CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL MEETING
January 14, 2025 - 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 – Odessa Texas Stake Relief Society President Laura Shannon, The Church of Jesus Christ of Latter-day Saints

2. Pledge of Allegiance

PRESENTATIONS

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

   3a. Presentation of the 2024 Midland's Merry Lighted Christmas Parade Awards.

   3b. Presentation of "Be the Energy" Award.

   3c. Presentation of Proclamation for "Crime Stoppers Month".

CONSENT AGENDA

4. MOTION APPROVING THE FOLLOWING MINUTES:

   4a. REGULAR SESSION OF DECEMBER 17, 2024

5. 001-2025 – MOTION APPROPRIATING THE SUM OF $300,000.00 FROM THE HOTEL MOTEL FUND (090) UNAPPROPRIATED FUND BALANCE TO THE VISIT MIDLAND SPORTS AND ENTERTAINMENT PROGRAM FOR THE PROMOTION OF SPORTS TOURISM **(DISTRICT: NONE) (FINANCE) (STRONG ECONOMY WITH MORE QUALITY JOBS)**

6. 002-2025 – MOTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBERS 1 AND 2 WITH REECE ALBERT, INC. REGARDING THE GARFIELD STREET PAVING

BOND PROJECT – BREAKOUT 03; CHANGE ORDER NUMBER 1 TO BE IN THE AMOUNT OF $627,860.00 AND TO PROVIDE FOR SAFETY IMPROVEMENTS, INCLUDING ENHANCED SIGNAGE AND ILLUMINATION; AND CHANGE ORDER NUMBER 2 TO BE IN THE AMOUNT OF $419,079.03 AND TO PROVIDE FOR PROJECT OVERRUNS RESULTING FROM NECESSARY FIELD ADJUSTMENTS TO THE ORIGINAL PLAN SPECIFICATIONS **(DISTRICT 3) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

7. 2025-001 – RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH WEAVER AND TIDWELL, L.L.P. FOR INTERNAL AUDIT SERVICES FOR A TOTAL COST NOT TO EXCEED $247,500.00; AND AUTHORIZING PAYMENT **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

8. 2025-002 – RESOLUTION AUTHORIZING THE PURCHASE OF A BACKHOE LOADER FOR THE TRANSPORTATION DIVISION FROM WARREN POWER & MACHINERY INC., DOING BUSINESS AS WARREN CAT, THROUGH SOURCEWELL FOR A TOTAL COST OF $113,215.00 **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

9. 2025-003 – RESOLUTION APPROVING THE PURCHASE OF TWELVE (12) PICKUP TRUCKS AND TWO (2) CHEVROLET TAHOES UPFITTED FOR K9 USE FOR THE MIDLAND POLICE DEPARTMENT FROM SEWELL FAMILY OF COMPANIES, INC., THROUGH BUYBOARD FOR A TOTAL COST OF $979,721.14 **(DISTRICT: NONE) (GENERAL SERVICES) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

10. 2025-004 – RESOLUTION AUTHORIZING THE PURCHASE OF A KOMATSU PC210LC-11 MID-SIZE HYDRAULIC EXCAVATOR FOR THE ENGINEERING SERVICES DEPARTMENT FROM KIRBY SMITH MACHINERY, INC. THROUGH BUYBOARD FOR A TOTAL COST OF $271,297.40 **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

11. 2025-005 – RESOLUTION AWARDING A CONTRACT FOR THE FISCAL YEAR 2025 MILL AND FILL PAVING PROJECT TO DANNY'S ASPHALT PAVING INC. OF MIDLAND, TEXAS, AT A TOTAL COST OF $2,932,088.78; APPROVING $146,604.44 FOR CONTINGENCIES; AND AUTHORIZING PAYMENT **(DISTRICT: NONE) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

12. 2025-006 – RESOLUTION AWARDING A FOOD AND BEVERAGE CONCESSION CONTRACT TO O'MULLIGAN'S 19TH HOLE FOR CONCESSION MANAGEMENT SERVICES AT HOGAN PARK GOLF COURSE **(DISTRICT 2) (GENERAL SERVICES) (QUALITY OF LIFE AND PLACE)**

13. 2025-007 – RESOLUTION RATIFYING THE PROCUREMENT OF CONSTRUCTION SERVICES FROM BOLER EQUIPMENT SERVICE, INC. FOR THE EMERGENCY REPAIR OF THE STORM DRAIN LOCATED NORTH OF MOCKINGBIRD LANE,

BETWEEN VALWOOD DRIVE AND ROCKWOOD DRIVE; AND AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $686,961.00 **(DISTRICT 1) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

14. 003-2025 – MOTION APPROVING, WITH STAFF'S RECOMMENDED CONDITIONS, A PRELIMINARY PLAT OF LONGVIEW SUBDIVISION, SECTION 4, BEING A REPLAT OF ALL OF LONGVIEW SUBDIVISION, SECTION 2, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST COUNTY ROAD 50 AND NORTH COUNTY ROAD 1275) (EXTRATERRITORIAL JURISDICTION) **(DISTRICT: NONE) (DEVELOPMENT SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

15. 004-2025 – MOTION CREATING A PROJECT ACCOUNT INTO WHICH FEES RECEIVED FOR RIGHT-OF-WAY LICENSES THAT DO NOT INVOLVE LAND USED BY THE UTILITIES DEPARTMENT OR DEPARTMENT OF AIRPORTS SHALL BE DEPOSITED; AND REQUIRING THE FUNDS IN SAID PROJECT ACCOUNT TO BE APPROPRIATED AND USED FOR ACQUISITIONS OF REAL PROPERTY FOR ROAD PROJECTS **(DISTRICT: ALL) (ENGINEERING SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

16. 2025-008 – RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, IN SUPPORT OF THE MIDLAND POLICE DEPARTMENT'S PARTICIPATION ON THE OPERATION LONE STAR TASK FORCE; APPROVING THE FORM OF AN INTERLOCAL COOPERATION AGREEMENT PROVIDING FOR THE MIDLAND POLICE DEPARTMENT'S PARTICIPATION ON THE OPERATION LONE STAR TASK FORCE; AND AUTHORIZING THE CHIEF OF POLICE TO EXECUTE AN INTERLOCAL COOPERATION AGREEMENT WITH ALL NECESSARY AND APPROPRIATE ENTITIES TO EFFECTUATE THE MIDLAND POLICE DEPARTMENT'S PARTICIPATION ON THE OPERATION LONE STAR TASK FORCE **(DISTRICT: ALL) (POLICE) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

17. 2025-009 – RESOLUTION AUTHORIZING THE CITY OF MIDLAND IN CONJUNCTION WITH MIDLAND COUNTY TO ACCEPT THE FISCAL YEAR 2024 BUREAU OF JUSTICE ASSISTANCE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FUNDS TOTALING $40,515.00; THE CITY OF MIDLAND WILL RECEIVE $30,515.00 AND MIDLAND COUNTY WILL RECEIVE $10,000.00 OF THE GRANT FUNDS; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING GRANT FUNDS **(DISTRICT: ALL) (POLICE) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

18. 005-2025 – MOTION ACCEPTING A DONATION IN THE AMOUNT OF $40,000.00 FROM MEC PETROLEUM CORPORATION; SAID FUNDS SHALL BE USED FOR THE PURCHASE OF NECESSARY PROTECTIVE EQUIPMENT FOR THE MIDLAND POLICE DEPARTMENT; AND AUTHORIZING THE APPROPRIATION OF $40,000.00 IN THE POLICE TECHNOLOGY AND EQUIPMENT FUND UPON THE CITY OF MIDLAND'S RECEIPT OF SAID FUNDS. **(DISTRICT: ALL) (POLICE) (SET THE STANDARD FOR**

A SAFE AND SECURE CITY)

19. 006-2025 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (25-329-003) WITH BAHIA PIPELINE LLC., REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 30, BLOCK 36, T-3-S, T&P RR CO. SURVEY, IN MIDLAND COUNTY AND GLASSCOCK COUNTY, TEXAS **(DISTRICT: NONE) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

SECOND READINGS

20. 10582 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR LOT 1, BLOCK 1, CAVENDER ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ARLINGTON ROAD AND DEAUVILLE BOULEVARD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR AUTOMOBILE OR OTHER MOTORIZED VEHICLE SALES AND SERVICE; 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 DECEMBER 17, 2024) **(DISTRICT 4) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

21. 10583 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,500-SQUARE FOOT PORTION OF BLOCKS 21 AND 22, KELVIEW HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST SCHARBAUER AVENUE), WHICH IS PRESENTLY ZONED LR, LOCAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE 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 DECEMBER 17, 2024) **(DISTRICT 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE & PLACE)**

22. 10585 – AN ORDINANCE GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF MIDLAND, TEXAS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, PROVIDING FOR THE REPEAL OF ALL

EXISTING FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC (FIRST READING HELD DECEMBER 17, 2024) **(DISTRICT: ALL) (DEVELOPMENT SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

PUBLIC HEARINGS

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

23. 10584 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 18 AND 19, BLOCK 1, SKYVIEW DEVELOPMENT, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF EAST LOOP 250 NORTH AND TODD 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 (DEFERRED FROM DECEMBER 17, 2024) **(DISTRICT 1) (DEVELOPMENT SERVICES) QUALITY OF LIFE AND PLACE**

24. 007-2025 – THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO PERMIAN DEEP ROCK OIL CO., LLC (“OPERATOR”) FOR THE DRILLING OF THE FOLLOWING OIL AND GAS WELLS: KNIGHT 110 MIPA UNIT H110NB; KNIGHT 120 MIPA UNIT 120NW; AND KNIGHT 130 MIPA UNIT H130NB; SAID WELLS BEING GENERALLY LOCATED BETWEEN 1,797 FEET AND 1,837 FEET EAST OF NORTH A STREET AND 1,827 FEET SOUTH OF WEST LOOP 250 NORTH – PUBLIC HEARING ONLY **(DISTRICT 1) (DEVELOPMENT SERVICES) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

25. 008-2025 – THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO PERMIAN DEEP ROCK OIL CO., LLC (“OPERATOR”) FOR THE DRILLING OF THE FOLLOWING OIL AND GAS WELLS: KNIGHT 140 MIPA UNIT H140 NB; KNIGHT 150 MIPA UNIT H150 NB; AND KNIGHT 160 MIPA UNIT H160 NW; SAID WELLS BEING GENERALLY LOCATED BETWEEN 878 FEET AND 913 FEET EAST OF NORTH A STREET AND BETWEEN 1,885 AND 1,921 FEET SOUTH OF WEST LOOP 250 NORTH – PUBLIC HEARING ONLY **(DISTRICT 1) (DEVELOPMENT SERVICES) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

26. 10586 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 1A, 2A, 3, AND 4, BLOCK 3, WEST 191 INDUSTRIAL PARK ADDITION, SECTION 10, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO C, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 1,600 FEET EAST OF FARM-TO-MARKET ROAD 1788); 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 **(DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

27. 10587 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 17.18-ACRE TRACT OF LAND OUT OF SECTION 31, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH FAIRGROUNDS ROAD AND EAST CYNTHIA 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 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE) QUALITY OF LIFE AND PLACE**

28. 10588 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 6.75-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 1, AMARON ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO MF-22, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WOLCOTT AVENUE AND CAMP 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**

29. 10589 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 7, BLOCK 22, GREENWOOD ADDITION, THIRD, FOURTH AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH CALHOUN STREET AND EAST NEW YORK 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)**

30. 10590 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 9, BLOCK 28, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MADISON STREET, APPROXIMATELY 100 FEET NORTH OF EAST WALL 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)**

31. 10591 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOT 2,

BLOCK 1, 349 RETAIL ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH STATE HIGHWAY 349, APPROXIMATELY 330 FEET NORTH OF TEJAS), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE 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 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE & PLACE)**

MISCELLANEOUS

32. 10592 – DISCUSSION AND CONSIDERATION OF ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE AND SALE OF "CITY OF MIDLAND, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2025," INCLUDING THE ADOPTION OF AN ORDINANCE AUTHORIZING THE ISSUANCE OF SUCH BONDS, ESTABLISHING PARAMETERS FOR THE SALE AND ISSUANCE OF SUCH BONDS AND DELEGATING CERTAIN MATTERS TO AN AUTHORIZED OFFICIAL OF THE CITY **(DISTRICT: NONE) (FINANCE) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

33. 10593 – DISCUSSION AND CONSIDERATION OF ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE AND SALE OF "CITY OF MIDLAND, TEXAS TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2025," INCLUDING THE ADOPTION OF AN ORDINANCE AUTHORIZING THE ISSUANCE OF SUCH CERTIFICATES OF OBLIGATION, ESTABLISHING PARAMETERS FOR THE SALE AND ISSUANCE OF SUCH CERTIFICATES OF OBLIGATION AND DELEGATING CERTAIN MATTERS TO AN AUTHORIZED OFFICIAL OF THE CITY **(DISTRICT: NONE) (FINANCE) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

34. 009-2025 – MOTION APPOINTING A MAYOR PRO TEMPORE **(DISTRICT: ALL) (CITY SECRETARY'S OFFICE)**

35. MOTION MAKING APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS **(DISTRICT: ALL) (CITY SECRETARY'S OFFICE)**

PUBLIC COMMENT

36. 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

37. Pursuant to Texas Government Code § 551.101, the City Council will hold an Executive Session, which is closed to the public, to discuss the following matters as permitted under the following sections of the Texas Government Code:

a. Section 551.074, Personnel Matters

a.1. Deliberate the appointment of members to the Midland Development Corporation board of directors and the Planning and Zoning Commission.

b. Section 551.071, Consultation with Attorney

b.1. Discuss matters in which the duty of the attorney 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.

c. Section 551.072, Deliberation Regarding Real Property

c.1. Discuss the purchase, exchange, lease or value of real property.

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.

MIDLAND CITY COUNCIL
MINUTES
December 17, 2024

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., December 17, 2024.

Council Members present: Eric Davidson, Amy Stretcher Burkes, Robin Poole, Lori Blong, Scott Dufford, Jack Ladd, John Norman

Council Members absent: None

Staff members present: City Attorney John Ohnemiller, Deputy City Manager Morris Williams Jr., Assistant City Manager Jose Ortiz

The meeting was called to order at 10:00 a.m.

OPENING ITEMS

1. Invocation – Pastor Daniel Stephens, Mid-Cities Church.

2. Pledge of Allegiance

PRESENTATIONS

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

   3a. Recognition of outgoing Council members.

   3b. Recognition of Stephen Castle for his work on the Finance Committee.

   3c. Presentation to recognize ExxonMobil.

CONSENT AGENDA

4. MOTION APPROVING THE FOLLOWING MINUTES:

   4a. REGULAR SESSION OF NOVEMBER 12, 2024.

   4b. SPECIAL SESSION OF NOVEMBER 19, 2024.
   4c. SPECIAL SESSION OF DECEMBER 10, 2024

DRAFT

5. 129-2024 – MOTION AUTHORIZING PAYMENT IN THE SUM OF $730,000 TO MIDLANDODESSA URBAN TRANSIT DISTRICT; SAID PAYMENT BEING THE CITY OF MIDLAND'S FISCAL YEAR 2025 LOCAL MATCH PURSUANT TO THE INTERLOCAL AGREEMENT EXECUTED IN ACCORDANCE WITH RESOLUTION NO. 2001227 **(DISTRICT: NONE) (FINANCE) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

6. 2024-187 – RESOLUTION AWARDING A CONTRACT FOR THE REMOVAL OF THE CURRENT FIRE ALARMS AND SPRINKLERS AND THE INSTALLATION OF NEW FIRE ALARMS AND SPRINKLERS AT ASTOUND BROADBAND STADIUM AND MOMENTUM BANK BALLPARK TO HENTHORN COMMERCIAL CONSTRUCTION THROUGH BUYBOARD FOR A COST OF $540,473.13; APPROVING $50,000.00 FOR PROJECT RELATED EXPENSES; AND APPROPRIATING FUNDS FOR SAID PROJECT **(DISTRICT 4) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

7. 2024-188 – RESOLUTION REJECTING THE BIDS RECEIVED FOR THE FISCAL YEAR 2025 CITYWIDE CONCRETE PROGRAM; AND AUTHORIZING RE-ADVERTISEMENT FOR COMPETITIVE BIDS **(DISTRICT: ALL) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

8. 2024-189 – RESOLUTION APPROVING A CONTRACT WITH LOWE'S HOME CENTERS, LLC, THROUGH THE OMNIA COOPERATIVE FOR THE CDBG ENERGY EFFICIENCY CONSERVATION PROJECT FOR AN AMOUNT NOT TO EXCEED $121,640.00 **(DISTRICT: ALL) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

9. 2024-190 – RESOLUTION APPROVING THE PURCHASE OF TWO (2) PICKUP TRUCKS FOR THE CITY OF MIDLAND COMMUNITY SERVICES OFFICERS AND ONE (1) BOMB TRUCK FROM SEWELL FAMILY OF COMPANIES, INC., THROUGH BUYBOARD AT A TOTAL COST OF $237,211.60 **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

10. 2024-191 – RESOLUTION APPROVING THE PURCHASE OF A FOLEY 633 ACCU-PRO REEL GRINDER, A FOLEY 672 ACCU-PRO BED KNIFE GRINDER, AND A MULTI PRO 5800-G SPRAY RIG FROM PROFESSIONAL TURF PRODUCTS, LP, THROUGH BUYBOARD AT A TOTAL COST OF $166,098.78 **(DISTRICT 2) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

11. 2024-192 – RESOLUTION AUTHORIZING THE PURCHASE OF AN ASPHALT PATCH TRUCK FOR THE TRANSPORTATION DIVISION FROM KINLOCH EQUIPMENT AND SUPPLY, INC. THROUGH OMNIA PARTNERS FOR A TOTAL COST OF $265,035.00 **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

DRAFT

13. 2024-194 – RESOLUTION RATIFYING THE PURCHASE OF SIX HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS FROM LOWE'S HOME CENTERS, LLC, FOR THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT; AND AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $58,500.00 **(DISTRICT: ALL) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

14. 2024-195 – RESOLUTION APPROVING THE PURCHASE OF A SEWER JET TRUCK AND ASSOCIATED COMPONENTS FROM HOUSTON FREIGHTLINER INC., THROUGH THE HOUSTON-GALVESTON AREA COUNCIL FOR A TOTAL COST OF $294,374.84 **(DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

15. 130-2024 – MOTION APPROVING A CONSULTANT SERVICES AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND MODE COMMUNICATIONS, LLC **(DISTRICT: NONE) (CITY MANAGER) (STRONG ECONOMY WITH MORE QUALITY JOBS)**

16. 131-2024 – MOTION APPROVING AN AMENDMENT TO TASK ORDER NO. 1 UNDER THAT CERTAIN MASTER RESEARCH AND DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE MITRE CORPORATION **(DISTRICT: NONE) (CITY MANAGER) (STRONG ECONOMY WITH MORE QUALITY JOBS)**

17. 132-2024 – MOTION APPROVING AN AMENDMENT TO THAT CERTAIN PROFESSIONAL SERVICES AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND KIMLEY-HORN AND ASSOCIATES, INC., FOR PROFESSIONAL SERVICES RELATED TO THE WIDENING AND IMPROVING OF STATE HIGHWAY 158 FROM SINCLAIR AVENUE TO WADLEY AVENUE, AND FROM WADLEY AVENUE TO BRIARWOOD AVENUE **(DISTRICT 4) (CITY MANAGER) (STRONG ECONOMY WITH MORE QUALITY JOBS)**

19. 133-2024 – MOTION APPROVING THE RECEIPT AND FILING OF THE CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM YEAR (PY23) 2023/2024. **(DISTRICT: ALL) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

20. 2024-197 – RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT WITH THE MIDLAND COUNTY HOSPITAL DISTRICT; AND ALLOCATING FUNDS **(DISTRICT: ALL) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

21. 2024-198 – RESOLUTION GRANTING VARIANCES FOR SIX OIL AND GAS WELLS TO BE LOCATED CLOSER THAN 500 FEET OF AN OCCUPIED RESIDENCE OR

DRAFT

COMMERCIAL STRUCTURE; APPROVING THE ISSUANCE OF PERMITS TO PERMIAN
DEEP ROCK OIL CO., LLC ("OPERATOR") TO DRILL SAID OIL AND GAS WELLS LOCATED IN SECTION 14, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED BETWEEN 1,992 FEET AND 2,027 FEET EAST OF NORTH A STREET AND BETWEEN 620 FEET AND 670 FEET SOUTH OF WEST LOOP 250 NORTH); AND PROVIDING THAT SAID PERMITS DO NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT **(DISTRICT 1) (*DEVELOPMENT SERVICES*) (*SET THE STANDARD FOR A SAFE AND SECURE CITY*)**

22. 134-2024 – MOTION AUTHORIZING THE EXECUTION OF A PARK AMENITY NAMING RIGHTS AGREEMENT WITH EXXONMOBILE CORPORATION; SAID AGREEMENT PROVIDING FOR EXXONMOBILE CORPORATION'S FINANCIAL CONTRIBUTION TO THE BEAL PARK RENOVATION PROJECT AND RECEIPT OF NAMING RIGHTS TO CERTAIN IMPROVEMENTS TO BE CONSTRUCTED AT BEAL PARK; AND APPROPRIATING $1,750,000.00 TO THE BEAL PARK RENOVATION PROJECT **(DISTRICT 4) (PARKS AND RECREATION) (QUALITY OF LIFE AND PLACE)**

23. 2024-199 – RESOLUTION ACCEPTING A FY2024 BODY-WORN CAMERA PROGRAM GRANT IN THE AMOUNT OF $8,313.46 AWARDED THROUGH THE OFFICE OF THE GOVERNOR - CRIMINAL JUSTICE DIVISION FOR THE PURCHASE OF BODY-WORN CAMERAS AND DIGITAL STORAGE SYSTEMS; APPROVING MATCHING FUNDS IN THE AMOUNT OF $2,771.15; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING GRANT FUNDS **(DISTRICT: ALL) (POLICE) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

26. 137-2024 – MOTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING WITH MIDLAND COUNTY PROVIDING FOR THE MIDLAND COUNTY
FIRE MARSHAL'S OFFICE'S PARTICIPATION ON THE MIDLAND POLICE BOMB SQUAD **(DISTRICT: NONE) (POLICE) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

27. 138-2024 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (24-329-015) BETWEEN THE CITY OF MIDLAND AND CORONADO MIDSTREAM LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 23 AND 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS **(DISTRICT 4) (UTILITIES) (STRONG ECONOMY WITH MORE QUALITY JOBS)**

28. 139-2024 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE AMENDMENT (24-317-017) WITH ETC NORTH PERMIAN MIDSTREAM, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 36, BLOCK 39, T-1-N, T&P RR CO. SURVEY, MARTIN COUNTY **(DISTRICT 1) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

DRAFT

29. 140-2024 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND PIONEER NATURAL RESOURCES USA, INC., REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 36, BLOCK 39, T-1-N, T&P RR CO. SURVEY, MARTIN COUNTY **(DISTRICT 1) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

Eric Davidson moved to approve consent agenda items 4-32, excluding items 12, 18, 24, 25, 30, 31 & 32; seconded by Robin Poole.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

The following item(s) were pulled from consent agenda and considered individually.

12. 2024-193 – RESOLUTION APPROVING THE PURCHASE OF THIRTY (30) UPFITTED CHEVROLET TAHOES AND ONE (1) CHEVROLET TAHOE UPFITTED FOR K9 USE FROM SEWELL FAMILY OF COMPANIES, INC., THROUGH BUYBOARD AT A TOTAL COST OF $2,628,858.00

Council Member Norman expressed his appreciation for purchasing local.

John Norman moved to approve Resolution No.2024-193; seconded by Scott Dufford.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

18. 2024-196 – RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT WITH THRIVING UNITED, INC.; AND ALLOCATING FUNDS

Planning & Development Officer Elizabeth Triggs reported this is a Community Development Block Grant (CDBG) for 2024 awarded to Thriving United for $83,000 on a reimbursement basis to cover the cost for certified support specialists. The Consolidated Annual Performance and Evaluation Report (CAPER) reveals that Thriving United has met and exceeded its requirements and addressed concerns.

Cecilia Reyes, 612 Bunker Hill Road, spoke in favor of this item and provided information about the program.

Jenn McMorris, 3300 Wedgewood Street, spoke in favor of this item and the importance of Thriving United.

DRAFT

Robin Poole moved to approve Resolution No.2024-196; seconded by Amy Stretcher Robin Poole moved to approve Resolution No.2024-196; seconded by Amy Stretcher Burkes.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: Blong

24. 135-2024 – MOTION ACCEPTING A DONATION IN THE AMOUNT OF $140,000.00 FROM BUSTIN' FOR BADGES; SAID FUNDS SHALL BE USED FOR THE PURCHASE OF NECESSARY EQUIPMENT FOR THE MIDLAND POLICE DEPARTMENT; AND AUTHORIZING THE APPROPRIATION OF $140,000.00 IN THE POLICE TECHNOLOGY AND EQUIPMENT FUND UPON THE CITY OF MIDLAND'S RECEIPT OF SAID FUNDS

Interim Police Chief Greg Snow gave a brief overview of the item noting they are honored for the support. He also reported items 24 and 25 on this agenda are together with regard to being the same funding source.

Eric Davidson moved to approve Motion No.135-2024; seconded by John Norman.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

25. 136-2024 – MOTION ACCEPTING A DONATION IN THE AMOUNT OF $25,000.00 FROM CONOCOPHILLIPS; SAID FUNDS SHALL BE USED FOR THE PURCHASE OF NECESSARY PROTECTIVE EQUIPMENT FOR THE MIDLAND POLICE DEPARTMENT; AND AUTHORIZING THE APPROPRIATION OF $25,000.00 IN THE POLICE TECHNOLOGY AND EQUIPMENT FUND UPON THE CITY OF MIDLAND'S RECEIPT OF SAID FUNDS

Interim Police Chief Greg Snow discussed this item along with item number 24 on this agenda.

John Norman moved to approve Motion No.136-2024; seconded by Scott Dufford.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

30. 141-2024 – MOTION AUTHORIZING THE CITY MANAGER, THE DEPUTY CITY MANAGER OR AN ASSISTANT CITY MANAGER (COLLECTIVELY, THE "CITY

DRAFT

MANAGER'S OFFICE") TO ACCEPT, ON BEHALF OF THE CITY OF MIDLAND, A GIFT DEED QUITCLAIMING UNTO THE CITY A 2.328-ACRE TRACT OF LAND AND A 5.014ACRE TRACT OF LAND OUT OF SECTION 19, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, FROM PARSLEY MINERALS, LLC; AND AUTHORIZING THE CITY MANAGER'S OFFICE TO EXECUTE ALL DOCUMENTS NECESSARY FOR SUCH ACCEPTANCE

Council Member Eric Davidson pulled items 30, 31 and 32 and would like to know how the land will be used. Council Member Davidson also thanked Pioneer.

Assistant City Manager Jose Ortiz reported this will help with the east/west corridor north of the loop.

Council Member Ladd thanked Exxon for the donation and explained that an overpass may be created allowing drivers to exit the loop properly to get to I-20. He also reported on other benefits and improvements that may be made to the north side.

Mayor Blong thanked Daniel Pender and his team for the work they have done.

Eric Davidson moved to approve Motion No.141-2024; seconded by Scott Dufford.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

31. 142-2024 – MOTION AUTHORIZING THE CITY MANAGER, THE DEPUTY CITY MANAGER OR AN ASSISTANT CITY MANAGER (COLLECTIVELY, THE "CITY MANAGER'S OFFICE") TO ACCEPT, ON BEHALF OF THE CITY OF MIDLAND, A GIFT DEED QUITCLAIMING UNTO THE CITY A 0.516-ACRE TRACT OF LAND OUT OF SECTION 20, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, FROM PARK HILL RESOURCES LLC; AND AUTHORIZING THE CITY MANAGER'S OFFICE TO EXECUTE ALL DOCUMENTS NECESSARY FOR SUCH ACCEPTANCE

This item was discussed with item #30.

Eric Davidson moved to approve Motion No.142-2024; seconded by Amy Stretcher Burkes.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

32. 143-2024 – MOTION AUTHORIZING THE CITY MANAGER, THE DEPUTY CITY MANAGER OR AN ASSISTANT CITY MANAGER (COLLECTIVELY, THE "CITY

DRAFT

MANAGER'S OFFICE") TO ACCEPT, ON BEHALF OF THE CITY OF MIDLAND, A GIFT DEED QUITCLAIMING UNTO THE CITY A 5.46-ACRE TRACT OF LAND OUT OF SECTION 17, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, FROM PIONEER NATURAL RESOURCES USA, INC.; AND AUTHORIZING THE CITY MANAGER'S OFFICE TO EXECUTE ALL DOCUMENTS NECESSARY FOR SUCH ACCEPTANCE

This item was discussed with item #30.

Eric Davidson moved to approve Motion No.143-2024; seconded by Robin Poole.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

SECOND READINGS

33. 10577 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 5, BLOCK 34, NORTHGATE ADDITION, SECTION 19, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO 2F, TWO-FAMILY DWELLING (DUPLEX) DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF NORTHBROOK LANE, APPROXIMATELY 720 FEET NORTHWEST OF WEST 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 (FIRST READING HELD
NOVEMBER 12, 2024) **(DISTRICT 1) (DEVELOPMENT SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10577.

John Norman moved to approve the second and final reading of Ordinance No. 10577; seconded by Robin Poole.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

34. 10578 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOTS 1 AND 2, BLOCK 8, KELVIEW HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST DORMARD AVENUE), WHICH IS

DRAFT

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 NOVEMBER 12, 2024) **(DISTRICT 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE & PLACE)**

Deputy *City Secretary Rachel Guentens*berger read the caption of Ordinance No. 10578.

John Norman moved to approve the second and final reading of Ordinance No. 10578; seconded by Eric Davidson.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

35. 10579 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,100-SQUARE FOOT PORTION OF LOT 1, BLOCK 1, IMPERIAL HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 330 FEET SOUTHEAST OF THE INTERSECTION OF NORTH MIDKIFF ROAD AND WEST WADLEY 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 NOVEMBER 12, 2024) **(DISTRICT 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10579.

John Norman moved to approve the second and final reading of Ordinance No. 10579; seconded by Robin Poole.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: Blong

36. 10580 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE, CREATING TAX

DRAFT

INCREMENT FINANCING REINVESTMENT ZONE NUMBER THREE, CITY OF MIDLAND, TEXAS (FIRST READING HELD NOVEMBER 12, 2024) **(DISTRICT 4 & EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES) (STRONG ECONOMY WITH MORE QUALITY JOBS)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10580.
John Norman moved to approve the second and final reading of Ordinance No. 10580; seconded by Eric Davidson.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Dufford, Ladd, Norman, Blong
NAY: Poole
ABSTAIN: None
ABSENT: None

Assistant City Manager Jose Ortiz provided an update regarding meeting with other entities of Midland who may wish to participate in the TIRZ. Midland County will participate.

Council Member Ladd and Council Member Amy Stretcher Burkes thanked Midland County for their support.

37. 10581 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE, CREATING TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER FOUR, CITY OF MIDLAND,
TEXAS (FIRST READING HELD NOVEMBER 12, 2024) **(DISTRICT 4 & EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES) (STRONG ECONOMY WITH MORE QUALITY JOBS)**

Deputy City Secretary Rachel Guentensberger read the caption of Ordinance No. 10581.

Eric Davidson moved to approve the second and final reading of Ordinance No. 10581; seconded by John Norman.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

PUBLIC HEARINGS

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

38. 10582 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR LOT 1, BLOCK 1, CAVENDER ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ARLINGTON ROAD AND DEAUVILLE BOULEVARD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR

DRAFT

AUTOMOBILE OR OTHER MOTORIZED VEHICLE SALES AND SERVICE; 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**

Mayor Pro Tem Ladd read the caption of Ordinance No. 10582.

Pl*anning & Development Officer Elizabeth* Triggs gave a brief overview of the item noting this is for a Specific Use Designation (SUD) without term for Cavender MercedesBenz to operate as a car dealership. The P&Z Committee recommends approval.

Mayor Pro Tem Ladd opened the public hearing at 11:00 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Robin Poole moved to approve the first of two readings of Ordinance No. 10582; seconded by Scott Dufford.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

39. 10583 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,500-SQUARE FOOT PORTION OF BLOCKS 21 AND 22, KELVIEW HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST SCHARBAUER AVENUE), WHICH IS PRESENTLY ZONED LR, LOCAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE 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 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE & PLACE)**

Mayor Pro Tem Ladd read the caption of Ordinance No. 10583.

Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting this is for an SUD for alcohol sales. The P&Z Committee and staff recommends approval.

Mayor Pro Tem Ladd opened the public hearing at 11:03 a.m.

DRAFT

Council Member Norman recognized and appreciates that the owners are local.

There being no one else wishing to speak, the public hearing was closed at 11:05 a.m.

John Norman moved to approve the first of two readings of Ordinance No.10583; seconded by Eric Davidson.
The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Blong, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: None

40. 10584 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 18 AND 19, BLOCK 1, SKYVIEW DEVELOPMENT, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF EAST LOOP 250 NORTH AND TODD 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 1) (DEVELOPMENT SERVICES) QUALITY OF LIFE AND PLACE**

Mayor Pro Tem Ladd read the caption of Ordinance No. 10584.

Planning & Development Officer Elizabeth Triggs gave a brief overview of the item noting it is a rezoning request. The current owner is about to sell the property and the new owner would like to be able to develop the area. Staff recommends approval.

Mayor Pro Tem Ladd opened the public hearing at 11:10 a.m.

Janet Hall, 4001 Irving Drive, spoke in opposition of this item and feels this is going to be a dangerous high traffic area.

Assistant City Manager Jose Ortiz reported a right of way has been acquired but not the entire parcel for the purpose of the overpass at Todd Drive. This is to address traffic concerns which are a regional issue.

Planning & Development Officer Elizabeth Triggs reported there is a site plan attached to the ordinance along with conditions.

Council Member Dufford suggested to defer this item until more information is received.

Robyn Houston, 2912 Shanks Drive, lives on the corner of Todd and Shanks, spoke about how dangerous this will be.

Assistant City Manager Jose Ortiz reported staff can review this item further and bring more information back to Council.

DRAFT

There being no one else wishing to speak, the public hearing was closed at 11:26 a.m.

Scott Dufford moved to defer the first of two readings of Ordinance No.10584; seconded by Robin Poole.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: Blong

MISCELLANEOUS

41. 10585 – AN ORDINANCE GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF MIDLAND, TEXAS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, PROVIDING FOR THE REPEAL OF ALL EXISTING FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC **(DISTRICT: ALL) (DEVELOPMENT SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

Rachel Guentensberger read the caption of Ordinance No. 10585.

Intergovernmental Relations Officer Lindsey Adams reported this is a standard agreement with Oncor that will require three readings. This is the first of the three readings.

John Norman moved to approve the first of three readings of Ordinance No. 10585; seconded by Amy Stretcher Burkes.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: Blong

42. 144-2024 – MOTION GRANTING PRINCE SIGNS LLC'S APPEAL AND REVERSING THE BUILDING OFFICIAL'S DENIAL OF A SIGN PERMIT FOR LOT 1A, BLOCK 1, PAVILION PARK, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH BIG
SPRING STREET AND EAST MOCKINGBIRD LANE) **(DISTRICT 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)**

DRAFT

John Norman moved to approve Motion No.144-2024; seconded by Eric Davidson.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: Blong
Planning & Development Officer Elizabeth Triggs reported this is a sign appeal request for Kent Companies. Staff recommends approval as the City Code allows this item to come to Council for discussion/approval.

43. MOTION MAKING APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS **(DISTRICT: NONE) (CITY SECRETARY)**

Mayor Pro Tem Ladd inquired of Council if they would like to defer this item so that the new Council Members may participate.

Lucy Sisniega, 5408 Crowley Blvd, is asking Council to reconsider having the board reapply to the Planning and Zoning Commission. Ms. Sisniega reported there is a strong board now.

John Norman moved to defer; seconded by Scott Dufford.

The motion passed by the following vote:
AYE: Davidson, Stretcher Burkes, Poole, Dufford, Ladd, Norman
NAY: None
ABSTAIN: None
ABSENT: Blong

PUBLIC COMMENT

44. 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.)

Deborah Morris, 3108 Loma Drive, is representing Victory Outreach and would like the removal of a trespass citation with regard to a non-profit, Langtry Village, in Midland. Ms. Morris described the incident. Deputy City Manager Morris Williams reported he will look into it and report back to Council.

EXECUTIVE SESSION

45. 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:

DRAFT

Mayor Pro Tem Ladd recessed the City Council meeting to go into Executive Session at 11:48 a.m.

a. Section 551.087, Deliberate Economic Development Negotiations

a.1. 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.

b. Section 551.074, Personnel Matters

b.1. Deliberate the appointment of members to the Midland Development Corporation board of directors and the Planning and Zoning Commission. All the business at hand having been completed, the meeting adjourned at 12:46 p.m.

PASSED AND APPROVED January 14, 2025.

_____

Lori Blong, Mayor

ATTEST:

_____

Marcia Bentley-German
City Governance Officer/City Secretary

DRAFT

City Council Meeting

Item Number: 5

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Jamie Barton,

Subject: MOTION APPROPRIATING THE SUM OF $300,000.00 FROM THE HOTEL MOTEL FUND (090) UNAPPROPRIATED FUND BALANCE TO THE VISIT MIDLAND SPORTS AND ENTERTAINMENT PROGRAM FOR THE PROMOTION OF SPORTS TOURISM (DISTRICT: NONE) (FINANCE) (STRONG ECONOMY WITH MORE QUALITY JOBS)

Purpose:

Consider a Motion to appropriate the sum of $300,000 from the Hotel Motel Fund (090) unappropriated fund balance for the Visit Midland Sports and Entertainment and the promotion of sports tourism.

Recommended City Council Action:

Approve

Fiscal Impact:

Funds are available in the Hotel Motel Fund (090) unappropriated fund balance and will be appropriated for said purpose.

Strategic Priority:

(Strong Economy with More Quality Jobs)

Discussion:

The City of Midland will be providing funds for the promotion of Sports Tourism. Promoting Sports Tourism through the Visit Midland Sports and Entertainment organization will utilize funds to increase Hotel Motel revenue from tournaments and hotel bookings/reservations.



City Manager's Office

City Council Meeting

Item Number: 6

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: MOTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBERS 1 AND 2 WITH REECE ALBERT, INC. REGARDING THE GARFIELD STREET PAVING BOND PROJECT – BREAKOUT 03; CHANGE ORDER NUMBER 1 TO BE IN THE AMOUNT OF $627,860.00 AND TO PROVIDE FOR SAFETY IMPROVEMENTS, INCLUDING ENHANCED SIGNAGE AND ILLUMINATION; AND CHANGE ORDER NUMBER 2 TO BE IN THE AMOUNT OF $419,079.03 AND TO PROVIDE FOR PROJECT OVERRUNS RESULTING FROM NECESSARY FIELD ADJUSTMENTS TO THE ORIGINAL PLAN SPECIFICATIONS (DISTRICT 3) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)

Purpose:

Motion authorizing the execution of Change Order Numbers 1 and 2 with Reece Albert, Inc. regarding the Garfield Street Paving Bond Project – Breakout 03; Change Order Number 1 to be in the amount of $627,860.00 and to provide for safety improvements, including enhanced signage and illumination; and Change Order Number 2 to be in the amount of $419,079.03 and to provide for project overruns resulting from necessary field adjustments to the original plan specifications

Recommended City Council Action:

Approve

Fiscal Impact:

Funds in the amount of $837,551.23 are available in the Garfield St Paving Project; funds of $209,387.81 are available in the 2017 Road Bond Fund and will be appropriated to the Garfield St. Paving Project.

