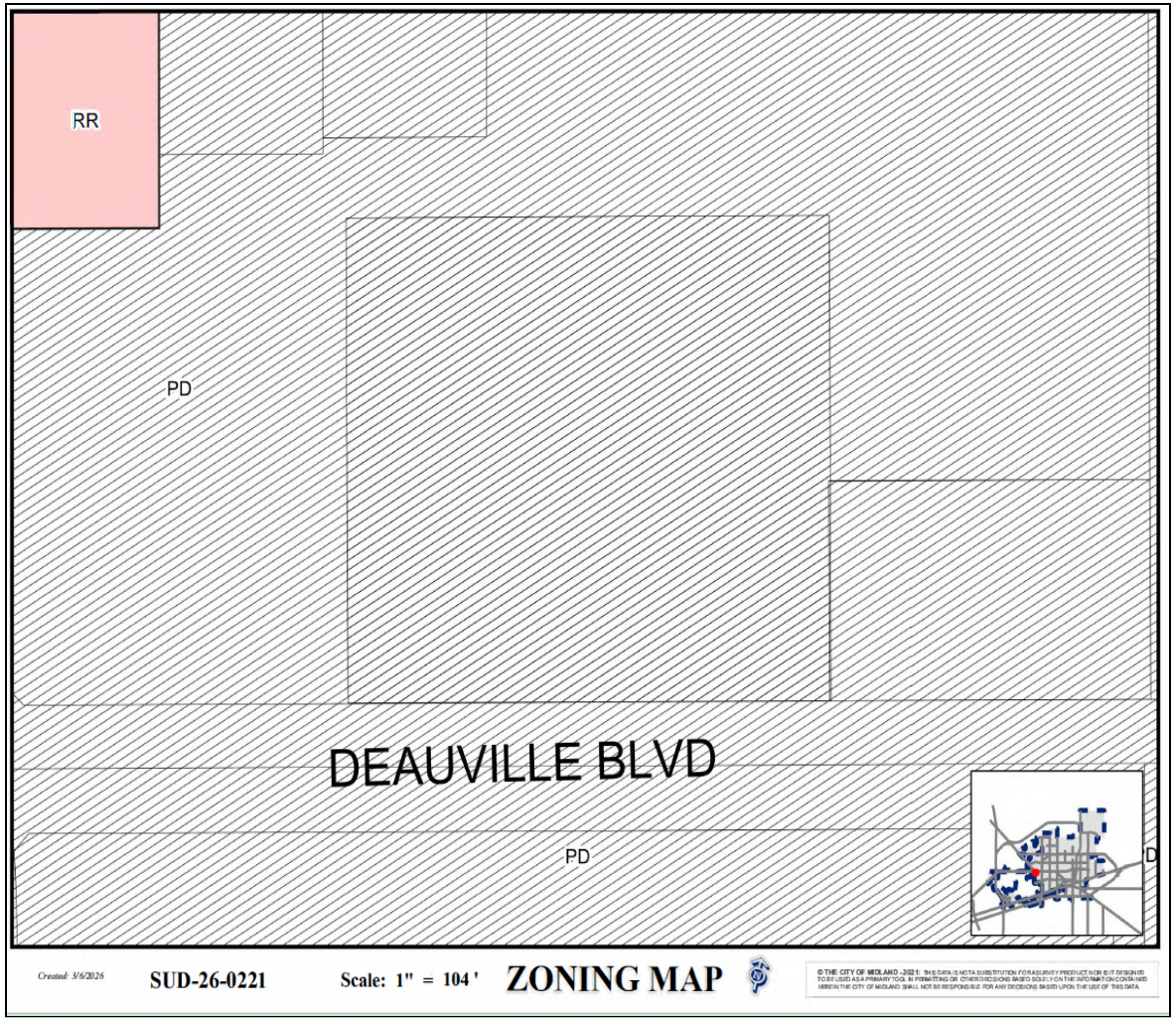
DETAILS OF REQUEST

- **For a new restaurant.**
- **Area of Business:** 25,016 SF
- **Serviceable Area:** 14,580 SF
- **Hours of Operation and Sales of Alcohol:** Monday through Tuesday 11:00 a.m. to 12:00 a.m. Wed. through Thursday 11:00 a.m. to 1:00 a.m. Friday 11:00 a.m. to 2:00 a.m. Saturday 10:00 a.m. to 2:00 a.m. Sunday 10:00 a.m. to 12:00 a.m.



ZONING

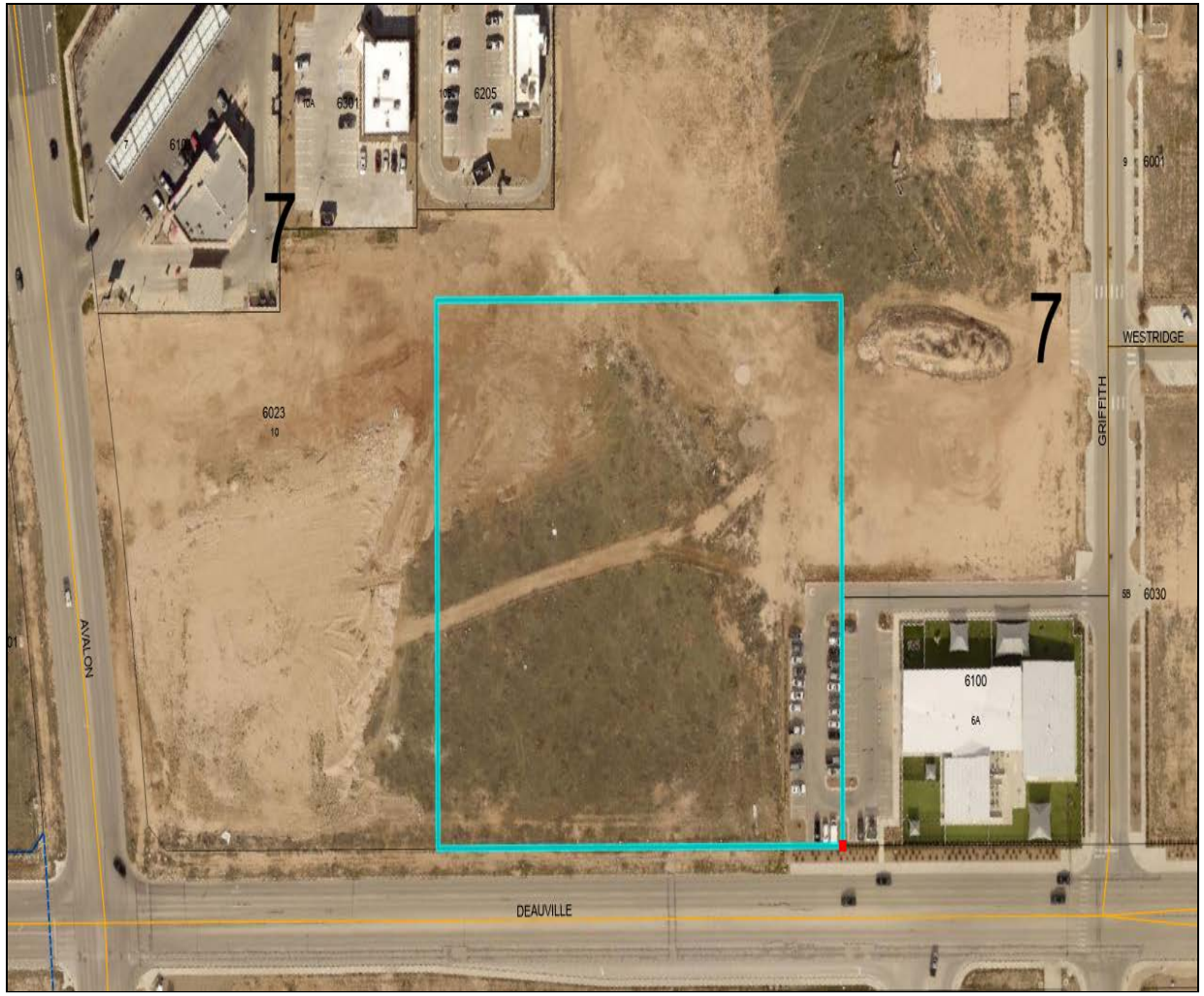
- **Current Zoning**: PD, Planned Development District subject to change upon approval of the zone change RR, Regional Retail.
- **Surrounding Zoning:**
  - **North/East/West/South:** PD, Planned Development District for a Shopping Center
- The use of an SUD for the sale and on-premises consumption is allowed in this zoning.



MIDLAND
Be the Energy!

LAND USE

- **Current Use:** Vacant Land
- **Surrounding Uses:**
  - **North/West:** Vacant Land
  - **East:** Vacant Land and a School
  - **South:** Office Building
- **Proposed Use:** Indoor amusement & restaurant



MIDLAND
Be the Energy!



On Deauville Boulevard, Looking East

MIDLAND
Be the Energy!

COMPREHENSIVE PLAN

This request is compatible with the *Tall City Tomorrow Comprehensive Plan* as it is consistent *Chapter 6-Character Plan, Goal 4*, which is to “Encourage the development of places where Midland residents can gather and socialize to build connections.”



PROHIBITED PLACES OF BUSINESS

There is no church, public school, public school ground, athletic stadium used by any public school, or public hospital within 300 feet of the building of the subject property as required by *Section 5-4-4 Prohibited Places of Business.*



STAFF'S RECOMMENDATION

- No objections were received.
- Staff recommends approval of this request with the following conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 14,580 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.



STAFF'S RECOMMENDATION

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Tuesday 11:00 a.m. to 12:00 a.m. Wed. through Thursday 11:00 a.m. to 1:00 a.m. Friday 11:00 a.m. to 2:00 a.m. Saturday 10:00 a.m. to 2:00 a.m. Sunday 10:00 a.m. to 12:00 a.m.



STAFF'S RECOMMENDATION

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.



STAFF'S RECOMMENDATION

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 25,016-SQUARE FOOT PORTION OF A 4.497-ACRE TRACT OF LAND OUT OF LOT 10, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 39, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF DEAUVILLE BOULEVARD, APPROXIMATELY 285 FEET WEST OF GRIFFITH DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 25,016-square foot portion of a 4.497-acre tract of land out of Lot 10, Block 7, Westridge Park Addition, Section 39, City and County of Midland, Texas (the "Property"), said 4.497-acre tract of land being more specifically described by metes and bounds in Exhibit A, which is attached hereto and incorporated herein, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale

of all alcoholic beverages in a restaurant (the "Establishment") for on-premises consumption, together with the uses permitted in the present RR, Regional Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 14,580 square feet as shown in Exhibit B, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday and Tuesday from 11:00 a.m. to 12:00 a.m. (midnight);
Wednesday and Thursday from 11:00 a.m. to 1:00 a.m. of the following day;
Friday from 11:00 a.m. to 2:00 a.m. of the following day;
Saturday from 10:00 a.m. to 2:00 a.m. of the following day; and
Sunday from 10:00 a.m. to 12:00 a.m. (midnight).

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

EXHIBIT A

ZONING DESCRIPTION

BEING a tract of land situated in the Texas & Pacific Railway Survey, Abstract No. 258, City of Midland, Midland County, Texas, being a portion of Lot 10, Block 7 of Westridge Park Addition, Section 39, an addition to the City of Midland, Midland County, Texas, according to the plat thereof recorded in Cabinet L, Page 63, Plat Records, Midland County, Texas, and being more particularly described as follows:

BEGINNING at a 1/2-inch iron rod with yellow cap stamped "PLS 1974" found for the southwest corner of Lot 6A, Block 7 of said Westridge Park Addition, and the southeast corner of said Lot 10, Block 7, and being in the north right-of-way line of Deauville Boulevard (a 110-foot public right-of-way), from which a punch hole in concrete found for the southeast corner of said Lot 6A, Block 7 bears North 75°13'55" East, a distance of 308.72 feet;

THENCE South 75°13'55" West with said north right-of-way line of Deauville Boulevard and the south line of said Lot 10, Block 7, a distance of 468.11 feet to a 5/8-inch iron rod with red plastic cap stamped "KHA" set for corner, from which a 1/2-inch iron rod found for the southwest corner of said Lot 10, Block 7 bears South 75°13'55" West, a distance of 313.95 feet;

THENCE over and across said Lot 10, Block 7, the following courses and distances:

North 14°45'21" West, a distance of 418.44 feet to a point for corner;

North 75°13'55" East, a distance of 468.11 feet to a point for corner;

South 14°45'21" East, passing at a distance of 228.82 feet a Mag Nail with washer stamped "Dunaway Associates" found for the northwest corner of said Lot 6A, Block 7, continuing with the west line of said Lot 6A, Block 7, in all a distance of 418.44 feet to the **POINT OF BEGINNING** and containing a computed area of 195,874 square feet or 4.497 acres of land.

Bearings based on the State Plane Coordinate System, Texas Central Zone 4203, North American Datum of 1983. Adjustment Realization 2011.

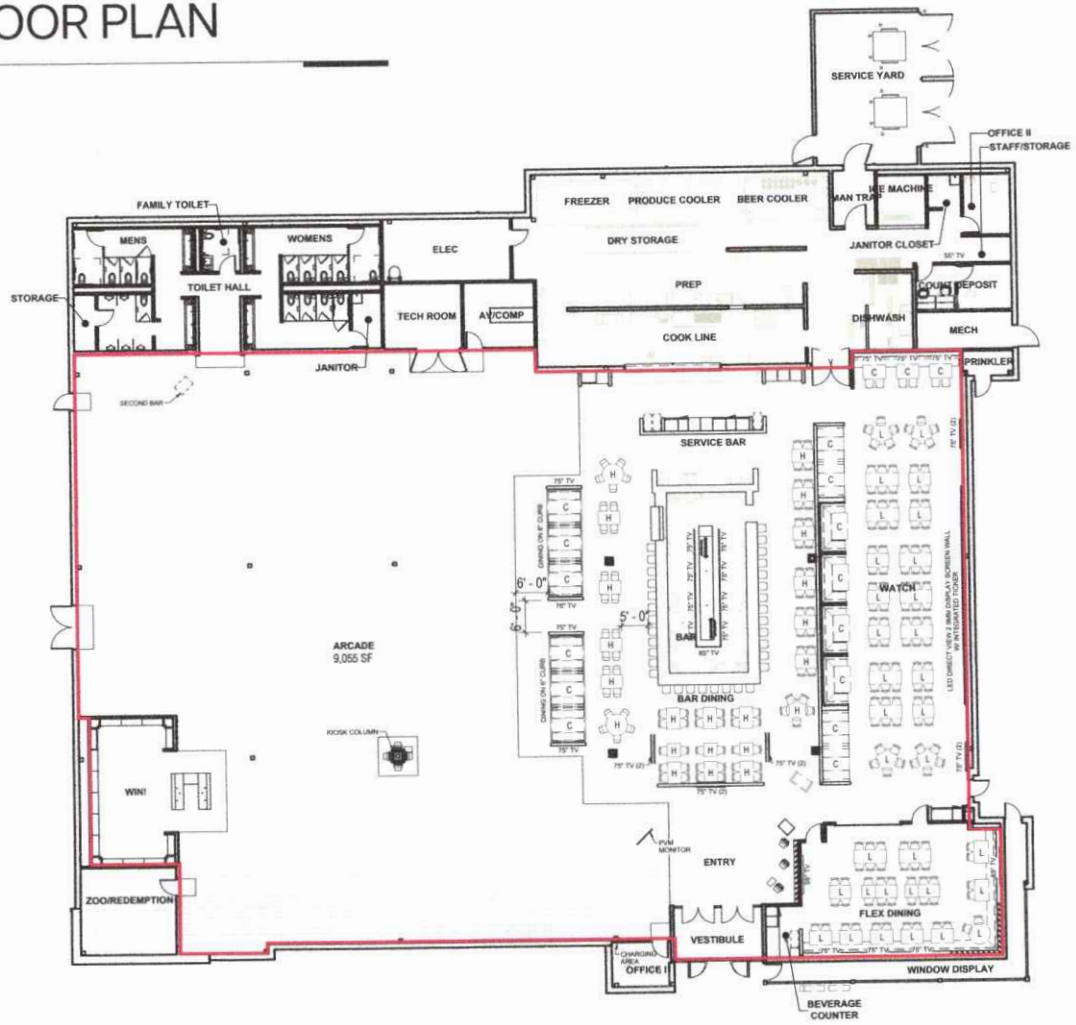
THIS DOCUMENT WAS PREPARED UNDER 22 TEXAS ADMINISTRATIVE CODE §138.95, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.



2/11/2026

EXHIBIT B

MIDLAND, TX
SUD - FLOOR PLAN



DESIGN PLAN
NOT TO SCALE

SEAT COUNTS			25K
FLEX DINING	15	60	
WATCH	29	134	
BAR/BAR DINING	28	155	
GAME SUITES	–	–	
	TABLES	SEATS	
TOTAL	72	349	

SQUARE FOOTAGE	25K
ENTRY (INCLUDES VESTIBULE)	621
FLEX DINING	735
WATCH	1,778
BAR/BAR DINING	1,804
GAME SUITES	–
SPECIAL EVENTS	–
VIP	–
ARCADE	9,055
WIN! & ZOO	743
TECH	178
BACK OF HOUSE	3,043
MECH/ELEC	414
OFFICES	352
TOILET ROOMS	1,111
DISPLAY WINDOW	335
MISC./CIRCULATION	2,317
TOTAL INTERIOR	24,268
TOTAL GROSS	25,016

SQUARE FOOTAGE

PUBLIC FACING AREAS SERVING ALCOHOL
(OUTLINED IN RED)

ENTRY	621 SF
FLEX DINING	735 SF
WATCH	1,778 SF
BAR/BAR DINING	1,804 SF
SECOND BAR (PORTABLE)	6 SF
ARCADE	9,055 SF
WIN!	581 SF
TOTAL	14,580 SF

TOILET REQUIREMENTS

FIXTURE TYPE	MEN	WOMEN	FAMILY	EMPLOYEE
	PROVIDED			
W.C. (1 PER 15)	5	9	1	-
LAV. (1 PER 200)	5	5	1	-
URINALS	5	-	-	-

City Council Meeting

Item Number: 21.
Meeting Date: May 12, 2026
To: City Council
From: Lori Elliott, Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE MIDDLE 50 FEET OF LOT 2, BLOCK 73, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LI, LIGHT INDUSTRIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH MARSHALL STREET, APPROXIMATELY 95 FEET NORTH OF EAST MISSOURI AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:
The applicant, Jose Alfredo Zarate, on behalf of A&D New Homes, LLC, is requesting a Zone Change from LI, Light Industrial District to SF-3, Single-Family Dwelling District to allow for the construction of a single family home at 108 South Marshall Street in District 2.

Recommended Action:
Approve

Fiscal Impact:
None

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Discussion:

Current Zoning:

LI, Light Industrial District

Surrounding Zoning and Land Use:

All surrounding properties are zoned as LI, Light Industrial District. However, the area has been developed as exclusively single family homes, with a few remaining vacant lots.

Analysis:

The subject property is located at 108 South Marshall Street. The property is currently zoned LI, Light Industrial District. The applicant is seeking this zone change to allow for the construction of a single-family home.

The Tall City Tomorrow Comprehensive Plan, Chapter 3, designates this area as U-M, Urban-Medium. Supported uses include a mix of complementary uses, including single-family, schools, churches, offices, and mixed use.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No comments or objections.

Engineering: (Approved)

No objections to zone change. [For Applicant's Information Only.] Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For Applicant's Information Only.]

Building Code: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2023 NEC requirements, the 2015 International Fire Codes, local city ordinances, planning/zoning requirements, established setbacks, Health department regulations, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on the time of new code editions adopted in the City of Midland and date of permit application.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.] No objection to zone change. [For the Applicant's information only.]

Planning:

Therefore, staff recommends approval of this Zone Change from LI, Light Industrial District to SF-3, Single-Family Dwelling District.

Letters of Objection:

As of April 17, 2026, staff has received no letters of objection for this request.

Attachments:

A. ORD W EXH - Z-26-0476.LI to SF-3 Ord w Exh
B. Z-26-0476, 108 S Marshall St, Combined
C. CC - - 108 S Marshall St, Zone Change (LI to SF-3)

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE MIDDLE 50 FEET OF LOT 2, BLOCK 73, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LI, LIGHT INDUSTRIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH MARSHALL STREET, APPROXIMATELY 95 FEET NORTH OF EAST MISSOURI AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning the middle 50 feet of Lot 2, Block 73, Original Town Addition, City and County of Midland, Texas (the "Property"), said Property being more specifically described by metes and bounds in Exhibit A, which is attached hereto and incorporated herein, to SF-3, Single-Family Dwelling District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from LI, Light Industrial District to SF-3, Single-Family Dwelling District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

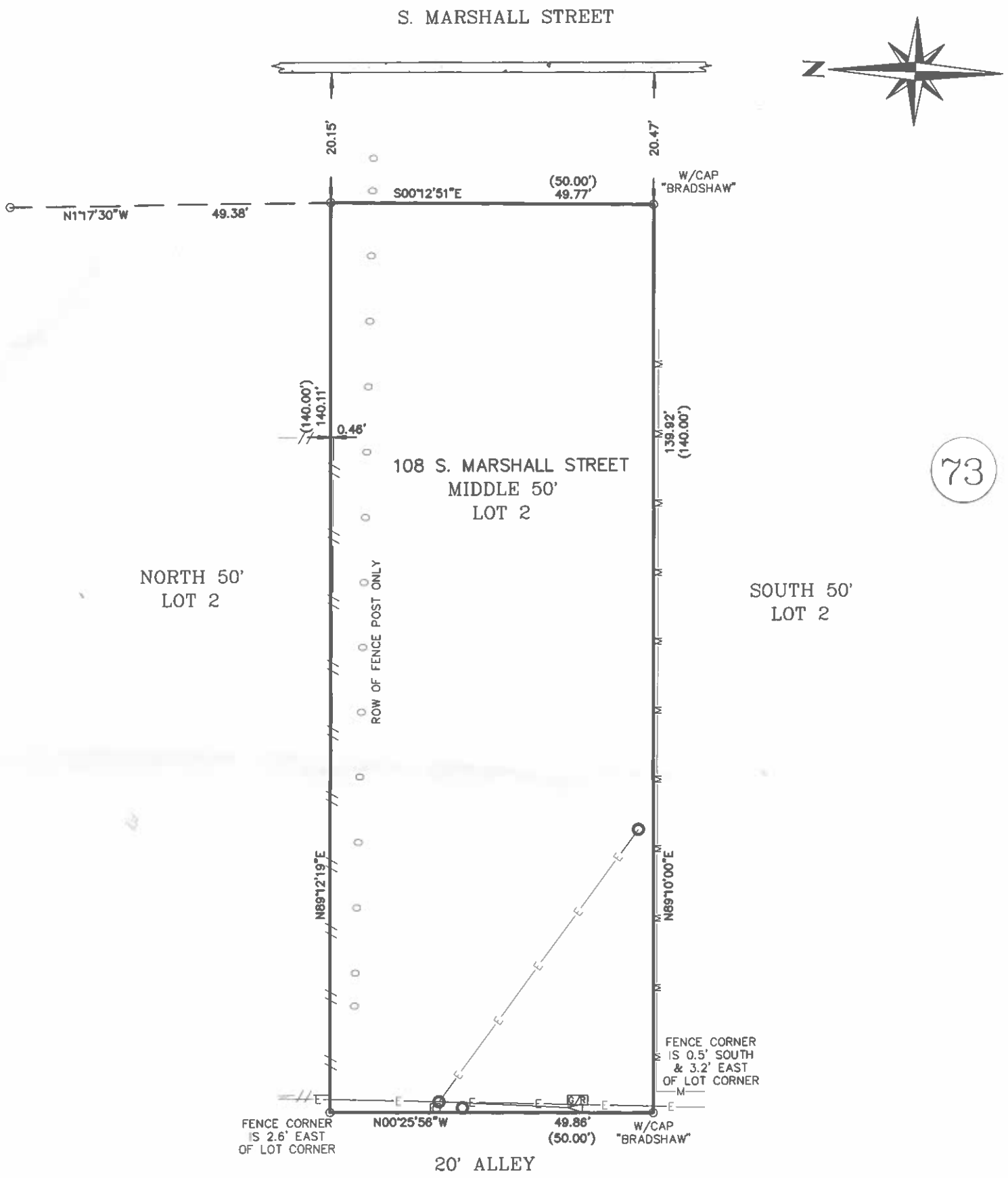
_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

EXHIBIT A

COPYRIGHT 2026
This survey plat is being provided solely for the use of: Alfredo Zarate,
and that no license has been created, express or implied, to copy the survey plat
except as is necessary in conjunction with the original transaction dated January 19, 2026,
which shall take place within 90 days after the survey was provided.



73

SURVEY OF
MIDDLE 50' OF LOT TWO (2), BLOCK SEVENTY THREE (73),
ORIGINAL TOWN
AN ADDITION TO THE CITY OF MIDLAND
MIDLAND COUNTY, TEXAS
ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 3, PAGE 232, DEED RECORDS, MIDLAND COUNTY, TEXAS

This survey was prepared without benefit of a title commitment.
Not all easements or matters of title may be shown.

Census Tract: 14

This tract is in Flood Zone "X" as shown on the Flood Insurance Rate Map, Dated September 16, 2005 provided by the Federal Emergency Management Agency Flood Map Number: 48329C0202 F

The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights-of-way, except as shown hereon, and that said property has access to and from a dedicated roadway.

Dated this the 19th day of January 2026.

Duryn Henington

Registered Professional Land Surveyor No. 6832
Date: 01/19/2026

(IF SURVEYORS SIGNATURE IS NOT SIGNED IN RED INK, THIS IS NOT AN ORIGINAL DOCUMENT)

PENNELL LAND SURVEYING
PROFESSIONAL LAND SURVEYING
P.O. BOX 51622, MIDLAND, TEXAS 79710
VOICE: (432)570-6256 brucepennell@yahoo.com

ABSTRACT OFFICE: N/A	G.F. #: N/A	COMMITMENT EFFECTIVE DATE: N/A	
CAD FILE: PLS27545	DATA FILE: 108SMARSHALL	DRAWN BY: DANE C.	FIRM NO.: 10193978

Basis of Bearings:
NAD 83 Lambert Grid

Bearings and Distances Shown
Inside ( ) Indicate Record Information

20 10 0 20

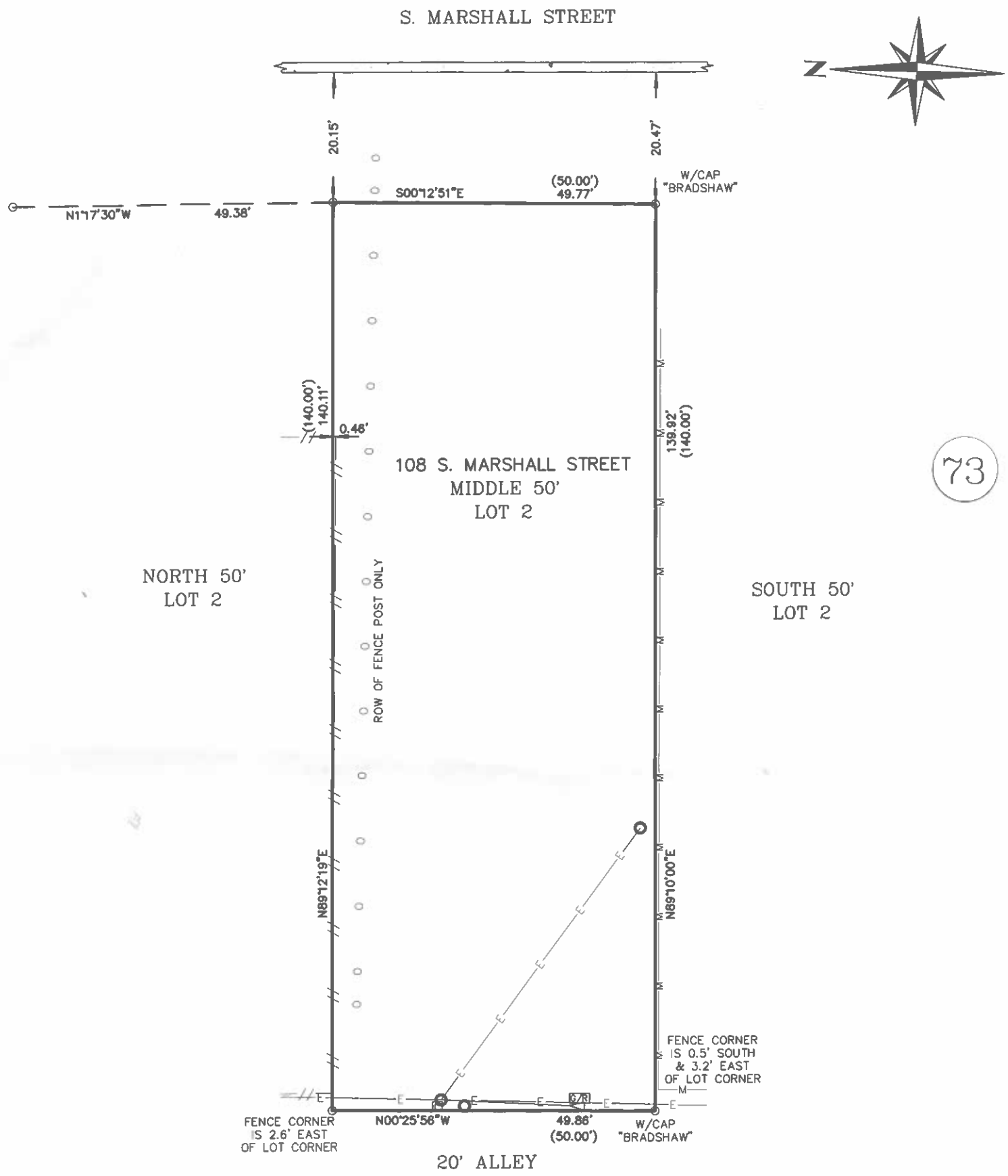
SCALE: 1" = 20'

STATE OF TEXAS
REGISTERED
DURYN HENINGTON
6832
PROFESSIONAL
LAND SURVEYOR

LEGEND

- Set 1/2" I.R. W/Cap "RPLS 6832"
- Fnd. 1/2" I.R.
- G/R Gas Riser
- Power Pole
- E—E Overhead Electric Line
- Guy Wire
- Channel Com. Corp. Junct. Box
- //—// Wood Fence line
- O—O Pipe Fence Line
- M—M Sheet Metal Fence Line

COPYRIGHT 2026
This survey plat is being provided solely for the use of: Alfredo Zarate,
and that no license has been created, express or implied, to copy the survey plat
except as is necessary in conjunction with the original transaction dated January 19, 2026,
which shall take place within 90 days after the survey was provided.



73

SURVEY OF
MIDDLE 50' OF LOT TWO (2), BLOCK SEVENTY THREE (73),
ORIGINAL TOWN
AN ADDITION TO THE CITY OF MIDLAND
MIDLAND COUNTY, TEXAS

ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN VOLUME 3, PAGE 232, DEED RECORDS, MIDLAND COUNTY, TEXAS

This survey was prepared without benefit of a title commitment.
Not all easements or matters of title may be shown.

Census Tract: 14

This tract is in Flood Zone "X" as shown on the Flood Insurance Rate Map, Dated September 16, 2005 provided by the Federal Emergency Management Agency Flood Map Number: 48329C0202 F

The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or rights-of-way, except as shown hereon, and that said property has access to and from a dedicated roadway.

Dated this the 19th day of January 2026.

Duryn Henington

Registered Professional Land Surveyor No. 6832
Date: 01/19/2026

(IF SURVEYORS SIGNATURE IS NOT SIGNED IN RED INK, THIS IS NOT AN ORIGINAL DOCUMENT)

PENNELL LAND SURVEYING
PROFESSIONAL LAND SURVEYING
P.O. BOX 51622, MIDLAND, TEXAS 79710
VOICE: (432)570-6256 brucepennell@yahoo.com

ABSTRACT OFFICE: N/A	G.F. #: N/A	COMMITMENT EFFECTIVE DATE: N/A	
CAD FILE: PLS27545	DATA FILE: 108SMARSHALL	DRAWN BY: DANE C.	FIRM NO.: 10193978

Basis of Bearings:
NAD 83 Lambert Grid

Bearings and Distances Shown
Inside ( ) Indicate Record Information

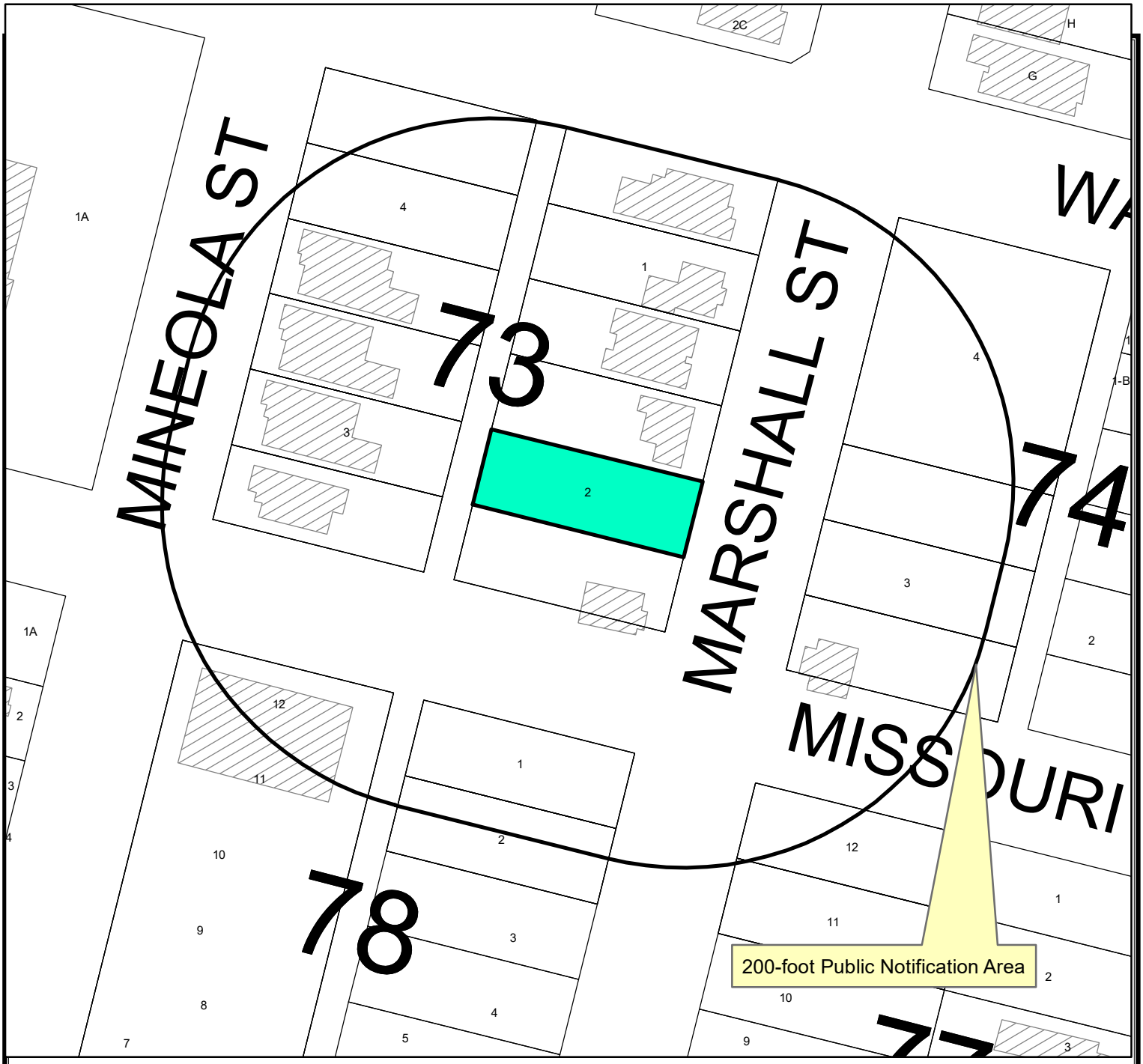
20 10 0 20

SCALE: 1" = 20'

STATE OF TEXAS
REGISTERED
DURYN HENINGTON
6832
PROFESSIONAL
LAND SURVEYOR

LEGEND

- ● Set 1/2" I.R. W/Cap "RPLS 6832"
- O Fnd. 1/2" I.R.
- G/R Gas Riser
- O Power Pole
- E—E Overhead Electric Line
- Guy Wire
- C Channel Com. Corp. Junct. Box
- //—// Wood Fence line
- O—O Pipe Fence Line
- M—M Sheet Metal Fence Line



Location Map

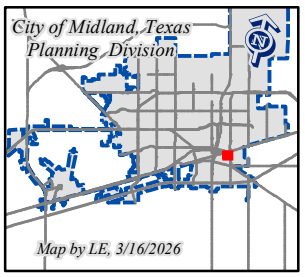
Z-26-0476 **Scale: 1" = 600'**

Consider a request by Jose Alfredo Zarate, on behalf of A&D New Homes, LLC, for a Zone Change from LI, Light Industrial District to SF-3, Single-Family Dwelling District on the middle 50 feet of Lot 2, Block 73, Original Town, City and County of Midland, Texas.

Generally located on the west side of South Marshall Street, approximately 95 feet north of East Missouri Avenue. (Council District 2)

LEGEND

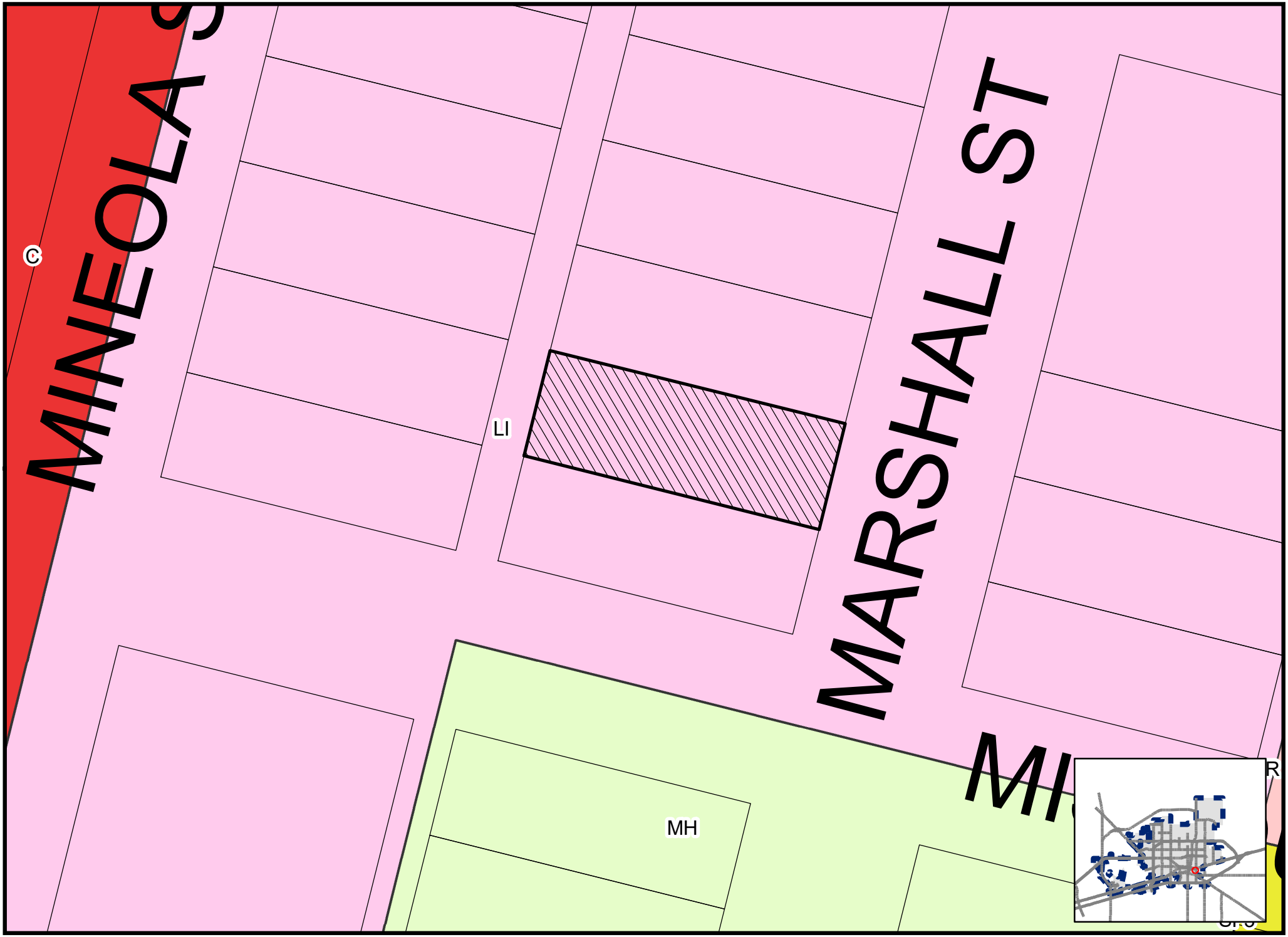
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map by LE, 3/16/2026

Z-26-0476

Scale: 1" = 400'

ZONING MAP

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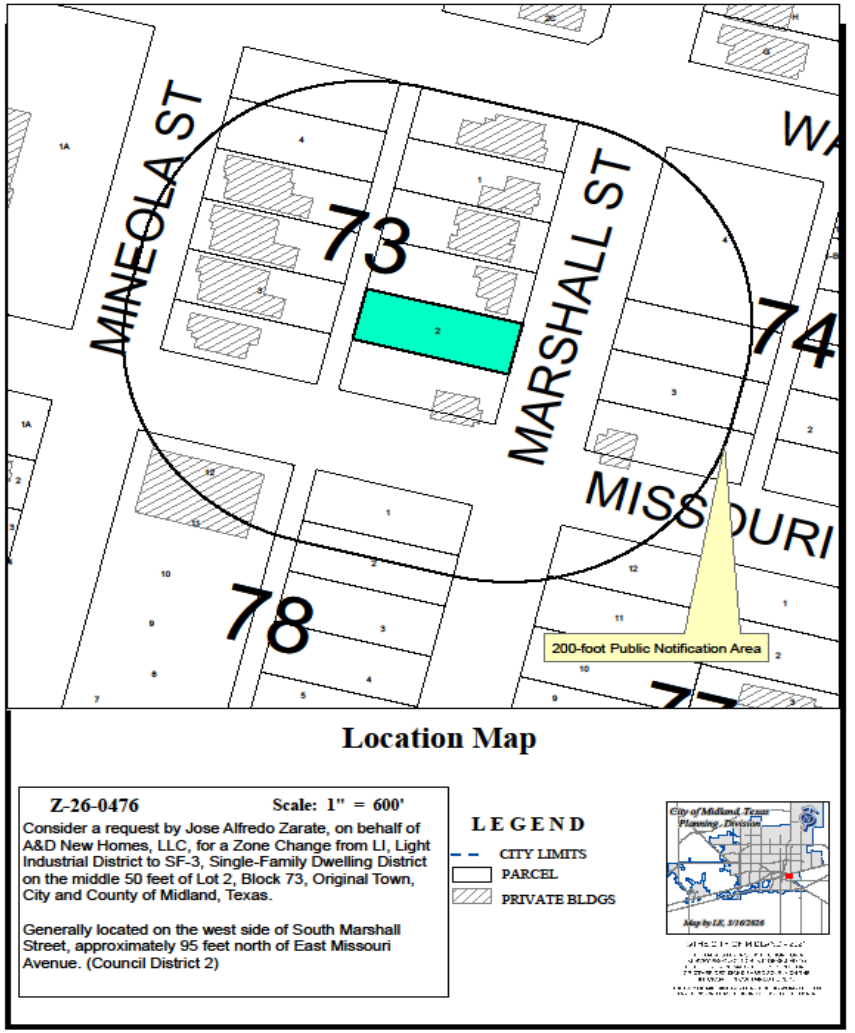

MINEOLA
73
MARSHALL ST
74
MISSOURI




MIDLAND
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ZONE CHANGE
108 SOUTH MARSHALL STREET
Visit Our Website
MIDLANDTEXAS.GOV

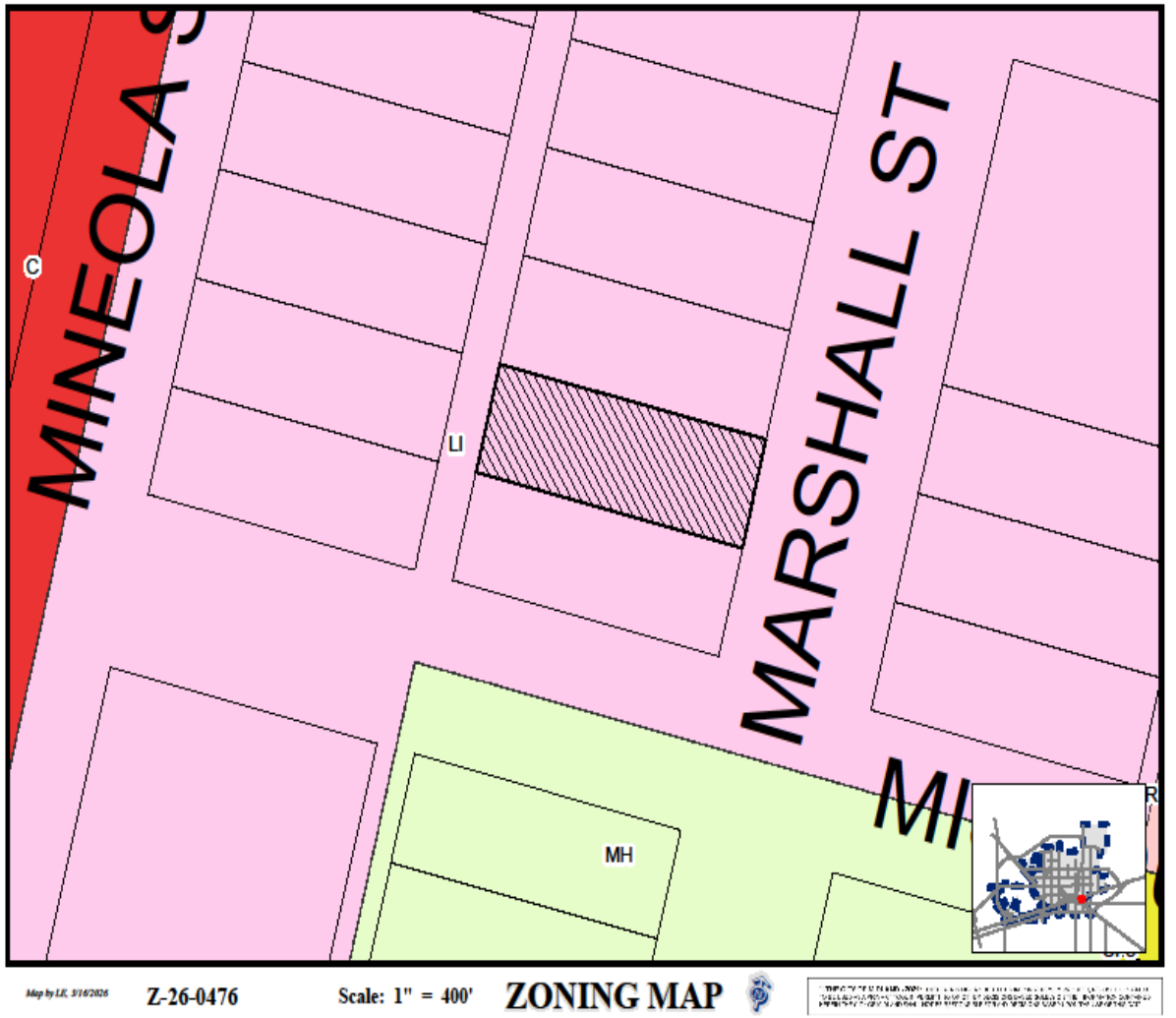
APPLICATION SUMMARY

- **Applicant/Property Owner:** Jose Alfredo Zarate
- **Location:** 108 South Marshall Street (Council District 2)
- **Reason for Request:** To construct a single-family residence



ZONING

- **Current Zoning:** LI, Light Industrial District
- **Surrounding Zoning:**
  - **North/South/East/West:** Light Industrial District
- **Proposed Zoning:** SF-3, Single-Family Dwelling District



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LAND USE

- **Current Use:** Single-Family Dwelling and Vacant Land
- **Surrounding Uses:**
  - **North/South/West:** Single-Family Housing
  - **East:** Vacant Lots
- **Proposed Use:** Single-Family Home



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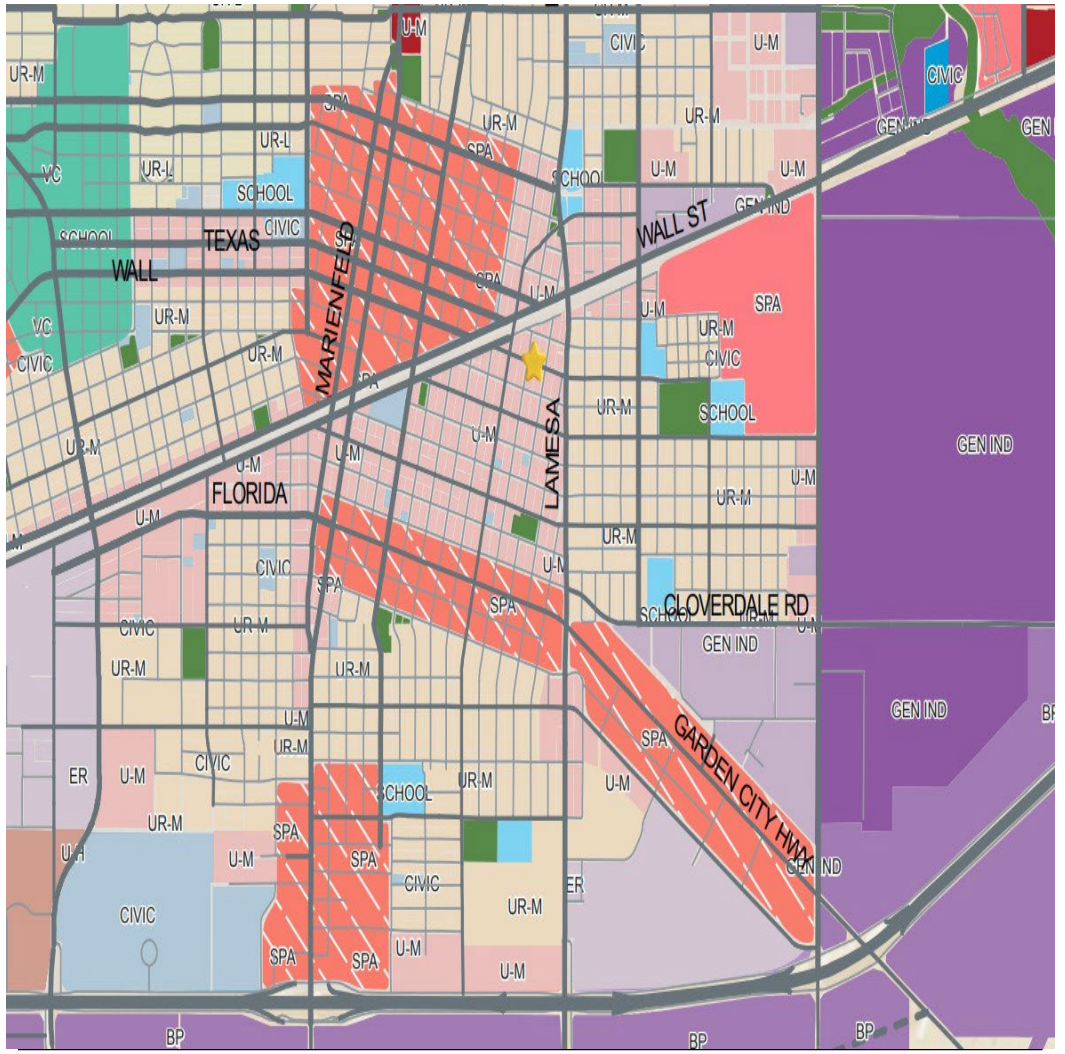
On South Marshall Street, Looking West

5

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COMPREHENSIVE PLAN

- **Land Use Designation:** Urban-Medium, (U-M)
- **Supported Uses:** A mix of complementary uses, to include single-family, townhouses, and schools, commercial, and mixed use.
- This request is compatible the *Tall City Tomorrow Comprehensive Plan*



STAFF'S RECOMMENDATION

- No objections have been received.
- The Planning & Zoning Commission approved the Zone Change request on April 20, 2026.
- Staff recommends approval of this request.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 22.
Meeting Date: May 12, 2026
To: City Council
From: Lori Elliott, Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE BLOCK 69, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-2, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF EAST CUTHBERT AVENUE AND NORTH TILDEN STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:
The applicant, Gilgal Commercial Group, LLC, on behalf of Nelson Group Enterprises, LLP, is requesting a Zone Change from C, Commercial District to SF-2, Single-Family District to construct a single family residence at 1901 East Cuthbert Avenue in District 2.

Recommended Action:
Approve

Fiscal Impact:
None

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

C, Commercial District

Surrounding Zoning and Land Use:

Properties to the north, south, and east are zoned C, Commercial District. To the west, properties are zoned MH, Manufactured Housing District. The properties to the south and west

consist of single-family residences. To the north and east, properties are commercial/industrial yards.

Analysis:

The subject property is located at 1901 East Cuthbert Avenue. The property is currently zoned C, Commercial District. The applicant is seeking this zone change to allow for the construction of a single-family home.

The Tall City Tomorrow Comprehensive Plan, Chapter 3, designates this area as U-M, Urban-Medium. Supported uses include a mix of complementary uses, including single-family, schools, churches, offices, and mixed use. The proposed zone change is compatible with both the future land use and the surrounding neighborhood.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No comments or objections.

Engineering: (Approved)

No objections to zone change. [For Applicant's Information Only.] Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For Applicant's Information Only.]

Building Code: (Approve)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2023 NEC requirements, the 2015 International Fire Codes, local city ordinances, planning/zoning requirements, established setbacks, Health department regulations, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on the time of new code editions adopted in the City of Midland and date of permit application.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.] No objection to zone change. [For the Applicant's information only.]

Planning:

Staff recommends approval of this Zone Change from C, Commercial District to SF-2, Single-Family Dwelling District.

Letters of Objection:

As of April 17, 2026, staff has received one letter of objection for this request resulting in an 18.6% objection.

Attachments:

A. ORD - Z-26-0478.C to SF-2 Ord
B. Z-26-0478, 1901 E Cuthbert Ave, Combined
C. CC - - 1901 E Cuthbert Ave, Zone Change (C to SF-2)
D. Z-26-0478, 1901 E Cuthbert Ave, Objection Letter- HL Friday

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE BLOCK 69, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-2, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF EAST CUTHBERT AVENUE AND NORTH TILDEN STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Block 69, East Midland Addition, City and County of Midland, Texas (the "Property"), to SF-2, Single-Family Dwelling District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from C, Commercial District to SF-2, Single-Family Dwelling District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

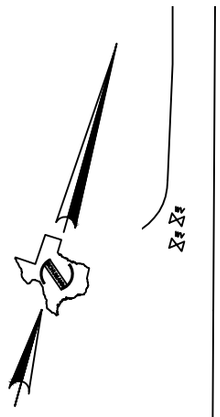
_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney



EAST CUTHBERT AVE
(60 FOOT RIGHT–OF–WAY)

N75°21'26"E 299.75'

NW CORNER BLOCK 69
GRID N:10699844.49
GRID E:1761733.04
N32.0124
W102.0588

N. TILDEN ST.
(60 FOOT RIGHT–OF–WAY)

N14°49'29"W 300.00'

BLOCK 69 1901 EAST CUTHBERT
2.06 ACRES

S14°38'34"E 300.00'

S75°21'26"W 298.79'

LEGEND:

◎	MONUMENT AS DESCRIBED
———	PROPERTY LINE
— —	ADJOINING PROPERTIES
—OHE—	OVERHEAD ELECTRIC
ᘐ	UTILITY POLE

NOTES:

THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF TITLE COMMITMENT. NOT ALL EASEMENTS OR MATTERS OF TITLE MAY BE SHOWN.

THIS SURVEY DOES NOT GUARANTEE OWNERSHIP.

MONUMENTS ARE A REINFORCING BAR SET WITH PLASTIC CAP STAMPED "SCHUMANN" UNLESS OTHERWISE NOTED.

Surveyor Certification

TO THE LIENHOLDERS, NELSON GROUP

(OWNER) OF THE PREMISES AND TO THE ISSUING TITLE INSURANCE UNDERWRITER: THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON AND THAT THERE ARE NO KNOWN DISCREPANCIES, CONFLICTS, SHORTAGES IN AREA, BOUNDARY LINE CONFLICTS, ENCROACHMENTS, OVERLAPPING OF IMPROVEMENTS, EASEMENTS OR RIGHTS–OF–WAY, EXCEPT AS SHOWN HEREON.