Strategic Priority:

(Strengthen and Sustain our Infrastructure)

Discussion:

Resolution 2024-101 awarded a contract for the Garfield Street Paving Bond Project to the Sole bidder, Reece Albert, Inc of San Angelo, Texas at a total cost of $4,187,756.14; approving $837,551.23 for contingencies; appropriating funds. Staff is requesting approval of a motion authorizing the execution of Change Order 1 and Change Order 2 with Reece Albert, Inc. of San Angelo, Texas, regarding Garfield Street Paving Bond Project; total of said change orders to be in the amount of $1,046,939.03.

Therefore, please consider a motion authorizing the execution of Change Order Numbers 1 and 2 with Reece Albert, Inc. regarding the Garfield Street Paving Bond Project – Breakout 03; Change Order Number 1 to be in the amount of $627,860.00 and to provide for safety improvements, including enhanced signage and illumination; and Change Order Number 2 to be in the amount of $419,079.03 and to provide for project overruns resulting from necessary field adjustments to the original plan specifications.

Morris Williams Jr.

City Manager's Office

INTEROFFICE MEMORANDUM

TO: Erika Martinez; City of Midland, Purchasing Manager

FROM: Bobby Wojciechowski; City of Midland, Assistant Director of Engineering Services

SUBJECT: Garfield St Paving Bond Project Change Order Request

DATE: January 14, 2025

Please carry a motion to Council for the approval of Change Order #1 ($627,860.00) and Change Order #2 ($419,079.03) with Reece Albert, Inc. for the Garfield Street Paving Bond Project – Breakout 03. The total combined amount is $1,046,939.03. The original contract, awarded under Resolution 2024-101, was for $4,187,756.04, with additional contingencies approved.

Change Order Details:

- **Change Order #1 ($627,860.00):** Safety improvements, including enhanced signage and illumination.
- **Change Order #2 ($419,079.03):** Necessary to replenish contingency funds for anticipated overruns and to reallocate previously exhausted resources.

Funding is available from Project Account 981014-120 ($627,860.00 and $209,691.22) and the 2017 Road Bond Fund ($209,387.81). The Engineering Services Department recommends approving Change Orders #1 and #2 for a total not to exceed $1,046,939.03 to ensure project safety and address necessary field adjustments.

cc: Gabe McClelland
Regina Stephenson

CONTRACT CHANGE ORDER

Order No. 1

Date: 12/4/2024

NAME OF PROJECT: BPU18 02 Garfield St. Paving

PROJECT NUMBER: Contract # 1182

OWNER: City of Midland

CONTRACTOR: Reece Albert

The following changes are hereby made to the CONTRACT DOCUMENTS:

Justification:

Safety improvements, including enhanced signage and illumination.

Change to CONTRACT PRICE:

Original UNIT PRICE CONTRACT: $ 4,187,756.14

Current UNIT PRICE CONTRACT adjusted by previous CHANGE ORDER: $ N/A

The UNIT PRICE CONTRACT due to this CHANGE ORDER will be:
☒ (increased) ☐(decreased) by: $ 627,860.00
The new UNIT PRICE CONTRACT including this CHANGE ORDER will be: $ 4,815,616.14

Change to CONTRACT TIME:

The CONTRACT TIME will be ☐ (increased) ☐(decreased) by: N/A calendar days.

Funding Source for CONTRACT CHANGE ORDER Increase:

☐ Account # _____

☒ Project # 981014-120

Approvals Required:
To be effective this Order must be approved by the Midland City Council if it changes the scope or objective of the PROJECT, or as may otherwise be required by the GENERAL PROVISIONS AND SUPPLEMENTAL CONDITIONS.

Requested by: _____

Approved by: _____

CONTRACT CHANGE ORDER

Order No. 2

Date: 12/4/2024

NAME OF PROJECT: BPU18 02 Garfield St. Paving

PROJECT NUMBER: Contract # 1182

OWNER: City of Midland

CONTRACTOR: Reece Albert

The following changes are hereby made to the CONTRACT DOCUMENTS:

Justification:

Reimbursement of contingency for anticipated project overruns.

Change to CONTRACT PRICE:

Original UNIT PRICE CONTRACT: $4,187,756.14

Current UNIT PRICE CONTRACT adjusted by previous CHANGE ORDER: $4,815,616.14

The UNIT PRICE CONTRACT due to this CHANGE ORDER will be:
☒ (increased) ☐(decreased) by: $419,079.03
The new UNIT PRICE CONTRACT including this CHANGE ORDER will be: $5,234,695.17

Change to CONTRACT TIME:

The CONTRACT TIME will be ☐ (increased) ☐(decreased) by: N/A calendar days.

Funding Source for CONTRACT CHANGE ORDER Increase:

☒ Account # 2017 Road Bond Fund ($209,387.81)

☒ Project # 981014-120 ($209,691.22)

Approvals Required:
To be effective this Order must be approved by the Midland City Council if it changes the scope or objective of the PROJECT, or as may otherwise be required by the GENERAL PROVISIONS AND SUPPLEMENTAL CONDITIONS.

Requested by: _____

Approved by: _____

REECE ALBERT, INC.
HEAVY CONSTRUCTION, UTILITIES AND PAVING

CITY OF MIDLAND - GARFIELD STREET ILLUMINATION & SIGNAGE CHANGE ORDER

To MR. BOBBY WOJCIECHOWSKI
CITY OF MIDLAND - CAPITAL IMPROVEMENTS
300 N. LORAINE
MIDLAND, TX 79701

Date NOVEMBER 19, 2024
Project GARFIELD STREET ROADWAY IMPROVEMENTS
ILLUMINATION & SIGNS
Location MIDLAND, TX

>> THE FOLLOWING PROPOSAL IS BASED ON THE CITY OF MIDLAND - GARFIELD STREET ROADWAY IMPROVEMENTS PLANS 134 - 147 BY PARKHILL AND SEALED BY THE CITY OF MIDLAND ON OCTOBER 21, 2022. ADDITIONALLY, PLAN SHEET 10 WAS REFERENCED FOR BID ITEM DESCRIPTIONS, UNITS, AND APPROXIMATE QUANTITIES.

GARFIELD STREET IMPROVEMENTS - ILLUMINATION & SIGNAGE CHANGE ORDER

ITEM	DESCRIPTION	QUANTITY	UNIT	PRICE	TOTAL
500	MOBILIZATION	1.00	LS	$59,000.00	$59,000.00
610	ROADWAY ILLUMINATION POLE (FIXTURE EXCLUDED) ***INCLUDES DRILL SHAFT AND REQUIRED WIRING ONLY. ILLUMINATION POLES & FIXTURES ARE EXCLUDED.***	4.00	EA	$7,350.00	$29,400.00
618	2" PVC CONDUIT WITH TRAY CABLE	493.00	LF	$120.00	$59,160.00
624	TY A GROUND BOX	6.00	EA	$3,000.00	$18,000.00
628	GROUND MOUNTED SERVICE PEDESTAL	1.00	EA	$17,500.00	$17,500.00
644	RELOCATE SIGN ASSEMBLY	2.00	EA	$1,000.00	$2,000.00
644	SMALL SIGN ASSEMBLY	36.00	EA	$1,200.00	$43,200.00

ILLUMINATION & SIGNAGE TOTAL... $228,260.00

TERMS AND CONDITIONS

> THIS QUOTE EXCLUDES ALL WORK NOT SPECIFICALLY INDICATED ON PLANS AND LISTED IN THE ABOVEMENTIONED SCOPE OF WORK.
> PRICING IS BASED ON THE CITY OF MIDLAND PROVIDED GARFIELD STREET ROADWAY IMPROVEMENT PLANS.
> ALL APPLICABLE LABOR, EQUIPMENT, AND MATERIAL IS INCLUDED IN ABOVE THE PRICING.
> THE CHANGE ORDER QUANTITIES PROVIDED ARE ESTIMATED OR TAKEN DIRECTLY FROM THE AFOREMENTIONED PLAN SHEET 10. ACTUAL CONSTRUCTION QUANTITIES MAY VARY.
> ROADWAY SIGNAGE IS LIMITED TO SIGNAGE IDENTIFIED ON PLAN SHEETS 142 - 144 (WITH QUANTITIES INDICATED ON PLAN SHEET 10).
> ELECTRICAL WORK TO INCLUDE ONLY THE LABOR, EQUIPMENT, AND MATERIALS REQUIRED FOR THE ABOVE INDICATED GROUND MOUNTED SERVICE PEDESTAL, GROUND BOXES, PVC CONDUITS, DRILL SHAFTS, AND WIRING FOR THE FOUR (4) INDICATED ILLUMINATION POLES. ALL REQUIRED ILLUMINATION POLES, LIGHT FIXTURES, INSTALLATION OF POLES AND FIXTURES, AND ENERGIZING OF THE SYSTEM IS EXCLUDED.
> ALL TRAFFIC SIGNALS, PEDESTRIAN POLES, AND SUPPORTING STRUCTURES/EQUIPMENT IS EXCLUDED.
> TESTING COSTS ARE EXCLUDED. HOWEVER, ANY REQUIRED COORDINATION WITH TESTING LABORATORY IS INCLUDED.
> WORK WOULD BE PERFORMED IN CONJUNCTION AND SCHEDULED WITH EXISTING GARFIELD STREET ROADWAY IMPROVEMENT CONSTRUCTION.
> ADDITIONAL CONTRACT TIME OF **15 CALENDAR DAYS** IS REQUESTED TO COMPLETE THIS CHANGE ORDER WORK.

PLEASE SIGN AND RETURN 1 COPY

This proposal may be withdrawn if not accepted within 60 days

Said amount is due and payable in San Angelo, Tom Green County, Texas. Full payment for work accomplished shall be due on receipt of invoice.
A 1% per month carrying fee will be added to past-due accounts. 18% of amount due shall be added f suit is brought thereon.

Accepted: _____

By: _____
Date: _____

Sincerely,
Reece Albert, Inc.

By: _____
Kyle Gould, Estimator

REECE ALBERT, INC.
HEAVY CONSTRUCTION, UTILITIES AND PAVING

CITY OF MIDLAND - GARFIELD STREET ROUNDABOUT ENHANCEMENT CHANGE PROPOSAL

To	MR. BOBBY WOJCIECHOWSKI	Date	OCTOBER 31, 2024 ***REVISED***
	CITY OF MIDLAND - CAPITAL IMPROVEMENTS	Project	GARFIELD STREET ROADWAY IMPROVEMENTS
	300 N. LORAINE		ROUNDABOUT CHANGE ORDER PROPOSAL
	MIDLAND, TX 79701	Location	MIDLAND, TX

>> THE FOLLOWING PROPOSAL IS BASED ON THE REVISED CITY OF MIDLAND - GARFIELD ROUNDABOUT ENHANCEMENT PLANS L0.00 - L5.02 BY DUNAWAY AND DATED AUGUST 16, 2024 AND THE ADDITIONALLY MODIFIED VERSION OF PLAN SHEET L4.00 DATED OCTOBER 16, 2024. THIS PROPOSAL REPLACES AND SUPERSEDES THE ORIGINAL CHANGE PROPOSAL DATED JUNE 24, 2024, BASED ON THE PLANS DATED SEPTEMBER 15, 2022 AND THE REVISED PROPOSAL DATED OCTOBER 11, 2024.

GARFIELD ROUNDABOUT ENHANCEMENTS *(BASED ON 8/16/2024 PLANS AND MODIFICATIONS TO PLAN SHEET L4.00)*

A.) CREW AND EQUIPMENT MOBILIZATION, SITE SURVEY, SITE DEVELOPMENT, PROJECT LAYOUT, AND PROJECT STAKING.

B.) SITE EXCAVATION AND EMBANKMENT TO CREATE DESIGNED LAND FORM AND SWALE ELEVATIONS AS INDICATED ON GRADING PLAN L2.00. ALL GRADES WILL BE FINISHED TO A SMOOTH FLOWING CONTOUR.

C.) PREP AND COMPACT SUBGRADE TO REQUIRED DENSITY.

D.) FORM AND POUR 5' WIDE CONCRETE SIDEWALK AROUND PERIMETER OF ROUNDABOUT AND AT WALKWAY EXTENSION ON THE EAST SIDE OF GARFIELD AS INDICATED ON MATERIALS PLAN L1.00.

E.) FORM AND POUR 6" CONCRETE MOW STRIPS AT BOTH THE UPPER AND LOWER ELEVATIONS OF RIVER ROCK MULCH LANDSCAPE PLANTING BED AS INDICATED ON MATERIALS PLAN L1.00.

F.) INSTALL SIX (6) LEUDERS LIMESTONE BLOCK WALLS COMPLETE WITH CONCRETE FOOTINGS AS INDICATED ON WALL LAYOUT PLAN L1.02.

G.) INSTALL TWO (2) 6'-0" LIMESTONE BENCHES AT WALKWAY EXTENSION ON THE EAST SIDE OF GARFIELD AS INDICATED ON MATERIALS PLAN L1.00.

H.) INSTALL LANDSCAPE LIGHTING COMPLETE WITH PVC CONDUIT SLEEVES, CONTROLLER, AND ELECTRICAL SERVICE CONNECTION AS INDICATED ON LIGHTING PLAN L3.00.

I.) INSTALL THREE (3) DESERT WILLOW AND TEN (10) VITEX TREES AT UPPER AND LOWER PLANTING AREAS OF THE ROUNDABOUT AS INDICATED ON PLANTING PLAN L4.00.

J.) INSTALL FOUR HUNDRED SEVENTY-TWO (472) PONY TAIL MEXICAN FEATHER GRASSES, TWENTY (20) TONS OF 1 1/2" MESA RED RIVER ROCK, AND SIXTY (60) TONS OF DECOMPOSED GRANITE IN ROUNDABOUT LANDSCAPE PLANTING BEDS AS INDICATED ON PLANTING PLAN L4.00.

K.) INSTALL THREE (3) CEDAR ELM TREES ADJACENT TO LIMESTONE BENCHES ON EAST SIDE OF GARFIELD.

L.) INSTALL AN ADDITIONAL TWO HUNDRED TWENTY (220) TONS OF DECOMPOSED GRANITE IN ACCORDANCE WITH THE 10-16-2024 MODIFICATIONS MADE TO SHEET L4.00. THE LOCATIONS OF THIS DECOMPOSED GRANITE ARE ALONG THE EAST AND WEST SIDES OF GARFIELD IN AREAS THAT WERE PREVIOUSLY IDENTIFIED AS BERMUDA GRASS SOD.

M.) INSTALL IRRIGATION SYSTEM COMPLETE WITH PVC CONDUIT SLEEVES, IRRIGATION LATERAL AND MAINLINES, IRRIGATION VALVES, IRRIGATION HEADS, SENSORS, CONTROLLER, AND ELECTRICAL SERVICE CONNECTION AS REQUIRED TO SERVICE THE VEGETATION INDICATED ON THE 10-16-2024 MODIFICATIONS MADE TO SHEET L4.00. AS THE BERMUDA GRASS SOD ALONG NORTH GARFIELD AND WEST CUTHBERT HAS BEEN ELIMINATED, SO TOO HAS THE IRRIGATION REQUIRED TO SERVICE THE SOD. *(THE TAP OF EXISTING CITY WATER SERVICE LINE AND INSTALLATION OR RELOCATION OF THE CITY SERVICE METER IS EXCLUDED. HOWEVER, ANY REQUIRED CONNECTION TO CITY WATER METER IS INCLUDED.)*

GARFIELD ROUNDABOUT ENHANCEMENT TOTAL... $399,600.00

TERMS AND CONDITIONS

> THIS QUOTE EXCLUDES ALL WORK NOT SPECIFICALLY INDICATED ON PLANS AND LISTED IN THE ABOVEMENTIONED SCOPE OF WORK.
> PRICING IS BASED ON CITY OF MIDLAND PROVIDED PLANS DATED AUGUST 16, 2024 AND MIFIFIED PLAN SHEET L4.00 DATED OCTOBER 16, 2024
> ALL APPLICABLE LABOR, EQUIPMENT, AND MATERIAL IS INCLUDED IN ABOVE THE PRICING.
> INSTALLATION OR RELOCATION OF CITY WATER SERVICE LINE AND METER IS EXCLUDED.
> ANY REQUIRED CONNECTIONS TO THE CITY WATER METER IS INCLUDED IN THE ABOVE PRICING.
> BERMUDA GRASS SOD HAS BEEN REMOVED FROM THE SCOPE OF THE PROJECT AND IS EXCLUDED.
> A MAINTENANCE AND WARRANTY PERIOD OF 12 MONTHS FROM ACCEPTANCE DATE IS INCLUDED IN THE ABOVE PRICING. THIS PERIOD INCLUDES THE IRRIGATION SYSTEM. ANY WARRANTY OR MAINTENANCE PERIOD BEYOND 12 MONTHS IS EXCLUDED.
> TESTING COSTS ARE EXCLUDED. HOWEVER, ANY REQUIRED COORDINATION WITH TESTING LABORATORY IS INCLUDED.
> WORK WOULD BE PERFORMED IN CONJUNCTION AND SCHEDULED WITH EXISTING GARFIELD STREET ROADWAY IMPROVEMENT CONSTRUCTION.
> PRICING IS CONTINGENT UPON THE GARFIELD STREET ROADWAY IMPROVEMENTS PHASE 2 CONSTRUCTION BEING ALLOWED TO PROCEED PRIOR TO THE SUBSTANTIAL COMPLETION OF THE GARFIELD ROUNDABOUT ENHANCEMENTS.
> ADDITIONAL CONTRACT TIME OF **60 CALENDAR DAYS** IS REQUESTED TO COMPLETE THIS CHANGE ORDER WORK.

PLEASE SIGN AND RETURN 1 COPY *This proposal may be withdrawn if not accepted within 60 days*

Said amount is due and payable in San Angelo, Tom Green County, Texas. Full payment for work accomplished shall be due on receipt of invoice. A 1% per month carrying fee will be added to past-due accounts. 18% of amount due shall be added if suit is brought thereon.

Accepted: _____

By: _____

Date: _____

Sincerely,
Reece Albert, Inc.

By: _____
Kyle Gould, Estimator

P. O. BOX 62030 · SAN ANGELO, TX 76906
(325) 653-1241 · FAX (325) 653-6086
WWW.REECEALBERTINC.COM

City Council Meeting

Item Number: 7

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: **RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH WEAVER AND TIDWELL, L.L.P. FOR INTERNAL AUDIT SERVICES FOR A TOTAL COST NOT TO EXCEED $247,500.00; AND AUTHORIZING PAYMENT (DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

Purpose:

Resolution authorizing the execution of a Professional Services Agreement with Weaver and Tidwell, L.L.P. for professional services for the City of Midland's Internal Audit services for a cost of $247,500.00.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is available in the General Fund operating budget.

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

Staff recommends authorizing a professional services agreement with Weaver and Tidwell, L.L.P. to provide professional services for the City of Midland's Internal Audit services. Weaver and Tidwell, L.L.P. will assist management in identifying critical risk areas and evaluate the City's processes for monitoring and controlling those risks. The scope of the Internal Audit

Plan, developed in collaboration with the Audit Committee and City Manager, will be implemented by our audit team in quarterly phases, involving interviews, documentation reviews, and compliance testing.

Therefore, please consider a resolution authorizing the execution of a professional services agreement with Weaver and Tidwell, L.L.P. for professional services for the City of Midland's Internal Audit services for a cost of $247,500.00.

Morris Williams Jr.

City Manager's Office

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH WEAVER AND TIDWELL, L.L.P. FOR INTERNAL AUDIT SERVICES FOR A TOTAL COST NOT TO EXCEED $247,500.00; AND AUTHORIZING PAYMENT

WHEREAS, Weaver and Tidwell, L.L.P. (the "Firm") has agreed to perform internal audit services (the "Services") for a total cost not to exceed $247,500.00; and

WHEREAS, the City Council finds that the Firm is qualified to perform the Services; and

WHEREAS, the City Council finds that the fees proposed by the Firm are consistent with and not higher than the recommended practices and fees published by applicable professional associations and do not exceed any maximum provided by law; and

WHEREAS, the City Council finds that the Firm provides the Services for a fair and reasonable price; and

WHEREAS, the City Council finds it to be in the public interest to execute a professional services agreement with the Firm as the most highly qualified provider of the Services based on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the Services;

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

SECTION ONE. That the City Council hereby selects the Firm to perform the Services.

SECTION TWO. That the City Manager is hereby authorized and directed to execute, on behalf of the City of Midland, a professional services agreement with the Firm, said professional services agreement to be in a form substantially similar to that attached hereto as Exhibit "A".

SECTION THREE. That the City Comptroller is authorized and directed to make payment to the Firm according to the terms of said professional services agreement from funds available in the FY25 General Fund operating budget upon receipt of proper invoice approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2025, 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

_____
Christy Weakland, Director of Finance

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"

PROFESSIONAL SERVICES AGREEMENT
25002004

THIS AGREEMENT is made and effective the 15 day of January 2025, by and between Weaver and Tidwell, L.L.P. ("*COMPANY*"). CITY and COMPANY are at times individually referred to as a "*Party*" and collectively referred to as the "*Parties*."

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which COMPANY shall perform the City of Midland's Internal Audit services (the "*Services*") for CITY. The Services are more specifically set forth in **Exhibit A**, which is attached hereto and incorporated herein for all purposes.

ARTICLE II. SERVICES TO BE PERFORMED

COMPANY shall provide the Services in a manner consistent with the same level of skill and care as other professionals that perform similar services for similar projects in approximately the same region and at approximately the same point in time. COMPANY represents that any employee who performs the Services shall be fully qualified and competent to perform the Services.

ARTICLE III. FINANCIAL CONSIDERATIONS

CITY agrees to pay COMPANY an amount not to exceed $247,500.00 for the performance of the Services. CITY agrees to pay COMPANY according to the schedule set forth in **Exhibit A** upon presentation of a monthly invoice. The monthly invoice shall set forth all service fees for the month and those expenses described in **Exhibit A** that COMPANY incurs during the previous month for which COMPANY receives advanced written approval from the City Manager. All additional and/or reimbursable expenses must be approved by the City Manager prior to incurring such expenses.

Within thirty (30) days of the date COMPANY's invoice is received by CITY, CITY shall pay the full amount of such invoice; provided, however, that if CITY objects to any portion of an invoice, CITY shall notify COMPANY of CITY's objection and the grounds therefor within fifteen (15) days of the date of receipt of the invoice, and the Parties shall immediately make every effort to settle the disputed portion of the invoice. Notwithstanding the foregoing, CITY shall pay

every portion of the invoice that is not in dispute within the 30-day period for payment.

ARTICLE IV. TERM

The term of this Agreement shall be from January 15, 2025, until the earliest of (1) the date of COMPANY's completion of the Services, (2) September 30, 2028, and (3) the date of termination of this Agreement as provided below.

ARTICLE V. TERMINATION AT WILL

CITY may terminate this Agreement at will, for any or no reason, upon giving COMPANY at least one hundred eighty (180) days' written notice. The Parties understand and agree that it is in CITY'S sole and absolute discretion to cancel this Agreement during the term set forth in Article IV without penalty to CITY. COMPANY has no expectation and has received no guarantees that this Agreement will not be terminated during the Agreement's term. The Parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during this Agreement's term. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

ARTICLE VI. ASSIGNMENT

COMPANY shall not, either directly or indirectly, assign all or any part of this Agreement, or any interest, right or privilege herein, without obtaining CITY's prior written consent. The issue of whether to grant such consent shall be in the sole and absolute discretion of CITY.

ARTICLE VII. OWNERSHIP AND CONFIDENTIALITY OF DOCUMENTS AND OTHER WORK PRODUCT

All reports, information and other data ("*Instruments of Service*") given to, prepared or assembled by COMPANY under this Agreement, and any other related document or item shall become the sole and exclusive property of CITY. The Instruments of Service shall be promptly delivered, without restriction, to CITY and such other persons or entities as CITY may designate; provided, however, that COMPANY may make copies of the Instruments of Service for its files.

ARTICLE VIII. INDEPENDENT CONTRACTOR

COMPANY shall perform the Services 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 all persons performing the same. COMPANY shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors. The Parties acknowledge and agree that the doctrine of *respondeat superior* shall not apply as between CITY and COMPANY, its officers, agents, employees, contractors and subcontractors. Nothing in this Agreement shall be construed as creating a partnership or joint enterprise between CITY and COMPANY. No person performing the Services 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 nor shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" that would give rise to vicarious liability. COMPANY is an independent contractor under this Agreement and shall assume all rights, obligations, and liabilities applicable to it as an independent contractor. CITY does not have the power to direct the order in which the services are performed. CITY shall not have the right to control the means, methods or details of COMPANY'S work. COMPANY shall assume exclusive responsibility for performing the Services, and is entirely free to perorm the Services in its own way.

ARTICLE IX. INSURANCE

During the term of this Agreement, COMPANY shall 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 policy shall be on a per project aggregate, including completed operations, and shall be on a claims-occurred basis. This policy shall name CITY as an additional insured and waive subrogation in favor of CITY.

The Business Automobile Liability policy shall cover any vehicle 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 Services. This policy shall name CITY as an additional insured and waive subrogation in favor of CITY.

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

All insurance policies required by this Agreement shall (i) provide for a waiver of subrogation in favor of CITY, and (ii) name CITY as an additional insured on a claims-occurred basis (except for the Workers' Compensation policy). Prior to any reduction or termination of the insurance policies referenced herein, COMPANY shall ensure that its insurance provider submits written notice to CITY no later than thirty (30) days prior to the reduction or termination of such coverage.

COMPANY shall contractually require all contractors, subcontractors, and sub-subcontractors that perform the Services 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 that name the City of Midland as an additional insured on a claims-occurred basis (except Workers' Compensation).

Prior to the execution of the Agreement, COMPANY shall provide one or more certificates of insurance specifically stating that requirements of this Article have been met, which shall be subject to the approval of CITY. CITY shall not be required to provide any insurance pursuant to this Agreement.

By executing this Agreement, COMPANY certifies that the certificate of insurance provided pursuant to this Article 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 and this Agreement is the sole and exclusive responsibility of COMPANY.

Notwithstanding any contrary provision contained herein, the City Manager, in his/her sole and absolute discretion, modify the insurance requirements contained in this Article.

ARTICLE X. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, 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 OF ATTORNEY FEES, WHICH ARE IN ANY WAY RELATED TO THIS AGREEMENT OR THE CONSTRUCTION, INTERPRETATION, OR BREACH OF THIS AGREEMENT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY 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), COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

COMPANY AGREES THAT THIS IS A VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY-EXISTING KNOWN RIGHT. COMPANY ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THIS AGREEMENT. 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 OF GOVERNMENTAL IMMUNITY.

COMPANY IS RELYING ON ITS OWN JUDGMENT AND HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION. THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE XI. GOVERNMENTAL IMMUNITY

By executing this Agreement, 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.**

ARTICLE XII. NO THIRD-PARTY BENEFICIARY

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

ARTICLE XIII. RELEASE

NOTWITHSTANDING ANY CONTRARY PROVISION CONTAINED HEREIN, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY AND ITS AGENTS, COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY 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. THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

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. The laws of the State of Texas shall govern, construe and enforce all rights and duties of the Parties, including, but not limited to, tort claims and any 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. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. The obligations and undertakings of the

Parties shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claim, suit, or other action arising from or connected in any way to this Agreement shall be in Midland County, Texas.

C. Notice. Any notice or demand made regarding this Agreement shall be made in writing and delivered, either in person or by certified or registered mail, at the addresses provided below. 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.

If to CITY: City Manager's Office
P.O. Box 1152
Midland, Texas 79702

If to COMPANY: Weaver and Tidwell, L.L.P.
4400 Post Oak Parkway, Suite 1100
Houston, Texas 77027

The parties hereto may change the above-designated addresses by giving notice pursuant to the terms of this Section.

D. Severability. If one or more of the provisions contained in this Agreement are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision were never 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 this Agreement shall be binding unless such is evidenced in writing, dated subsequent to the date of this Agreement, and duly executed by the Parties.

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

I. 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, COMPANY or its legal representative shall give the City Manager, or any other reasonable official of CITY, written notice (consisting of one (1) original and seven (7) copies of such notice attached to a copy of this Agreement) of such duly-verified damages within one hundred fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of such 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 will settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented, 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. COMPANY's 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 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 COMPANY's receipt of such 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 contrary provision contained herein, COMPANY's failure to comply with the requirements herein 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 of whether CITY has actual or constructive notice or knowledge of said claim or alleged damages. COMPANY agrees that the requirements of this entire Agreement are reasonable.

J. Prompt Pay Act. The Parties agree that Texas Government Code, Chapter 2251, Payment for Goods and Services does not waive the CITY's governmental immunity.

K. Compliance. COMPANY shall comply with Texas Government Code § 2252.908, *et seq.*, as amended, and Texas Local Government Code § 176.006, *et seq.*, as amended.

L. Anti-Boycott Statutes. To the extent that Tex. Gov't Code §§ 2271.002, 2274.002 and 2276.002 apply to this Agreement, COMPANY hereby verifies:

- COMPANY does not boycott Israel and will not boycott Israel during the term of

this Agreement;

- COMPANY does not boycott energy companies and will not boycott energy companies during the term of this Agreement; and
- 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 Agreement against any firearm entity or firearm trade association.

If Tex. Gov't Code § 2270.002 does not apply to this Agreement, such verification is not required, and COMPANY shall be deemed to have not made such verification.

M. Records Retention and Production of Information. To the extent that this Agreement is a contract described by Tex. Gov't Code § 552.371, COMPANY shall: (i) preserve all contracting information related to the Agreement as provided by the records retention requirements applicable to CITY for the duration of the contract; (ii) promptly provide to CITY any contracting information related to the Agreement that is in the custody or possession of COMPANY on request of CITY; and (iii) on completion of the Agreement, either (a) provide at no cost to CITY all contracting information related to the Agreement that is in the custody or possession of COMPANY, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to CITY.

N. Public Information. To the extent that this Agreement is a contract described by Tex. Gov't Code § 552.371, COMPANY agrees as follows in accordance with Tex. Gov't Code § 552.372(b): The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

O. Conflict of Terms. If a conflict of terms or language exists between: (i) any of the provisions of this Agreement; and (ii) any of the provisions contained in any exhibit(s) attached to this Agreement, precedence shall be given to the provisions of this Agreement. For the avoidance of any doubt, the provisions contained in this Agreement 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 Agreement 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 Agreement are contained in the provisions of this

Agreement that precede the signature page(s), which evidences the Parties' execution and acceptance hereof.

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

Q. Interpretation. By executing this Agreement, the Parties acknowledge and agree that this Agreement shall not be interpreted or construed against any Party solely because such Party or its legal counsel drafted this Agreement. The Parties have read, understood, and approve of the language and terms set forth herein.

[Signature Page(s) Follows]

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

ATTEST:

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

APPROVED AS TO FORM ONLY:

_____
John Ohnemiller, City Attorney

COMPANY:

By: _____

Name:_____

Title: _____

STATE OF _____§
§
COUNTY OF _____§

BEFORE ME, the undersigned authority, on this ____ day of _____, 20____ personally appeared, _____, an officer of Weaver and Tidwell, L.L.P., 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 _____, 20____.

_____
Notary Public, State of Texas

weaver
Assurance - Tax - Advisory

January 15, 2025

Tommy Gonzalez
City Manager
City of Midland
300 North Loraine, City Hall
Midland, Texas 79701

Dear Mr. Gonzalez:

Weaver and Tidwell, L.L.P. ("our", "us", and "we") looks forward to the opportunity to assist you in identifying specific business risks that could prevent City of Midland (the "City", "you", and "your") from achieving its objectives.

We are pleased to confirm our acceptance and our understanding of this engagement by means of this letter.

Scope of Services

We will assist management in identifying critical risk areas that threaten the City's ability to achieve its objectives and evaluate the City's processes for monitoring and controlling those risks which will include developing and executing an Internal Audit Plan ("Internal Audit Plan"). The scope of the Internal Audit Plan will be agreed to by the Finance and Audit Committee of the City Council ("Audit Committee") and City Manager based on the results of the Risk Assessment and then implemented by our internal audit engagement team assigned to perform the services.

We will assist management in identifying critical risk areas that threaten the City's ability to achieve its objectives and evaluate the City's processes for monitoring and controlling those risks. We will work closely with management personnel to develop an internal audit strategy to evaluate each risk category. The scope of the internal audit plan will be agreed to by management and implemented by our internal audit engagement team assigned to perform the services. We anticipate that our procedures will involve interviewing City personnel, reviewing available documentation and testing the City's compliance with internal control policies and procedures. The complete annual internal audit plan will be implemented in quarterly phases.

At the conclusion of each phase of the internal audit plan we will review the results of our observations, inquiries and tests with you before we finalize results and develop recommendations. We will prepare written reports to management and the audit committee which will present the results of each phase of the plan. These reports are intended for internal use by management, the audit committee and City Council and should not be used for any other purpose.

We will not audit or review any financial statements of the City and will not express an opinion or any other form of assurances on them.

Brandon Tanous is the engagement partner for the services specified in this letter, and is responsible for supervising our services performed as part of this engagement.

Internal Audit Functions and Responsibilities

The purpose of our engagement is to assist you in improving the processes by which you monitor and manage the risks that face your City. Management is responsible for establishing and monitoring a system of internal control and for the internal audit function. Management and the Finance and Audit Committee are responsible for designating a responsible individual such as the Director of Finance to be in charge of internal audit. In addition, Management and the Finance and Audit Committee are responsible for approving the scope and frequency of internal audit services and for evaluating and approving the adequacy of the internal audit plan, the internal audit procedures to be performed, evaluating the findings and recommendations resulting from internal audit activities (including those performed by us), and the actions, if any, necessary to respond to the findings and recommendations.

We will not authorize or execute transactions, prepare source documents or take custody of City assets. We will assist you in the overall risk assessment, in developing the internal audit plan and in testing compliance with the City's control structure. However, it is ultimately your responsibility to assess the adequacy of your risk management system.

You are also responsible for management decisions and functions; for designating an individual with suitable skill, knowledge, or experience to oversee the internal audit services and any other non-attest services we may provide; and for evaluating the adequacy and results of those services and accepting responsibility for them.

Timing and Delivery of Services

The internal audit services shall commence from January 15, 2025, until the earliest of (1) the date of Weaver's completion of services, (2) September 30, 2028, and (3) the date of termination of this agreement as provided below. We will conduct our work at your City locations throughout the City of Midland. We will, at all times, coordinate our work with you to provide the least disruption of the City's day-to-day operations, including virtually through technology platforms.

Fees and Invoicing

We estimate the fee for this engagement will not exceed $247,500 for each fiscal year included within the engagement letter scope period. The total fee for our services will be determined by the complexity of the work performed and the tasks required. Individual hourly rates vary according to the degree of responsibility involved and the skills required. The rates are subject to periodic review and may change at the beginning of each of our fiscal years (June 1st). It is understood that neither our fees nor the payment thereof will be contingent upon the results of this engagement.

Level	Discounted Rate Per Hour (FY25)	Discounted Rate Per Hour (FY26)	Discounted Rate Per Hour (FY27)
Partner	$425	$440	$450
Director/Subject Matter Advisor	$380	$395	$410
Senior Manager	$315	$325	$335
Manager	$270	$280	$290
Supervising Senior	$225	$235	$245
Senior Associate	$195	$205	$215
Associate	$185	$195	$205

Our fee estimate is based on anticipated cooperation from all involved and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss the reasons with you and arrive at a new fee estimate before we incur the additional costs.

In addition to the fee for our services, reasonable and necessary out-of-pocket expenses we incur (such as parking, reproduction and printing, postage and delivery, and out-of-market travel, meals, and accommodations) will be invoiced at cost. At this time, we do not anticipate incurring substantial expenses.

Our fee estimate does not include any time for additional post-issuance consultation with your personnel or third parties or assisting you with your response to inquiries from regulators. If we agree to perform such services, our time will be charged at our then-current standard hourly rates and our expenses (including any reasonable attorney's fees) will be invoiced at cost. Such services may be the subject of a new engagement letter, but, if not, they will be performed subject to the terms and conditions herein.

We will also invoice for reasonable and necessary time and out-of-pocket expenses we incur to respond to any request (such as a subpoena, summons, court order, or administrative investigative demand) pertaining to this engagement in a legal matter to which we are not a party. Our time to facilitate the response will be charged at our then-current standard hourly rates and our expenses (including attorney's fees) will be invoiced at cost. If we agree to perform additional substantive services related to or arising out of the request, such matters may be the subject of a new engagement letter.

Our invoices are payable in accordance with Texas Government Code § 2251.021.

This engagement shall conclude upon the completion of our services. Either party may earlier terminate this engagement at any time with one hundred eighty (180) days written notice to the other party. If the engagement is terminated, our engagement will be deemed to have been completed upon written notification of termination, even if we have not performed all the above-described services, and we will be paid for our time expended and expenses incurred through the date of termination.

Ethical Conflict Resolution

In the unlikely event that circumstances occur which we in our sole discretion believe could create a conflict with either the ethical standards of our firm or the ethical standards of our profession in continuing our engagement, we may suspend our services until a satisfactory resolution can be achieved or we may resign from the engagement. We will notify you of such conflict as soon as practicable, and we will discuss with you any possible means of resolving the conflict prior to suspending our services.

The hiring of or potential employment discussions with any of our personnel could impair our independence. Accordingly, you agree to inform the engagement partner or equivalent prior to any such potential employment discussions taking place.

Documentation and Confidentiality

The documentation we prepare pertaining to and in support of this engagement is our property and constitutes confidential information. If we are requested to make the documentation available to outside parties not involved in the performance of these services, except when prohibited by law or direction of law enforcement, any such requests will be discussed with you, and we will obtain your written consent before we make the documentation available to the requesting parties. If you withhold consent, we will cooperate with any lawful efforts you may take to minimize the disclosure or protect the documentation, at your expense.

We will retain our documentation supporting any deliverable for a period of at least seven (7) years from the date thereof. You agree that following such period, we may destroy the documentation without notice to you.

Except as may be noted herein, the parties do not intend this engagement or engagement letter to be for the benefit of any third party. Unless we are informed in writing, we are not aware of the identity of any third parties to which any of our work product will be supplied and we do not anticipate any such third parties' reliance upon our professional services unless expressly stated herein.

In order to facilitate this engagement, we may transmit and store data via email, the cloud, or other electronic and Internet-based mechanisms. Please be aware that those mediums inherently pose a risk of misdirection or interception of confidential information. Any request to limit such transmissions or use a different means of transmission or storage must be made in writing and we will not be responsible for any resulting compromise in data security.

Dispute Resolution Procedure including Jury Waiver

If a dispute arises out of or relates to this engagement or engagement letter, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation before resorting to litigation. In such event, the parties will attempt to agree upon a location, mediator, and mediation procedures, but absent such agreement any party may require mediation in Midland, Texas, administered by the AAA under its Commercial Mediation Procedures.

This engagement letter and all disputes between the parties shall be governed by, resolved, and construed in accordance with the laws of the State of Texas, without regard to conflict-of-law principles. Any action arising out of or relating to this engagement or engagement letter shall only be brought in, and each party agrees to submit and consent to the exclusive jurisdiction of the federal or state courts in the State of Texas and convenience of those situated in Midland County, Texas.

Whenever possible, this engagement letter shall be interpreted in such a manner as to be effective and valid under applicable laws, regulations, or published interpretation, but if any term of this engagement letter is declared illegal, unenforceable, or unconscionable, that term shall be severed or modified, and the remaining terms of the engagement letter shall remain in force. The court should in such case modify any term declared to be illegal, unenforceable, or unconscionable in a manner that will retain the intended term as closely as possible.

Miscellaneous

We may at times provide documents marked as drafts. Those documents are for review purposes only and should not be distributed or relied upon in any way. They should be destroyed as soon as possible.

We have non CPA licensees who may provide services pertaining to this engagement.

January 15, 2025

This engagement letter and the professional services agreement ("PSA") associated with this engagement letter set forth all of the agreed upon terms and conditions of our engagement with respect to the matters covered herein and supersedes any that may have come before. The PSA and this engagement letter may not be amended or modified except by further writing signed by all the parties. Any provisions of the PSA or this engagement letter which expressly or by implication are intended to survive its termination or expiration will survive and continue to bind the parties. The use of electronic signatures or multiple counterparts to execute this engagement letter shall have the same force and effect as a manually or physically signed original instrument.

We appreciate the opportunity to assist you and look forward to working with you and your team.

Sincerely,

Weaver and Tidwell, L.L.P.

WEAVER AND TIDWELL, L.L.P.
Houston, Texas

Please sign and return a copy of this letter to indicate acknowledgment of, and agreement with, the arrangements for our engagement as described herein, including each party's respective responsibilities. By signing below, the signatory also represents that they have been authorized to execute this agreement.

City of Midland

By: _____

Printed Name: _____

Title: _____

Date: _____

PROFESSIONAL SERVICES AGREEMENT
25002004

THIS AGREEMENT is made and effective the 15 day of January 2025, by and between Weaver and Tidwell, L.L.P. ("*COMPANY*"). CITY and COMPANY are at times individually referred to as a "*Party*" and collectively referred to as the "*Parties*."

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which COMPANY shall perform the City of Midland's Internal Audit services (the "*Services*") for CITY. The Services are more specifically set forth in **Exhibit A**, which is attached hereto and incorporated herein for all purposes.

ARTICLE II. SERVICES TO BE PERFORMED

COMPANY shall provide the Services in a manner consistent with the same level of skill and care as other professionals that perform similar services for similar projects in approximately the same region and at approximately the same point in time. COMPANY represents that any employee who performs the Services shall be fully qualified and competent to perform the Services.

ARTICLE III. FINANCIAL CONSIDERATIONS

CITY agrees to pay COMPANY an amount not to exceed $247,500.00 for the performance of the Services. CITY agrees to pay COMPANY according to the schedule set forth in **Exhibit A** upon presentation of a monthly invoice. The monthly invoice shall set forth all service fees for the month and those expenses described in **Exhibit A** that COMPANY incurs during the previous month for which COMPANY receives advanced written approval from the City Manager. All additional and/or reimbursable expenses must be approved by the City Manager prior to incurring such expenses.

Within thirty (30) days of the date COMPANY's invoice is received by CITY, CITY shall pay the full amount of such invoice; provided, however, that if CITY objects to any portion of an invoice, CITY shall notify COMPANY of CITY's objection and the grounds therefor within fifteen (15) days of the date of receipt of the invoice, and the Parties shall immediately make every effort to settle the disputed portion of the invoice. Notwithstanding the foregoing, CITY shall pay

every portion of the invoice that is not in dispute within the 30-day period for payment.

ARTICLE IV. TERM

The term of this Agreement shall be from January 15, 2025, until the earliest of (1) the date of COMPANY's completion of the Services, (2) September 30, 2028, and (3) the date of termination of this Agreement as provided below.

ARTICLE V. TERMINATION AT WILL

CITY may terminate this Agreement at will, for any or no reason, upon giving COMPANY at least one hundred eighty (180) days' written notice. The Parties understand and agree that it is in CITY'S sole and absolute discretion to cancel this Agreement during the term set forth in Article IV without penalty to CITY. COMPANY has no expectation and has received no guarantees that this Agreement will not be terminated during the Agreement's term. The Parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during this Agreement's term. All work and services under the Agreement shall be suspended upon termination of the Agreement becoming effective.

ARTICLE VI. ASSIGNMENT

COMPANY shall not, either directly or indirectly, assign all or any part of this Agreement, or any interest, right or privilege herein, without obtaining CITY's prior written consent. The issue of whether to grant such consent shall be in the sole and absolute discretion of CITY.

ARTICLE VII. OWNERSHIP AND CONFIDENTIALITY OF DOCUMENTS AND OTHER WORK PRODUCT

All reports, information and other data ("*Instruments of Service*") given to, prepared or assembled by COMPANY under this Agreement, and any other related document or item shall become the sole and exclusive property of CITY. The Instruments of Service shall be promptly delivered, without restriction, to CITY and such other persons or entities as CITY may designate; provided, however, that COMPANY may make copies of the Instruments of Service for its files.

ARTICLE VIII. INDEPENDENT CONTRACTOR

COMPANY shall perform the Services 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 all persons performing the same. COMPANY shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors. The Parties acknowledge and agree that the doctrine of *respondeat superior* shall not apply as between CITY and COMPANY, its officers, agents, employees, contractors and subcontractors. Nothing in this Agreement shall be construed as creating a partnership or joint enterprise between CITY and COMPANY. No person performing the Services 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 nor shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" that would give rise to vicarious liability. COMPANY is an independent contractor under this Agreement and shall assume all rights, obligations, and liabilities applicable to it as an independent contractor. CITY does not have the power to direct the order in which the services are performed. CITY shall not have the right to control the means, methods or details of COMPANY'S work. COMPANY shall assume exclusive responsibility for performing the Services, and is entirely free to perorm the Services in its own way.

ARTICLE IX. INSURANCE

During the term of this Agreement, COMPANY shall 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 policy shall be on a per project aggregate, including completed operations, and shall be on a claims-occurred basis. This policy shall name CITY as an additional insured and waive subrogation in favor of CITY.

The Business Automobile Liability policy shall cover any vehicle 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 Services. This policy shall name CITY as an additional insured and waive subrogation in favor of CITY.

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

All insurance policies required by this Agreement shall (i) provide for a waiver of subrogation in favor of CITY, and (ii) name CITY as an additional insured on a claims-occurred basis (except for the Workers' Compensation policy). Prior to any reduction or termination of the insurance policies referenced herein, COMPANY shall ensure that its insurance provider submits written notice to CITY no later than thirty (30) days prior to the reduction or termination of such coverage.

COMPANY shall contractually require all contractors, subcontractors, and sub-subcontractors that perform the Services 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 that name the City of Midland as an additional insured on a claims-occurred basis (except Workers' Compensation).

Prior to the execution of the Agreement, COMPANY shall provide one or more certificates of insurance specifically stating that requirements of this Article have been met, which shall be subject to the approval of CITY. CITY shall not be required to provide any insurance pursuant to this Agreement.

By executing this Agreement, COMPANY certifies that the certificate of insurance provided pursuant to this Article 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 and this Agreement is the sole and exclusive responsibility of COMPANY.

Notwithstanding any contrary provision contained herein, the City Manager, in his/her sole and absolute discretion, modify the insurance requirements contained in this Article.

ARTICLE X. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, 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 OF ATTORNEY FEES, WHICH ARE IN ANY WAY RELATED TO THIS AGREEMENT OR THE CONSTRUCTION, INTERPRETATION, OR BREACH OF THIS AGREEMENT. COMPANY SPECIFICALLY AGREES THAT IF COMPANY 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), COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

COMPANY AGREES THAT THIS IS A VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY-EXISTING KNOWN RIGHT. COMPANY ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THIS AGREEMENT. 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 OF GOVERNMENTAL IMMUNITY.

COMPANY IS RELYING ON ITS OWN JUDGMENT AND HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION. THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

ARTICLE XI. GOVERNMENTAL IMMUNITY

By executing this Agreement, 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.**

ARTICLE XII. NO THIRD-PARTY BENEFICIARY

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

ARTICLE XIII. RELEASE

NOTWITHSTANDING ANY CONTRARY PROVISION CONTAINED HEREIN, COMPANY HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY AND ITS AGENTS, COUNCIL MEMBERS, EMPLOYEES, AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY 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. THE PROVISIONS OF THIS ARTICLE SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

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. The laws of the State of Texas shall govern, construe and enforce all rights and duties of the Parties, including, but not limited to, tort claims and any 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. All performance and payment made pursuant to this Agreement shall be deemed to have occurred in Midland County, Texas. The obligations and undertakings of the

Parties shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claim, suit, or other action arising from or connected in any way to this Agreement shall be in Midland County, Texas.

C. Notice. Any notice or demand made regarding this Agreement shall be made in writing and delivered, either in person or by certified or registered mail, at the addresses provided below. 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.

If to CITY: City Manager's Office
P.O. Box 1152
Midland, Texas 79702

If to COMPANY: Weaver and Tidwell, L.L.P.
4400 Post Oak Parkway, Suite 1100
Houston, Texas 77027

The parties hereto may change the above-designated addresses by giving notice pursuant to the terms of this Section.

D. Severability. If one or more of the provisions contained in this Agreement are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision were never 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 this Agreement shall be binding unless such is evidenced in writing, dated subsequent to the date of this Agreement, and duly executed by the Parties.

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

I. 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, COMPANY or its legal representative shall give the City Manager, or any other reasonable official of CITY, written notice (consisting of one (1) original and seven (7) copies of such notice attached to a copy of this Agreement) of such duly-verified damages within one hundred fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of such 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 will settle, the physical and mailing addresses of COMPANY at the time and date the claim was presented, 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. COMPANY's 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 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 COMPANY's receipt of such 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 contrary provision contained herein, COMPANY's failure to comply with the requirements herein 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 of whether CITY has actual or constructive notice or knowledge of said claim or alleged damages. COMPANY agrees that the requirements of this entire Agreement are reasonable.

J. Prompt Pay Act. The Parties agree that Texas Government Code, Chapter 2251, Payment for Goods and Services does not waive the CITY's governmental immunity.

K. Compliance. COMPANY shall comply with Texas Government Code § 2252.908, *et seq.*, as amended, and Texas Local Government Code § 176.006, *et seq.*, as amended.

L. Anti-Boycott Statutes. To the extent that Tex. Gov't Code §§ 2271.002, 2274.002 and 2276.002 apply to this Agreement, COMPANY hereby verifies:

- COMPANY does not boycott Israel and will not boycott Israel during the term of

this Agreement;

- COMPANY does not boycott energy companies and will not boycott energy companies during the term of this Agreement; and
- 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 Agreement against any firearm entity or firearm trade association.

If Tex. Gov't Code § 2270.002 does not apply to this Agreement, such verification is not required, and COMPANY shall be deemed to have not made such verification.

M. Records Retention and Production of Information. To the extent that this Agreement is a contract described by Tex. Gov't Code § 552.371, COMPANY shall: (i) preserve all contracting information related to the Agreement as provided by the records retention requirements applicable to CITY for the duration of the contract; (ii) promptly provide to CITY any contracting information related to the Agreement that is in the custody or possession of COMPANY on request of CITY; and (iii) on completion of the Agreement, either (a) provide at no cost to CITY all contracting information related to the Agreement that is in the custody or possession of COMPANY, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to CITY.

N. Public Information. To the extent that this Agreement is a contract described by Tex. Gov't Code § 552.371, COMPANY agrees as follows in accordance with Tex. Gov't Code § 552.372(b): The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

O. Conflict of Terms. If a conflict of terms or language exists between: (i) any of the provisions of this Agreement; and (ii) any of the provisions contained in any exhibit(s) attached to this Agreement, precedence shall be given to the provisions of this Agreement. For the avoidance of any doubt, the provisions contained in this Agreement 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 Agreement 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 Agreement are contained in the provisions of this

Agreement that precede the signature page(s), which evidences the Parties' execution and acceptance hereof.

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

Q. Interpretation. By executing this Agreement, the Parties acknowledge and agree that this Agreement shall not be interpreted or construed against any Party solely because such Party or its legal counsel drafted this Agreement. The Parties have read, understood, and approve of the language and terms set forth herein.

[Signature Page(s) Follows]

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

_____
Tommy Gonzalez, City Manager

ATTEST:

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

APPROVED AS TO FORM ONLY:

_____
John Ohnemiller, City Attorney

COMPANY:

By: _____

Name:_____

Title: _____

STATE OF _____§
§
COUNTY OF _____§

BEFORE ME, the undersigned authority, on this ____ day of _____, 20____ personally appeared, _____, an officer of Weaver and Tidwell, L.L.P., 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 _____, 20____.

_____
Notary Public, State of Texas

weaver
Assurance · Tax · Advisory

January 15, 2025

Tommy Gonzalez
City Manager
City of Midland
300 North Loraine, City Hall
Midland, Texas 79701

Dear Mr. Gonzalez:

Weaver and Tidwell, L.L.P. ("our", "us", and "we") looks forward to the opportunity to assist you in identifying specific business risks that could prevent City of Midland (the "City", "you", and "your") from achieving its objectives.

We are pleased to confirm our acceptance and our understanding of this engagement by means of this letter.

Scope of Services

We will assist management in identifying critical risk areas that threaten the City's ability to achieve its objectives and evaluate the City's processes for monitoring and controlling those risks which will include developing and executing an Internal Audit Plan ("Internal Audit Plan"). The scope of the Internal Audit Plan will be agreed to by the Finance and Audit Committee of the City Council ("Audit Committee") and City Manager based on the results of the Risk Assessment and then implemented by our internal audit engagement team assigned to perform the services.

We will assist management in identifying critical risk areas that threaten the City's ability to achieve its objectives and evaluate the City's processes for monitoring and controlling those risks. We will work closely with management personnel to develop an internal audit strategy to evaluate each risk category. The scope of the internal audit plan will be agreed to by management and implemented by our internal audit engagement team assigned to perform the services. We anticipate that our procedures will involve interviewing City personnel, reviewing available documentation and testing the City's compliance with internal control policies and procedures. The complete annual internal audit plan will be implemented in quarterly phases.

At the conclusion of each phase of the internal audit plan we will review the results of our observations, inquiries and tests with you before we finalize results and develop recommendations. We will prepare written reports to management and the audit committee which will present the results of each phase of the plan. These reports are intended for internal use by management, the audit committee and City Council and should not be used for any other purpose.

We will not audit or review any financial statements of the City and will not express an opinion or any other form of assurances on them.

Brandon Tanous is the engagement partner for the services specified in this letter, and is responsible for supervising our services performed as part of this engagement.

Internal Audit Functions and Responsibilities

The purpose of our engagement is to assist you in improving the processes by which you monitor and manage the risks that face your City. Management is responsible for establishing and monitoring a system of internal control and for the internal audit function. Management and the Finance and Audit Committee are responsible for designating a responsible individual such as the Director of Finance to be in charge of internal audit. In addition, Management and the Finance and Audit Committee are responsible for approving the scope and frequency of internal audit services and for evaluating and approving the adequacy of the internal audit plan, the internal audit procedures to be performed, evaluating the findings and recommendations resulting from internal audit activities (including those performed by us), and the actions, if any, necessary to respond to the findings and recommendations.

We will not authorize or execute transactions, prepare source documents or take custody of City assets. We will assist you in the overall risk assessment, in developing the internal audit plan and in testing compliance with the City's control structure. However, it is ultimately your responsibility to assess the adequacy of your risk management system.

You are also responsible for management decisions and functions; for designating an individual with suitable skill, knowledge, or experience to oversee the internal audit services and any other non-attest services we may provide; and for evaluating the adequacy and results of those services and accepting responsibility for them.

Timing and Delivery of Services

The internal audit services shall commence from January 15, 2025, until the earliest of (1) the date of Weaver's completion of services, (2) September 30, 2028, and (3) the date of termination of this agreement as provided below. We will conduct our work at your City locations throughout the City of Midland. We will, at all times, coordinate our work with you to provide the least disruption of the City's day-to-day operations, including virtually through technology platforms.

Fees and Invoicing

We estimate the fee for this engagement will not exceed $247,500 for each fiscal year included within the engagement letter scope period. The total fee for our services will be determined by the complexity of the work performed and the tasks required. Individual hourly rates vary according to the degree of responsibility involved and the skills required. The rates are subject to periodic review and may change at the beginning of each of our fiscal years (June 1st). It is understood that neither our fees nor the payment thereof will be contingent upon the results of this engagement.

Level	Discounted Rate Per Hour (FY25)	Discounted Rate Per Hour (FY26)	Discounted Rate Per Hour (FY27)
Partner	$425	$440	$450
Director/Subject Matter Advisor	$380	$395	$410
Senior Manager	$315	$325	$335
Manager	$270	$280	$290
Supervising Senior	$225	$235	$245
Senior Associate	$195	$205	$215
Associate	$185	$195	$205

Our fee estimate is based on anticipated cooperation from all involved and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss the reasons with you and arrive at a new fee estimate before we incur the additional costs.

In addition to the fee for our services, reasonable and necessary out-of-pocket expenses we incur (such as parking, reproduction and printing, postage and delivery, and out-of-market travel, meals, and accommodations) will be invoiced at cost. At this time, we do not anticipate incurring substantial expenses.

Our fee estimate does not include any time for additional post-issuance consultation with your personnel or third parties or assisting you with your response to inquiries from regulators. If we agree to perform such services, our time will be charged at our then-current standard hourly rates and our expenses (including any reasonable attorney's fees) will be invoiced at cost. Such services may be the subject of a new engagement letter, but, if not, they will be performed subject to the terms and conditions herein.

We will also invoice for reasonable and necessary time and out-of-pocket expenses we incur to respond to any request (such as a subpoena, summons, court order, or administrative investigative demand) pertaining to this engagement in a legal matter to which we are not a party. Our time to facilitate the response will be charged at our then-current standard hourly rates and our expenses (including attorney's fees) will be invoiced at cost. If we agree to perform additional substantive services related to or arising out of the request, such matters may be the subject of a new engagement letter.

Our invoices are payable in accordance with Texas Government Code § 2251.021.

This engagement shall conclude upon the completion of our services. Either party may earlier terminate this engagement at any time with one hundred eighty (180) days written notice to the other party. If the engagement is terminated, our engagement will be deemed to have been completed upon written notification of termination, even if we have not performed all the above-described services, and we will be paid for our time expended and expenses incurred through the date of termination.

Ethical Conflict Resolution

In the unlikely event that circumstances occur which we in our sole discretion believe could create a conflict with either the ethical standards of our firm or the ethical standards of our profession in continuing our engagement, we may suspend our services until a satisfactory resolution can be achieved or we may resign from the engagement. We will notify you of such conflict as soon as practicable, and we will discuss with you any possible means of resolving the conflict prior to suspending our services.

The hiring of or potential employment discussions with any of our personnel could impair our independence. Accordingly, you agree to inform the engagement partner or equivalent prior to any such potential employment discussions taking place.

Documentation and Confidentiality

The documentation we prepare pertaining to and in support of this engagement is our property and constitutes confidential information. If we are requested to make the documentation available to outside parties not involved in the performance of these services, except when prohibited by law or direction of law enforcement, any such requests will be discussed with you, and we will obtain your written consent before we make the documentation available to the requesting parties. If you withhold consent, we will cooperate with any lawful efforts you may take to minimize the disclosure or protect the documentation, at your expense.

We will retain our documentation supporting any deliverable for a period of at least seven (7) years from the date thereof. You agree that following such period, we may destroy the documentation without notice to you.

Except as may be noted herein, the parties do not intend this engagement or engagement letter to be for the benefit of any third party. Unless we are informed in writing, we are not aware of the identity of any third parties to which any of our work product will be supplied and we do not anticipate any such third parties' reliance upon our professional services unless expressly stated herein.

In order to facilitate this engagement, we may transmit and store data via email, the cloud, or other electronic and Internet-based mechanisms. Please be aware that those mediums inherently pose a risk of misdirection or interception of confidential information. Any request to limit such transmissions or use a different means of transmission or storage must be made in writing and we will not be responsible for any resulting compromise in data security.

Dispute Resolution Procedure including Jury Waiver

If a dispute arises out of or relates to this engagement or engagement letter, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation before resorting to litigation. In such event, the parties will attempt to agree upon a location, mediator, and mediation procedures, but absent such agreement any party may require mediation in Midland, Texas, administered by the AAA under its Commercial Mediation Procedures.

This engagement letter and all disputes between the parties shall be governed by, resolved, and construed in accordance with the laws of the State of Texas, without regard to conflict-of-law principles. Any action arising out of or relating to this engagement or engagement letter shall only be brought in, and each party agrees to submit and consent to the exclusive jurisdiction of the federal or state courts in the State of Texas and convenience of those situated in Midland County, Texas.

Whenever possible, this engagement letter shall be interpreted in such a manner as to be effective and valid under applicable laws, regulations, or published interpretation, but if any term of this engagement letter is declared illegal, unenforceable, or unconscionable, that term shall be severed or modified, and the remaining terms of the engagement letter shall remain in force. The court should in such case modify any term declared to be illegal, unenforceable, or unconscionable in a manner that will retain the intended term as closely as possible.

Miscellaneous

We may at times provide documents marked as drafts. Those documents are for review purposes only and should not be distributed or relied upon in any way. They should be destroyed as soon as possible.

We have non CPA licensees who may provide services pertaining to this engagement.

January 15, 2025

This engagement letter and the professional services agreement ("PSA") associated with this engagement letter set forth all of the agreed upon terms and conditions of our engagement with respect to the matters covered herein and supersedes any that may have come before. The PSA and this engagement letter may not be amended or modified except by further writing signed by all the parties. Any provisions of the PSA or this engagement letter which expressly or by implication are intended to survive its termination or expiration will survive and continue to bind the parties. The use of electronic signatures or multiple counterparts to execute this engagement letter shall have the same force and effect as a manually or physically signed original instrument.

We appreciate the opportunity to assist you and look forward to working with you and your team.

Sincerely,

Weaver and Tidwell, L.L.P.

WEAVER AND TIDWELL, L.L.P.
Houston, Texas

Please sign and return a copy of this letter to indicate acknowledgment of, and agreement with, the arrangements for our engagement as described herein, including each party's respective responsibilities. By signing below, the signatory also represents that they have been authorized to execute this agreement.

City of Midland

By: _____

Printed Name: _____

Title: _____

Date: _____

City Council Meeting

Item Number: 8

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION AUTHORIZING THE PURCHASE OF A BACKHOE LOADER FOR THE TRANSPORTATION DIVISION FROM WARREN POWER & MACHINERY INC., DOING BUSINESS AS WARREN CAT, THROUGH SOURCEWELL FOR A TOTAL COST OF $113,215.00 (DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)

Purpose:

Resolution approving the purchase of one (1) Backhoe Loader from Warren Power & Machinery Inc. dba Warren Cat through Sourcewell contract #106268 for a cost of $113,215.00.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is available in the Garage Fund operating budget.

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

Staff is recommending the purchase of one (1) Backhoe Loader from Warren Power & Machinery Inc. dba Warren Cat through Sourcewell contract #106268. 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. The Backhoe Loader is a budgeted replacement for our fleet in the FY2025 budget. Please see the attached memo from Manual Eloy Salinas, Garage Manager, for additional information.

Therefore, please consider a resolution approving the purchase of one (1) Backhoe Loader from Warren Power & Machinery Inc. dba Warren Cat through Sourcewell contract #106268 for a cost of $113,215.00.

Morris Williams Jr.

City Manager's Office

Fleet Services Division

INTEROFFICE MEMORANDUM

TO: Regina Stephenson

FROM: Manuel Eloy Salinas

SUBJECT: Sourcewell Contract # 106268 Backhoe Loader

DATE: 12/09/2024

Fleet Services is requesting the purchase of one (1) Backhoe Loader. This new unit will be a replacement for Unit 2802 which is a 2012 model that has gone beyond its useful service life. The budgeted amount for FY2025 for one (1) Backhoe Loader is $136,090. The purchasing amount of $113,215.00 is being offered through Sourcewell Contract #106268 by Warren Cat for one (1) Backhoe Loader.

Sincerely,

Manuel Eloy Salinas

City of Midland Superintendent

RESOLUTION NO._____

RESOLUTION AUTHORIZING THE PURCHASE OF A BACKHOE LOADER FOR THE TRANSPORTATION DIVISION FROM WARREN POWER & MACHINERY INC., DOING BUSINESS AS WARREN CAT, THROUGH SOURCEWELL FOR A TOTAL COST OF $113,215.00

WHEREAS, Sourcewell is a cooperative purchasing agency with which the City participates in purchases through a cooperative purchasing program in accordance with Section 271.102 of the Texas Local Government Code; and

WHEREAS, Warren Power & Machinery Inc., doing business as Warren Cat ("Seller"), submitted a total cost to the City of $113,215.00 for the City's proposed purchase of a backhoe loader (the "Goods") for the Transportation Division through Sourcewell 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 Goods to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to authorize the purchase of the Goods from Seller through Sourcewell;

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 the Goods from Seller through Sourcewell for a total cost of $113,215.00.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay Seller for the Goods from funds available in the Garage Fund operating budget upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2025, 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

_____
Gabe McClelland, Engineering Services Director

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"

Quote 305894-01

Sourcewell Quote
City of Midland # 106268

Dec 08, 2024

CITY OF MIDLAND
FLEET SERVICES DIVISION
MIDLAND
Texas
79702-1152

Attention: Jesse Zamora

Thank you for this opportunity to quote Caterpillar products for your business needs. We are pleased to quote the following for your purchase consideration.

One (1) New Caterpillar Model: 415 IL Backhoe Loaders with all standard equipment in addition to the additional specifications listed below:

STOCK NUMBER: C145904 **SERIAL NUMBER:** 0H6L01042 **YEAR:** **SMU:**

We wish to thank you for the opportunity of quoting on your equipment needs. This quotation is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.

Sincerely,

Jonathan King
Machine Sales Representative

MACHINE SPECIFICATIONS

415 07A IL BACKHOE LOADER	542-8000
LANE 3 ORDER	0P-9003
PT ARR-4WD/2WS STD SHIFT	543-4895
HYDRAULICS, MP, 3FCN/5BNK	545-7229
CANOPY	545-7230
WORKLIGHTS (4) LED LAMPS	491-6735
SEAT BELT, 3" SUSPENSION	206-1748
TIRES,12.5 80/16.9-24, GY/TI	464-9639
COUNTERWEIGHT, 255 LBS	337-9694
HITCH 3 POINT	462-5281
BUCKET-MP, 1.3 YD3, PO	337-7436
CUTTING EDGE, TWO PIECE	9R-5321
INSTRUCTIONS, ANSI	596-7509
SERIALIZED TECHNICAL MEDIA KIT	421-8926
RIDE CONTROL	558-8376
FAN, STANDARD CAB/ CANOPY	454-6610
RADIO READY HEADLINER, CANOPY	398-2875
PRODUCT LINK, CELLULAR, PLE643	639-4880
COLD WEATHER PACKAGE, 120V	551-6940
MIRRORS, EXTERNAL, BOTH SIDES	382-2499
KIT, DUAL TILT CYLINDER	470-5247
BOX, BLADE/SCARIFIER	461-9717
SHIPPING/STORAGE PROTECTION	461-6839
RUST PREVENTATIVE APPLICATOR	462-1033
415IL LANE 3 ZCON	626-9384

SELL PRICE	$113,215.00
CSA	Included
NET BALANCE DUE	**$113,215.00**
EXT WARRANTY	Included
AFTER TAX BALANCE	**$113,215.00**

WARRANTY

Standard Warranty:	Standard 12 Month Unlimited Hour Full Machine Coverage
Extended Coverage:	415-48 MO/3500 HR PREMIER
CSA	1 YR / 500 HR PM KIT W/ CONNECTIVITY

PAYMENT TERMS

Cash Invoice Terms

CASH WITH ORDER	QUOTE SELL PRICE
$113,215.00	$113,215.00

Quote 305894-01

Sourcewell Quote
City of Midland # 106268

Dec 08, 2024

CITY OF MIDLAND
FLEET SERVICES DIVISION
MIDLAND
Texas
79702-1152

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Jonathan King
Machine Sales Representative

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HYDRAULICS, MP, 3FCN/5BNK	545-7229
CANOPY	545-7230
WORKLIGHTS (4) LED LAMPS	491-6735
SEAT BELT, 3" SUSPENSION	206-1748
TIRES,12.5 80/16.9-24, GY/TI	464-9639
COUNTERWEIGHT, 255 LBS	337-9694
HITCH 3 POINT	462-5281
BUCKET-MP, 1.3 YD3, PO	337-7436
CUTTING EDGE, TWO PIECE	9R-5321
INSTRUCTIONS, ANSI	596-7509
SERIALIZED TECHNICAL MEDIA KIT	421-8926
RIDE CONTROL	558-8376
FAN, STANDARD CAB/ CANOPY	454-6610
RADIO READY HEADLINER, CANOPY	398-2875
PRODUCT LINK, CELLULAR, PLE643	639-4880
COLD WEATHER PACKAGE, 120V	551-6940
MIRRORS, EXTERNAL, BOTH SIDES	382-2499
KIT, DUAL TILT CYLINDER	470-5247
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SHIPPING/STORAGE PROTECTION	461-6839
RUST PREVENTATIVE APPLICATOR	462-1033
415IL LANE 3 ZCON	626-9384

SELL PRICE	$113,215.00
CSA	Included
NET BALANCE DUE	**$113,215.00**
EXT WARRANTY	Included
AFTER TAX BALANCE	**$113,215.00**

WARRANTY

Standard Warranty:	Standard 12 Month Unlimited Hour Full Machine Coverage
Extended Coverage:	415-48 MO/3500 HR PREMIER
CSA	1 YR / 500 HR PM KIT W/ CONNECTIVITY

PAYMENT TERMS

Cash Invoice Terms

CASH WITH ORDER	QUOTE SELL PRICE
$113,215.00	$113,215.00


MIDLAND
22023
685B

415

City Council Meeting

Item Number: 9

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: **RESOLUTION APPROVING THE PURCHASE OF TWELVE (12) PICKUP TRUCKS AND TWO (2) CHEVROLET TAHOES UPFITTED FOR K9 USE FOR THE MIDLAND POLICE DEPARTMENT FROM SEWELL FAMILY OF COMPANIES, INC., THROUGH BUYBOARD FOR A TOTAL COST OF $979,721.14 (DISTRICT: NONE) (GENERAL SERVICES) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

Purpose:

Resolution approving the purchase of twelve (12) Police Pickups and two (2) Police SUV's from Sewell Family of Companies through Buyboard contract #724-23 for a cost of $979,721.14

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is available in the Garage Fund operating budget.

Strategic Priority:

(Set the Standard for a Safe and Secure City)

Discussion:

The Garage Division is recommending the purchase of twelve (12) Police Pickups and two (2) Police SUV's from Sewell Family of Companies through Buyboard contract #724-23. We are members of the Buyboard Program 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 the attached memo from Manuel Salinas, Garage Superintendent, for additional information.

Therefore, please consider a resolution authorizing the purchase of twelve (12) Police Pickups and two (2) Police SUV's from Sewell Family of Companies of Odessa, Texas through Buyboard contract #724-23 for a cost of $979,721.14

Morris Williams Jr.

City Manager's Office

Fleet Services Division

INTEROFFICE MEMORANDUM

TO: Regina Stephenson

FROM: Manuel Eloy Salinas

SUBJECT: BuyBoard Contract #724-23 for 12 Police Package Pickups and Two K9 Tahoes

DATE: 12/30/2024

Fleet Services is requesting the purchase of twelve (12) Police Pickups, and two (2) K9 Tahoe's. These fourteen (14) units will be replacements for units that have gone beyond their useful service life. The units that are being replaced range from 2013 to 2017 models with 100,000+ mileage.

The budgeted amount for FY2025 for twelve (12) Police Pickups is $840,000, and for two (2) K9 Tahoe's is $216,000.

The purchasing amount of $979,721.14 is being offered through Buy Board Contract #724-23 for twelve (12) Police Package Pickups and two (2) K9 Tahoe's from Sewell Family of Companies.

Sincerely,

Manuel Eloy Salinas

City of Midland Superintendent

RESOLUTION NO. _____

RESOLUTION APPROVING THE PURCHASE OF TWELVE (12) PICKUP TRUCKS AND TWO (2) CHEVROLET TAHOES UPFITTED FOR K9 USE FOR THE MIDLAND POLICE DEPARTMENT FROM SEWELL FAMILY OF COMPANIES, INC., THROUGH BUYBOARD FOR A TOTAL COST OF $979,721.14

WHEREAS, Buyboard 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, Sewell Family of Companies, Inc., has submitted a total proposed cost to the City of $979,721.14 for the purchase of twelve (12) pickup trucks and two (2) Chevrolet Tahoes upfitted for K9 use for the Midland Police Department through Buyboard, as shown on the quotes that are collectively attached hereto as Exhibit A and incorporated herein for all purposes; and

WHEREAS, the Council finds the price proposed by Sewell Family of Companies, Inc., through Buyboard for the purchase of said vehicles to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to provide for the purchase of said vehicles from Sewell Family of Companies, Inc., through Buyboard;

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 provide for the purchase of twelve (12) pickup trucks and two (2) Chevrolet Tahoes upfitted for K9 use for the Midland Police Department from Sewell Family of Companies, Inc., through Buyboard for a total cost of $979,721.14.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay $979,721.14 to Sewell Family of Companies, Inc., for the purchase of said vehicles from funds available in the 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., 2025, 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:

_____
John Ohnemiller, City Attorney

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500004BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2024 F150 XLT 4WD SUPERCREW	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	BREACHER TRUCKS	**EMAIL:**	

BID SERIES:			**BASE PRICE:**	$ 54,670.00	
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	24 F150 XLT SUPERCREW 4WD	INCL.		INFOTAINMENT SYSTEM	INCL.
	3.5L V6 ECOBOOST	INCL.		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL.		AC/HEAT AND CRUISE CONTROL	INCL.
17R	REAR DOOR CONTROLS INOP	INCL.		KEYLESS ENTRY/	INCL.
18B	BLACK PLATFROM RUNNING BOARDS	INCL.			
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL.			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**GOVERNMENT ORDER**	**$**	**-**
EQUIPMENT VENDOR:	**AEP QTE 039907**	**$**	**10,167.94**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:		INCLUDED	
DELIVERY COST $1.75 PER MILE	0 MILES		0
SUB TOTAL:		$	64,837.94
QUANTITY:	**1**	$	64,837.94
CO OP FEE:	BUYBOARD 724-23	$	-
TOTAL:		**$**	**64,837.94**

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500006BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2024 F150 XLT 4WD SUPERCREW	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	CSO TRUCKS	**EMAIL:**	

BID SERIES:			**BASE PRICE:**	$ 54,670.00	
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	24 F150 XLT SUPERCREW 4WD	INCL.		INFOTAINMENT SYSTEM	INCL.
	3.5L V6 ECOBOOST	INCL.		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL.		AC/HEAT AND CRUISE CONTROL	INCL.
17R	REAR DOOR CONTROLS INOP	INCL.		KEYLESS ENTRY/	INCL.
18B	BLACK PLATFROM RUNNING BOARDS	INCL.			
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL.			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**GOVERNMENT ORDER**		**$ -**
EQUIPMENT VENDOR:	**AEP QTE 039671**		**$ 18,446.77**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:			INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES		0
SUB TOTAL:			$ 73,116.77
QUANTITY:	**2**		$ 146,233.54
CO OP FEE:	BUYBOARD 724-23		$ -
TOTAL:			**$ 146,233.54**

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500007BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2024 F150 XLT 4WD SUPERCREW	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	RANGE TRUCKS	**EMAIL:**	

BID SERIES:			**BASE PRICE:**	$ 54,670.00	
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	24 F150 XLT SUPERCREW 4WD	INCL.		INFOTAINMENT SYSTEM	INCL.
	3.5L V6 ECOBOOST	INCL.		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL.		AC/HEAT AND CRUISE CONTROL	INCL.
17R	REAR DOOR CONTROLS INOP	INCL.		KEYLESS ENTRY/	INCL.
18B	BLACK PLATFROM RUNNING BOARDS	INCL.			
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL.			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**GOVERNMENT ORDER**		**$ -**
EQUIPMENT VENDOR:	**AEP QTE 039894**		**$ 10,297.61**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:			INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES		0
SUB TOTAL:			$ 64,967.61
QUANTITY:	**2**		$ 129,935.22
CO OP FEE:	BUYBOARD 724-23		$ -
TOTAL:			**$ 129,935.22**

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500008BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2024 F150 XLT 4WD SUPERCREW	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	RECRUITING BUILD	**EMAIL:**	

BID SERIES:			**BASE PRICE:**	$ 54,670.00	
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	24 F150 XLT SUPERCREW 4WD	INCL.		INFOTAINMENT SYSTEM	INCL.
	3.5L V6 ECOBOOST	INCL.		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL.		AC/HEAT AND CRUISE CONTROL	INCL.
17R	REAR DOOR CONTROLS INOP	INCL.		KEYLESS ENTRY/	INCL.
18B	BLACK PLATFROM RUNNING BOARDS	INCL.			
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL.			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**GOVERNMENT ORDER**		**$ -**
EQUIPMENT VENDOR:	**AEP QTE 039672**		**$ 15,844.44**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:			INCLUDED
DELIVERY COST $1.75 PER MILE	0	MILES	0
SUB TOTAL:			$ 70,514.44
QUANTITY:	**1**		$ 70,514.44
CO OP FEE:	BUYBOARD 724-23		$ -
TOTAL:			**$ 70,514.44**

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500004BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2025 F150 XLT 4WD SUPERCREW	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	CSI TRUCKS	**EMAIL:**	

BID SERIES:				**BASE PRICE:**	$ 54,970.00
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	25 F150 XLT SUPERCREW 4WD	INCL.		INFOTAINMENT SYSTEM	INCL.
	2.7L V6 ECOBOOST	INCL.		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL.		AC/HEAT AND CRUISE CONTROL	INCL.
68L	BED UTILITY PACKAGE	INCL.		KEYLESS ENTRY/	INCL.
18B	PLATFORM RUNNING BOARDS	INCL.		BLINDSPOT MONITOR	INCL.
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL.			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**FLEET ORDER**		**$ -**
EQUIPMENT VENDOR:	**AEP QTE 039667**		**$ 9,154.00**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:			INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES		0
SUB TOTAL:			$ 64,124.00
QUANTITY:	**6**		$ 384,744.00
CO OP FEE:	BUYBOARD 742-23		$ -
TOTAL:			**$ 384,744.00**