DATED THIS 22ND DAY OF FEBRUARY, 2023

STATE OF TEXAS
REGISTERED
RJ DAUM
4826
PROFESSIONAL
LAND SURVEYOR

RJ DAUM
TEXAS RPLS 4826

SCHUMANN
A LATERAL LAND COMPANY
LAND SURVEYING
TEXAS FIRM No. 10149500

800 N. MARIENFELD STREET
SUITE 100
MIDLAND, TEXAS 79701

Office (432) 684–5548

SURVEY

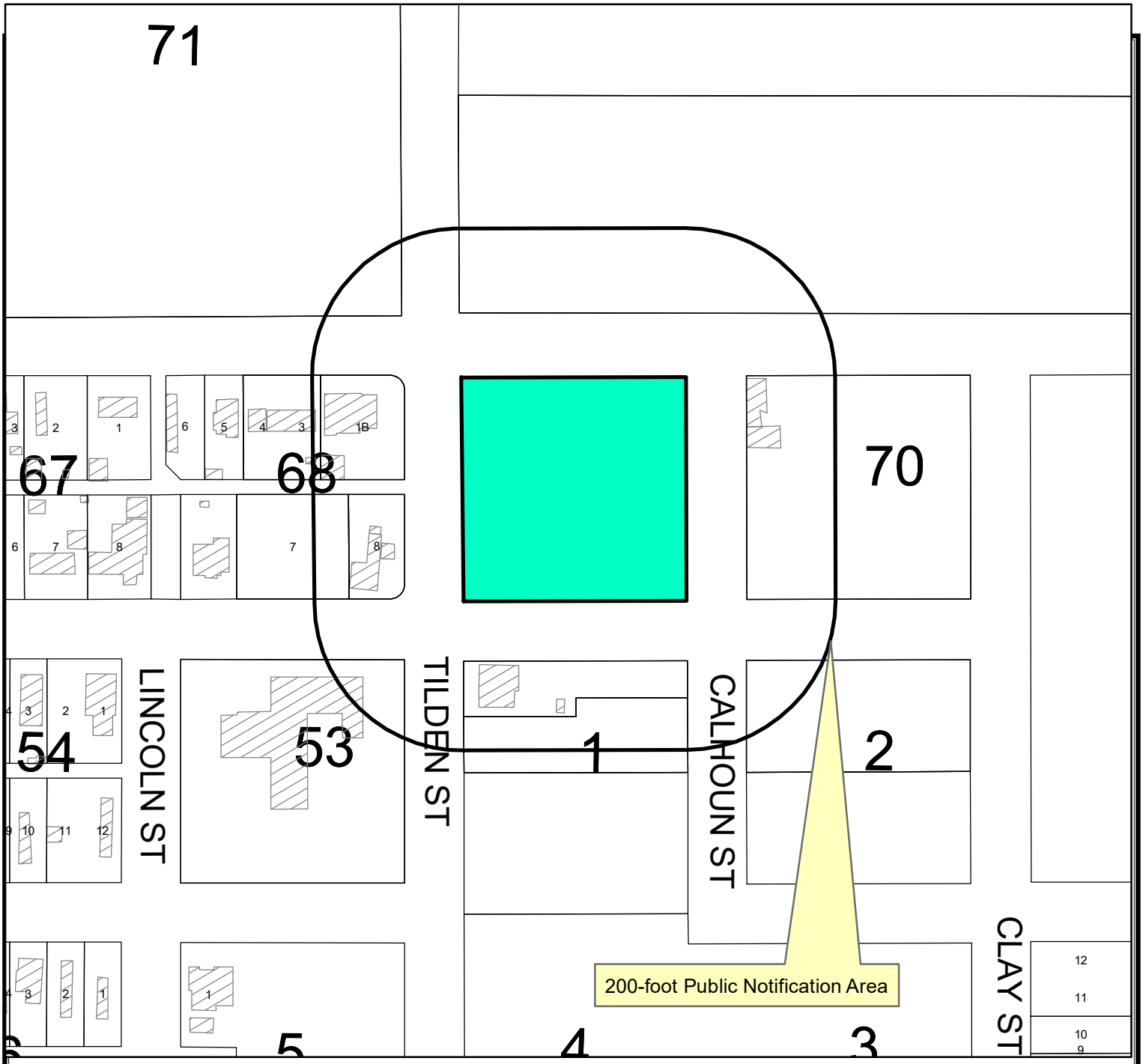
A 2.06 ACRE TRACT OF LAND ALL OF

BLOCK 69, EAST MIDLAND ADDITION,
MIDLAND COUNTY, TEXAS,
ACCORDING TO THE MAP OR PLAT RECORDED IN
VOLUME 1, PAGES 52–55,
PLAT RECORDS OF

MIDLAND COUNTY, TEXAS

SCALE: 1" = 60'

PROJECT: 79172
JOB NO.: 79172–5



Location Map

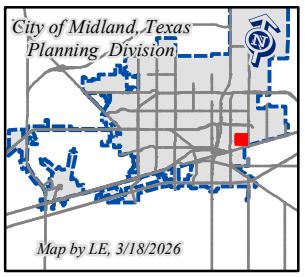
Z-26-0478 **Scale: 1" = 1,250'**

Consider a request by Gilgal Commercial Group, LLC, on behalf of Nelson Group Enterprises, LLP, for a Zone Change from C, Commercial District to SF-2, Single-Family Dwelling District for all of Block 69, East Midland Addition, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of East Cuthbert Avenue and North Tilden Street. (Council District 2)

LEGEND

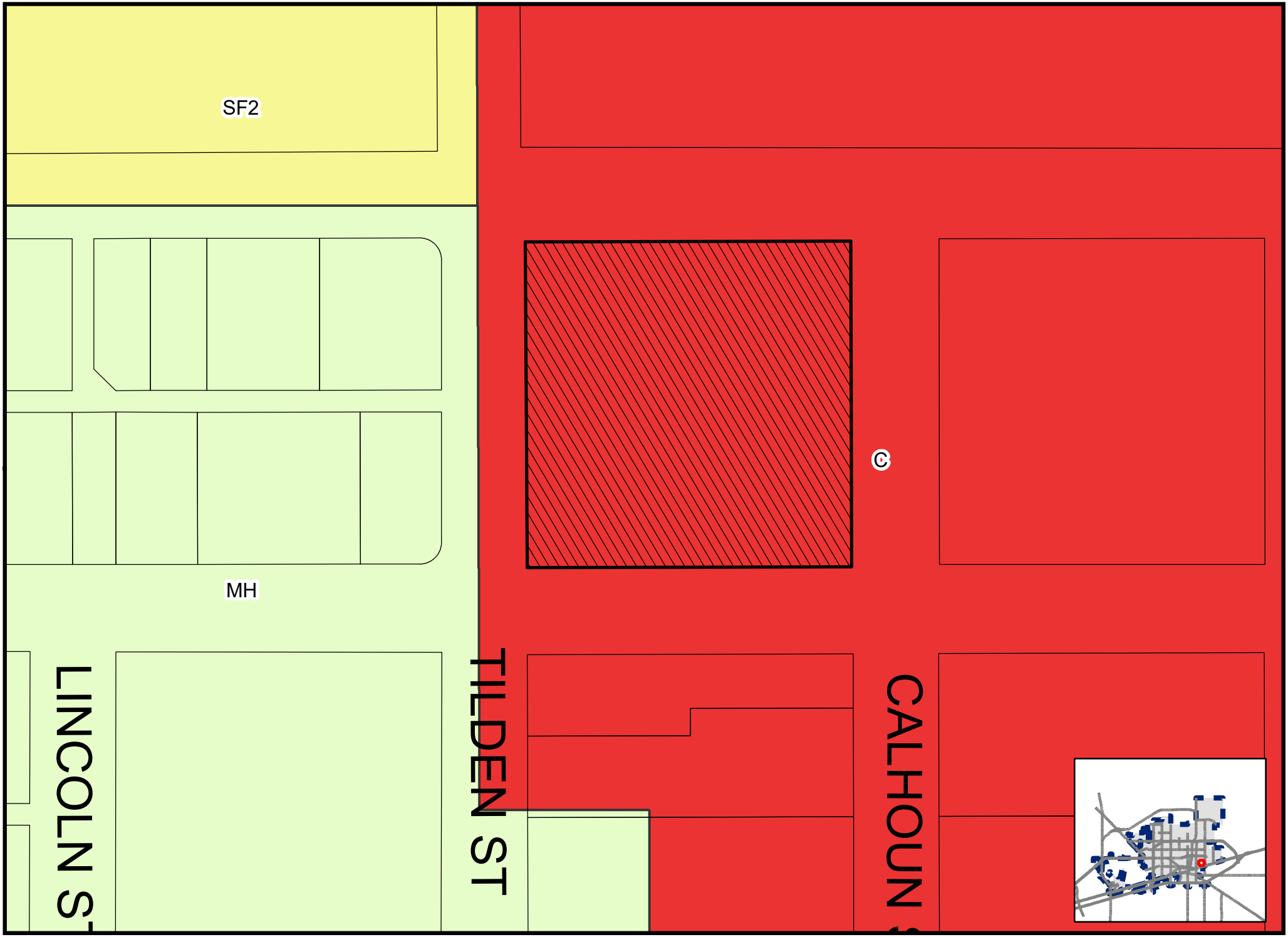
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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Map by LE, 3/18/2026

Z-26-0478

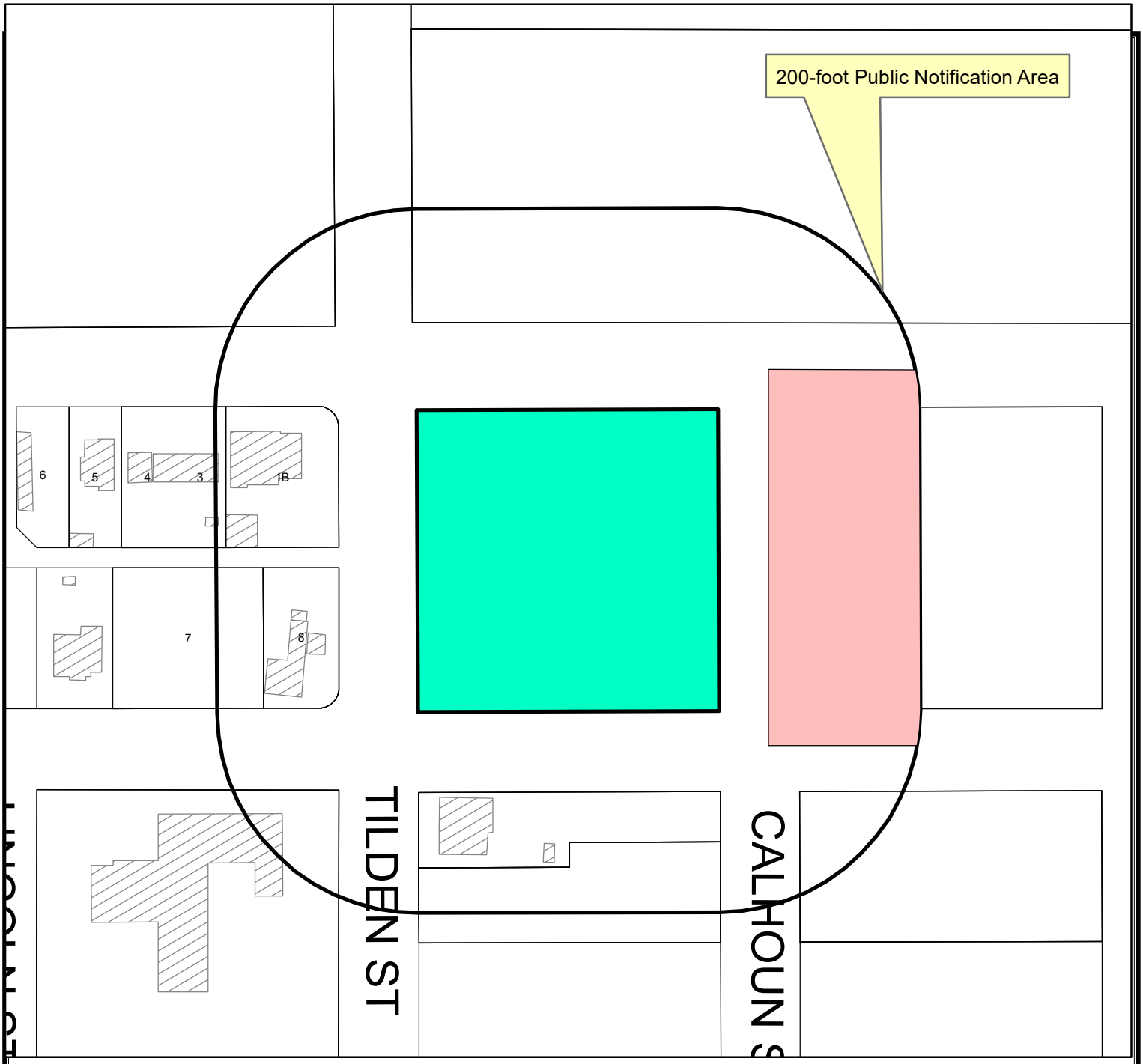
Scale: 1" = 800'

ZONING MAP

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67
68
69
70
54
53
1
2
LINCOLN ST
TILDEN ST
CALHOUN ST





18.6% Objection

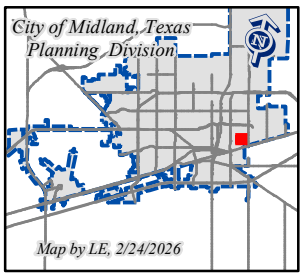
Z-26-0478 **Scale: 1" = 1,000'**

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Generally located at the southeast corner of the intersection of East Cuthbert Avenue and North Tilden Street. (Council District 2)

L E G E N D

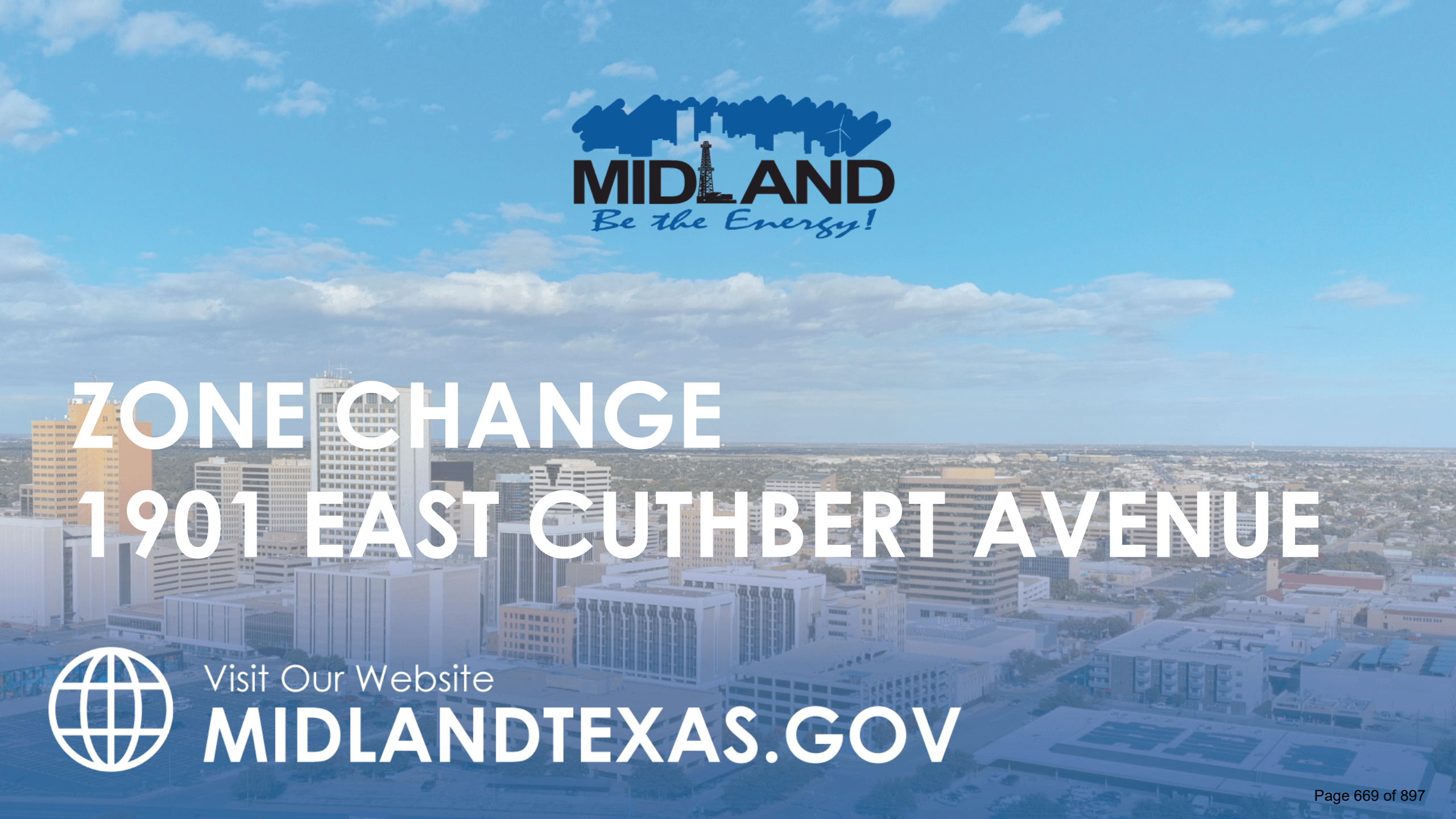
- CITY LIMITS
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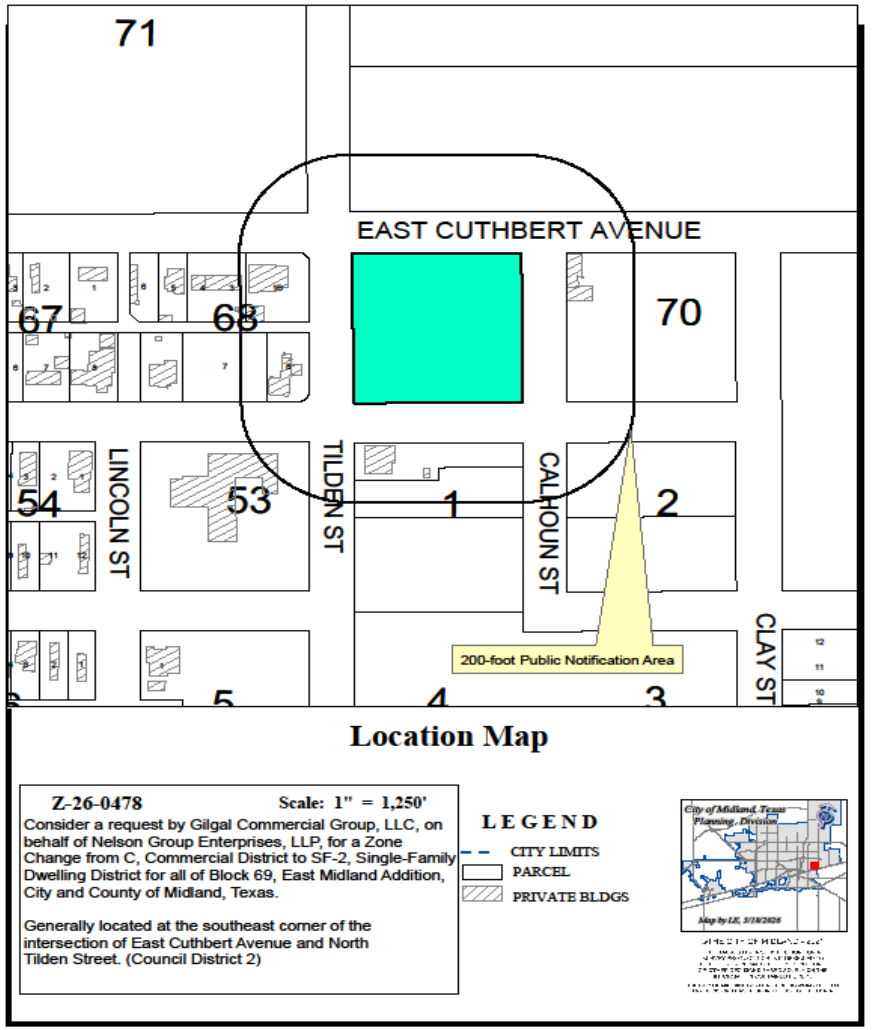
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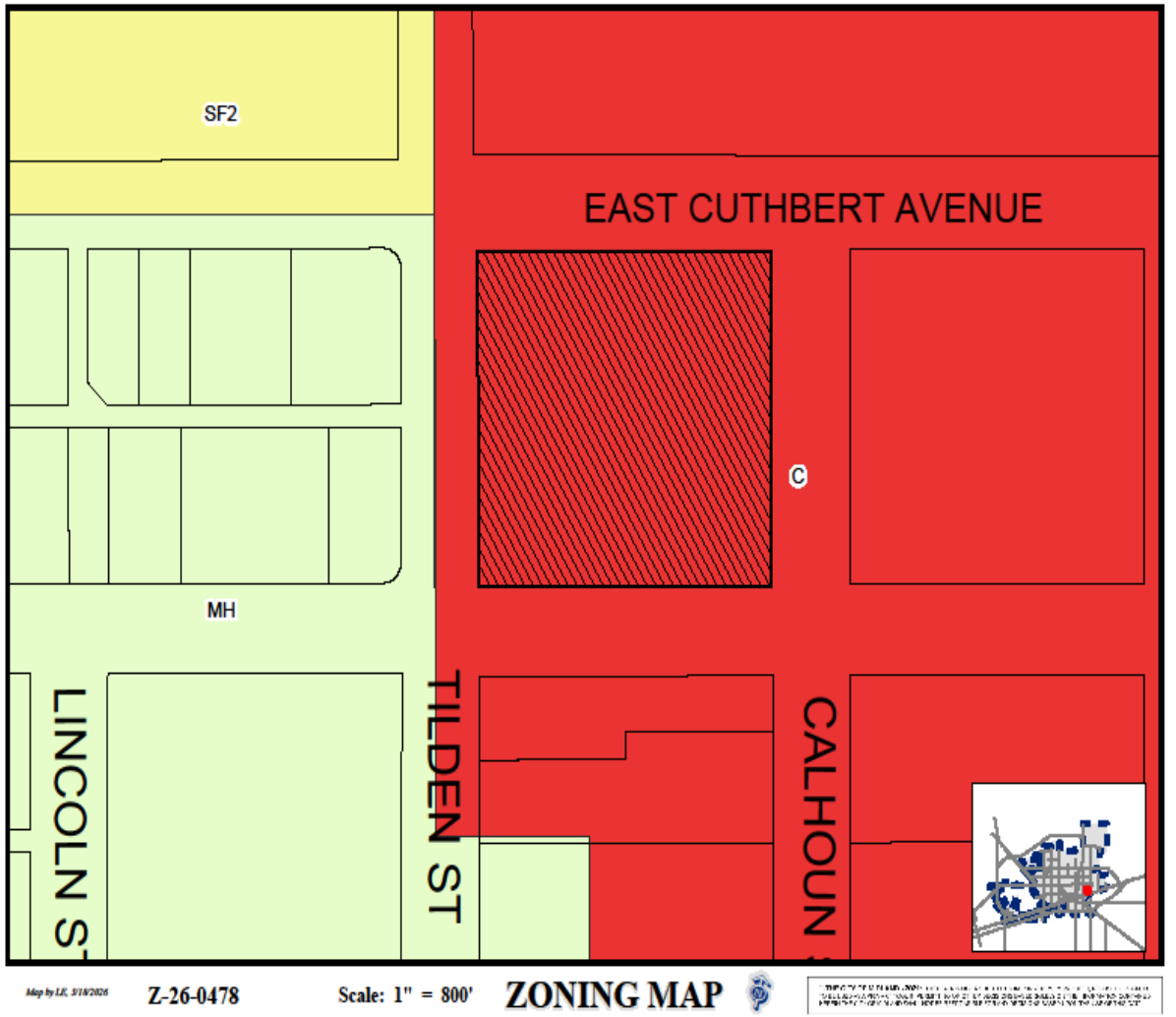
APPLICATION SUMMARY

- **Applicant/Representative:** Gilgal Commercial Group, LLC
- **Property Owner:** Nelson Group Enterprises, LLP
- **Location:** 1901 East Cuthbert Avenue(Council District 2)
- **Reason for Request:** To construct a single-family residence



ZONING

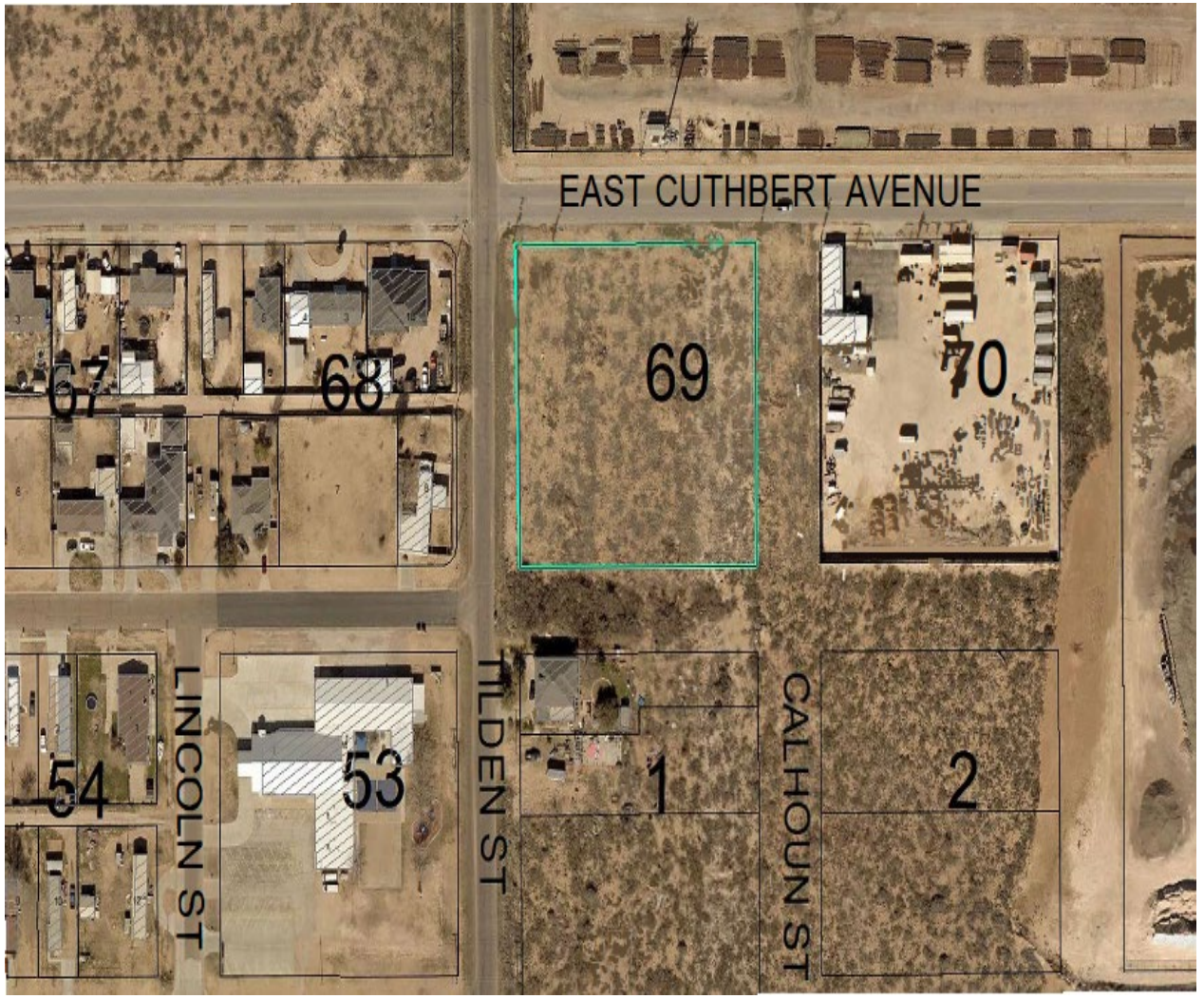
- **Current Zoning:** C, Commercial District
- **Surrounding Zoning:**
  - **North/South/East:** C, Commercial District
  - **West:** MH, Manufactured Housing District
- **Proposed Zoning:** SF-2, Single-Family Dwelling District



3

LAND USE

- **Current Use:** Vacant Lot
- **Surrounding Uses:**
  - **South/West:** Single-Family Housing
  - **North/East:** Commercial/Industrial Yards
- **Proposed Use:** Single-Family Home



MIDLAND
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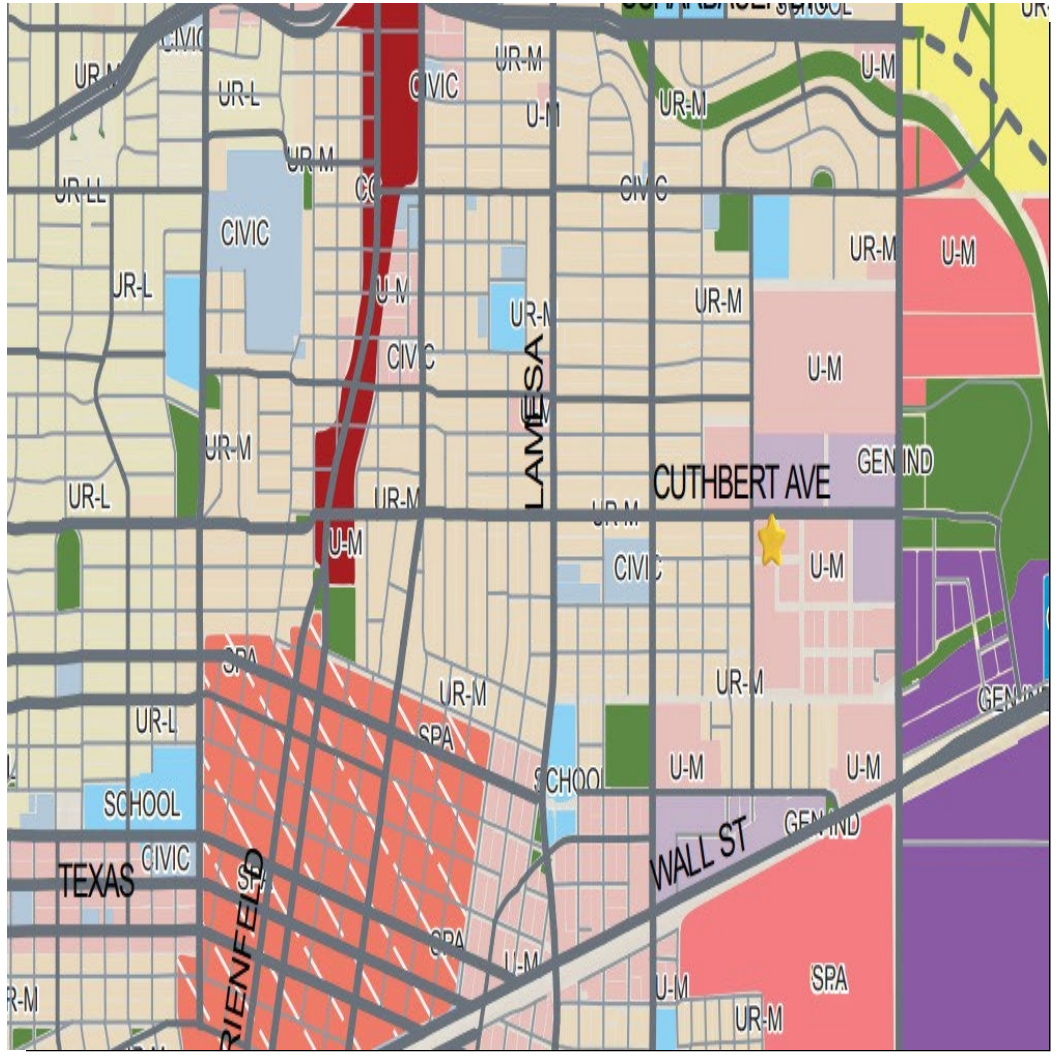


On East Cuthbert Avenue, Looking South

MIDLAND
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COMPREHENSIVE PLAN

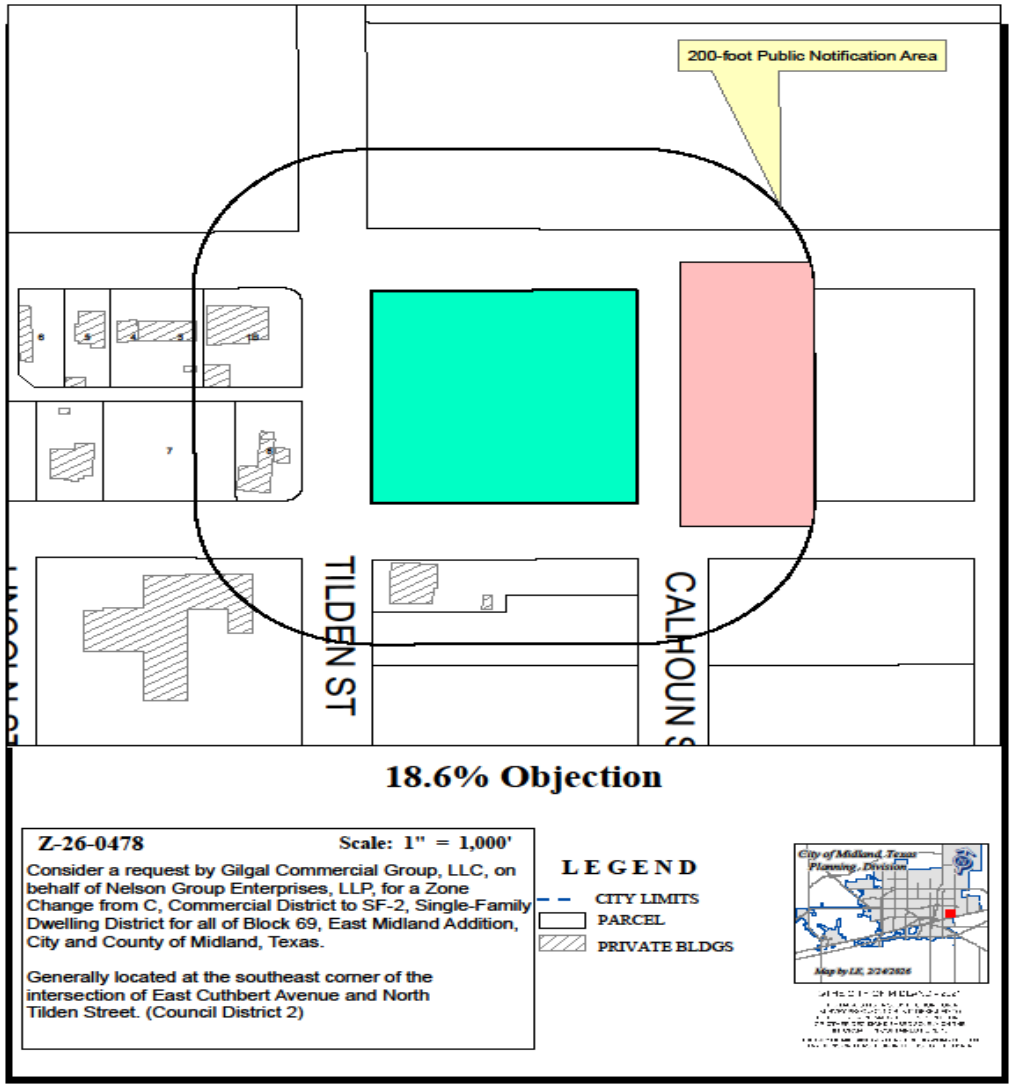
- **Land Use Designation:** Urban-Medium, (U-M)
- **Supported Uses:** A mix of complementary uses, to include single-family, townhouses, and schools, commercial, and mixed use.
- This request is compatible the *Tall City Tomorrow Comprehensive Plan*



MIDLAND
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OBJECTIONS

- One objection has been received resulting in an 18.63% objection percentage. Supermajority vote is not required for approval.
- The protestors voiced concerns about public improvements being required prior to development of the property.



STAFF'S RECOMMENDATION

- This zone change request was approved by the Planning and Zoning Commission on April 20, 2026.
- Staff recommends approval of this request.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



FRIDAY & FRIDAY LTD
PO BOX 9061
TX MIDLAND 79708

MIDLAND
Planning Division

RECEIVED
APR 06 2026

PUBLIC NOTICE

The **City Council** of the City of Midland, Texas will hold a public hearing at **10:00 a.m.** on **Tuesday, April 14, 2026**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by **Gilgal Commercial Group, LLC, on behalf of Nelson Group Enterprises, LLP,** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: All of Block 69, East Midland Addition, City and County of Midland, Texas.

LOCATION: Generally located on the southeast corner of the intersection of East Cuthbert Avenue and North Tilden Street. (Council District 2)

PROPOSED ZONING: **From: C, Commercial District**

To: SF-2, Single-Family Dwelling District

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request ✓ **Comments:**

All property East of Tilden on Cuthbert is Zoned Commercial and should be main thoroughfare. Father Way – if this Block 69 is developed the Street between 69/70 Blks should be part of the development requirements. along w/water & Sewer.

Required Information:

Property Owner's Signature

H Lance Friday
Printed Name

all of 1970 - 2000 E Cuthbert
Property Address (No P. O. Boxes)

432-638-7495
Phone Number

lance@lancefridaylaw.com
Email

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

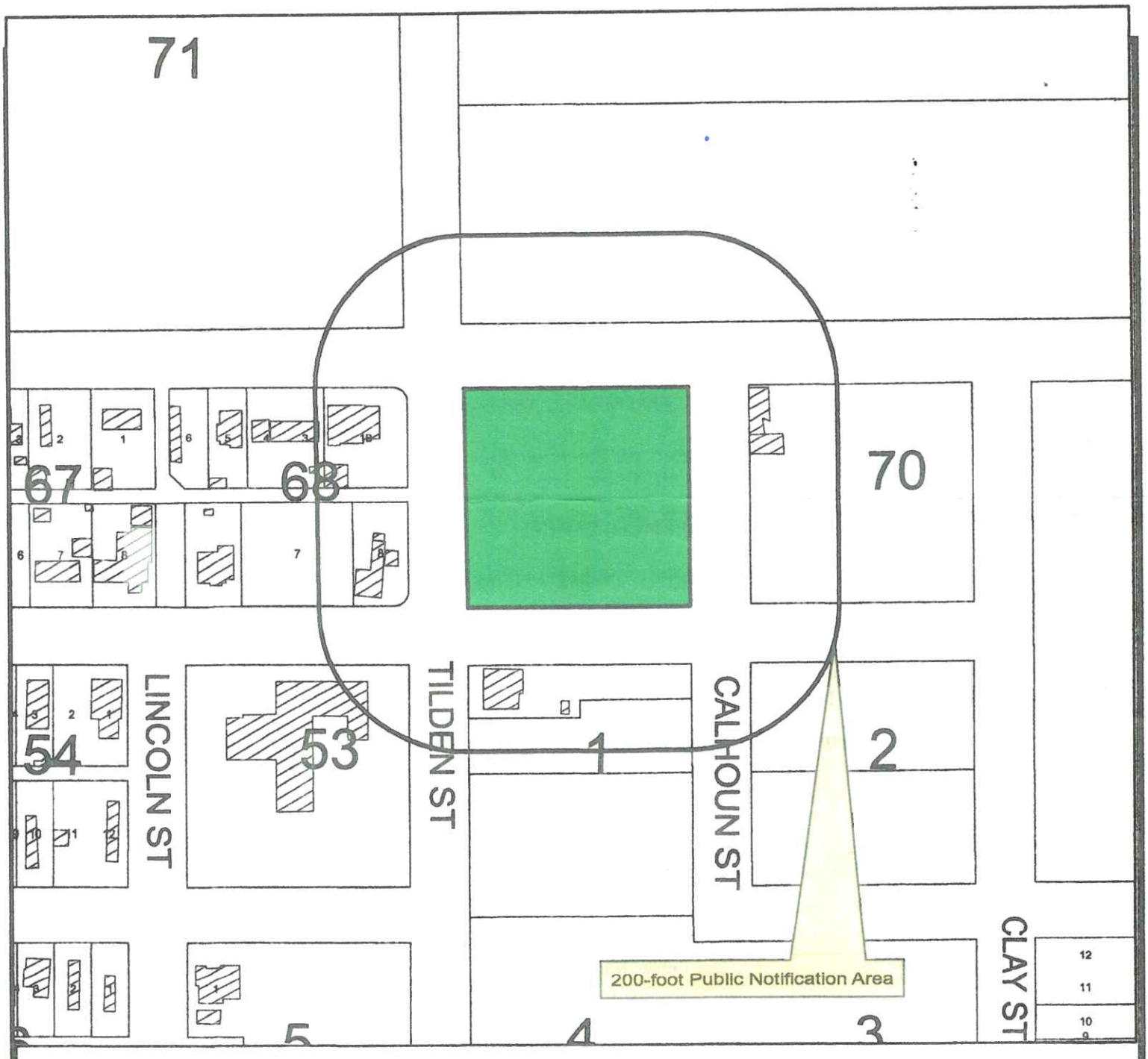
Notices Mailed: 9
Date Mailed: March 27, 2026
Case Number: Z-26-0478
Case Name: 1901 E Cuthbert Ave
LE Planner's Initials

For
Landon Ochoa
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.
Videoconference information will be available by accessing the meeting agenda at https://www.midlandtexas.gov/967/primegov-meeting

www.MidlandTexas.gov

Planning Division • 300 N. Loraine, Midland TX 79702 • 432-685-7400



Location Map

Z-26-0478 **Scale: 1" = 1,250'**

Consider a request by Gilgal Commercial Group, LLC, on behalf of Nelson Group Enterprises, LLP, for a Zone Change from C, Commercial District to SF-2, Single-Family Dwelling District for all of Block 69, East Midland Addition, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of East Cuthbert Avenue and North Tilden Street. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

City Council Meeting

Item Number: 23.
Meeting Date: May 12, 2026
To: City Council
From: Angelina Bettanini, Planner II
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 2 AND 3, BLOCK 92, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM CB, CENTRAL BUSINESS DISTRICT TO C, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH MARIENFELD STREET, APPROXIMATELY 75 FEET SOUTH OF WEST INDIANA AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:
Enrique Aquilar is requesting a zone change a from CB, Central Business District to C, Commercial District to allow for the opening of an automobile collision repair and paint shop at 302 Marienfield.

Recommended Action:
Approve.

Fiscal Impact:
None.

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

CB, Central Business District

Surrounding Zoning and Land Use:

The properties to the north, east, and west are zoned CB, Central Business District and the properties to the south are zoned C, Commercial District. Land use to the west is a parking facility, all other surrounding use is vacant land.

Analysis:

The subject property is located at 302 S. Marienfeld. The applicant is seeking a zone change to to C, Commercial District to allow for the opening of an automobile collision repair and paint shop. The current zoning would not allow for the construction. The surrounding area is developed as commercial uses, so this property's proposed use would align with the nearby properties.

This request is consistent with the Tall City Tomorrow Comprehensive Plan, which designated this area as Special Study Area (SPA). There are no policies outlined for this designation.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No comments or objections.

Engineering: (Approved)

No objections to zone change. [For Applicant's Information Only.]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For Applicant's Information Only.]

Code: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2023 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on the time of new code editions adopted in the City of Midland and date of permit application.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For the Applicant's information only.]

Planning: (Approved)

Staff recommends approval of this Zone Change CB, Central Business District to C, Commercial District.

Letters of Objection:

Staff has not received any letters of objection as of April 17, 2026.

Attachments:

A. ORD - Z-26-0480.CB to C Ord
B. CC - - 302 S Marienfeld
C. Z-26-0480, Combined Docs

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 2 AND 3, BLOCK 92, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM CB, CENTRAL BUSINESS DISTRICT TO C, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH MARIENFELD STREET, APPROXIMATELY 75 FEET SOUTH OF WEST INDIANA AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lots 2 and 3, Block 92, Original Town Addition, City and County of Midland, Texas (the "Property"), to C, Commercial District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from CB, Central Business District to C, Commercial District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

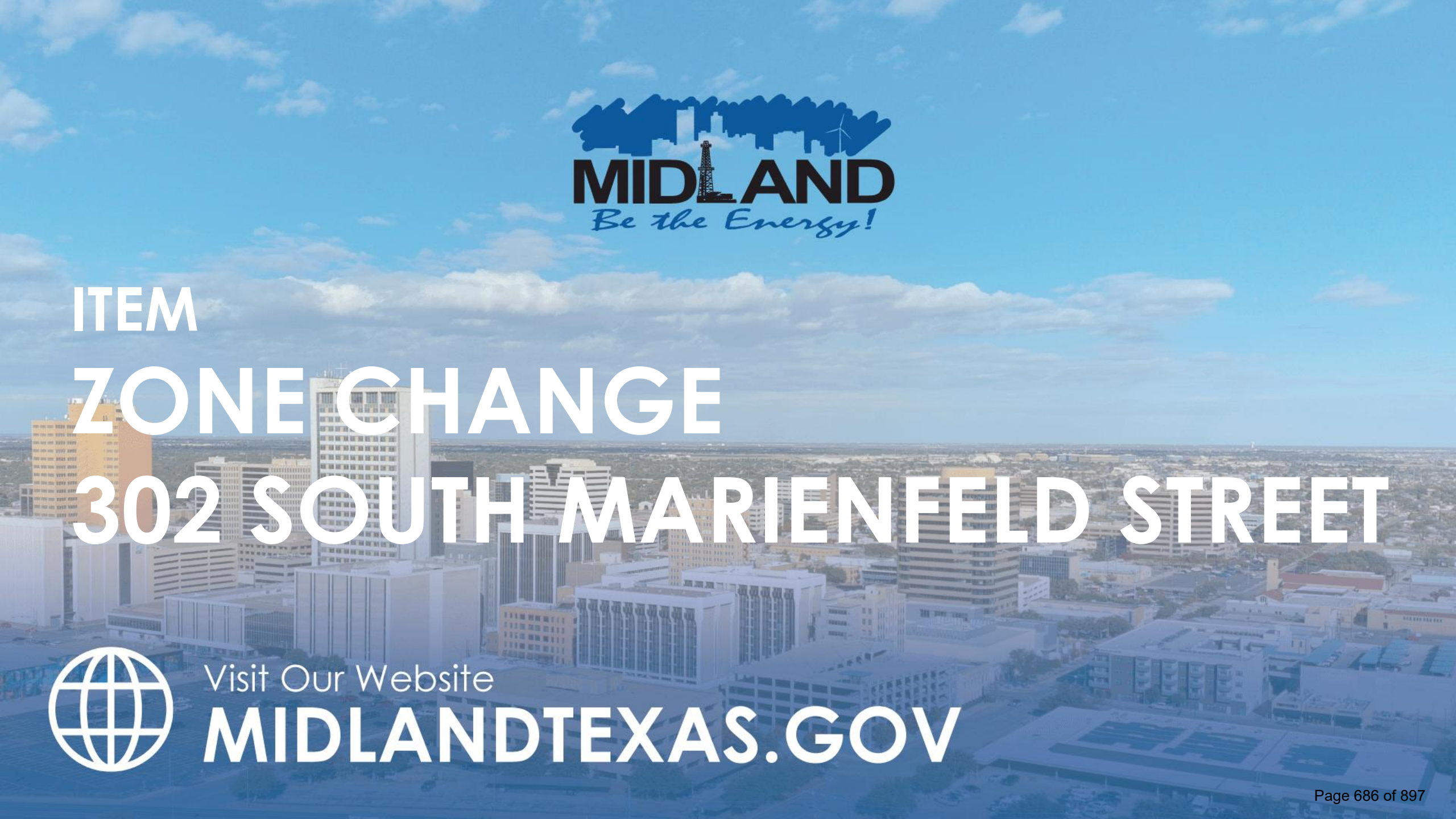
_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

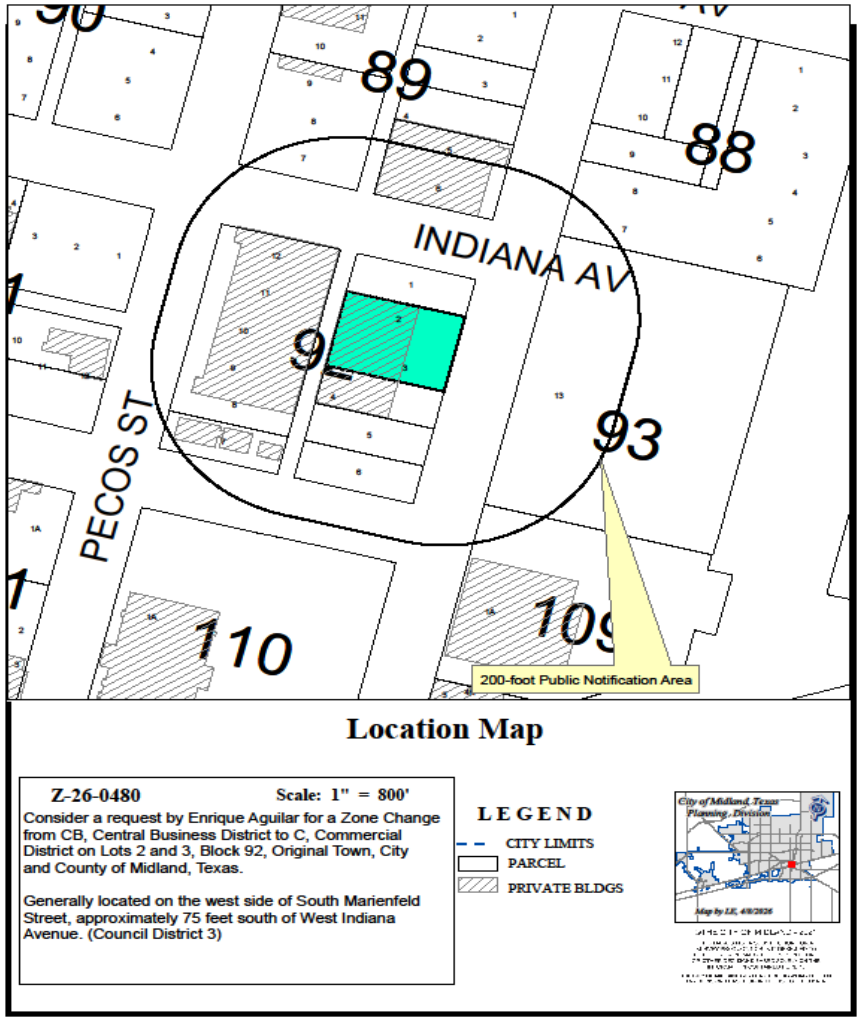
APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney


MIDLAND
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ITEM
ZONE CHANGE
302 SOUTH MARIENFELD STREET
Visit Our Website
MIDLANDTEXAS.GOV

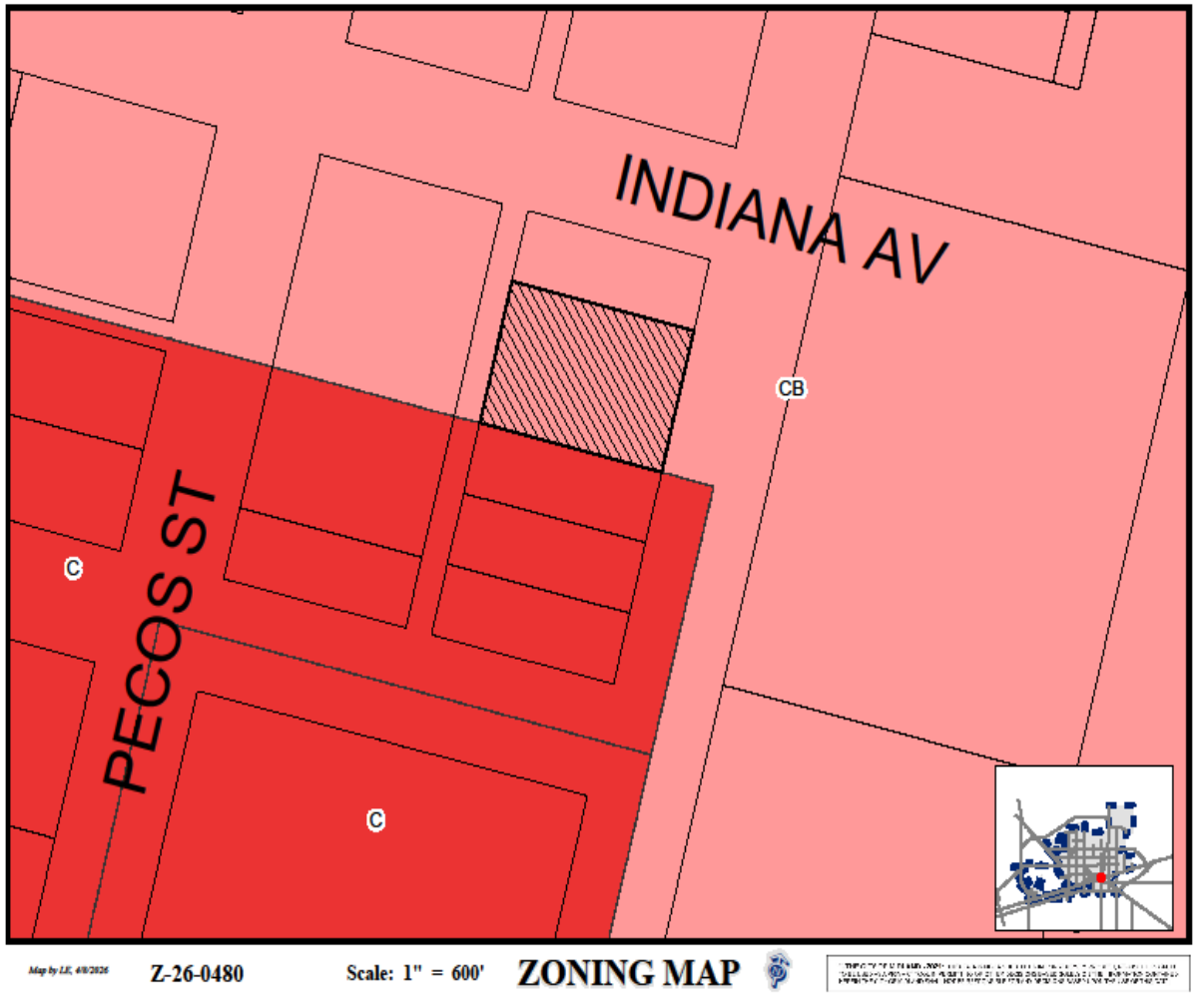
APPLICATION SUMMARY

- **Property Owner/Applicant:** Enrique Aguilar
- **Location:** 302 S. Marienfeld Street (Council District 3)
- **Reason for Request:** For the development of an Automobile Collision Repair and Paint Shop



ZONING

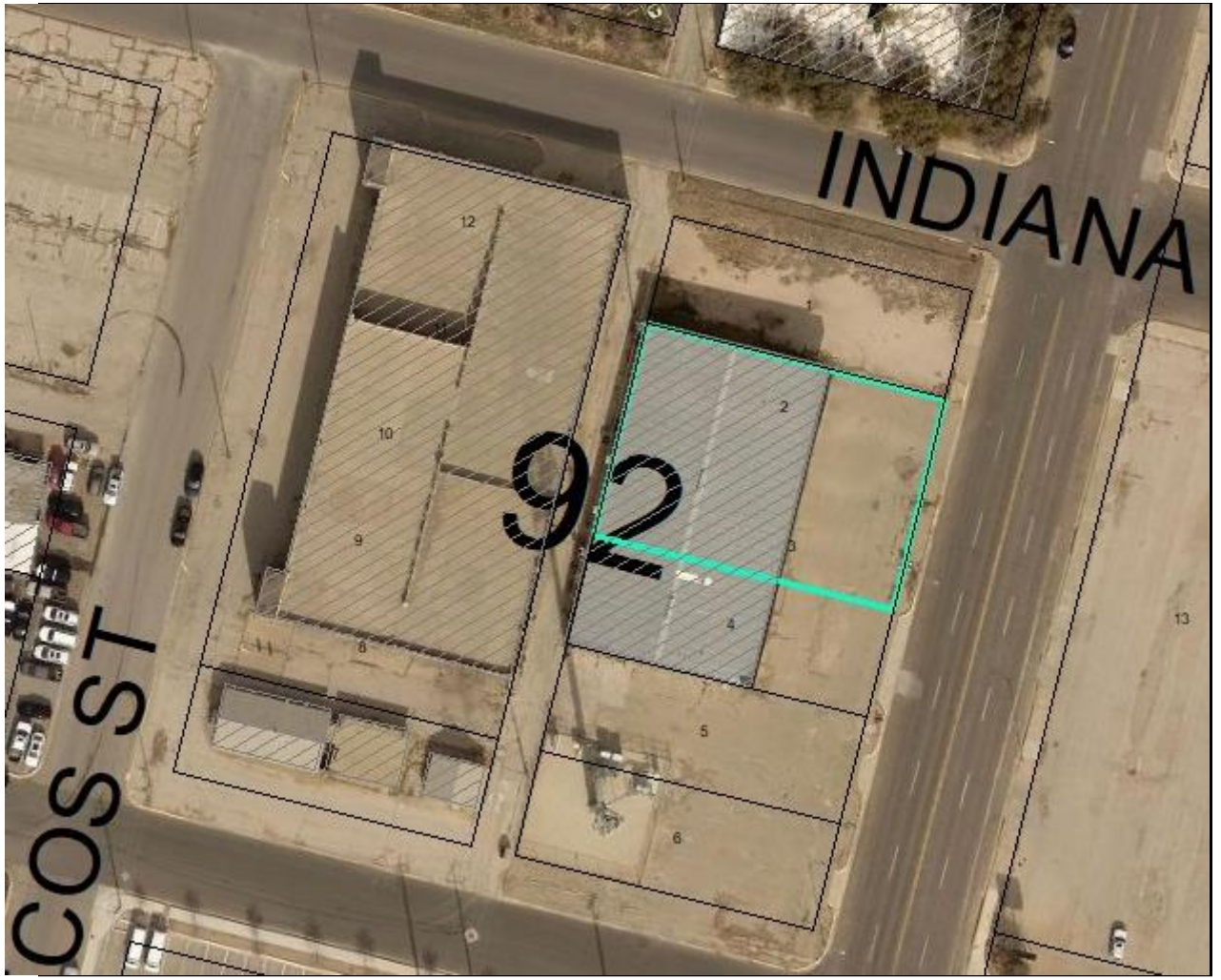
- **Current Zoning:** CB, Central Business District
- **Surrounding Zoning:**
  - **North/East/West:** CB, Central Business District
  - **South:** C, Commercial District
- **Proposed Zoning:** C, Commercial District



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LAND USE

- **Current Use:** Vacant Land
- **Surrounding Uses:**
  - **North/East/South:** Vacant Land
  - **West:** Parking Facility
- **Proposed Use:** Automobile Collision Repair and Paint Shop



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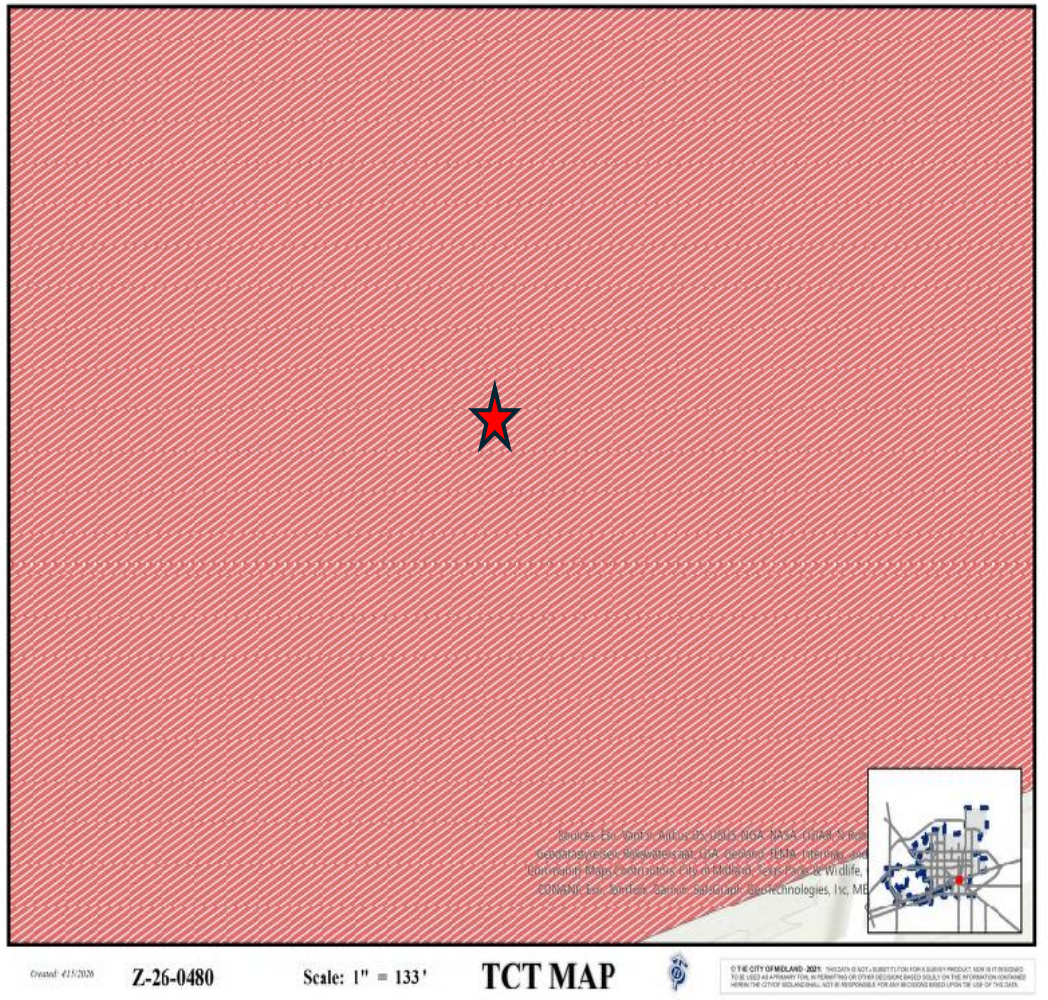
On South Marienfeld Street Road, Looking West

5

MIDLAND
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COMPREHENSIVE PLAN

- **Land Use Designation:** Special Study Area, (SPA)
- No policies are outlined for this designation.