SEWELL
FAMILY OF COMPANIES

SEWELL CHEVROLET		**QUOTE #:**	2400433BH
		DATE:	30-Dec
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2025 CHEVY TAHOE 2WD PPV	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
BUILD:	K9	**EMAIL:**	

BID SERIES:			**BASE PRICE:**	$ 53,060.00	
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
CC10706	25 TAHOE 4WD PPV	INCL.		INFOTAINMENT SYSTEM	INCL.
	5.3L ECOTTEC 3 V8 ENGINE	INCL.		POWER WINDOWS/SEATS/MIRROR	INCL.
9C1	POLICE PACKAGE VEHICLE	INCL.		AC/HEAT AND CRUISE CONTROL	INCL.
6N5	REAR WINDOW SWITCH INACTIVE	INCL.		REMOTE START AND KEYLESS ENTR	INCL.
6N6	DOOR LOCKS & HANDLES INOP	INCL.		SPOTLIGHT DRIVER SIDE	INCL.
RC1	SKID PLATES	INCL.			
V76	RECOVERY HOOKS	INCL.			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	JET BLACK

ADDITIONAL ITEMS:	**FLEET ORDER**	$ -
EQUIPMENT VENDOR:	**PRO-FIT OUTFITTERS S0023 w tint**	**$ 38,468.00**
EQUIPMENT VENDOR:		$ -
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:		INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES	0
SUB TOTAL:		$ 91,528.00
QUANTITY:	**2**	$ 183,056.00
CO OP FEE:	BUYBOARD. 724-23	$ 400
TOTAL:		**$ 183,456.00**

ProFit Outfitters
22424 FM 159
Navasota TX 77868
United States

City of Midland, Liz Thornton
300 North Loraine Street
Midland TX 79701
United States

Quotation # S00236

Quotation Date: 10/07/2024

Expiration: 01/31/2025

Salesperson: Bary Bedford

DESCRIPTION	QUANTITY	UNIT PRICE	TAXES	AMOUNT
2025 K9 TAHOE BLACK				
			Subtotal	$ 0.00
CONSOLE				
425-6735 2025+ TAHOE CONSOLE WITH LOCKING LID STORAGE	2.00 Units	645.00	No Sales Tax (Sales)	$ 1,290.00
425-6285 K9 Heat Alarm, CH-2520 4"	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6613 Federal Signal Pathfinder, PF200S17B/PF400S17B (R) - 4" Faceplate	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6295 Motorola XTL 5000 O5 Remote Head/APX 7500 O5/APX6500/4500 Remote Head 3" Faceplate	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6049 Blank Faceplate - 1" Faceplate	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6701 USB-A/USB-C and 12V Power Outlets x2 in 2" Faceplate	2.00 Units	85.00	No Sales Tax (Sales)	$ 170.00
425-6051 Blank Faceplate - 2" Faceplate	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6729 ABS Dual Cup Holder Faceplate Mount (4")	2.00 Units	48.00	No Sales Tax (Sales)	$ 96.00
MMSU-1	2.00 Units	38.00	No Sales Tax (Sales)	$ 76.00

Remit to; P.O. Box 735, Millican, Texas 77866

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425-1849 Side Mount Arm Rest (Works with 425-6726, 425-6491, 425-6500, 425-6569,425-6678)	2.00 Units	99.00	No Sales Tax (Sales)	$ 198.00
425-0150 Mamba Mount w/GK-H Plate	2.00 Units	383.00	No Sales Tax (Sales)	$ 766.00
			Subtotal	$ 2,596.00
ELECTRONICS				
CG-X CHARGEGUARD	2.00 Units	101.00	No Sales Tax (Sales)	$ 202.00
B0CNS2GHRK	2.00 Units	21.00	No Sales Tax (Sales)	$ 42.00
HKN6168B REMOTE HEAD CABLE	2.00 Units	87.00	No Sales Tax (Sales)	$ 174.00
HY0061 WIZACE 10FT SMA FMEALE TO MALE CABLE	2.00 Units	26.00	No Sales Tax (Sales)	$ 52.00
			Subtotal	$ 470.00
EMERGENCY LIGHTING				
VALR51J-P1BL	2.00 Units	2,717.00	No Sales Tax (Sales)	$ 5,434.00
HKB-TAH21-HP TAHOE HOOK KIT	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
PF200S17B PATHFINDER	2.00 Units	1,177.00	No Sales Tax (Sales)	$ 2,354.00
ES100C SPEAKER 100W	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
DFC-SB-ES100C	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
RBKIT2-COMPACT RUMBLER COMPACT KIT	2.00 Units	456.00	No Sales Tax (Sales)	$ 912.00
RBC2-TAH21ND RUMBLER BRAKET 21+ TAHOE	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
OBDCABLE20-GMCAN PBD CABLE	2.00 Units	130.00	No Sales Tax (Sales)	$ 260.00

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PFSYNC-1 SYNC MODULE	2.00 Units	207.00	No Sales Tax (Sales)	$ 414.00
PFSPLTR-4 1 TO 4 SPLITTER	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
EXPMOD24 EXPANSION MODULE	6.00 Units	227.00	No Sales Tax (Sales)	$ 1,362.00
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	4.00 Units	117.00	No Sales Tax (Sales)	$ 468.00
MOUNT IN PB LIGHT CHANNEL				
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	4.00 Units	117.00	No Sales Tax (Sales)	$ 468.00
1 EACH SIDE OF PB USING WEDGE				
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	12.00 Units	117.00	No Sales Tax (Sales)	$ 1,404.00
3 EACH RUNNING BOARD USING WEDGE				
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	4.00 Units	117.00	No Sales Tax (Sales)	$ 468.00
DS AND PS CARGO SIDE WINDOWS LOW USING L BRACKETS				
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	12.00 Units	117.00	No Sales Tax (Sales)	$ 1,404.00
FOR SPOILER BRACKET				
416300X-RW	8.00 Units	67.00	No Sales Tax (Sales)	$ 536.00
416300X-BW	8.00 Units	67.00	No Sales Tax (Sales)	$ 536.00
416300-RB DUO 1" FLUSH MOUNT RED/BLUE	4.00 Units	67.00	No Sales Tax (Sales)	$ 268.00
416302 GROMMET KIT	2.00 Units	14.00	No Sales Tax (Sales)	$ 28.00
ICSPL13-AW	2.00 Units	156.00	No Sales Tax (Sales)	$ 312.00
MOUNTED CENTER BAR OF PB				
MPSM6-TA21RS TAHOE SPOILER BRACKET	2.00 Units	149.00	No Sales Tax (Sales)	$ 298.00

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MPSM6U-FPIU20SMW MICROPULSE WEDGE KIT	8.00 Units	11.00	No Sales Tax (Sales)	$ 88.00
MPSM6-LB MICROPULSE L BRACKET	4.00 Units	11.00	No Sales Tax (Sales)	$ 44.00
			Subtotal	$ 17,058.00
EXTERIOR				
CSUV21-100PI TVI 2021-24 CHEVY SUBURBAN / TAHOE PREMIUM TVI GRILLE GUARD WITH POLICE CENTER SECTION	2.00 Units	1,541.00	No Sales Tax (Sales)	$ 3,082.00
			Subtotal	$ 3,082.00
K9				
HS-K9-C26-PT-B Havis Std K9 PRISONER Transport System Black	2.00 Units	5,443.00	No Sales Tax (Sales)	$ 10,886.00
HS-K9-A-336 Havis Remote Pager Kit for Hot-N-Pop	2.00 Units	765.00	No Sales Tax (Sales)	$ 1,530.00
HS-K9-A-104 Havis K9 Transport & Window Guard Option	2.00 Units	594.00	No Sales Tax (Sales)	$ 1,188.00
HS-K9-A-201 Havis K9 Transport Hot-N-Pop Unit	2.00 Units	2,844.00	No Sales Tax (Sales)	$ 5,688.00
HS-K9-A-306 Havis K9 Transport Engine Stall Option	2.00 Units	259.00	No Sales Tax (Sales)	$ 518.00
			Subtotal	$ 19,810.00
STORAGE				
Z-CUSTOM-MIDLAND TRUCK VAULT CUSTOM K9 CARGO BOX FOR MIDLAND PD	2.00 Units	3,683.00	No Sales Tax (Sales)	$ 7,366.00
			Subtotal	$ 7,366.00
CUSTOMER SUPPLIED PARTS				
MOTOROLA APX 6500, ANTENNA X6, HAVIS DOCK, CRADLEPOINT, COAX. Axon Fleet3				
			Subtotal	$ 0.00
GRAPHICS				
TINT - 2 2 FRONT WINDOWS AND EYEBROW	2.00 Units	300.00	No Sales Tax (Sales)	$ 600.00

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GRAPHICS	2.00 Units	827.00	No Sales Tax (Sales)	$ 1,654.00
			Subtotal	$ 2,254.00
LABOR, SHIPPING, SHOP SUPPLIES				
LABOR			No Sales Tax (Sales)	$ 17,238.00
SHIPPING	2.00 Units	1,500.00	No Sales Tax (Sales)	$ 3,000.00
SHOP SUPPLIES	2.00 Units	285.00	No Sales Tax (Sales)	$ 570.00
WIRING HARNESS	2.00 Units	385.00	No Sales Tax (Sales)	$ 770.00
PROGRAMING FEE	2.00 Units	250.00	No Sales Tax (Sales)	$ 500.00
DISPOSAL	2.00 Units	100.00	No Sales Tax (Sales)	$ 200.00
INSPECT	2.00 Units	200.00	No Sales Tax (Sales)	$ 400.00
DEALER PREP DEALER PREP	2.00 Units	150.00	No Sales Tax (Sales)	$ 300.00
DELIVERY	2.00 Units	730.00	No Sales Tax (Sales)	$ 1,460.00
66.30				
			Subtotal	$ 24,438.00

Untaxed Amount	$ 77,074.00
Tax	$ 0.00
Total	$ 77,074.00

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500004BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2025 F150 XLT 4WD SUPERCREW	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	CSI TRUCKS	**EMAIL:**	

BID SERIES:				**BASE PRICE:**	$ 54,970.00
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	25 F150 XLT SUPERCREW 4WD	INCL		INFOTAINMENT SYSTEM	INCL.
	2.7L V6 ECOBOOST	INCL		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL		AC/HEAT AND CRUISE CONTROL	INCL.
68L	BED UTILITY PACKAGE	INCL		KEYLESS ENTRY/	INCL.
18B	PLATFORM RUNNING BOARDS	INCL		BLINDSPOT MONITOR	INCL.
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**FLEET ORDER**		**$ -**
EQUIPMENT VENDOR:	**AEP QTE 039667**		**$ 9,154.00**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:			INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES		0
SUB TOTAL:			$ 64,124.00
QUANTITY:	**6**		$ 384,744.00
CO OP FEE:	BUYBOARD 742-23		$ -
TOTAL:			**$ 384,744.00**

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500004BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
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		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	BREACHER TRUCKS	**EMAIL:**	

BID SERIES:				**BASE PRICE:**	$ 54,670.00
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	24 F150 XLT SUPERCREW 4WD	INCL		INFOTAINMENT SYSTEM	INCL.
	3.5L V6 ECOBOOST	INCL		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL		AC/HEAT AND CRUISE CONTROL	INCL.
17R	REAR DOOR CONTROLS INOP	INCL		KEYLESS ENTRY/	INCL.
18B	BLACK PLATFROM RUNNING BOARDS	INCL			
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**GOVERNMENT ORDER**		**$ -**
EQUIPMENT VENDOR:	**AEP QTE 039907**		**$ 10,167.94**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:			INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES		0
SUB TOTAL:			$ 64,837.94
QUANTITY:	**1**		$ 64,837.94
CO OP FEE:	BUYBOARD 724-23		$ -
TOTAL:			**$ 64,837.94**

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500006BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2024 F150 XLT 4WD SUPERCREW	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	CSO TRUCKS	**EMAIL:**	

BID SERIES:				**BASE PRICE:**	$ 54,670.00
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	24 F150 XLT SUPERCREW 4WD	INCL		INFOTAINMENT SYSTEM	INCL.
	3.5L V6 ECOBOOST	INCL		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL		AC/HEAT AND CRUISE CONTROL	INCL.
17R	REAR DOOR CONTROLS INOP	INCL		KEYLESS ENTRY/	INCL.
18B	BLACK PLATFROM RUNNING BOARDS	INCL			
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**GOVERNMENT ORDER**		**$ -**
EQUIPMENT VENDOR:	**AEP QTE 039671**		**$ 18,446.77**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:			INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES		0
SUB TOTAL:			$ 73,116.77
QUANTITY:	**2**		$ 146,233.54
CO OP FEE:	BUYBOARD 724-23		$ -
TOTAL:			**$ 146,233.54**

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500008BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2024 F150 XLT 4WD SUPERCREW	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	RECRUITING BUILD	**EMAIL:**	

BID SERIES:			**BASE PRICE:**	$ 54,670.00	
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	24 F150 XLT SUPERCREW 4WD	INCL		INFOTAINMENT SYSTEM	INCL.
	3.5L V6 ECOBOOST	INCL		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL		AC/HEAT AND CRUISE CONTROL	INCL.
17R	REAR DOOR CONTROLS INOP	INCL		KEYLESS ENTRY/	INCL.
18B	BLACK PLATFROM RUNNING BOARDS	INCL			
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**GOVERNMENT ORDER**		**$ -**
EQUIPMENT VENDOR:	**AEP QTE 039672**		**$ 15,844.44**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:			INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES		0
SUB TOTAL:			$ 70,514.44
QUANTITY:	**1**		$ 70,514.44
CO OP FEE:	BUYBOARD 724-23		$ -
TOTAL:			**$ 70,514.44**

SEWELL
FAMILY OF COMPANIES

SEWELL FAMILY OF COMPANIES		**QUOTE #:**	2500007BH
		DATE:	2-Jan
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2024 F150 XLT 4WD SUPERCREW	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
ADDRESS:	RANGE TRUCKS	**EMAIL:**	

BID SERIES:			**BASE PRICE:**	$ 54,670.00	
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
W3L	24 F150 XLT SUPERCREW 4WD	INCL		INFOTAINMENT SYSTEM	INCL.
	3.5L V6 ECOBOOST	INCL		POWER WINDOWS/SEATS	INCL.
	FRONT LICENSE PLATE KIT	INCL		AC/HEAT AND CRUISE CONTROL	INCL.
17R	REAR DOOR CONTROLS INOP	INCL		KEYLESS ENTRY/	INCL.
18B	BLACK PLATFROM RUNNING BOARDS	INCL			
67T	INTEGRATED TRAILER BRAKE CONTROL	INCL			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	BLACK

ADDITIONAL ITEMS:	**GOVERNMENT ORDER**		**$ -**
EQUIPMENT VENDOR:	**AEP QTE 039894**		**$ 10,297.61**
EQUIPMENT VENDOR:			
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:			INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES		0
SUB TOTAL:			$ 64,967.61
QUANTITY:	**2**		$ 129,935.22
CO OP FEE:	BUYBOARD 724-23		$ -
TOTAL:			**$ 129,935.22**

SEWELL
FAMILY OF COMPANIES

SEWELL CHEVROLET		**QUOTE #:**	2400433BH
		DATE:	30-Dec
COOP:	BUYBOARD 724-23	**SALES PERSON:**	BILLY HUGHES
PRODUCT DESCRIPTION:	2025 CHEVY TAHOE 2WD PPV	**EMAIL:**	billy.hughes@teamsewell.com
		CONTACT:	LIZ THORNTON
END USER:	CITY OF MIDLAND	**PHONE #:**	
BUILD:	K9	**EMAIL:**	

BID SERIES:			**BASE PRICE:**	$ 53,060.00	
CODE:	OPTIONS:	BID PRICE:	CODE:	OPTIONS:	BID PRICE
CC10706	25 TAHOE 4WD PPV	INCL.		INFOTAINMENT SYSTEM	INCL.
	5.3L ECOTTEC 3 V8 ENGINE	INCL.		POWER WINDOWS/SEATS/MIRROR	INCL.
9C1	POLICE PACKAGE VEHICLE	INCL.		AC/HEAT AND CRUISE CONTROL	INCL.
6N5	REAR WINDOW SWITCH INACTIVE	INCL.		REMOTE START AND KEYLESS ENTR	INCL.
6N6	DOOR LOCKS & HANDLES INOP	INCL.		SPOTLIGHT DRIVER SIDE	INCL.
RC1	SKID PLATES	INCL.			
V76	RECOVERY HOOKS	INCL.			

EXTERIOR COLOR:	BLACK
INTERIOR COLOR:	JET BLACK

ADDITIONAL ITEMS:	**FLEET ORDER**	$ -
EQUIPMENT VENDOR:	**PRO-FIT OUTFITTERS S0023 w tint**	**$ 38,468.00**
EQUIPMENT VENDOR:		$ -
REGISTRATION, INSPECTION, PAPERWORK, POSTAGE COST:		INCLUDED
DELIVERY COST $1.75 PER MILE	0 MILES	0
SUB TOTAL:		$ 91,528.00
QUANTITY:	2	$ 183,056.00
CO OP FEE:	BUYBOARD. 724-23	$ 400
TOTAL:		**$ 183,456.00**

ProFit Outfitters
22424 FM 159
Navasota TX 77868
United States

City of Midland, Liz Thornton
300 North Loraine Street
Midland TX 79701
United States

Quotation # S00236

Quotation Date: 10/07/2024

Expiration: 01/31/2025

Salesperson: Bary Bedford

DESCRIPTION	QUANTITY	UNIT PRICE	TAXES	AMOUNT
2025 K9 TAHOE BLACK				
			Subtotal	$ 0.00
CONSOLE				
425-6735 2025+ TAHOE CONSOLE WITH LOCKING LID STORAGE	2.00 Units	645.00	No Sales Tax (Sales)	$ 1,290.00
425-6285 K9 Heat Alarm, CH-2520 4"	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6613 Federal Signal Pathfinder, PF200S17B/PF400S17B (R) - 4" Faceplate	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6295 Motorola XTL 5000 O5 Remote Head/APX 7500 O5/APX6500/4500 Remote Head 3" Faceplate	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6049 Blank Faceplate - 1" Faceplate	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6701 USB-A/USB-C and 12V Power Outlets x2 in 2" Faceplate	2.00 Units	85.00	No Sales Tax (Sales)	$ 170.00
425-6051 Blank Faceplate - 2" Faceplate	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
425-6729 ABS Dual Cup Holder Faceplate Mount (4")	2.00 Units	48.00	No Sales Tax (Sales)	$ 96.00
MMSU-1	2.00 Units	38.00	No Sales Tax (Sales)	$ 76.00

Remit to; P.O. Box 735, Millican, Texas 77866

info@profitoutfitters.com www.ProFitOutfitters.com

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United States

425-1849 Side Mount Arm Rest (Works with 425-6726, 425-6491, 425-6500, 425-6569,425-6678)	2.00 Units	99.00	No Sales Tax (Sales)	$ 198.00
425-0150 Mamba Mount w/GK-H Plate	2.00 Units	383.00	No Sales Tax (Sales)	$ 766.00
			Subtotal	$ 2,596.00
ELECTRONICS				
CG-X CHARGEGUARD	2.00 Units	101.00	No Sales Tax (Sales)	$ 202.00
B0CNS2GHRK	2.00 Units	21.00	No Sales Tax (Sales)	$ 42.00
HKN6168B REMOTE HEAD CABLE	2.00 Units	87.00	No Sales Tax (Sales)	$ 174.00
HY0061 WIZACE 10FT SMA FMEALE TO MALE CABLE	2.00 Units	26.00	No Sales Tax (Sales)	$ 52.00
			Subtotal	$ 470.00
EMERGENCY LIGHTING				
VALR51J-P1BL	2.00 Units	2,717.00	No Sales Tax (Sales)	$ 5,434.00
HKB-TAH21-HP TAHOE HOOK KIT	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
PF200S17B PATHFINDER	2.00 Units	1,177.00	No Sales Tax (Sales)	$ 2,354.00
ES100C SPEAKER 100W	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
DFC-SB-ES100C	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
RBKIT2-COMPACT RUMBLER COMPACT KIT	2.00 Units	456.00	No Sales Tax (Sales)	$ 912.00
RBC2-TAH21ND RUMBLER BRAKET 21+ TAHOE	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
OBDCABLE20-GMCAN PBD CABLE	2.00 Units	130.00	No Sales Tax (Sales)	$ 260.00

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PFSYNC-1 SYNC MODULE	2.00 Units	207.00	No Sales Tax (Sales)	$ 414.00
PFSPLTR-4 1 TO 4 SPLITTER	2.00 Units	0.00	No Sales Tax (Sales)	$ 0.00
EXPMOD24 EXPANSION MODULE	6.00 Units	227.00	No Sales Tax (Sales)	$ 1,362.00
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	4.00 Units	117.00	No Sales Tax (Sales)	$ 468.00
MOUNT IN PB LIGHT CHANNEL				
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	4.00 Units	117.00	No Sales Tax (Sales)	$ 468.00
1 EACH SIDE OF PB USING WEDGE				
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	12.00 Units	117.00	No Sales Tax (Sales)	$ 1,404.00
3 EACH RUNNING BOARD USING WEDGE				
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	4.00 Units	117.00	No Sales Tax (Sales)	$ 468.00
DS AND PS CARGO SIDE WINDOWS LOW USING L BRACKETS				
MPS63U-RBW TRIO MICROPULSE RED/BLUE/WHITE	12.00 Units	117.00	No Sales Tax (Sales)	$ 1,404.00
FOR SPOILER BRACKET				
416300X-RW	8.00 Units	67.00	No Sales Tax (Sales)	$ 536.00
416300X-BW	8.00 Units	67.00	No Sales Tax (Sales)	$ 536.00
416300-RB DUO 1" FLUSH MOUNT RED/BLUE	4.00 Units	67.00	No Sales Tax (Sales)	$ 268.00
416302 GROMMET KIT	2.00 Units	14.00	No Sales Tax (Sales)	$ 28.00
ICSPL13-AW	2.00 Units	156.00	No Sales Tax (Sales)	$ 312.00
MOUNTED CENTER BAR OF PB				
MPSM6-TA21RS TAHOE SPOILER BRACKET	2.00 Units	149.00	No Sales Tax (Sales)	$ 298.00

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MPSM6U-FPIU20SMW MICROPULSE WEDGE KIT	8.00 Units	11.00	No Sales Tax (Sales)	$ 88.00
MPSM6-LB MICROPULSE L BRACKET	4.00 Units	11.00	No Sales Tax (Sales)	$ 44.00
			Subtotal	$ 17,058.00
EXTERIOR				
CSUV21-100PI TVI 2021-24 CHEVY SUBURBAN / TAHOE PREMIUM TVI GRILLE GUARD WITH POLICE CENTER SECTION	2.00 Units	1,541.00	No Sales Tax (Sales)	$ 3,082.00
			Subtotal	$ 3,082.00
K9				
HS-K9-C26-PT-B Havis Std K9 PRISONER Transport System Black	2.00 Units	5,443.00	No Sales Tax (Sales)	$ 10,886.00
HS-K9-A-336 Havis Remote Pager Kit for Hot-N-Pop	2.00 Units	765.00	No Sales Tax (Sales)	$ 1,530.00
HS-K9-A-104 Havis K9 Transport & Window Guard Option	2.00 Units	594.00	No Sales Tax (Sales)	$ 1,188.00
HS-K9-A-201 Havis K9 Transport Hot-N-Pop Unit	2.00 Units	2,844.00	No Sales Tax (Sales)	$ 5,688.00
HS-K9-A-306 Havis K9 Transport Engine Stall Option	2.00 Units	259.00	No Sales Tax (Sales)	$ 518.00
			Subtotal	$ 19,810.00
STORAGE				
Z-CUSTOM-MIDLAND TRUCK VAULT CUSTOM K9 CARGO BOX FOR MIDLAND PD	2.00 Units	3,683.00	No Sales Tax (Sales)	$ 7,366.00
			Subtotal	$ 7,366.00
CUSTOMER SUPPLIED PARTS				
MOTOROLA APX 6500, ANTENNA X6, HAVIS DOCK, CRADLEPOINT, COAX. Axon Fleet3				
			Subtotal	$ 0.00
GRAPHICS				
TINT - 2 2 FRONT WINDOWS AND EYEBROW	2.00 Units	300.00	No Sales Tax (Sales)	$ 600.00

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United States

GRAPHICS	2.00 Units	827.00	No Sales Tax (Sales)	$ 1,654.00
			Subtotal	$ 2,254.00
LABOR, SHIPPING, SHOP SUPPLIES				
LABOR			No Sales Tax (Sales)	$ 17,238.00
SHIPPING	2.00 Units	1,500.00	No Sales Tax (Sales)	$ 3,000.00
SHOP SUPPLIES	2.00 Units	285.00	No Sales Tax (Sales)	$ 570.00
WIRING HARNESS	2.00 Units	385.00	No Sales Tax (Sales)	$ 770.00
PROGRAMING FEE	2.00 Units	250.00	No Sales Tax (Sales)	$ 500.00
DISPOSAL	2.00 Units	100.00	No Sales Tax (Sales)	$ 200.00
INSPECT	2.00 Units	200.00	No Sales Tax (Sales)	$ 400.00
DEALER PREP DEALER PREP	2.00 Units	150.00	No Sales Tax (Sales)	$ 300.00
DELIVERY	2.00 Units	730.00	No Sales Tax (Sales)	$ 1,460.00
66.30				
			Subtotal	$ 24,438.00

Untaxed Amount	$ 77,074.00
Tax	$ 0.00
Total	$ 77,074.00

City Council Meeting

Item Number: 10

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION AUTHORIZING THE PURCHASE OF A KOMATSU PC210LC-11 MID-SIZE HYDRAULIC EXCAVATOR FOR THE ENGINEERING SERVICES DEPARTMENT FROM KIRBY SMITH MACHINERY, INC. THROUGH BUYBOARD FOR A TOTAL COST OF $271,297.40 (DISTRICT: NONE) (GENERAL SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)

Purpose:

Resolution approving the purchase of one (1) Komatsu PC210LC-11 mid-size hydraulic excavator from Kirby Smith Machinery, Inc. through Buyboard contract #685-22 for a cost of $271,297.40.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is available in the Garage Fund operating budget.

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

The Garage Division is recommending the purchase of one (1) Komatsu PC210LC-11 mid-size hydraulic excavator from Kirby Smith Machinery, Inc. through Buyboard contract #685-22. We are members of the Buyboard Program 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 the attached memo from Manuel Salinas, Garage Superintendent, for additional information.

Therefore, please consider a resolution authorizing the purchase of one (1) Komatsu PC210LC-11 mid-size hydraulic excavator from Kirby Smith Machinery, Inc. through Buyboard contract #685-22 for a cost of $271,297.40.

Morris Williams Jr.

City Manager's Office

Fleet Services Division

INTEROFFICE MEMORANDUM

TO: Regina Stephenson

FROM: Manuel Eloy Salinas

SUBJECT: Buyboard Contract #685-22 Trachoe

DATE: 12/6/2024

Fleet Services is requesting the purchase of one (1) Trachoe. This new unit will be a replacement for Unit 2805 which is a 2015 model. Unit 2805 is an obsolete unit that we are no longer able to acquire any replacement parts because they are no longer available. The budgeted amount for FY2025 for one (1) Trachoe is $297,082. The purchasing amount of $271,297.40 is being offered through Buyboard Contract #685-22 for one (1) Komatsu Trachoe from Kirby Smith Machinery, Inc.

Sincerely,

Manuel Eloy Salinas

City of Midland Superintendent

RESOLUTION NO._____

RESOLUTION AUTHORIZING THE PURCHASE OF A KOMATSU PC210LC-11 MID-SIZE HYDRAULIC EXCAVATOR FOR THE ENGINEERING SERVICES DEPARTMENT FROM KIRBY SMITH MACHINERY, INC. THROUGH BUYBOARD FOR A TOTAL COST OF $271,297.40

WHEREAS, Buyboard is a cooperative purchasing agency with which the City participates in purchases through a cooperative purchasing program in accordance with Section 271.102 of the Texas Local Government Code; and

WHEREAS, Kirby Smith Machinery, Inc. ("Seller") submitted a total cost to the City of $271,297.40 for the City's proposed purchase of a Komatsu PC210LC-11 mid-size hydraulic excavator (the "Goods") for the Engineering Services Department through Buyboard 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 Goods to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to authorize the purchase of the Goods from Seller through Buyboard;

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 the Goods from Seller through Buyboard for a total cost of $271,297.40.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay Seller for the Goods from funds available in the Garage Fund operating budget upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2025, 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

_____
Gabe McClelland, Engineering Services Director

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"

12/6/2024
Quote #: swhitley-1351

Jesse Zamora
CITY OF MIDLAND
Po Box 1152
Midland, TX 79702

Dear Jesse Zamora:

We are pleased to quote the following for your consideration:
KOMATSU PC210LC-11 2024 model w/ 0 hours, Unit # N.I.S., S/N Factory Order.

The following Factory and Dealer Options are included in the package:

- **KOMATSU PC210LC-11**
- **WORKING LIGHT FRONT ADD CAB**
- **11'6" Standard Arm Assembly**
- **TRACK ROLLER GUARDS**
- **RETURN FILTER**
- **BOOM CYLINDERS ONLY**
- **28.0" (700MM) TRIPLE GROUSER**
- **6PC48-EDAA - Pre-cleaner**
- **PROPORTIONAL CONTROL JOY STICK**
- **HYD CNT UNIT +1 ACT**
- **REVOLVING FRAME UNDERCOVER, STD.**
- **STD CTWT**
- **HYD KIT KO PC210/240/290-10/-11 DLT**

The following Attachments are included:

- **30" HD Bucket**
- **36" BOCE Ditching Bucket**
- **48" HD Bucket**
- **WB D-Lock Coupler, Pro-Link Thumb**

Additional Details:

Sales Price:	**$271,297.40**
Sub Total:	**$271,297.40**

Total Price: **$271,297.40**
Subject to all applicable taxes. If taxes listed above, Total Price is Sales plus applicable taxes

To be purchased through BuyBoard. Contract # 685-22

We believe the equipment as quoted will exceed your expectations. On behalf of Kirby-Smith Machinery, Inc., thank you for the opportunity to quote you this package.

Sincerely,

Shelby Whitley
Governmental Sales Rep
Kirby-Smith Machinery, Inc.
Phone: 432-333-7000
Cell: 432-241-2915
Email: swhitley@kirby-smith.com

12/6/2024
Quote #: swhitley-1351

Jesse Zamora
CITY OF MIDLAND
Po Box 1152
Midland, TX 79702

Dear Jesse Zamora:

We are pleased to quote the following for your consideration:
KOMATSU PC210LC-11 2024 model w/ 0 hours, Unit # N.I.S., S/N Factory Order.

The following Factory and Dealer Options are included in the package:

- **KOMATSU PC210LC-11**
- **WORKING LIGHT FRONT ADD CAB**
- **11'6" Standard Arm Assembly**
- **TRACK ROLLER GUARDS**
- **RETURN FILTER**
- **BOOM CYLINDERS ONLY**
- **28.0" (700MM) TRIPLE GROUSER**
- **6PC48-EDAA - Pre-cleaner**
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The following Attachments are included:

- **30" HD Bucket**
- **36" BOCE Ditching Bucket**
- **48" HD Bucket**
- **WB D-Lock Coupler, Pro-Link Thumb**

Additional Details:

Sales Price:	**$271,297.40**
Sub Total:	**$271,297.40**

Total Price: **$271,297.40**
Subject to all applicable taxes. If taxes listed above, Total Price is Sales plus applicable taxes

To be purchased through BuyBoard. Contract # 685-22

We believe the equipment as quoted will exceed your expectations. On behalf of Kirby-Smith Machinery, Inc., thank you for the opportunity to quote you this package.

Sincerely,

Shelby Whitley
Governmental Sales Rep
Kirby-Smith Machinery, Inc.
Phone: 432-333-7000
Cell: 432-241-2915
Email: swhitley@kirby-smith.com


GRADALL
MIDLAND
Transportation
XL3300III
2805


KOMATSU
PC 210 LC

City Council Meeting

Item Number: 11

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION AWARDING A CONTRACT FOR THE FISCAL YEAR 2025 MILL AND FILL PAVING PROJECT TO DANNY'S ASPHALT PAVING INC. OF MIDLAND, TEXAS, AT A TOTAL COST OF $2,932,088.78; APPROVING $146,604.44 FOR CONTINGENCIES; AND AUTHORIZING PAYMENT (DISTRICT: NONE) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)

Purpose:

Resolution awarding a contract for Fiscal Year 2025 Mill and Fill Paving Project to Danny's Asphalt Paving Inc. of Midland, Texas, for a cost of $2,932,088.78 plus $146,604.44 in contingences for a project cost of $3,078,693.22.

Recommended City Council Action:

Approve

Fiscal Impact:

Funds are available in the FY25 General Fund operating budget.

Strategic Priority:

(Strengthen and Sustain our Infrastructure)

Discussion:

The City Manager approved plans and specifications and authorized advertisement for bids for the Fiscal Year 2025 Mill and Fill Project. Bid requests were issued to thirty-seven (37) contractors. We received three (3) bids. Staff recommends awarding the base bid items to the lowest responsive bidder, Danny's Asphalt Paving Inc. Please see the attached memo from Rick Brown, Transportation Manager, for further information.

Therefore, please consider a resolution awarding the contract for Fiscal Year 2025 Mill and Fill Paving Project to Danny's Asphalt Paving Inc. of Midland, Texas, for a cost of $2,932,088.78 plus $146,604.44 in contingences for a project cost of $3,078,693.22.

Morris Williams Jr.

City Manager's Office

INTEROFFICE MEMORANDUM

TO: Erika Martinez, Purchasing Manager

FROM: Rick Brown, Transportation Project Manager

SUBJECT: Fiscal Year 2025 Mill and Fill Project
Bid# 25002003; Recommend Award

DATE: December 9, 2025

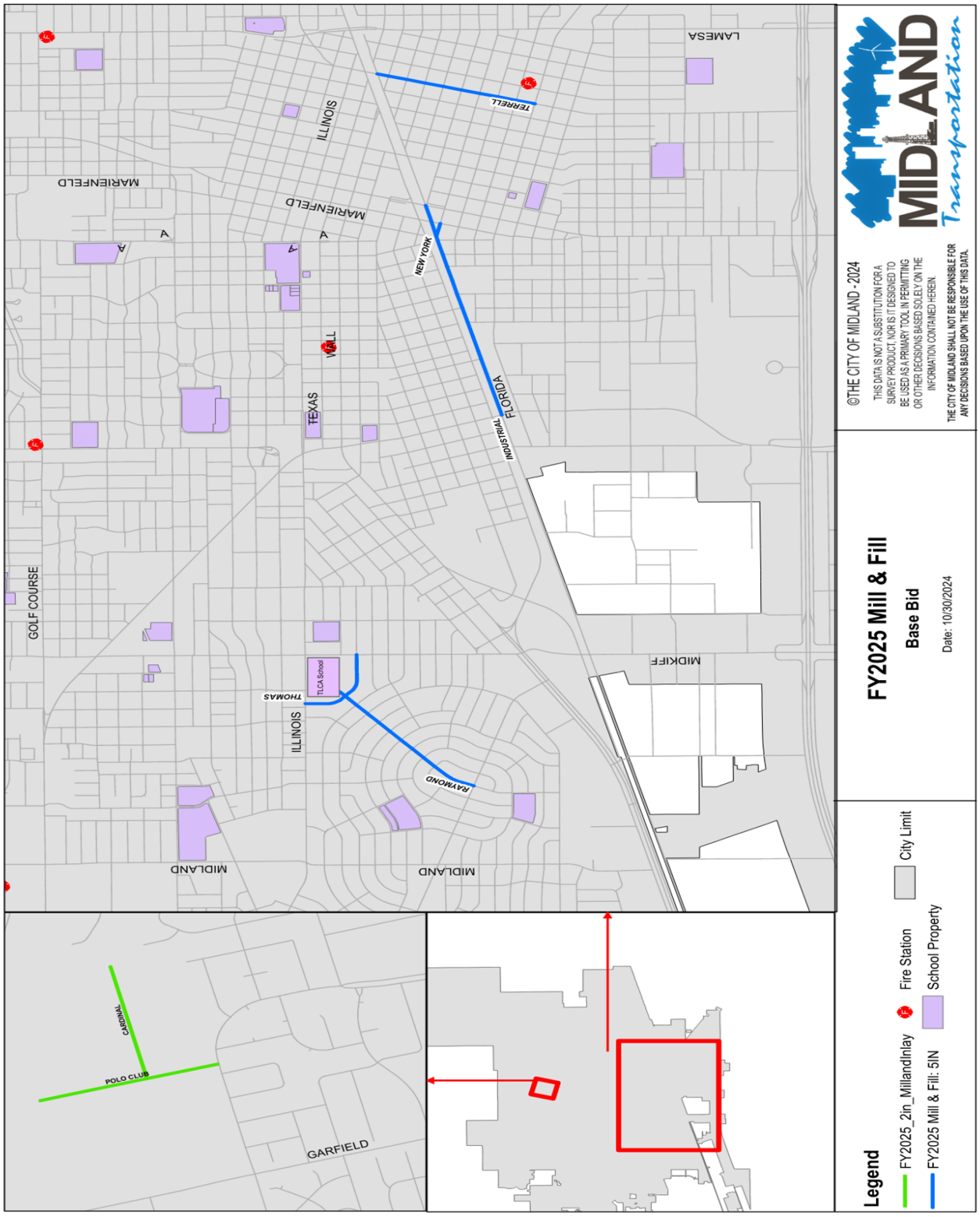
CC: Abe Langston, Transportation Manager

Mill and Fill includes removing all the existing distressed asphalt and replacing it with new pavement. The existing asphalt is removed, stockpiled, and often reused by the City of Midland Transportation Division for street and alley maintenance, or it is blended and reused to make new hot mix asphalt. The FY 2025 Mill and Fill Project includes streets generally located in central Midland. Please see the map on page 2.

We have reviewed the bid tabulation for the FY 2025 Mill and Fill Project. Danny's Asphalt Paving Inc. is the apparent low bidder and has a track record of successfully completing work in the surrounding area. In addition, the unit prices appear to be in line with current pricing trends. Therefore, we are recommending the award of the FY 2025 Mill and Fill Project to Danny's Asphalt Paving Inc. in the amount of $2,932,088.78 (Base Bid + 5% Contingency).

Funding Source (001085 57005 – Infrastructure)

Base Bid:	$2,932,088.78
Contingency 5%:	$146,604.44
Total Contract Amount: (001085 57005—Infrastructure)	**$3,078,693.22**


MIDLAND
Transportation
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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.
FY2025 Mill & Fill
Base Bid
Date: 10/30/2024
Legend
FY2025_2in_MillandInlay
FY2025 Mill & Fill: 5IN
Fire Station
School Property
City Limit
LAMESA
TERRELL
ILLINOIS
MARIENFELD
NEW YORK
INDUSTRIAL
FLORIDA
TEXAS
WALL
GOLF COURSE
THOMAS
TLCA School
RAYMOND
MIDKIFF
MIDLAND
GARFIELD
CARNEGIE
POLO CLUB

RESOLUTION NO. _____

RESOLUTION AWARDING A CONTRACT FOR THE FISCAL YEAR 2025 MILL AND FILL PAVING PROJECT TO DANNY'S ASPHALT PAVING INC. OF MIDLAND, TEXAS, AT A TOTAL COST OF $2,932,088.78; APPROVING $146,604.44 FOR CONTINGENCIES; AND AUTHORIZING PAYMENT

WHEREAS, the City Manager approved the plans and specifications and advertised for competitive bids for the Fiscal Year 2025 Mill and Fill Paving Project (the "Project"); and

WHEREAS, Bid No. 25002003 was opened on December 5, 2024, with the lowest responsible bidder being Danny's Asphalt Paving Inc. of Midland, Texas ("Contractor"), having submitted a bid of $2,932,088.78 as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

WHEREAS, the total cost of the work to be completed, according to the previously advertised plans and specifications and the unit prices in Exhibit "A", shall not exceed $2,932,088.78; and

WHEREAS, the City Council finds it to be in the public interest to execute a contract with Contractor for said Project;

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 said Project at a total cost of $2,932,088.78, said contract being on file in the office of the City Secretary, referenced by the date and number of this resolution.

SECTION TWO. That the City Manager is hereby authorized and directed to execute, on behalf of the City of Midland, change orders to said contract if (1) each change order involves a decrease or an increase of $50,000.00 or less and (2) the change orders, in total, do not increase the original contract price by more than $146,604.44. The sum of $146,604.44 is approved for contract contingencies.

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 in an amount not to exceed $3,708,693.22 from funds available in the FY25 General Fund operating budget upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2025, 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

Gabe McClelland, Engineering Services Director

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

EXHIBIT "A"

25002003 FY 2025 Mill and Fill Project
Bid Opening: December 5, 2024

#	Items	Quantity Required	Unit	Danny's Asphalt Paving Inc. Unit Price	Danny's Asphalt Paving Inc. Total Cost	Jones Bros. Dirt & Paving Unit Price	Jones Bros. Dirt & Paving Total Cost	Reece Albert, Inc. Unit Price	Reece Albert, Inc. Total Cost
	Total Cost			**$2,932,088.78**		**$3,642,889.98**		**$4,367,997.80**	
#0-1	Mobilization, Job Site Safety, Erosion Protection, and Traffic Control	1	LS	$96,800.00	$96,800.00	$117,108.86	$117,108.86	$154,000.00	$154,000.00
#0-2	Unclassified Excavation	231	SY	$54.76	$12,649.56	$12.40	$2,864.40	$8.40	$1,940.40
#0-3	Cold Milling Pavement (Nominal 2" - 3")	6,710	SY	$3.58	$24,021.80	$4.97	$33,348.70	$4.32	$28,987.20
#0-4	Cold Milling Pavement (Nominal 5")	70,260	SY	$2.13	$149,653.80	$8.02	$563,485.20	$3.97	$278,932.20
#0-5	Prime Coat	15,395	GAL	$5.75	$88,521.25	$5.23	$80,515.85	$6.40	$98,528.00
#0-6	3" Ty. C Asphalt Paving Intermediate Course (City Mix Design) – 5" Paving only	11,595	TON	$111.32	$1,290,755.40	$128.80	$1,493,436.00	$170.66	$1,978,802.70
#0-7	2" Minimum Ty. D Asphalt Paving Surface Course (City Mix Design) – 5" Paving only	8,782	TON	$111.22	$976,734.04	$128.80	$1,131,121.60	$164.30	$1,442,882.60
#0-8	2" Minimum Ty. D Asphalt Paving Surface Course (City Mix Design) – 2" Paving	1,165	TON	$117.98	$137,446.70	$128.80	$150,052.00	$205.86	$239,826.90
#0-9	6" Rock Base Repair (City Base)	231	SY	$62.43	$14,421.33	$13.87	$3,203.97	$69.50	$16,054.50
#0-10	Full Depth Sawcut (Asphalt)	2,310	LF	$0.29	$669.90	$4.14	$9,563.40	$1.33	$3,072.30
#0-11	Adjust Manhole	11	EA	$2,415.00	$26,565.00	$1,840.00	$20,240.00	$3,921.00	$43,131.00
#0-12	Adjust Water Valve Box	55	EA	$2,070.00	$113,850.00	$690.00	$37,950.00	$1,488.00	$81,840.00

Bid Summary

37 Bid Requests were issued
3 Bids are listed above
0 NO BIDS were received
34 Bidders did not respond

25002003 FY 2025 Mill and Fill Project
Bid Opening: December 5, 2024

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THE CITY OF MIDLAND

CONTRACT

Contract No. 25002003

THIS CONTRACT, effective the 15th day of January 2025, by and between the City of Midland, hereinafter referred to as "CITY", and Danny's Asphalt Paving, Inc, hereinafter referred to as "COMPANY", is made for the following considerations:

1. **Cost:** Total Proposal: $ 2,932,088.78 DOLLARS

2. **Scope of Work:** COMPANY shall perform all work described and shall provide labor, materials, equipment and supervision necessary for FY 2025 Mill and Fill paving project. 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 Gabriel McClelland 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 365 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

_____
John Ohnemiller, City Attorney

COMPANY:

By: _____

Name:_____

Title: _____

STATE OF _____ §
§
COUNTY OF_____ §

BEFORE ME, the undersigned authority, on this ____ day of _____, 2025 personally appeared, _____, an officer of Danny's Asphalt Paving, 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 _____, 2025.

_____
Notary Public, State of

Exhibit 'A'

Date: 11/13/2024

300 NORTH LORAINE
P. O. BOX 1152
MIDLAND, TX 79702

Request for Bids

25002003

CLOSING DATE: **CLOSING TIME:**

December 5, 2024 **2:00 PM**

REQUEST FOR BIDS WILL BE RECEIVED UNTIL **2:00 PM** on **12/5/2024,** THROUGH BONFIRE FOR SERVICES DESCRIBED BELOW: Various locations, Midland, TX

DESCRIPTION
Labor, material, equipment, and supervision necessary for the FY 2025 Mill and Fill Paving Project in accordance with the attached specifications and contract.

Total: $2,932,088.78

NOTICE TO BIDDERS:

1. IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE REQUIREMENTS OF CONTRACT, THEN THE CITY RESERVES THE RIGHT TO AWARD THIS REQUEST FOR BIDS TO ANOTHER BIDDER.
2. IMPORTANT NOTICE: IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE, WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.
3. BIDDER/CONTRACTOR/COMPANY IS RESPONSIBLE FOR ACQUIRING AND ACKNOWLEDGING ALL ADDENDA.
4. **PUBLIC INFORMATION:** To the extent that Bidder is submitting a bid for a contract described by Section 552.371 of the Texas Government Code, Bidder 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 bid, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

FOR ADDITIONAL INFORMATION, CONTACT (432) 685-7234 OR EMAIL PURCHASING@MIDLANDTEXAS.GOV

NOTE: EACH BIDDER IS TO INDICATE BRAND NAME PRODUCT NUMBER AND ATTACH DESCRIPTIVE LITERATURE CLEARLY MARKED TO SHOW EACH ITEM ON THIS BID,THE UNDERSIGNED HEREBY OFFERS TO FURNISH AND DELIVER THE ARTICLES OR SERVICE AS SPECIFIED ABOVE AT THE PRICES AND TERMS HEREIN STATED AND IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND CONDITIONS OF BIDDING ALL WHICH ARE MADE A PART OF THIS OFFER. THIS OFFER IS NOT SUBJECT TO WITHDRAWAL WITHOUT PERMISSION.

COMPANY NAME: Danny's Asphalt Paving Inc.
ADDRESS: 12820 TX-191 Frontage
CITY: Midland STATE: Texas ZIP 79706
PHONE NO: 432-563-1583 EMAIL: Gw@Dannyspaving.com
AUTHORIZED SIGNATURE:

Vendor Name

THE CITY OF MIDLAND

DETAIL SHEET

25002003

FY 2025 Mill and Fill Paving Project

The various items in the Bid Detail Sheet shall be paid at the unit price bid. Bidder agrees to perform all work described in the Contract Documents for the following unit prices:

These unit prices or lump sums shall be full compensation for furnishing all materials, equipment, labor, tools, power, and transportation necessary to complete the construction of the various items of the project.

The estimated quantities shown in this Bid Detail Sheet are approximate and are to be used only as a basis for estimating the probable cost of the work to be accomplished. The materials furnished may differ somewhat from these estimates. In addition, the City of Midland reserves the right to increase, reduce, or delete any item(s) in the bid detail sheet as deemed to be in the best interest of the City. Payment shall be based on the unit price for the actual amount of such work completed and/or the material furnished. A summary of the roadway sections considered for the FY2025 Mill and Fill Project is below:

ITEM	DESCRIPTION	UNIT	QTY	PRICE	TOTAL
1	Mobilization, Job Site Safety, Erosion Protection, and Traffic Control	LS	1	$96,800.00	$96,800.00
2	Unclassified Excavation	SY	231	$54.76	$12,649.56
3	Cold Milling Pavement (Nominal 2" - 3")	SY	6,710	$3.58	$24,021.80
4	Cold Milling Pavement (Nominal 5")	SY	70,260	$2.13	$149,653.80
5	Prime Coat	GAL	15,395	$5.75	$88,521.25
6	3" Ty. C Asphalt Paving Intermediate Course (City Mix Design) – 5" Paving only	TON	11,595	$111.32	$1,290,755.40
7	2" Minimum Ty. D Asphalt Paving Surface Course (City Mix Design) – 5" Paving only	TON	8,782	$111.22	$976,734.04
8	2" Minimum Ty. D Asphalt Paving Surface Course (City Mix Design) – 2" Paving	TON	1,165	$117.98	$137,446.70
9	6" Rock Base Repair (City Base)	SY	231	$62.43	$14,421.33
10	Full Depth Sawcut (Asphalt)	LF	2,310	$0.29	$669.90
11	Adjust Manhole	EA	11	$2,415.00	$26,565.00
12	Adjust Water Valve Box	EA	55	$2,070.00	$113,850.00
				TOTAL	$2,932,088.78

VENDOR CONTACT:
All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail, via Bonfire or fax as follows:

The City Of Midland
Office of the Purchasing Agent OR FAX: (432) 685-0523
P.O. Box 1152 EMAIL: purchasing@midlandtexas.gov
Midland, TX 79702

All vendors on the bid list will then be notified of the questions and presented an answer. Verbal responses shall not be considered binding.

Award:
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.

BID WAIVERS:

A. WAIVER OF ATTORNEY FEES: BY SUBMITTING THIS BID, BIDDER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE 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, THE BIDDER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH BIDDER MIGHT OTHERWISE BE ENTITLED.

BIDDER AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. THE BIDDER ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE BID DOCUMENTS INCLUDING BUT NOT LIMITED TO THE CONTRACT. THE BIDDER FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND THE BIDDER. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

THE BIDDER AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THESE BID DOCUMENTS, INCLUDING THE CONTRACT, WITH COMPETENT LEGAL COUNSEL PRIOR TO SUBMISSION OF THE BID OR EXECUTION OF THE CONTRACT.

B. WAIVER: BY SUBMITTING A BID, THE BIDDER AGREES TO WAIVE AND DOES HEREBY VOLUNTARILY AND INTENTIONALLY WAIVE, ABANDON AND RELINQUISH ANY CLAIM THE BIDDER HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY OF MIDLAND, TEXAS, AND THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

1. **THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY BID;**
2. **WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE BID DOCUMENTS OR THE CONTRACT DOCUMENTS.**
3. **ACCEPTANCE OR REJECTION OF ANY BIDS; OR**
4. **AWARD OF THE CONTRACT.**

BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES THAT THE BIDDER UNDERSTANDS ALL OF THE TERMS OF THE BIDDING DOCUMENTS AND CONSENTS TO THE BIDDING PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE BIDDER AND THE CITY OF MIDLAND, TEXAS. THE BIDDER AGREES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE REQUEST FOR BID AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

If this form is not signed and included with your bid documents your bid will be considered non-responsive and will be rejected.

Danny's Asphalt Paving Inc.	12-3-2024
Company Name	Date
Authorized Signature	432-563-1583
	Phone
G.W. Hanson	Gw@Dannyspaving.com
Print Above Name	Email

Base Bid—FY 2025 Mill & Fill Project

Special Provisions

1. General

Work shall include milling the existing asphaltic pavement to a nominal depth of between 2 - 5 inches depth, blading and/or cleaning the underlying surface, spraying a tack-coat, repaving the roadway with 3 inches of Ty. C HMAC intermediate course at selected roadways, placing 2 inches minimum of Ty. D HMAC, applying new reflectorized pavement markings, and the work zone traffic control necessary to complete all phases of the project. Work shall also include the adjustment of water valve covers and manhole lids to the surface elevation and installing concrete collars. All work shall be completed according to the City of Midland Standard Specifications and Design & Construction Standards, unless otherwise noted. The streets to be paved are shown on the attached FY 2025 Mill & Fill Project map.

The Contractor shall commence work within fifteen (15) calendar days after the written notice to do so and to substantially complete the same within 70 calendar days after receipt of notice to proceed, subject to such extensions of time as are provided by the General and Special Conditions.

The project shall begin and end in the summer months: Between May 31st and August 10, 2025.

Testing—it is the Contractor's responsibility to perform all required testing for any and all materials and workmanship performed or installed as part of the project's work. The cost of all such testing shall be borne solely by the Contractor. The cost of testing rework resulting from a failed test will also be borne by the Contractor. Contractor's cooperation will be required for material sampling by the City's material testing consultant.

Contractor shall share all testing results with the Project Manager (Rick Brown: rbrown@midlandtexas.gov).

Required Testing and Proof of Reporting Will Include:

BASE—all base surfaces shall be proof rolled in accordance with City of Midland standards with a City employee present at all times. All areas identified as failing during proof rolling shall be repaired in a method approved by the Project Manager. Examples of areas that may need repair: road base that has been compromised by either moisture or tree roots or any other areas that, in the opinion of the Project Manager, need to be removed and replaced.

Asphalt Hot-Mix—a Nuclear Gage Density Test will be required for every 250 linear feet of asphalt pass. The acceptable field density range for construction of this project shall be 93% - 98% with a target density of 96.5%. Test results shall be given to the Project Manager upon completion of each test.

Qualification of Material Sources—tack coat, material used for underseal, hot mix asphalt concrete, and any reinforced concrete material used for the project shall conform to The City of Midland's Standard Specifications, unless otherwise noted. In addition, producers of hot mix asphalt concrete are to have a proven record of acceptance by the Texas Department of Transportation.

OSHA requirements and all other applicable federal, state, or City of Midland safety requirements are to be followed and complied with at all times.

Any issues, conflicts, or discrepancies encountered in the field that conflict with the planned progress of the project are to be brought to the attention of the Project Manager prior to making any changes in the field.

The contractor is reminded that this project is located in an urban environment, trees and overhead utility lines are common. The Contractor shall provide the proper equipment to complete the work in the urban environment.

Notifications

Contractor shall provide and distribute notice to all impacted businesses, residents and property owners at least three (3) days prior to beginning work—including manhole and water valve adjustments. Any impacted schools or other essential service institutions (hospitals, police\fire-stations, etc.) shall be notified seven (7) days prior to the beginning of work—including manhole and water valve adjustments.

- Contractor shall directly contact and coordinate work schedule with specifically effected entities, such as schools, businesses, other essential service institutions.
- Contractor shall indicate dates for milling operations and then paving operations, if necessary include a map showing closed-off areas.
- Provide the name of the company and the phone number of a person of authority on site who represents the CONTRACTOR who can be reached at any time during the work.
- Warn of potential vehicle tow away and other construction issues affecting the neighborhood.
- Should work not occur on a specified day after the notices have been distributed, the contractor shall issue an updated notice.
- A copy of the notice shall be submitted to the Transportation Division prior to the beginning of the project for approval.
- If the City of Midland supplies the Contractor with notices, the Contractor shall distribute the City supplied notices instead of their own three (3) days prior to beginning work.

2. Specific

FY 2025 Mill & Fill Details

- Contractor shall coordinate the paving of Raymond Rd. with Cortney Smith (Cortney.smith@midlandisd.net) and Jane Long Elementary Principal.
- Contractor shall coordinate the paving of Thomas Ave. and Raymond Rd. Jacob Quinn (915-412-1591) with TLCA Midland School.

Paving Near Schools or Essential Service Institutions

Contractor shall make every effort to minimize disruption to activities and prioritize safety around schools and other essential service institutions. Whenever possible, schedule paving near schools during holidays or periods of minor activity.

- **Special Notification:** Notify the impacted school administration or institution at least seven (7) days before the start of work
- **Coordination:**
    - Coordinate with the institution to understand peak hours, bus schedules and routes, and any specific needs.
    - Schedule work during off-peak hours to minimize disruption, preferably during school breaks or weekends.
    - If work spans multiple days, coordinate with the institution to accommodate critical activities and stagger work as needed.
- **Emergency Access:** Ensure that clear access for emergency vehicles is maintained at all times.
- **Traffic Control:**
    - Employ trained flaggers to control traffic and ensure the safety of pedestrians and vehicles if work is conducted during school operational hours.
    - Set up clear, safe pathways for pedestrians and students crossing the work zone.
- **Environmental Measures:** Implement measures to control dust and noise, particularly during operational hours.
- **Heavy Equipment Restrictions:** Limit heavy equipment operations during drop-off and pick-up times.
- **Prompt response:** Address any concerns from the institution, nearby residents, or property owners promptly.

3. Construction Methods

Construction Schedule—it shall be the responsibility of the contractor to provide a project schedule to City staff prior to construction. The schedule should outline the anticipated start and end dates for each phase of the mill and Fill project.

The phasing plan shall be submitted within 14 days after the notice of award and shall be approved by the City of Midland Traffic Division before the notice to proceed will be executed. The phasing plan shall meet the following requirements:

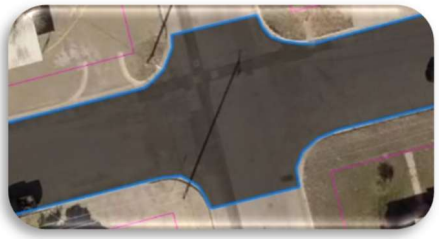
1. The proposed sequence of work shall be divided into distinct phases. The number and order of the phases shall be at the discretion of the Contractor;

2. Each phase must be planned in such a manner that all work contemplated for a particular phase will be completed within 21 calendar days. Completion of a phase shall include necessary milling, reshaping, compacting, base repair, applying tack coat, HMAC overlay, backfill, fine grading and cleanup;

3. No phase shall be started until the previous phase is complete, unless approved by the City of Midland Project Manager.

4. Notification of intent to start a new phase must be requested by the Contractor and approved by the City of Midland Project Manager prior to beginning work.

Intersections—except where concrete valley gutters are in place (or unless otherwise specified), paving at all intersecting streets will be through the end of radius (ER).



City and TXDot/County Street Intersections—Contractor shall pave to the curb line of any intersecting state or county roads (unless otherwise specified).



Traffic Control—proper traffic control is the sole responsibility of the contractor and shall be in accordance with the TMUTCD. Care shall be used to create a safe work area, with minimal impact on the flow of traffic. Access to properties adjacent to the work zone shall be maintained at all times unless otherwise directed by City staff. A minimum of two travel lanes (one for each direction) shall remain open at all times on all arterial streets. If the milled area is opened to traffic, it will be the contractor's responsibility to provide and place temporary flexible-reflective road marker tabs designating lane lines.

The contractor shall place ramps, as directed by City staff, to provide for a smooth transition from existing pavement to the milled surface.

Residential streets and minor collectors may be closed when workers are present; however, access to properties adjacent to the work zone shall be maintained at all times. No more than two consecutive adjacent roadways shall be closed during the Mill and Fill Project. Streets receiving Mill and Fill shall be opened to local traffic when workers are not present.

For the entire Mill/Fill project, the maximum length under construction at any time shall not exceed one mile, or the distance between two arterials.

A traffic control plan for each phase of the mill and Fill project shall be submitted to the City of Midland's Traffic Division 48 hours prior to the beginning of construction.

If the contractor elects to remove the cast iron features at water valves and sewer manholes prior to the removal of pavement, two-way traffic shall be maintained, and all holes shall be filled with material suitable for vehicular traffic. The adjustment of water valve covers and manhole lids to match the new pavement will require a traffic control plan separate from the plan submitted for the Mill and Fill phase. Construction cannot begin without a traffic control plan approved by the City of Midland's Traffic Division.

Stop equipment for traffic when crossing any traffic lanes. Lane closures in accordance with TMUTCD shall be used at arterial roadways adjacent to streets receiving Mill and Fill when needed.

Place orange fencing around sidewalk, wheelchair ramps, and other pedestrian areas that pose a hazard to pedestrian traffic.

Existing Infrastructure—all existing manholes and valves shall be adjusted to finished roadway elevation, matching the finished cross-slope including concrete collars as per standard city specifications.

It shall be the responsibility of the contractor to protect cast iron features, not planned for replacement, from damage which may occur during construction. The contractor shall replace or repair, as directed by the Project Manager, any structures damaged during the life of the contract. No payment will be made for repair or replacement of damaged items.

Two-way traffic shall be maintained while adjustments are being made to cast iron features. All holes resulting from the initial lowering of manholes and valves shall be filled with material suitable for vehicular traffic. **The adjustment of water valve covers and manhole lids to match the new pavement will require a traffic control plan separate from the plan submitted for the Mill and Fill phase.**

Replacement of cast iron ring & cover and valve boxes shall be accomplished by removing all necessary concrete/asphalt and salvaging the existing R&C or valve box (prior to the milling operation). Upon completion of the removal, the affected areas shall be plated and prepared for asphalt placement. Once the asphalt surface course has been completed, the asphalt shall be saw cut and the R&C or valve box adjusted to the appropriate grade and constructed in accordance with the following standard: Concrete around manholes shall be at least 4'x4' in a diamond shape (a square turned 45 degrees to the flow of traffic). Concrete around valve boxes shall be at least 2'x2'.

NOTE—Manhole/Valve Concrete: Concrete used for manholes and valves shall be in accordance with TxDOT standard specifications for Item 421 "Hydraulic Cement Concrete." Concrete used shall be TxDOT Class K with 3 pounds of TxDOT fiber per cubic yard. Valves and Manholes adjusted with this concrete can be opened to traffic after a 24-hour cure time.

Milling and Cleaning of Existing Pavement—mill designated area to a depth of 2" – 5" using a self-propelled asphalt planer. Care should be taken to ensure that the specified depth and cross-slope is maintained. Perform milling operation, including removal of the milled material, in a manner that prevents dust and other particulate matter from escaping into the air. **5" millings** will become the property of the Contractor and hauled away. Removal of pavement millings shall be the responsibility of the Contractor. This work shall be incidental to the work.

Ensure that the milled area is free from gouges, continuous grooves, ridges, and delaminated areas and has a uniform texture. Correct deviations greater than ¼ inch in 16 ft. measured longitudinally or greater than ¼ inch over the entire width of the cross-section. Correct by loosening, adding, or removing material and recompact, as necessary. If pavement below the specified milling level becomes dislodged or delaminated, remove and replace. When the underlying rock base is exposed after milling, the surface shall be finished to a smooth surface by blading, watering, and compacting. All milled surfaces shall be proof – rolled in accordance with standard city specifications prior to the application of a tack coat. All areas identified as failing during proof – rolling shall be repaired prior to paving.

Except where concrete valley gutters exist, saw cut at the limits of paving at intersections and at other limits requiring a neat edge between new and existing pavement. Blade and/or clean with mechanical sweeper the milled area before opening to traffic or before the subsequent tack coat and resurfacing.

When the milled surface is opened to traffic a "wedge" of material shall be placed longitudinally between lanes, at intersections, and at driveways. The "wedge" shall be removed and properly disposed of prior to paving operations. Material will be approved by the Project Manager. This work will not be paid for directly but is subsidiary to various bid items. At transverse edges of milled areas, provide a smooth transition from the milled surface to the existing pavement.

Tack Coat—uniformly spray tack coat using materials and methods outlined in the standard city specifications. Uniformly apply tack coat to all longitudinal and transverse joints. Correct uncoated or lightly coated areas. Blot areas showing an excess of tack coat with sand or other similar material and remove blotting material before paving.

Tack coat will be subsidiary to hot-mix paving items.

Prime Coat—prime coat shall be placed as per standard city specifications on top of all prepared base course surfaces. Prime coat shall be measured by the gallon **before** dilution. Water will not be included in the measurement for payment.

Paving with Hot Mix Asphaltic Concrete—For all roads to receive 5" of asphalt: install a 3-inch Ty. C hot mix asphaltic concrete intermediate course at selected roadways according to the City of Midland's Standard Specifications and Desigen and Construction Standards, unless otherwise noted.

For all roads (top course for 5" paving): install a 2-inch minimum Ty. D hot mix asphaltic concrete surface course according to the City of Midland's Standard Specifications and Design and Construction Standards, unless otherwise noted.

Before paving, the existing surface shall be sawcut at least 6 inches beyond all sides of the milled area, or the limits of broken or undermined pavement. Square off edges of the surface pavement to a 90-degree angle to the underlying surface. Offset the joint in the surface course from the lane lines by 6 inches. When constructing a joint between lanes of opposing traffic, offset the joint by 6 inches into either lane.

At crowned roadway sections, the proposed pavement elevation shall be flush with the existing curb to allow for positive drainage to the curb flowline. At inverted roadway sections, the proposed pavement elevation shall also be flush with the existing curb to allow for positive drainage.

After paving, the contractor shall place temporary flexible-reflective road marker tabs designating lane lines.

Joints—all longitudinal pavement joints shall be offset from any traffic wheel paths. Transverse pavement joints shall only be permitted at intersections.

Contractor shall seal all concrete and pavement joints with Texas Department of Transportation (TxDOT) DMS-6310 SL-2 seal and, an American Society for Testing and Materials (ASTM) D 1190 hot-applied single component joint sealant, or a City of Midland approved equal. This does not include pedestrian access ramps or sidewalks.

If applicable, Contractor shall use and place approved expansion joint material between the existing curb and any proposed new curb.

Reflectorized Pavement Markings—if required to remove existing pavement markings and markers, Contractor is to repair excessive damage to the pavement with an approved material at the Contactor's expense. When required, removed pavement markers will be disposed of properly. The Contractor shall be responsible for the maintenance of temporary marker tabs while applied. The Contractor shall also be responsible for the removal and proper disposal of temporary marker tabs from the project in coordination with the placement of new permanent markings.

Non-removable work zone pavement markings will be paint in accordance with Item 666, Type II, or other approved materials of the Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, latest edition.

Apply thermoplastic Type I reflectorized pavement markings for long-line markings in accordance with Item 666 of the Texas Department of Transportation's Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, latest edition. Short-line and symbol markings shall be thermoplastic in accordance with item 666, Type I, or Item 668 of the Texas Department of Transportation Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, latest edition.

If striping is included in the project, thermoplastic pavement markings shall be placed no sooner than 30 days, and no later than 90 days, after hot mix asphaltic concrete is installed. The contractor shall replace temporary road marker tabs as necessary throughout the project until permanent pavement markings are installed, and shall remove all tabs with installation of permanent markings.

The placement and maintenance of temporary pavement makings shall be incidental to other items in this project. No payment shall be made for the placement of temporary pavement markings.

Final Cleanup—Contractor shall make all reasonable effort to clean and restore project site to original or better condition at the conclusion of construction activity. This includes but is not limited to street sweeping and other sediment removal, and the removal of construction material and debris.

After construction, restore adjacent surfaces to a condition approved by the Project Manager. This work is subsidiary to mobilization.

3. Additional Notes

The intent of the Mill and Overlay Project at all adjacent street and intersections includes surface improvements and drainage improvements. The contractor shall ensure positive surface drainage in the mill and fill areas with special attention to surface drainage within all intersections. At the intersections, do not simply repeat the longitudinal slope.

Contractor should provide and place erosion control protection at gutter locations at the limits of the work zone, including applicable intersections adjacent to the work zone. Erosion control protection shall also be placed at storm drain inlets in the work zone. All BMPs shall be installed in accordance with industry standards and regulations.

If concrete is used as a part of this contract, the Contractor shall have an approved concrete washout location within the work zone.

4. Pay Item Notes

1. Shall include all necessary equipment, labor, and materials to provide jobsite safety, erosion protection, and construction signing / traffic control in accordance with TMUTCD standards. Unit payment shall be lump sum.

2. Shall include the necessary equipment, labor, and materials to remove areas as noted by the City Representative. All areas noted for removal shall be excavated prior to the milling operation. Additional areas may be noted by the City representative after the milling operation. All excavation shall be a nominal depth of 10" (HMAC + Base Rock). Unit payment shall be by square yards excavated.

3. Shall include the equipment, labor, and materials to mill the existing pavement. Nominal milling depth of 2" - 3". Unit payment shall be by the square yards milled.

    - Street width may vary ± in the field. Payment for this item will be based upon the standard street width provided in these bid documents.
    - Exceptions: variations at intersections, turn lanes, bulbs, cul-de-sacs, etc.

4. Shall include the equipment, labor, and materials to mill the existing pavement. Nominal milling depth of 5". Unit payment shall by the square yards milled.
    - Street width may vary ± in the field. Payment for this item will be based upon the standard street width provided in these bid documents.
    - Exceptions: variations at intersections, turn lanes, bulbs, cul-de-sacs, etc.

5. Shall include the necessary equipment, labor, and material to apply the prime or tack coat as directed by the City representative. Application rate not to exceed 0.20 gal/sy for prime coat and 0.05 gal/sy for tack coat. Prime coat will be measured by the gallon before dilution. Water used in the dilution of the emulsified asphalt will not be measured for payment.

6. Shall include the equipment, labor, and materials to install the asphalt intermediate course, TY C Asphalt, on streets that have been **milled 5"**. Unit payment shall be tons and shall not exceed 10% of the calculated yield without approval of the Project Manager.

7. Shall include the necessary equipment, labor, and material to install the 2-inch asphalt surface course, TY D Asphalt, on streets that have been **milled 5"**. Unit payment shall be tons and shall not exceed 10% of the calculated yield without approval of the Project Manager.

8. Shall include the necessary equipment, labor, and material to install the 2-inch asphalt surface course, TY D Asphalt, on streets that have been **milled 2-3"**. Unit payment shall be tons and shall not exceed 10% of the calculated yield without approval of the Project Manager.

9. Shall include the necessary equipment, labor, and materials to remove and replace areas noted by the City representative with base rock. Examples of areas that may need repair are road base

that has been compromised by either moisture or tree roots or any other areas that, in the opinion of the Project Manager, need to be removed and replaced. In areas of full-depth removal, prime will be required. AE-P and CSS-1H are both acceptable. Unit payment shall be square yards.

10. Shall include the necessary equipment, labor, and material to saw cut asphalt to full depth for removal and replacement in pay items 2 & 9. Unit payment shall be linear foot. All other saw cuts are subsidiary to items # 6-8.

11-12. Shall include the necessary equipment, labor, and material to provide traffic control, remove, salvage, and install new or existing cast iron features (cast iron ring & cover and valve box) including concrete collars (Concrete: TxDOT Class K with 3 lbs. of TxDOT fiber per CY). All features visible from the surface or noted by City representative shall be removed and prepared for replacement.

The City, at its discretion, may provide new manhole rings and lids and/or valve boxes at certain locations that it deems necessary. Contractor shall reinstall original feature or City provided feature.

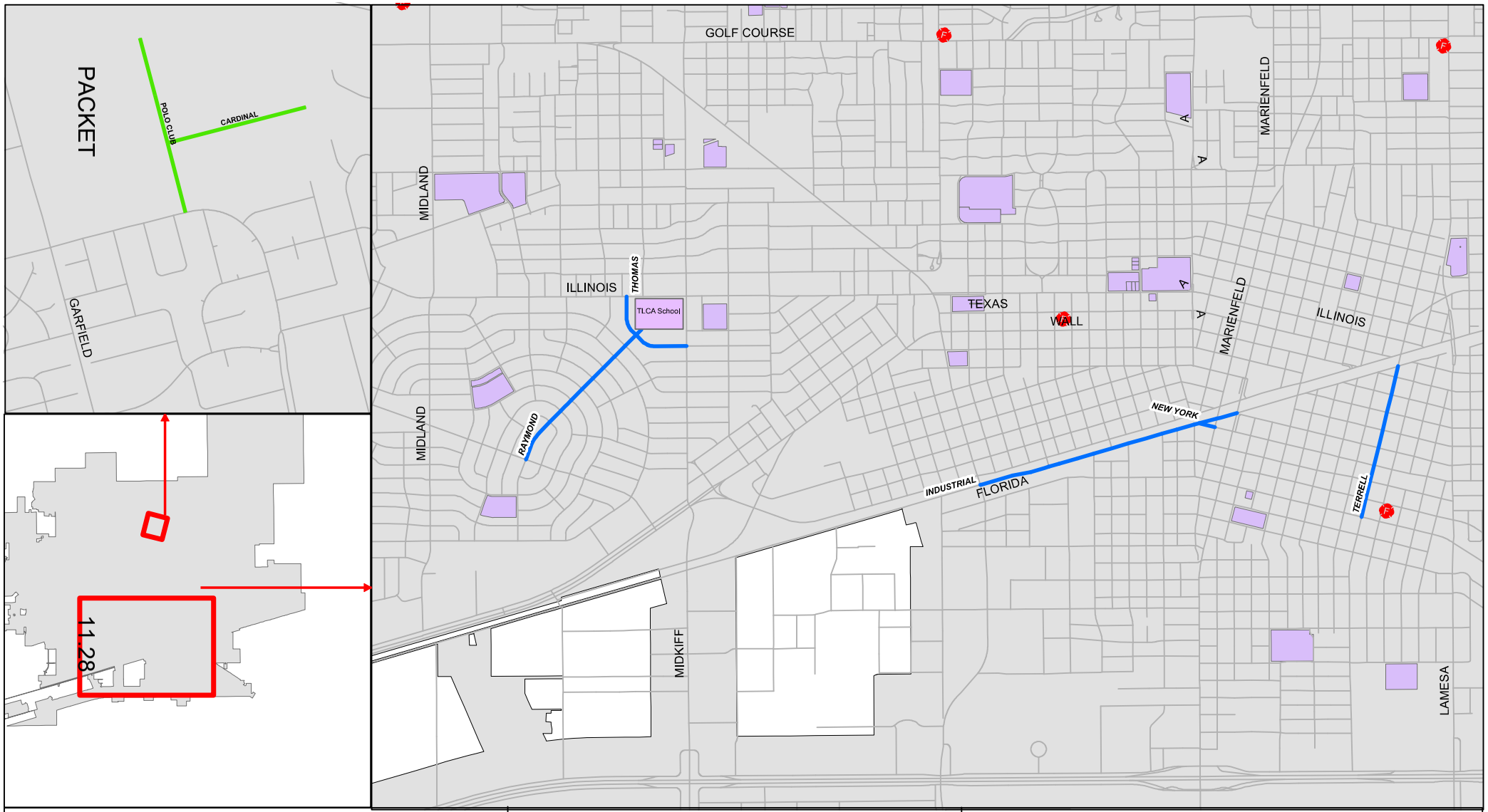
All franchise utility features shall be replaced using the removed material unless new material is provided by the utility.

Payment for Item 11 shall be for each manhole adjusted to finished street grade.

Payment for Item 12 shall be for each valve box adjusted to finished street grade.

FY 2025 - Mill and Fill

Street	From	To	SY	AV Width	Manholes	Valves
Thomas	Illinois	Midkiff	7,553	34'		2
Raymond	N of Thomas	Thomason	15,116	37'	5	19
Industrial (& NY)	Garfield	Big Spring	25,972	40'	3	17
Terrell	Industrial	Florida	21,618	61'	2	9
		5" TOTAL	**70,259**			
Cardinal	Polo Club	End of Rd	2,973	20'	0	4
Polo Club	End of Rd	Bluebird/Polo Pkwy	3,733	20'	0	2
		2" TOTAL	**6,706**			
TOTAL			76,965		10	53



Legend

- FY2025_2in_MillandFill
- FY2025 Mill & Fill: 5IN
- Fire Station
- School Property
- City Limit

FY2025 Mill & Fill

Base Bid

Date: 10/30/2024

©THE CITY OF MIDLAND - 2024

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.

MIDLAND Transportation

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 in five (5) original counterparts 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.

*A cash security such as a cashier's check or irrevocable letter of credit issued by a bank satisfactory to the City for 100 % of the contract amount may be supplied in lieu of the Performance and Payment Bonds. The check will be returned un-cashed upon satisfactory completion of the work and evidence of payment of all obligations due for the contract.

BID BOND

THE STATE OF TEXAS §

COUNTY OF MIDLAND §

SURETY NO. _____

KNOW ALL MEN BY THESE PRESENTS, THAT DANNY'S ASPHALT PAVING, INC.

(hereinafter called the Principal), as Principal, and SIRIUSPOINT AMERICA INSURANCE COMPANY

(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 FIVE PERCENT OF THE GREATEST AMOUNT BID---------- DOLLARS ($----------5----------), 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 submitted a Bid or Proposal to enter into a certain written Contract with the obligee to 2025 MILL AND FILL PAVING PROJECT.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully enter into such written Contract, then this obligation shall be void; otherwise to remain in full force and effect.

IT IS EXPRESSLY UNDERSTOOD AND AGREED that if said Principal should withdraw its Bid anytime after such Bid is opened and before official rejection to such Bid or, if successful in securing the award thereof, said Principal should fail to enter into the Contract and furnish satisfactory Performance Bond and Payment Bond, the Obligee, in either such events, shall be entitled and is hereby given the right to collect the full amount of this Bid Bond as liquidated damages.

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

IN WITNESS THEREOF, THE SAID PRINCIPAL AND SURETY do sign and seal this instrument, this 5th day of DECEMBER, 20 24.

DANNY'S ASPHALT PAVING, INC.

Principal

By _____

Address 2000 E 42nd #C310
Odessa, TX 79762

SIRIUSPOINT AMERICA INSURANCE COMPANY

Surety

By Marla Hill
MARLA HILL, ATTORNEY-IN-FACT

Address 5223 79th STREET
LUBBOCK, TEXAS 79424

APPROVED AS TO FORM:

_____
City Attorney

NOTE: ATTACH POWER OF ATTORNEY

ACRADD01_0523

POWER OF ATTORNEY
SIRIUSPOINT AMERICA INSURANCE COMPANY
NEW YORK

KNOW ALL MEN BY THESE PRESENTS: That SiriusPoint America Insurance Company, a New York corporation, having its principal office in the City of New York, pursuant to the following Resolution, which was adopted by the Board of Directors of the Company, to wit:

RESOLVED, that the President, Senior Vice President, Chief Financial Officer, Secretary or Assistant Secretary is hereby authorized to execute Powers of Attorney appointing as attorneys-in-fact selected employees of certain surety companies who shall have the power for and on behalf of the Company to execute and affix the seal of the Company to surety contracts as co-surety.