STAFF'S RECOMMENDATION

- No objections were received.
- Staff recommends approval of this request.



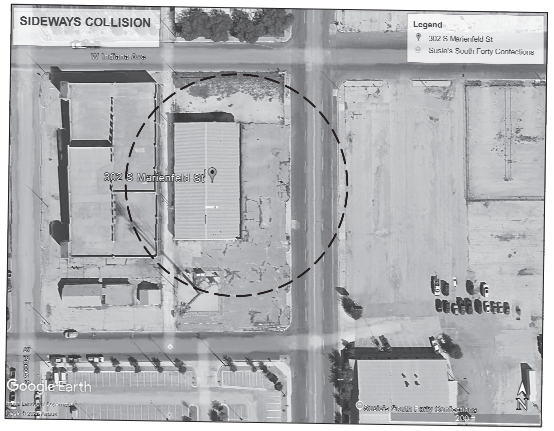
MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.

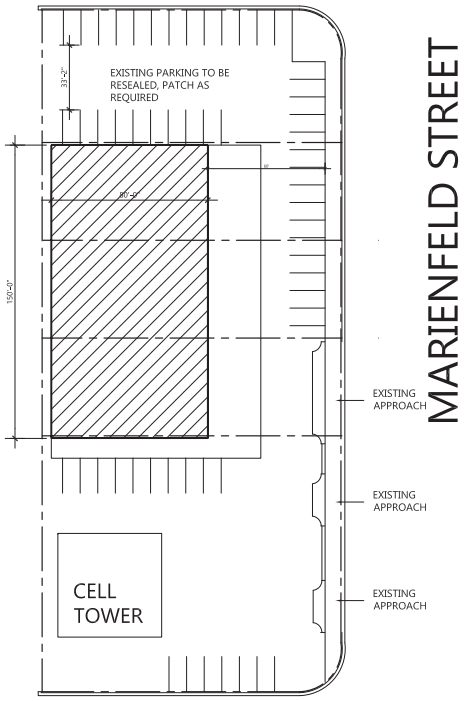


NEW SHOP FOR SIDEWAY COLLISION

302 S MARINFELD
MIDLAND TX 79701



03 GIS SITE PLAN
SCALE: NTS



01 SITE PLAN
SCALE: 1"=30'-0"

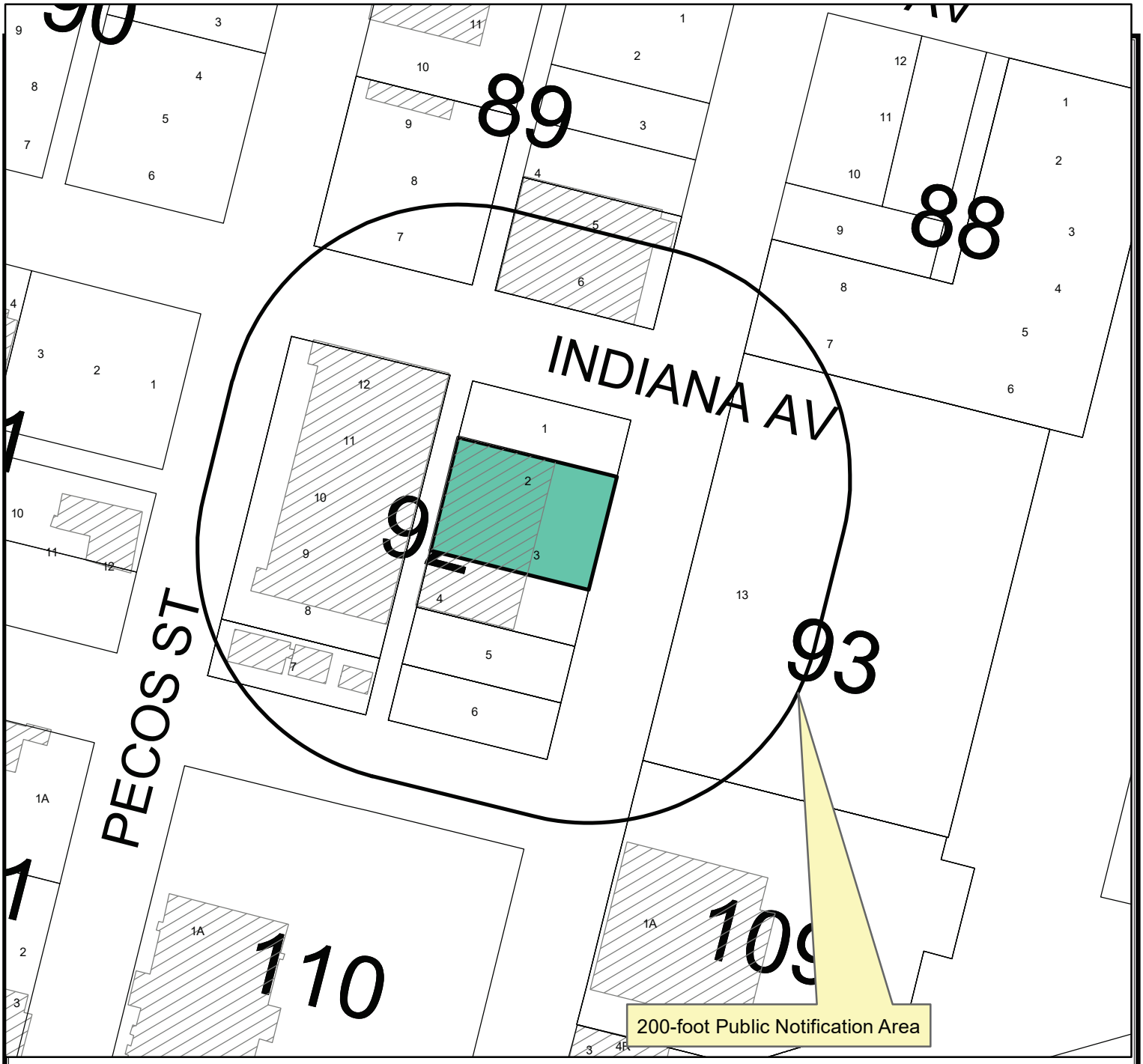
OWNERSHIP OF DOCUMENTS
THIS DOCUMENT AND THE IDEAS AND DESIGNS INCORPORATED HEREIN, AS AN INSTRUMENT OF PROFESSIONAL SERVICE IS THE PROPERTY OF CDS LLC AND IS NOT TO BE USED, IN WHOLE OR IN PART, FOR ANY OTHER PROJECT WITHOUT THE WRITTEN AUTHORIZATION OF CADD DESIGN SERVICES (CDS)
© 2026

NEW SHOP FOR SIDEWAYS COLLISION
302 S MARIENFELD STREET
MIDLAND, TX

GUTIERREZ CONSTRUCTION DESIGN SERVICES LLC
RESIDENTIAL & COMMERCIAL
ANDY GUTIERREZ
806-438-4031
cdsdesignllc@gmail.com
LUBBOCK, TX

NO.	DATE	DESCRIPTION
A	26-02-12	PERMIT
B		
C		

PROJECT NO. 25-01-12
DRAWING NO. SP-1.0
OF



Location Map

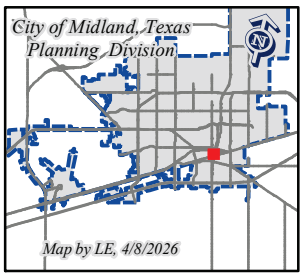
Z-26-0480 **Scale: 1" = 800'**

Consider a request by Enrique Aguilar for a Zone Change from CB, Central Business District to C, Commercial District on Lots 2 and 3, Block 92, Original Town, City and County of Midland, Texas.

Generally located on the west side of South Marienfeld Street, approximately 75 feet south of West Indiana Avenue. (Council District 3)

LEGEND

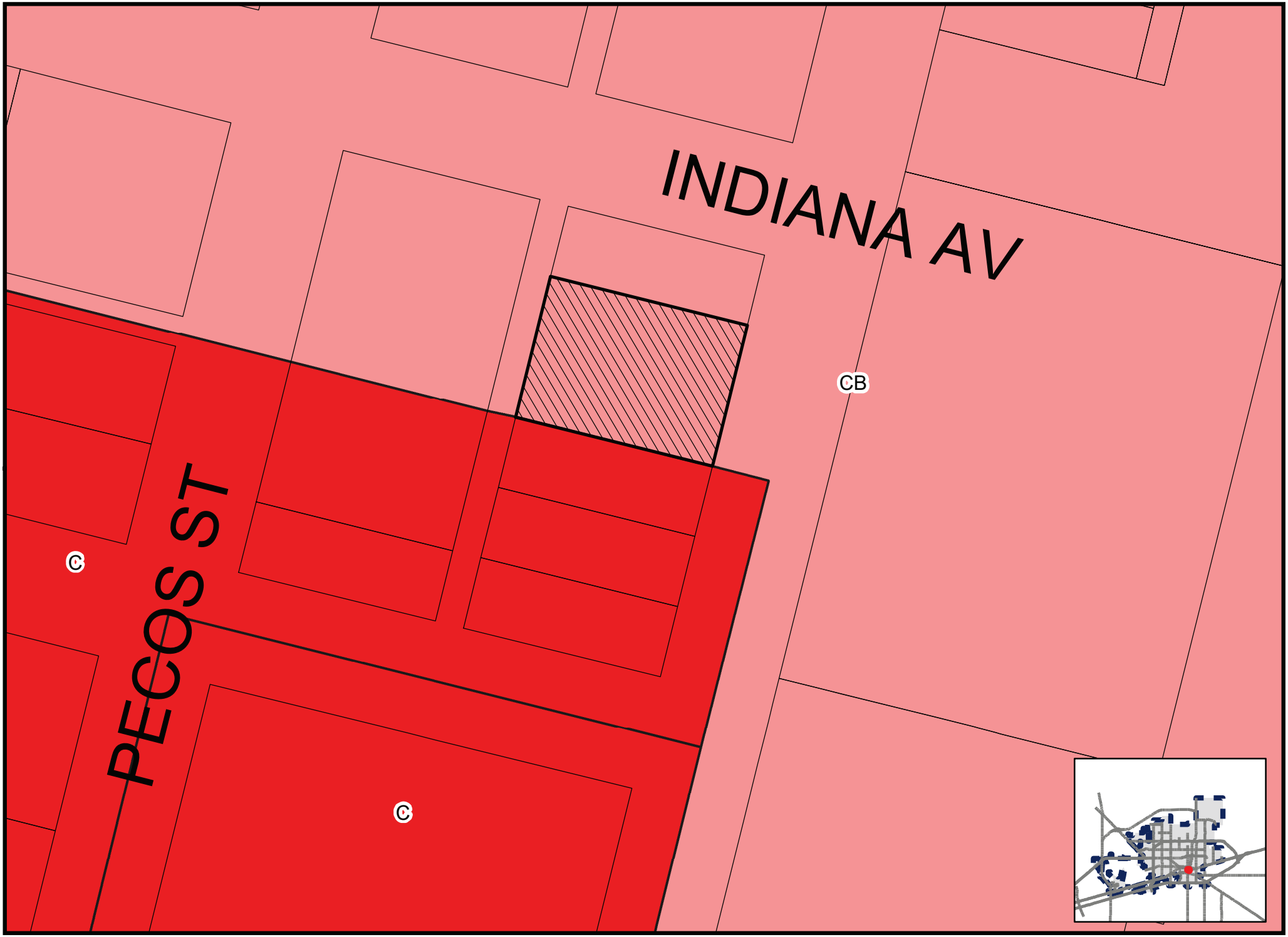
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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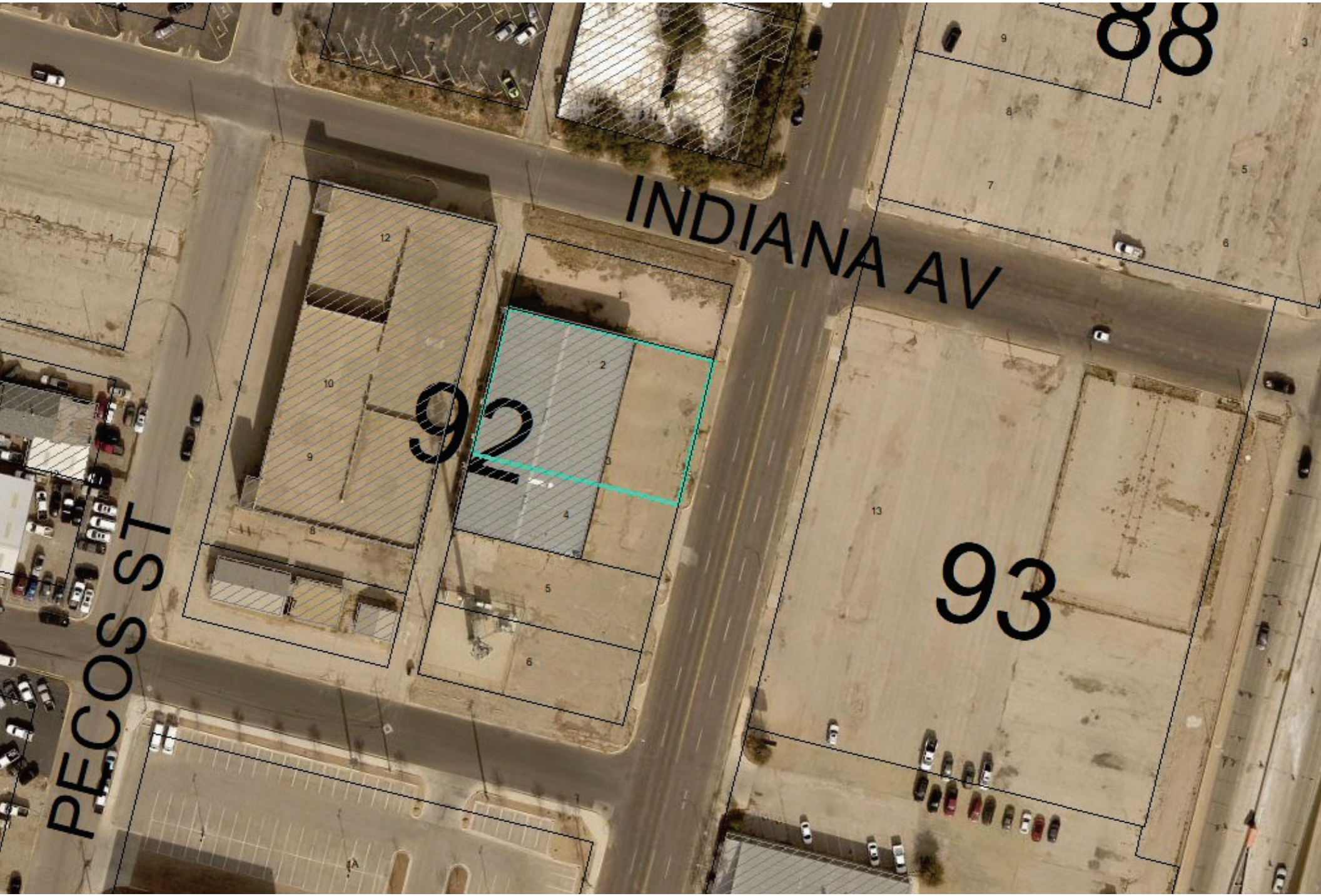
Map by LE, 4/8/2026

Z-26-0480

Scale: 1" = 600'

ZONING MAP

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INDIANA AV
PECOS ST
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93
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CONSIGNMENT
432.994.8444
302
13 206

City Council Meeting

Item Number: 24.
Meeting Date: May 12, 2026
To: City Council
From: Britton Murry, Senior Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.578-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK E, JOHNSON-MORAN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LR, LOCAL RETAIL DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ANDREWS HIGHWAY AND WARD STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:

Long John Silver's, on behalf of Kinco Partners, LTD, is requesting a zone change from LR, Local Retail District to RR, Regional Retail District for the property located at 900 Andrews Highway to allow for the reconstruction of the existing restaurant with a drive-through window.

Recommended Action:
Approve

Fiscal Impact:
None

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

LR, Local Retail District

Surrounding Zoning and Land Use:

The property to the north is zoned O-1, Office District and is a dentist office. The properties to the east are zoned SF-1, Single-Family Dwelling District and consist of single-family Housing. The properties to the south and west are zoned LR, Local Retail District and consist of a

restaurant with a drive-through window and a vacant lot.

Analysis:

The subject property is located at 900 Andrews Highway. Long John Silver's, on behalf of Kinco Partners, LTD, is seeking a zone change from LR, Local Retail District, to RR, Regional Retail District to allow for the reconstruction of the existing restaurant with a drive-through window.

A restaurant with a drive-through window is not a permitted use in the LR zoning district, which is why the zone change is needed. The existing restaurant with a drive-through is considered as an existing non-conforming structure, due to it being approved before the implementation of the newest zoning ordinance. Approval of the requested zone change would permit Long John Silver's, LTD, to renovate and modernize the existing restaurant while maintaining its current use and level of intensity.

The Tall City Tomorrow Comprehensive Plan designates this area as a Special Study Area (SPA). There are no policies established for this designation.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No comments or objections.

Engineering: (Approved)

No objection to zone change. [For the Applicant's information only.] Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

Code: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2023 NEC requirements, the 2015 International Fire Codes, local city ordinances, planning/zoning requirements, established setbacks, Health department regulations, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on the time of new code editions adopted in the City of Midland and date of permit application.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.] No objection to zone change. [For the Applicant's information only.]

Planning: (Approved)

Staff recommends approval of this Zone Change from LR, Local Retail District to RR, Regional

Retail District.

Letters of Objection:

Staff has not received any letters of objection as of April 17, 2026.

Attachments:
A. ORD W EXH - Z-26-0479.LR to RR Ord w Exh
B. Z-26-0479, Combined Document
C. CC - - 900 Andrews Highway ZC

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.578-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK E, JOHNSON-MORAN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LR, LOCAL RETAIL DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ANDREWS HIGHWAY AND WARD STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning a 0.578-acre tract of land out of Lot 1, Block E, Johnson-Moran Addition, City and County of Midland, Texas (the "Property"), said Property being more specifically described by metes and bounds in Exhibit A, which is attached hereto and incorporated herein, to RR, Regional Retail District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from LR, Local Retail District to RR, Regional Retail District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

EXHIBIT A

TOPOGRAPHIC BOUNDARY SURVEY

900 ANDREWS HIGHWAY

MIDLAND, MIDLAND COUNTY, TEXAS 79701

SITE INFORMATION

N/F: KINCO PARTNERS LTD
900 ANDREWS HIGHWAY
MIDLAND, TEXAS 79701
APN: R27211
AREA: 25,178 SQ. FEET ±
0.578 ACRES ±

REFERENCED DOCUMENTS

1. *VOLUME 2081, PAGE 430*
2. *DOCUMENT #24154*
3. *VOLUME 3235, PAGE 930*
4. *FILE NO 22761*

AS-SURVEYED LEGAL DESCRIPTION

ALL THAT CERTAIN LOT, TRACT, OR PARCEL OF LAND SITUATED IN MIDLAND COUNTY, TEXAS, AND BEING THE SOUTH PART OF LOT 1, SUBDIVISION OF THE NORTHEAST PART OF BLOCK "E" IN JOHNSON-MORAN ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS AS FOLLOWS:

BEGINNING AT A FOUND 1/2" IRON ROD IN THE EAST LINE OF LOT 1, JOHNSON- MORAN ADDITION PER VOL. 2081, PAGE 430, ALSO BEING A POINT IN THE WESTERLY RIGHT-OF-WAY LINE OF WARD STREET;

THENCE ALONG THE WESTERLY RIGHT-OF-WAY LINE OF WARD STREET, S 14°35'13" E, A DISTANCE OF 246.17 FEET TO A FOUND 1/2" IRON ROD;

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CONTAINING THEREIN 0.578 ACRES (25177.8 SQUARE FEET) MORE OR LESS, BEING THE SAME LAND AS DESCRIBED IN VOLUME 2081, PAGE 430.

PARKING INFORMATION

REGULAR= 32
HANDICAP= 2
TOTAL= 34

FLOOD ZONE INFORMATION

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE "X" OF THE FLOOD INSURANCE RATE MAPS, COMMUNITY PANEL NOS. 48329C0201F AND 48329C0089F, BOTH BEARING AN EFFECTIVE DATE OF 9/16/2005 AND IS NOT / IS IN A SPECIAL FLOOD HAZARD AREA.

ZONE "X" - AREA OF MINIMAL FLOOD HAZARD, USUALLY DEPICTED ON FIRMS AS ABOVE THE 500-YEAR FLOOD LEVEL. ZONE "X" IS THE AREA DETERMINED TO BE OUTSIDE THE 500-YEAR FLOOD AND PROTECTED BY LEVEE FROM 100-YEAR FLOOD.

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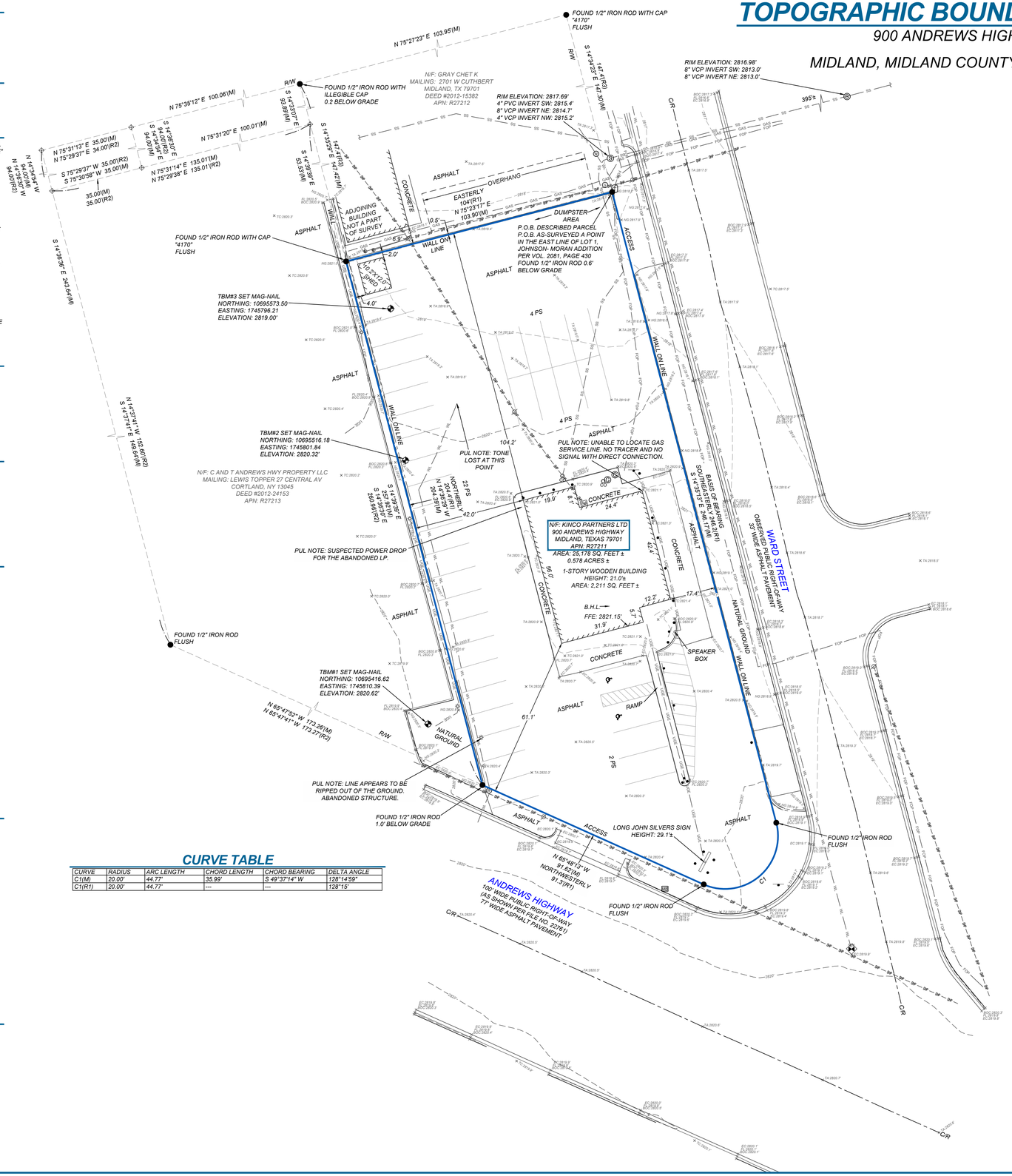
SIGNIFICANT OBSERVATIONS

NONE OBSERVED AT THE TIME OF THE SURVEY.

UTILITY INFORMATION

THE UTILITIES SHOWN ON THIS DRAWING HEREON HAVE BEEN LOCATED BY FIELD MEASUREMENTS UTILITY MAP DRAWINGS, PRIVATE UTILITY LOCATE PERFORMED BY BLEW & ASSOCIATES AND TEXAS 811 DIG UTILITY LOCATE REQUEST. BLEW AND ASSOCIATES MAKES NO WARRANTY TO THE EXACT LOCATION OF ANY UNDERGROUND UTILITIES SHOWN OR NOT SHOWN ON THIS DRAWING. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY ANY AND ALL UTILITIES PRIOR TO CONSTRUCTION. TICKET NUMBER: 2656932772

COMPANY:	*CONTACT:*
ATMOS ENERGY	*(866) 322-8667*
ASTOUND BROADBAND	*(800) 427-8686*
LUMEN	*(877) 453-8367*
ONCOR ELECTRIC DISTRIBUTION	*(888) 313-6862*
CITY OF MIDLAND WATER AND SEWER	*(432) 685-7270*
OPTIMUM	*(877) 694-9474*
AT&T	*(800) 288-2020*
UNITE PRIVATE NETWORKS LLC DBA SEGRA	*(833) 467-3472*



CURVE TABLE

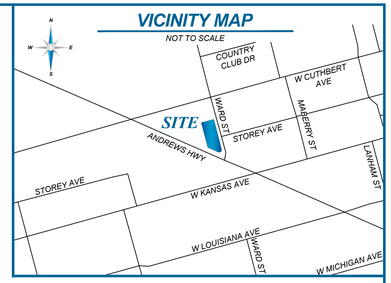
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LEGEND & SYMBOLS

- TEMPORARY BENCHMARK (TBM#)
- FOUND MONUMENT (AS-NOTED)
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- HANDICAP PARKING
- LIGHT
- POWER POLE
- GUY ANCHOR
- ELECTRIC METER
- TELEPHONE PEDESTAL
- MAIL BOX
- SIGN
- BOLLARD
- GREASE TRAP MANHOLE
- WATER VALVE
- WATER METER
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- EC EDGE OF CONCRETE
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- UGE UNDERGROUND ELECTRIC LINE
- GAS UNDERGROUND GAS LINE
- WL UNDERGROUND WATER LINE
- SS UNDERGROUND SANITARY SEWER LINE
- NO PARKING AREA
- WALL

VICINITY MAP

NOT TO SCALE



GENERAL NOTES

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SURVEYOR'S CERTIFICATE

THIS SURVEY SUBSTANTIALLY COMPLIES WITH THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS MANUAL OF PRACTICE REQUIREMENTS FOR A CATEGORY 1A, CONDITION 2, TSPS LAND TITLE SURVEY.

DATE OF PLAT OR MAP: 3/31/2026

STATE OF TEXAS
CLIFFORD E. CAMERON
6415
REGISTERED PROFESSIONAL LAND SURVEYOR
3/31/2026

CLIFFORD E. CAMERON, RPLS
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6415
STATE OF TEXAS
TEXAS FIRM REGISTRATION NO. 10194275

DATE	REVISION HISTORY	BY
4/13/2026	ADDING AS-SURVEYED	DTS

3825 N. SHILOH DRIVE - FAYETTEVILLE, AR 72703
EMAIL: SURVEY@BLEWINC.COM
OFFICE: 479.443.4506 FAX: 479.582.1883
WWW.BLEWINC.COM

SURVEYOR JOB NUMBER: 26-2331	**SURVEY DRAWN BY:** DTS - 3/31/2026
SURVEY REVIEWED BY: KLR	**SHEET:** 1 OF 1
SURVEY PREPARED FOR: CHARTER FOODS INC.	

TOPOGRAPHIC BOUNDARY SURVEY

900 ANDREWS HIGHWAY

MIDLAND, MIDLAND COUNTY, TEXAS 79701

SITE INFORMATION

NIF: KINCO PARTNERS LTD
900 ANDREWS HIGHWAY
MIDLAND, TEXAS 79701
APN: R27211
AREA: 25,178 SQ. FEET ±
0.578 ACRES ±

REFERENCED DOCUMENTS

1. VOLUME 2081, PAGE 430
2. DOCUMENT #24154
3. VOLUME 3235, PAGE 930
4. FILE NO 22761

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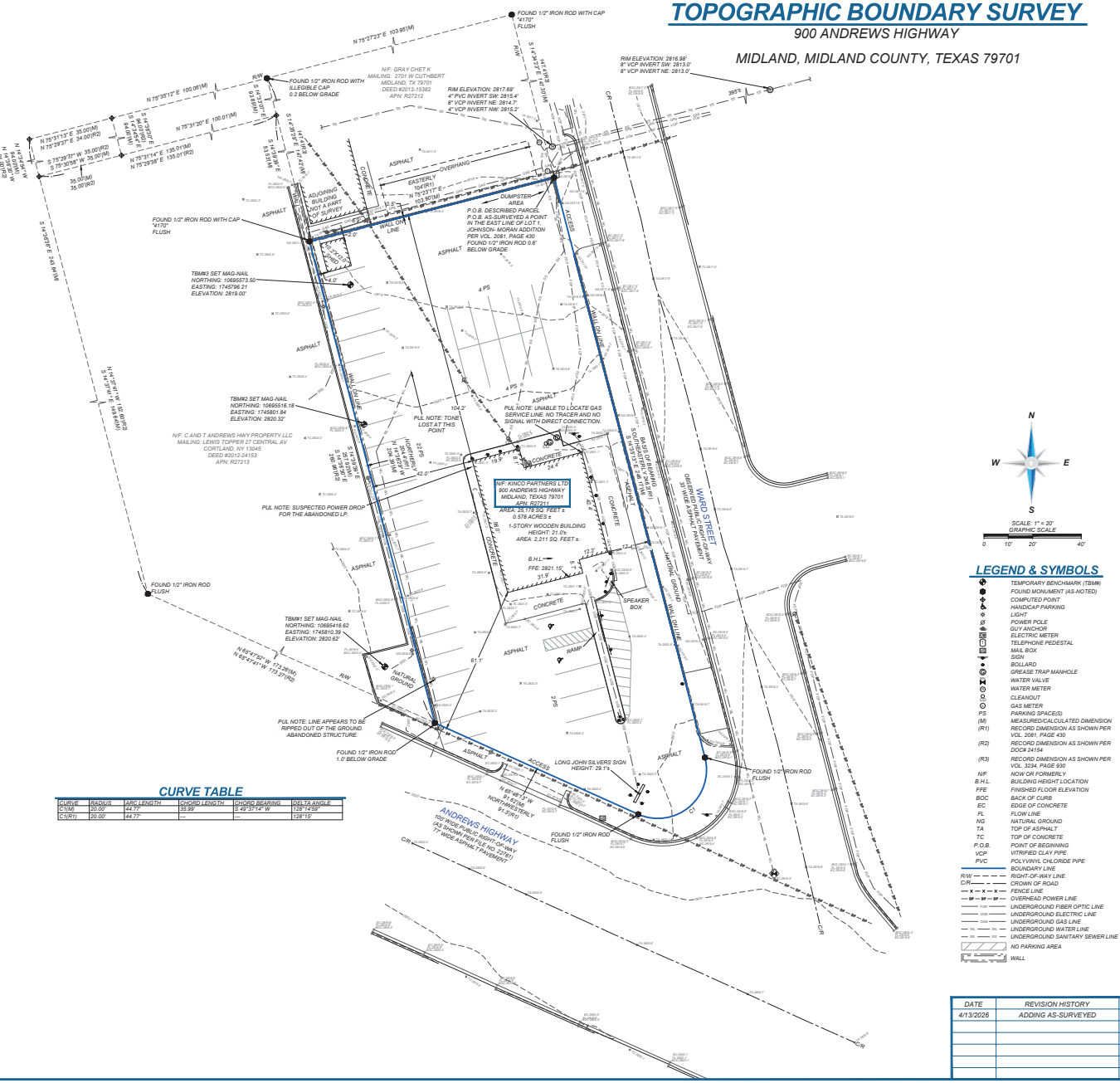
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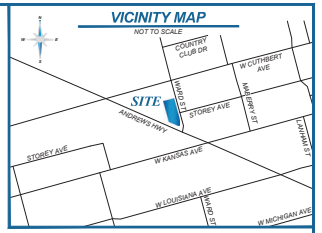


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- PS — PARKING SPACE(S)
- (M) — MEASURED/CALCULATED DIMENSION
- (R1) — RECORD DIMENSION AS SHOWN PER VOL. 2081, PAGE 430
- (R2) — RECORD DIMENSION AS SHOWN PER DOC# 24154
- (R3) — RECORD DIMENSION AS SHOWN PER VOL. 3234, PAGE 930
- N/F — NOW OR FORMERLY
- B.H.L. — BUILDING HEIGHT LOCATION
- FFE — FINISHED FLOOR ELEVATION
- BOC — BACK OF CURB
- EC — EDGE OF CONCRETE
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- TA — TOP OF ASPHALT
- TC — TOP OF CONCRETE
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- NO PARKING AREA
- WALL

SURVEYOR'S CERTIFICATE

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DATE OF PLAT OR MAP: 3/31/2026

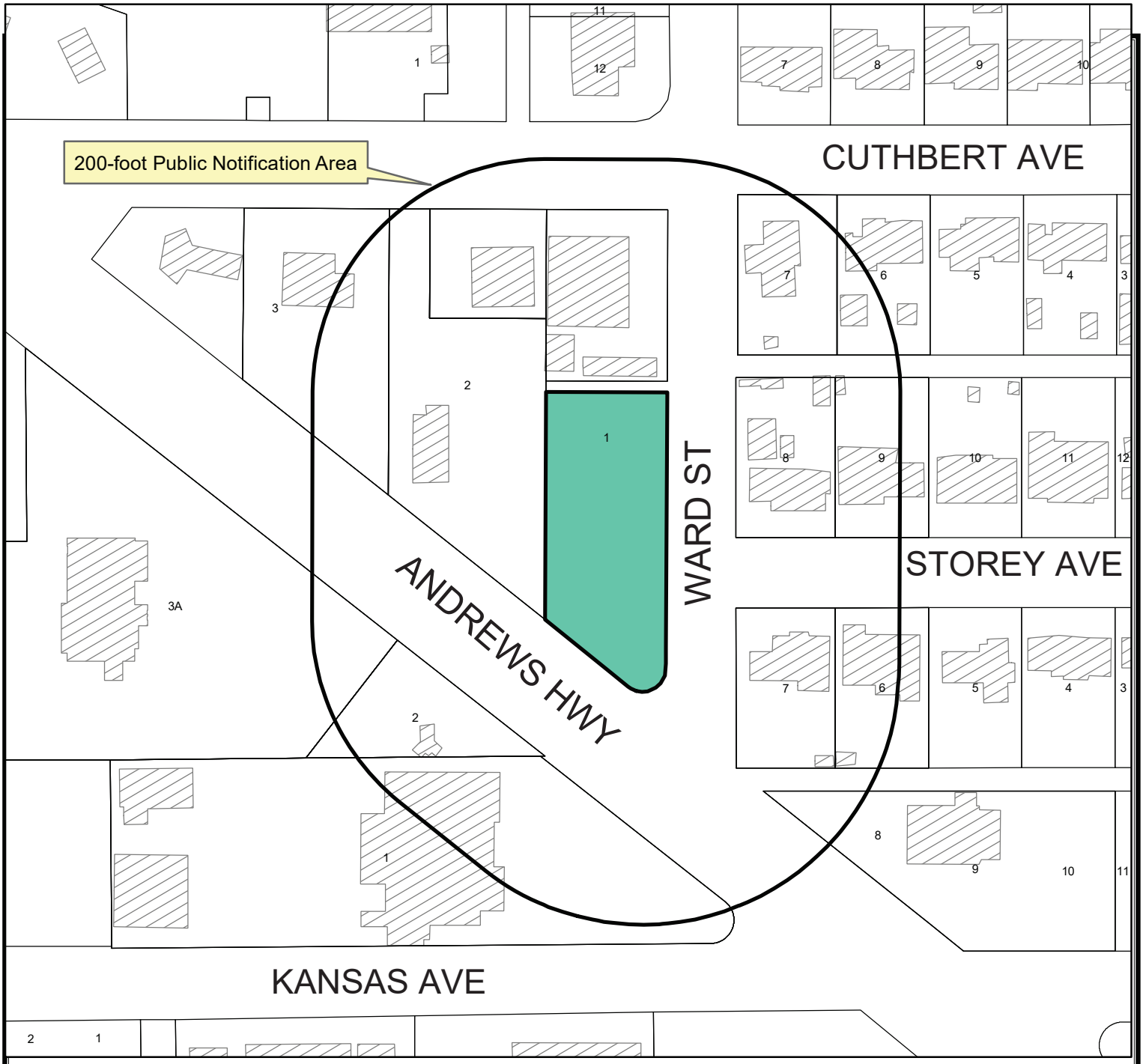


CLIFFORD E. CAMERON, RPLS
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6415
STATE OF TEXAS
TEXAS FIRM REGISTRATION NO. 10194275

DATE	REVISION HISTORY	BY
4/13/2026	ADDING AS-SURVEYED	DTS

3825 N. SHILOH DRIVE - FAYETTEVILLE, AR 72703
EMAIL: SURVEY@BLEWINC.COM
OFFICE: 479.443.4506 FAX: 479.582.1883
WWW.BLEWINC.COM

SURVEYOR JOB NUMBER: 26-2331	SURVEY DRAWN BY: DTS - 3/31/2026
SURVEY REVIEWED BY: RLR	SHEET: 1 OF 1
SURVEY PREPARED FOR: CHARTER FOODS INC.	



Location Map

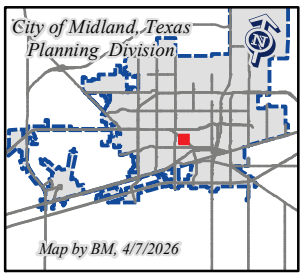
Z-26-0479 **Scale: 1" = 123'**

Consider a request by Long John Silver's, on behalf of Kinco Partners, LTD, for a Zone Change from LR, Local Retail District to RR, Regional Retail District on a 0.578-acre tract of land out of Lot 1, Block E, Johnson-Moran Addition, City and County of Midland, Texas.

Generally located at the northwest corner of the intersection of Andrews Highway and Ward Street. (Council District 3)

LEGEND

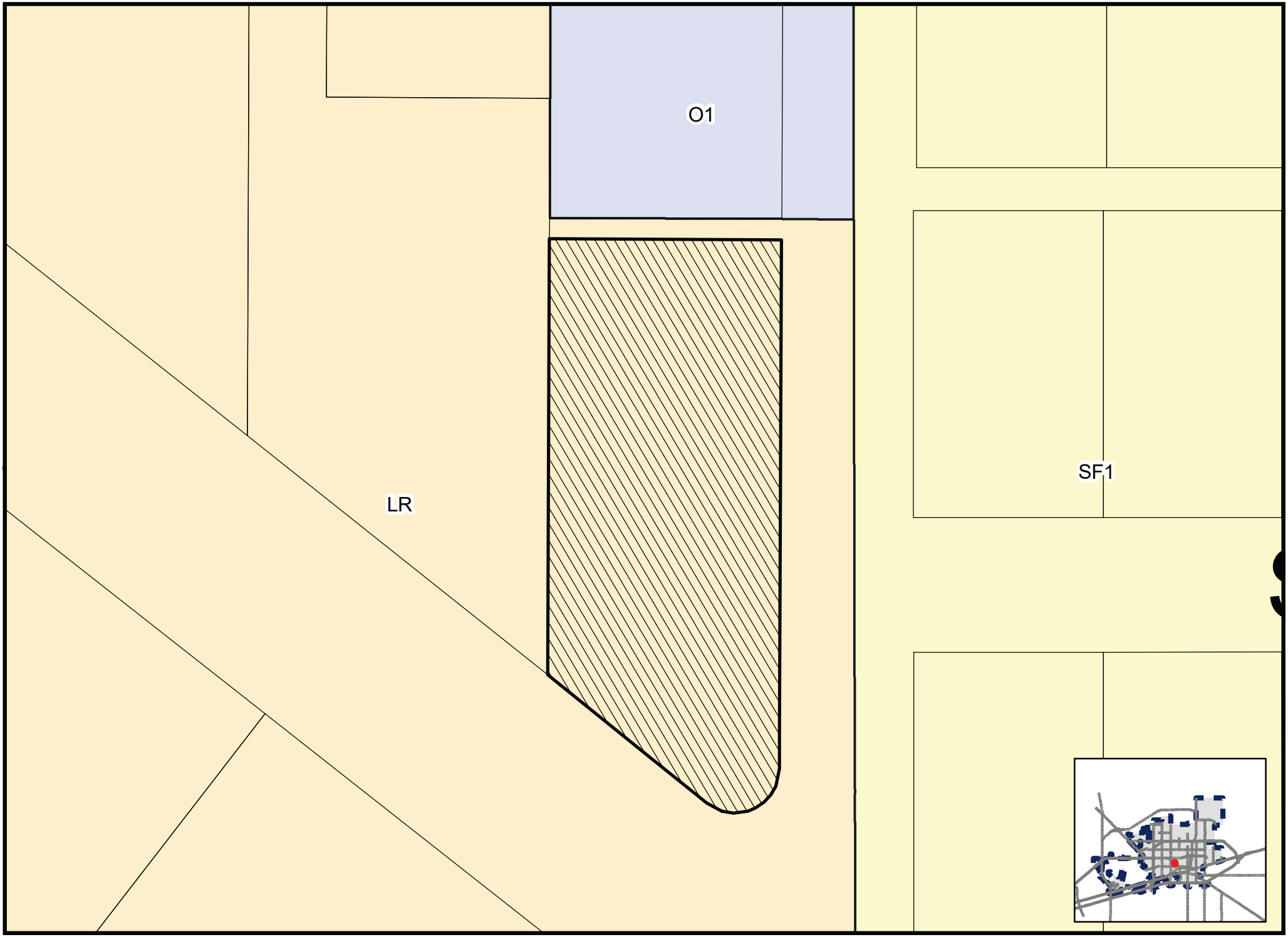
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map by BM, 4/7/2026

Z-26-0479

Scale: 1" = 54'

ZONING MAP

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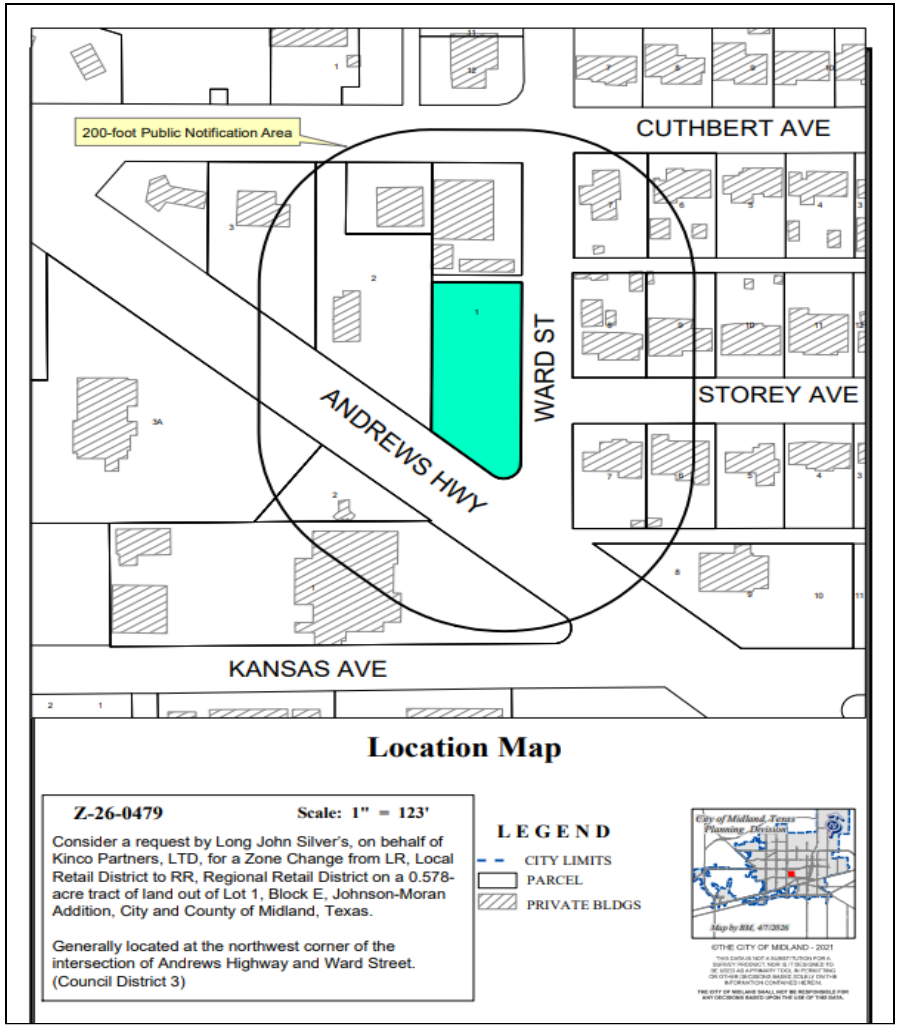



FedEx


MIDLAND
Be the Energy!
ZONE CHANGE
900 ANDREWS HIGHWAY
Visit Our Website
MIDLANDTEXAS.GOV

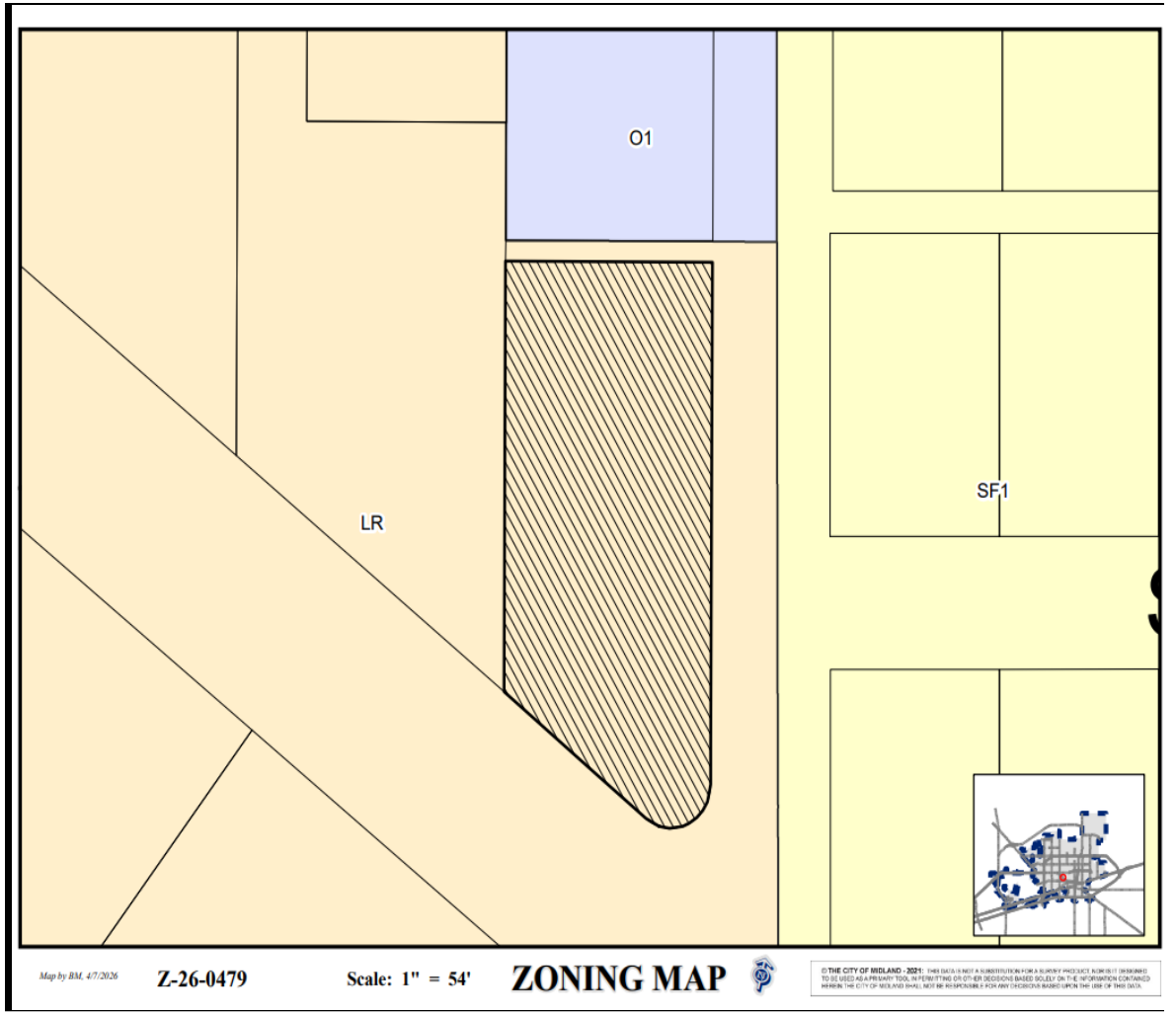
APPLICATION SUMMARY

- **Applicant:** Long John Silver's
- **Property Owner:** Kinco Partners, LTD
- **Location:** 900 Andrews Highway (Council District 3)
- **Reason for Request:** For the reconstruction of the existing restaurant



ZONING

- **Current Zoning:** LR, Local Retail District
- **Surrounding Zoning:**
  - **North:** O-1, Office District
  - **South/East/West:** LR, Local Retail District
- **Proposed Zoning:** RR, Regional Retail District



MIDLAND
Be the Energy!

LAND USE

- **Current Use:** Restaurant with a Drive-Through
- **Surrounding Uses:**
  - **North:** Dentist Office
  - **South:** Vacant Lots
  - **East:** Single-Family Housing
  - **West:** Restaurant with a Drive-Through

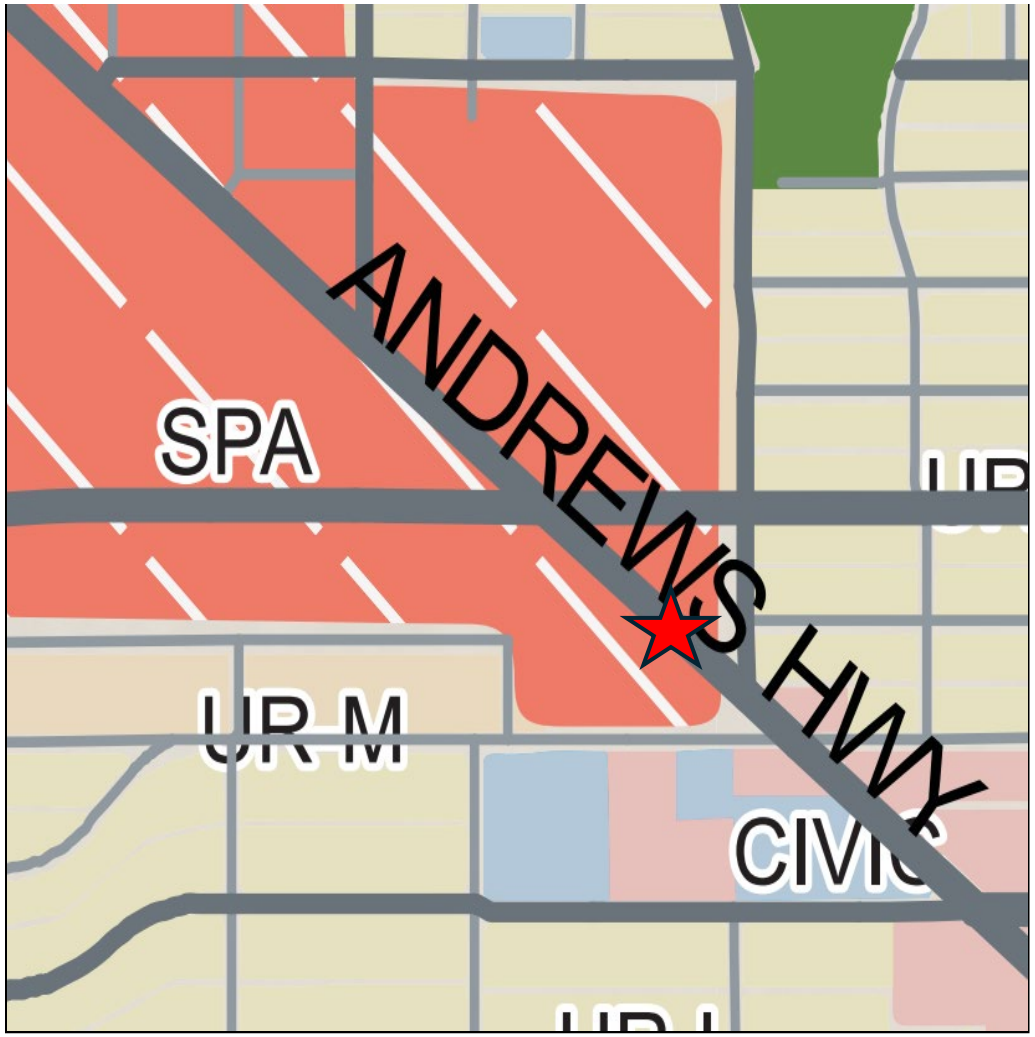




On Andrews Highway, Looking North

COMPREHENSIVE PLAN

- **Land Use Designation:** Special Study Area, (SPA)
- **Supported Uses:** No policies have been established for this designation.