Does hereby nominate, constitute and appoint,

Allyson W. Dean, Andrea Rose Crawford, Colin E. Conly, Debra Lee Moon, Sandra Lee Roney, Troy Russell Key, Ana Owens, Andrew Gareth Addison, Betty J. Reeh, Thomas Douglas Moore, Elizabeth Ortiz, Emily Allison Mikeska, Monica Ruby Veazey, Howard Cowan, Marla Hill, Faith Ann Hilty

Its true and lawful attorney-in-fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed; any and all bonds, contracts, agreements of indemnity, and other undertakings in suretyship (NOT INCLUDING bonds without a fixed penalty or financial guarantee bonds) and to bind the Company thereby as fully and to the same extent as if same were signed by the duly authorized officers of the Company, provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

$50,000,000 single bond limit

All acts of said attorneys-in-fact pursuant to the authorities herein given are hereby ratified and confirmed. The executive officers listed above in the Resolution may from time to time and at any time remove any such appointee and revoke the power given to him or her.

The execution of such bonds or undertakings in pursuance of these presents, within one year of the date of issue of these presents, shall be binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in New York, New York, in their own proper persons.

IN WITNESS WHEREOF, SiriusPoint America Insurance Company has caused its corporate seal to be hereunto affixed, and these presents to be signed by its Secretary this 17th day of August in the year 2023.

SiriusPoint America Insurance Company
By: _____
Melissa J. Ralph
Secretary

State of New Jersey }
} ss.
County of Monmouth}

On this 17th day of August 2023, before me, a Notary Public of the State of New Jersey in and for the County of Monmouth duly commissioned and qualified, came Melissa J. Ralph, Secretary, of SiriusPoint America Insurance Company, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and acknowledged the execution of the same, and, being by me duly sworn, deposeth and saith, that she is the officer of the Company aforesaid, and that the seal affixed to the preceding instrument as the corporate seal of said Company, and the said corporate seal and her signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company, referred to in the preceding instrument, is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal.

TNAEJA E LEWIS-SCOTT
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES MARCH 31, 2028
COMMISSION: #50208541

Notary Public
My Commission expires
March 31, 2028

State of New Jersey
County of Monmouth

I, Melissa J. Ralph, Secretary, of SiriusPoint America Insurance Company, a New York corporation, do hereby certify that the above and foregoing is a full, true correct copy of Power of Attorney, is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Company this 5 day of December, 2024

SIRIUSPOINT AMERICA INSURANCE COMPANY
CORPORATE SEAL
1979
NEW YORK

Melissa J. Ralph
Secretary

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

Form Revised August 2012

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

"General Decision Number: TX20240002 01/05/2024

Superseded General Decision Number: TX20230002

State: Texas

Construction Types: Heavy and Highway

Counties: Armstrong, Carson, Crosby, Ector, Irion, Lubbock, Midland, Potter, Randall, Taylor and Tom Green Courties in Texas.

HEAVY & HIGHWAY CONSTRUCTION PROJECTS

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 $17.20 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 2024.
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 $12.90 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 2024.

|_____|_____|

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	01/05/2024

SUTX2011-002 08/02/2011

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER (Paving & Structures)	$ 13.55 **	
ELECTRICIAN	$ 20.96	
FORM BUILDER/FORM SETTER		
Paving & Curb	$ 12.36 **	
Structures	$ 13.52 **	
LABORER		
Asphalt Raker	$ 12.28 **	
Flagger	$ 9.30 **	
Laborer, Common	$ 10.30 **	
Laborer, Utility	$ 11.80 **	
Work Zone Barricade Servicer	$ 10.30 **	
POWER EQUIPMENT OPERATOR:		
Asphalt Distributer	$ 14.87 **	
Asphalt Paving Machine	$ 13.40 **	
Broom and Sweeper	$ 11.21 **	
Crane, Lattice Boom 80 Tons or Less	$ 16.82 **	
Crawler Tractor Operator	$ 13.96 **	
Excavator, 50,000 lbs or less	$ 13.46 **	
Front End Loader Operator, Over 3 CY	$ 12.77 **	

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     Front End Loader, 3CY or
     less.....................$ 12.28 **
     Loader/Backhoe...........$ 14.18 **
     Mechanic.................$ 20.14
     Milling Machine..........$ 15.54 **
     Motor Grader,  Rough.....$ 16.15 **
     Motor Grader, Fine.......$ 17.49
     Pavement Marking Machine....$ 16.42 **
     Reclaimer/Pulverizer.....$ 12.85 **
     Roller, Asphalt..........$ 10.95 **
     Roller, Other............$ 10.36 **
     Scraper..................$ 10.61 **
     Spreader Box.............$ 12.60 **

Servicer.....................$ 13.98 **

Steel Worker (Reinforcing).....$ 13.50 **

TRUCK DRIVER
     Lowboy-Float.............$ 14.46 **
     Single Axle..............$ 12.74 **
     Single or Tandem Axle Dump..$ 11.33 **
     Tandem Axle Tractor with
     Semi.....................$ 12.49 **
----------------------------------------------------------------

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

================================================================

** Workers in this classification may be entitled to a higher
minimum wage under Executive Order 14026 ($17.20) or 13658
($12.90).  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
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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 classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which 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. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of 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. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producirg the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

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

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter

* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write 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 the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write 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 by 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

4.) All decisions by the Administrative Review Board are final.

==========

END OF GENERAL DECISION"

IMPORTANT NOTICE

Conflict Of Interest Reporting Requirements

Compliance with LOCAL GOVERNMENT CODE TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT CHAPTER 176. DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL GOVERNMENT OFFICERS; PROVIDING PUBLIC ACCESS TO CERTAIN INFORMATION.

Form CIQ: This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session. This questionnaire shall be filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a). By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code. A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

Bidders are responsible for filing Conflict of Interest form "CIQ" in accordance with the above referenced statute. Failure to do so is a class C Misdemeanor. Contracts or Purchase Orders awarded to a vendor that has violated this law is subject to termination at such time that the violation is discovered with no recourse to the City of Midland. The bidder will be subsequently removed from the bidders list for a minimum of one year.

When there is no known conflict of interest as defined by the statute, it is not necessary to file/submit the Form CIQ. The form must be submitted if a conflict is subsequently discovered.

By submitting a response to this request, vendor represents that it complies with the requirements of Chapter 176 of the Texas Local Government Code.

For a current list of the local government officers go to: http://www.midlandtexas.gov/

Upon completion of the form, sign and submit with bid or mail to:

City of Midland
Attn: City Secretary
PO Box 1152
Midland, Texas 79702

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

Danny's Asphalt Paving Inc.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

NA

Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

NA

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 Signature of vendor doing business with the governmental entity — Date: 12-3-2024

PACKET 11:43 January 14, 2025

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

CITY OF MIDLAND

Consideration of Location of Bidder's Principal Place of Business
For Bids of $50,000 up to $100,000 for Services and $500,000 for Commodities
Affidavit of Eligibility

Pursuant to Texas Local Government Code 271.9051, in purchasing real property, personal property that is not affixed to real property, or services, if the City receives one or more bids from a bidder whose principal place of business is in the City of Midland and whose bid is within five percent (5%) of the lowest bid price received by the City from a bidder who is not a resident of the City of Midland, the City may enter into a contract with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the City of Midland if the City Council determines, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City of Midland created by the contract award, including the employment of residents of the City of Midland and increased tax revenues to the City of Midland.

In order to receive consideration, bidders must submit this affidavit to:

Erika Martinez
Purchasing Manager
City of Midland
300 N. Loraine St.,
PO BOX 1152
Midland, TX 79702-1152

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: Danny's Asphalt Paving Inc.

Local Address (must be within the City limits): 12820 Highway 191 Frontage Midland, Tx, 79707

1. Is the above address the principal place of business for the business named above? ☑ Yes ☐ No
2. How many residents of the City of Midland are employed at the above business location? 15
3. Year your business was established in the City of Midland: 2004
4. If you collect sales tax for ANY class of customer, provide the following Reseller information:

   Reseller Permit Number: _____

   Company Name and Address (as it appears on permit):

   _____

   _____

   _____

5. Does your business have more than one office in the State of Texas? ☐ Yes ☑ No
   If Yes, identify the office location considered as the point-of sale for the purpose of sales tax calculation:

   _____

   _____

6. Was the local business required to pay business and/or real property tax for the most recent tax year?

   ☑ Yes ☐ No

   If Yes, did the local business pay any of this tax to the City of Midland? ☑ Yes ☐ No

Under penalty of perjury, the undersigned states that the foregoing statements are true and correct. It is further acknowledged that any person, firm, corporation or entity *intentionally* submitting false information to the City in an attempt to qualify for eligibility shall be prohibited from bidding on City of Midland products and services for a period of one (1) year.

Authorized Signature: _____ Date: 12-3-2024

Printed Name and Title: G.W. Hanson Estimator/Project Manager

Consideration of Location of Bidder's Principal Place of Business
For Bids of $50,000 up to $100,000 for Services and $500,000 for Commodities
Affidavit of Eligibility

Pursuant to Texas Local Government Code 271.9051, in purchasing real property, personal property that is not affixed to real property, or services, if the City receives one or more bids from a bidder whose principal place of business is in the City of Midland and whose bid is within five percent (5%) of the lowest bid price received by the City from a bidder who is not a resident of the City of Midland, the City may enter into a contract with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the City of Midland if the City Council determines, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City of Midland created by the contract award, including the employment of residents of the City of Midland and increased tax revenues to the City of Midland.

In order to receive consideration, bidders must submit this affidavit to:

Erika Martinez
Purchasing Manager
City of Midland
300 N. Loraine St.,
PO BOX 1152
Midland, TX 79702-1152

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: _____

Local Address (must be within the City limits): _____

1. Is the above address the principal place of business for the business named above? ☐ Yes ☐ No
2. How many residents of the City of Midland are employed at the above business location? _____
3. Year your business was established in the City of Midland: _____
4. If you collect sales tax for ANY class of customer, provide the following Reseller information:

   Reseller Permit Number: _____

   Company Name and Address (as it appears on permit):

   _____

   _____

   _____

5. Does your business have more than one office in the State of Texas? ☐ Yes ☐ No
   If Yes, identify the office location considered as the point-of sale for the purpose of sales tax calculation:

   _____

   _____

6. Was the local business required to pay business and/or real property tax for the most recent tax year?

   ☐ Yes ☐ No

   If Yes, did the local business pay any of this tax to the City of Midland? ☐ Yes ☐ No

Under penalty of perjury, the undersigned states that the foregoing statements are true and correct. It is further acknowledged that any person, firm, corporation or entity intentionally submitting false information to the City in an attempt to qualify for eligibility shall be prohibited from bidding on City of Midland products and services for a period of one (1) year.

Authorized Signature: _____ Date: _____

Printed Name and Title: _____

NOTICE TO BIDDERS

IF THIS PURCHASE REQUIRES A CONTRACT, THE ATTACHED **CONTRACT AND INSURANCE REQUIREMENTS ARE NON-NEGOTIABLE**. MODIFICATIONS BY BIDDER/COMPANY OF ANY MATERIAL TERM(S) TO THE CONTRACT DOCUMENTS WILL BE DEEMED A NON-RESPONSIVE BID. NON-RESPONSIVE BIDS WILL BE REJECTED. BIDDER/COMPANY MUST BE WILLING TO SIGN THE CONTRACT AS IS AND WITHOUT MODIFICATIONS, PROVIDE PROPERLY EXECUTED BONDS (IF APPLICABLE) AND PROVIDE INSURANCE SPECIFICALLY AS REQUIRED WITHIN THE CONTRACT DOCUMENTS **WITHIN 21 DAYS** OF THE DATE OF THE TRANSMITTAL LETTER.

IF THE SELECTED BIDDER/COMPANY CANNOT MEET THE ABOVE REQUIREMENTS, THEN **THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER**.

IMPORTANT NOTICE – IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/COMPANY MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE, WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.

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. For further instructions on how to comply with Texas Government Code Section 2252.908 and Texas Local Government Code Section 176.006,

please go to https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and https://www.ethics.state.tx.us/filinginfo/conflict_forms.htm.

ANY VENDOR WHO FAILS TO COMPLY WITH THE TERMS OF THE AWARD **MAY BE DECLARED AN IRRESPONSIBLE VENDOR**. BIDS SUBMITTED BY SAID VENDOR SHALL NOT BE CONSIDERED AGAIN FOR A MINIMUM PERIOD OF SIX MONTHS AS DETERMINED BY THE CITY MANAGER.

IMPORTANT: READ CAREFULLY BEFORE MAKING BID
GENERAL CONDITIONS OF BIDDING

1. All bids are to be submitted as specified in the procurement document(s).

2. Each Bidder is requested to provide: Descriptive literature clearly marked to show each item on this bid. Any catalog or manufacturer's reference in this proposal is descriptive, but not restrictive, and is used only to indicate type and quality. If, however, the bidder proposes similar but not identical terms, he must furnish all particulars. If no mention is made of any exceptions, it is assumed that he is bidding on the article specified and not on an approved equal and he will be required to deliver exact article specified.

3. Prices should be itemized. (Indicate unit price and extend to show total price.) In case of discrepancy between the unit price and the extension, the unit price shall govern.

4. Unit price for each item offered shall include all discounts; e.g., trade, seasonal, etc. with net 30 days payment terms. Discounts shall not be shown as such but shall be incorporated in the base bid price. Any bid showing discounts will be considered an alternate bid. The City of Midland will not be responsible for any goods delivered without a purchase order number.

5. 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. The City of Midland reserves the right to award by item or by total bid, or to reject any or all bids or parts of bids. Further, the City of Midland reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City of Midland reserves the right to award the bid to the lowest responsible bidder.

6. Time of proposed delivery shall be stated in number of calendar days.

7. NOTE: The City of Midland, Texas is exempt from all Federal, State and City tax. Please do not include these taxes in your bid price or invoice. Taxable items must be so designated, and the City will supply vendor with a Tax Exemption Certificate, properly executed.

8. All items are to be delivered, unloaded and stacked at the location indicated on the Bid Request and Purchase Order.

9. All items are to be delivered F.O.B. to the City of Midland, Texas with freight prepaid and included in the bid.

10. Detailed specifications rule over General specifications (headings, etc.)

11. The City of Midland reserves the right to remove a company from the bid list for (1) continued failure to respond to request for bids, (2) failure to deliver merchandise within promised time, or (3) delivery of substandard merchandise.

12. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any lands, materials, supplies or services except as allowed under chapter 176 of the Local Government Code. Form CIQ shall be submitted and placed on file with the City of Midland.

13. The City shall determine the most advantageous bid for the City and accept the proposal of the responsible party submitting the lowest and/or most advantageous bid or reject any and all bids.

14. The City of Midland, Texas may consider as informal any bid not prepared and submitted in accordance with the provisions hereof, and may waive, in its sole discretion, any informalities.

15. Public Information. To the extent that Bidder is submitting a bid for a contract described by Section 552.371 of the Texas Government Code, Bidder 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 bid, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

STANDARD PURCHASE TERMS AND CONDITIONS
PURCHASING DIVISION, CITY OF MIDLAND, TEXAS

"Seller", as used herein, has the same meaning as "Company". "Buyer", as used herein, has the same meaning as "City".

Seller and Buyer agree as follows:

1. SELLER TO PACKAGE GOODS - Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows; (a) Seller's name and address, (b) Consignee's name, and address, and purchase order number, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

2. SHIPMENT UNDER RESERVATION PROHIBITED - Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will serve as a tender of goods.

3. TITLE & RISK OF LOSS - The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery in Midland, Texas.

4. NO REPLACEMENT OF DEFECTIVE TENDER - Every tender or delivery of goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.

5. PLACE OF DELIVERY - The place of delivery shall be that set forth in the block of the purchase order entitled "deliver to".

6. INVOICES - Seller shall submit separate ORIGINAL invoices, on each purchase order. Invoices shall indicate the purchase order number. All invoices must be mailed to City of Midland, Accounts Payable, P.O. Box 1152, Midland, TX 79702-1152. Payment will be made within 30 days from the date the invoice and properly executed receiving documents are received by City of Midland, Accounts Payable at the above address. Invoices sent to any other address will delay payment.

7. GRATUITIES - The buyer may, by written notice to the seller, cancel this contract without liability to Seller, if it is determined by Buyer that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the seller, or any agent or representative of the Seller, to any officer or employee of the City of Midland with a view toward securing a contract or securing favorable treatment with respect to performing of such a contract. In the event this contract is cancelled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.

8. WARRANTY - PRICE -

a. The price to be paid by the Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on order by others for products of the kind and specifications covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on order by others, or in the alternative, Buyer may cancel this contract without liability to Seller for breach or Seller's actual expense.

b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty the Buyer shall have the right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

9. WARRANTY - PRODUCT - Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Seller warrants that the goods furnished will conform to the specification, drawings, and description listed in the bid invitation, and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern.

10. SAFETY WARRANTY - Seller warrants that the product sold to Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by buyer will be at Seller's expense.

11. RIGHT OF INSPECTION - Buyer shall have the right to inspect the goods at delivery before accepting them.

12. CANCELLATION - Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breached any of the terms hereof including warranties of Seller if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

13. TERMINATION - The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 13, herein.

14. FORCE MAJEURE - Neither party shall be held responsible for losses, resulting if the fulfillment of any terms or provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.

15. ASSIGNMENT - DELEGATION - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by the Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

16. MODIFICATIONS - This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

17. INTERPRETATION - PAROL EVIDENCE - This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, is intended by the parties as a final expression of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

18. ADVERTISING - Seller shall not advertise or publish without Buyer's prior consent the fact that Buyer has entered into the contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

19. RIGHT TO ASSURANCE - Whenever one party to the contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of this intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

20. PROTECTION AGAINST ROYALTIES OR PATENT INFRINGEMENT - The Seller shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with Patentee or Owner thereof. The Seller shall defend all suits or claims for infringement of any patent or copyrights and shall indemnify and save the Buyer harmless from any loss on account thereof, except that Buyer shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process is allowed to the Seller, the Seller shall indemnify and save Buyer harmless from any loss on account thereof. If the material or process specified or required by Buyer is an infringement, the Seller shall be responsible for such loss unless he promptly gives written notice to the buyer of such infringement.

21. TIME - It is hereby expressly agreed and understood that time is of the essence for the performance of this contract, and any failure by contract to meet the time specifications of this agreement will cause Seller to be in default of this agreement.

22. TAX - The City of Midland is exempt from all Federal, State and City tax. Please do not include these taxes in your bid price or invoice. Taxable items must be so designated, and the City will supply vendor with a Tax Exemption Certificate, properly executed.

23. **INSURANCE –**

The following provisions apply unless the agreement is for the supply of goods only:

Seller 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:	$500,000.00 per occurrence
Business Automobile Liability:	$250,000.00 combined single limit - Personal Injury and Property Damage
Worker's Compensation:	Statutory limits
Employers' Liability:	$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project or policy aggregate, including completed operations, and shall be on an occurrence basis.

The Workers' Compensation coverage provided by Seller shall inure to the benefit of employees injured during the course and scope of their employment by Seller pursuant to this agreement.

The Business Automobile Liability insurance provided by Seller 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 $250,000.00 covering any vehicle used for the execution of the work that is the subject of this agreement.

All insurance required pursuant to this agreement, except for Worker's Compensation Insurance, shall name the Buyer as an additional insured on a claims occurred basis. All insurance required pursuant to this agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Buyer.

The parties agree that, prior to the execution of the agreement, Seller shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured, on a claims occurred basis, on all policies except for Worker's Compensation. The Seller and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."

Buyer shall be provided the notice by Seller's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Buyer shall not be required to provide any insurance whatsoever pursuant to this agreement.

Seller shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this agreement 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).

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

25. RELEASE - NOTWITHSTANDING ANY OTHER PROVISIONS, SELLER HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES BUYER, BUYER'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH SELLER 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 BUYER'S NEGLIGENCE.

26. 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.

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

28. 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, Seller or his legal representative, shall give the City Manager, or any other reasonable official of the Buyer, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-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 the Seller will settle, the physical and mailing addresses of Seller at the time and date the claim was presented and the physical and mailing addresses of Seller for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Seller 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 Buyer from any liability whatsoever. The Buyer is under no obligation to provide notice to Seller that Seller's notice is insufficient. Buyer 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, Seller's failure to comply with the requirements herein shall perpetually bar Seller's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Buyer has actual or constructive notice or knowledge of said claim or alleged damages. Seller agrees that the requirements of this entire agreement are reasonable.

29. INDEMNITY (NOT APPLICABLE TO PURCHASE AGREEMENTS) - SELLER WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'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 SELLER, its agents or employees, or any subcontractor, arising out of, or resulting from, Seller's use of, or activities on, the agreement premises, and Seller will be required to pay any judgment with costs which may be obtained against Buyer or any of its officers, agents or employees, including reasonable attorney's fees.

SELLER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, ACCIDENTAL DEATH, 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 BUYER, BUYER'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 SELLER OR SELLER'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 SELLER WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST BUYER OR ANY OF BUYER'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

30. SOVEREIGN IMMUNITY - By executing this agreement the Buyer is not waiving its right of sovereign immunity. The Buyer is retaining its immunity from suit. The Buyer is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

31. THIRD PARTY BENEFICIARY - The Buyer'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.

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

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

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

33. CONSIDERATION - The terms of this agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

34. CERTIFICATION - In accordance with the Texas Local Government Code, the City of Midland Department of Facilities and Fleet Management does hereby certify that the City of Midland is in compliance with Sections 252, 271 and all applicable sections of the Texas Local Government Code and other state law as it applies to procurement and contracting issues.

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

36. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS - Seller shall at all times during the term of this agreement comply with applicable federal, state, and local laws regarding Seller's activities pursuant to this agreement, including but not limited to all applicable sections of the Municipal Code of Midland, Texas, as may be amended, said sections being hereby incorporated by reference and made a part of this agreement for all legal purposes. Failure to abide by any such law mentioned herein constitutes grounds for the immediate termination of this agreement.

25002003

FY 2025 Mill and Fill Project

Addendum # 1

The following is provided as a matter of clarification for all bidders:

1Q: Does the construction plan include a soil stabilizer below the pavement layer?
1A: The plans do not require soil stabilizers below the pavement layer. A prime coat layer is all that is required below the pavement layer.

Please return the addendum with your bid by the closing date. All other terms and conditions shall remain the same.

Bidder Authorized Signature	12-3-2024 Date

Generated on Feb 12, 2024 1:22 PM CST - Carolina Jimenez

25002003

FY 2025 Mill and Fill Project

Addendum # 2

The following is provided as a matter of clarification for all bidders:

The document *003 25002003 Mill and Fill Special Provisions* has been updated. Please download again.

Please return the addendum with your bid by the closing date. All other terms and conditions shall remain the same.

12-3-2024

Bidder Authorized Signature Date

Generated on Feb 12, 2024 1:22 PM CST - Carolina Jimenez

25002003

FY 2025 Mill and Fill Project

Addendum # 3

The following is provided as a matter of clarification for all bidders:

1Q: On Form 000 RFB 25002003 FY 2025, in the middle of the form directly above "Notice to Bidders" there is a line with the word "Total:" on it. Are the Bidders supposed to write in the Total Bid amount on this line?
1A: Yes, complete the form by writing in the total and signing the bottom.

2Q: There is no button to upload the signed Addendum sheets. Can we just upload them with the RFB file?
2A: The requested document tabs have been updated to upload Addendums 1-3.

Please return the addendum with your bid by the closing date. All other terms and conditions shall remain the same.

	12-3-2024
Bidder Authorized Signature	Date

Generated on Feb 12, 2024 1:22 PM CST - Carolina Jimenez

City Council Meeting

Item Number: 12

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION AWARDING A FOOD AND BEVERAGE CONCESSION CONTRACT TO O'MULLIGAN'S 19TH HOLE FOR CONCESSION MANAGEMENT SERVICES AT HOGAN PARK GOLF COURSE (DISTRICT 2) (GENERAL SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

Resolution awarding a contract to the sole proposer for concession management services at the Hogan Park Golf Course.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is available in the Golf Course FY25 operating budget.

Strategic Priority:

(Quality of Life and Place)

Discussion:

Request for proposals for concession management services at Hogan Park Golf Course were issued to sixteen (16) firms. We received one (1) proposal from the current vendor, O'Mulligans 19th Hole. After review of the proposal, staff recommends awarding a contract to O'Mulligans 19th Hole. Please see the attached memo from Laurie Williams, Community Services Director, for further discussion.

Therefore, please consider a resolution awarding a contract for concession management services at Hogan Park Golf Course to O'Mulligans 19th Hole of Midland, Texas.

Monroe Williams Jr.

City Manager's Office

Hogan Park Golf Course Division
Interoffice Memorandum

Date: December 30, 2024
To: Jose Ortiz, Assistant City Manager
From: Laurie M. Williams, Parks and Recreation Director
Subject: Hogan Golf Course Concessionaire– Award Contract

Requests for Proposals to engage a Concessionaire to provide Concession Management Services for the City of Midland Hogan Park Golf Course were issued on September 19, 2024. This service would include providing food, drinks, alcohol, and snacks, at the Hogan Park Golf Course Clubhouse and for scheduled tournaments and events at the golf course.

Proposals were opened on October 7. Staff recommends awarding the contract to O'Mulligan's 19th Hole. This company has successfully operated concessions at Hogan Park Golf Course for approximately twenty years. The new contract would initially be for 5 years, with an option to renew for five (5) periods of one (1) year, for a total of ten (10) years. This is the term that was included in the Request for Proposals when it was issued. O'Mulligan's was the only vendor to submit a Proposal to provide the Golf Course Concession Management Services.

No City of Midland funds will be expended in awarding this Concessionaire contract.

RESOLUTION NO. _____

RESOLUTION AWARDING A FOOD AND BEVERAGE CONCESSION CONTRACT TO O'MULLIGAN'S 19TH HOLE FOR CONCESSION MANAGEMENT SERVICES AT HOGAN PARK GOLF COURSE

WHEREAS, the City of Midland developed specifications and issued an advertisement for proposals for concession management services at Hogan Park Golf Course; and

WHEREAS, the sole proposal received was submitted by O'Mulligan's 19th Hole; and

WHEREAS, the City Council finds the proposal submitted by O'Mulligan's 19th Hole for concession management services at Hogan Park Golf Course to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to award a food and beverage concession contract to O'Mulligan's 19th Hole for concession management services at Hogan Park Golf Course;

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

SECTION ONE. That the City Manager and the City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a food and beverage concession contract to O'Mulligan's 19th Hole for concession management services at Hogan Park Golf Course. Said contract being in a form substantially similar to that of Exhibit A, which is attached hereto and incorporated herein for all purposes.

SECTION TWO. That funding shall be available in the Golf Course FY25 operating budget.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay O'Mulligan's 19th Hole pursuant to the terms of said food and beverage concession contract upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2025, 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:

_____
John Ohnemiller, City Attorney

S:\Resolutions\Purchase\2025\Contracts\Award Contract - Hogan Park Golf Course Concession Services.wpd

are contained in the provisions of this Contract that precede the signature page(s), which evidences the Parties' execution.

45. If applicable, Contractor 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.

46. **Severability:** In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this contract shall be considered as if such invalid, illegal or unenforceable provision had never been contained in this contract.

[Signature Pages Follow]

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

_____

Tommy Gonzalez, City Manager

ATTEST

_____

Marcia Bentley-German, City Secretary/Governance Officer

APPROVED AS TO FORM ONLY

_____

John Ohnemiller, City Attorney

COMPANY:

By: _____

Name: _____

Title: _____

STATE OF_____§
§
COUNTY OF_____§

BEFORE ME, the undersigned authority, on this ____ day of _____, 2024, personally appeared, _____, an officer of O'Mulligans 19th Hole, 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 _____, 2024.

_____
Notary Public, State of _____

Date: 9/19/2024

MIDLAND
Purchasing Division

300 NORTH LORAINE
P. O. BOX 1152
MIDLAND, TX 79702

BID NO: 25000017

CLOSING DATE: **October 9, 2024**

CLOSING TIME: **3:00 PM**

BIDS WILL BE RECEIVED UNTIL **3:00 PM** on **10/9/2024** THROUGH BONFIRE FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED TO: **Hogan Park Golf Course 3600 N Fairgrounds Rd, Midland, TX 79705**

DESCRIPTION
Proposal for Concession Management Services at Hogan Park Golf Course

NOTICE TO BIDDERS:

1. FAILURE TO RESPOND WITH EITHER A BID OR "NO BID" WILL SUBJECT YOUR FIRM TO REMOVAL FROM THE BID LIST FOR THIS TYPE OF MATERIAL, EQUIPMENT OR SUPPLY ITEM.
2. IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE REQUIREMENTS OF CONTRACT, THEN THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER.
3. IMPORTANT NOTICE: IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE, WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.
4. BIDDER/CONTRACTOR/COMPANY IS RESPONSIBLE FOR ACQUIRING AND ACKNOWLEDGING ALL ADDENDA.
5. **PUBLIC INFORMATION:** To the extent that Bidder is submitting a bid for a contract described by Section 552.371 of the Texas Government Code, Bidder 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 bid, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

FOR ADDITIONAL INFORMATION, CONTACT (432) 685-7234 OR EMAIL PURCHASING@MIDLANDTEXAS.GOV

NOTE: EACH BIDDER IS TO INDICATE BRAND NAME PRODUCT NUMBER AND ATTACH DESCRIPTIVE LITERATURE CLEARLY MARKED TO SHOW EACH ITEM ON THIS BID.THE UNDERSIGNED HEREBY OFFERS TO FURNISH AND DELIVER THE ARTICLES OR SERVICE AS SPECIFIED ABOVE AT THE PRICES AND TERMS HEREIN STATED AND IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND CONDITIONS OF BIDDING ALL WHICH ARE MADE A PART OF THIS OFFER. THIS OFFER IS NOT SUBJECT TO WITHDRAWAL WITHOUT PERMISSION.

COMPANY NAME: O'mulligan's 19th Hole
ADDRESS: 3600 N. Fairgrounds rd.
CITY: Midland STATE: Texas ZIP 79702
PHONE NO: 432 687-3441 EMAIL: grbck@aol.com
DELIVERY CAN BE MADE: Yes
AUTHORIZED SIGNATURE: Kristi Grebeck

A Message for Our Vendors

The City of Midland, Texas has developed a strategic plan with long-term objectives, new mission and vision statements, and a course of action to carry out goals established by and for our community. This includes strategic priorities that will address our economy, infrastructure, quality of life, standards for a safe and secure city, plus much more that's detailed below. We hope you join us on this exciting journey and to be part of the energy toward a successful and prosperous Midland!

Vision Statement

The City of Midland will be the premier and safest city in West Texas by providing world-class municipal services through operational excellence and a culture of innovation.

Mission Statement

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.

Guiding Principles: I-FORCE

Integrity
Financial Stewardship
Outstanding Service
Respect
Collaboration
Excellence

City Council Key Focus Areas

Communication • Customer Service
Economic Development
Fiscal Responsibility & Accountability
High-Performing City Team • Legislation
Quality of Place • Technology Improvements

Core Values

Commitment: Duty to the public good.
Engagement: Foster partnerships and collaboration.
Excellence: Practice continuous improvement.
Innovation: Embrace creativity and cutting-edge solutions.
Integrity: Operate with transparency and accountability.
Inclusivity: Ensure all voices are heard and valued.

Vendor & Contractor Communication

In order to ensure smooth coordination and effective communication between contractors and the City of Midland, **it is imperative that contractors provide adequate advance notice before commencing work on specific projects**. The city requires ten (10) days' notice on commencement of project. This advance notice requirement serves to notify all relevant city departments, ensuring proper preparation and coordination of resources. Additionally, it facilitates timely dissemination of information to the public, if necessary, thereby minimizing potential disruptions and maximizing transparency throughout the project lifecycle. **By adhering to this protocol, contractors demonstrate their commitment to fostering productive partnerships with the City of Midland and upholding standards of efficient project management and community engagement. This commitment is a part of our strategic plan, with direct ties to Goal 4: Transparent and Consistent Communication and Strategies 4.4 and 4.5.**

Strategic Plan

1. Strong Economy with More Quality Jobs

1.1 Increase the Midland Sales Tax Base: Develop strategies to expand the tax base by attracting businesses and supporting local commerce.
1.2 Enhance Visitor Revenue Opportunities: Boost tourism through marketing and infrastructure improvements.
1.3 Continue Downtown and West Midland Redevelopment: Promote revitalization efforts for a vibrant downtown.
1.4 Nurture Development Districts: Establish key action plans honed to enhance Development Districts.
1.5 Grow the Core Business of Air Transportation: Develop and transform the Midland airport system.
1.6 Diversify Midland's Economy: Support initiatives that diversify the local economy and enhance resilience.
1.7 Expand Opportunities and Programming for General and Small Business: Foster the growth, retention, and expansion of local small businesses as well as business in general.
1.8 Improve Speed to Market for Citizens, Builders, Developers, and Contractors: Reduce wait times for permit review/approval and inspection process of permitted work.
1.9 Establish Our Community as a Premier Destination for Retail and Entertainment: Offer unique and compelling experiences that draw visitors, ultimately driving economic growth and community vibrancy, while increasing tourism and business development.

2. Set the Standard for a safe and secure City

2.1 Enhance public safety programs.
2.2 Improve Pedestrian and Motorist Safety: Invest in traffic management and infrastructure.
2.3 Implement Effective Code Enforcement Strategies: Address nuisances to improve overall health and safety.
2.4 Revitalize Neighborhoods: Utilize best practices to support the redevelopment of neighborhoods.
2.5 Enhance Animal Services: Ensure the welfare of pets and wildlife in the city.
2.6 Grow and Retain Public Safety Resources: Expand law enforcement presence as well as fire reduction and prevention programs while reducing attrition.

3. Quality of Life and Place

3.1 Enhance Community Engagement: Champion innovative recreational, educational, and cultural programs that enrich residents' lives in partnership with the business community.
3.2 Foster Relationships with Foundations and Outside Businesses: Collaborate to create world-class facilities and amenities.
3.3 Create an Attractive and Inclusive Living Environment: Develop and enhance live, work, and play opportunities for our citizens.
3.4 Establish Beautification Programs: Implement initiatives to make the community clean and bright.
3.5 Nurture and Promote a Healthy Community: Increase healthy community living and education opportunities for citizens of all ages.
3.6 Build the Best Parks System in Our Region: Offer diverse, accessible, and enjoyable green spaces, tournament-ready ball fields, safe playgrounds, and unique recreational opportunities that enhance the quality of life/quality of place for our community.

4. Transparent and Consistent Communication

4.1 Set a Climate of Respect, Collaboration, and Team Spirit: Cultivate a culture of openness and respect.
4.2 Enhance Communication Efficiency and Effectiveness: Leverage and expand the use of technology to facilitate the exchange of information.
4.3 Elevate Internal Communication and Employee Engagement: Strengthen information flow and collaboration among city staff.
4.4 Advance Two-Way Communication of Key Messages: Engage effectively with external stakeholders; foster community engagement.
4.5 Strengthen Messaging Opportunities Through Various Media Outlets: Communicate the city's achievements and initiatives.

5. Provide Sound Governance and Fiscal Management

5.1 Recruit and Retain a Skilled and Diverse Workforce: Invest in talent and diversity; grow our local pipeline of skilled employees.
5.2 Enhance Citizen Experience: Improve employee working conditions to better serve citizens.
5.3 Hone Public Servant Proficiency: Cultivate a culture of professional growth, skilled mastery, and information exchange.
5.4 Implement Cutting-Edge Practices: Harness automation and Artificial Intelligence technology for efficient resource utilization.
5.5 Promote a Well-Balanced Customer Service Philosophy: Consistently deliver excellent service to residents.
5.6 Deliver Services Timely and Efficiently: Prioritize continuous improvement.
5.7 Ensure Continued Financial Stability and Accountability: Maintain financial transparency.
5.8 Deliver Effective and Efficient Processes: Maximize value in procurement.
5.9 Ensure Reliability and Safety: Maintain existing assets and develop new city asset opportunities, including parks

and other facilities, with a standard of excellence.

5.10 Create a Work Environment that Supports Bleeding-Edge Practices: Encourage bleeding-edge practice that then cultivates an environment where employees can learn from their experiences and improve processes; thus, becoming a learning organization.

6. Strengthen and Sustain Our Infrastructure

6.1 Provide Reliable and Sustainable Utilities: Guarantee water supply and distribution systems security and longevity.

6.2 Enhance Infrastructure for Economic Growth: Improve competitiveness through infrastructure investments that includes collaboration with neighboring jurisdictions and exemplary peer agencies.

6.3 Streamline and Consolidate City Facilities: Create synergy for improved services.

6.4Standardize Infrastructure Processes Across the City: Ensure consistency, timeliness, and accountability in infrastructure development.

6.5 Implement a Funding Stream for Infrastructure: Establish reliable funding for continual improvements.

6.6 Strategize for and Monitor City Growth: Develop proactive responses to growth rather than reactive.

6.7 Develop and Implement Comprehensive Road Planning and Maintenance Initiatives: Ensure safe and maintained roads for existing and new developing areas and main thoroughfares.

Request for Proposals

RFP 25000017

for

Hogan Park Golf Course Concession Management

Proposals for this requirement will be accepted until 10:00 A.M. on October 7, 2024

Proposals May be Submitted Electronically on Bonfire, Mailed or Delivered to:

City Secretary
City of Midland
Suite 330
P.O. BOX 1152
Midland, Texas 79702-1153
(300 N. Loraine, Suite 330 Midland, TX 79701)

No Late Proposals Will Be Accepted

NOTICE TO PROPOSERS:

1. **IMPORTANT NOTICE** – IF THE AGREEMENT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, PROPOSER/AGREEMENTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS AGREEMENT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK

2. 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.

3. **PUBLIC INFORMATION.** TO THE EXTENT THAT PROPOSER IS SUBMITTING A PROPOSAL FOR A AGREEMENT DESCRIBED BY SECTION 552.371 OF THE TEXAS GOVERNMENT CODE, PROPOSER 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 PROPOSAL, AND THE AGREEMENTOR OR VENDOR AGREES THAT THE AGREEMENT CAN BE TERMINATED IF THE AGREEMENTOR OR VENDOR KNOWINGLY OR INTENTIONALLY FAILS TO COMPLY WITH A REQUIREMENT OF THAT SUBCHAPTER.

SCHEDULE OF EVENTS

RFP 25000017

For

Hogan Park Golf Course Concession Management RFP

Event	Date*
RFP Released	9/21/2024
Cutoff Date for inquiries and clarification	10/2/2024
Proposal Due Date	10/7/2024
Notification of Vendor Interviews / Product Demonstrations	To Be Determined
Intended Date for Agreement Award	10/22/2024

*These dates are our intended schedule; however, they may be changed as necessary without further notice.

NOTE:

From the issuance date of this RFP until a Contractor(s) is selected, all verbal communication is not binding. The City will only be bound by written comments submitted by the Purchasing Office.

SPECIAL TERMS AND CONDITIONS

Proposal Requirements /Terms

1. Unless otherwise called for, the number of copies specified in the RFP, shall be submitted typewritten or printed in ink. Many Requests for Proposals are in a word format that can be completed on your computer and will be noted on the cover page if available.