STAFF'S RECOMMENDATION

- No objections were received.
- The Planning and Zoning Commission recommended approval of this request on April 20, 2026.
- Staff recommends approval of this request.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 25.
Meeting Date: May 12, 2026
To: City Council
From: Angelina Bettanini, Planner II
Subject: AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE WEST 23.2 FEET OF LOT 5 AND THE EAST 87.6 FEET OF LOT 6, BLOCK 6, MA MAR TERRACE, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SHELL AVENUE AND CESSNA DRIVE), BY PERMITTING A REDUCED MINIMUM FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (FIRST READING HELD APRIL 28, 2026)

Purpose:
Laura Castillo is requesting a reduced minimum front yard setback in order to construct an addition on the front of the residence at 3110 Shell.

Recommended Action:
Approve

Fiscal Impact:
None.

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
The subject property is zoned SF-1, Single-Family Dwelling District. Per Section 5.04 – Residential Zoning District Dimensional Regulations Chart, the minimum required front setback is 25 feet. The applicant is requesting a reduced minimum front yard setback of 20 feet and 6 inches to accommodate an addition to the home being an expansion of the master bathroom and master closet.

This request has been circulated to all pertinent City departments for review. Below are the departments' comments.

Fire: (Approved)

No comments or objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2023 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on the time of new code editions adopted in the City of Midland and date of permit application.

Engineering: (Approved)

No objection. [For Applicant's Information Only.]

Transportation: (Approved)

No objection. [For the Applicant's information only.]

Planning (Approved with conditions):

Staff recommends approval of this request as it won't affect the safety, comfort and welfare of the occupants in the area, subject to the following conditions.

Conditions:

A. That the reduced minimum front yard setback for the addition identified as a "Proposed Addition" in the site plan, which is attached hereto as Exhibit A and incorporated herein.

B. That the minimum front yard setback shall be twenty feet, six inches. (20' 6")

Letters of Objection:

Staff has not received any letters of objection as of April 17, 2026.

Attachments:

A. ORD W EXH - E-26-0159.Laura Castillo - Red Min Front Yard Setback Ord w Exh
B. E-26-0159, Combined Docs
C. CC - - 3110 Shell Ave, Special Exception

Kathy Rauda, City Secretary Created/Initiated - 4/28/2026

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE WEST 23.2 FEET OF LOT 5 AND THE EAST 87.6 FEET OF LOT 6, BLOCK 6, MA MAR TERRACE, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SHELL AVENUE AND CESSNA DRIVE), BY PERMITTING A REDUCED MINIMUM FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

WHEREAS, the City Council modified the authority of the Board of Adjustment in Title XI, Chapter 1, Section 7 ("Section 11-1-7") of the Midland City Code; and

WHEREAS, Section 11-1-7 provides for the consideration of requests for special exceptions to the Midland Zoning Ordinance; and

WHEREAS, the Council finds that satisfactory evidence has been presented that the use to be authorized by the granting of the special exception will not be detrimental to the health, safety, comfort and welfare of the occupants of the land area near the tract on which the use to be allowed by special exception will be located; and

WHEREAS, the Council finds that it is clearly and specifically authorized by the terms of Section 11-1-7 to grant such a special exception, and said exception will be in harmony with the general purposes and intent of the zoning provisions of the Midland City Code; and

WHEREAS, after a full and fair public hearing at which all parties in interest were offered an opportunity to be heard, all pursuant to law, the Council finds it to be in the public interest to grant a special exception to the Zoning Ordinance, pursuant to Section 11-1-7, for the purposes herein stated, subject to special conditions;

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

SECTION ONE. That a special exception is hereby granted for the property described as the west 23.2 feet of Lot 5 and the east 87.6 feet of Lot 6, Block 6, Ma Mar

Terrace, Section 2, City and County of Midland, Texas. Said special exception shall allow a reduced minimum front yard setback.

SECTION TWO. Said special exception is subject to the following special conditions:

A. That the minimum front yard setback shall be twenty feet, six inches (20' 6").

B. That the reduced minimum front yard setback allowed by this ordinance shall apply only to the "proposed addition" shown in the site plan, which is attached hereto as Exhibit A and incorporated herein.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to file this ordinance with the Office of the County Clerk for purposes of recordation.

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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

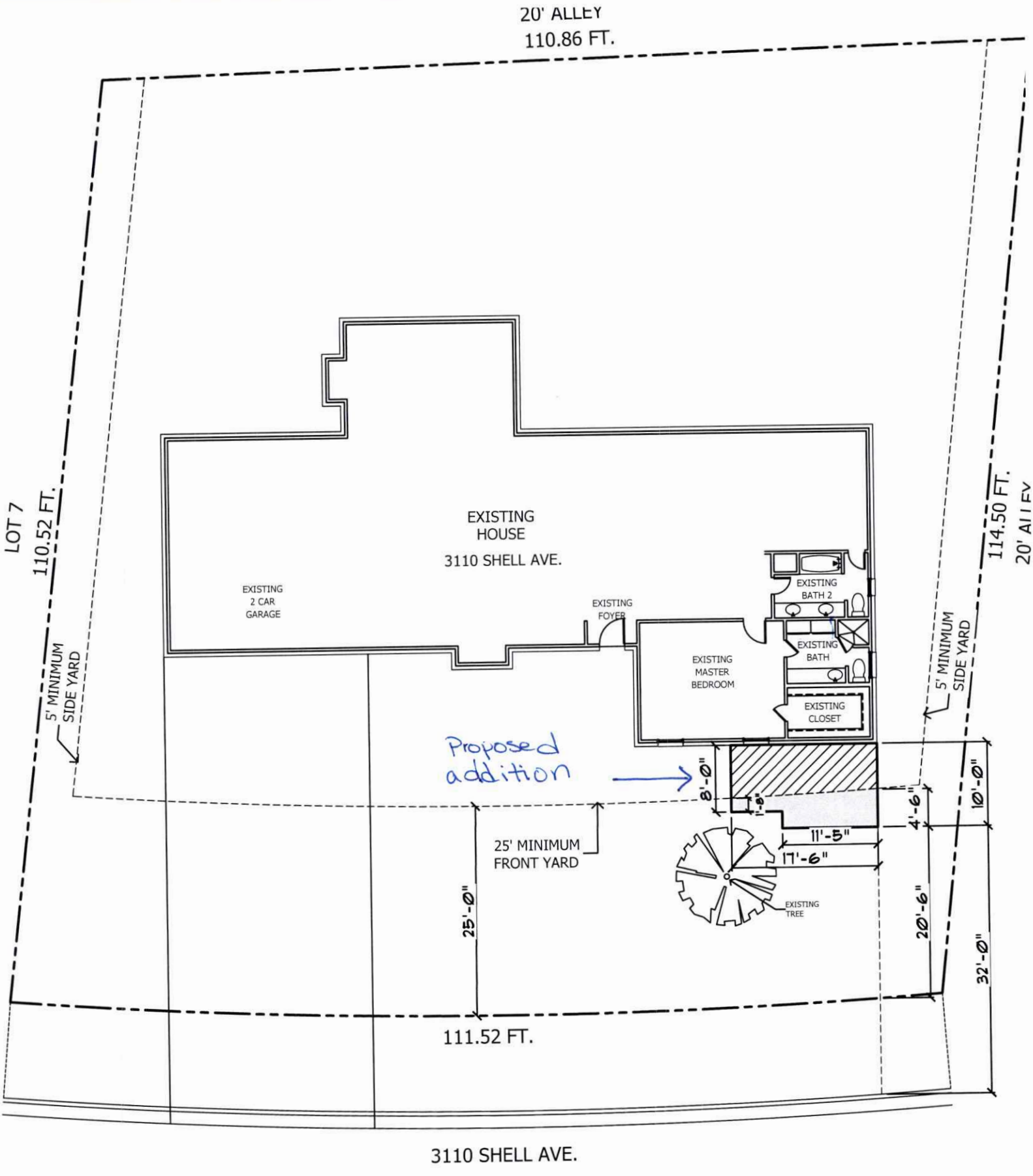
_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

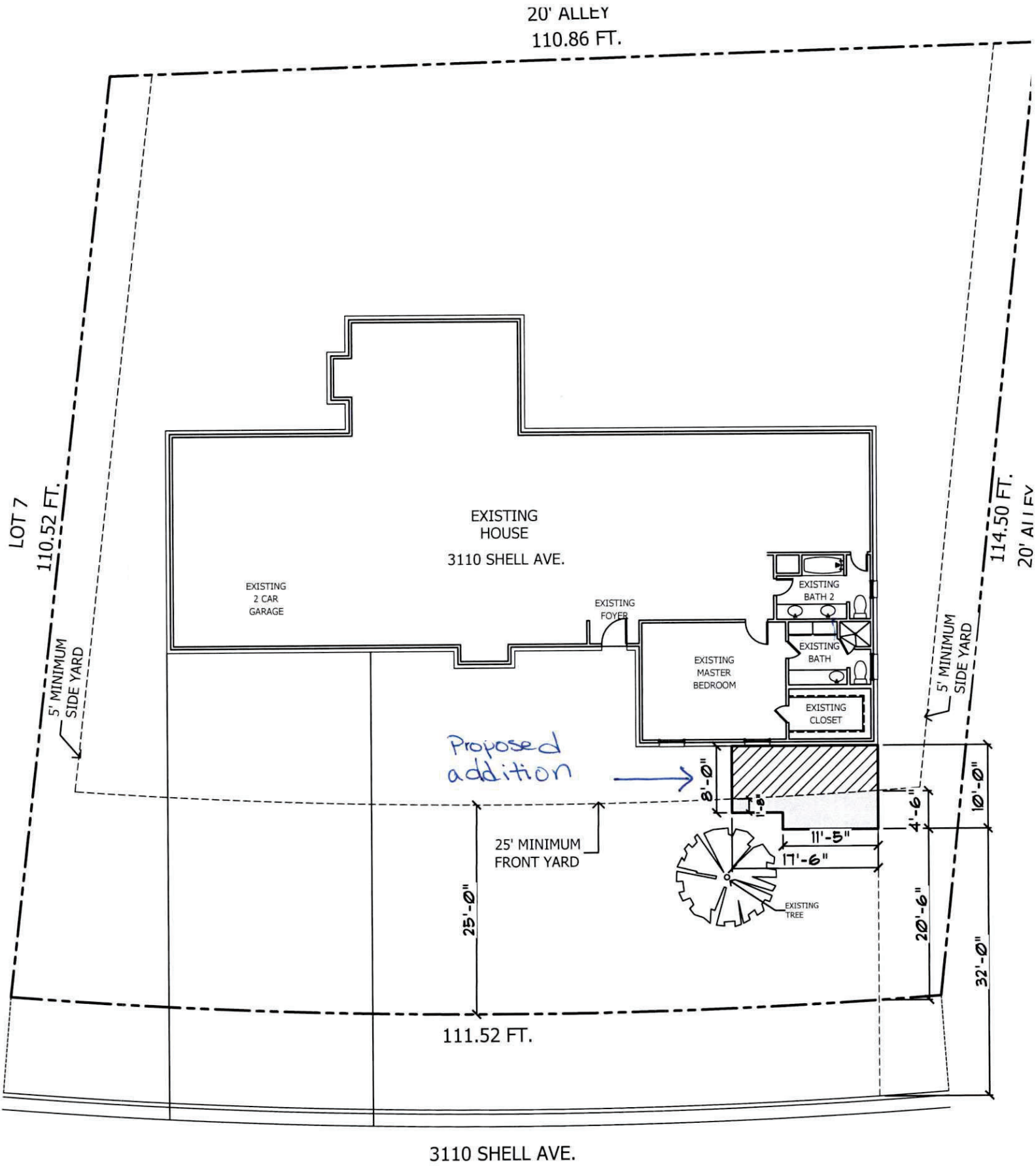
_____
Nicholas Toulet, City Attorney



1 / SD1 NEW ADDITION SITE PLAN
1" = 15'

NEW ADDITION LIVABLE AREA: 173 SQ. FT.

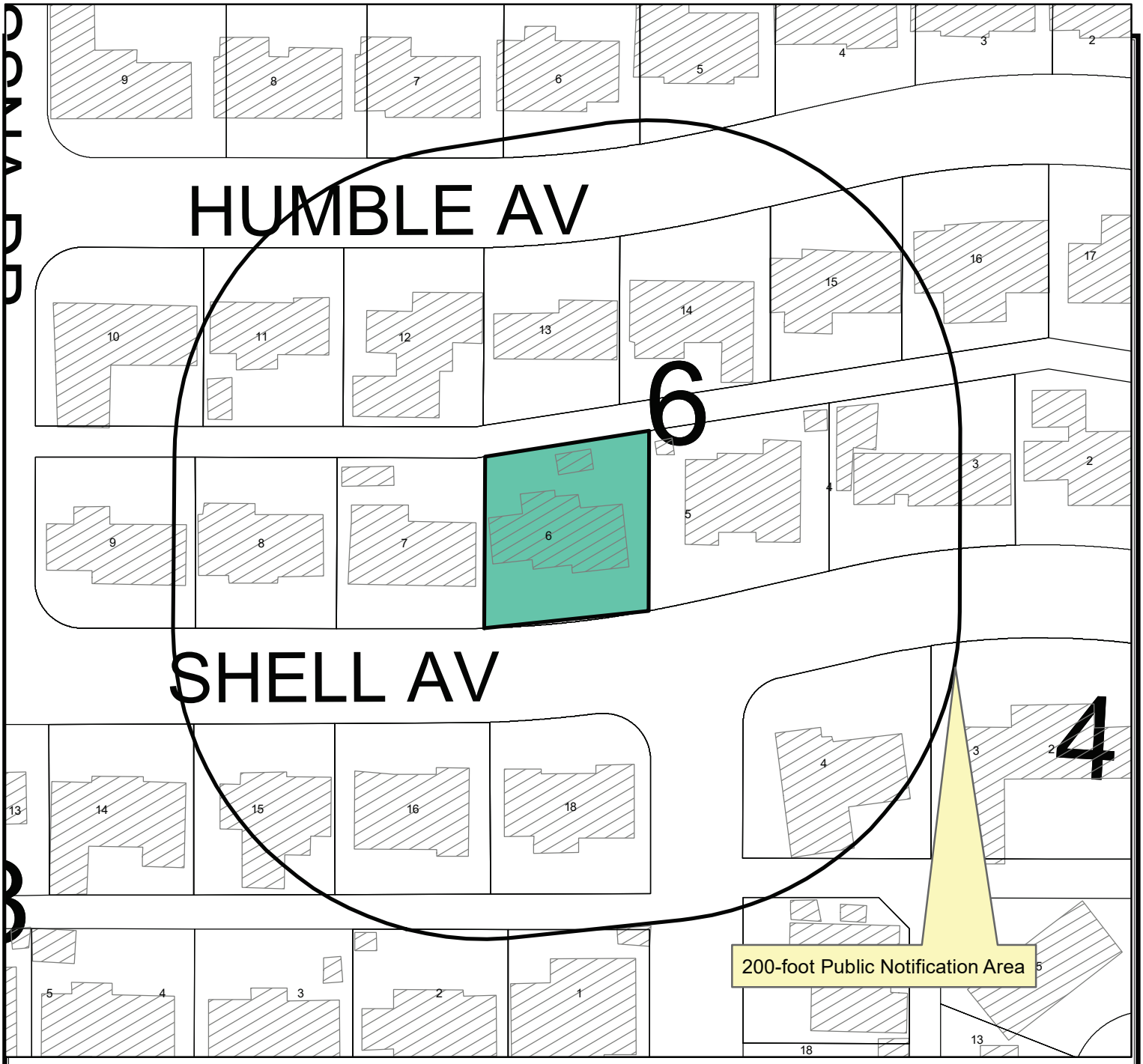
EXHIBIT A



1 / SD1 NEW ADDITION SITE PLAN

1" = 15'

NEW ADDITION LIVABLE AREA: 173 SQ. FT.



Location Map

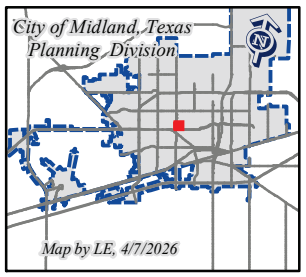
E-26-0159 **Scale: 1" = 600'**

Consider a request by Laura Castillo for a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart, for a reduced minimum front yard setback for the west 23.2 feet of Lot 5, and the east 87.6 feet of Lot 6, Block 6, Ma Mar Terrace, Section 2, City and County of Midland, Texas.

(Generally located at the northwest corner of the intersection of Shell Avenue and Cessna Drive.)
(Council District 3)

LEGEND

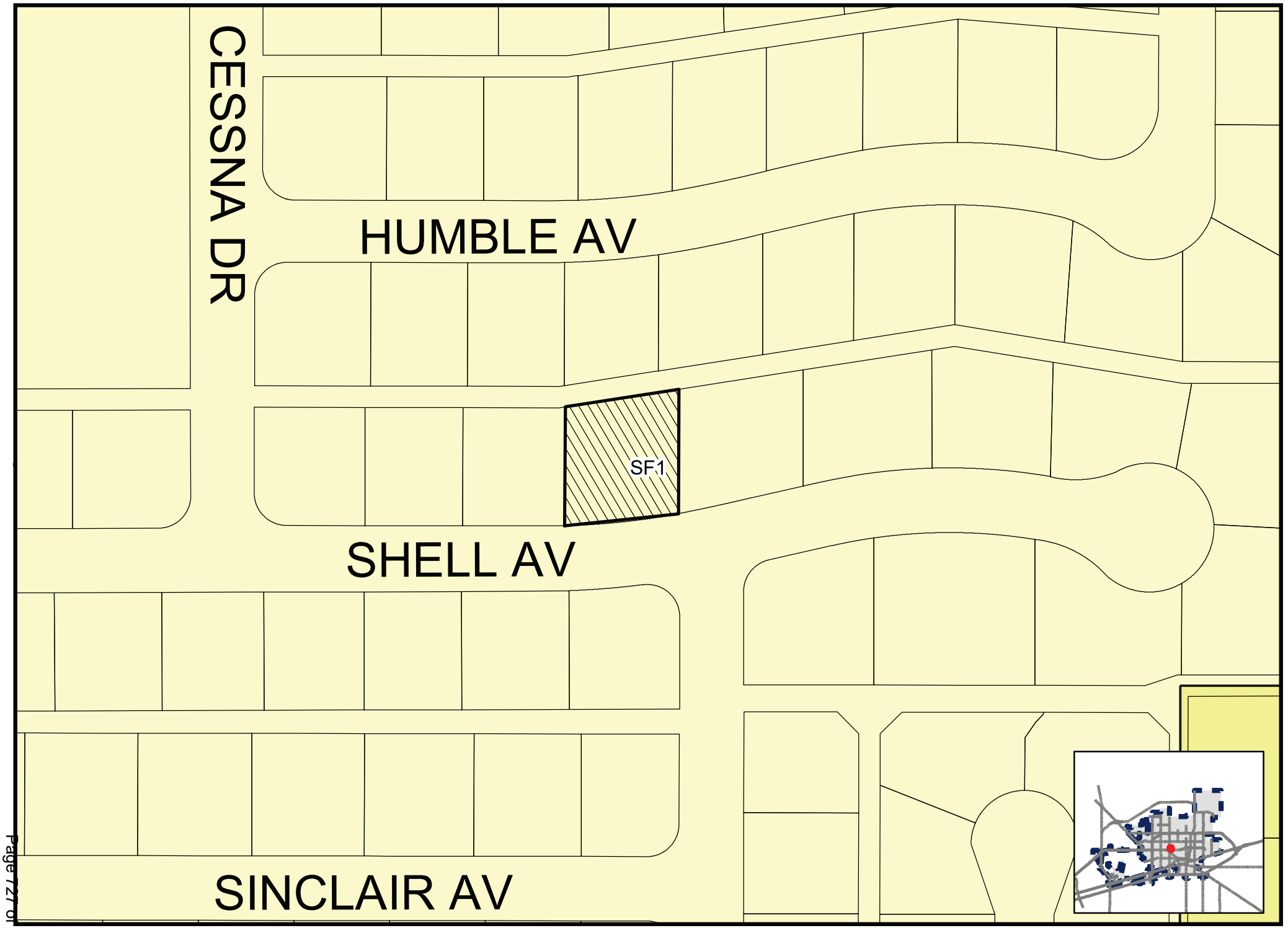
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map by LE, 4/7/2026

E-26-0159

Scale: 1" = 800'

ZONING MAP

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

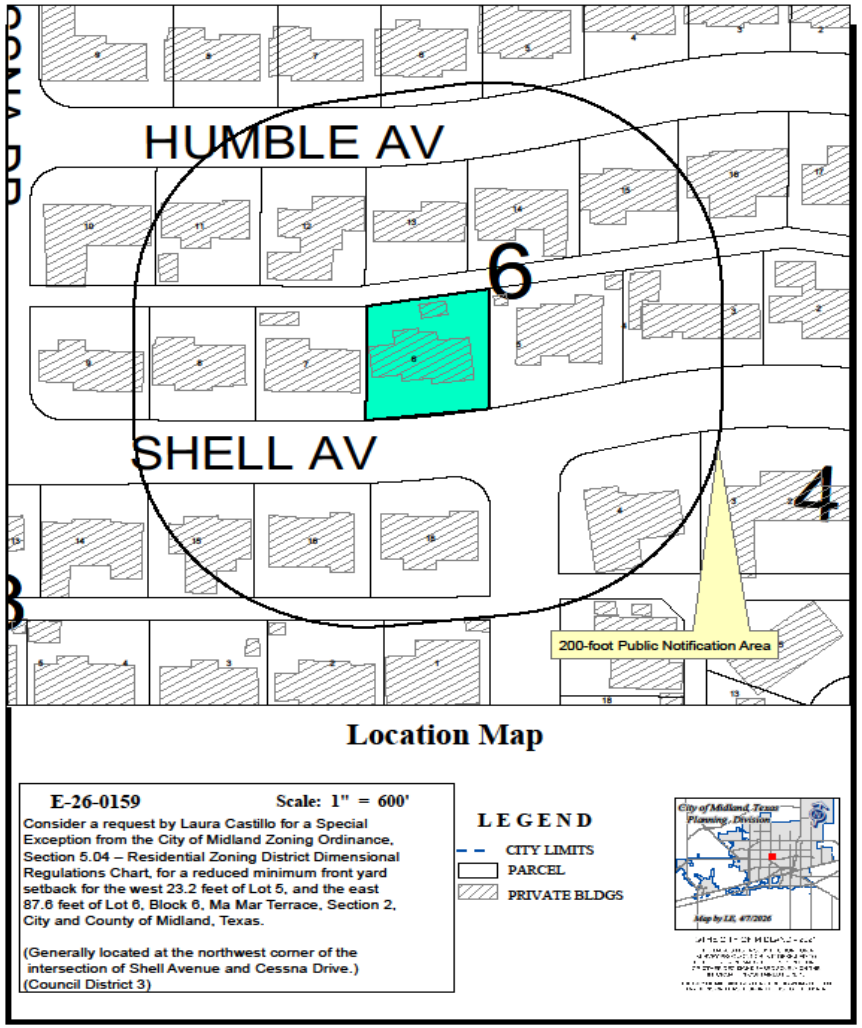

HELL AV
6
4




MIDLAND
Be the Energy!
SPECIAL EXCEPTION
3110 SHELL AVENUE
Visit Our Website
MIDLANDTEXAS.GOV

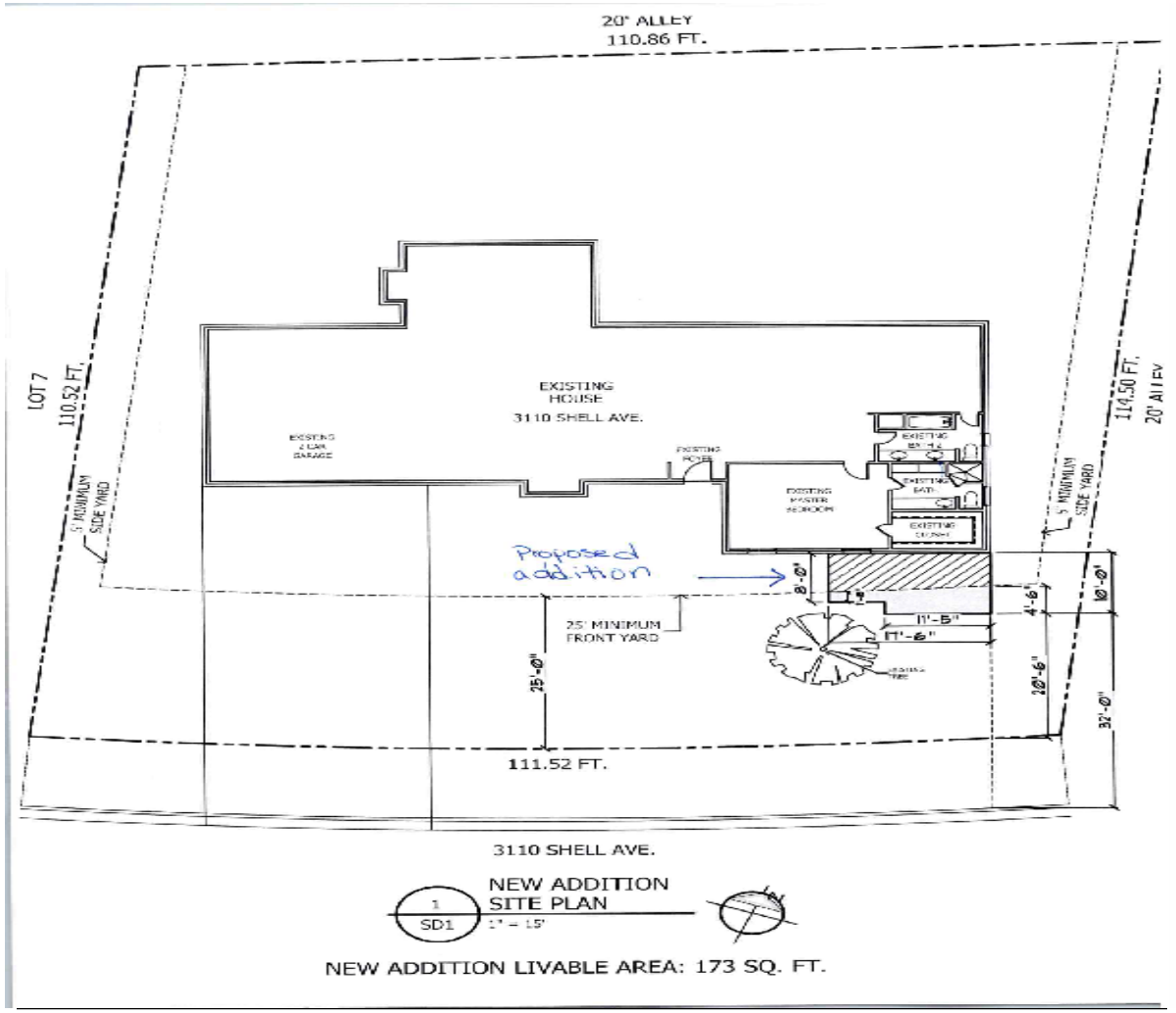
APPLICATION SUMMARY

- **Applicant/Property Owner:** Laura Castillo
- **Location:** 3110 Shell Avenue (Council District 3)
- **Reason for Request:** For a reduced minimum front setback



DETAILS OF REQUEST

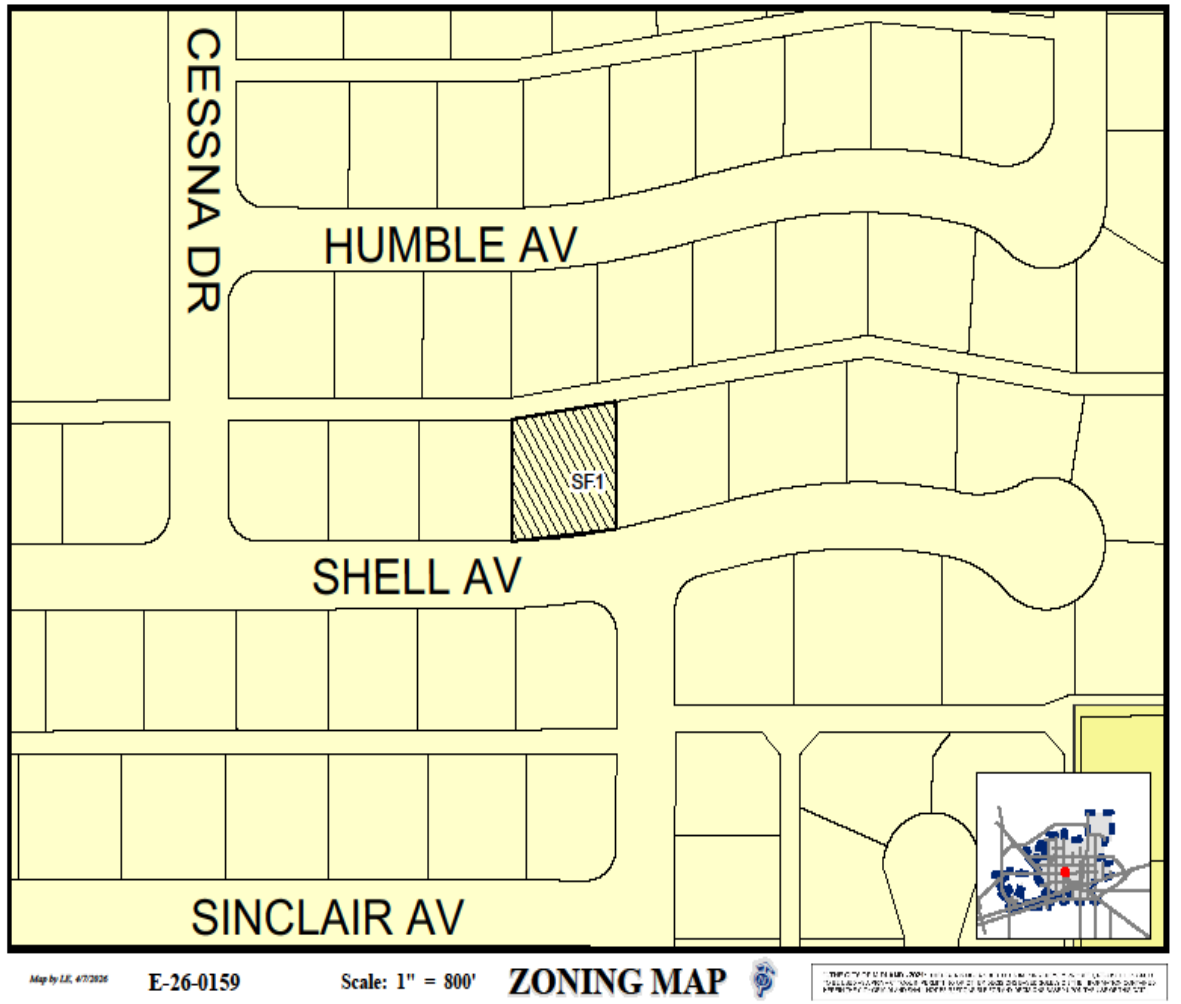
- **Code Requirement:** The minimum front setback for the SF-1, Single-Family Dwelling District is 25 feet per Section 5.04-Residential Zoning District Dimensional Regulations Chart.
- **Variance Requested:** 20 feet, 6 inches



MIDLAND Be the Energy!

ZONING

- **Current Zoning:** SF-1. Single-Family Dwelling District
- **Surrounding Zoning:**
  - **North/East/South/West:** SF-1, Single-Family Dwelling District



LAND USE

- **Current Use:** Single-Family Housing
- **Surrounding Uses:**
  - **North/South/East/West:** Single-Family Housing
- **Proposed Use:** Single-Family Housing



MIDLAND
Be the Energy!



On Shell Avenue, looking North

6

MIDLAND
Be the Energy!

STAFF'S RECOMMENDATION

- No objections were received.
- Staff **recommends approval** of this request with the following conditions:

A. That the minimum front yard setback shall be twenty feet, six inches (20' 6").
B. That the reduced minimum front yard setback allowed by this ordinance shall apply only to the "proposed addition" shown in the site plan, which is attached hereto as Exhibit A and incorporated herein.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 26.
Meeting Date: May 12, 2026
To: City Council
From: Alexis Martinez, Associate Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR AN 8,822-SQUARE-FOOT PORTION OF LOT 1, BLOCK 12, WESTRIDGE PARK ADDITION, SECTION 49, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF DEAUVILLE BOULEVARD AND AVALON DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Purpose:
Press Café LLC, on behalf of Lusso Real Estate, LLC, is requesting a Specific Use Designation with term, for the sale of all alcoholic beverages for on-premises consumption in a restaurant called Millie Leigh's located at 1601 Avalon Drive.

Recommended Action:
Approve

Fiscal Impact:
None

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

RR, Regional Retail District

Surrounding Zoning and Land Use:

The property to the north and east are zoned RR, Regional Retail and is the location of retail stores and shops. The property to the south is ETJ.

Analysis:

The property is zoned RR, Regional Retail District. The RR zoning allows for Alcoholic Beverages Sales for On-Premises Consumption in a Restaurant with the approval of an SUD. The property does not have an existing SUD. Per the approved plans, the site will have adequate parking and circulation. The total area of the restaurant is 8,822 square feet and the proposed alcohol serviceable area is 6,545 square feet.

The proposed days and hours of operation are:

Monday through Sunday from 7 a.m. to 2 a.m.

The applicant is requesting the following alcohol serviceable hours.

Monday through Saturday from 7 a.m. to 2 a.m.
Sunday from 10 a.m. to 2 a.m.

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public-school, public-school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of the property using the front door to door distance measurement.

This request has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

Contact the Fire Marshal's Office for a fire inspection before opening the business.

Engineering: (Approved)

No objection. [For Applicant’s Information Only.]

Transportation: (Approved)

No objections. [For the Applicant’s information only.]

Building Code: (Approved)

The SUD for Millie Leigh's is acceptable. The property must adhere to the maximum occupant load of 272 persons for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code

Planning:

The request is in compliance with the Tall City Tomorrow Comprehensive Plan, Chapter 6-Character Plan Goal 4, which is to “Encourage the development of places where Midland residents can gather and socialize to build connections.” (Tall City Tomorrow page 137) Millie Leigh’s is an establishment that will provide Midland residents with a unique social gathering experience. Staff recommends approval of this Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in restaurant, subject to conditions A through G.

Conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 6,545 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Saturday from 7 a.m. to 2 a.m.
Sunday from 10 a.m. to 2 a.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That, in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

Letters of Objection:

As of May 1, 2026, staff has not received any letters of objections.

Attachments:

A. ORDINANCE WITH EXHIBIT - SUD-26-0230.Press Cafe, LLC (Millie Leigh's) - Alcohol Sales Ord w Exh (1)
B. SUD-26-0230, Combined Docs
C. SUD-26-0230, Alcohol SUD Millie Leigh's

Alexis Martinez, Development Services Created/Initiated - 5/1/2026

Landon Ochoa, Development Services	Approved - 5/1/2026
Elizabeth Triggs, Development Services	Approved - 5/1/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR AN 8,822-SQUARE-FOOT PORTION OF LOT 1, BLOCK 12, WESTRIDGE PARK ADDITION, SECTION 49, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF DEAUVILLE BOULEVARD AND AVALON DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for an 8,822-square-foot portion of Lot 1, Block 12, Westridge Park Addition, Section 49, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages in a restaurant (the "Establishment") for on-premises consumption, together with the uses permitted in the present RR, Regional Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 6,545 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Saturday from 7:00 a.m. to 2:00 a.m. of the following day; and Sunday from 10:00 a.m. to 2:00 a.m. of the following day.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. 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 FOUR. 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 FIVE. 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 two thousand dollars ($2,000.00).

SECTION SIX. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

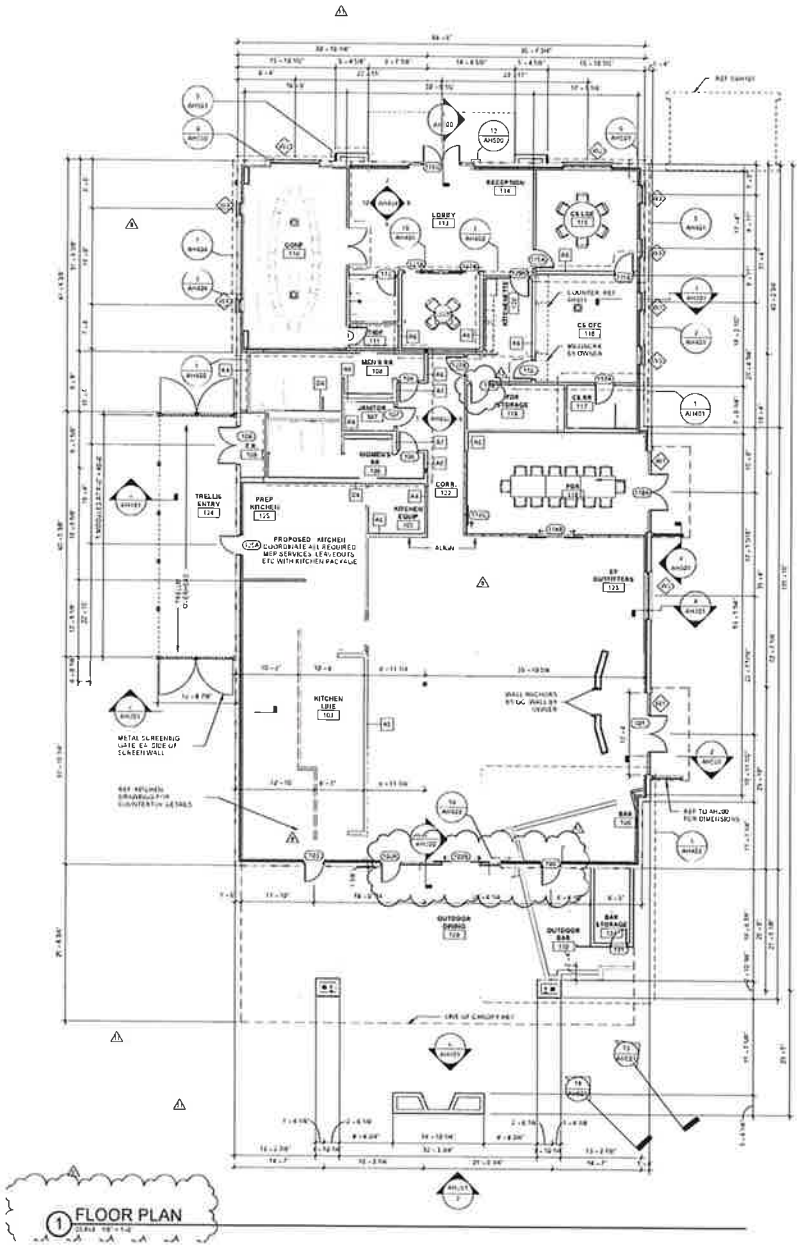
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

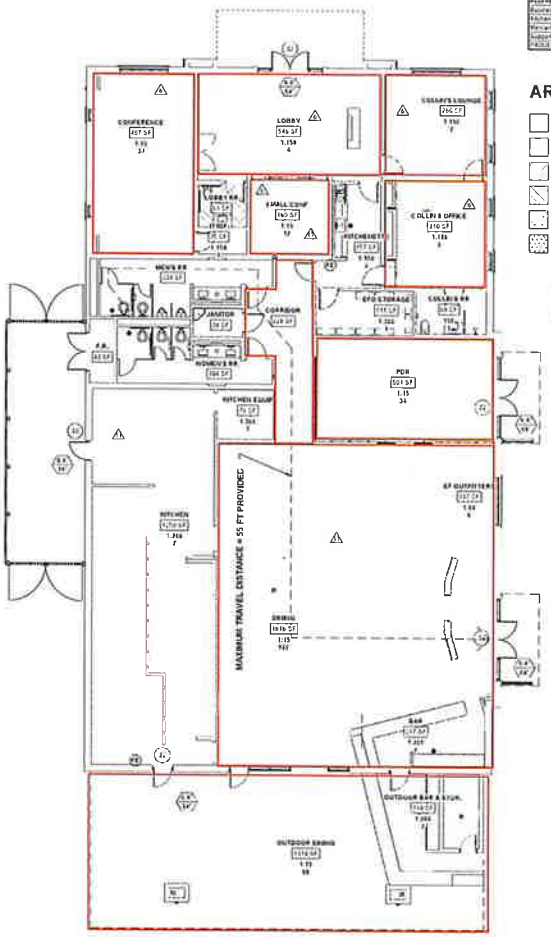
APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

EXHIBIT A



1 FLOOR PLAN



PLAN NORTH

1 AREA PLAN

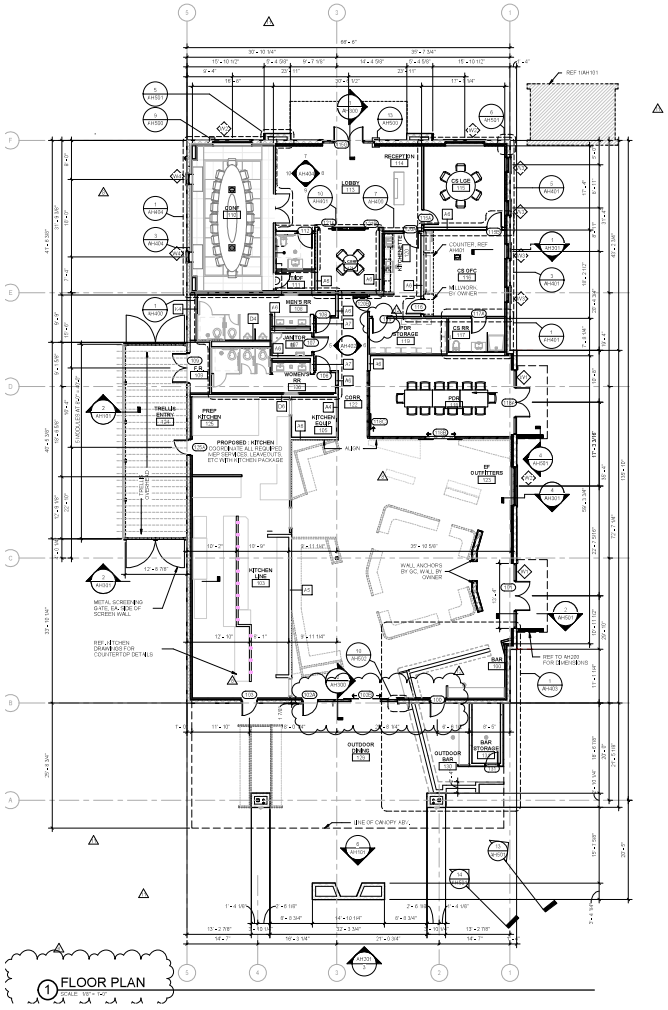
OCCUPANT LOAD / EXIT CALCULATIONS (GROSS AREA PLAN)

Occupancy Classification	Area	Occupant Load Factor	Occupancy Load	Egress Width Factor	0.3 IBC/0.2 Egress Width
Accessory Storage Areas, Mech. Equipment Room	468 SF	300	1		0.12
Assembly - Unconcentrated (Tables & Chairs)	2617 SF	15	175		52.4
Business Areas	1166 SF	150	8		2.46
Kitchens - Commercial	1786 SF	200	9		5.97
Mercantile	797 SF	60	14	0.2	2.72
Outdoor - Exc. w. Trees	4456 SF	15	297	0	0
Totals / # of Exits	11290 SF		512		64.67

AREAS LEGEND

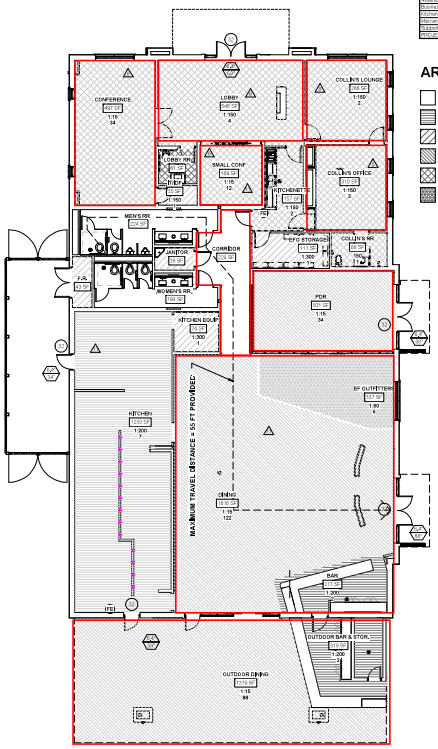
- (none)
- Kitchens - Commercial
- Accessory Storage Areas, Mech. Equipment Room
- Assembly - Unconcentrated (Tables & Chairs)
- Business Areas
- Mercantile

NOTE
FIRE EXTINGUISHER LOCATIONS MUST BE CONFIRMED WITH THE FIRE MARSHAL PRIOR TO INSTALLATION



1 FLOOR PLAN
SCALE: 1/8" = 1'-0"

OCCUPANT LOAD / EXIT CALCULATIONS (GROSS AREA PLAN)					
Occupancy Classification	Area	Occupant Load Factor	Occupancy Load	Egress Width Factor	MBOD Egress Width
Accessory Storage Areas, Mech. Equipment Room	269 SF	300	1		60"
Assembly - Unconcentrated (Tables & Chairs)	2021 SF	15	135		1350
Business Areas	3149 SF	150	21		210
Kitchens - Commercial	1158 SF	200	6		120
Mercantile	533 SF	60	9	0.3	300
Support - Kit. & Toilets	649 SF	150	5	0.3	50
PROJECT TOTAL	8022 SF		217		3540



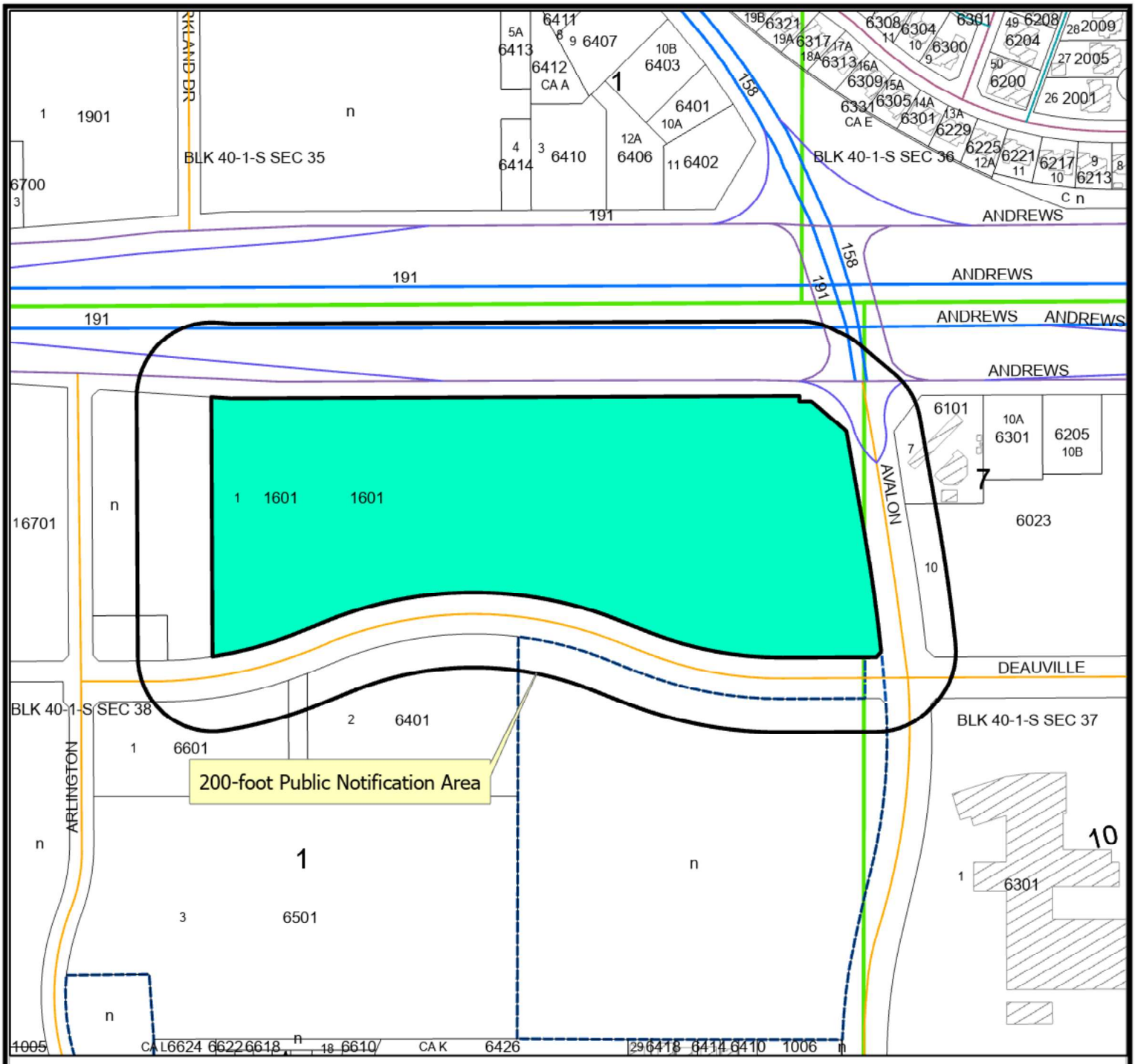
AREAS LEGEND

- (none)
- Kitchens - Commercial
- Accessory Storage Areas, Mech. Equipment Room
- Assembly - Unconcentrated (Tables & Chairs)
- Business Areas
- Mercantile

NOTE:
FIRE EXTINGUISHER LOCATIONS MUST BE CONFIRMED WITH THE FIRE MARSHAL PRIOR TO FIRE ALLARM.

PLAN NORTH

1 AREA PLAN
SCALE: 1/8" = 1'-0"



Location Map

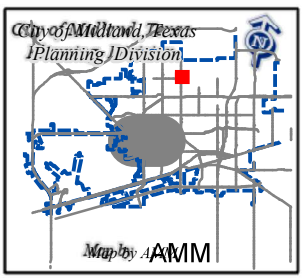
SUD-26-0230 **Scale: 1" = 382 '**

Consider a request by Press Café, LLC, on behalf of Lusso Real Estate, LLC, for a Specific Use Designation with Term for the sale of all alcoholic beverages for on premises consumption, in a restaurant, for a 8,822-square foot portion of Lot 1, Block 12, Westridge Park Addition, Section 49, City and County of Midland, Texas.

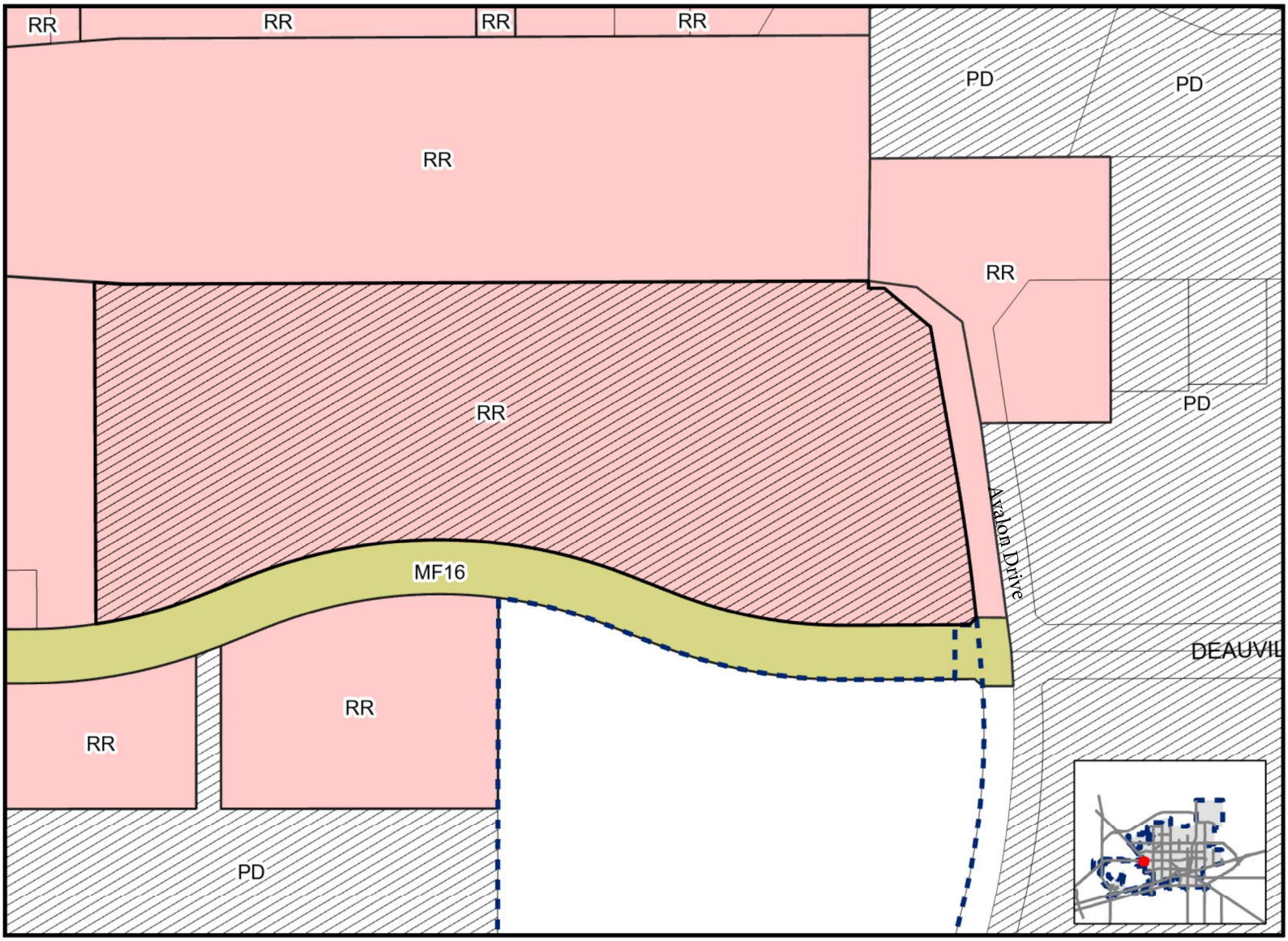
Generally located at the northwest corner of the intersection of Deauville Boulevard and Avalon Drive. (Council District 4)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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Created: 4/14/2026 **SUD-26-0230** **Scale: 1" = 245'** **ZONING MAP**

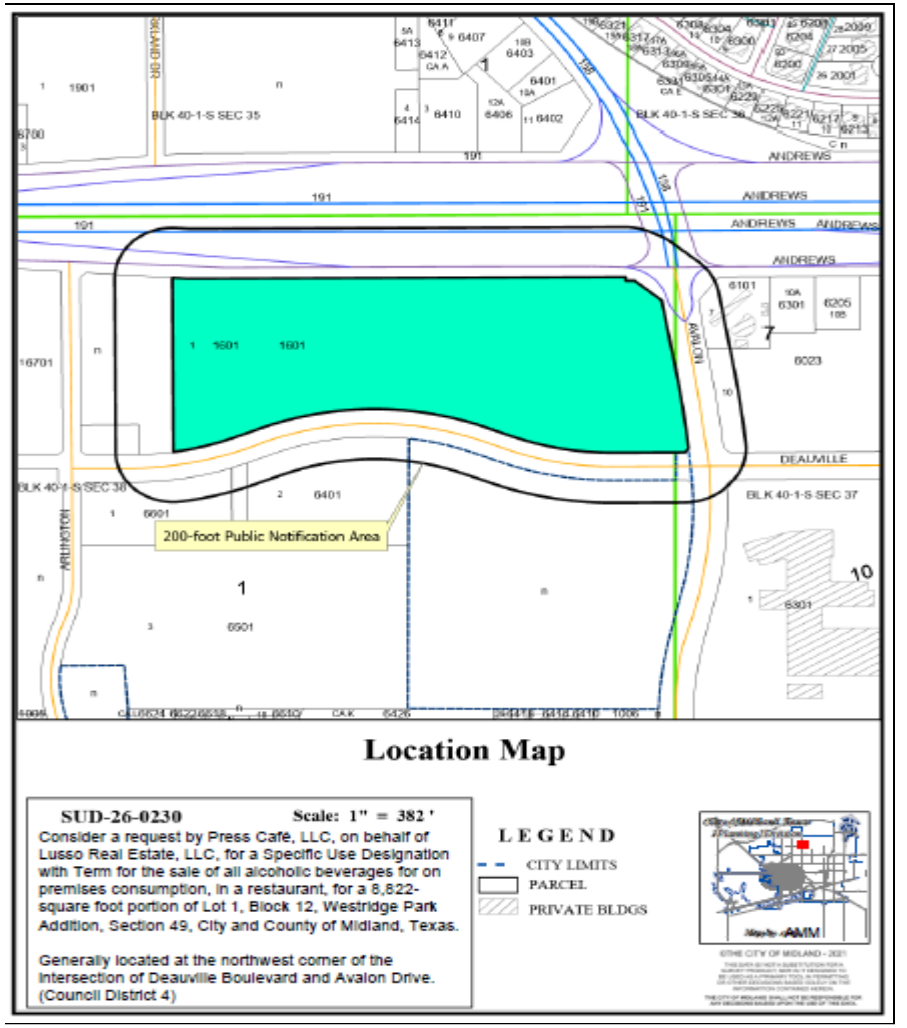
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12
7
1


MIDLAND
Be the Energy!
ITEM
SPECIFIC USE DESIGNATION
MILLIELEIGH'S
Visit Our Website
MIDLANDTEXAS.GOV

APPLICATION SUMMARY

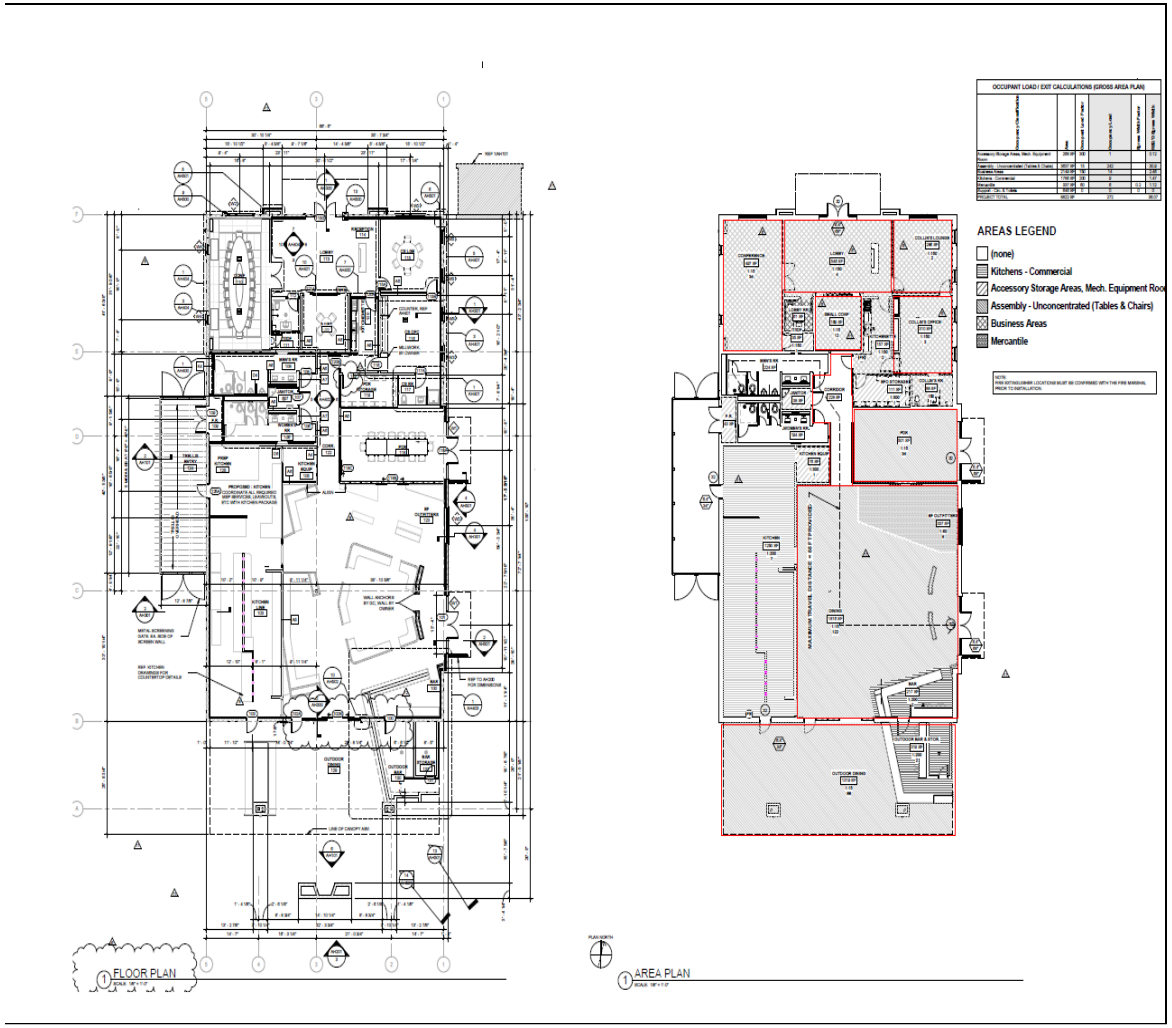
- **Applicant:** Press Café, LLC
- **Property Owner:** Lusso Real Estate LLC
- **Location:** 1601 Avalon Drive (Council District 4)
- **Reason for Request:** For the sale and on-premises consumption of alcohol in a restaurant.



MIDLAND
Be the Energy!

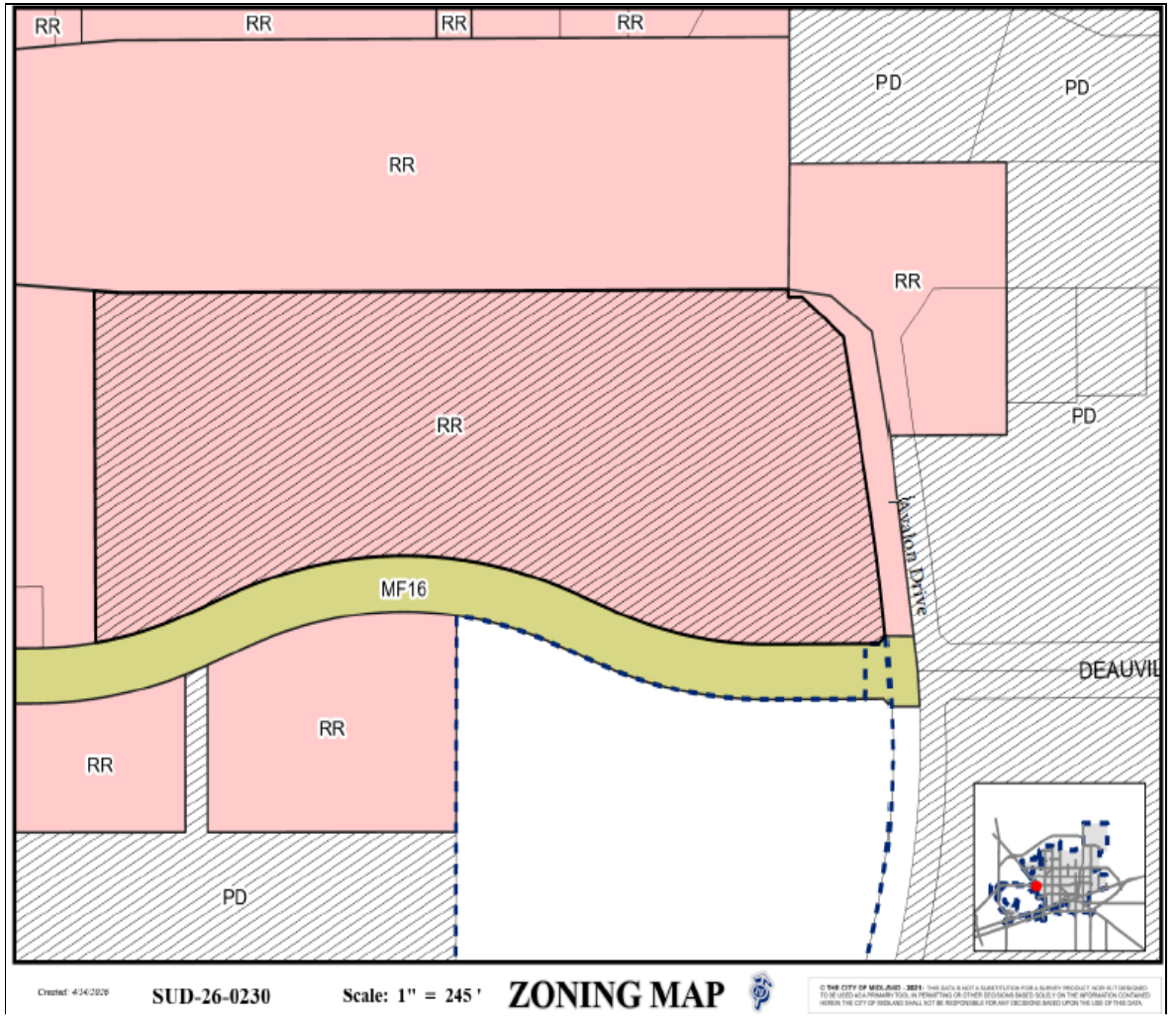
DETAILS OF REQUEST

- **For a new restaurant.**
- **Area of Business:** 8,822 SF
- **Serviceable Area:** 6,545 SF
- **Hours of Operation:** Monday through Sunday from 7:00 a.m. to 2:00 a.m.
- **Sales of Alcohol:** Monday through Saturday 7:00 a.m. to 2:00 a.m. Sunday from 10 a.m. to 2:00 a.m.



ZONING

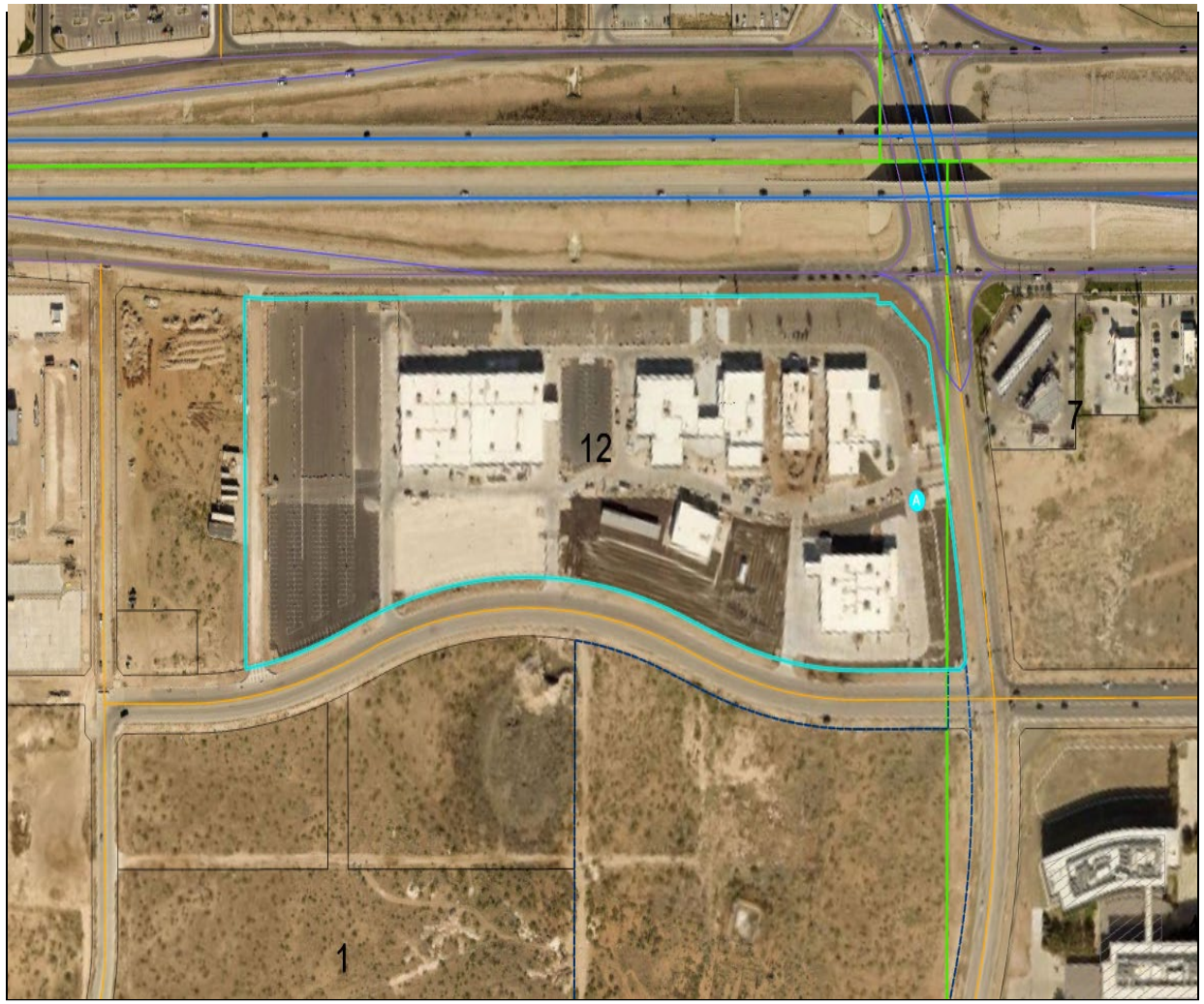
- **Current Zoning**: RR, Regional Retail District
- **Surrounding Zoning:**
  - **South, North and West:** RR, Regional Retail District
  - **East:** PD, Planned Development District for a shopping center
- The use of an SUD for the sale and on-premises consumption is allowed in this zoning.



MIDLAND Be the Energy!

LAND USE

- **Current Use:** Restaurant
- **Surrounding Uses:**
  - **North:** Clinic
  - **West:** Commercial Use
  - **East:** Retail Shops
  - **South:** Automotive Shop
- **Proposed Use:** Restaurant



MIDLAND
Be the Energy!



On Hwy 191 Drive, Looking South

MIDLAND
Be the Energy!

COMPREHENSIVE PLAN

This request is compatible with the *Tall City Tomorrow Comprehensive Plan* as it is consistent *Chapter 6-Character Plan, Goal 4*, which is to "Encourage the development of places where Midland residents can gather and socialize to build connections."



PROHIBITED PLACES OF BUSINESS

There is no church, public school, public school ground, athletic stadium used by any public school, or public hospital within 300 feet of the building of the subject property as required by *Section 5-4-4 Prohibited Places of Business.*



STAFF'S RECOMMENDATION

- No objections were received.
- Staff recommends approval of this request with the following conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 6,545 square feet as shown in Exhibit A, which is attached hereto and incorporated herein for all purposes.



STAFF'S RECOMMENDATION

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Saturday from 7:00 a.m. to 2:00 a.m. Sunday from 10:00 a.m. to 2:00 a.m.



STAFF'S RECOMMENDATION

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

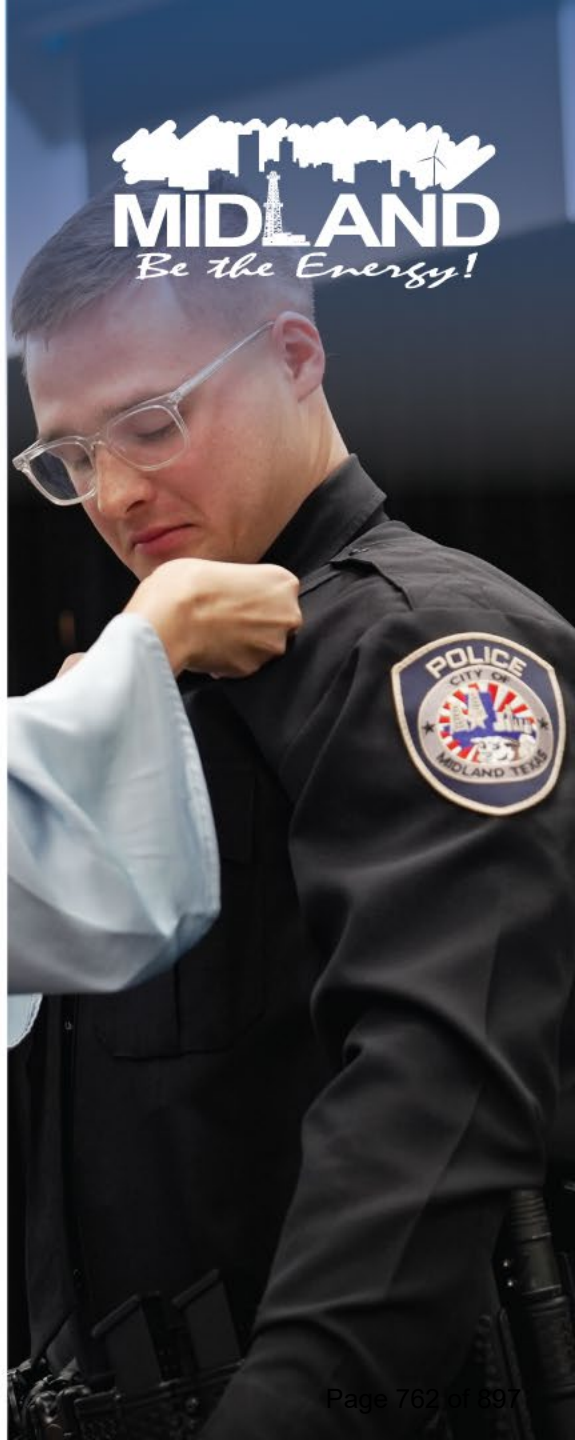
E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.



STAFF'S RECOMMENDATION

F. That the operator of the Establishment shall obtain a Certificate of Occupancy prior to the commencement of the sale of alcoholic beverages for on-premises consumption to ensure that the conditions of this Specific Use Designation With Term are satisfied.

G. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 27.
Meeting Date: May 12, 2026
To: City Council
From: Madelim Jaquez, Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 10 AND 11, BLOCK 2, SOLOMON ESTATES, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH A STREET AND MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Purpose:
Dunaway Associates, on behalf of Black Family Partnerships, is requesting a Zone Change from AE, Agricultural Estate District to PD, Planned Development District for a Housing Development in order to create a private residential subdivision on the properties located at 5407 and 5315 Alysheba Lane.

Recommended Action:
Approval

Fiscal Impact:
The request has no significant impact on the City's budget.

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

AE, Agricultural Estate District

Surrounding Zoning and Land Use:

The property to the north is zoned PD, Planned Development District for Recreation Center and is a country club. The properties to the east are zoned CE, Country Estate District and consist of single-family housing. The property to the south is an active easement, which does not have a

zoning and is used for drainage purposes. The property to the west is zoned PD, Planned Development District for a Housing Development and consists of single-family housing.

Analysis:

The subject properties are located at 5407 and 5315 Alysheba Lane. Dunaway Associates, on behalf of Black Family Partnerships, is seeking a zone change from AE, Agricultural Estate District to PD, Planned Development District for a Housing Development, in order to create a private residential subdivision. The AE, Agricultural Estates Zoning District has a minimum lot requirement of 2.00-acres. In addition to the zone change request, the applicant is also currently replatting this property. The applicant is requesting a Planned Development District to provide flexibility for the development.

The property owners want to develop the site into a small residential subdivision on 37 lots. This subdivision will keep the existing screening wall made out of a combination of wood and masonry. Additionally, the developer is proposing some lots to have dimensions smaller than what is allowed by the base zoning, SF-3, Single-Family Dwelling District, such as Lot 31 and Lot 23 as seen on the site plan (Exhibit A). However, most of the proposed lots meet the minimum dimensions of the of the SF-3 zoning district.

This request is partially consistent with the Tall City Tomorrow Comprehensive Plan, Chapter 3; which designates this area as Urban Residential-Large Lot, which includes neighborhoods with very large lots, consisting of single-family homes. About half of the subdivision is made up larger lots which are about one to two acres. However, most of the lots, which make up about half of the subdivision range from about 5,000 SF to 14,000 SF in area. However, the overall density of the subdivision is 1.8 units per acre which is consistent with the UR-LL designation.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No comments or objections.

Engineering: (Approved)

No objection to zone change. [For Applicant’s Information Only.]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. Our staff has examined the FEMA flood map and it appears that this property lies partially within Zone AE, which is a Special Flood Hazard Area subject to inundation by the 1% annual chance flood. An elevation certificate based off of construction drawings will be required to get a building permit to show compliance to the 1 foot of freeboard above the base flood elevation for residential structures built within the floodplain. An elevation certificate based off of finish construction will be required for the Certificate of Occupancy. [For Applicant’s Information Only.]

Code: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015

International Energy Code, the 2023 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on the time of new code editions adopted in the City of Midland and date of permit application.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant's information only.]

No objection to zone change. [For the Applicant's information only.]

Planning: (Approved)

Should Council approve this Zone Change, staff recommends that it be subject to the following conditions:

A. **That the Property shall significantly conform to the site plan attached hereto as Exhibit A; provided, however, that buildings not shown on the site plan may be located on the Property, except within the areas identified as "OPEN SPACE & LANDSCAPE AREA", if such buildings satisfy the requirements of Title XI, Chapter 1 of the City Code and all other applicable ordinances.**

Letters of Objection:

Staff has received twenty-eight letters with only seven valid objections resulting in an objection percentage of 14.66%..

Attachments:

Site plan
Maps
Aerial
PowerPoint Presentation

Attachments:

A. ORDINANCE WITH EXHIBITS - Z-25-0457.AE to PDHD v3
B. Z-25-0457, Combined files
C. CC- - Alysheba Lane, Zone change
D. Combined objections (buffer)
E. Combined objections (outside the buffer)

Madelim Jaquez, Development Services	Created/Initiated - 4/27/2026
Landon Ochoa, Development Services	Approved - 5/1/2026
Elizabeth Triggs, Development Services	Approved - 5/1/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 10 AND 11, BLOCK 2, SOLOMON ESTATES, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH A STREET AND MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas (the "Property"), to PD, Planned Development District for a Housing Development and adopting a site plan therefor, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from AE, Agricultural Estate District to PD, Planned Development District for Housing Development.

SECTION TWO. That the base zoning district to which the use and development of the Property shall conform, except as modified by Section Three of this ordinance, is the SF-3, Single-Family Dwelling District.

SECTION THREE. That a site plan, which is attached hereto as Exhibit A and incorporated herein for all purposes, is hereby adopted, and the use and development of the Property shall be subject to the following conditions and restrictions:

That the Property shall significantly conform to the site plan attached hereto as Exhibit A; provided, however, that buildings not shown on the site plan may be located on the Property, except within the areas identified as "OPEN SPACE & LANDSCAPE AREA", if such buildings satisfy the requirements of Title XI, Chapter 1 of the City Code and all other applicable ordinances.

SECTION FOUR. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FIVE. 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 SIX. 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 SEVEN. 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 two thousand dollars ($2,000.00).

SECTION EIGHT. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

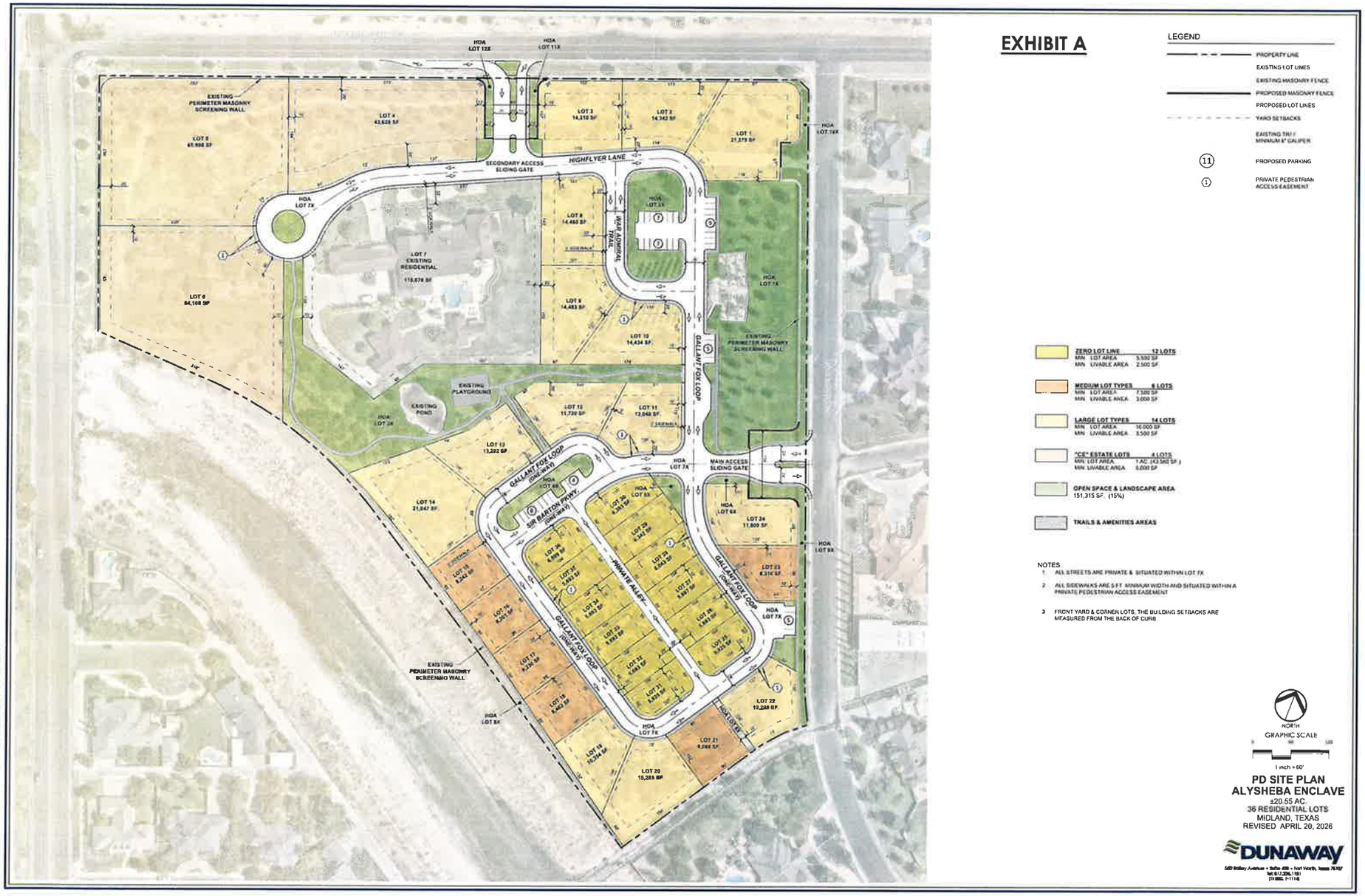


EXHIBIT A

LEGEND

- PROPERTY LINE
- EXISTING LOT LINES
- EXISTING MASONRY FENCE
- PROPOSED MASONRY FENCE
- PROPOSED LOT LINES
- YARD SETBACKS
- EXISTING TREE / MINIMUM 6" CALIPER
- (11) PROPOSED PARKING
- (1) PRIVATE PEDESTRIAN ACCESS EASEMENT

ZERO LOT LINE		12 LOTS
MIN. LOT AREA	5,500 SF	
MIN. LIVABLE AREA	2,500 SF	
MEDIUM LOT TYPES		6 LOTS
MIN. LOT AREA	7,500 SF	
MIN. LIVABLE AREA	3,000 SF	
LARGE LOT TYPES		14 LOTS
MIN. LOT AREA	10,000 SF	
MIN. LIVABLE AREA	3,500 SF	
"CE" ESTATE LOTS		4 LOTS
MIN. LOT AREA	1 AC. (43,560 SF.)	
MIN. LIVABLE AREA	5,000 SF	

OPEN SPACE & LANDSCAPE AREA
151,315 SF. (15%)

TRAILS & AMENITIES AREAS

NOTES:

1. ALL STREETS ARE PRIVATE & SITUATED WITHIN LOT 7X
2. ALL SIDEWALKS ARE 5 FT. MINIMUM WIDTH AND SITUATED WITHIN A PRIVATE PEDESTRIAN ACCESS EASEMENT
3. FRONT YARD & CORNER LOTS, THE BUILDING SETBACKS ARE MEASURED FROM THE BACK OF CURB

NORTH

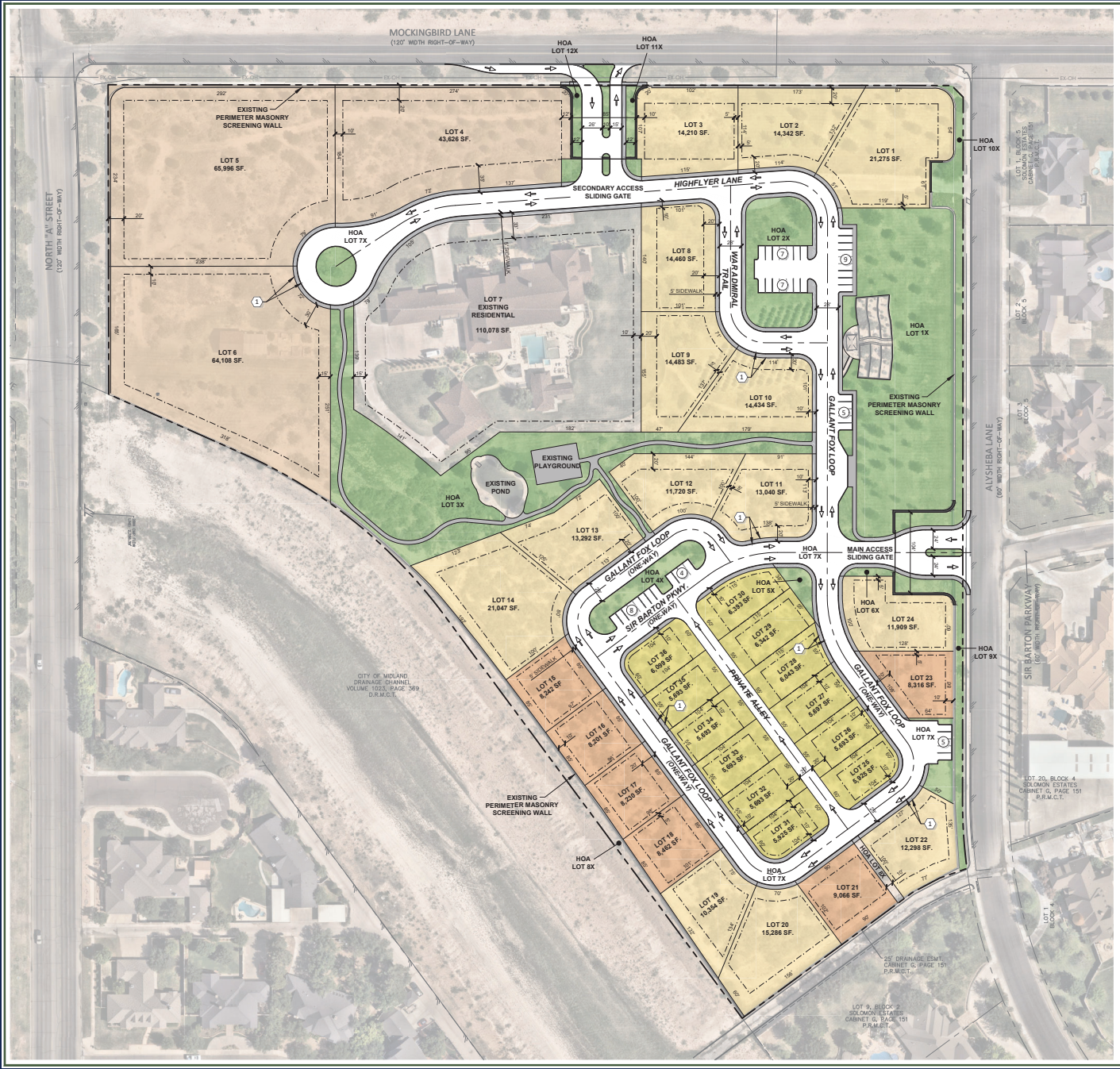
GRAPHIC SCALE

1 inch = 60'

PD SITE PLAN
ALYSHEBA ENCLAVE
±20.55 AC.
36 RESIDENTIAL LOTS
MIDLAND, TEXAS
REVISED APRIL 20, 2026

DUNAWAY

3400 Bridley Avenue • Suite 400 • Fort Worth, Texas 76107
Tel: 817.339.1101
TX BREG. F-1114



LEGEND

- PROPERTY LINE
- EXISTING LOT LINES
- EXISTING MASONRY FENCE
- PROPOSED MASONRY FENCE
- PROPOSED LOT LINES
- YARD SETBACKS
- EXISTING TREE MINIMUM 6" CALIPER
- 11 PROPOSED PARKING
- 1 PRIVATE PEDESTRIAN ACCESS EASEMENT

ZERO LOT LINE 12 LOTS
MIN. LOT AREA: 5,500 SF.
MIN. LIVABLE AREA: 2,500 SF.

MEDIUM LOT TYPES 6 LOTS
MIN. LOT AREA: 7,500 SF.
MIN. LIVABLE AREA: 3,000 SF.

LARGE LOT TYPES 14 LOTS
MIN. LOT AREA: 10,000 SF.
MIN. LIVABLE AREA: 3,500 SF.

"CE" ESTATE LOTS 4 LOTS
MIN. LOT AREA: 1 AC. (43,560 SF.)
MIN. LIVABLE AREA: 5,000 SF.

OPEN SPACE & LANDSCAPE AREA
151,315 SF. (15%)

TRAILS & AMENITIES AREAS

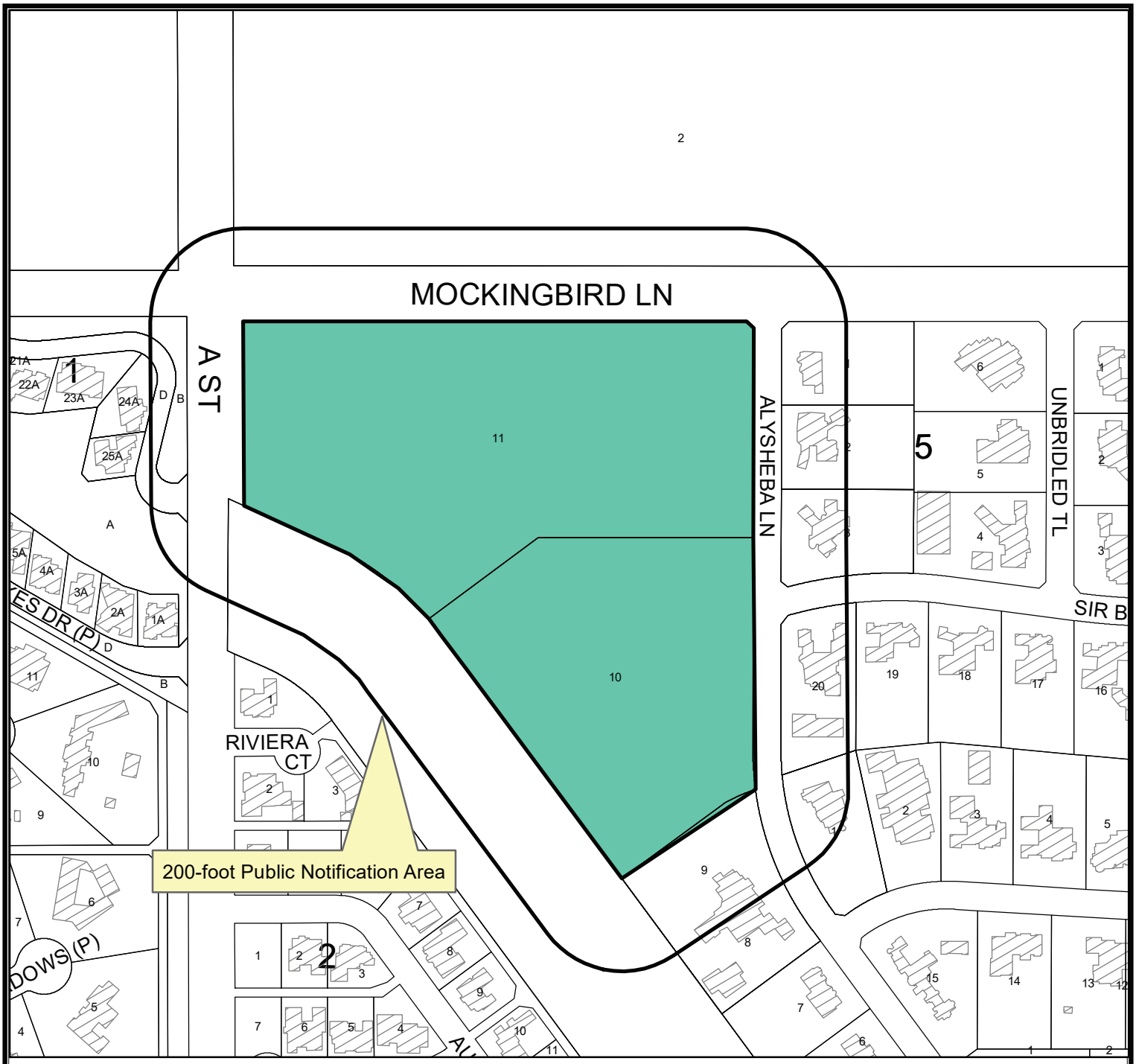
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3. FRONT YARD & CORNER LOTS, THE BUILDING SETBACKS ARE MEASURED FROM THE BACK OF CURB.

NORTH
GRAPHIC SCALE
0 60 120
1 inch = 60'

PD SITE PLAN
ALYSHEBA ENCLAVE

±20.55 AC.
36 RESIDENTIAL LOTS
MIDLAND, TEXAS
REVISED APRIL 20, 2026

DUNAWAY



Location Map

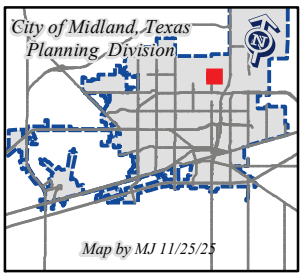
Z-25-0457 **Scale: 1" = 2,000'**

Consider a request by Dunaway Associates, on behalf of Black Family Partnerships, for a zone change from AE, Agricultural Estate District to PD, Planned Development District for Housing Development on Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)

LEGEND

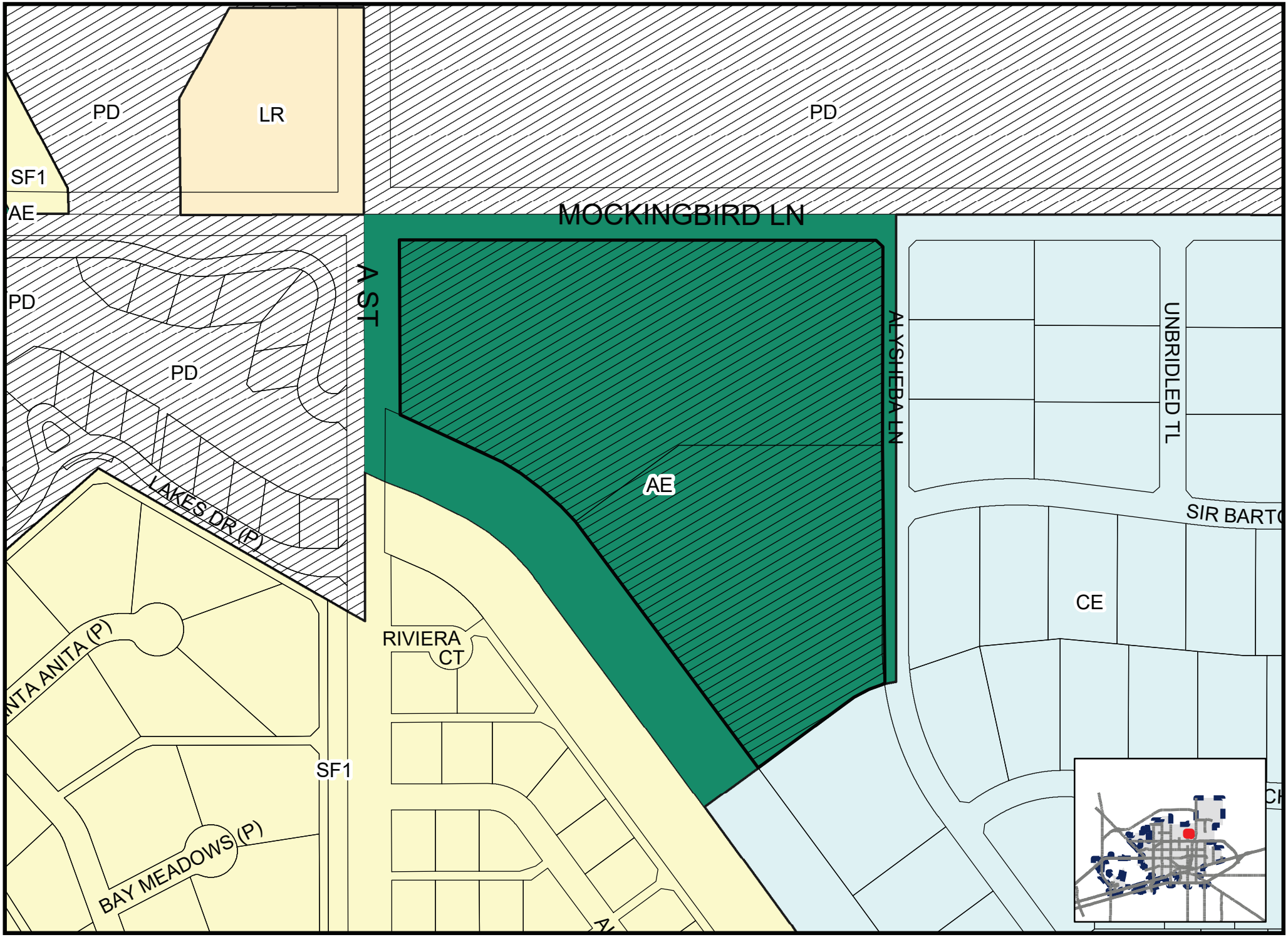
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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Map by MJ

Z-25-0457

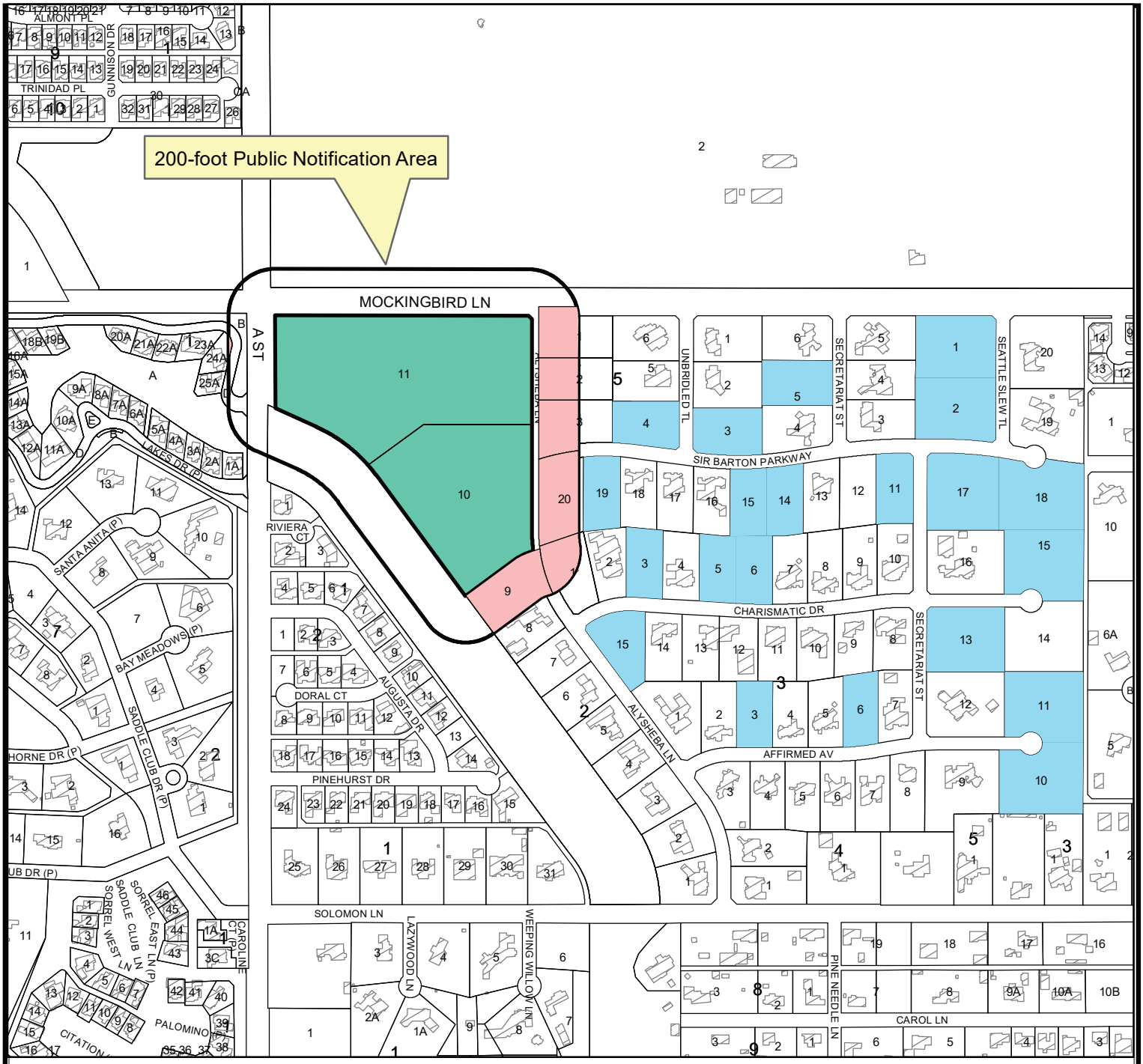
Scale: 1" = 274'

ZONING MAP

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MOCKINGBIRD LN
A ST
ALYSHEBA LN
RIVIERA CT
2
5





14.66% Objection

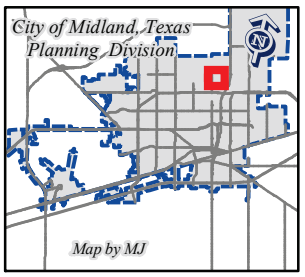
Z-25-0457 **Scale: 1" = 617'**

Consider a request by Dunaway Associates, on behalf of Black Family Partnerships, for a zone change from AE, Agricultural Estate District to PD, Planned Development District for Housing Development on Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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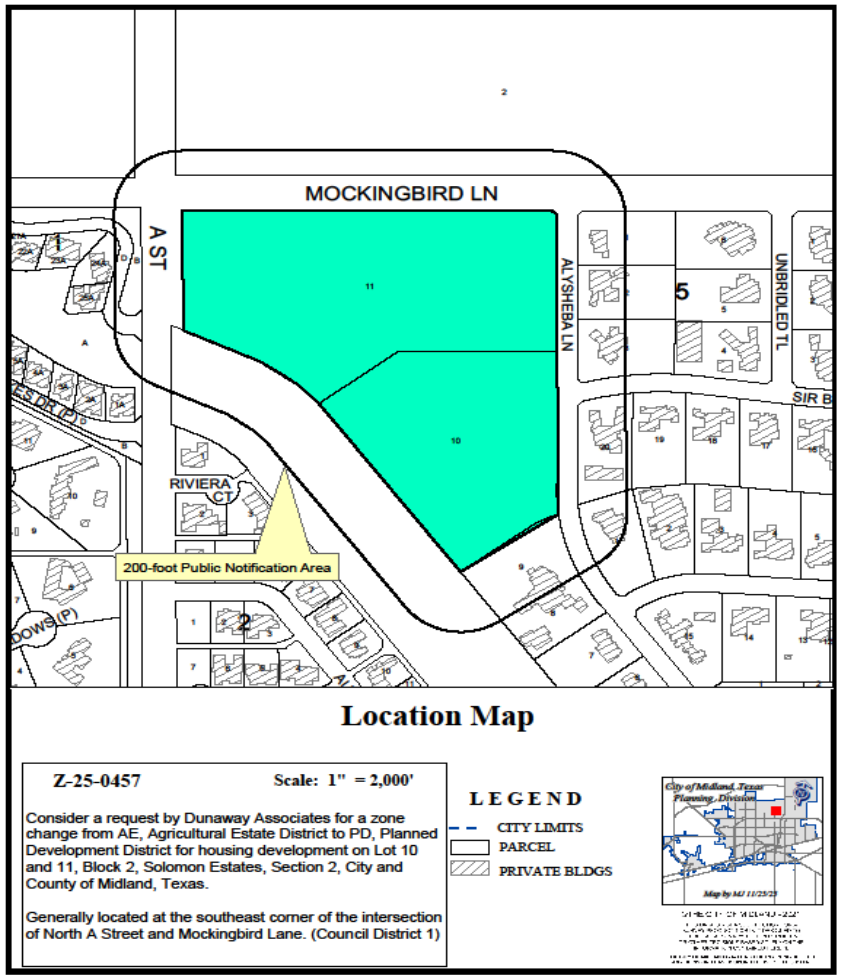
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THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.


MIDLAND
Be the Energy!
ZONE CHANGE
ALYSHEBA LANE
Visit Our Website
MIDLANDTEXAS.GOV

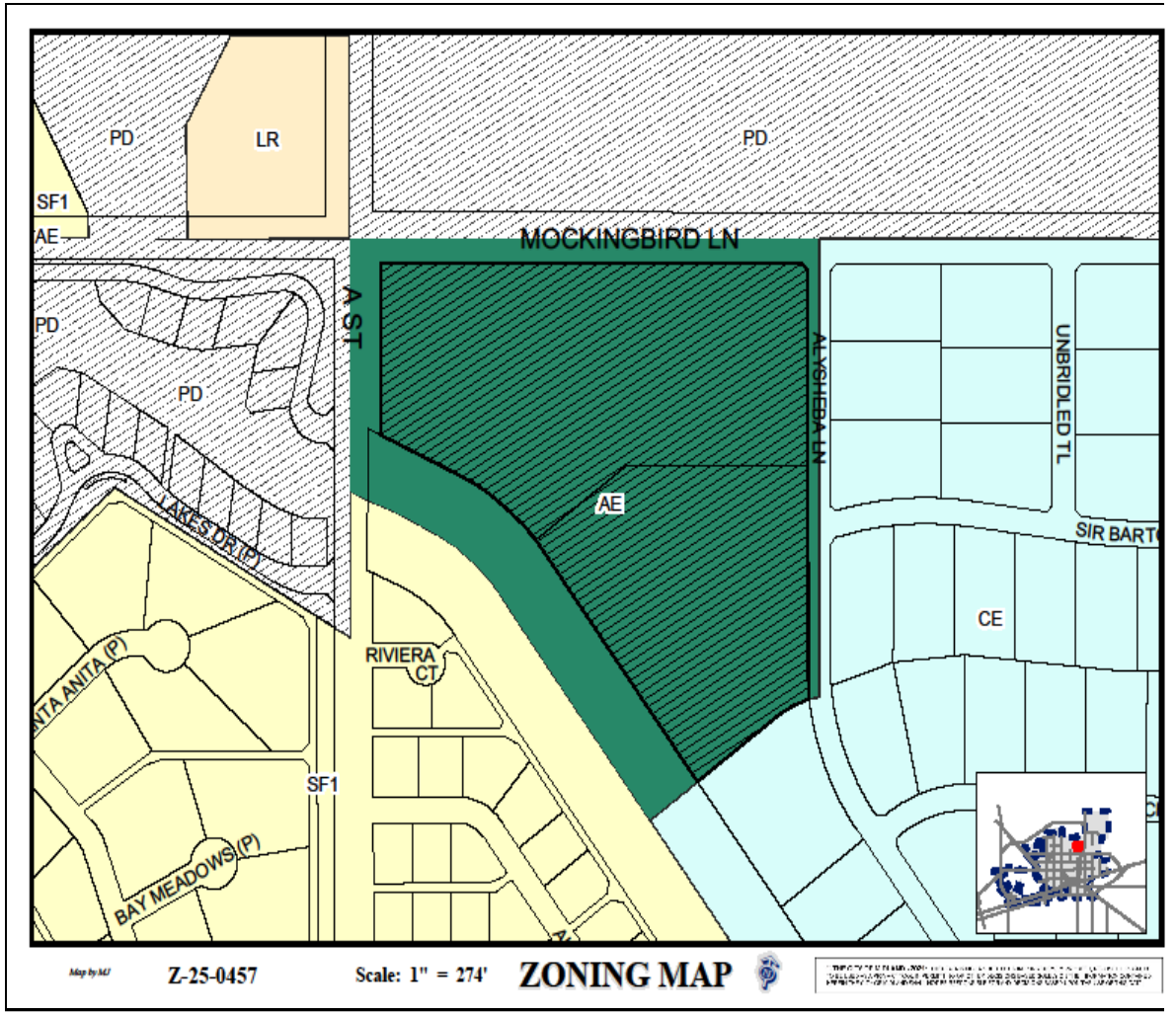
APPLICATION SUMMARY

- **Applicant/Property Owner:** Black Family Partnerships
- **Representative:** Melanie Martinez, with Dunaway Associates
- **Location:** 5407 and 5315 Alysheba Lane (Council District 1)
- **Reason for Request:** To create a private residential subdivision



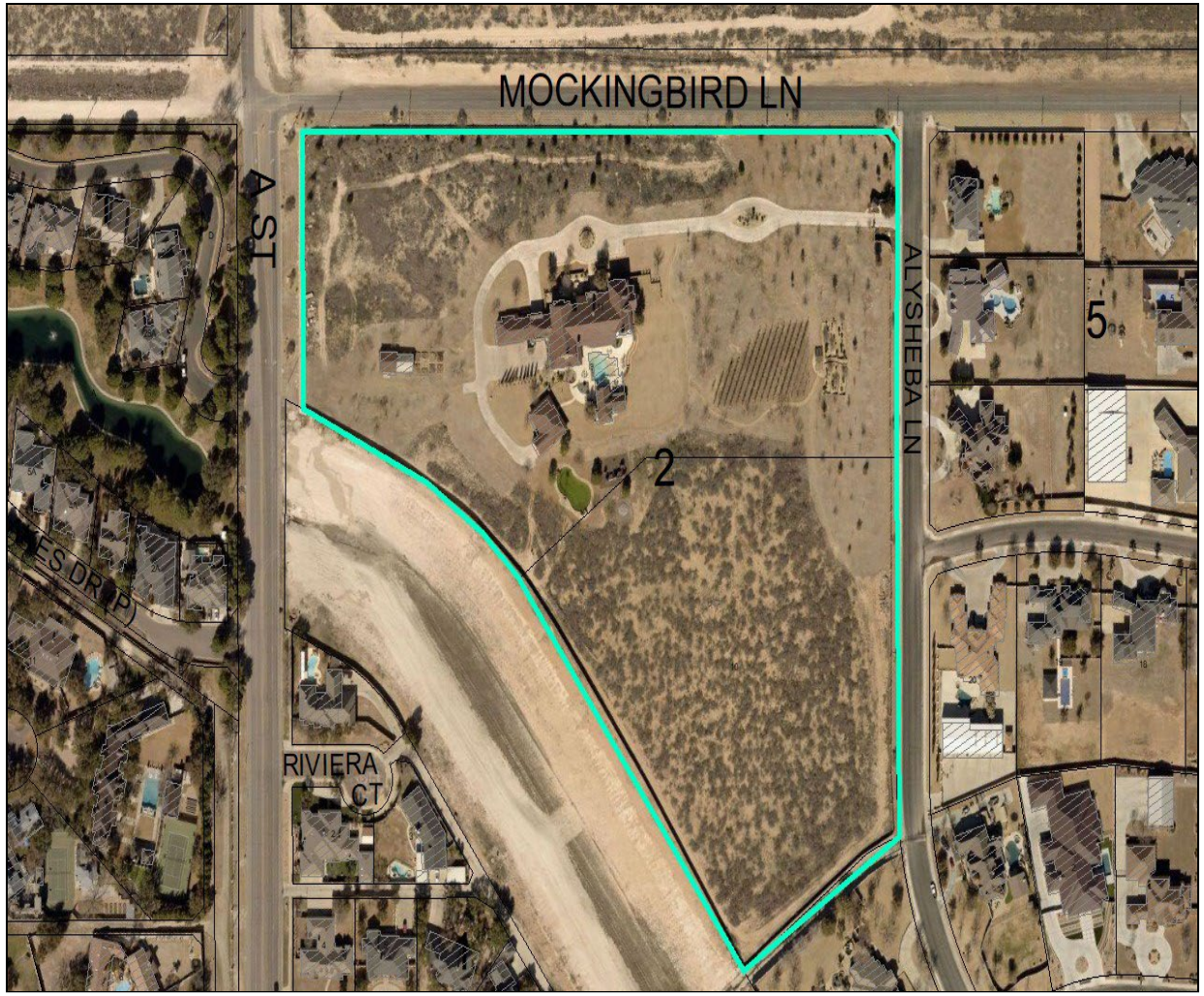
ZONING

- **Current Zoning:** AE, Agricultural Estate District
- **Surrounding Zoning:**
  - **North:** PD, Planned Development District, for a Recreation Center
  - **West:** PD, Planned Development District, for a Housing Development
  - **South:** SF1, Single-Family Dwelling District
  - **East:** CE, Country Estate District
- **Proposed Zoning:** PD, Planned Development District, for a Housing Development



LAND USE

- **Current Use:** Single-family dwelling
- **Surrounding Uses:**
  - **North:** Private recreation club
  - **South/East/West:** Single-family dwellings
- **Proposed Use:** Single-family dwellings



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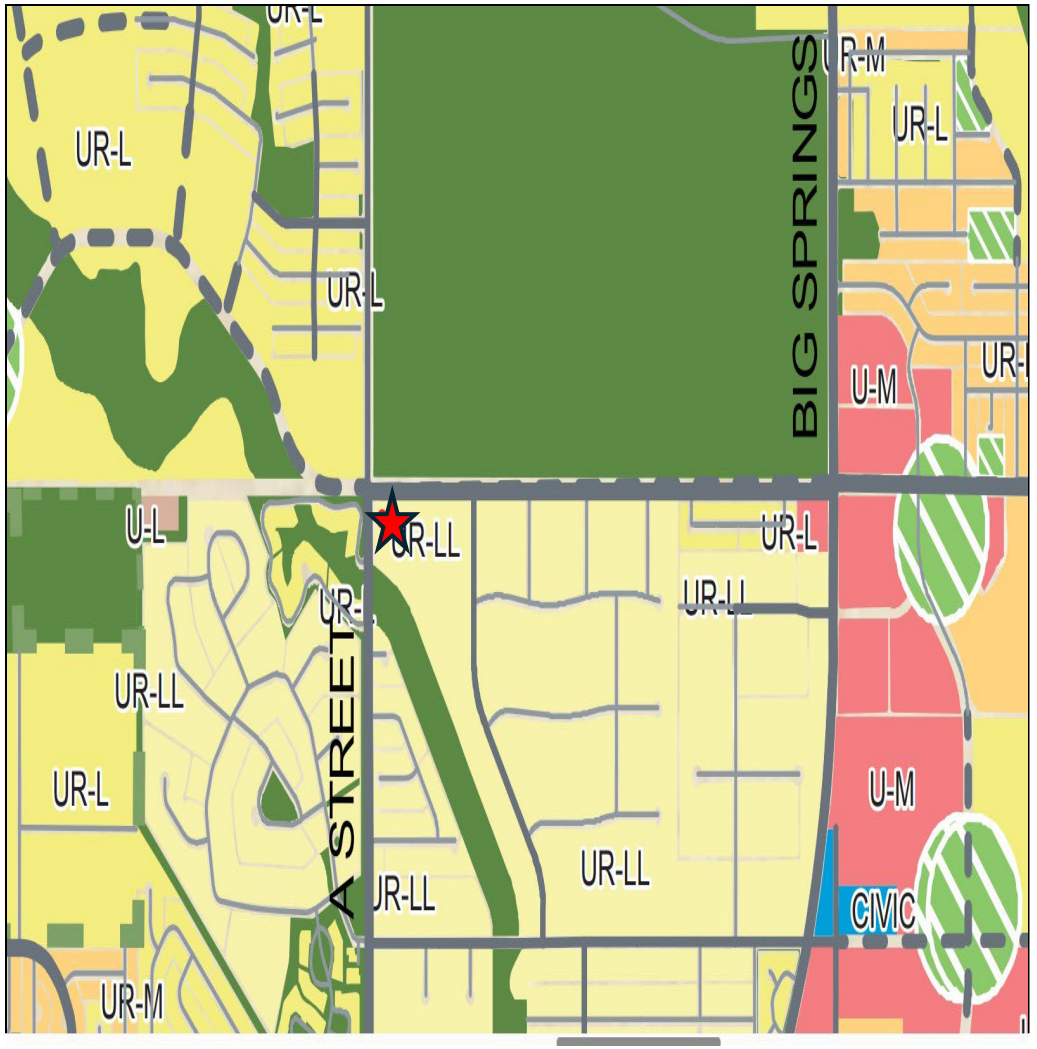
On Alysheba Lane, Looking West.