2. Each proposal should be placed in a separate envelope completely and properly identified with the RFP number, due time and date. Proposal must be time stamped at the appointed receipt location before the hour and date specified for the proposal receipt. Responsibility for having the proposal properly marked and to the opening location by the specified date and time is solely the offeror's. All copies of the proposal may be delivered in the same box/package.

3. Any Proposal may be withdrawn in writing prior to the date and time set for receipt of proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a minimum period as stated in the RFP following the final acceptance date, to provide the commodity or service set forth in the attached specifications, or until a selection has been made by the City.

4. Late proposals will not be accepted under any circumstances.

5. Proposal should give full firm name and address of Offeror. Failure to manually sign the proposal will disqualify it. The person signing the proposal should show title or authority to bind his/her firm in agreement. Insert your Federal Employer's Identification Number _____ or Sole owner should enter SSN _____-____-_____.

6. Purchases made for City use are exempt from State Sales Tax and Federal Excise Tax. Do not include tax in your proposal. Tax exemption certificates will be furnished by the City upon request.

7. Telephone proposals are not acceptable when in response to an RFP.

Conditions

The City of Midland is requesting proposals with the intent of awarding a agreement for the requirement contained in this RFP. However, the City is not obligated to award a agreement on this solicitation and reserves the right to reject any and all proposals and award the proposal to best serve the interests of the City.

1. Offerors electing to respond to this RFP are responsible for all costs of proposal preparation. The City is not liable for any costs incurred by a offeror in response to this RFP.

2. No public disclosures or news releases pertaining to this RFP shall be made without prior written approval from purchasing.

3. In case of a tie between two or more offerors, the award will be made in accordance with preferences as outlined by statute.

4. The Offeror agrees to protect the City from claims involving infringement of patents or copyrights.

5. The Offeror hereby assigns to Purchaser, any and all claims for overcharges associated with any agreement resulting from this RFP which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. 1973 and which arise under the antitrust laws of the State of Texas, Texas Business and Commercial Code Ann. Sec. 15.01, et seq. (1967).

6. No substitutions or cancellation permitted without the written approval of the City Purchasing Agent. Deliveries made pursuant to a resulting agreement shall be made during normal working hours only, unless approval for late delivery has been obtained.

7. Contractor shall submit two copies of an itemized invoice to Accounts Payable, The City of Midland, Texas, P.O. Box 1152, Midland Texas 79702. Each copy of the invoice shall reference the P.O. and the RFP numbers.

8. In the event of a conflict between the standard proposal requirements and conditions and the attached detail specification, the detail specifications shall govern.

9. Governing Law & Venue: This agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any disputes or lawsuits arising from the performance of this agreement shall be exclusively in Midland County, Texas. The parties agree that all performance under this agreement shall take place in Midland, County, Texas. The Contractor and City agree that all payments made under this agreement shall take place in Midland County, Texas.

10. This obligation and undertakings of each of the parties to this agreement shall be deemed to have been performed in Midland County, Texas.

1. GENERAL INFORMATION

1.1. INTRODUCTION

The City of Midland (hereinafter referred to as "the City") is pleased to invite you to submit a proposal for Concession Management Services at Hogan Park Golf Course specified herein. Proposals submitted in response to the specifications contained herein shall comply with the following instructions and procedures.

Request for Proposal Standard Information

This Request for Proposal (RFP) is issued in accordance with City of Midland Policy, the RFP Manual and the statutes of the State of Texas. The RFP process is a procurement option allowing the award to be evaluated based on stated criteria. The RFP states the relative importance of all criteria. No other criteria, other than as outlined in the Request for Proposal, will be used.

1.2. INITIAL EVALUATION

Upon receipt, the proposal information will be disclosed only to persons participating in the evaluation or contracting process until the proposal has been reviewed and all marked trade secrets have been removed (see "Trade Secrets and Other Withheld Information" statement below). After this review, all remaining proposal materials will be available under the open records act. The proposals will be initially evaluated by the committee as being "responsive" or "non-responsive".

1.3. DISCUSSION/NEGOTIATION

Although proposals may be accepted and an agreement awarded without discussion, the City may initiate discussions should clarification or negotiation be necessary. Offerors should be prepared to send qualified personnel to Midland, Texas to discuss technical and contractual aspects of the proposal.

1.4. BEST AND FINAL OFFER

The "Best and Final Offer" is an option available to the City under the RFP process allowing one or more offerors to submit a best and final offer. Offerors may be contacted, asking that they submit their best and final offer, which must include the discussed and/or negotiated changes.

1.5. AWARD

1.5.1 IF THE AGREEMENT 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.

1.6. TRADE SECRETS

1.6.1. All information received in response to this RFP will be available to the public except for:

1.6.1.1. trade secrets meeting the requirements of Texas Government Code Title 5, Chapter 552, Subchapter C, § 552.110; and

1.6.1.2. matters involving individual safety as determined by the department.

1.6.2. In order for an offeror to claim trade secret material, the following conditions must be met. Information to be withheld must be clearly marked and separated from the rest of the proposal.

1.6.2.1. The proposal may not contain trade secret matter in the cost or price.

1.6.2.2. An affidavit from the offeror's legal counsel attesting to and explaining the validity of the trade secret claim must be attached to each proposal containing trade secrets. In

addition, offerors submitting a proposal containing trade secrets must be prepared to pay all legal costs and fees associated with defending the claim for trade secret protection in the event of an open records request from another party.

1.6.3. Documents not meeting all of the requirements of (1) and (2) will be available for public inspection, including copyrighted materials.

1.7. LATE PROPOSALS

Proposals received after the time specified for receipt of proposals will be destroyed or returned at the offeror's expense after consultation with the offeror. There are no exceptions to this deadline.

1.8. PREPARING A RESPONSE

This RFP contains the instructions governing the proposals to be submitted and a description of the mandatory requirements. To be eligible for consideration, an offeror must meet the intent of all mandatory requirements. Compliance with the intent of a mandatory requirement will be determined by the Purchasing Office. When imperative language (shall, will, must) appears in any section of the RFP, it is considered to be mandatory.

1.8.1 Offerors shall promptly notify the City of any ambiguity, inconsistency or error, which they may discover upon examination of this RFP.

1.9. CLARIFICATION/ INTERPRETATION

Offerors requiring clarification or interpretation of any section or sections contained in this RFP shall make a written request to the City Purchasing Agent or on Bonfire by the deadline described in the Schedule of Events. All written correspondence must be addressed to:

The City Of Midland
Office of the Purchasing Agent
P.O. Box 1152
Midland, TX 79702

FAX: (432) 685-0523

OR

e-mail: purchasing@midlandtexas.gov

1.10. FORMAT FOR INQUIRIES:

Each offeror submitting written questions must clearly address each question by reference to a specific section, page and item of this RFP. An official written answer will be provided to all questions received. Verbal responses shall not be considered binding.

1.11. INTERPRETATION:

Any interpretation, correction or change of this RFP will be made by written Addendum. Interpretations, corrections, or changes of this RFP made in any other manner will not be binding and offerors shall not rely upon such interpretations, corrections, or changes.

The City of Midland Purchasing Office will issue any necessary Addenda.

A point-by-point response to all numbered sections, subsections, paragraphs, subparagraphs, and appendices must be submitted by each offeror in order to be considered for selection.

1.12. PROPOSAL ORGANIZATION AND SUBMISSION

Offerors must organize proposals into sections following the format of this RFP, with tabs separating each section. If no exception, explanation, or clarification is required in the offeror's response to a specific subsection, the offeror shall indicate so in the point-by-point response with the following:

"(Offeror's Name)", understands and will comply.

1.13. OFFER PRICING

Offerors must respond to this RFP by utilizing the RFP requirements. The RFP requirements section will be used as the primary representation of each offeror's cost and will be used extensively during proposal evaluations. Additional information should be included as necessary

to explain in detail the offeror's cost.

Proposals should be complete to the degree that all of the information sought by this RFP is supplied in the order requested.

1.14. ALTERNATE PROPOSALS

Offerors may submit, at their option, multiple proposals, in which case each proposal shall be evaluated as a separate document.

1.15. SUBMITTING A SEALED PROPOSAL

1.15.1. Number of copies and Location:

1.15.1.1. Offerors must submit one electronic sealed proposal on Bonfire. Sealed Proposals must be received by the date before the time stated on the face of the Request for Proposal Cover Page, local time. Sealed Proposals received after this time will not be accepted for consideration. Facsimile copies are not acceptable.

1.15.1.2. Please be sure to label the outermost package of the RFP whether it is an envelope, box or overnight package with the RFP number, RFP description and closing date so that it is visible when received by the City.

1.15.2. Each Offeror who submits a proposal represents that:

1.15.2.1. The proposal is based upon an understanding of the specifications and requirements described in this RFP.

1.15.2.2. Costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by the City are entirely the responsibility of the offeror. The City is not liable for any expense incurred by the offerors in the preparation and presentation of their proposals.

1.15.2.3. All materials submitted in response to this RFP become the property of the City and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the City and offeror resulting from this RFP process.

1.15.3. The proposals must be signed in ink by an individual authorized to legally bind the business submitting the proposal.

1.15.4. A proposal may not be modified, withdrawn or canceled by the offeror for a 120-day period following the deadline for proposal submission, or receipt of best and final offer, if required, as defined in the Schedule of Events, and offeror so agrees in submitting the proposal.

1.16. RIGHTS RESERVED

While the City has every intention to award an agreement as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the City of Midland to award an agreement. Upon a determination, such actions would be in its best interests, the City in its sole discretion reserves the right to:

A) waive any formality;

b) cancel or terminate this RFP;

c) reject any or all proposals received in response to this document;

d) waive any undesirable, inconsequential, or inconsistent provisions of this document, which would not have significant impact on any proposal; not award, or if awarded, terminate any agreement if the City determines adequate City funds are not available.

1.17. OFFEROR INTERVIEW / PRODUCT DEMONSTRATION

After receipt of all proposals and before the determination of the award, respondents may be required to make an oral presentation and product demonstration in Midland, Texas to clarify their response or to further define their offer. Oral presentations and product demonstrations, if requested, shall be at the offeror's expense.

1.18. SUBCONTRACTING

1.18.1. The successful offeror will be the Prime Contractor and shall be responsible, in total, for all work of subcontractors. All subcontractors must be listed in the proposal. The City reserves the right to approve all subcontractors.

1.18.2. The contractor shall be responsible to the City for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the contractor. Further, nothing contained within this document, or any agreement documents created as a result of any agreement awards derived from this RFP shall create any contractual relationships between any subcontractor and the City.

1.19. INSURANCE REQUIREMENTS

See Agreement provisions and terms.

1.20. CONTRACTOR'S RESPONSIBILITIES

The successful offeror shall keep informed of, and shall comply with all applicable laws, ordinances, rules, regulations and orders of the City, County, State, Federal or public bodies having jurisdiction affecting any work to be done to provide the services required. The offeror shall provide all necessary safeguards for safety and protection, as set forth by the United States Department of Labor, Occupational Safety and Health Administration.

1.21. OFFEROR COMPETITION

The City encourages free and open competition among offerors. Whenever possible, specifications, proposal requests and conditions are designed to accomplish this objective, consistent with the necessity to satisfy the City's need to procure technically sound, cost-effective services.

The offeror's signature on a proposal in response to this RFP guarantees that the prices quoted have been established without collusion of other eligible offerors and without effort to preclude the City of Midland from obtaining the best possible price.

1.22. AGREEMENT PROVISIONS AND TERMS

1.22.1. Agreement Execution

1.22.1.1. The City will execute an agreement with the successful offeror(s). The City requires that the RFP and the terms and conditions attached to it, the offeror's response, the best and final offer (if required), and any formal addenda to the RFP be included as part of any agreement documents.

1.22.2. Terms and Conditions

Agreement that will be executed by the successful offeror and the City.

1.22.3. Exceptions to Agreement Terms & Conditions

Offerors should notify the City of any terms within the sample agreement that either precludes them from responding to the RFP or add unnecessary cost.

1.22.4. The initial agreement term will be awarded for a term of five (5) years, with five (5) one-year extensions.

1.22.5. Agreement Extension

The offeror agrees that, through the term of the initial agreement and any agreed-upon extension, the City will be entitled to any price reductions at least equal to any lower prices made available to any other customer of comparable volume.

1.22.6. Escalation

Annual pricing adjustments to agreement extensions following the initial agreement term, if applicable, shall not exceed seventy-five percent (75%) of the rate of increase in the cost of living as reflected in the Federal Bureau of Labor Statistics, Consumer Price Index (CPI) for all Urban Consumers (1982-84=100; through November 1991 = 137.8) or any other index which

may be substituted in the future. The CPI for the latest twelve (12) month period of the agreement will be the CPI base on which later adjustments are computed. Each time an adjustment is made, the earlier CPI base will be replaced by the adjusted CPI base. The percentage of adjustment to agreement prices shall in no event exceed the percentage change in the index.

2. PROPOSAL WAIVERS:

2.1. WAIVER OF ATTORNEY FEES: BY SUBMITTING THIS PROPOSAL, OFFEROR 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 PROPOSAL, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS PROPOSAL. OFFEREOR SPECIFICALLY AGREES THAT IF OFFEROR BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS PROPOSAL, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS PROPOSAL, 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, OFFEROR AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH OFFEROR MIGHT OTHERWISE BE ENTITLED.

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

2.3. OFFEROR IS RELYING ON ITS OWN JUDGMENT. OFFEROR HAD THE OPPORTUNITY TO DISCUSS THESE PROPOSAL DOCUMENTS WITH COMPETENT LEGAL COUNSEL PRIOR TO SUBMISSION OF THE PROPOSAL OR EXECUTION OF THE AGREEMENT.

2.4. <u>WAIVER:</u>

2.5. BY SUBMITTING A PROPOSAL, THE OFFEROR AGREES TO WAIVE AND DOES HEREBY VOLUNTARILY AND INTENTIONALLY WAIVE, ABANDON AND RELINQUISH ANY CLAIM THE OFFEROR HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY OF MIDLAND, TEXAS, AND THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

2.5.1. THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY PROPOSAL;

2.5.2. WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE PROPOSAL DOCUMENTS OR THE AGREEMENT DOCUMENTS;

2.5.3. ACCEPTANCE OR REJECTION OF ANY PROPOSALS; OR

2.5.4. AWARD OF THE AGREEMENT.

2.6. BY SUBMITTING A PROPOSAL, THE OFFEROR ACKNOWLEDGES THAT THE OFFEROR UNDERSTANDS ALL OF THE TERMS OF THE PROPOSAL DOCUMENTS AND CONSENTS TO THE PROPOSAL PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A PROPOSAL, THE OFFEROR ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE OFFEROR AND THE CITY OF MIDLAND, TEXAS. THE OFFEROR AGREES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE PROPOSAL AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

2.7. BY SIGNING THE EXECUTION OF OFFER, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S). IF THIS FORM IS NOT SIGNED AND INCLUDED WITH YOUR PROPOSAL DOCUMENTS YOUR PROPOSAL WILL BE CONSIDERED NON-RESPONSIVE AND WILL BE REJECTED.

3. SCOPE OF PROJECT

To provide concession management services to the patrons of the City of Midland's Municipal Golf Course to include Hogan Park Golf Course, 3600 North Fairgrounds Road, Midland, Texas. The Contractor would be required to provide concessions at a minimum while open to the general public.

3.1. GENERAL INFORMATION

3.1.1. Minimum Qualification Criteria

3.1.1.1. Terms of Agreement

3.1.1.2. The City will grant the selected Proposer a five (5) year contract term. In addition, the contract will contain five (5) one-year options which may be exercised by the City at its sole discretion.

3.1.2. Concession Agreement

3.1.3. Rent

3.1.4. Additional Information

3.1.4.1. The City of Midland will not be responsible for any oral instructions given with regard to the completion and submission of any proposal.

3.1.4.2. A Proposer may withdraw its proposal prior to the time set for receipt of proposals, provided its request is in writing and is received by Erika Martinez, Purchasing Manager, before the date and time set for the receipt of proposals. After this date and time, no Proposer may withdraw its proposal except with the consent of the City. Corrections to errors made by the Proposer in the proposal will not be accepted after submission of the proposal.

3.1.4.3. The City reserves the right to reject any or all proposals.

3.1.4.4. The City reserves the right to waive any irregularities.

3.1.5. Confidentiality

3.1.5.1. All documents submitted in connection with the proposal become the property of the City of Midland upon opening. All documents received in connection with this proposal will remain confidential and will not be released or distributed in any form until such time that an Award of an Agreement is made by the City of Midland. At that time, all documents, with the exception of proprietary or confidential financial records of unsuccessful proposers, will be subject to examination and release in accordance with Texas Public Record laws.

4. REQUIREMENTS

NOTE: Complete the attached Hogan Golf Course Concession Management Worksheet.

5. VENDOR QUALIFICATIONS

5.1. INFORMATION VERIFICATION

The City may make such investigations as deemed necessary to determine the ability of the offeror to supply the products and perform the services specified.

5.2. RIGHT TO REJECT

The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, the offeror fails to satisfy the City that offeror is properly qualified to carry out the obligations of the agreement.

5.3. VENDOR CAPABILITIES

In determining the capabilities of an offeror to perform the services specified herein, the following informational requirements must be met by the offeror and will be weighed by the City. (Note: Each item must be thoroughly addressed. Taking exception to any requirements listed in this Section may disqualify the proposal):

5.3.1. References

5.3.1.1. Offeror shall provide a minimum of three (3) references that are using services of the type proposed in this RFP. The references should fall within the categories identified below. At a minimum, the offeror shall provide the company name, the location where the services were provided, contact person(s), customer telephone number, a complete description of the service type, and dates the services were provided The City reserves the right to use any information or additional references deemed necessary to establish the ability of the offerors to perform the conditions of the agreement. Negative references may be grounds for proposal disqualification.

5.3.2. Vendor Stability

5.3.2.1. Offerors shall demonstrate their financial stability to supply, install and support the services specified.

5.3.2.2. Provide financial statements, preferably audited, for the two (2) consecutive years immediately preceding the issuance of this RFP.

5.3.2.3. Provide copies of any quarterly financial statements that have been prepared since the end of the period reported by your most recent annual report.

5.3.2.4. Offerors shall specify how long the company submitting the proposal has been in business doing Concessions with a minimum of five (5) years' experience is required.

6. EVALUATION PROCESS

6.1. EVALUATION PROCEDURE

6.1.1. Committee Actions

6.1.1.1. The evaluation committee will separate proposals into "responsive" and "non-responsive" proposals. Non-responsive proposals will be eliminated from further consideration.

6.1.1.2. The evaluation committee will evaluate the remaining proposals and determine whether to award the agreement to the best proposal or to seek a best and final offer before awarding a agreement. Selection and award will be based on the offeror's proposal and other items outlined in this RFP.

6.1.1.3. Responses must be complete and address all the criteria listed. Information or materials presented by offerors outside the formal response or subsequent "best and final offer," if requested, will not be considered and will have no bearing on any award.

6.2. EVALUATION CRITERIA

This Contract will be awarded to the bidder who provides goods or services at the best value for the City of Midland. The evaluation committee will review and evaluate the offers according to

the following criteria:

6.2.1. Company Service Qualifications- Capability to perform the required services for the Concession Management **(25%)**

6.2.2. **Quality of concession goods to be provided-** Vendor must provide approach to performance and quality assurance of services **(20%)**

6.2.3. Years in concession business- Reputation, personal and professional experience in Concession Management **(15%)**

6.2.4. **Cost of concession goods to consumer analysis -**Price will be evaluated for fairness and reasonable costs **(15%)**

6.2.5. Funding percentage allocation to the City of Midland- Percentage that will be allocated to the City of Midland to perform Concession Management **(15%)**

6.2.6. **References -** Vendors shall submit (3) business references, preferably from current customers **(10%).**

7. PROPOSAL CONTENTS

The following items constitute the RFP submittal in response to the request herein:

7.1. THE RFP

7.2. CONCESSION MANAGEMENT WORKSHEET

7.3. REQUESTED ATTACHMENTS

7.3.1. References

7.3.2. Financial Information

7.4. ADDITIONAL INFORMATION (SUCH AS MENU)

8. TEXAS PUBLIC INFORMATION ACT

Notwithstanding any other provisions, this request for proposals, along with any associated agreement, is subject to the Texas Public Information Act.

MIDLAND
Be the Energy!

Hogan Golf Course Concession Management Worksheet
25000017

Please list the food and beverage items below as requested.

Featured Item	Consumer Cost Per Item	City %	Additional Detail
Prepared Food			
Burger	$7.50	5	Cooked to Order
BBL Burger	$9.50	5	Cooked to Order
Deluxe Club	$9.25	5	
Chicken Strip Basket	$9.00	5	
Grilled Cheese	$6.00	5	
Philly Cheese Steak	$8.75	5	Cooked to Order
Deluxe Frito Pie	$8.25	5	
Prepackaged Foods			
Chips	$1.75	5	
Pastries	$2.00	5	
Peanuts	$2.00	5	
Trail mix	$2.00	5	
Candy	$1.75	5	
Crackers	$1.50	5	

Featured Item	Consumer Cost Per Item	City %	Additional Detail
Drinks (Bottled, Canned, Fountain, Draft Beer, and/or Canned Beer)			
Fountain Drinks (sm, med, lg, xlarge	$1.75 - $3.50	5	
Bottle water	$2.00	5	
Gatorade	$2.00	5	
Energy Drink	$4.25	5	
Domestic Can Beer	$3.50	5	
Import Can Beer	$4.25	5	
Six Pack can Beer	$19.00	5	
White Claw, Truely	$5.00	5	
Beers on Tap 16oz - 24oz	$4.75 - $5.50	5	
Snacks			
Ham/turkey & cheese Sandwich	$4.00	5	
Hot Dogs	$4.00	5	
Jalapeno Sausage Dog	$4.50	5	
Basket of Fries	$5.00	5	
Frito Pie	$5.50	5	
Taquitos	$5.50	5	
Hot Wings	$12.50	5	
Onion Rings	$5.00	5	
Chili Dog	$5.50	5	

VENDOR CONTACT:
All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:

The City Of Midland
Office of the Purchasing Agent
P.O. Box 1152
Midland, TX 79702

OR FAX: (432) 685-0523
E-mail: purchasing@midlandtexas.gov

All vendors on the bid list will then be notified of the questions and presented with an answer. Verbal responses shall not be considered binding.

Award:
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.

BID WAIVERS:

A. <u>WAIVER OF ATTORNEY FEES</u>: BY SUBMITTING THIS BID, BIDDER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE 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, THE BIDDER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH BIDDER MIGHT OTHERWISE BE ENTITLED.

BIDDER AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. THE BIDDER ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE BID DOCUMENTS INCLUDING BUT NOT LIMITED TO THE CONTRACT. THE BIDDER FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND THE BIDDER. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

THE BIDDER AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THESE BID DOCUMENTS, INCLUDING THE CONTRACT, WITH COMPETENT LEGAL COUNSEL PRIOR TO SUBMISSION OF THE BID OR EXECUTION OF THE CONTRACT.

B. WAIVER: BY SUBMITTING A BID, THE BIDDER AGREES TO WAIVE AND DOES HEREBY VOLUNTARILY AND INTENTIONALLY WAIVE, ABANDON AND RELINQUISH ANY CLAIM THE BIDDER HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY OF MIDLAND, TEXAS, AND THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

1. **THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY BID;**
2. **WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE BID DOCUMENTS OR THE CONTRACT DOCUMENTS;**
3. **ACCEPTANCE OR REJECTION OF ANY BIDS; OR**
4. **AWARD OF THE CONTRACT.**

BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES THAT THE BIDDER UNDERSTANDS ALL OF THE TERMS OF THE BIDDING DOCUMENTS AND CONSENTS TO THE BIDDING PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE BIDDER AND THE CITY OF MIDLAND, TEXAS. THE BIDDER AGREES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE REQUEST FOR BID AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

If this form is not signed and included with your bid documents your bid will be considered non-responsive and will be rejected.

O'Mulligan's 19th Hole
Company Name

Kristi Grebeck
Authorized Signature

Kristi Grebeck
Print Above Name

Oct. 4, 2024
Date

432 889-6916
Phone

Fax

NOTICE TO BIDDERS

IF THIS PURCHASE REQUIRES A CONTRACT, THE ATTACHED **CONTRACT AND INSURANCE REQUIREMENTS ARE NON-NEGOTIABLE**. MODIFICATIONS BY BIDDER/CONTRACTOR OF ANY MATERIAL TERM(S) TO THE CONTRACT DOCUMENTS WILL BE DEEMED A NON-RESPONSIVE BID. NON-RESPONSIVE BIDS WILL BE REJECTED. BIDDER/CONTRACTOR MUST BE WILLING TO SIGN THE CONTRACT AS IS AND WITHOUT MODIFICATIONS, PROVIDE PROPERLY EXECUTED BONDS (IF APPLICABLE) AND PROVIDE INSURANCE SPECIFICALLY AS REQUIRED WITHIN THE CONTRACT DOCUMENTS **WITHIN 21 DAYS** OF THE DATE OF THE TRANSMITTAL LETTER.

IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE ABOVE REQUIREMENTS, THEN **THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER**.

IMPORTANT NOTICE – IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE, WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.

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. For further instructions on how to comply with Texas Government Code Section 2252.908 and Texas Local Government Code Section 176.006,

please go to https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and https://www.ethics.state.tx.us/filinginfo/conflict_forms.htm.

ANY VENDOR WHO FAILS TO COMPLY WITH THE TERMS OF THE AWARD **MAY BE DECLARED AN IRRESPONSIBLE VENDOR**. BIDS SUBMITTED BY SAID VENDOR SHALL NOT BE CONSIDERED AGAIN FOR A MINIMUM PERIOD OF SIX MONTHS AS DETERMINED BY THE CITY MANAGER.

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____

Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 Kristie Grebeck

Signature of vendor doing business with the governmental entity

10/5/24

Date

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

CITY OF MIDLAND

Consideration of Location of Bidder's Principal Place of Business
For Bids of $50,000 up to $100,000 for Services and $500,000 for Commodities
Affidavit of Eligibility

Pursuant to Texas Local Government Code 271.9051, in purchasing real property, personal property that is not affixed to real property, or services, if the City receives one or more bids from a bidder whose principal place of business is in the City of Midland and whose bid is within five percent (5%) of the lowest bid price received by the City from a bidder who is not a resident of the City of Midland, the City may enter into a contract with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the City of Midland if the City Council determines, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City of Midland created by the contract award, including the employment of residents of the City of Midland and increased tax revenues to the City of Midland.

In order to receive consideration, bidders must submit this affidavit to:

Erika Martinez
Purchasing Manager
City of Midland
300 N. Loraine St.,
PO BOX 1152
Midland, TX 79702-1152

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: O'mulligan's 19th Hole

Local Address (must be within the City limits): 3600 N. Fairgrounds rd. Midland, TX 79702

1. Is the above address the principal place of business for the business named above? ☒ Yes ☐ No
2. How many residents of the City of Midland are employed at the above business location? 19
3. Year your business was established in the City of Midland: 2004
4. If you collect sales tax for ANY class of customer, provide the following Reseller information:

   Reseller Permit Number: _____

   Company Name and Address (as it appears on permit):

   _____

   _____

   _____

5. Does your business have more than one office in the State of Texas? ☐ Yes ☒ No
   If Yes, identify the office location considered as the point-of sale for the purpose of sales tax calculation:

   _____

   _____

6. Was the local business required to pay business and/or real property tax for the most recent tax year?

   ☐ Yes ☒ No

   If Yes, did the local business pay any of this tax to the City of Midland? ☐ Yes ☒ No

Under penalty of perjury, the undersigned states that the foregoing statements are true and correct. It is further acknowledged that any person, firm, corporation or entity intentionally submitting false information to the City in an attempt to qualify for eligibility shall be prohibited from bidding on City of Midland products and services for a period of one (1) year.

Authorized Signature: Kristi Greback Date: Oct. 4, 2024

Printed Name and Title: Kristi Greback

----- Forwarded Message -----
From: Delgado, Edgar E <edgar.e.delgado@conocophillips.com>
To: Kristi Grebeck <grbck@aol.com>
Cc: Day, Amanda <amanda.day@conocophillips.com>; Delgado, Edgar E <edgar.e.delgado@conocophillips.com>
Sent: Thursday, October 3, 2024 at 09:47:06 AM CDT
Subject: ConocoPhillips Yearly Tournament

To: Whom it May concern

We started our **Permian Mini Masters COP Golf Tournament** this past year and realized that partnering up with Omulligans was a huge part of our success.
COP was able to raise over $100K for the United Way of Midland.

Mrs. Grebeck was very fair in costs of the services and they were extremely professional with our staff as well as our invited guests to the tournament.
They were also instrumental in advising us on how a tournament needs to be run and helped us with various logistic items.

In addition to this, her staff is second to none, they are amazing and extremely helpful & professional.

They provided COP with top service and took care of any problems that came up immediately.

Should you have any questions feel free to contact me either via cell or email.

Because of the success we plan on having this tournament again in 2025 (scheduled for 4/11/25).

Ed Delgado | **Production Technology Manager** | ConocoPhillips

O: 432-221-0300 | **C:** 432-230-8174 | 600 W. Illinois Avenue, Midland, TX 79701

Knights of Columbus Midland Council 3071

10/2/2024

To: Whom it may concern

The Knights of Columbus Golf League would highly recommend that O'Mulligans and Kristi Grebeck stay on as the concession vendor for Hogan Park Golf Course. Kristi is always there for our Monday Night League and the pre-season Sullivan Memorial Tournament we have every year. There are plenty of people working to make things run smoothly. The food is very good and the prices are more than fair and competitive. The golf cart girls are always fully stocked and the bathrooms are always clean.

When we started our league it was at Nueva Vista and we moved the league to Hogan Park because of the service was so bad at Nueva Vista. After the first meeting with Kristi we knew we made the right choice and even though we had been asked to move back we have stayed at Hogan Park for all the good people including the golf staff.

I hope Kristi is awarded the contract because she has surely made our Monday Night Golf League an enjoyable place to be.

If you have any question please don't hesitate to give me a call.

Sincerely,

Bob Weidner

10-3-2024

To Whom it May Concern

I am writing to express our strong support for O'Mulligans in their application to renew their license as concessionaire at Hogan Golf Course. Over the past 20 years, they have demonstrated exceptional management of the concessions, consistently providing high-quality services to patrons.

Under the leadership of Kristi, O'Mulligans has exemplified honesty and integrity in all aspects of their operations. Their commitment to the Midland community is evident through their dedication to maintaining excellent standards and fostering a welcoming environment for all visitors.

As a valued customer, O'Mulligans has set high benchmarks in service and professionalism. We have been consistently impressed with their attention to detail and their proactive approach to meeting the needs of the golf course and its guests.

We fully support O'Mulligans' efforts to continue as the concessionaire at Hogan Golf Course. We are confident that their continued partnership will greatly benefit the facility and the community it serves.

Please feel free to contact me if you require any additional information.

Sincerely,

Jess Walker

Sales Manager

Standard Sales Odessa

(432) 550-7380

Dear City of Midland,

Thank you for your consideration and appraisal on our bid for continuing contract to provide concessions at Hogan Park Golf Course. We have found a love for the golf course and providing our services to the patrons who frequent the property. It is in our opinion that we have continued to offer an above standard level consistency and professionalism while managing a record number of rounds, patrons, tournaments and events. We hope to continue and grow along with the City of Midland and Hogan Park Golf Course.

Thank You

Kristi Grebeck
Owner
O'Mulligans 19th Hole

IMPORTANT: READ CAREFULLY BEFORE MAKING BID
GENERAL CONDITIONS OF BIDDING

1. All bids are to be submitted as specified in the procurement document(s).

2. Each Bidder is requested to provide: Descriptive literature clearly marked to show each item on this bid. Any catalog or manufacturer's reference in this proposal is descriptive, but not restrictive, and is used only to indicate type and quality. If, however, the bidder proposes similar but not identical terms, he must furnish all particulars. If no mention is made of any exceptions, it is assumed that he is bidding on the article specified and not on an approved equal and he will be required to deliver exact article specified.

3. Prices should be itemized. (Indicate unit price and extend to show total price.) In case of discrepancy between the unit price and the extension, the unit price shall govern.

4. Unit price for each item offered shall include all discounts; e.g., trade, seasonal, etc. with net 30 days payment terms. Discounts shall not be shown as such but shall be incorporated in the base bid price. Any bid showing discounts will be considered an alternate bid. The City of Midland will not be responsible for any goods delivered without a purchase order number.

5. 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. The City of Midland reserves the right to award by item or by total bid, or to reject any or all bids or parts of bids. Further, the City of Midland reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City of Midland reserves the right to award the bid to the lowest responsible bidder.

6. Time of proposed delivery shall be stated in number of calendar days.

7. NOTE: The City of Midland, Texas is exempt from all Federal, State and City tax. Please do not include these taxes in your bid price or invoice. Taxable items must be so designated, and the City will supply vendor with a Tax Exemption Certificate, properly executed.

8. All items are to be delivered, unloaded and stacked at the location indicated on the Bid Request and Purchase Order.

9. All items are to be delivered F.O.B. to the City of Midland, Texas with freight prepaid and included in the bid.

10. Detailed specifications rule over General specifications (headings, etc.)

11. The City of Midland reserves the right to remove a company from the bid list for (1) continued failure to respond to request for bids, (2) failure to deliver merchandise within promised time, or (3) delivery of substandard merchandise.

12. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any lands, materials, supplies or services except as allowed under chapter 176 of the Local Government Code. Form CIQ shall be submitted and placed on file with the City of Midland.

13. The City shall determine the most advantageous bid for the City and accept the proposal of the responsible party submitting the lowest and/or most advantageous bid or reject any and all bids.

14. The City of Midland, Texas may consider as informal any bid not prepared and submitted in accordance with the provisions hereof, and may waive, in its sole discretion, any informalities.

15. Public Information. To the extent that Bidder is submitting a bid for a contract described by Section 552.371 of the Texas Government Code, Bidder 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 bid, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

STANDARD PURCHASE TERMS AND CONDITIONS
PURCHASING DIVISION, CITY OF MIDLAND, TEXAS

"Seller", as used herein, has the same meaning as "Company". "Buyer", as used herein, has the same meaning as "City".

Seller and Buyer agree as follows:

1. SELLER TO PACKAGE GOODS - Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows; (a) Seller's name and address, (b) Consignee's name, and address, and purchase order number, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

2. SHIPMENT UNDER RESERVATION PROHIBITED - Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will serve as a tender of goods.

3. TITLE & RISK OF LOSS - The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery in Midland, Texas.

4. NO REPLACEMENT OF DEFECTIVE TENDER - Every tender or delivery of goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.

5. PLACE OF DELIVERY - The place of delivery shall be that set forth in the block of the purchase order entitled "deliver to".

6. INVOICES - Seller shall submit separate ORIGINAL invoices, on each purchase order. Invoices shall indicate the purchase order number. All invoices must be mailed to City of Midland, Accounts Payable, P.O. Box 1152, Midland, TX 79702-1152. Payment will be made within 30 days from the date the invoice and properly executed receiving documents are received by City of Midland, Accounts Payable at the above address. Invoices sent to any other address will delay payment.

7. GRATUITIES - The buyer may, by written notice to the seller, cancel this contract without liability to Seller, if it is determined by Buyer that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the seller, or any agent or representative of the Seller, to any officer or employee of the City of Midland with a view toward securing a contract or securing favorable treatment with respect to performing of such a contract. In the event this contract is cancelled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.

8. WARRANTY - PRICE -

a. The price to be paid by the Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on order by others for products of the kind and specifications covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on order by others, or in the alternative, Buyer may cancel this contract without liability to Seller for breach or Seller's actual expense.

b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty the Buyer shall have the right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

9. WARRANTY - PRODUCT - Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Seller warrants that the goods furnished will conform to the specification, drawings, and description listed in the bid invitation, and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern.

10. SAFETY WARRANTY - Seller warrants that the product sold to Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by buyer will be at Seller's expense.

11. RIGHT OF INSPECTION - Buyer shall have the right to inspect the goods at delivery before accepting them.

12. CANCELLATION - Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breached any of the terms hereof including warranties of Seller if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

13. TERMINATION - The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 13, herein.

14. FORCE MAJEURE - Neither party shall be held responsible for losses, resulting if the fulfillment of any terms or provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.

15. ASSIGNMENT - DELEGATION - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by the Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

16. MODIFICATIONS - This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

17. INTERPRETATION - PAROL EVIDENCE - This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, is intended by the parties as a final expression of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

18. ADVERTISING - Seller shall not advertise or publish without Buyer's prior consent the fact that Buyer has entered into the contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

19. RIGHT TO ASSURANCE - Whenever one party to the contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of this intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

20. PROTECTION AGAINST ROYALTIES OR PATENT INFRINGEMENT - The Seller shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with Patentee or Owner thereof. The Seller shall defend all suits or claims for infringement of any patent or copyrights and shall indemnify and save the Buyer harmless from any loss on account thereof, except that Buyer shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process is allowed to the Seller, the Seller shall indemnify and save Buyer harmless from any loss on account thereof. If the material or process specified or required by Buyer is an infringement, the Seller shall be responsible for such loss unless he promptly gives written notice to the buyer of such infringement.

21. TIME - It is hereby expressly agreed and understood that time is of the essence for the performance of this contract, and any failure by contract to meet the time specifications of this agreement will cause Seller to be in default of this agreement.

22. TAX - The City of Midland is exempt from all Federal, State and City tax. Please do not include these taxes in your bid price or invoice. Taxable items must be so designated, and the City will supply vendor with a Tax Exemption Certificate, properly executed.

23. **INSURANCE –**

The following provisions apply unless the agreement is for the supply of goods only:

Seller 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:	$500,000.00 per occurrence
Business Automobile Liability:	$250,000.00 combined single limit - Personal Injury and Property Damage
Worker's Compensation:	Statutory limits
Employers' Liability:	$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project or policy aggregate, including completed operations, and shall be on an occurrence basis.

The Workers' Compensation coverage provided by Seller shall inure to the benefit of employees injured during the course and scope of their employment by Seller pursuant to this agreement.

The Business Automobile Liability insurance provided by Seller 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 $250,000.00 covering any vehicle used for the execution of the work that is the subject of this agreement.

All insurance required pursuant to this agreement, except for Worker's Compensation Insurance, shall name the Buyer as an additional insured on a claims occurred basis. All insurance required pursuant to this agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Buyer.

The parties agree that, prior to the execution of the agreement, Seller shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured, on a claims occurred basis, on all policies except for Worker's Compensation. The Seller and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."

Buyer shall be provided the notice by Seller's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Buyer shall not be required to provide any insurance whatsoever pursuant to this agreement.

Seller shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this agreement 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).

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

25. RELEASE - NOTWITHSTANDING ANY OTHER PROVISIONS, SELLER HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES BUYER, BUYER'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH SELLER 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 BUYER'S NEGLIGENCE.

26. 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.