5

MIDLAND
Be the Energy!

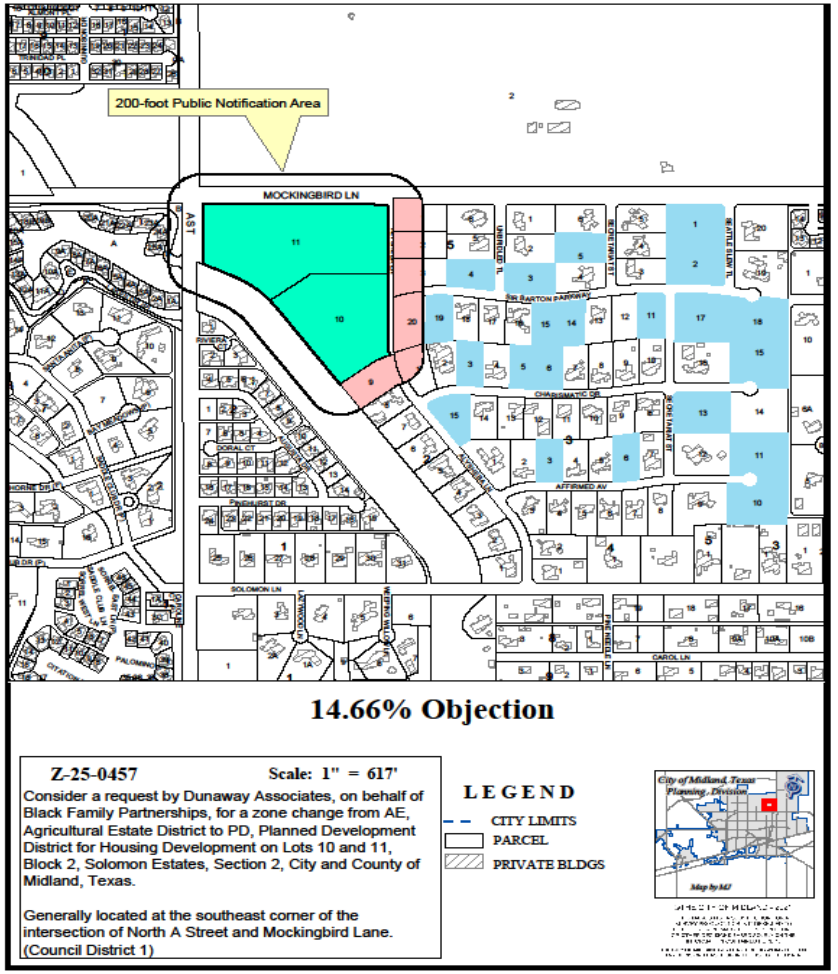
COMPREHENSIVE PLAN

- **Land Use Designation:** Urban Residential-Large Lot, (UR-LL)
- **Supported Uses:** Supports neighborhoods with larger lots, emphasizing single-family homes.
- The request is partially compatible with the *Tall City Tomorrow Comprehensive Plan.*



OBJECTIONS

- 7 objections have been received resulting in a 14.66% objection percentage. Supermajority vote is not required for approval.
- Protestors voiced concerns about increased traffic, safety, environmental impact, noise and water.



RELATED ITEMS

- The Preliminary Plat for this property was approved at the December 15, 2025, Planning and Zoning Commission meeting.



STAFF'S RECOMMENDATION

- Seven objections were received.
- Should this request be approved, staff recommends the following condition:

A. That the Property shall significantly conform to the site plan attached hereto as Exhibit A; provided, however, that buildings not shown on the site plan may be located on the Property, except within the areas identified as "OPEN SPACE & LANDSCAPE AREA", if such buildings satisfy the requirements of Title XI, Chapter 1 of the City Code and all other applicable ordinances.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



~~ROBINSON PAUL R~~ Jon Day
5408 ALYSHEBA LN
TX MIDLAND 79705

MIDLAND
Planning Division

PUBLIC NOTICE

The **City Council** of the City of Midland, Texas will hold a public hearing at **10:00 a.m.** on **Tuesday, April 14, 2026**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by **Dunaway Associates, on behalf of Black Family Partnerships,** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)**

PROPOSED ZONING: **From: AE, Agricultural Estate District** → Should Have Never Been Ag Exempt!!

To: PD, Planned Development District for a Housing Development

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I object to this request _____ **Comments:**

Entrance should be off of "A" Street And Mockingbird NOT Alysheba For Safety Reasons.

Required Information:

Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
Jon Day	Jon Day	5408 Alysheba LN
432-288-0276	jwd@scythian1st1.com	
Phone Number	Email	

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: March 27, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

For
Landon Ochoa
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.
Videoconference information will be available by accessing the meeting agenda at https://www.midlandtexas.gov/967/primegov-meeting

Solomon Estates
Midland, Texas

March 1, 2026

The Honorable Lori Blong
Members of the Midland City Council, Midland, Texas
300 N. Loraine
Midland, Texas 79701

Entrances should be off of "A" Street and Mockingbird.

RE: Written Protest Against Proposed Zone Change
Case Z-25-0457 – Alysheba Lane

Dear Mayor and Council Members,

The undersigned property owners of homes located within Solomon Estates present this written protest **AGAINST** the proposal to change the zoning from AE, Agricultural Estate District to PD, Planned Development District for a Housing Development as to Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

REASONS FOR PROTEST

1. The proposed action will negatively impact the Solomon Estates, specifically with increased traffic, safety concerns, environmental impact, noise and water.

2. The project is inconsistent with the existing offset plans or zoning policies, including lot size and required square footage for homes.

3. The proposal lacks adequate community engagement or transparency, as residents were not notified or included in early planning stages.

REQUEST FOR ACTION

We respectfully request the City Council to:

1. **DENY** the proposed rezoning from Agricultural Estates to Planned District for a housing development of Lots 10 and 11, Solomon Estates, Section 2, City and County of Midland, Texas.

We believe this action is necessary to protect the safety, character and long-term well-being of Solomon Estates.

PETITIONER:

Name: Jon Day

Address: 5408 Alysheba LN

Signature: _____ Date: 4/9/26

MIDLAND
Planning Division

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LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)**

PROPOSED ZONING: **From: AE, Agricultural Estate District**

To: PD, Planned Development District for a Housing Development

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I object to this request X **Comments:**

objects to this proposal. - Increase traffic and Noise decrease Property Value

Required Information:

Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
[signature]	Jon Day	5408 Alysheba ~~Alycheba~~ LN
432-288-0276	jwd@scythian ltd.com	
Phone Number	Email	

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

[signature] For
Landon Ochoa
Planning Division Manager
Department of Development Services

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www.MidlandTexas.gov
Planning Division ▪ 300 N. Loraine, Midland TX 79702 ▪ 432-685-7400

MIDLAND
Planning Division

RECEIVED
FEB 09 2026
Initial: _____

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To: PD, Planned Development District for a Housing Development

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I object to this request ✓ **Comments:**

_____

_____

Required Information:

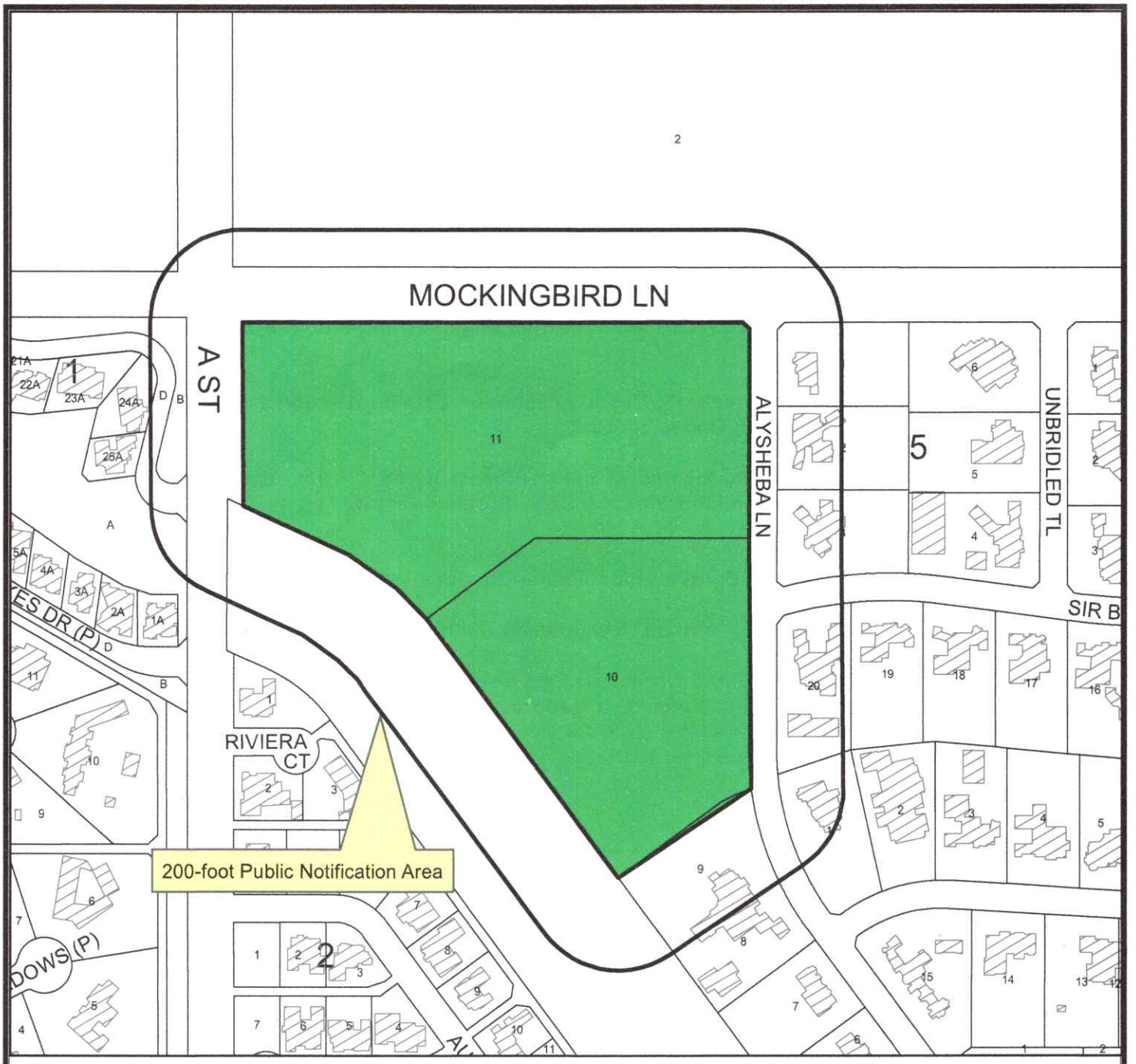
LINDA I. NAGY Linda I Nagy	LINDA I. NAGY	5600 Alysheba Ln
Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
432 210 8004	nagylinda@msn.com	TX 79705
Phone Number	Email	

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
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Landon Ochoa
Planning Division Manager
Department of Development Services

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Location Map

Z-25-0457 **Scale: 1" = 2,000'**

Consider a request by Dunaway Associates, on behalf of Black Family Partnerships, for a zone change from AE, Agricultural Estate District to PD, Planned Development District for Housing Development on Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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Planning Division

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LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

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PROPOSED ZONING: **From: AE, Agricultural Estate District**

To: PD, Planned Development District for a Housing Development

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I object to this request ✓ **Comments:**

We live right by proposed property. We moved here because there were to be no more lots sold. Traffic Construction

Required Information:

George Mitchell — Property Owner's Signature
George Mitchell — Printed Name
5307 Alysheba Lane — Property Address (**No P. O. Boxes**)
432-664-4377 — Phone Number
gmitchell@gp2energy.com — Email

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

For
Landon Ochoa
Planning Division Manager
Department of Development Services

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March 17, 2026

To: City Secretary, City of Midland, Texas

RE: Written Protest Against Proposed Zoning Case Z-25-0457

Dear City Secretary:

I understand, the undersigned property owner of land located within 200 feet of the property proposed for a zoning change from AE, Agricultural Estate District to PD, Planned Development District for a Housing Development as to Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas, hereby file this written protest against the proposal to change the zoning.

Reason for Protest:

1. The proposed action will negatively impact the Solomon Estates, specifically with increased traffic, safety concerns, environmental impact, noise and water.

2. The project is inconsistent with the existing offset plans or zoning policies, including lot size and required square footage for homes.

3. The proposal lacks adequate community engagement or transparency, as residents were not notified or included in early planning stages.

REQUEST FOR ACTION

We respectfully request the City Council to:

1. DENY the proposed rezoning from Agricultural Estates to Planned District for a housing development of Lots 10 and 11, Solomon Estates, Section 2, City and County of Midland, Texas.

George Mitchell
5307 Alysheba Lane
Midland, Texas 79705

Signature: George Mitchell

Date: 3-17-26

Subscribed and sworn to before me this 17 day of March, 2026.

Jamie Bomer Notary Signature

JAMIE L BOMER
Notary ID # 13409228-4
My Commission Expires
December 06, 2026

MIDLAND
Planning Division

RECEIVED
FEB 09 2026
Initial: _____

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LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)**

PROPOSED ZONING: **From: AE, Agricultural Estate District**

To: PD, Planned Development District for a Housing Development

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I object to this request X **Comments:**

I Live across the street from this Property and do not want multiple homes across the entrace to my home.

Required Information:

Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
[signature]	Carol Nasuhoglu	5300 Alysheba Lane

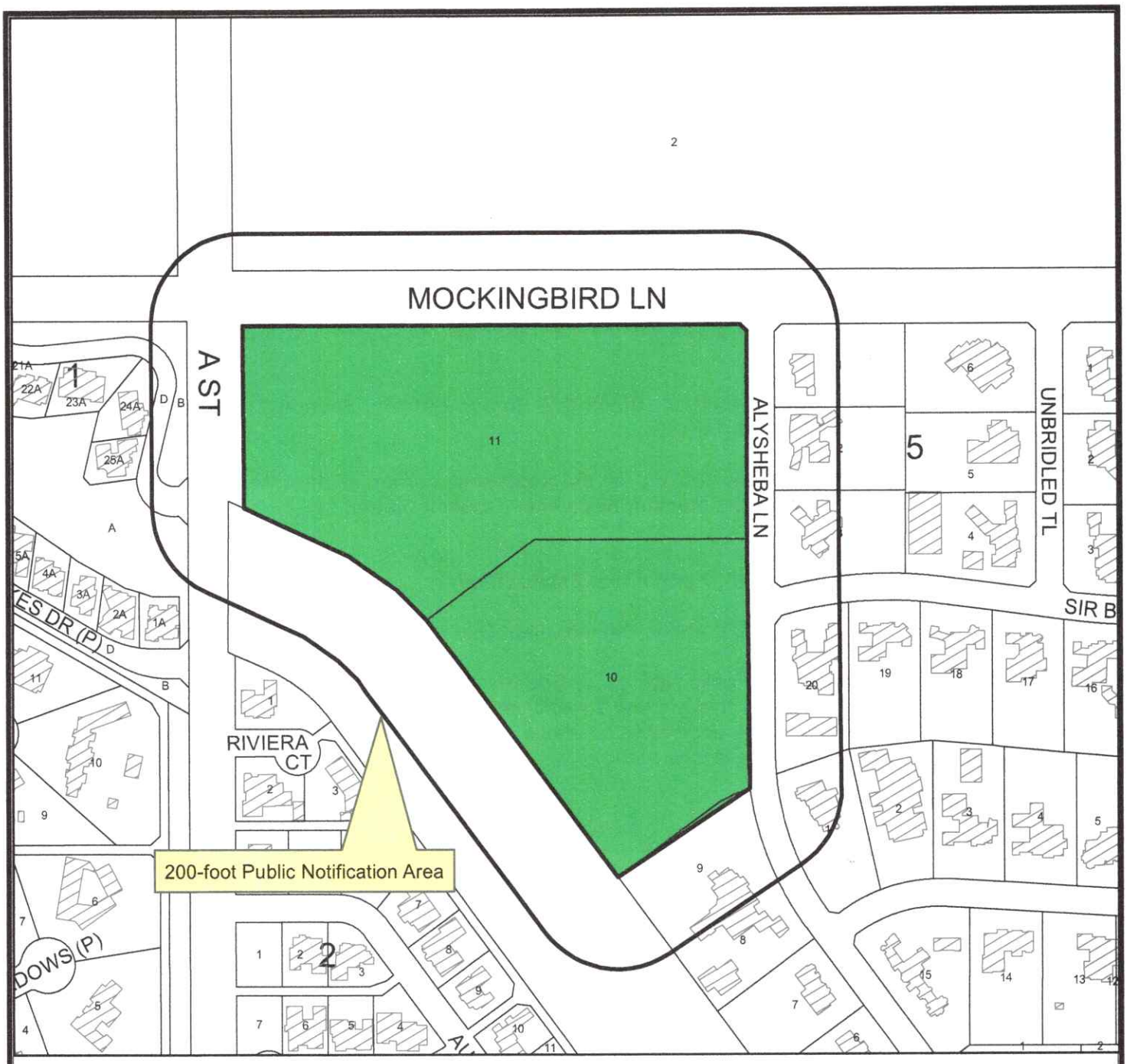
Phone Number	Email
432-994-1677	Cnasuh@icloud.com

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Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

[signature] For
Landon Ochoa
Planning Division Manager
Department of Development Services

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Location Map

Z-25-0457 **Scale: 1" = 2,000'**

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LEGEND

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I object to this request ✓ **Comments:**

_____

_____

Required Information:

Susan Watkins — Property Owner's Signature

Susan Watkins — Printed Name

5216 ~~5210~~ Alysheba — Property Address (**No P. O. Boxes**)

432-528-3260 — Phone Number

swatkins82@sbcglobal.net — Email

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
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Landon Ochoa
Planning Division Manager
Department of Development Services

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I object to this request √ **Comments:**

THIS WILL INCREASE TRAFFIC ON ALYSHEBA - PREFER ~~INTEREST~~ ENTRANCE ON MOCKINGBIRD

Required Information:

Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
[signature]	PETER SCHRENKEL	5216 ALYSHEBA LN

Phone Number	Email
432 413 4552	PSCHRENKEL@VISIONNATRES.COM

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

[signature] For

Landon Ochoa
Planning Division Manager
Department of Development Services

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Solomon Estates
Midland, Texas

March 1, 2026

The Honorable Lori Blong
Members of the Midland City Council, Midland, Texas
300 N. Loraine
Midland, Texas 79701

RE: Written Protest Against Proposed Zone Change
Case Z-25-0457 – Alysheba Lane

Dear Mayor and Council Members,

The undersigned property owners of homes located within Solomon Estates present this written protest **AGAINST** the proposal to change the zoning from AE, Agricultural Estate District to PD, Planned Development District for a Housing Development as to Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

REASONS FOR PROTEST

1. The proposed action will negatively impact the Solomon Estates, specifically with increased traffic, safety concerns, environmental impact, noise and water.

2. The project is inconsistent with the existing offset plans or zoning policies, including lot size and required square footage for homes.

3. The proposal lacks adequate community engagement or transparency, as residents were not notified or included in early planning stages.

REQUEST FOR ACTION

We respectfully request the City Council to:

1. **DENY** the proposed rezoning from Agricultural Estates to Planned District for a housing development of Lots 10 and 11, Solomon Estates, Section 2, City and County of Midland, Texas.

We believe this action is necessary to protect the safety, character and long-term well-being of Solomon Estates.

PETITIONER:

Name: Jeannette Freeman

Address: 531 Sir Barton Pkw

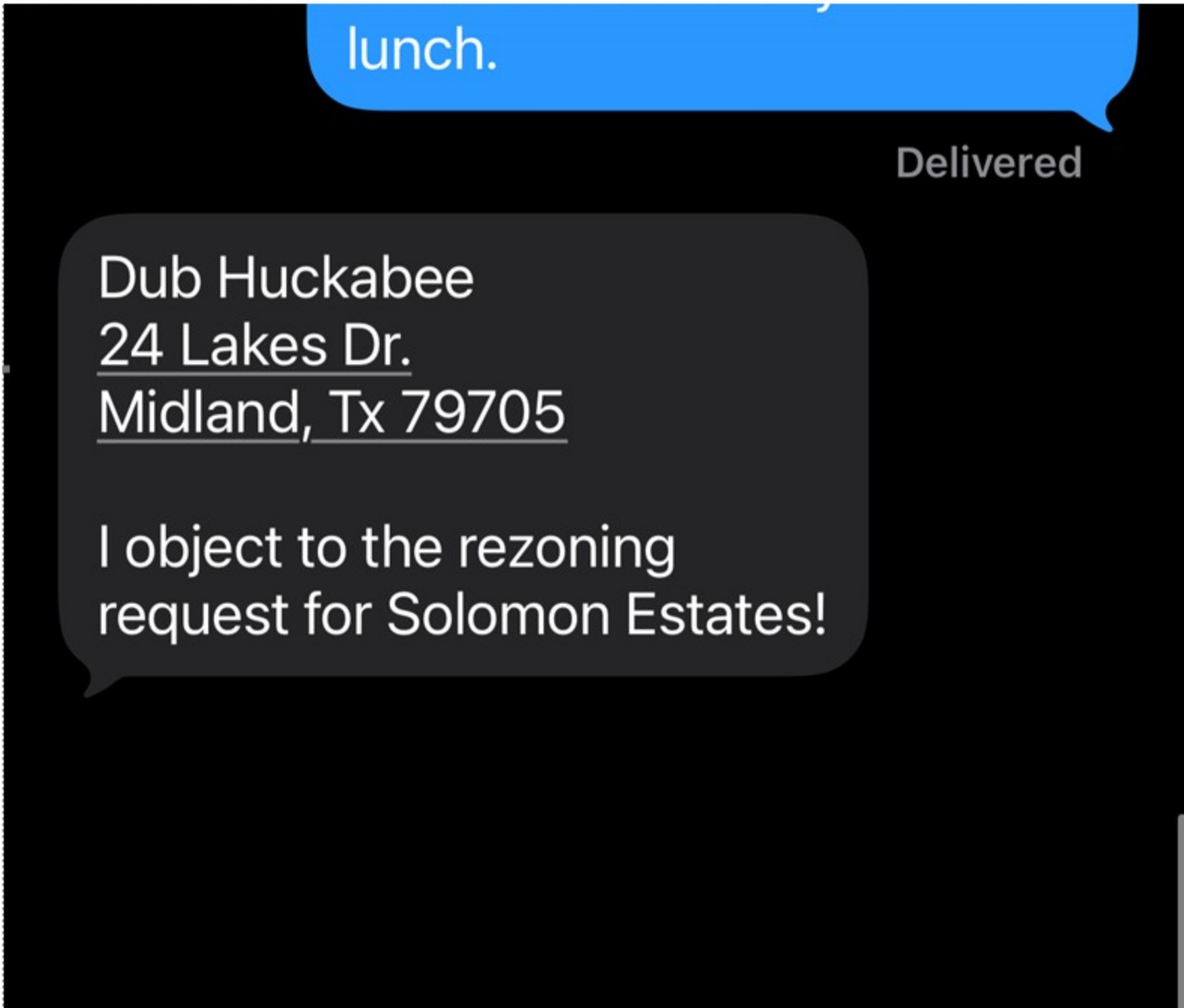
Signature: [signature] Date: 3/17/26

Alysheba objection

DP

Denise Perkins <deniseperkins05@gmail.com>
To Madelim Jaquez

Follow up. Start by Friday, April 10, 2026. Due by Friday, April 10, 2026.



Solomon Estates
Midland, Texas

March 1, 2026

The Honorable Lori Blong
Members of the Midland City Council, Midland, Texas
300 N. Loraine
Midland, Texas 79701

RE: Written Protest Against Proposed Zone Change
Case Z-25-0457 – Alysheba Lane

Dear Mayor and Council Members,

The undersigned property owners of homes located within Solomon Estates present this written protest **AGAINST** the proposal to change the zoning from AE, Agricultural Estate District to PD, Planned Development District for a Housing Development as to Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

REASONS FOR PROTEST

1. The proposed action will negatively impact the Solomon Estates, specifically with increased traffic, safety concerns, environmental impact, noise and water.

2. The project is inconsistent with the existing offset plans or zoning policies, including lot size and required square footage for homes.

3. The proposal lacks adequate community engagement or transparency, as residents were not notified or included in early planning stages.

REQUEST FOR ACTION

We respectfully request the City Council to:

1. **DENY** the proposed rezoning from Agricultural Estates to Planned District for a housing development of Lots 10 and 11, Solomon Estates, Section 2, City and County of Midland, Texas.

We believe this action is necessary to protect the safety, character and long-term well-being of Solomon Estates.

PETITIONER:

Name: Ethan Summers

Address: 300 Affirmed Ave

Signature: Ethan Summers Date: 3-17-26

Solomon Estates
Midland, Texas

March 1, 2026

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PETITIONER:

Name: Jody and Matt Saulsbury

Address: 300 Charismatic Dr.

Signature: [signature] Date: 3/11/26

MIDLAND
Planning Division

PUBLIC NOTICE

The **City Council** of the City of Midland, Texas will hold a public hearing at **10:00 a.m.** on **Tuesday, February 10, 2026**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by **Dunaway Associates, on behalf of Black Family Partnerships,** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)**

PROPOSED ZONING: **From: AE, Agricultural Estate District**

To: PD, Planned Development District for a Housing Development

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request ✓ **Comments:**

Please see attached letter.

Required Information:

Brittany Usrey	Brittany Usrey	301 Affirmed Ave.
Property Owner's Signature	Printed Name	Property Address (No P. O. Boxes)
432 853 5988	brittanyusrey@gmail.com	
Phone Number	Email	

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

For
Landon Ochoa
Planning Division Manager
Department of Development Services

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Videoconference information will be available by accessing the meeting agenda at https://www.midlandtexas.gov/967/primegov-meeting

Dear Members of Midland City Council,

I am writing as a resident of Solomon Estates. My family has lived in this neighborhood for over a decade. We recently built a new construction home just down the street because we love this quiet, safe neighborhood so much. I respectfully ask that you reconsider this proposal and take into account the significant concerns it raises for those of us who live here.

First, the rezoning will likely lead to a substantial increase in traffic. The main street of concern would be Alysheba Lane. The neighborhood was initially designed for low-volume residential use. The addition of (37) homes would create traffic issues, safety risks for children, pedestrians and cyclists. Solomon Estates is a safe, calm and quiet neighborhood that children can safely ride bikes in. This raises a big traffic safety concern for the amount of homes being proposed in our neighborhood.

Second, this change would alter the character of our neighborhood. Many of us chose this area because of its quiet residential environment. The lots in Solomon Estates are between 1-2 acres and the homes originally built were required to have a minimum of 4,000 square feet. The rezoning for an additional (37) homes on smaller lots does not meet the original requirements. These impacts would significantly affect our property values and also the quality of life for families who have invested in this community for years.

I respectfully ask the Council to deny this rezoning request until a neighborhood consultation process has been completed. Residents deserve the opportunity to be fully informed and to have meaningful input before such a significant change is approved.

Thank you for your time and for your service to our community. I appreciate your careful consideration of the long-term effects this decision will have on the people who call this neighborhood home.

Sincerely,
Brittany and John Paul Usrey
301 AFFIRMED AVE.
Midland, Texas 79705
birttanyusrey@gmail.com 432 853 5988

Solomon Estates
Midland, Texas

March 1, 2026

The Honorable Lori Blong
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300 N. Loraine
Midland, Texas 79701

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PETITIONER:

Name: Riley Townsend

Address: 301 Sir Barton Parkway

Signature: _____ Date: 3/16/2026

Solomon Estates
Midland, Texas

March 1, 2026

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PETITIONER:

Name: Dr Franisco & Madeline Salcido

Address: 314 Sir Barton Pkwy

Signature: _____ Date: 3/10/2026

Solomon Estates
Midland, Texas

March 1, 2026

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PETITIONER:

Name: Donald Lee Woods & Rita R Woods

Address: 315 Charismatic Dr.

Signature: Donald Lee Woods Date: 3/17/26
Rita R Woods

Solomon Estates
Midland, Texas

March 1, 2026

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PETITIONER:

Name: JOHN + CANDACE MAHAFFEY

Address: 315 SIR BARTON PKWY MIDLAND, TX 79705

Signature: _____ Date: 3/12/26

Solomon Estates
Midland, Texas

March 1, 2026

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PETITIONER:

Name: Helaman and Christina Erickson

Address: 401 Sir Barton Pkwy Midland TX 79705

Signature: Christina Erickson Date: 3/19/26

Solomon Estates
Midland, Texas

March 1, 2026

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PETITIONER:

Name: Sy Browning

Address: 406 Affirmed Ave

Signature: _____ Date: 3/17/26

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Midland, Texas

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PETITIONER:

Name: Macie Walters

Address: 1106 Affirmed

Signature: _____ Date: 3/17/26

RECEIVED
APR 10 2026
Initial:

MIDLAND
Planning Division

PUBLIC NOTICE

The **City Council** of the City of Midland, Texas will hold a public hearing at 10:00am on April 14, 2026 in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by **Dunaway Associates, on behalf of Black Family Partnerships,** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)**

PROPOSED ZONING: **From: AE, Agricultural Estate District**

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I object to this request X Comments:

We purchased in this area based on the Black Family Partnership legacy. They developed the neighborhood based on exclusive homes and low traffic. 36 homes destroys this safety.

Required Information:

Property Owner's Signature 719-375-4080 Lesley Aaron Printed Name 419 Sir Barton Pkwy Property Address (**No P. O. Boxes**)

719-243-2995 Phone Number Lesley.Aaron@icloud.com Email

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

For
Landon Ochoa
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.
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Solomon Estates
Midland, Texas

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PETITIONER:

Name: Josh & Raegan Brown

Address: 500 Charismatic Dr Midland 79707

Signature: [signature] **Date:** 3/14/2026

MIDLAND
Planning Division

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I object to this request X Comments:

This planned development will create a large increase in traffic with safety concerns along the main road of Solomon Estates. This road (Alysheba) not designed to support.

Required Information:

Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
	Ritchie Rosso	501 Sir Barton Pkwy Midland 79705
Phone Number	Email	
(757) 650 6954	RossoRi@gmail.com	

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
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Landon Ochoa
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PETITIONER:

Name: Ritchie and Allyse Rosso

Address: 501 Sir Barton Pkwy

Signature: R. Rosso Allyse Rosso Date: 3/17/26

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Required Information:

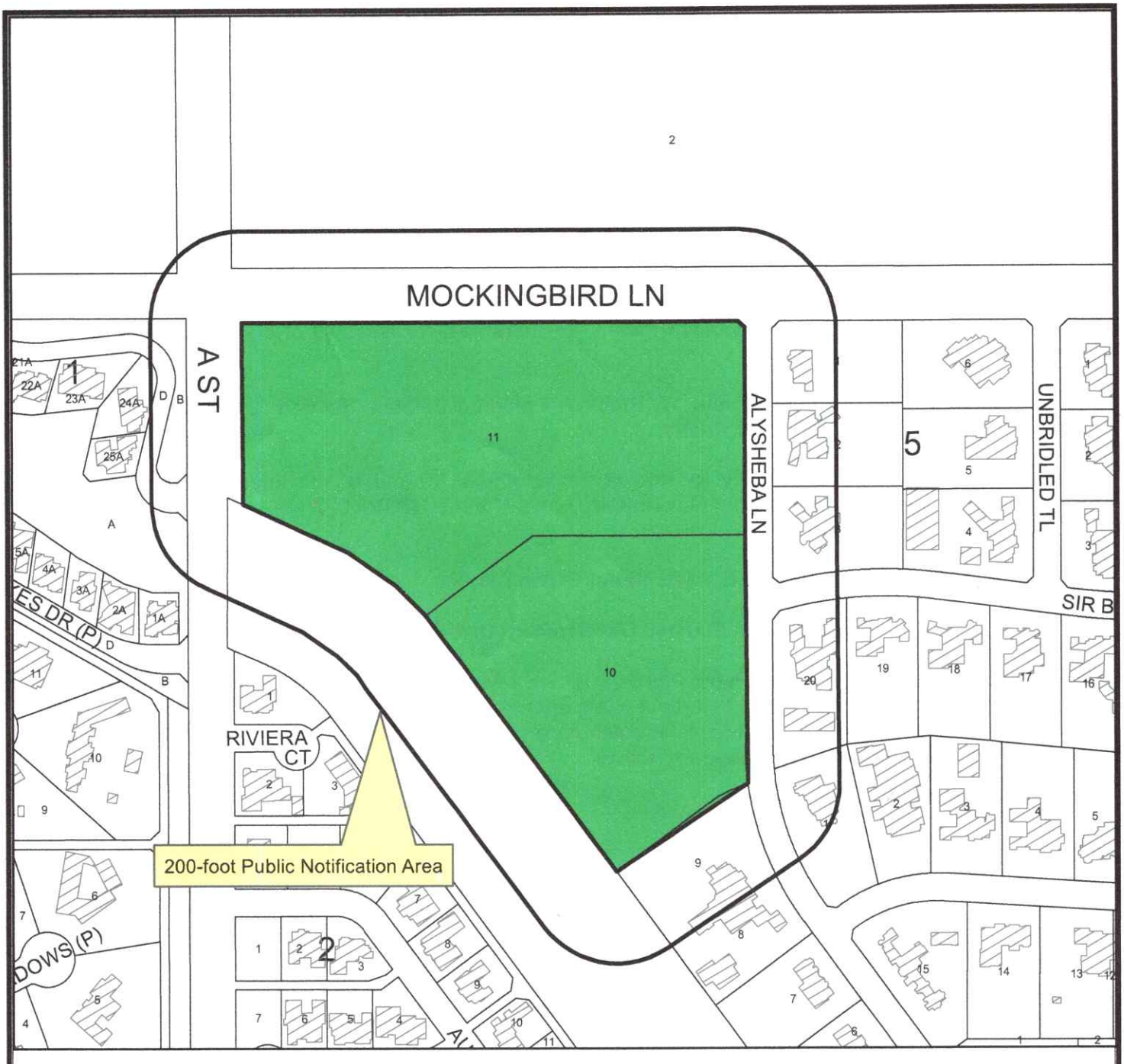
Billy Jack Reed	Billy Jack Reed	506 Charismatic Dr.
Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
432-349-4283	bjreed2010@live.com	
Phone Number	Email	

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Location Map

Z-25-0457 **Scale: 1" = 2,000'**

Consider a request by Dunaway Associates, on behalf of Black Family Partnerships, for a zone change from AE, Agricultural Estate District to PD, Planned Development District for Housing Development on Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021

THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT. NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

Solomon Estates
Midland, Texas

March 1, 2026

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PETITIONER:

Name: William A. Meyer

Address: 509 Affirmed Ave., Midland, TX 79705

Signature: William A. Meyer II Date: 3-17-2026

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PROPOSED ZONING: **From: AE, Agricultural Estate District**

To: PD, Planned Development District for a Housing Development

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered *in writing*** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request X **Comments:**

Adding 36 more homes, all of which would be required to use Alysheba Lane for access would place an unreasonable traffic burden on a residential street that was never designed to handle that level of volume. A zone change is a significant departure from the established character of the neighborhood and sets a concerning precedent for future rezonings in the area.

Required Information:

	Bill Feuer	518 Charismatic Dr
Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
432-352-5367	billfeuer@netscape.net	
Phone Number	Email	

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

Landon Ochoa
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.
Videoconference information will be available by accessing the meeting agenda at https://www.midlandtexas.gov/967/primegov-meeting

Solomon Estates
Midland, Texas

March 1, 2026

The Honorable Lori Blong
Members of the Midland City Council, Midland, Texas
300 N. Loraine
Midland, Texas 79701

RE: Written Protest Against Proposed Zone Change
Case Z-25-0457 – Alysheba Lane

Dear Mayor and Council Members,

The undersigned property owners of homes located within Solomon Estates present this written protest **AGAINST** the proposal to change the zoning from AE, Agricultural Estate District to PD, Planned Development District for a Housing Development as to Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

REASONS FOR PROTEST

1. The proposed action will negatively impact the Solomon Estates, specifically with increased traffic, safety concerns, environmental impact, noise and water.

2. The project is inconsistent with the existing offset plans or zoning policies, including lot size and required square footage for homes.

3. The proposal lacks adequate community engagement or transparency, as residents were not notified or included in early planning stages.

REQUEST FOR ACTION

We respectfully request the City Council to:

1. **DENY** the proposed rezoning from Agricultural Estates to Planned District for a housing development of Lots 10 and 11, Solomon Estates, Section 2, City and County of Midland, Texas.

We believe this action is necessary to protect the safety, character and long-term well-being of Solomon Estates.

PETITIONER:

Name: Bill & Susan Feuer

Address: 518 Charismatic Dr

Signature: _____ Date: 3-17-25

MIDLAND
Planning Division

RECEIVED
FEB 09 2026
Initial:_____

PUBLIC NOTICE

The **City Council** of the City of Midland, Texas will hold a public hearing at **10:00 a.m.** on **Tuesday, February 10, 2026**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by **Dunaway Associates, on behalf of Black Family Partnerships,** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)**

PROPOSED ZONING: **From: AE, Agricultural Estate District**

To: PD, Planned Development District for a Housing Development

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I object to this request X **Comments:**

_____

_____

Required Information:

Denise Porter — Property Owner's Signature
Denise Perkins Porter — Printed Name
525 Sir Barton Pkwy — Property Address (**No P. O. Boxes**)

432-413-9331 — Phone Number
_____ — Email

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

Landon Ochoa
Planning Division Manager
Department of Development Services

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Videoconference information will be available by accessing the meeting agenda at https://www.midlandtexas.gov/967/primegov-meeting

Solomon Estates
Midland, Texas

March 1, 2026

The Honorable Lori Blong
Members of the Midland City Council, Midland, Texas
300 N. Loraine
Midland, Texas 79701

RE: Written Protest Against Proposed Zone Change
Case Z-25-0457 – Alysheba Lane

Dear Mayor and Council Members,

The undersigned property owners of homes located within Solomon Estates present this written protest **AGAINST** the proposal to change the zoning from AE, Agricultural Estate District to PD, Planned Development District for a Housing Development as to Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

REASONS FOR PROTEST

1. The proposed action will negatively impact the Solomon Estates, specifically with increased traffic, safety concerns, environmental impact, noise and water.

2. The project is inconsistent with the existing offset plans or zoning policies, including lot size and required square footage for homes.

3. The proposal lacks adequate community engagement or transparency, as residents were not notified or included in early planning stages.

REQUEST FOR ACTION

We respectfully request the City Council to:

1. **DENY** the proposed rezoning from Agricultural Estates to Planned District for a housing development of Lots 10 and 11, Solomon Estates, Section 2, City and County of Midland, Texas.

We believe this action is necessary to protect the safety, character and long-term well-being of Solomon Estates.

PETITIONER:

Name: Will + Denise Porter

Address: 525 Sir Barton Parkway

Signature: Will Porter Date: 3.17.2026

MIDLAND
Planning Division

RECEIVED
MAR 09 2026
Initial:

PUBLIC NOTICE

The **City Council** of the City of Midland, Texas will hold a public hearing at **10:00 a.m.** on **Tuesday, February 10, 2026**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by **Dunaway Associates, on behalf of Black Family Partnerships,** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)**

PROPOSED ZONING: **From: AE, Agricultural Estate District**

To: PD, Planned Development District for a Housing Development

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I object to this request X Comments: if proposed in the future

I am against this propsal: Excessive water well additions could further drawdown the current static water level. Alleysheba entrance not good for Solomon. *

Required Information:

Lee Ivanhoe	Lee Ivanhoe	5400 Unbridled Trail
Property Owner's Signature	Printed Name	Property Address (No P. O. Boxes)
432-770-1744	leeamy5400@suddenlink.net	
Phone Number	Email	

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

Landon Ochoa
Planning Division Manager
Department of Development Services

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Videoconference information will be available by accessing the meeting agenda at https://www.midlandtexas.gov/967/primegov-meeting

* Entrance should be on "A" street if this project gets approved.

Solomon Estates
Midland, Texas

March 1, 2026

The Honorable Lori Blong
Members of the Midland City Council, Midland, Texas
300 N. Loraine
Midland, Texas 79701

RE: Written Protest Against Proposed Zone Change
Case Z-25-0457 – Alysheba Lane

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We believe this action is necessary to protect the safety, character and long-term well-being of Solomon Estates.

PETITIONER:

Name: Chris McIntosh

Address: 5401 Unbridled Trail

Signature: _____ Date: 4/8/2026

MIDLAND
Planning Division

RECEIVED
FEB 09 2026
Initial: _____

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LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)**

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To: PD, Planned Development District for a Housing Development

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I object to this request ✓ **Comments:**

_____

_____

Required Information:

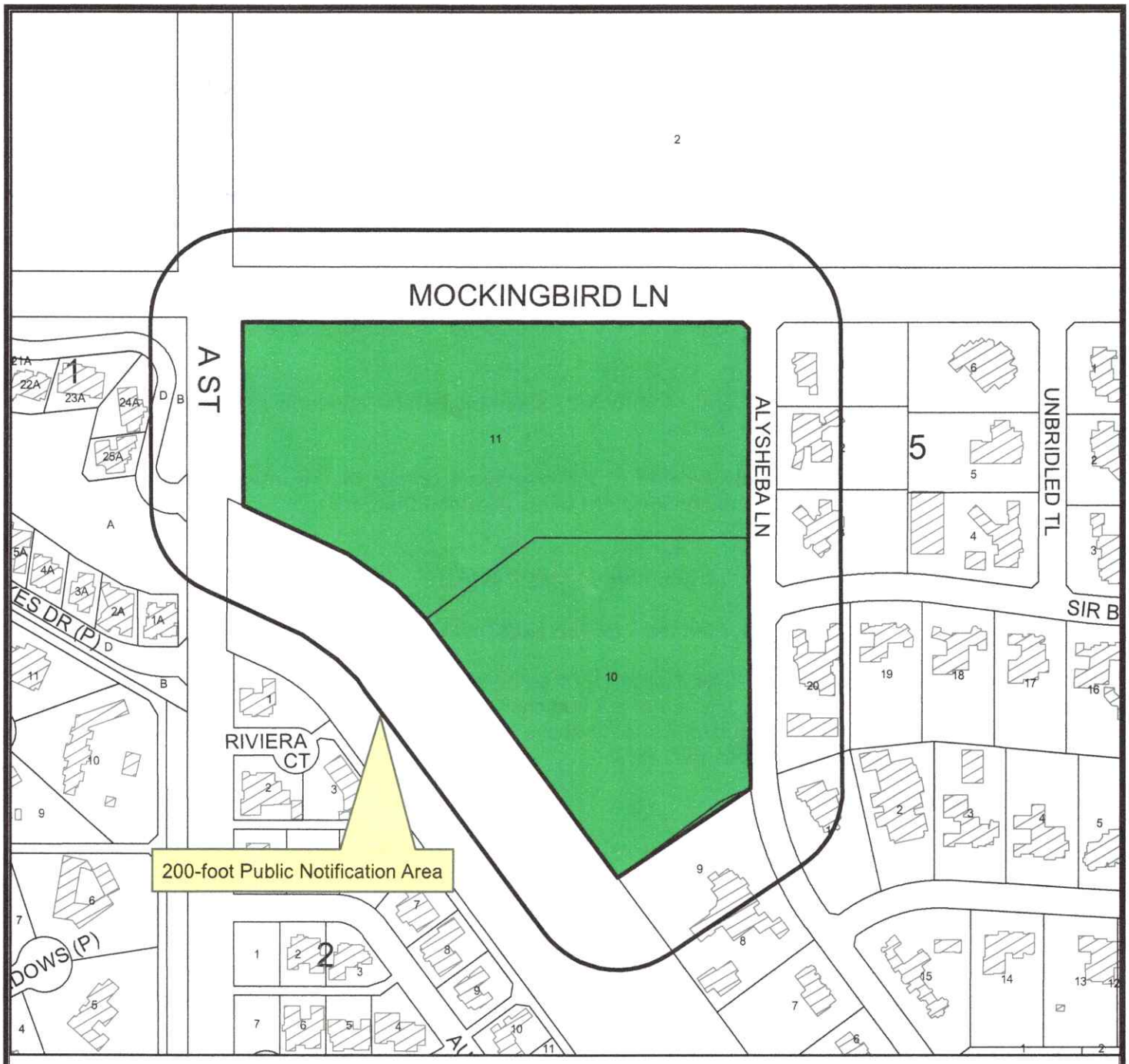
Property Owner's Signature	Printed Name	Property Address (**No P. O. Boxes**)
	Salini Vasireddy	5409 secretariat st
Phone Number	Email	
	vsal0928@gmail.com	

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: January 23, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

For
Landon Ochoa
Planning Division Manager
Department of Development Services

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Videoconference information will be available by accessing the meeting agenda at https://www.midlandtexas.gov/967/primegov-meeting



Location Map

Z-25-0457 **Scale: 1" = 2,000'**

Consider a request by Dunaway Associates, on behalf of Black Family Partnerships, for a zone change from AE, Agricultural Estate District to PD, Planned Development District for Housing Development on Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT. NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

Solomon Estates
Midland, Texas

March 1, 2026

The Honorable Lori Blong
Members of the Midland City Council, Midland, Texas
300 N. Loraine
Midland, Texas 79701

RE: Written Protest Against Proposed Zone Change
Case Z-25-0457 – Alysheba Lane

Dear Mayor and Council Members,

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REASONS FOR PROTEST

1. The proposed action will negatively impact the Solomon Estates, specifically with increased traffic, safety concerns, environmental impact, noise and water.

2. The project is inconsistent with the existing offset plans or zoning policies, including lot size and required square footage for homes.

3. The proposal lacks adequate community engagement or transparency, as residents were not notified or included in early planning stages.

REQUEST FOR ACTION

We respectfully request the City Council to:

1. **DENY** the proposed rezoning from Agricultural Estates to Planned District for a housing development of Lots 10 and 11, Solomon Estates, Section 2, City and County of Midland, Texas.

We believe this action is necessary to protect the safety, character and long-term well-being of Solomon Estates.

PETITIONER:

Name: Kevis Stroud & Phil Stroud

Address: 5415 Seattle Slew Trail

Signature: Kevis Stroud Date: 3-17-2026

MIDLAND
Planning Division

PUBLIC NOTICE

The **City Council** of the City of Midland, Texas will hold a public hearing at **10:00 a.m.** on **Tuesday, April 14, 2026**, in the Council Chambers, City Hall, 300 N. Loraine, Midland, Texas 79701, on a request by **Dunaway Associates, on behalf of Black Family Partnerships,** for approval of a **Zone Change** on the following described property:

LEGAL DESCRIPTION: **Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.**

LOCATION: **Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane. (Council District 1)**

PROPOSED ZONING: **From: AE, Agricultural Estate District**

To: PD, Planned Development District for a Housing Development

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I object to this request X **Comments:**

_____

_____

Required Information:

Jason Lowry — Property Owner's Signature

Jason Lowry — Printed Name

5416 Alysheba Ln — Property Address (**No P. O. Boxes**)

(972) 896-9387 — Phone Number

Jason.Lowry1775@gmail.com — Email

If any further information is desired, please contact the Planning Division, at 685-7400. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7400.

Notices Mailed: 13
Date Mailed: March 27, 2026
Case Number: Z-25-0457
Case Name: Alysheba Lane
MJ Planner's Initials

For
Landon Ochoa
Planning Division Manager
Department of Development Services

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.
Videoconference information will be available by accessing the meeting agenda at https://www.midlandtexas.gov/967/primegov-meeting

City Council Meeting

Item Number: 28.
Meeting Date: May 12, 2026
To: City Council
From: Madelim Jaquez, Planner
Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 3.03-ACRE TRACT OF LAND OUT OF GREEN HILL TERRACE, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF THE INTERSECTION OF HOLIDAY HILL ROAD AND BECKER DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Purpose:
The applicant, Troy T. Hunt Homes, LTD is requesting a Zone Change from PD, Planned Development District for a Housing Development to PD, Planned Development District for a Transition District for the allowance of storage units on a property generally located on the east side of the intersection of Holiday Hill Road, and Becker Drive.

Recommended Action:
Deny

Fiscal Impact:
None.

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Current Zoning:

PD, Planned Development District for a housing development

Surrounding Zoning and Land Use:

The properties to the north are zoned TH, Townhouse Dwelling District and are currently single-family homes. The properties to the east are AE, Agricultural Estate District and CE, Country Estate District and consist of single-family homes and vacant lots. The properties to the south

and west are zoned RR, Regional Retail District and are currently vacant lots.

Analysis:

The applicant is seeking this zone change from PD, Planned Development District for a Housing Development to PD, Planned Development District for a Transition District, in order to have storage units, which is not an allowed use in the current zoning. Changing this zoning to a PD, Planned Development District would allow for the storage units. However, it would not be compatible with the surrounding area or the Tall City Tomorrow Plan. The development will have a screening wall located along the property line only where the storage units are not located. See the attached site plan (Exhibit A).

The subject property is adjacent to an established residential development. Self-service storage is considered a non-residential land use; however, it introduces a commercial intensity that may be incompatible with nearby residential properties.

This request is not consistent with the Tall City Tomorrow Comprehensive Plan, Chapter 3; which designated this area as Park/Open Space, which is intended to remain undeveloped and natural or recreational in character.

This proposed zone change has been circulated to the respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No comments or objections.

Engineering: (Approved)

No objections to zone change. [For Applicant’s Information Only.]

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For Applicant’s Information Only.]

Code: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2023 NEC requirements, the 2015 International Fire Codes, local city ordinances, planning/zoning requirements, established setbacks, Health department regulations, oil and gas considerations, and floodplain requirements if necessary. Code versions are subject to change depending on the time of new code editions adopted in the City of Midland and date of permit application.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations. [For the Applicant’s information only.]

No objection to zone change. [For the Applicant’s information only.]

Planning: (Denied)

Therefore, staff recommends denial of this Zone Change from PD, Planned Development District for a Housing Development to PD, Planned Development District for a Transition District.

Should Council approve this Zone Change, staff recommends that it be subject to the following conditions:

A. **That the Property shall significantly conform to the site plan attached hereto as Exhibit A.**
B. **That the use of the Property for Storage Units, Mini, as such term is defined in Section 11-1-2.01 of the City Code, is hereby allowed.**
C. **That except to the extent that a building on the Property abuts a property line as shown in the site plan, a masonry screening wall shall be located on the Property where the Property adjoins a residential zoning district. The masonry screening wall shall conform to the specifications attached hereto as Exhibit B.**
D. **That to the extent that the Property is used for Storage Units, Mini, as such term is defined in Section 11-1-2.01 of the City Code, no off-street parking shall be required.**
E. **That the landscaping shall conform to the regulations set forth in Title XI, Chapter 9 of the City Code.**
F. **That the minimum front yard setback shall be 10 feet four inches (10' 4").**
G. **That the minimum side yard setback on the north side of the property shall be zero feet (0').**
H. **That the minimum rear yard setback shall be zero feet (0').**

Letters of Objection:

Staff has not received any letters of objection as of April 30, 2026.

Attachments:

Site plan
Maps
Aerial
PowerPoint Presentation

Attachments:

A. ORDINANCE WITH EXHIBITS - Z-26-0481.PDHD to PDTD Ord w Exh
B. CC - - Holiday Hill, Zone change
C. Z-26-0481, Combined files compressed

Madelim Jaquez, Development Services	Created/Initiated - 4/30/2026
Landon Ochoa, Development Services	Approved - 5/1/2026
Elizabeth Triggs, Development Services	Approved - 5/1/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026

Jose Ortiz, City Manager
Jan Hamilton, City Secretary

Approved - 5/5/2026
Final Approval - 5/5/2026

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 3.03-ACRE TRACT OF LAND OUT OF GREEN HILL TERRACE, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF THE INTERSECTION OF HOLIDAY HILL ROAD AND BECKER DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning a 3.03-acre tract of land out of Green Hill Terrace, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit A, which is attached hereto and incorporated herein (the "Property") to PD, Planned Development District for a Transition District and adopting a site plan therefor, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from PD, Planned Development District for a Housing Development to PD, Planned Development District for a Transition District.

SECTION TWO. That the base zoning district to which the use and development of the Property shall conform, except as modified by Section Three of this ordinance, is the LR, Local Retail District.

SECTION THREE. That a site plan, which is attached hereto as Exhibit A and incorporated herein for all purposes, is hereby adopted, and the use and development of the Property shall be subject to the following conditions and restrictions:

A. That the Property shall significantly conform to the site plan attached hereto as Exhibit A.

B. That the use of the Property for Storage Units, Mini, as such term is defined in Section 11-1-2.01 of the City Code, is hereby allowed.

C. That except to the extent that a building on the Property abuts a property line as shown in the site plan, a masonry screening wall shall be located on the Property where the Property adjoins a residential zoning district. The masonry screening wall shall conform to the specifications attached hereto as Exhibit B.

D. That to the extent that the Property is used for Storage Units, Mini, as such term is defined in Section 11-1-2.01 of the City Code, no off-street parking shall be required.

E. That the landscaping shall conform to the regulations set forth in Title XI, Chapter 9 of the City Code.

F. That the minimum front yard setback shall be 10 feet four inches (10’ 4”).

G. That the minimum side yard setback on the north side of the property shall be zero feet (0’).

H. That the minimum rear yard setback shall be zero feet (0’).

SECTION FOUR. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FIVE. 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 SIX. 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 SEVEN. 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 two thousand dollars ($2,000.00).

SECTION EIGHT. 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., 2026; 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., 2026, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2026.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

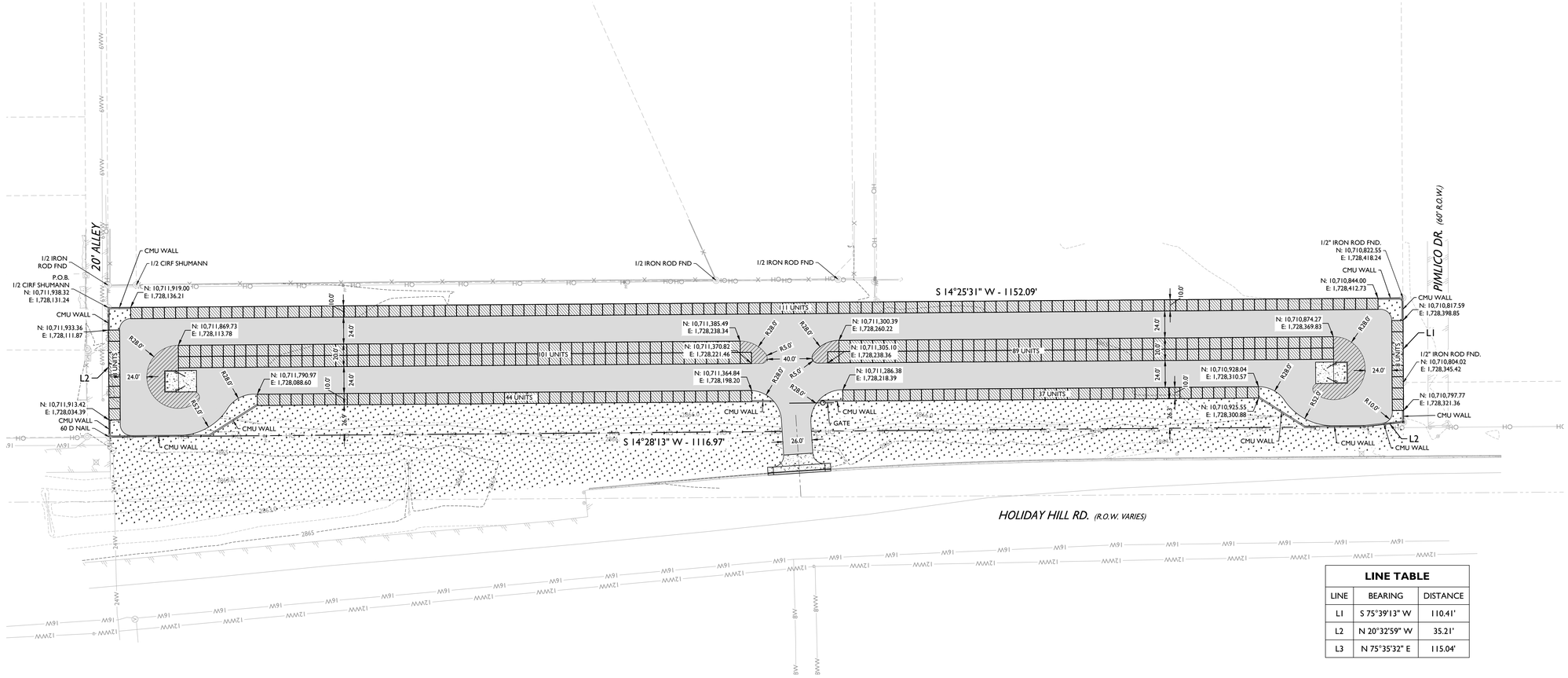
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
Nicholas Toulet, City Attorney

EXHIBIT A



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 75°39'13" W	110.41'
L2	N 20°32'59" W	35.21'
L3	N 75°35'32" E	115.04'

0' 50' 100' 150'

SCALE 1" = 50'

LEGEND

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- DENOTES EXISTING WATER WELL
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- DENOTES BOUNDARY LINE
- DENOTES PROPERTY LINE
- DENOTES EXISTING EASEMENT LINE
- FO — DENOTES EXISTING FIBER OPTIC LINE
- G — DENOTES EXISTING GAS LINE
- X — DENOTES EXISTING FENCE LINE
- 6W — DENOTES EXISTING 6" WATER LINE
- 8W — DENOTES EXISTING 8" WATER LINE
- 12W — DENOTES EXISTING 12" WATER LINE
- 12W — DENOTES PROPOSED 12" WATER LINE
- 24SD — DENOTES PROPOSED 24" WATER LINE

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PARKING CALCULATIONS:

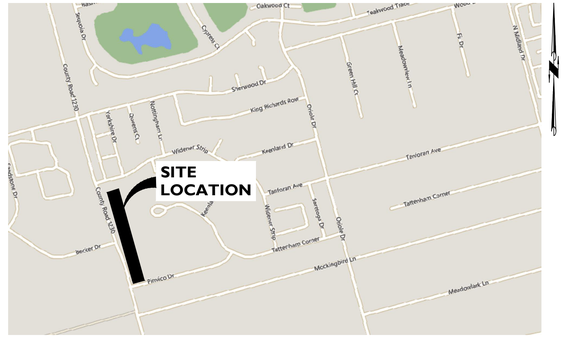
STORAGE BUILDING
PARKING SPACES REQUIRED: 0

FEMA NOTE:

FLOOD STATEMENT: ACCORDING TO FEMA'S N.F.I.P. FLOOD INSURANCE RATE MAP #48329C0066F, DATED SEPTEMBER 16TH, 2005, THIS PROPERTY IS WITHIN THE SHADED PORTION OF ZONE "X", DESIGNATED AS AREAS DETERMINED TO BE OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN.

LAND WITHIN THE FLOOD ZONE MUST MAINTAIN ITS CURRENT WATER HOLDING CAPACITY. ANY IMPORTED MATERIAL WILL REQUIRE AN EQUAL AMOUNT OF MATERIAL TO BE CUT FROM THE FLOODPLAIN AREA.

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VICINITY MAP

N.T.S.

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F:\2025\250246-TROY HUNT HOMES-HOLIDAY HILL STORAGE\EXHIBITS\250246 PD SITE PLAN.DWG

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ENGINEERING / SURVEY / WATER RESOURCES
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Tel: (432) 262-0999 Fax: (432) 262-0989
ENGINEER FIRM #: F-13089
SURVEY FIRM #: 10194452
www.Maverick-Eng.com

REVISIONS	BY	APPR.	DATE
Δ			

DRAWN BY: BCA
CHECKED BY: CLB
APPROVED BY: CLB
DATE: 01/09/2026
JOB: 250206

Know what's below. Call before you dig.

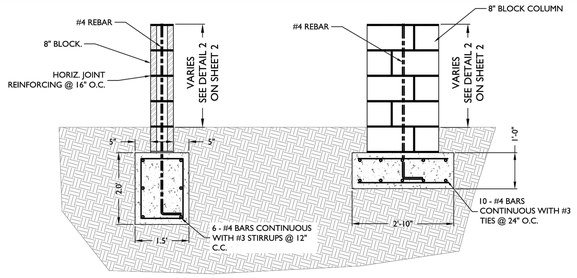
PD SITE PLAN

HOLIDAY HILL STORAGE

XXXX HOLIDAY HILL ROAD
CITY AND COUNTY OF MIDLAND, TEXAS

SHEET C100 OF xx

EXHIBIT B

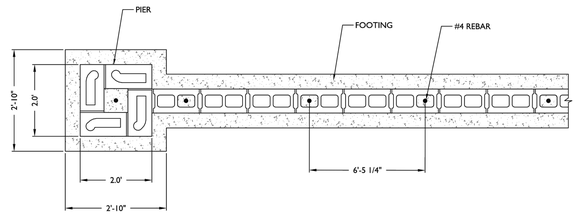


WALL CROSS SECTION

COLUMN CROSS SECTION

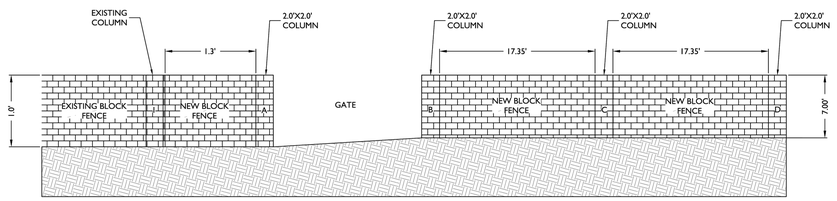
NOTES:

- WHERE NOT SPECIFIED ELSEWHERE, CONCRETE IS TO HAVE THE FOLLOWING PROPERTIES;
  - 3,600 PSI COMPRESSIVE STRENGTH @ 28 DAYS.
  - COARSE AGGREGATE IS TO BE ASTM C33, GRADE NO. 67 COMPLIANT.
  - CEMENT IS TO BE ASTM C150 TYPE I/II OR C595 TYPE IL COMPLIANT.
- REINFORCE AS SHOWN. REINFORCEMENT IS TO COMPLY WITH ASTM A615 AND HAVE A MINIMUM TENSILE YIELD STRENGTH OF 60,000 PSI.
- BACKFILLING AGAINST CURB IS NOT TO BE PERMITTED UNTIL CONCRETE HAS REACHED ITS FULL 28 DAY STRENGTH. CARE IS TO BE TAKEN TO AVOID EXERTING LARGE IMPACT FORCE ON THE FOUNDATION.
- PROVIDE 3 INCH CLEAR CONCRETE COVER AT ALL REINFORCEMENT STEEL, TYPICAL.
- NATIVE BACKFILL MATERIAL IS TO BE FREE OF ALL ROCKS GREATER THAN 3" IN DIAMETER AND ALL ORGANIC AND DELETERIOUS MATERIALS.



BLOCK COLUMN AND BLOCK FENCE DETAIL

1 BLOCK WALL FENCE
N.T.S.



2 BLOCK WALL FENCE LAYOUT
N.T.S.

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P:\2025\250244-TROY HUNT HOMES-HOLIDAY HILL STORAGE\EXHIBITS\250244 PD SITE PLAN DETAILS.DWG

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	DATE	APPR.	BY
REVISIONS			

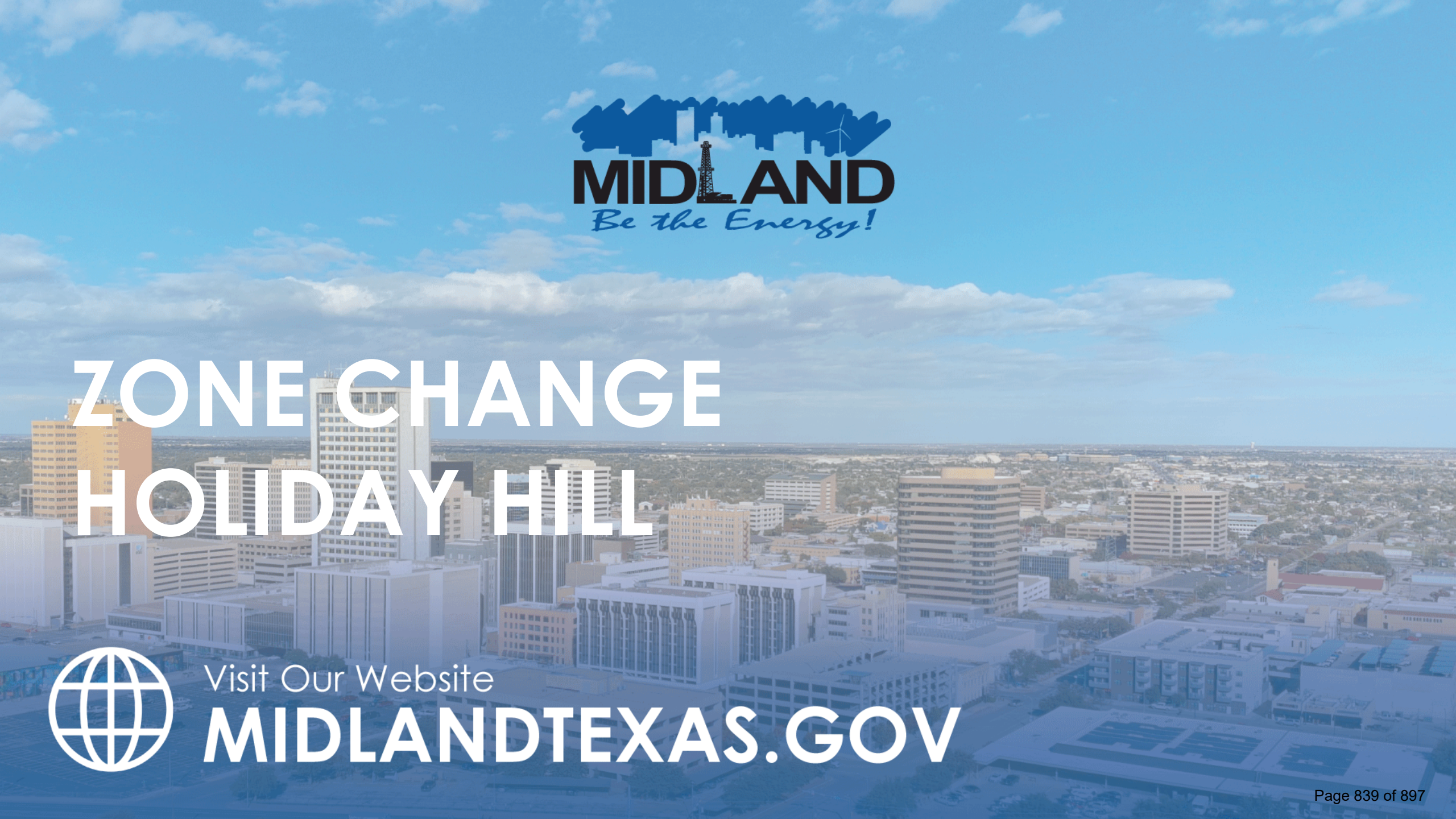
DRAWN BY: BCA
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Know what's below. Call before you dig.

PD SITE PLAN DETAILS

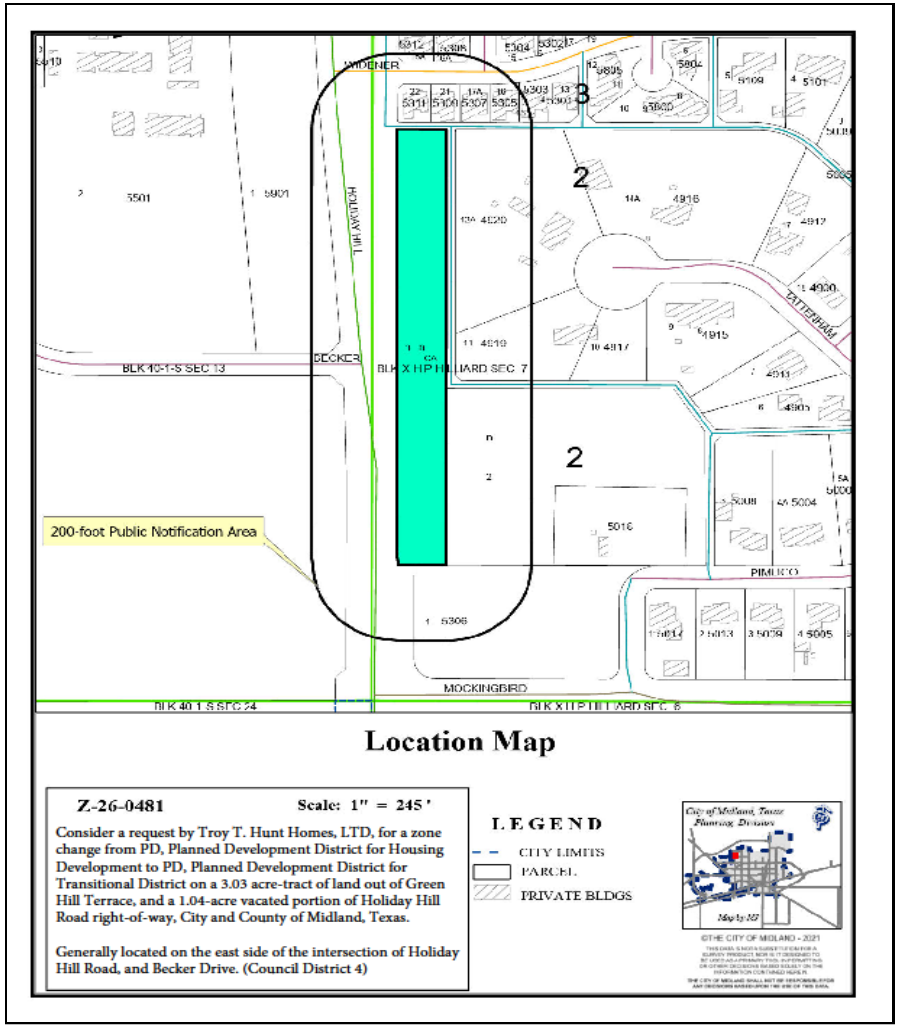
HOLIDAY HILL STORAGE
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CITY AND COUNTY OF MIDLAND, TEXAS

SHEET C110 OF XX


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ZONE CHANGE
HOLIDAY HILL
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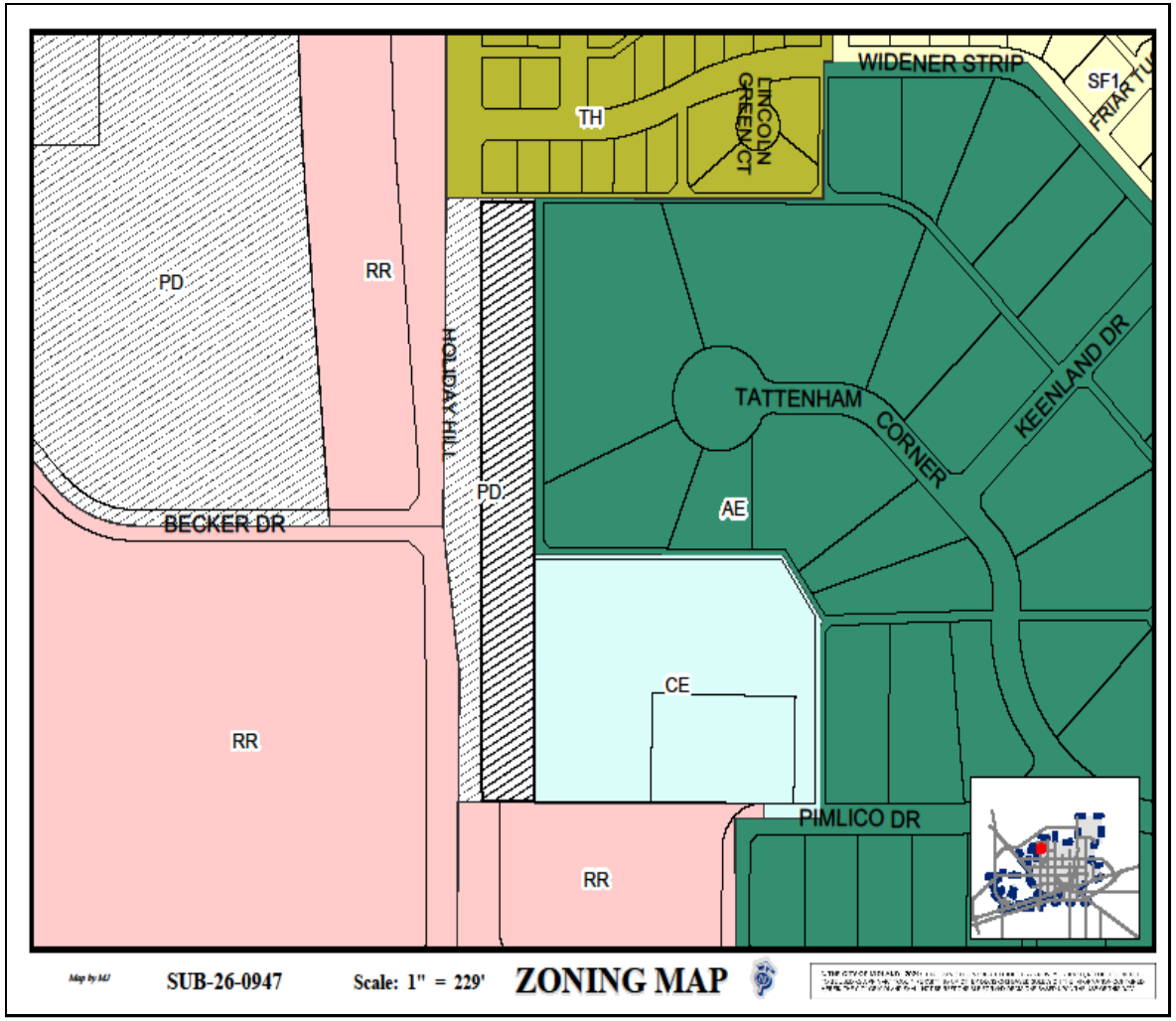
APPLICATION SUMMARY

- **Property Owner:** Troy T. Hunt Homes, LTD
- **Representative:** Ashlee Devine, with Maverick Engineering
- **Location:** Generally located on the east side of the intersection of Holiday Hill Road, and Becker Drive (District 4)
- **Reason for Request:** To develop storage units



ZONING

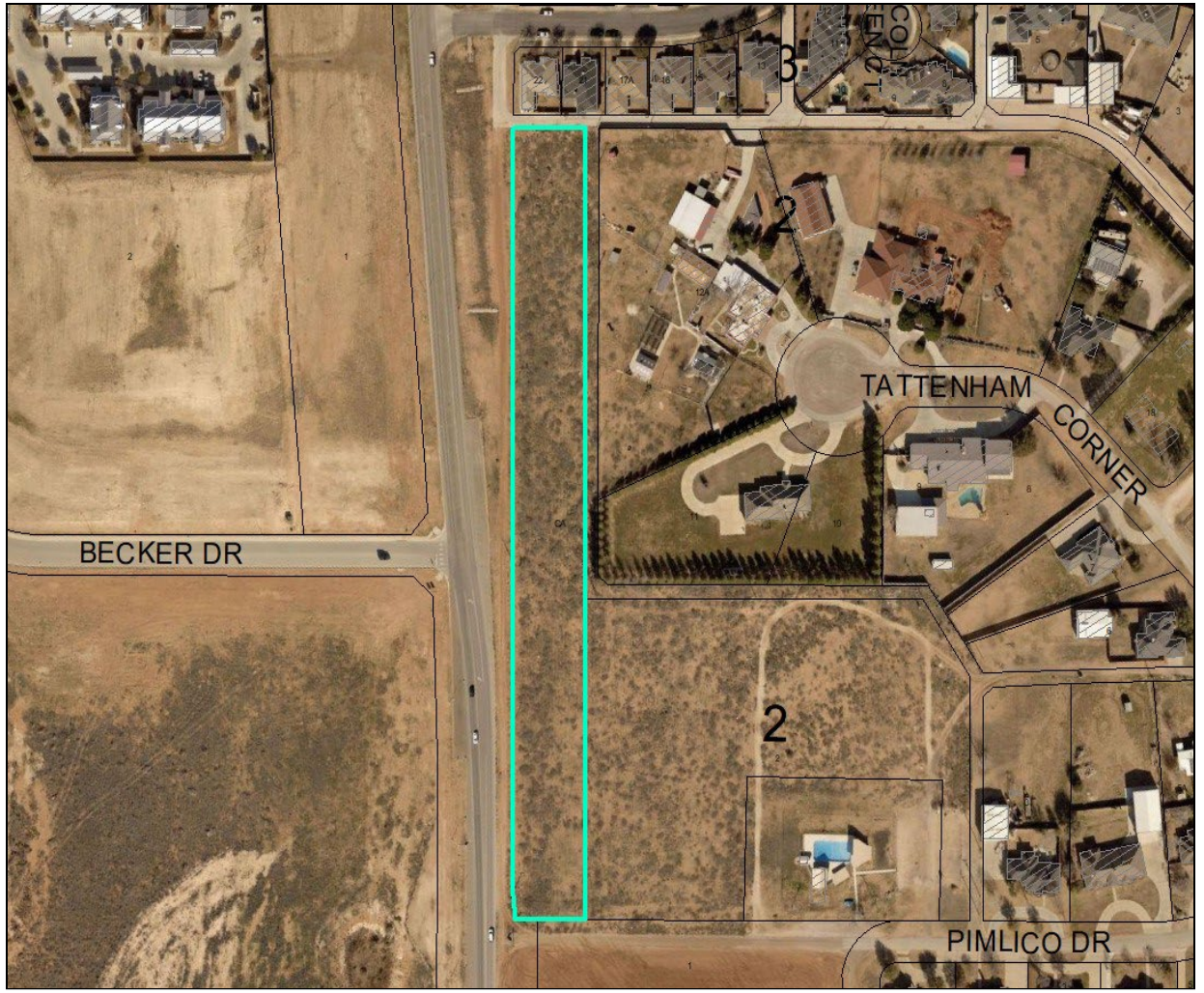
- **Current Zoning:** PD, Planned Development District for housing development
- **Surrounding Zoning:**
  - **North:** TH, Townhouse Dwelling District
  - **South/West:** RR, Regional Retail District
  - **East:** AE, Agricultural Estate District and CE, Country Estate District
- **Proposed Zoning:** PD, Planned Development District for Transitional District



3

LAND USE

- **Current Use:** Vacant
- **Surrounding Uses:**
  - **North/East:** single-family homes
  - **South/West:** Vacant lots
- **Proposed Use:** Storage units



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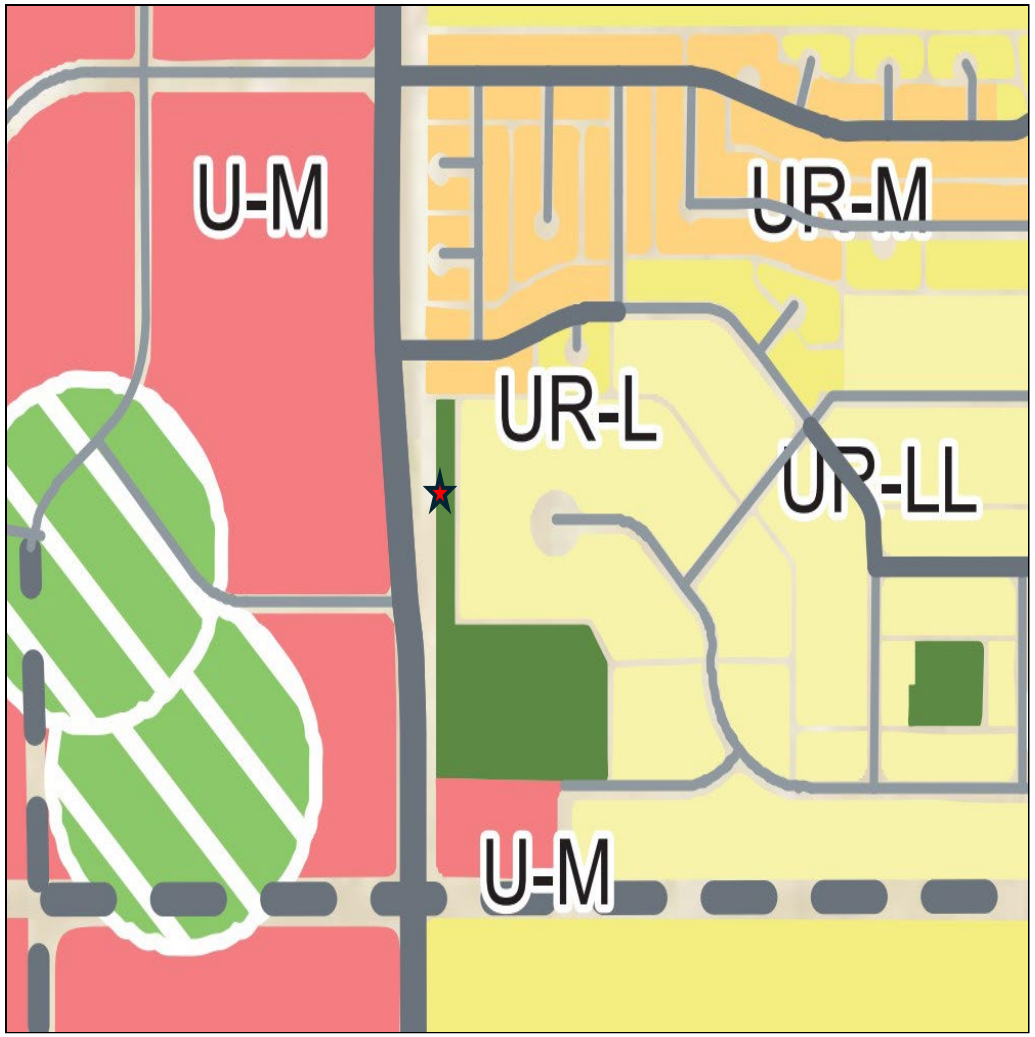


On Holiday Hill, Looking East

MIDLAND
Be the Energy!

COMPREHENSIVE PLAN

- **Land Use Designation:** Park/Open Space
- **Supported Uses:** Limited, primarily natural. Any development is recreational and low impact.
- The request is not compatible with the *Tall City Tomorrow Comprehensive Plan.*



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Be the Energy!

STAFF'S RECOMMENDATION

- No objections were received.
- Staff recommends denial of this request. Should Council approve this Zone Change, staff recommends that it be subject to the following conditions:

A. That the Property shall significantly conform to the site plan attached hereto as Exhibit A.



STAFF'S RECOMMENDATION

B. That the use of the Property for Storage Units, Mini, as such term is defined in Section 11-1-2.01 of the City Code, is hereby allowed.

C. That except to the extent that a building on the Property abuts a property line as shown in the site plan, a masonry screening wall shall be located on the Property where the Property adjoins a residential zoning district. The masonry screening wall shall conform to the specifications attached hereto as Exhibit B.



STAFF'S RECOMMENDATION

D. That to the extent that the Property is used for Storage Units, Mini, as such term is defined in Section 11-1-2.01 of the City Code, no off-street parking shall be required.

E. That the landscaping shall conform to the regulations set forth in Title XI, Chapter 9 of the City Code.

F. That the minimum front yard setback shall be 10 feet four inches (10' 4").



STAFF'S RECOMMENDATION

G. That the minimum side yard setback on the north side of the property shall be zero feet (0').

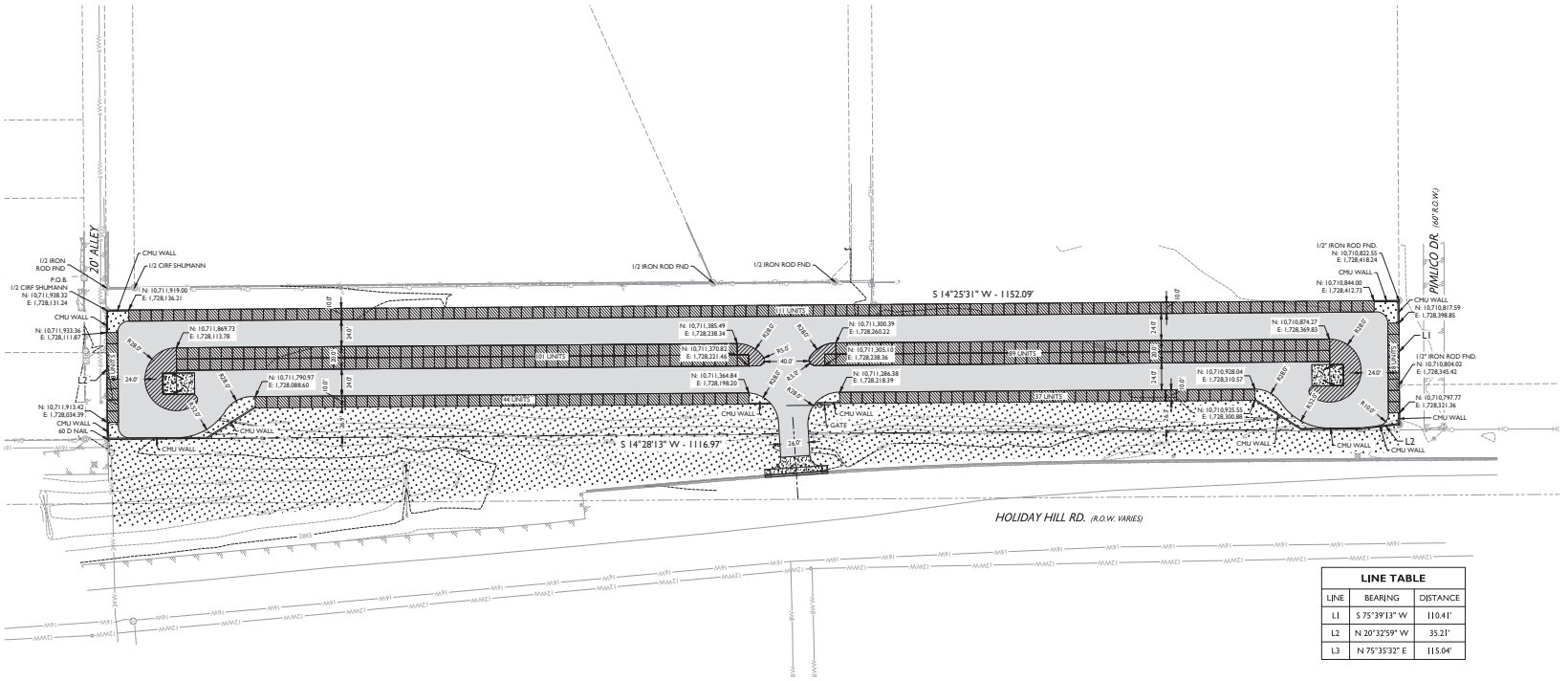
H. That the minimum rear yard setback shall be zero feet (0').



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.





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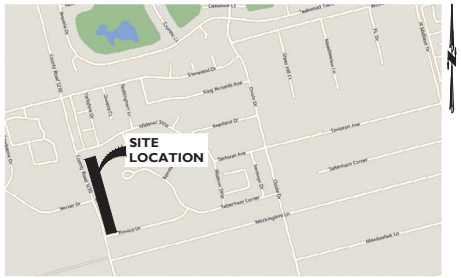
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BY	APPR.	DATE

REVISIONS

DRAWN BY: BC,A
CHECKED BY: CLB
APPROVED BY: CLB
DATE: 01/09/2026
JOB: 250206

811 Know what's below. Call before you dig.

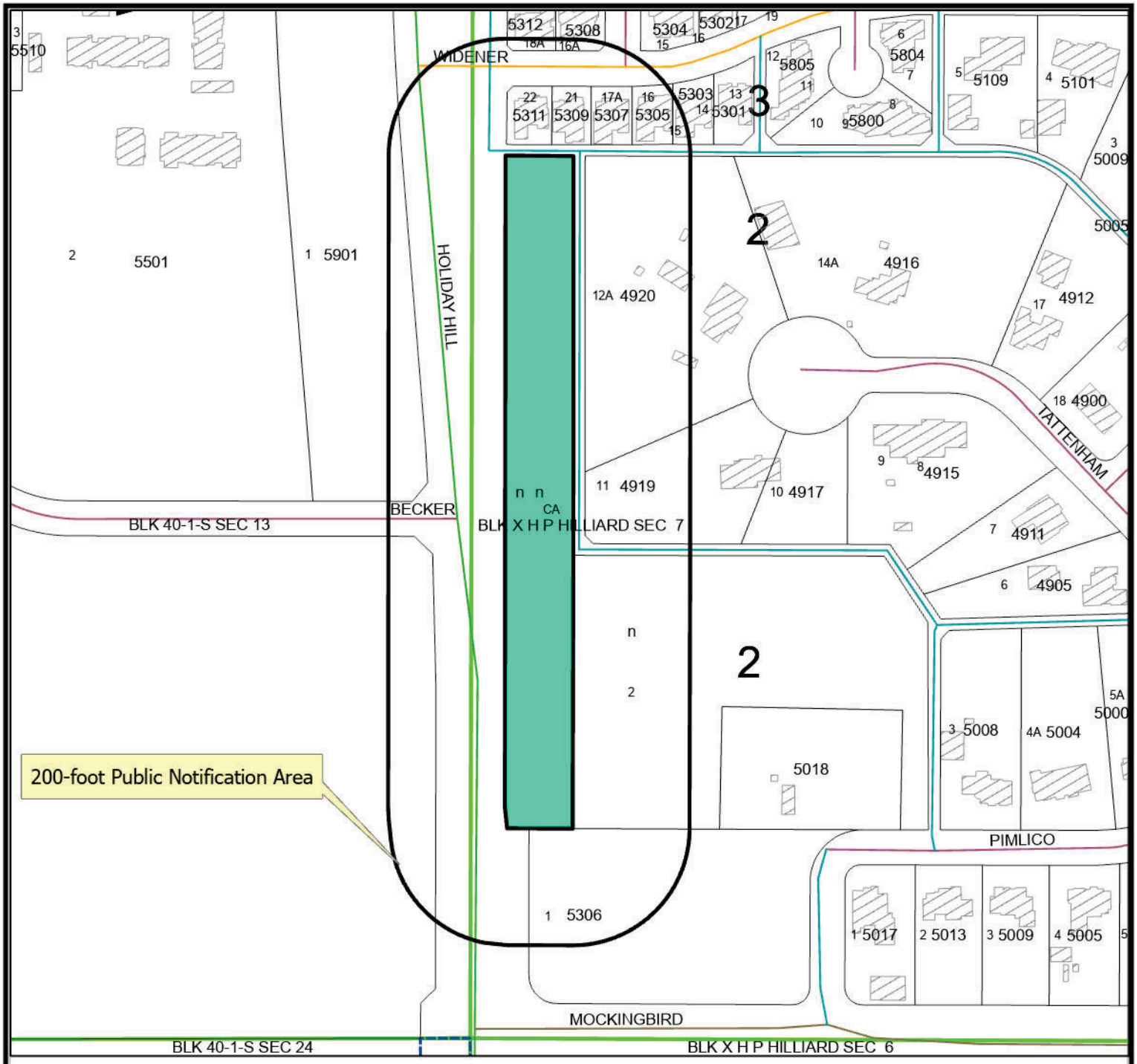
PD SITE PLAN

HOLIDAY HILL STORAGE
XXXX HOLIDAY HILL ROAD
CITY AND COUNTY OF MIDLAND, TEXAS

SHEET C100 OF XX

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F:\2025\250244-TR-CITY OF HUNT HOMES-HOLIDAY HILL STORAGE\EXHIBITS\250244 PD SITE PLAN.DWG



Location Map

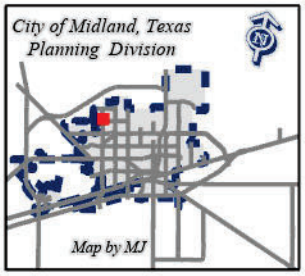
Z-26-0481 **Scale: 1" = 245'**

Consider a request by Troy T. Hunt Homes, LTD, for a zone change from PD, Planned Development District for Housing Development to PD, Planned Development District for Transitional District on a 1.99 acre-tract of land out of Green Hill Terrace, and a 1.04-acre vacated portion of Holiday Hill Road right-of-way, City and County of Midland, Texas.

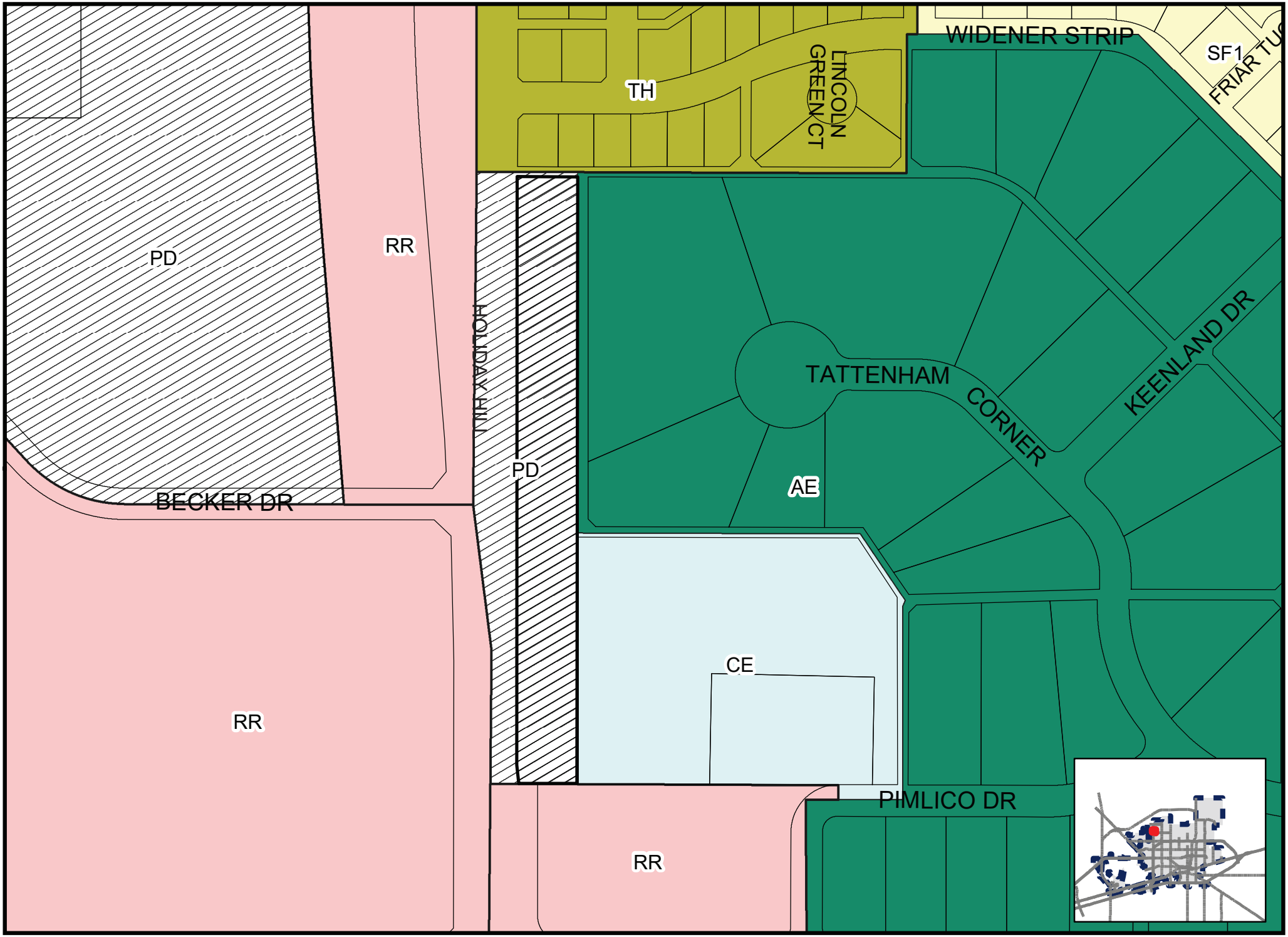
Generally located on the east side of the intersection of Holiday Hill Road, and Becker Drive. (Council District 4)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map by MJ

Z-26-0481

Scale: 1" = 229'

ZONING MAP

© THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISION MADE OR ACTION TAKEN BASED ON THIS DATA.


BECKER DR
TATTENHAM
CORNER
PIMLICO DR



City Council Meeting

Item Number: 29.
Meeting Date: May 12, 2026
To: City Council
From: Isaac Garnett, Community Services Division Manager
Subject: HOLD A PUBLIC HEARING IN ORDER FOR THE CITY OF MIDLAND TO RECEIVE PUBLIC COMMENTS, GUIDANCE AND RECOMMENDATIONS REGARDING THE 2026-2027 CDBG GRANT APPLICATION SUBMISSIONS AND THE FIRST YEAR ACTION PLAN IN ACCORDANCE WITH THE FIVE-YEAR CONSOLIDATED PLAN 2025-2030 (PUBLIC HEARING ONLY)

Purpose:
The purpose of the public hearing is to allow the citizens to participate in the development of the City's 2026/2027 Community Development Program and the Second-Year Action Plan to the Five-Year Consolidated Plan 2025-2030. Past usage of Community Development Block Grant (CDBG) funds, community development and housing needs, and proposed uses of 2026/2027 CDBG funds will be discussed. The CDBG prioritization committee will convene at the earliest possible date to review and make recommendations for funding to the full council.

Recommended Action:
No Action Taken

Fiscal Impact:
No fiscal impact to the City of Midland Budget.

Strategic Priority:
TRANSPARENT & CONSISTENT COMMUNICATION

Discussion:
The City anticipates receiving approximately $996,933 from the U.S. Department of Housing and Urban Development. The city also expects to utilize $40,000 in Program Income and a prior CDBG fund balance of ($100,000) totaling $1,136,933. A minimum of 70% of CDBG funds must be allocated to projects that benefit low and moderate-income persons. Examples of activities eligible for CDBG funding are housing rehabilitation, sidewalk and street improvements, park improvements, code enforcement, lot clearance, economic development and public services. This public hearing is one of two required public hearings. No action will be taken.

Attachments:

A. CDBG Agenda Slides 05-12-2026

Isaac Garnett, Development Services - Community Services	Created/Initiated - 5/1/2026
Elizabeth Triggs, Development Services	Approved - 5/1/2026
Christy Weakland, Finance	Approved - 5/5/2026
Linda Ochoa, Legal	Approved - 5/6/2026
Morris Williams, City Manager	Approved - 5/6/2026
Jose Ortiz, City Manager	Approved - 5/6/2026
Jan Hamilton, City Secretary	Final Approval - 5/6/2026


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CDBG SECOND YEAR ACTION PLAN TO THE FIVE-YEAR CONSOLIDATED PLAN 2025-2030
Visit Our Website
MIDLANDTEXAS.GOV

STRATEGIC PLAN CONNECTION

Goal 2. Set the Standard for a Safe and Secure City

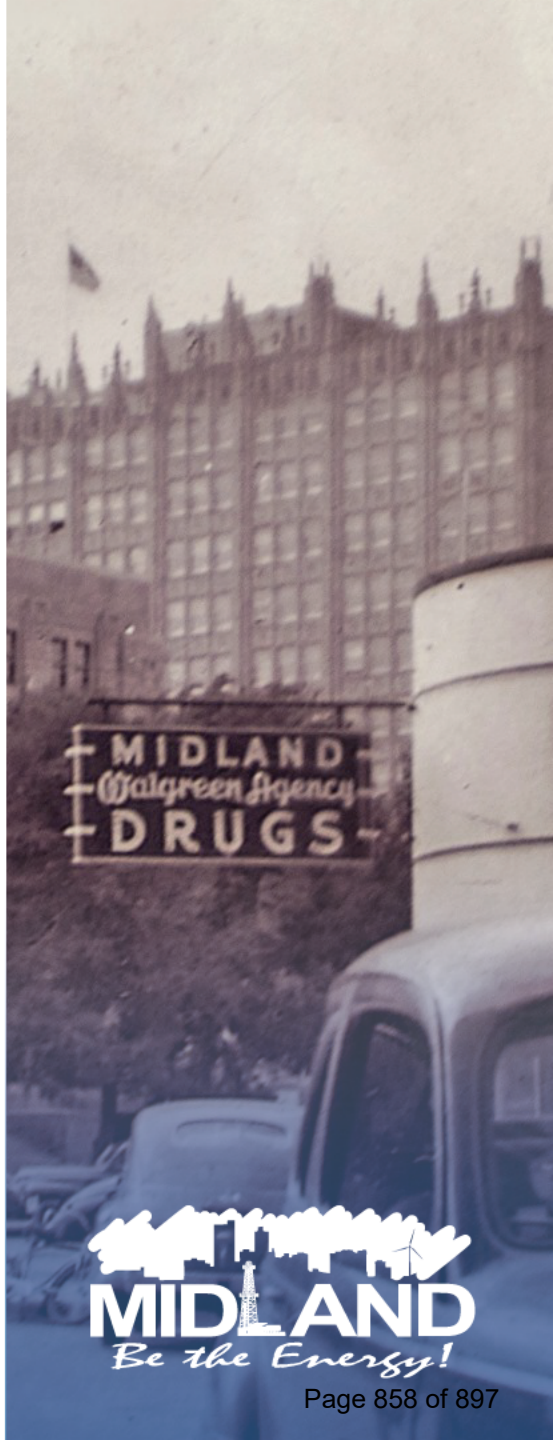
- 2.4 Revitalize neighborhoods

Goal 3. Quality of Life and Place for Recruitment and Retention

- 3.3 Create an attractive and ***inclusive*** living environment

Goal 4. Transparent and Consistent Communication

- 4.4 Advance Two-Way Communication of Key Message



WHERE WE ARE IN THE PROCESS

Hold **first public hearing** (May 12th) to:

- Present 2026-2027 CDBG proposals (18 applications)
- Gather public input to guide funding decisions
- Begin formulation of the Second Year Annual Action Plan (PY2026) as part of the Five-Year Consolidated Plan (PY2025–PY2030)



SECOND YEAR ACTION PLAN

- Outlines specific priorities and objectives for Program Year 2026
- Details how HUD-Community Development Block Grant (CDBG) funds will be allocated through contracts
- Identifies programs and activities that meet community development needs
- Supports implementation of the Five-Year Consolidated Plan (2025–2030)



FEDERAL PROGRAM OBJECTIVES & OUTCOMES

Each activity must meet:

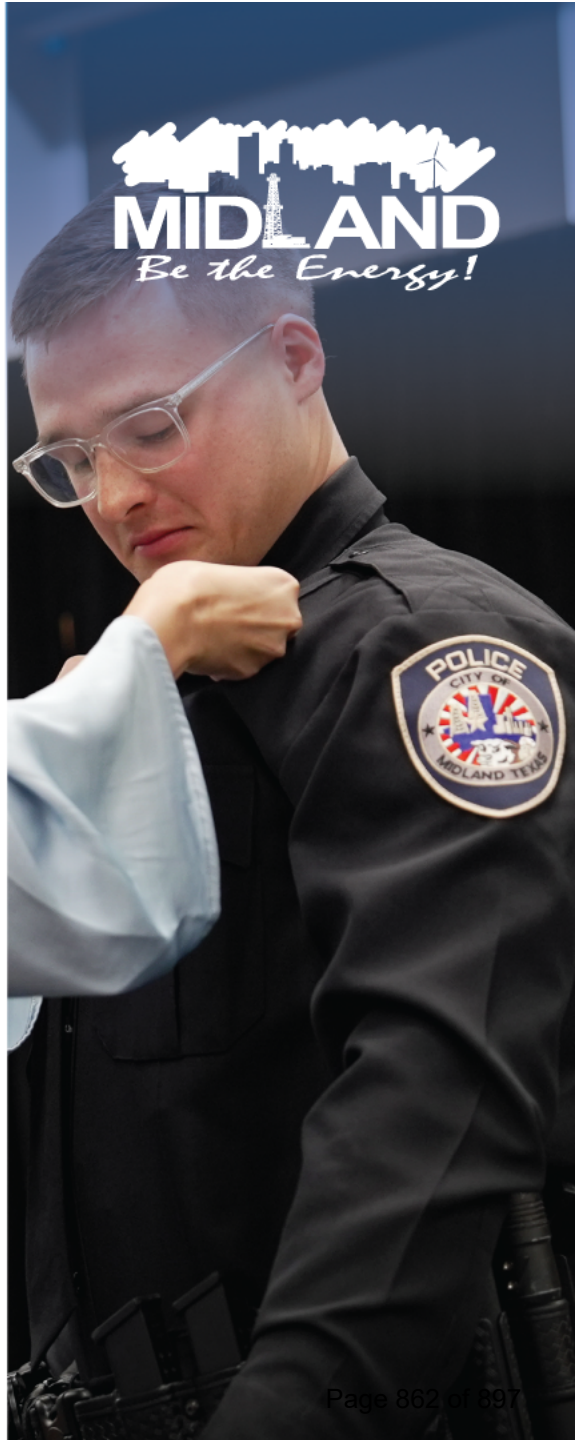
- **One of three federal objectives:**
  1. Decent Housing
  2. Suitable Living Environment
  3. Economic Opportunity
- **And one of three outcomes:**
  1. Availability / Accessibility
  2. Affordability
  3. Sustainability



PROGRAM OVERVIEW (PY26)

Estimated HUD Allocation	$996,933
Program Income	$40,000
Prior-Year Fund Balance	$100,000
Total Available	**$1,136,933**

- 18 applications received; **$2,377,858** requested
- Application Period: April 3 – 30, 2026
- Public outreach conducted through meetings, surveys, and MRT notices



SUMMARY OF APPLICATIONS BY CATEGORY (PY26)

- **Community Programs & Support Initiatives**
- 10 applications | ***$687,458*** requested | 8 organizations
- **Facilities & Park Improvements**
  4 applications | ***$780,400*** requested | 3 organizations
- **Infrastructure Improvements**
  2 applications | ***$640,000*** requested | 2 organizations
- **Housing Assistance**
  2 applications | ***$270,000*** requested | 1 organization



COMMUNITY PROGRAMS & SUPPORT INITIATIVES

1. **Casa de Amigos – SE Senior Center Nutrition Program**
   Request: ***$70,000*** | Program Budget: $235,344
   Provides daily meals and food boxes to seniors across three sites
2. **Casa de Amigos – Home Cleaning Program**
   Request: ***$60,000*** | Program Budget: $149,850
   Deep cleaning and maintenance for 100 low-income seniors and disabled adults



COMMUNITY PROGRAMS & SUPPORT INITIATIVES

3. **Casa de Amigos – Senior Water Fitness & Health Program**
   Request: ***$35,460*** | Program Budget: $35,460
   Collaboration with COM Aquatics for water therapies
4. **Mission Center Adult Day Service – Take Home Terrific Program**
   Request: ***$46,000*** | Program Budget: $139,000
   Evening meal delivery and wellness checks for 110 mobility-impaired & intellectually disabled individuals



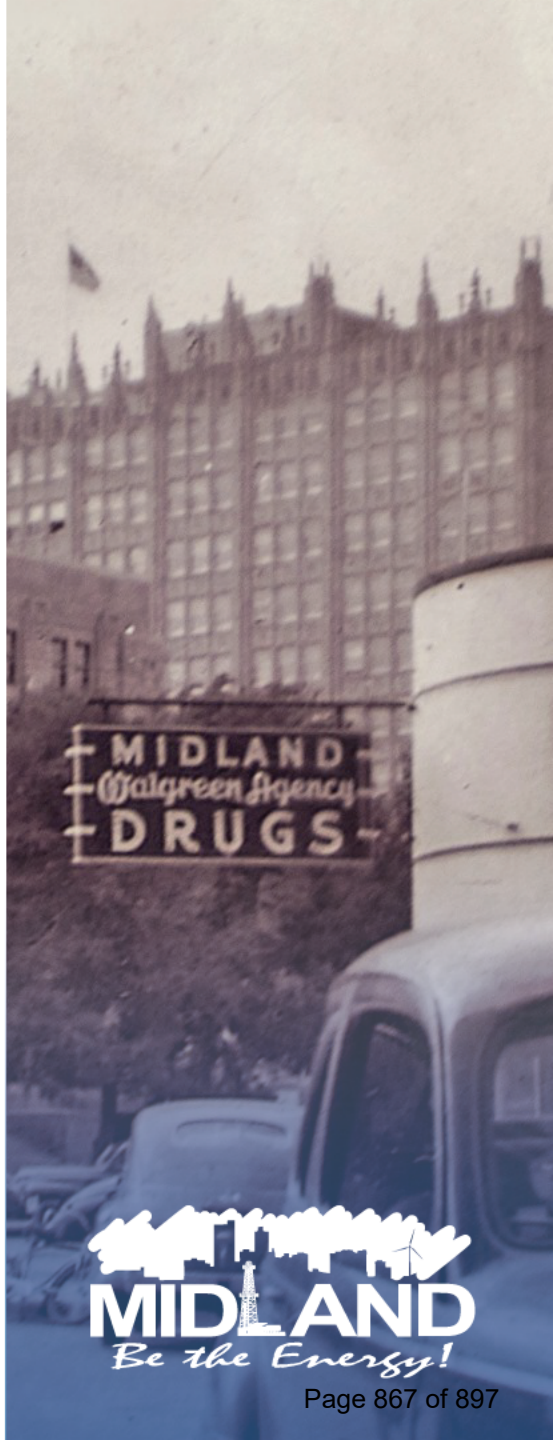
COMMUNITY PROGRAMS & SUPPORT INITIATIVES

5. **Senior Life Midland – Share A Meal (Meals on Wheels) Program**
   Request: ***$85,000*** | Program Budget: $1,69,104
   Delivers 1000 meals per day to homebound seniors
6. **The Salvation Army – Nutrition & Support Services for Homeless**
   Request: ***$100,000*** | Program Budget: $533,250
   Provides ~300 meals/day and staffing for homeless feeding program ~118,500 per year.



COMMUNITY PROGRAMS & SUPPORT INITIATIVES

7. **West Texas Food Bank – Drive-Thru Food Pantry**
   Request: ***$15,000*** | Program Budget: $38,755
   Distributes 25–30 lb. pantry boxes to ~2,160 low-income individuals via drive-thru and partners
8. **Church on Wheels – Breaking Bread Ministries Bus Pass & Referral Program**
   Request: ***$21,700*** | Project Budget: $21,700
   Assist 720 individuals experiencing homelessness to access to social services in a timely manner



COMMUNITY PROGRAMS & SUPPORT INITIATIVES

9. **Development Services/Code Officer III**
   Request: ***$150,000*** | Program Budget: $150,000
   Code Enforcement Officer performs field inspections, minimum housing standards related to structures in districts 2 & 4

10. **Thriving United Peer Support Program**
    Request: ***$104,298*** | Program Budget: $332,562
    Recovery services for vulnerable populations



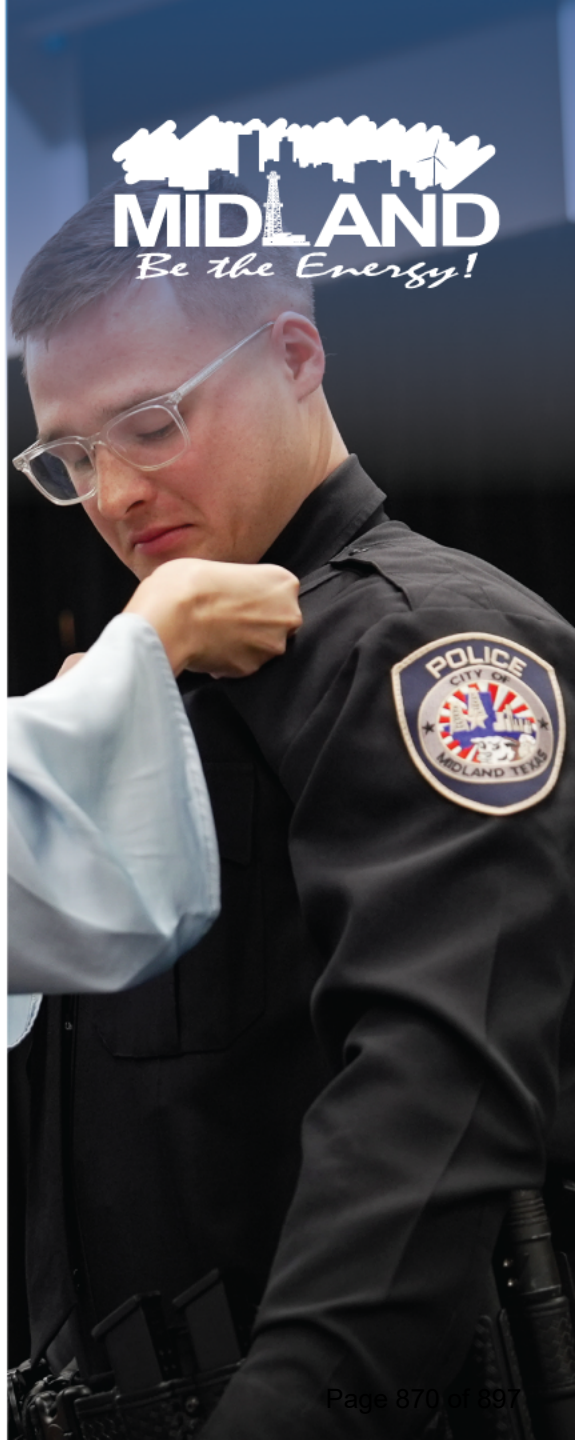
FACILITIES & PARK IMPROVEMENTS

1. **City of Midland Housing Authority – Langtry Village Upgrades**
   Request: ***$25,400***| Project Budget: $25,400
   Rehabilitation of parking lot for elderly/disabled housing.
2. **City of Midland Parks & Recreation – Dunagan Park Pavilion**
   Request: ***$75,000*** | Project Budget: $75,000
   New pavilion facility for park users



FACILITIES & PARK IMPROVEMENTS

3. **Young Men's Christian Association Midland**
   Request: ***$200,000*** | Project Budget: $600,00
   Design and construction documents for expanding access to aquatic facilities & programming.
4. **City of Midland Parks & Recreation – MLK Rec Center Parking Lot Replacement**
   Request: ***$480,000*** | Project Budget: $480,000



INFRASTRUCTURE IMPROVEMENTS

1. **Midland Habitat for Humanity – Fairgrounds Subdivision Infrastructure**
   Request: ***$400,000*** | Project Budget: $4,000,000
   Streets, ADA ramps and curbs for 100 affordable housing development.
2. **City of Midland Engineering – New York Street Sidewalk Project**
   Request: ***$240,000*** | Project Budget: $240,000
   Sidewalks improvements from New York Ave & Fairgrounds Ave to New York Ave & Carver Ave.



HOUSING ASSISTANCE

1. **City of Midland Community Development – First-Time Homebuyer Program**
   Request: ***$150,000*** | Program Budget: $150,000
   Down payment assistance for 10 low-income first-time homebuyers.
2. **City of Midland Community Development – Minor Home Repair Program**
   Request: ***$120,000*** | Program Budget: $120,000
   Up to $10,000 per home for repairs to 12 low-income owner-occupied residences.



NEXT STEPS

- Public Hearing #2 (June 10)
- Publish Draft Action Plan (June – July)
- Prioritization Committee Meeting(s) (May – June)
- Prioritization Committee Recommendation (June)
- City Council Considers Final Action Plan (July)
- Submit Final Action Plan to HUD (by Aug 15)
- Begin Funded Projects (starting Oct 1)



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 30.
Meeting Date: May 12, 2026
To: City Council
From: Laurie Williams, Director of Parks and Recreation
Subject: RESOLUTION OF THE CITY COUNCIL OF MIDLAND, TEXAS, MAKING CERTAIN FINDINGS, PURSUANT TO CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE, THAT THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO THE USE OF AN APPROXIMATE 1.928-ACRE TRACT LOCATED IN LOT 11A, BLOCK 7, HALEY HEIGHTS, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF GOODE STREET AND GRIFFIN AVENUE); MAKING CERTAIN FINDINGS REGARDING THE LEASE OF SAID PROPERTY TO BOYS & GIRLS CLUB OF THE PERMIAN BASIN; AND AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT WITH BOYS & GIRLS CLUB OF THE PERMIAN BASIN

Purpose:
Resolution of the City Council of Midland, Texas, making certain findings, pursuant to Chapter 26 of the Texas Parks and Wildlife Code, that there is no feasible and prudent alternative to the use of an approximate 1.928-acre tract located in Lot 11A, Block 7, Haley Heights, an addition to the City of Midland, Midland County, Texas (generally located northeast of the intersection of Goode Street and Griffin Avenue); making certain findings regarding the lease of said property to Boys & Girls Club of the Permian Basin; and authorizing the negotiating and execution of a lease agreement with Boys & Girls Club of the Permian Basin.

Recommended Action:
APPROVAL

Fiscal Impact:
The lease agreement will require payment of $1 per month for the duration of the lease. The original lease term is ten (10) years with an option for a ten (10) year renewal.

Strategic Priority:
QUALITY OF LIFE AND PLACE

Discussion:
Chapter 26 of the Texas Parks and Wildlife Code requires the Midland City Council to hold a public hearing regarding the use of the property as proposed by the Boys & Girls Club of the Permian Basin (the "Club") since the property is designated as a park. The Club has operated

at this location under a prior lease agreement for thirty years. The Club constructed the facility on the property, and the facility is used for the Club's educational programs, after-school programs, and sports activities that benefit the community. The Club desires to continue to lease the property for these purposes.

Attachments:

A. RESOLUTION WITH EXHIBITS - Chapter 26 Public Hearing Reso - Taylor Park Lease Agreement Reso w Exh
B. Exhibit A Taylor Park
C. Boys and Girls Club notification

Laurie Williams, Parks & Recreation	Created/Initiated - 5/1/2026
Elizabeth Triggs, Development Services	Approved - 5/1/2026
Linda Ochoa, Legal	Approved - 5/5/2026
Morris Williams, City Manager	Approved - 5/5/2026
Jose Ortiz, City Manager	Approved - 5/5/2026
Jan Hamilton, City Secretary	Final Approval - 5/5/2026

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF MIDLAND, TEXAS, MAKING CERTAIN FINDINGS, PURSUANT TO CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE, THAT THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO THE USE OF AN APPROXIMATE 1.928-ACRE TRACT LOCATED IN LOT 11A, BLOCK 7, HALEY HEIGHTS, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF GOODE STREET AND GRIFFIN AVENUE); MAKING CERTAIN FINDINGS REGARDING THE LEASE OF SAID PROPERTY TO BOYS & GIRLS CLUB OF THE PERMIAN BASIN; AND AUTHORIZING THE NEGOTIATION AND EXECUTION OF A LEASE AGREEMENT WITH BOYS & GIRLS CLUB OF THE PERMIAN BASIN

WHEREAS, Boys & Girls Club of the Permian Basin (formerly known as Boys & Girls Club of Midland, Inc.) (the "*Club*") has requested that the City of Midland, Texas, agree to lease certain City-owned property with an address of 1321 Goode Street, more particularly described as an approximate 1.928-acre tract located in Lot 11A, Block 7, Haley Heights, an addition to the City of Midland, Midland County, Texas (generally located northeast of the intersection of Goode Street and Griffin Avenue) (the "*Property*"), as shown on Exhibit A, which is attached hereto and incorporated herein for all purposes; and

WHEREAS, the Property is currently occupied by the Club as a holdover pursuant to that certain Ground Lease Agreement dated May 29, 1995, between the City and the Club, which requires the Property to be used for the implementation of youth development and recreational programs sponsored by the Club; and

WHEREAS, if the Property is leased to the Club under the terms and conditions of a new lease agreement, the Club intends to use the Property for the implementation of educational programs, after-school programs, and sports activities for the benefit of the community; and

WHEREAS, Chapter 26 of the Texas Parks and Wildlife Code requires that any time a public park is put to a use other than public park use for the purpose of a program or project, the governing body must make a finding, after notice and a hearing, that there

is no feasible and prudent alternative to the proposed use and that such program or project includes all reasonable planning to minimize harm to the Property as a park resulting from the proposed use; and

WHEREAS, a public hearing before the City Council was held on this matter in the City Council Chambers on May 12, 2026, in accordance with Chapter 26 of the Texas Parks and Wildlife Code; and

WHEREAS, notice of such public hearing was published in accordance with Texas Parks and Wildlife Code § 26.002(d) on April 17, 2026, April 24, 2026, and May 1, 2026, as evidenced by the confirmations and affidavits collectively attached hereto as Exhibit B and incorporated herein for all purposes; and

WHEREAS, notice of the project and the date and place of the public hearing were given in writing to the person, organization, department, or agency that has supervision of the Property at least thirty (30) days before the date of the public hearing in accordance with Chapter 26 of the Texas Parks and Wildlife Code, as evidenced by the letter attached hereto and incorporated herein as Exhibit C; and

WHEREAS, the City Council finds that there is no feasible and prudent alternative to said use of the Property; and

WHEREAS, the City Council finds that said use includes all reasonable planning to minimize harm to the Property and its use as a park; and

WHEREAS, the City Council finds and determines that, for purposes of the City's lease of the Property pursuant to Texas Local Government Code § 253.011, the Club is a nonprofit organization and the lease agreement covering the Club's use of the Property shall conform with the requirements set forth in Tex. Loc. Gov't Code § 253.011(d); and

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager to negotiate and execute a lease agreement with the Club for the lease of the Property;

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

SECTION ONE. That the above recitals are hereby approved and adopted by the City Council of the City of Midland, Texas.

SECTION TWO. That in accordance with Chapter 26 of the Texas Parks and Wildlife Code, the City Council finds that: (i) there is no feasible and prudent alternative to the Club's use of the Property, said use being for the implementation of educational programs, after-school programs, and sports activities for the benefit of the community (the "*Project*"); and (ii) that said Project includes all reasonable planning to minimize harm to the Property as a park.

SECTION THREE. To the extent required by Chapter 26 of the Texas Parks and Wildlife Code, the City Council finds that there is no feasible and prudent alternative to the City's lease of the Property to the Club. Further, the City Council finds that the lease of the Property to the Club includes all reasonable planning to (i) minimize harm to the Property and (ii) enhance and improve the general public's use and enjoyment of the Property.

SECTION FOUR. That the City Manager or his designee is hereby authorized and directed to negotiate and execute, on behalf of the City of Midland, Texas, a lease agreement between the City of Midland, Texas, and the Club for the lease of the Property; provided, however, that said lease agreement shall not become effective until approved by the City Council.

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., 2026, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary
RECOMMENDED AND APPROVED:

_____
Tommy Gonzalez, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Laurie Williams, Director of Parks and Recreation

APPROVED AS TO FORM ONLY:

_____
Nicholas Toulet, City Attorney


W Carter Ave
S Goode St
S Goode St
Johnston St
Johnston St
Collins
Taylor Park
Taylor Park
Boys & Girls Club
of Midland - Taylor...
1321 S. Goode St
W Griffin Ave
EXHIBIT A - BOYS AND GIRLS CLUB AT
TAYLOR PARK

HEARST | COMMUNITY MEDIA GROUP

Midland Reporter-Telegram

ORDER CONFIRMATION

Today's Date:	4/15/2026
P.O. Number:	
Description:	Notice of Lease of Park Land
Campaign Id:	11119210
Sales Rep:	kevin.scannell@hearstnp.com

Bill To

CITY OF MIDLAND -PLANNING
PO BOX 1152
MIDLAND, TX 79702
Tel: 432 685-7409
Account Id: 21001988

Advertiser

CITY OF MIDLAND -PLANNING
PO BOX 1152
MIDLAND, TX 79702
Tel: 432 685-7409
Account Id: 21001988

Additional Details

Order Contact Name:	
Comments:	

Cost Summary

Gross Amount:	$ 332.97
Agency Commission:	$ 0.00
Net Amount:	$ 332.97
Sales Tax:	$ 0.00
Order Total:	**$ 332.97**

Prepayment Details

Pre-Payment Amount	Pre-Payment Date	Pre-Payment Card

No Pre-Payments on this order

Print

Product	Section / Position / Classified Category	Start	End	Color	Ad Size(s)
Midland Reporter Online	Section Placeholder Any Legals	4/17/2026	5/8/2026		
Midland Reporter-Telegram	Section Placeholder Any Legals	4/17/2026	4/17/2026		3x11.382
Midland Reporter-Telegram	Section Placeholder Any Legals	4/24/2026	4/24/2026		3x11.382
Midland Reporter-Telegram	Section Placeholder Any Legals	5/1/2026	5/1/2026		3x11.382

Exhibit B

COPY OF ADVERTISEMENT

Content shown below may not be actual size and is scaled for proofing.

PROPOSED CITY COUNCIL CONSIDERATION OF LEASE OF PUBLIC PARK PROPERTY

Pursuant to Chapter 26 of the Texas Parks and Wildlife Code, notice is hereby given to the public that the Midland City Council will hold a public hearing in the Council Chambers located at 300 North Loraine Street, Midland, Texas, at 10:00 A.M. on May 12, 2026, to consider the lease of certain City-owned public park property described as follows:

1321 Goode Street, more particularly described as a certain 1.928-acre tract located in Lot 11A, Block 7, Haley Heights Addition, City and County of Midland, Texas.

Campaign: 11119210

Hearst Community Media Group

Midland Reporter-Telegram

15 Smith Road, Suite 1004, Midland, TX 79705

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS

On Behalf of:
CITY OF MIDLAND -PLANNING
PO BOX 1152
MIDLAND, TX 79702

STATE OF TEXAS COUNTY OF MIDLAND

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared, a Newspaper Representative for the Hearst Newspapers II, LLC – dba: Midland Reporter-Telegram, a newspaper published in Midland County, Texas and generally circulated in the Counties of: Midland, Ector, Howard, Crane, Glasscock, Martin, Upton, and Andrews Counties and that the publication, of which the annexed herein, or attached to, is a true and correct copy, was published to:

Legal Notices

as published in the issue(s) of:

Customer ID	Customer	Campaign ID	Publication	Pub Date
21001988	CITY OF MIDLAND -PLANNING	11119210	Midland Reporter-Telegram	4/17/2026 4/24/2026 5/1/2026

Newspaper Representative (signature)

Kevin Scannell
Newspaper Representative (print)

Sworn and subscribed to before me, this 1st day of May A.D. 2026.

Sheri Rycerz
Notary Public in and for the State of Texas

SHERI RYCERZ
Notary Public, State of Texas
Comm. Expires 01-16-2028
Notary ID 134717261

HEARST | COMMUNITY MEDIA GROUP

Midland Reporter-Telegram

ORDER CONFIRMATION

Today's Date:	4/30/2026
P.O. Number:	
Description:	Notice of Lease of Park Land
Campaign Id:	11119210
Sales Rep:	kevin.scannell@hearstnp.com

Bill To

CITY OF MIDLAND -PLANNING
PO BOX 1152
MIDLAND, TX 79702
Tel: 432 685-7409
Account Id: 21001988

Advertiser

CITY OF MIDLAND -PLANNING
PO BOX 1152
MIDLAND, TX 79702
Tel: 432 685-7409
Account Id: 21001988

Additional Details

Order Contact Name:	
Comments:	

Cost Summary

Gross Amount:	$ 332.97
Agency Commission:	$ 0.00
Net Amount:	$ 332.97
Sales Tax:	$ 0.00
Order Total:	**$ 332.97**

Prepayment Details

Pre-Payment Amount	Pre-Payment Date	Pre-Payment Card

No Pre-Payments on this order

Print

Product	Section / Position / Classified Category	Start	End	Color	Ad Size(s)
Midland Reporter Online	Section Placeholder Any Legals	4/17/2026	5/8/2026		
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Midland Reporter-Telegram	Section Placeholder Any Legals	5/1/2026	5/1/2026		3x11.382

Campaign: 11119210

COPY OF ADVERTISEMENT

PROPOSED CITY COUNCIL CONSIDERATION OF LEASE OF PUBLIC PARK PROPERTY

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MIDLAND COLLEGE SOFTBALL

Lady Chaps sweep Wayland Baptist in doubleheader

By Oscar LeRoy
SPORTS EDITOR

PLAINVIEW – The Midland College softball team extended its winning streak to 10 games with a road doubleheader sweep of Wayland Baptist on Tuesday.

The Lady Chaparrals rolled to a 13-1 win in five innings in the first game, before getting a 9-5 victory to cap off the day.

MC (30-4) out-hit WBU, 14-3, in the first game as Emma Davis was 2-for-4 with a home run, three RBI and two runs scored. Midland High grad Avrey Ochoa was 2-for-2 with a double, triple, RBI and three runs scored; Andrews grad Alexys Cornejo was 3-for-4 with a double, RBI and two runs scored; Suri Flores was 2-for-3 with a run scored; Adelina Noriega homered and drove in three runs; and Sofia Velez had a double and drove in two runs.

Skylar Finlayson got the win in the circle after she allowed one run on three hits and struck out seven over five innings.

Noriega led the Lady Chaps' offense in the second game as she went 3-for-4 with two RBI and a run scored. Cornejo was 2-for-3 with a walk and two RBI; Suri Flores was 2-for-5 with an RBI and a run scored; Hannah Flores had a triple and drove in two runs; and Davis had two RBI.

Anays Perez got the win for MC.

The Lady Chaps resume Western Junior College Athletic Conference play at 1 p.m. Friday when they travel to face Howard College.

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Q&A

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LEGAL NOTICES mrtlegals@hearstnp.com 432-687-8888

Legals/Public Notices | Legals/Public Notices | Legals/Public Notices

NOTICE OF APPLICATION FOR OIL & GAS SURFACE COMMINGLE PERMIT

APACHE CORPORATION, 2000 W. Sam Houston Pkwy S. Houston, Texas 77042 is applying to the Railroad Commission of Texas for a permit to amend surface commingle permit 7989. Production will be commingled into a facility located in Railroad Commission District 08 in Howard County for the following leases: Wyndham A1 (59253), Wyndham Unit (43097), Colonial Unit A1 (48796), Colonial Unit A2 (48872), and Colonial Unit (58668) for which production from all wells will be allocated by well test using a bulk test method. All leases are produced from the Spraberry (Trend Area) field. LEGAL AUTHORITY: Pursuant to Statewide Rules of the Oil & Gas Division 26 & 27 of the Railroad Commission of Texas. Requests for public hearing from persons who can show they are adversely affected, or requests for further information concerning any aspect of the application should be submitted in writing, within 21 days of publication, to Railroad Commission of Texas, Oil & Gas Division, P-17 Dept, P O Box 12967, Capitol Station, Austin, Texas 78711 (Telephone 512-463-6792).

NOTICE OF APPLICATION FOR EXCEPTION TO SWR 26/27 SURFACE COMMINGLING PERMIT:

Notice is hereby given that Diamondback E&P LLC (RRC P-5 #217012) has filed with the Texas Railroad Commission the following P-17 Application for the Exception to SWR 26 and/or 27 to surface commingle production from oil and gas SPAATZ 38-47 A1DN (DP 908072), SPAATZ 38-47 A1M (DP 908071), SPAATZ 38-47 B 1LS (DP 908073), SPAATZ 38-47 C 2DN (DP 908075), SPAATZ 38-47 C2JM (DP 908074), SPAATZ 38-47 D 2LS (DP 908076), SPAATZ 38-47 E 2WB (DP 908077), SPAATZ 38-47 F3DN (DP 908078), SPAATZ 38-47 G3JM (DP 908079) and SPAATZ 103 (Lease 63425) to the Crossbow Battery. All wells are in the Spraberry (Trend Area) field in Martin County, Texas. This application is for off lease storage, common separation, common storage and casinghead gas metering by allocation by well test. Production will be allocated by W-10 Tests. Any royalty or working interest owners who have not received written notification, please consider this your Notice of Application. If you have objections to the issuance of this permit, you may submit a letter to P-17 Department, Railroad Commission of Texas, PO Box 12967, Austin, Texas 78711. Unless the Railroad Commission receives a protest to this application, the Commission may issue a permit within 21 days following the date of last publication.

ORDINANCE NO. 10731

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 35.05-ACRE TRACT OF LAND OUT OF SECTION 25, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT TO MH, MANUFACTURED HOUSING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH FAIRGROUNDS ROAD, APPROXIMATELY 650 FEET NORTH OF EAST CUTHBERT AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10734

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 3, BLOCK 3, CORPORATE PLAZA ADDITION, SECTION 2, AND LOT 2B, BLOCK 3, CORPORATE PLAZA ADDITION, SECTION 19, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A TRANSITION DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF SPRING PARK DRIVE AND EDWARDS STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10735

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.82-ACRE TRACT OF LAND OUT OF LOT 3, BLOCK 1, LOT 2A, BLOCK 43, AND LOT 1A, BLOCK 44, SOUTH PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO 2F, TWO-FAMILY DWELLING (DUPLEX) DISTRICT GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF EAST HICKS AVENUE AND SOUTH FORT WORTH STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10736

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 4, SOUTH PARK ADDITION, AND TRACT 3, PRIMITIVE BAPTIST CHURCH TRACT, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-2, SINGLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF EAST DAKOTA AVENUE AND SOUTH ATLANTA STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10737

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 16.29-ACRE TRACT OF LAND OUT OF SECTION 30, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-2, SINGLE-FAMILY DWELLING DISTRICT, IN PART, SF-3, SINGLE-FAMILY DWELLING DISTRICT, IN PART, AND RR, REGIONAL RETAIL DISTRICT, IN PART, TO C, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH FAIRGROUNDS ROAD, APPROXIMATELY 1,365 FEET NORTH OF EAST WADLEY AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10738

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 61.85-ACRE TRACT OF LAND OUT OF SECTION 30, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER, IN PART, PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, IN PART, MF-16, MULTIPLE-FAMILY DWELLING DISTRICT, IN PART, RR, REGIONAL RETAIL DISTRICT, IN PART, SF-2, SINGLE-FAMILY DWELLING DISTRICT, IN PART, AND SF-3, SINGLE-FAMILY DWELLING DISTRICT, IN PART, TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH FAIRGROUNDS ROAD AND EAST LOOP 250 NORTH); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

LEGAL NOTICES mrtlegals@hearstnp.com 432-687-8888

Legals/Public Notices | Legals/Public Notices | Legals/Public Notices

CITATION BY PUBLICATION

THE STATE OF TEXAS
NOTICE TO UNKNOWN HEIRS OF FLICK HARPER, DECEASED

"NOTICE: YOU HAVE BEEN SUED. You are commanded to appear and defend such suit by filing a written answer to the petition at or before 10:00 o'clock A.M. of the Monday next after the expiration of 28 days after the date of initial publication, before the 238th DISTRICT COURT of Midland County, Texas, at the Courthouse in Midland, Texas. Said Amended Petition can be found on file at Midland County Courthouse and was filed on: September 19, 2025. The file number of said suit being: CAUSE NO. DCV-25-01961. The style of the case is: Carl Englestad vs. Unknown Heirs of Flick Harper, Deceased.

In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at Texas law Help.org.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT at office of the City of Midland, Texas on this the 9th day of April, 2026

Insert Seal for the District Clerk of Midland County Texas

Alex Archuleta, Deputy Clerk, Midland County, Texas

Dated: 4/9/2026

By: /s/ Alex Weaver Deputy
Alexandra Weaver

NOTICE TO CREDITORS

Notice is hereby given that original Letters Testamentary for the Estate of Justo Jesus Gonzalez, Deceased, were issued on April 14, 2026 in Cause No. PR26-081, pending in the County Court of Midland County, Texas, to: Justo Jesus Gonzalez, Jr.

All persons having claims against this Estate which is currently being administered are required to present them to the undersigned within the time and in the manner prescribed by law.

DATED the 14th day of April, 2026.

/s/ L. Shane Stokes
L. Shane Stokes
Attorney for Justo Jesus Gonzalez, Jr.
State Bar No.: 19273500
300 North Marienfeld. Suite 700
Midland, TX 79701
Telephone: (432) 683-3351
Facsimile: (432) 688-1390
E-mail: lstokes@clawfirm.com

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

NOTICE OF APPLICATION FOR AN AIR QUALITY STANDARD PERMIT FOR AN ANIMAL CARCASS INCINERATOR

PROPOSED AIR QUALITY REGISTRATION NUMBER 183364

APPLICATION. 4283929 Delaware, LLC, 2 Daniels Way, Cranston, Rhode Island 02921-3449 has applied to the Texas Commission on Environmental Quality (TCEQ) for an Air Quality Standard Permit, Registration Number 183364, which would authorize construction of an animal carcass incinerator. The facility is proposed to be located at 7508 West County Road 116, Midland, Midland County, Texas 79706. This link to an electronic map of the site or facility's general location is provided as a public courtesy and not part of the application or notice. For exact location, refer to application. https://gisweb.tceq.texas.gov/LocationMapper/?marker=-102.172641,31.933592&level=13. This application was submitted to the TCEQ on March 20, 2026. The primary function of this facility is to properly dispose of animal carcasses through incineration. The executive director has determined the application was administratively complete on March 26, 2026.

PUBLIC COMMENT. Public written comments about this application may be submitted at any time during the public comment period. The public comment period begins on the first date notice is published and extends to 30 days from the publication date. Public comments may be submitted either in writing to Texas Commission on Environmental Quality, Office of the Chief Clerk, MC-105, P.O. Box 13087, Austin, Texas 78711-3087, or electronically at www14.tceq.texas.gov/epic/eComment/. Please be aware that any contact information you provide, including your name, phone number, email address and physical address will become part of the agency's public record.

RESPONSE TO COMMENTS. A written response to all relevant comments will be prepared by the executive director after the comment period closes. The response, along with the executive director's decision on the application, will be mailed to everyone who submitted public comments and requested to be added to the mailing list. The response to comments will be posted in the permit file for viewing.

The executive director shall approve or deny the application not later than 30 days after the end of the public comment period, considering all comments received within the comment period, and base this decision on whether the application meets the requirements of the standard permit.

CENTRAL/REGIONAL OFFICE. The application will be available for viewing and copying at the TCEQ Central Office and the TCEQ Midland Regional Office, located at 10 Desta Drive, Suite 350E, Midland, Texas 79705-4530, during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, beginning the first day of publication of this notice. The application, including any updates, is available electronically at the following webpage: https://www.tceq.texas.gov/permitting/air/airpermit-applications-notices.

INFORMATION. For more information about the permitting process, please call the TCEQ Public Education Program, Toll Free, at 1-800-687-4040 or visit their website at www.tceq.texas.gov/goto/pep. Si desea información en Español, puede llamar al 1-800-687-4040. You can also view our website for public participation opportunities at www.tceq.texas.gov/goto/participation.

Further information may also be obtained from 4283929 Delaware, LLC, 2 Daniels Way, Cranston, Rhode Island 02921-3449, or by calling Ms. Emily Larkin, Environmental Permit Manager at (740) 564-7904.

Notice Issuance Date: March 26, 2026

ORDINANCE NO. 10739

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE AN 18.19-ACRE TRACT OF LAND AND A 58.90-ACRE TRACT OF LAND, BOTH OUT OF SECTION 1, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT, IN PART, MF-22, MULTIPLE-FAMILY DWELLING DISTRICT, IN PART, O-2, OFFICE DISTRICT, IN PART, AND AE, AGRICULTURAL ESTATE DISTRICT IN PART, TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF EAST LOOP 250 NORTH AND NORTH FAIRGROUNDS ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10740

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 26 FEET OF LOT 17, ALL OF LOT 18, AND THE WEST 14.5 FEET OF LOT 19, AVALON ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF STANOLIND AVENUE, APPROXIMATELY 230 FEET WEST OF NORTH I STREET), BY PERMITTING A REDUCED MINIMUM REAR YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10741

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE EAST 55 FEET OF LOTS 12 AND 13, BLOCK 1, EDWARDS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-16, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF MISSISSIPPI AVENUE, APPROXIMATELY 70 FEET EAST OF NORTH FORT WORTH STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10742

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 1 AND THE EAST 23 FEET OF LOT 2, BLOCK 3, RESUBDIVISION OF BLOCK 3 OF JOHNSON AND MORAN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF HARVARD AVENUE AND LANHAM STREET), BY PERMITTING (1) A REDUCED MINIMUM REAR YARD SETBACK AND (2) REDUCED MINIMUM SIDE YARD SETBACKS ON THE EAST AND WEST SIDES OF THE PROPERTY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10743

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.50-ACRE TRACT OF LAND OUT OF SECTION 36, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM BP, I-20 BUSINESS PARK DISTRICT TO LI, LIGHT INDUSTRIAL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH ADAMS STREET AND SOUTH STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

PROPOSED CITY COUNCIL CONSIDERATION OF LEASE OF PUBLIC PARK PROPERTY

Pursuant to Chapter 26 of the Texas Parks and Wildlife Code, notice is hereby given to the public that the Midland City Council will hold a public hearing in the Council Chambers located at 300 North Loraine Street, Midland, Texas, at 10:00 A.M. on May 12, 2026, to consider the lease of certain City-owned public park property described as follows:

1321 Goode Street, more particularly described as a certain 1.928-acre tract located in Lot 11A, Block 7, Haley Heights Addition, City and County of Midland, Texas.

April 24 2026

WORLD CUP

Adams: U.S. need to step up vs. top teams

By Ronald Blum
ASSOCIATED PRESS

NEWCASTLE, England — Tyler Adams had just finished helping Bournemouth extend its Premier League unbeaten streak to 13 on a typically English afternoon where rain fell at the same time the sun was shining at St. James' Park.

The 27-year-old midfielder had entered midway through the second half of 2-1 win at Newcastle, his second appearance following an injury, as his fourth season in the Premier League winds down.

Up next for Adams is his second World Cup, where the co-host Americans will be in the brightest of spotlights amid questions about their readiness for the tournament.

Group D for the U.S. includes Paraguay, Australia and Turkey. The stark truth is the Americans have lost eight straight games against European opponents, including losses to Belgium and Portugal in March friendlies that Adams missed.

"Maybe a little bit of a wake-up call but we'll get there in the end," he said.

Adams was the U.S. captain at the 2022 World Cup and he is well aware of the underdog status, The U.S. is ranked 16th and is a 40-1 long shot to win the World Cup.

Adams says the goal is to "go as far as any team has before."

The U.S. reached the semifinals of the initial World Cup in 1930 and the quarterfinals in 2002.

"That's the one that obviously everyone remembers," he said. "If we can match that and continue to improve — but for us, we need to obviously continue to try and find a way to navigate playing against big teams."



Julio Cortez/Associated Press

Despite having lost their last eight games against European opponents, midfielder Tyler Adams said the United States' goal is to "go as far as any (U.S) team has before" at the World Cup this summer.

Picking the U.S. roster

Coach Mauricio Pochettino announces his World Cup roster May 26, and the U.S. has pre-tournament friendlies against Senegal and Germany before starting the first round against Paraguay on June 12.

Adams has 52 international appearances and he played every minute at the 2022 World Cup but has struggled to maintain fitness since.

He tore his right hamstring in training with Leeds in March 2023 and reinjured the leg in his Bournemouth debut that September, requiring a second operation. He returned in March 2024 but was slowed by back spasms and played just three league matches in his first season with the Cherries.

Back surgery after the 2024 Copa America delayed his 2024-25 debut until late October. His current season was interrupted by layoffs after he collided heads with teammate Adam Smith in November and a tore his left MCL against Manchester United on Dec. 15.

He missed 12 of 15 league matches before entering in 70th minute of a stirring 2-1 win at Arsenal on April 11 and then came on in the 65th minute last weekend.

"I wouldn't say anybody's a sure lock for the World Cup," Adams said. "That's one thing Mauricio's harped on since the first day he's come in, is that everyone needs to continue to play well with their clubs to have an opportunity to play with the national team."

Preparing for 2022 was far different because the Americans had to navigate 14 grueling World Cup qualifiers.

"Anyone that knows what it was like to go through that qualifying process for '22 knows how enduring it was and at the end, the reward was playing in the World Cup," Adams said. "Whereas I feel like we've known we were going to play in this World Cup now for years and it's just —- I don't want to say it's taken its toll, but playing friendly after friendly, it feels strange."

A familiar group

Adams, Christian Pulisic, Weston McKennie and Tim Weah form an emotional center of a player pool that has been together for more than a decade, going back to youth national teams.

"Tim has played with Tyler since he was, I don't know, 11," McKennie said. "A group of guys that you can count on to get along. Got on to sacrifice for each other, to put in work for each other."

For Adams, performing as a group is key to a successful tournament.

"I think it's that cohesiveness," he said. "We can't go away from the tactics and the structure and the way that we want to play and just think that, oh, I'm going to go out there and try and have an amazing World Cup individually because it doesn't work like that. So I think it's the collective structure at the day, but individual performances play a big part."

Pochettino took over from Gregg Berhalter in October 2024 and has set a tone with relationships as much as tactics.

"It's less about the football when you're in camp, and more about how he can help you grow as a person," Adams said, "because he knows that if you're relatable, if you are personable, if you a good person in and around the camp, you're going to perform well."

Adams said he thought Pochettino's experiments with a three central-defender formation have benefited the team.

"In the beginning, maybe we were giving up chances easily. It didn't matter the opposition," he said. "Whereas now playing with three in the back everyone seemed comfortable. A lot of the guys in our team play with three in the back at their club so it felt almost seamless."

Adams, who is from Wappinger Falls, New York, less than 100 miles north of New York City, hasn't played for the U.S. since September. He missed the October friendlies to remain home for the birth of a son, Myles, who joined sister Quinn, then was sidelined by injuries in November and March.

As his health improves, he knows the importance of the U.S. making a splash if it can at this year's World Cup.

"It's just been a while, I feel like, since we've knocked off a big boy," he said. "I think we need to try and find that in our character and I think that we will."

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CITATION BY PUBLICATION

THE STATE OF TEXAS
NOTICE TO UNKNOWN HEIRS OF FLICK HARPER, DECEASED

"NOTICE: YOU HAVE BEEN SUED. You are commanded to appear and defend such suit by filing a written answer to the petition at or before 10:00 o'clock A.M. of the Monday next after the expiration of 28 days after the date of initial publication, before the 238th DISTRICT COURT of Midland County, Texas, at the Courthouse in Midland, Texas. Said Amended Petition can be found on file at Midland County Courthouse and was filed on: September 19, 2025. The file number of said suit being: CAUSE NO. DCV-25-01961. The style of the case is: Carl Englestad vs. Unknown Heirs of Flick Harper, Deceased.

In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at Texas law Help.org.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT at office of the City of Midland, Texas on this the 9th day of April, 2026

Insert Seal for the District Clerk of Midland County Texas

Alex Archuleta, Deputy Clerk, Midland County, Texas

Dated: 4/9/2026

By: /s/ Alex Weaver Deputy
Alexandra Weaver

LEGAL NOTICE

Sealed responses will be accepted by the County Purchasing Agent, located in Suite 1101 of the Midland County Courthouse, 500 N. Loraine Street, Midland, Texas 79701 until 10:00 A.M. Local Time, May 20, 2026. The proposals will be opened and acknowledged at 10:00 A.M., Local Time, May 20, 2026.

Generally, the Commissioners Court selection will be made within 30 days. Interested parties are invited to attend the proposal acknowledgment and the Commissioners Court meeting.

RFP 26MC0663 - Pest Control Services

Midland County reserves the right to reject any or all of the responses, to waive all formalities, and to withdraw the bid at any time.

The RFP will be available on Friday April 24, 2026. Information may be obtained from the County Purchasing Agent's Office 432-688-4872 or pur103@co.midland.tx.us or on the Midland County Purchasing webpage https://www.co.midland.tx.us/593/Midland-County-Request-for-Proposal

Kristy Engeldahl
Midland County Purchasing Agent

NOTICE OF APPLICATION FOR OIL & GAS SURFACE COMMINGLE PERMIT

APACHE CORPORATION, 2000 W. Sam Houston Pkwy S. Houston, Texas 77042 is applying to the Railroad Commission of Texas for a permit to amend surface commingle permit 7989, Production will be commingled into a facility located in Railroad Commission District 08 in Howard County for the following leases: Wyndham A1 (59263), Wyndham Unit (43097), Colonial Unit A1 (48796), Colonial Unit A2 (48872), and Colonial Unit (58668) for which production from all wells will be allocated by well test using a bulk test method. All leases are produced from the Spraberry (Trend Area) Field. LEGAL AUTHORITY: Pursuant to Statewide Rules of the Oil & Gas Division 26 & 27 of the Railroad Commission of Texas. Requests for public hearing from persons who can show they are adversely affected, or requests for further information concerning any aspect of the application should be submitted in writing, within 21 days of publication, to Railroad Commission of Texas, Oil & Gas Division, P-17 Dept. P O Box 12967, Capitol Station, Austin, Texas 78711 (Telephone 512-463-6792).

PROPOSED CITY COUNCIL CONSIDERATION OF LEASE OF PUBLIC PARK PROPERTY

Pursuant to Chapter 26 of the Texas Parks and Wildlife Code, notice is hereby given to the public that the Midland City Council will hold a public hearing in the Council Chambers located at 300 North Loraine Street, Midland, Texas, at 10:00 A.M. on May 12, 2026, to consider the lease of certain City-owned public park property described as follows:

1321 Goode Street, more particularly described as a certain 1.928-acre tract located in Lot 11A, Block 7, Haley Heights Addition, City and County of Midland, Texas.

Let Classifieds Work For You! Call 432-687-8815

Legals/Public Notices | Legals/Public Notices | Legals/Public Notices

The City Council of the City of Midland, Texas will hold a public hearing at 10:00 a.m. on Tuesday, May 12, 2026, in the Council Chamber, City Hall, 300 North Loraine, Texas 79701 on a request by Press Cafe, LLC, on behalf of Lusso Real Estate, LLC, for a Specific Use Designation with Term for the sale of all alcoholic beverages for on premises consumption in a restaurant on the following property:

An 8,822-square-foot portion of Lot 1, Block 12, Westridge Park Addition, Section 49, City and County of Midland, Texas.

Generally located at the northwest corner of the intersection of Deauville Boulevard and Avalon Drive.
(Council District 4)

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing-impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

CITY OF MIDLAND
Marcia Bentley-German, M.ED., CPM, TRMC
City Governance Officer/City Secretary

The City Council of the City of Midland, Texas will hold a public hearing at 10:00 a.m. on Tuesday, May 12, 2026, in the Council Chamber, City Hall, 300 North Loraine, on a request by Dunaway Associates, on behalf of Black Family Partnership, for a zone change from AE, Agricultural Estate District to PD , Planned Development District for a Housing Development on the following described property:

Lots 10 and 11, Block 2, Solomon Estates, Section 2, City and County of Midland, Texas.

Generally located at the southeast corner of the intersection of North A Street and Mockingbird Lane.
(Council District 1)

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

CITY OF MIDLAND
Marcia Bentley-German, M.ED., CPM, TRMC
City Governance Officer/City Secretary

The City Council of the City of Midland, Texas will hold a public hearing at 10:00 a.m. on Tuesday May 12, 2026, in the Council Chamber, City Hall, 300 North Loraine, on a request by Troy T. Hunt Homes, LTD for a zone change from PD, Planned Development District for Housing Development to PD, Planned Development District for Transitional District, on the following described property:

A 1.99 acre-tract of land out of Green Hill Terrace, and a 1.04 acre vacated portion of Holiday Hill road right-of-way, City and County of Midland, Texas.

Generally located on the east side of the intersection of Holiday Hill Road, and Becker Drive.
(Council District 4)

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

CITY OF MIDLAND
Marcia Bentley-German, M.ED., CPM, TRMC
City Governance Officer/City Secretary

TABC Notices | TABC Notices | TABC Notices

LEGAL NOTICE

LADYBUG LIQUOR LLC DBA LADYBUG LIQUOR IS MAKING APPLICATION TO THE TEXAS ALCOHOLIC BEVERAGE COMMISSION FOR A PACKAGE STORE PERMIT LOCATED AT 1222 S BIG SPRING ST, MIDLAND, MIDLAND COUNTY, TEXAS. YIJUN XIANG HUNTLEY IS THE MANAGER OF SAID LLC.

May 1 2026

NFL DRAFT

Big Ten tops first round, SEC dominates overall

By Josh Dubow
ASSOCIATED PRESS

The SEC's reign as the king of the first round of the NFL draft was toppled by the Big Ten.

But the conference that coined the mantra "It Just Means More" for its dominance of college football in the 2010s remained in the top spot for the entire draft after the SEC set a record for the number of players picked over the three days.

Thanks to recent national champions Indiana and Ohio State, the Big Ten led the way with 10 first-round picks, marking the first time the SEC didn't have the most players taken in round one since 2015. The SEC had only seven — down from a record 15 last year — and the lowest total for the conference since that 2015 season when the ACC and Pac-12 led the way with nine first-rounders each and the SEC had seven.

The first player drafted from an SEC school came when LSU cornerback Mansoor Delane went sixth overall to Kansas City, marking the first draft without a top five SEC player since 2018 when Roquan Smith was the first taken at No. 8 overall by the Bears.

But the depth of the SEC shined on the final two days with the conference leading the way with 29 day two picks in rounds two and three and 51 more over the last four rounds on the final day of the draft. The 87 players in total were the most ever and easily beat the total of 67 from the Big Ten.

The SEC has had the most players picked for 20 straight drafts since the ACC took top honors in 2006. Florida won the national title the following season, starting a stretch where the conference won 13 of 17 national championships.

That run of dominance ended when Michigan won it all in 2023 with fellow Big Ten members Ohio State and Indiana following that up with titles of their own.

The other two power conferences were far behind with the Big 12 and ACC each having six first-rounders and 38 players picked in all.

The recent realignment that added more schools to all four power conferences, along with reduced restrictions on transfers and the advent of NIL payments, all have combined to consolidate the talent at the biggest schools.

San Diego State cornerback Chris Johnson was the only player who didn't finish his college career in the SEC, Big Ten, Big 12, ACC or Notre Dame who was taken in the first round after going 27th to Miami.

The next Group of Six player off the board was Toledo safety Emmanuel McNeil-Warren at No. 58 to Cleveland and only one other was picked on the first two days, with Georgia State receiver Ted Hurst going 84th to Tampa Bay.

In all, just 14 players from the Group of Six were drafted with the American and MAC leading the way with four each. There were 39 others who transferred from a Group of Six school to a Power Four conference, according to ESPN.

Seven players came from FBS independents with Notre Dame having six and UConn one.

There were four players who came from FCS-level schools and one who didn't play college at all with Philadelphia taking Nigerian native Uar Bernard in the seventh round as part of the NFL's International Pathway Program.

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Garage & Estate Sales

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OTHER	GARAGE SALE	Saturday (5/2). 8 a.m.- 3 p.m., 4607 Wood Dr. in shop behind house. Golf, fishing and household goods, clothes, trailer hitches, equalizer, cutting torch w/gauges and lots of misc. items. Cash only.
OTHER	LIVING ESTATE SALE	2803 Exeter Ave in Midland. 9 a.m. - 5 p.m., Thurs, Fri & Sat. Antiques, furniture, knife collections, clocks, lamps, Winchester collectibles, vintage clothing, tools, rugs, Christmas decor, Bamboo glass top dining table/chairs. Cash Only.

LEGAL NOTICES mrtlegals@hearstnp.com 432-687-8888

Legals/Public Notices | Legals/Public Notices | Legals/Public Notices

LEGAL NOTICE

Sealed responses will be accepted by the County Purchasing Agent, located in Suite 1101 of the Midland County Courthouse, 500 N. Loraine Street, Midland, Texas 79701 until 10:00 A.M. Local Time, May 20, 2026. The proposals will be opened and acknowledged at 10:00 A.M., Local Time, May 20, 2026.

Generally, the Commissioners Court selection will be made within 30 days. Interested parties are invited to attend the proposal acknowledgment and the Commissioners Court meeting.

RFP 26MCO663 – Pest Control Services

Midland County reserves the right to reject any or all of the responses, to waive all formalities, and to withdraw the bid at any time.

The RFP will be available on Friday April 24, 2026. Information may be obtained from the County Purchasing Agent's Office 432-688-4872 or pur103@co.midland.tx.us or on the Midland County Purchasing webpage https://www.co.midland.tx.us/593/Midland-County-Request-for-Proposal

Kristy Engeldahl
Midland County Purchasing Agent

At Your Service

TO ADVERTISE: (432) 682-6222
You can advertise your business for as little as $47 monthly

Other

SPRINKLER & DRIP SYSTEM REPAIR
Small Trees & Lawn Service, We're Small But BIG
On Service 432-570-8347
432-553-5915

Other

Ellis & Sons Plumbing & Air Conditioning Sales & Service.
Service all brands. 683-2679.
TACLB005482.

EMPLOYMENT

..... PROFESSIONAL .....

We are currently hiring for 5 operator positions and are specifically looking for candidates with an agricultural and lawn background. Please call 979-884-7914 or email office@texanaenergy.com

Let Classifieds Work For You!
Call 432-687-8815

LEGAL NOTICES email mrtlegals@hearstnp.com or call 432-687-8888

Legals/Public Notices | Legals/Public Notices | Legals/Public Notices

CITATION BY PUBLICATION

THE STATE OF TEXAS
NOTICE TO UNKNOWN HEIRS OF FLICK HARPER, DECEASED

"NOTICE: YOU HAVE BEEN SUED. You are commanded to appear and defend such suit by filing a written answer to the petition at or before 10:00 o'clock A.M. of the Monday next after the expiration of 28 days after the date of initial publication, before the 238th DISTRICT COURT of Midland County, Texas, at the Courthouse in Midland, Texas. Said Amended Petition can be found on file at Midland County Courthouse and was filed on: September 19, 2025. The file number of said suit being: CAUSE NO. DCV-25-01961. The style of the case is: Carl Englestad vs. Unknown Heirs of Flick Harper, Deceased.

In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at Texas law Help.org.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT at office of the City of Midland, Texas on this the 9th day of April, 2026

Insert Seal for the District Clerk of Midland County Texas

Alex Archuleta, Deputy Clerk, Midland County, Texas

Dated: 4/9/2026

By: /s/ Alex Weaver Deputy
Alexandra Weaver

ORDINANCE NO. 10751

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOTS 1 THROUGH 4, BLOCK 45,COWDEN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND LIDDON AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

ORDINANCE NO. 10747

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 5 AND THE WEST 36 FEET OF LOT 6, BLOCK 2, THE BEDFORD PLACE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH H STREET AND BEDFORD DRIVE), BY PERMITTING (1) A REDUCED MINIMUM SIDE YARD SETBACK ON THE WEST SIDE OF THE PROPERTY AND (2) A REDUCED MINIMUM REAR YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

LEGAL NOTICE

Sealed Bid(s) will be received until 2:00 P.M., June 3, 2026, to be opened at 2:00 P.M., in the Council Chamber, City Hall, 300 N. Loraine, Midland, Texas for the following Bid(s):

Bid No. 26004356

For: Banking RFP

If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code. Information for Bidders, Proposal Forms, Specifications and General conditions for bidding may be obtained from the office of the Purchasing Agent, City Hall, 300 N. Loraine, Midland, Texas.

Purchasing Division
City of Midland, Texas

NOTICE TO CREDITORS

Notice is hereby given that original Letters of Administration for the Estate of C. Elmo Cummins, Deceased, were issued on April 24, 2026, in Cause No. PR23-383, pending in the County Court of Midland County, Texas, to: Carrie Cummins Scott.

All persons having claims against this Estate which is currently being administered are required to present them to the undersigned within the time and in the manner prescribed by law.

DATED the 28th day of April, 2026.

/s/ L. Shane Stokes
L. Shane Stokes
Attorney for Carrie Cummins Scott
State Bar No.: 19273500
300 North Marienfeld, Suite 700
Midland, TX 79701
Telephone: (432) 683 3351
Facsimile: (432) 683 1390
E mail: sstokes@lcalawfirm.com

ORDINANCE NO. 10752

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 3,800-SQUARE FOOT PORTION OF LOT 6A, BLOCK 2, AMARON ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF RANKIN HIGHWAY, APPROXIMATELY 250 FEET NORTH OF CRUMP STREET), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

Legals/Public Notices | Legals/Public Notices | Legals/Public Notices

ORDINANCE NO. 10745

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 7, BLOCK 22, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH DALLAS STREET AND EAST MICHIGAN AVENUE), BY PERMITTING A REDUCED MINIMUM LOT WIDTH IN THE EVENT THAT THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND IS AMENDED TO REZONE THE LOT FROM C, COMMERCIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

CITATION BY PUBLICATION

THE STATE OF TEXAS

TO: ALL UNKNOWN HEIRS IN THE ESTATE OF:

RAYMOND RODRIGUEZ, Deceased
Cause No: PR26-134
In County Court, Midland County, Texas

MICHELLE RODRIGUEZ, in the above-numbered and entitled estate, filed an Application to Determine Heirship in this estate on April 17, 2026 , requesting that the Court determine who are the heirs and only heirs of RAYMOND RODRIGUEZ , Deceased, and their respective shares and interests in such estate.

The court may act on this application at any call of the docket on or after 10:00a.m. on the first Monday next after the expiration of 10 days from date of publication of this citation, at the Midland County Courthouse, 500 N. Loraine, Midland, Texas 79701.

All persons interested in this case are cited to appear before this Honorable Court by filing a written contest or answer to this Application should they desire to do so. To ensure its consideration, you or your attorney must file any objection, intervention, or response in writing with the County Clerk of Midland County, Texas on or before the above-noted date and time.

Given under by hand and seal of the County Court of Midland County, Texas at the office of the Midland County Clerk in Midland, Texas on April 22, 2026.

Alison Haley, County Clerk, Midland County, TX
P.O. Box 1350, Midland, Texas 79702

By: /s/ Angelica Leon
Angelica Leon

ORDINANCE NO. 10746

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 7, BLOCK 22, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH DALLAS STREET AND EAST MICHIGAN AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

City of Midland

Marcia Bentley-German
City Governance Officer/City Secretary

The Planning and Zoning Commission of the City of Midland, Texas will hold a public hearing at 3:30 P.M. on Monday, May 18, 2026, in the Council Chamber, City Hall, 300 North Loraine, Midland, TX 79701, on a request by W.A. Civil, for a Residential Replat, on the following described property:

Being a replat of the unrecorded plat of Pavilion Park Addition, Section 15, being a replat of a 90.60-acre tract of land out of Lot 8, Block 2, Pavilion Park Addition, Section 7, and a 10.00-acre tract of land out of Section 1, Block X, H.P. Hillard Survey, City and County of Midland, Texas.

Generally located on the north side of Solomon Lane, approximately 1,155 feet west of North Fairgrounds Road. (District 1)

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing-impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7251. If communication via TDD is required, please call 1-800-735-2989.

CITY OF MIDLAND
Marcia Bentley-German, M.ED., CPM, TRMC
City Governance Officer/City Secretary

PROPOSED CITY COUNCIL CONSIDERATION OF LEASE OF PUBLIC PARK PROPERTY

Pursuant to Chapter 26 of the Texas Parks and Wildlife Code, notice is hereby given to the public that the Midland City Council will hold a public hearing in the Council Chambers located at 300 North Loraine Street, Midland, Texas, at 10:00 A.M. on May 12, 2026, to consider the lease of certain City-owned public park property described as follows:

1321 Gende Street, more particularly described as a certain 1.928-acre tract located in Lot 11A, Block 7, Haley Heights Addition, City and County of Midland, Texas.

NOTICE TO CREDITORS

Notice is hereby given that original Letters Testamentary for the Estate of R. Christine Wallace, Deceased, were issued on April 28, 2026, in Cause No. PR26-070, pending in the County Court of Midland County, Texas, to Gary H. Wallace, Independent Executor, c/o Jennifer C. Wallace, Colton, Bleitsoe, Tighe & Dawson, P.C., P.O. Box 2776, Midland, Texas 79702.

All persons having claims against this Estate which is currently being administered are required to present them within the time and in the manner prescribed by law, in care of the Independent Executor.

DATED 28th day of April, 2026.

By: /s/ Jennifer C. Wallace
Jennifer C. Wallace
State Bar No. 24104406
jwallace@ctdd.com
(432) 684-5782
(432) 682-3672 (FAX)

ATTORNEYS FOR INDEPENDENT EXECUTOR

Campaign: 11119210

AFFIDAVIT DELIVERY INFORMATION

Affidavit Delivery Contact:	Beatriz Quezada
Affidavit Delivery Address:	bquezada@midlandtexas.gov

USA TODAY CO.

LocaliQ

Order Confirmation

Not an Invoice

Account Number:	1595252
Customer Name:	City Of Midland
Customer Address:	City Of Midland Po Box 1152 Beatriz Quezada Midland TX 79702-1152
Contact Name:	Beatriz Quezada
Contact Phone:	
Contact Email:	bquezada@midlandtexas.gov
PO Number:	

Date:	04/15/2026
Order Number:	12258720
Prepayment Amount:	$ 0.00

Column Count:	1.0000
Line Count:	27.0000
Height in Inches:	2.8000

Print

Product	#Insertions	Start - End	Category
SAS San Angl Standard-Times	3	04/17/2026 - 05/01/2026	Govt Public Notices
SAS gosanangelo.com	3	04/17/2026 - 05/01/2026	Govt Public Notices

As an incentive for customers, we provide a discount off the total order cost equal to the 3.99% service fee if you pay with Cash/Check/ACH. Pay by Cash/Check/ACH and save!

Total Cash Order Confirmation Amount Due	$459.41
Tax Amount	$0.00
Service Fee 3.99%	$18.33
Cash/Check/ACH Discount	-$18.33
Payment Amount by Cash/Check/ACH	$459.41
Payment Amount by Credit Card	$477.74

Order Confirmation Amount	**$459.41**

Ad Preview

PROPOSED CITY COUNCIL CONSIDERATION OF LEASE OF PUBLIC PARK PROPERTY

Pursuant to Chapter 26 of the Texas Parks and Wildlife Code, notice is hereby given to the public that the Midland City Council will hold a public hearing in the Council Chambers located at 300 North Loraine Street, Midland, Texas, at 10:00 A.M. on May 12, 2026, to consider the lease of certain City-owned public park property described as follows:

1321 Goode Street, more particularly described as a certain 1.928-acre tract located in Lot 11A, Block 7, Haley Heights Addition, City and County of Midland, Texas.

THE STATE OF TEXAS §
COUNTY OF MIDLAND §

USA TODAY CO.

LocaliQ

PO Box 631667 Cincinnati, OH 45263-1667

AFFIDAVIT OF PUBLICATION

Beatriz Quezada
City Of Midland
300 N Loraine ST
Midland TX 79701-4725

STATE OF WISCONSIN, COUNTY OF BROWN

The San Angelo Standard-Times, a newspaper published in the city of San Angelo, Tom Green County, State of Texas, and of general circulation in the following counties: Tom Green, Coke, Concho, Crockett, Irion, Kimble, Mason, McCulloch, Menard, Reagan, Runnels, Schleicher, Sterling, Sutton, and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue:

04/17/2026, 04/24/2026, 05/01/2026

and that the fees charged are legal.
Sworn to and subscribed before on 05/01/2026

Legal Clerk

Notary, State of WI, County of Brown

My commission expires

Publication Cost:	$459.41	
Tax Amount:	$0.00	
Payment Cost:	$459.41	
Order No:	12258720	# of Copies:
Customer No:	1595252	1
PO #:		

THIS IS NOT AN INVOICE!

Please do not use this form for payment remittance.

VICKY FELTY
Notary Public
State of Wisconsin

PROPOSED CITY COUNCIL CONSIDERATION OF LEASE OF PUBLIC PARK PROPERTY

Pursuant to Chapter 26 of the Texas Parks and Wildlife Code, notice is hereby given to the public that the Midland City Council will hold a public hearing in the Council Chambers located at 300 North Loraine Street, Midland, Texas, at 10:00 A.M. on May 12, 2026, to consider the lease of certain City-owned public park property described as follows:

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THE STATE OF TEXAS §
COUNTY OF MIDLAND §

MIDLAND
Be the Energy!

THE CITY OF MIDLAND

Mayor
Lori Blong

At-Large
Robin Poole

At-Large
John Burkholder

District 1
Brian Stubbs

District 2
John Norman

District 3
Jack Ladd

District 4
Amy Stretcher-Burkes

City Manager
Tommy Gonzalez

April 10, 2026

Tommy Gonzalez, City Manager
City of Midland, Texas
300 N. Loraine, Suite 300
Midland, Texas 79701

Re: Proposed Lease; 1321 Goode Street to the Boys and Girls Club of Midland, Inc.

Dear Mr. Gonzalez,

The Boys and Girls Club of Midland, Inc. (the "Club") currently leases certain park property owned by the City of Midland with an address of 1321 Goode Street and more particularly described as a certain 1.928-acre tract in Lot 11A, Block 7, Haley Heights Addition, City and County of Midland, Texas (the "Property"). The Club has constructed a facility on the Property, which is currently used for the Club's educational programs, after-school programs, and sports activities that benefit the community. The Club desires to continue to lease the Property for these purposes.

Chapter 26 of the Texas Parks and Wildlife Code requires the Midland City Council to hold a public hearing regarding the use of the Property as proposed by the Club since the property is designated as a park. Notice of the public hearing must be given in writing to the person, organization, department, or agency that has supervision of the park.

Please consider this letter to be the formal notification required by State law that a public hearing will be scheduled at the Midland City Council Meeting at 10:00 am on May 12th, 2026, in the Council Chamber, 300 N. Loraine Street, Midland, Texas to consider this request.

Sincerely,

Laurie M. Williams
Director of Parks and Recreation
City of Midland

Exhibit C


W Carter Ave
S Goode St
S Goode St
Johnston St
Johnston St
Collins
Taylor Park
Taylor Park
Boys & Girls Club
of Midland - Taylor...
1321 S. Goode St
W Griffin Ave
EXHIBIT A - BOYS AND GIRLS CLUB AT
TAYLOR PARK

MIDLAND
Be the Energy!

THE CITY OF MIDLAND

Mayor
Lori Blong

At-Large
Robin Poole

At-Large
John Burkholder

District 1
Brian Stubbs

District 2
John Norman

District 3
Jack Ladd

District 4
Amy Stretcher-Burkes

City Manager
Tommy Gonzalez

April 10, 2026

Tommy Gonzalez, City Manager
City of Midland, Texas
300 N. Loraine, Suite 300
Midland, Texas 79701

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Please consider this letter to be the formal notification required by State law that a public hearing will be scheduled at the Midland City Council Meeting at 10:00 am on May 12th, 2026, in the Council Chamber, 300 N. Loraine Street, Midland, Texas to consider this request.

Sincerely,

Laurie M. Williams
Director of Parks and Recreation
City of Midland

Date: April 27, 2026

To: The Honorable Mayor and Council

From: Rachel Guentensberger, Assistant City Secretary

Subject: PermiaCare Board Appointment

Dear Council,

Included with this memo is the proposed reappointment recommendation of Mickey Cargile to the Permian Basin Community Center for MH/MR (PermiaCare) board.

PERMIAN BASIN COMMUNITY CENTER FOR MH/MR (PermiaCare):

1 – Reappointment of Mickey Cargile to the Permian Basin Community Center For MH/MR (PermiaCare)