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

28. 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, Seller or his legal representative, shall give the City Manager, or any other reasonable official of the Buyer, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-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 the Seller will settle, the physical and mailing addresses of Seller at the time and date the claim was presented and the physical and mailing addresses of Seller for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Seller 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 Buyer from any liability whatsoever. The Buyer is under no obligation to provide notice to Seller that Seller's notice is insufficient. Buyer 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, Seller's failure to comply with the requirements herein shall perpetually bar Seller's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Buyer has actual or constructive notice or knowledge of said claim or alleged damages. Seller agrees that the requirements of this entire agreement are reasonable.

29. INDEMNITY (NOT APPLICABLE TO PURCHASE AGREEMENTS) - SELLER WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'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 SELLER, its agents or employees, or any subcontractor, arising out of, or resulting from, Seller's use of, or activities on, the agreement premises, and Seller will be required to pay any judgment with costs which may be obtained against Buyer or any of its officers, agents or employees, including reasonable attorney's fees.

SELLER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, ACCIDENTAL DEATH, 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 BUYER, BUYER'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 SELLER OR SELLER'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 SELLER WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST BUYER OR ANY OF BUYER'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

30. SOVEREIGN IMMUNITY - By executing this agreement the Buyer is not waiving its right of sovereign immunity. The Buyer is retaining its immunity from suit. The Buyer is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

31. THIRD PARTY BENEFICIARY - The Buyer'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.

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

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

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

33. CONSIDERATION - The terms of this agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

34. CERTIFICATION - In accordance with the Texas Local Government Code, the City of Midland Department of Facilities and Fleet Management does hereby certify that the City of Midland is in compliance with Sections 252, 271 and all applicable sections of the Texas Local Government Code and other state law as it applies to procurement and contracting issues.

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

36. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS - Seller shall at all times during the term of this agreement comply with applicable federal, state, and local laws regarding Seller's activities pursuant to this agreement, including but not limited to all applicable sections of the Municipal Code of Midland, Texas, as may be amended, said sections being hereby incorporated by reference and made a part of this agreement for all legal purposes. Failure to abide by any such law mentioned herein constitutes grounds for the immediate termination of this agreement.

FOOD AND BEVERAGE CONCESSION CONTRACT

HOGAN PARK GOLF COURSE

25000017

THIS CONTRACT, effective this 15th day of January 2025 (the "*Effective Date*"), by and between the City of Midland, Texas ("*City*"), and O'Mulligans 19th Hole, ("*Contractor*"). City and Contractor are collectively referred to herein as the "*Parties*" and individually as a "*Party*."

RECITALS

WHEREAS, City owns, operates, and maintains certain golf courses and related facilities for the general public, which are collectively known as the Hogan Park Municipal Golf Course (the "*Golf Course*"); and

WHEREAS, City desires to make food and beverages available to the general public and patrons of the Golf Course so as to provide such accommodations and all associated benefits thereof to the general public; and

WHEREAS, Contractor is in the business of providing food and beverages for sale and seeks to provide the same to the patrons of the Golf Course on an on-going basis and in accordance with the provisions of this Contract;

NOW THEREFORE, in consideration of the covenants and conditions contained herein, the Parties hereby agree as follows:

1. Services to be Provided: Contractor shall operate and maintain food and beverage concessions (consisting of the sale of food, beverages, candy, refreshments, and other similar items) within the designated concession area of the Golf Course club house for the benefit and convenience of Golf Course patrons. Additionally, Contractor shall provide mobile food and beverage concessions throughout the courses and facilities comprising the Golf Course for the benefit of and convenience of patrons during their rounds of play. For purposes of this Contract, the designated concession area of the club house and the points-of-sale for the mobile food and beverage concessions shall be referred to herein as the "*Concession Sites*."

2. Contract Term: This Contract shall be effective for an initial term of five (5) years beginning on the Effective Date. Thereafter, this Contract may be extended for an additional term of five additional (1) year renewals upon the Parties mutual agreement to such extension at least thirty (30) days prior to

the expiration of the initial 5-year term.

3. Contractor's Use of Golf Course Facilities: Contractor is permitted to access the Golf Course for the exclusive purpose of operating and maintaining concessions in accordance with the provisions of this Contract; Contractor shall not utilize the access or rights granted herein for any other purpose without the written consent of City's Parks and Recreation Director. If Contractor requests City's permission to access the Golf Course or its facilities for any other purpose and City consents to such use, Contractor shall pay a flat fee of $100.00 to the City for each such approved activity. Notwithstanding the foregoing, Contractor is expressly prohibited from utilizing the Golf Course in a manner that constitutes a nuisance or violates any statute, ordinance, rule, or regulation applicable to the Golf Course or the Concession Site.

4. Hours of Operation: The opening and closing hours of the Concession Sites shall coincide with the opening and closing hours of the Golf Course's pro shop. However, in any event, Contractor shall not open before 6:00 a.m. and shall close before midnight. Mobile concession units shall be open and available to patrons during the hours of 12:00 p.m. to 5:00 p.m. (at a minimum), unless weather conditions prohibit their operation.

5. Mobile Concession Units: Contractor shall operate at least one (1) mobile concession unit at the Golf Course for the sale of food, beverages, and concessions as set forth in this Contract. Such mobile concession units shall be self-contained as to water supply. The design and construction of the mobile concession units shall be subject to the approval of City's Parks and Recreation Director; the same shall also meet any applicable requirements of City's Health Department, including disposal of waste after the unit has been in service. Contractor may operate additional mobile concession units at the Golf Course upon obtaining the written approval of City's Parks and Recreation Director. All locations of said mobile units, when open for business, shall be approved by City's Parks and Recreation Director. Mobile concession units shall be maintained in a clean and sanitary condition.

6. Menu and Prices: Concessions sold by Contractor shall be standard, nationally-advertised products of first-class standard grades. Contractor must offer hot food service during all hours of operation. Set forth below is a minimum list of items that Contractor must offer for sale during all hours of operation:

A. Hamburgers - Hamburger patties shall be of beef, ground chuck, 100% U.S.D.A good grade, prepared in accordance with best practices, and shall be separated

individually by prepared papers. No meat trimmings shall be used. Patties containing utility canned and cutter grade beef shall not be sold or provided. Patties shall each be at least one-quarter (1/4) pound in weight; buns shall each be at least four (4) inches in diameter.

B. Hotdogs – Hotdog links shall be skinless, U.S.D.A No. 1 grade, and comprised of 100% meat with no filler. Minimum link size shall equate to ten (10) links per pound.

C. Candy Selection – Contractor must offer at least six (6) different types of candy of standard size.

D. Soda Selection and Beverages– Contractor must offer at least four (4) different types of soda. All beverages, regardless of the type of original container, must be dispensed in a proper cup or can before being provided to patrons. When beverages are served with ice, the cup or can shall not be filled with more than one-half (1/2) part ice unless specifically requested by the patron.

E. Dairy and Meat – All dairy and meat products shall be obtained from recognized, reputable suppliers.

F. Sandwiches (exclusive of hamburgers and hotdogs) – Contractor must offer at lease three (3) types of sandwiches; provided, however, that other similar items may be offered in lieu of the minimum three (3) types of sandwiches subject to the written approval of City's Parks and Recreation Director.

Contractor shall maintain at least one (1) vending machine at the Golf Course that dispenses a minimum of four (4) flavors of soda. Contractor shall also maintain at least one (1) vending machine at the Golf Course that dispenses at least six (6) types of candy. The location of said vending machines and the furnishing of additional vending machines above the minimum set forth herein shall be approved in writing by City's Parks and Recreation Director.

Contractor shall not sell any alcoholic beverages other than beer and wine. Contractor shall not sell beer or wine anywhere except at the Golf Course. Beer and wine must be dispensed in paper cups or cans.

Contractor must permanently and conspicuously display a complete price list of all concessions offered for sale.

7. Use of Equipment: Contractor may use City-owned facilities and equipment in its business operations on the Golf Course; provided that such usage is approved by City's Parks and Recreation Director. Within a reasonable time following the Effective Date, Contractor and Parks and Recreation Director (or her designee) shall cooperate in preparing a complete inventory of all City-owned equipment and property to be used by Contractor in its operations at the Golf Course. Upon the termination of this

Contract, Contractor shall be responsible for the delivery of said equipment and property to City of all such equipment in as good a condition as existed on the Effective Date, reasonable and ordinary wear and tear excepted.

Contractor may furnish additional equipment, furniture, supplies, and materials necessary to its operations. Such equipment, furniture, supplies, and materials shall remain the property of Contractor and may be removed by Contractor from the Golf Course premises at any time Contractor desires. As long as such equipment, furniture, supplies and materials remain at the Golf Course, such shall be replaced, repaired, or restored by the Contractor as necessary so that such remains in good operating order and appearance. The determination as to whether such equipment, furniture, supplies, and materials are in good operating order and appearance shall be in the sole discretion of City.

Contractor shall furnish all additional equipment (e.g., refrigerators, stoves, etc.) necessary to Contractor's operations at the Golf Course, and which are not currently owned or furnished by City. Such additional equipment furnished by Contractor must be modern in design, comprised of first-class materials and construction, and shall be sufficient in number and quality to satisfy the demands of Golf Course patrons.

Contractor understands and agrees that all personal property placed upon the Golf Course premises by Contractor shall be done at the sole risk and expense of Contractor; City shall not be liable to Contractor or to any other person for any loss, theft, vandalism, damage such property, or injury to persons caused by the use or malfunction of such property.

8. Buildings, Structures, and Improvements: Contractor acknowledges that it had an opportunity to examine the Concession Site(s) and portion of the Golf Course premises that it intends to use in performance under this Contract. Furthermore, as a result of such examination opportunity, Contractor acknowledges that nothing dangerous to life, limb, or health exists on the Golf Course. **CONTRACTOR HEREBY WAIVES ANY CLAIM FOR DAMAGES THAT MAY ARISE FROM ANY SUCH ALLEGED DEFECT FOLLOWING THE EFFECTIVE DATE. CONTRACTOR'S OCCUPANCY OF SUCH PREMISES SHALL BE CONCLUSIVE OF CONTRACTOR'S ACCEPTANCE THEREOF IN GOOD ORDER AND SATISFACTORY CONDITION, AND CONTRACTOR HEREBY ACCEPTS THE PREMISES IN ITS PRESENT CONDITION AS SUITABLE FOR ITS BUSINESS OPERATIONS. THE CONTRACTOR ACCEPTS THE CONCESSION SITE(S) AND PORTION OF THE GOLF COURSE PREMISES THAT IT INTENDS TO USE IN PERFORMANCE UNDER THIS CONTRACT AS IS AND WITH ALL**

FAULTS.

Unless specifically stated herein, Contractor agrees that no representation regarding the condition of the Golf Course, and City and its agents have not made any promise to decorate, alter, repair, or improve the Golf Course.

Contractor shall not alter any existing structure or provide for the addition of any structures or facilities prior to obtaining the written approval of City's Parks and Recreation Director. Contractor shall provide all furnishings, equipment, and personal property reasonably necessary for the maintenance and upkeep of the Concession Sites, including but not limited to lighting, and ownership of said property shall pass to City upon installation or placement at the Golf Course. Contractor shall maintain all Concession Sites in as good a condition as existed as of the Effective Date, reasonable and ordinary wear and tear excepted.

All improvements and fixtures that are permanently attached to a structure on the Golf Course that cannot be removed without damage to such structure shall become the property of City upon installation and shall not be removed by Contractor upon the termination of this Contract. Written consent from the City's Parks and Recreation Director must be obtained by Contractor prior to the installation of any such improvements or fixtures at the Golf Course. Contractor assumes all risk in the installation of such improvements and fixtures.

9. Maintenance: Contractor shall keep the Concession Sites in a clean and sanitary condition at all times. This shall include sweeping and mopping the floors each day that the Concession Sites are open for business and preventing an accumulation of debris, trash, and waste. Contractor shall ensure that all garbage, trash and litter and other waste is disposed of in accordance with City's applicable garbage, sanitary and health regulations. Contractor shall furnish an appropriate number of garbage containers to adequately serve patrons and the Concession Sites, and Contractor shall move such garbage in appropriate containers to and from established pickup areas. Contractor shall also maintain the restrooms at the club house in a clean and sanitary condition, including sweeping and mopping floors and removing the garbage every day Contractor conducts business at the Golf Course. Contractor shall also keep all fixtures, equipment, and personal property at the Concession Site in the club house in a clean, sanitary, and orderly condition at all times. Contractor shall keep those portions of the Golf Course surrounding the mobile concession units and any other portions on which Contractor operates clear of empty cups, cans, paper wrappers, and all similar debris as directed by City's Parks and Recreation Director from time to time. Contractor is solely responsible for the maintenance of those portions of the Golf Course on which Contractor regularly operates in a clean condition and free from the accumulation of trash

incident to Contractor's operation. Cleaning products and paper goods for kitchen and bathrooms shall be the sole responsibility of Contractor.

10. Utilities: City shall provide utilities, telephone and internet service excepted, consisting of water, electricity, and normal heat and illumination, except that in no event shall there be an increase in utilities services as they exist on the Effective Date without prior approval of City's Parks and Recreation Director. Any additional utilities required by Contractor, and approved by City's Parks and Recreation Director, shall be installed at Contractor's sole cost and expense. Any special utility equipment, such as water heaters or water purifiers, shall be purchased and installed at the expense of Contractor. All connections to City owned lines and utilities must be made in compliance with the Midland City Code.

11. Exclusive Rights: Contractor shall be the sole sale of concessions at the Golf Course. City shall not contract with any other person or entity for the sale of concessions at the Golf Course so long as Contractor is faithfully executing its duties pursuant to this Contract. City shall enforce current Golf Course regulations forbidding any other person or entity from selling concessions at the Golf Course. However, City does not warrant that it is capable of strictly enforcing such regulations. It is hereby agreed that City shall bear no liability to Contractor for any failure to strictly enforce any regulation against the sale concessions by any other party. City's failure to strictly enforce regulations against the sale of Concessions at the Golf Course by any third party shall not be deemed a breach of this Contract.

12. Contractor Payments: As consideration for the rights granted to Contractor herein, Contractor agrees to make yearly payments to City in accordance with the following schedule:

Amount	Due Date
$5,000.00	January 31
$5,000.00	April 30
$12,500.00	July 31
$12,500.00	October 31

Additionally, on or before October 31 of each year during the term of the Contract, Contractor shall pay to City an amount equal to seven percent (7%) of all its gross revenues above $35,000.00 and less than $175,000.00 for the twelve (12) preceding months. Furthermore, on or before October 31 of each year during the term of the Contract, Contractor shall also pay to City an amount equal to ten percent (10%) of all revenues exceeding $175,000.00, which shall be placed into a discretionary fund for capital improvements to the Concession Sites at the sole discretion of City. All such payments shall be made in lawful money of the United States to the City of Midland, Texas, at the Accounting Division of the City

located at 300 North Loraine, Midland, Texas, or at the mailing address of P. O. Box 1152, Midland, Texas, 79702.

The term "*gross revenues*" means revenues and receipts from concession sales, whether evidenced by check, credit, charge account, exchange, or otherwise. Gross revenues do not include the amount of any sales, use, or gross receipts tax imposed by any federal, state, municipal, or other governmental authority directly on sales, and collected from customers, provided that the amount of tax is added to or absorbed in the selling price and paid by Contractor. No franchise or capital stock tax and no income or similar tax based on income or profits as such shall be deducted from gross revenues. Each charge or credit is to be treated as a sale for the full price in the month during which the charge or sale is made, irrespective of when Contractor receives payment.

13. Rules and Regulations: Contractor shall observe the following rules and regulations during the term of this Contract:

G. Contractor's operations shall be conducted in a quiet, orderly manner and shall observe and comply with all laws, ordinances, and regulations applicable to Contractor's business.

H. No advertisements, signs, decorations, or displays shall be placed in, on, or about the Golf Course without the prior written approval of the City's Parks and Recreation Director.

I. Discrimination on account of race, color, sex, age, national origin, or any other protected class of individuals, whether directly or indirectly, in Contractor's use of the Golf Course is prohibited.

J. Contractor shall take immediate appropriate remedial action, including, but not limited to, the removal of an employee from employment at the Golf Course upon notice by City to Contractor that said employee is deemed to be discourteous or objectionable in the sole and absolute discretion of City's Parks and Recreation Director.

K. Contractor shall not cause or permit any charges, liens, mortgages, or other such encumbrances to be filed against the Golf Course or the equipment located at or on the Golf Course.

14. Tournaments: Contractor shall allow for tournament food and beverage service as follows:

L. Tournament organizers shall be allowed by Contractor to access facilities necessary for the cooking and serving of food for the hosting of City-approved tournaments and similar events. In consideration for such access, Contractor may charge a maximum of $5.00 per person.

M. Contractor shall retain an exclusive right to provide beer and wine service for attendees

of tournaments and similar events at lesser prices than established menu rates.

15. City's Inspection Rights: Contractor shall permit City and its agents, representatives, or employees to enter any Concession Site for the purposes of inspecting, maintaining, repairing, or altering the Concession Site, or determining whether Contractor is in compliance with the terms of this Contract.

16. Contractor's Responsibilities: Unless otherwise stipulated, Contractor shall provide and pay for all supplies, equipment, tools, superintendence, labor, insurance, transportation, and all other items necessary for Contractor's performance and satisfaction of the obligations referenced in this Contract. Contractor shall ensure that its employees shall be fully qualified and trained to complete the work contemplated in this Contract.

17. Records and Audits: Contractor shall maintain, in accordance with Generally Accepted Accounting Principles, full, complete, and accurate records and accounts of all sums of money paid or payable to Contractor for, on account of, or arising out of Contractor's business operation at the Golf Course for each day of the term of this Contract. Such records may not be purged or destroyed by Contractor at any time during the term of this Contract, regardless of any conflict between Contractor's document retention policies and this Contract. Contractor shall keep records based upon the following three revenue sources: snack bar, beverage carts, and tournaments. Contractor shall maintain daily receipts for the revenue sources and turn them in with the daily recap to the City's designated representative. Contractor shall provide the City Treasurer monthly reports of all receipts from business transactions and sales under this Contract. Such reports shall be prepared according to accounting methods prescribed by the City Treasurer and shall show all income and expenses. Such reports shall be submitted on or before the tenth (10th) day of the month immediately following the month being reported. Contractor agrees to give City access during reasonable hours to such records and accounts required to be maintained under this Contract upon City's request.

Following the completion of every calendar quarter, Contractor shall within twenty (20) days thereafter submit to the City Treasurer a statement prepared from an audit of all books of account, bank statements, documents, records, returns, papers, and files of Contractor relating to gross receipts and business transacted under this Contract. The statement shall be signed by licensed or certified public accountant, together with any amount due to City under the provisions of this Contract due to any discrepancy between the audit and the previously furnished monthly statements.

18. Reservations: City reserves the right to close all or a portion of the Golf Course for any or no

reason without liability. If City exercises its right to close all or a portion of the Golf Course, City shall not be liable to Contractor for any loss of revenue during such closure and this Contract shall continue in effect with the Contractor resuming operations upon reopening of the Golf Course or portion thereof. **CONTRACTOR HEREBY WAIVES ANY CLAIM FOR DAMAGES THAT MAY ARISE FROM ANY SUCH CLOSURE OF ALL OR A PORTION OF THE GOLF COURSE.** The decision to close the Golf Course or any portion thereof shall rest in sole and absolute discretion of City. By executing this Contract, Contractor assumes the risk that City may close the Golf Course or any portion thereof at any time prior to the termination of this Contract and that, in such event, Contractor shall not be entitled to any damages, offsets, repayments, or refunds as a result of such closure.

19. Performance Assurance: Contractor agrees to deposit funds in the amount of Twelve Thousand Five Hundred and No/100 Dollars ($12,500.00) with a reputable financial institution no later than fourteen (14) days following the Effective Date. Such deposit shall ensure Contractor's full and faithful performance of all the covenants, terms, and conditions of this Contract and stand as security for payment by Contractor of all valid claims by City. Contractor shall provide evidence of such deposit to City's Parks and Recreation Director.

20. Events of Default; Termination: The following events shall be deemed to be events of default by Contractor under this Contract:

A. Contractor's failure to timely pay any installment or payment required by this Contract;

B. Contractor's failure to comply with any term, provision, or covenant of this Contract (except for timely payments) and such failure is not cured within thirty (30) days following the issuance of written notice to Contractor; and

C. The taking by a court of competent jurisdiction of Contractor's assets pursuant to proceedings under the provisions of any federal or state reorganization code or act, insofar as the following enumerated remedies for default are provided for or permitted in such code or act.

Upon the occurrence of an event of default as heretofore provided, City may, at its option, elect to terminate this Agreement. Upon City electing to terminate, this Agreement shall cease and come to an end as if that were the day originally fixed herein for the expiration of the term hereof. City may resume possession of the premises.

Any such termination of this Agreement shall not relieve Contractor from the payment of any sum or sums that shall then be due and payable or become due and payable to City hereunder or any

claim for damages then or thereafter accruing against Contractor, and any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Contractor for any default thereunder. All rights, options and remedies of City contained in this Agreement, shall be cumulative of the other, and the City shall have the right to pursue any one or all such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Agreement. No waiver by City of a breach of any other covenants, conditions or restrictions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same of any other covenant, condition or restriction herein contained.

Upon any such expiration or termination of this Agreement, Contractor shall quit and peacefully surrender the premises to City, and City upon or at any time after such expiration or termination, may without further notice, enter upon and re-enter the premises and possess and repossess itself thereof, by force, summary proceedings, ejectment or otherwise, and may dispossess Contractor and remove Contractor and all other persons or property from the premises.

21. Contractor is a Licensee: Notwithstanding any contrary provision contained herein, Contractor shall not be deemed to have become the tenant of the City by virtue of executing this Contract, nor to have been given or accorded as against City the possession of any portion of the Golf Course; Contractor shall be deemed merely to be a licensee permitted to enter the Golf Course for the purpose of exercising the rights and privileges granted by this Contract. Upon any termination of this Agreement, City shall have the right through such means as it sees fit to remove and exclude therefrom Contractor and any of Contractor's agents without being deemed guilty of any unlawful entry, trespass or injury of any sort whatever.

22. Termination At Will: City may terminate this Contract at will, for any or no reason upon giving at least ninety (90) days' written notice to Contractor. The Parties understand and agree that it is in City's sole and absolute discretion to cancel this Contract during the term without penalty. Contractor has no expectation and has received no guarantees that this Contract will not be terminated before the end of the Contract term. The Parties bargained for the flexibility of terminating this Contract upon tender of the requisite notice at any time during the Contract term. All work and services under the Contract shall be suspended upon termination of the Contract becoming effective.

23. Extra Work: All minor details of Contractor's obligation not specifically mentioned in this Contract but obviously necessary for the satisfaction of Contractor's obligations shall be considered as incidental to and a part of those obligations referenced herein. Contractor shall not be entitled to any

additional compensation therefor unless specifically stated otherwise.

24. Waiver of Damages: Contractor hereby expressly waives any and all claims for compensation for any and all damages sustained by reason of any defect, deficiency, or impairment of the water supply system, drainage or heating systems, or electrical wires leading to the Concession Sites, or by reason of any loss resulting from failure of any water supply, heat, or current that may occur from time to time from any cause, or for any loss resulting from water; for any loss, damage or claim resulting from the cancellation, interruption, or termination by City for any reason of any event scheduled for public or private attendance at any of the Concession Sites; and Contractor hereby expressly releases and discharges City and its agents from any and all damages, claims, action and causes of action arising from any of the above causes.

25. Taxes, Permits, and Licenses: Contractor shall promptly and timely pay all taxes, excise, and license fees applicable to its operations contemplated herein, and shall take out and keep current all permits or licenses required by municipal, state or federal law, rule, regulation, or ordinance for the conduct of the business, and further shall not permit any of said taxes, excise, or license fees to be late or delinquent. Contractor shall, at its sole expense, obtain all permits, certifications, 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 Contractor's performance under this Contract, including all environmental laws and regulations.

26. Notices: Any notice given under the terms of this Contract shall, unless otherwise provided herein, be in writing and either delivered by hand or sent by United States Registered or Certified Mail, postage prepaid:

To City: (If mailed)	City of Midland, Texas P. O. Box 1152 Midland, Texas 79702
(If hand delivered)	300 North Loraine Suite 220 Midland, Texas 79701
To Contractor:	O'Mulligans 19th Hole 3210 Apperson Dr Midland, Texas 79705

The above addresses may be changed at any time by providing written notice to the other Party.

27. Indemnity: CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S COUNCIL MEMBERS, 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 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 CONTRACTOR, ITS AGENTS, 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 CONTRACTOR SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST CITY OR ANY OF ITS COUNCIL MEMBERS, OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY FEES.

CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S COUNCIL MEMBERS, 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 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 COUNCIL MEMBERS, 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 CONTRACTOR OR CONTRACTOR'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 CONTRACTOR SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST CITY OR ANY OF ITS COUNCIL MEMBERS, OFFICERS, AGENTS, OR EMPLOYEES, INCLUDING ATTORNEY FEES.

CONTRACTOR AGREES TO 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, CONTRACTOR SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREINABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED, OR WAIVED. CONTRACTOR, ITS SURETIES AND INSURANCE CARRIERS SHALL DEFEND, INDEMNIFY, AND SAVE HARMLESS CITY AND ALL OF ITS COUNCIL MEMBERS, 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 CONTRACTOR OR ANY SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS CONTRACT, AND CONTRACTOR SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS THAT MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY FEES.

28. 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 the Parties 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.

29. Amendments: This Contract may not be altered, changed, or amended except by an instrument in writing signed by the Parties.

30. Entire Agreement: This Contract and all incorporated Contract documents constitute the entire agreement among City and Contractor; no prior written or contemporaneous oral promises or representations shall be binding.

31. Prompt Pay Act: City and Contractor agree that Texas Government Code, Chapter 2251, Payment for Goods and Services does not waive governmental immunity.

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

33. Waiver of Attorney Fees: BY EXECUTING THIS CONTRACT, CONTRACTOR 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 IS IN ANY WAY RELATED TO THIS CONTRACT, OR THE CONSTRUCTION, INTERPRETATION, OR BREACH OF THIS CONTRACT. CONTRACTOR SPECIFICALLY AGREES THAT IF CONTRACTOR 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, CONTRACTOR AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY FEES TO WHICH CONTRACTOR MIGHT OTHERWISE BE ENTITLED.

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

INTERPRETED AS A WAIVER OR GOVERNMENTAL IMMUNITY AND SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

CONTRACTOR IS RELYING ON ITS OWN JUDGMENT. CONTRACTOR HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

34. 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, Contractor 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 said 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 Contractor shall settle, the physical and mailing addresses of Contractor at the time and date the claim was presented and the physical and mailing addresses of Contractor for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Contractor 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 Contractor that Contractor'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, Contractor's failure to comply with the requirements of this Section shall perpetually bar Contractor'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. Contractor agrees that the requirements of this entire Contract are reasonable. The provisions and obligations of this Section shall survive the termination of this Contract.

35. Assignments: Contractor shall not, either directly or indirectly assign all or any part of this Contract or any interest, right, or privilege herein, without the prior consent of City. The decision

regarding whether to grant consent to an assignment shall be in the sole discretion of City.

36. 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.

37. Independent Contractor: Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of City. Contractor 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. Contractor shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors and the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors and subcontractors. Nothing in this Contract shall be construed as creating a partnership or joint enterprise between City and Contractor. No person performing any of the work and services described hereunder by Contractor 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.

38. 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.

39. Insurance: Contractor 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
Worker's 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 an occurrence basis.

The Business Automobile Liability insurance provided by Contractor 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.

The Workers' Compensation coverage provided by Contractor shall inure to the benefit of employees injured during the course and scope of their employment by Contractor pursuant to this Contract. 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 Worker's Compensation Insurance, shall name City as an additional insured on an occurrence basis. City shall be provided the notice by Contractor's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

Contractor 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 City and policies that name City as an additional insured on an occurrence basis (except workers' compensation).

The Parties agree that, prior to the execution of the Contract, Contractor 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.

Contractor certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code.

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

41. State-Mandated Verifications: To the extent that Sections 2271.002, 2274.002 and 2276.002 of the Texas Government Code (collectively, the "*Anti-Boycott Statutes*") apply to this Contract,

Contractor hereby verifies:

- that Contractor does not boycott Israel and will not boycott Israel during the term of this Contract;
- that Contractor does not boycott energy companies and will not boycott energy companies during the term of this Contract; and
- that Contractor 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 Contractor shall be deemed to have not made such verification.

42. 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, Contractor 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 Contractor 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 Contractor; or (b) preserve the contracting information related to the Contract as provided by the records retention requirements applicable to City.

43. Public Information: To the extent that this Contract is a contract described by Section 552.371 of the Texas Government Code, Contractor 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 Contractor agrees that the contract can be terminated if Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

44. 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.

45. If applicable, Contractor 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.

46. **Severability:** In case any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this contract shall be considered as if such invalid, illegal or unenforceable provision had never been contained in this contract.

[Signature Pages Follow]

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

_____

Tommy Gonzalez, City Manager

ATTEST

_____

Marcia Bentley-German, City Secretary/Governance Officer

APPROVED AS TO FORM ONLY

_____

John Ohnemiller, City Attorney

COMPANY:

By: _____

Name: _____

Title: _____

STATE OF_____§
§
COUNTY OF_____§

BEFORE ME, the undersigned authority, on this ____ day of _____, 2024, personally appeared, _____, an officer of O'Mulligans 19th Hole, 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 _____, 2024.

_____
Notary Public, State of _____

Date: 9/19/2024

MIDLAND
Purchasing Division

300 NORTH LORAINE
P. O. BOX 1152
MIDLAND, TX 79702

BID NO: 25000017

CLOSING DATE: **October 9, 2024**

CLOSING TIME: **3:00 PM**

BIDS WILL BE RECEIVED UNTIL **3:00 PM** on **10/9/2024** THROUGH BONFIRE FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED TO: **Hogan Park Golf Course 3600 N Fairgrounds Rd, Midland, TX 79705**

DESCRIPTION
Proposal for Concession Management Services at Hogan Park Golf Course

NOTICE TO BIDDERS:

1. FAILURE TO RESPOND WITH EITHER A BID OR "NO BID" WILL SUBJECT YOUR FIRM TO REMOVAL FROM THE BID LIST FOR THIS TYPE OF MATERIAL, EQUIPMENT OR SUPPLY ITEM.
2. IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE REQUIREMENTS OF CONTRACT, THEN THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER.
3. IMPORTANT NOTICE: IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE, WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.
4. BIDDER/CONTRACTOR/COMPANY IS RESPONSIBLE FOR ACQUIRING AND ACKNOWLEDGING ALL ADDENDA.
5. **PUBLIC INFORMATION:** To the extent that Bidder is submitting a bid for a contract described by Section 552.371 of the Texas Government Code, Bidder 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 bid, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

FOR ADDITIONAL INFORMATION, CONTACT (432) 685-7234 OR EMAIL PURCHASING@MIDLANDTEXAS.GOV

NOTE: EACH BIDDER IS TO INDICATE BRAND NAME PRODUCT NUMBER AND ATTACH DESCRIPTIVE LITERATURE CLEARLY MARKED TO SHOW EACH ITEM ON THIS BID.THE UNDERSIGNED HEREBY OFFERS TO FURNISH AND DELIVER THE ARTICLES OR SERVICE AS SPECIFIED ABOVE AT THE PRICES AND TERMS HEREIN STATED AND IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND CONDITIONS OF BIDDING ALL WHICH ARE MADE A PART OF THIS OFFER. THIS OFFER IS NOT SUBJECT TO WITHDRAWAL WITHOUT PERMISSION.

COMPANY NAME: O'mulligan's 19th Hole
ADDRESS: 3600 N. Fairgrounds rd.
CITY: Midland STATE: Texas ZIP 79702
PHONE NO: 432 687-3441 EMAIL: grbck@aol.com
DELIVERY CAN BE MADE: Yes
AUTHORIZED SIGNATURE: Kristi Grebeck

A Message for Our Vendors

The City of Midland, Texas has developed a strategic plan with long-term objectives, new mission and vision statements, and a course of action to carry out goals established by and for our community. This includes strategic priorities that will address our economy, infrastructure, quality of life, standards for a safe and secure city, plus much more that's detailed below. We hope you join us on this exciting journey and to be part of the energy toward a successful and prosperous Midland!

Vision Statement

The City of Midland will be the premier and safest city in West Texas by providing world-class municipal services through operational excellence and a culture of innovation.

Mission Statement

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.

Guiding Principles: I-FORCE

Integrity
Financial Stewardship
Outstanding Service
Respect
Collaboration
Excellence

City Council Key Focus Areas

Communication • Customer Service
Economic Development
Fiscal Responsibility & Accountability
High-Performing City Team • Legislation
Quality of Place • Technology Improvements

Core Values

Commitment: Duty to the public good.
Engagement: Foster partnerships and collaboration.
Excellence: Practice continuous improvement.
Innovation: Embrace creativity and cutting-edge solutions.
Integrity: Operate with transparency and accountability.
Inclusivity: Ensure all voices are heard and valued.

Vendor & Contractor Communication

In order to ensure smooth coordination and effective communication between contractors and the City of Midland, **it is imperative that contractors provide adequate advance notice before commencing work on specific projects**. The city requires ten (10) days' notice on commencement of project. This advance notice requirement serves to notify all relevant city departments, ensuring proper preparation and coordination of resources. Additionally, it facilitates timely dissemination of information to the public, if necessary, thereby minimizing potential disruptions and maximizing transparency throughout the project lifecycle. **By adhering to this protocol, contractors demonstrate their commitment to fostering productive partnerships with the City of Midland and upholding standards of efficient project management and community engagement. This commitment is a part of our strategic plan, with direct ties to Goal 4: Transparent and Consistent Communication and Strategies 4.4 and 4.5.**

Strategic Plan

1. Strong Economy with More Quality Jobs

1.1 Increase the Midland Sales Tax Base: Develop strategies to expand the tax base by attracting businesses and supporting local commerce.
1.2 Enhance Visitor Revenue Opportunities: Boost tourism through marketing and infrastructure improvements.
1.3 Continue Downtown and West Midland Redevelopment: Promote revitalization efforts for a vibrant downtown.
1.4 Nurture Development Districts: Establish key action plans honed to enhance Development Districts.
1.5 Grow the Core Business of Air Transportation: Develop and transform the Midland airport system.
1.6 Diversify Midland's Economy: Support initiatives that diversify the local economy and enhance resilience.
1.7 Expand Opportunities and Programming for General and Small Business: Foster the growth, retention, and expansion of local small businesses as well as business in general.
1.8 Improve Speed to Market for Citizens, Builders, Developers, and Contractors: Reduce wait times for permit review/approval and inspection process of permitted work.
1.9 Establish Our Community as a Premier Destination for Retail and Entertainment: Offer unique and compelling experiences that draw visitors, ultimately driving economic growth and community vibrancy, while increasing tourism and business development.

2. Set the Standard for a safe and secure City

2.1 Enhance public safety programs.
2.2 Improve Pedestrian and Motorist Safety: Invest in traffic management and infrastructure.
2.3 Implement Effective Code Enforcement Strategies: Address nuisances to improve overall health and safety.
2.4 Revitalize Neighborhoods: Utilize best practices to support the redevelopment of neighborhoods.
2.5 Enhance Animal Services: Ensure the welfare of pets and wildlife in the city.
2.6 Grow and Retain Public Safety Resources: Expand law enforcement presence as well as fire reduction and prevention programs while reducing attrition.

3. Quality of Life and Place

3.1 Enhance Community Engagement: Champion innovative recreational, educational, and cultural programs that enrich residents' lives in partnership with the business community.
3.2 Foster Relationships with Foundations and Outside Businesses: Collaborate to create world-class facilities and amenities.
3.3 Create an Attractive and Inclusive Living Environment: Develop and enhance live, work, and play opportunities for our citizens.
3.4 Establish Beautification Programs: Implement initiatives to make the community clean and bright.
3.5 Nurture and Promote a Healthy Community: Increase healthy community living and education opportunities for citizens of all ages.
3.6 Build the Best Parks System in Our Region: Offer diverse, accessible, and enjoyable green spaces, tournament-ready ball fields, safe playgrounds, and unique recreational opportunities that enhance the quality of life/quality of place for our community.

4. Transparent and Consistent Communication

4.1 Set a Climate of Respect, Collaboration, and Team Spirit: Cultivate a culture of openness and respect.
4.2 Enhance Communication Efficiency and Effectiveness: Leverage and expand the use of technology to facilitate the exchange of information.
4.3 Elevate Internal Communication and Employee Engagement: Strengthen information flow and collaboration among city staff.
4.4 Advance Two-Way Communication of Key Messages: Engage effectively with external stakeholders; foster community engagement.
4.5 Strengthen Messaging Opportunities Through Various Media Outlets: Communicate the city's achievements and initiatives.

5. Provide Sound Governance and Fiscal Management

5.1 Recruit and Retain a Skilled and Diverse Workforce: Invest in talent and diversity; grow our local pipeline of skilled employees.
5.2 Enhance Citizen Experience: Improve employee working conditions to better serve citizens.
5.3 Hone Public Servant Proficiency: Cultivate a culture of professional growth, skilled mastery, and information exchange.
5.4 Implement Cutting-Edge Practices: Harness automation and Artificial Intelligence technology for efficient resource utilization.
5.5 Promote a Well-Balanced Customer Service Philosophy: Consistently deliver excellent service to residents.
5.6 Deliver Services Timely and Efficiently: Prioritize continuous improvement.
5.7 Ensure Continued Financial Stability and Accountability: Maintain financial transparency.
5.8 Deliver Effective and Efficient Processes: Maximize value in procurement.
5.9 Ensure Reliability and Safety: Maintain existing assets and develop new city asset opportunities, including parks

and other facilities, with a standard of excellence.

5.10 Create a Work Environment that Supports Bleeding-Edge Practices: Encourage bleeding-edge practice that then cultivates an environment where employees can learn from their experiences and improve processes; thus, becoming a learning organization.

6. Strengthen and Sustain Our Infrastructure

6.1 Provide Reliable and Sustainable Utilities: Guarantee water supply and distribution systems security and longevity.

6.2 Enhance Infrastructure for Economic Growth: Improve competitiveness through infrastructure investments that includes collaboration with neighboring jurisdictions and exemplary peer agencies.

6.3 Streamline and Consolidate City Facilities: Create synergy for improved services.

6.4Standardize Infrastructure Processes Across the City: Ensure consistency, timeliness, and accountability in infrastructure development.

6.5 Implement a Funding Stream for Infrastructure: Establish reliable funding for continual improvements.

6.6 Strategize for and Monitor City Growth: Develop proactive responses to growth rather than reactive.

6.7 Develop and Implement Comprehensive Road Planning and Maintenance Initiatives: Ensure safe and maintained roads for existing and new developing areas and main thoroughfares.

Request for Proposals

RFP 25000017

for

Hogan Park Golf Course Concession Management

Proposals for this requirement will be accepted until 10:00 A.M. on October 7, 2024

Proposals May be Submitted Electronically on Bonfire, Mailed or Delivered to:

City Secretary
City of Midland
Suite 330
P.O. BOX 1152
Midland, Texas 79702-1153
(300 N. Loraine, Suite 330 Midland, TX 79701)

No Late Proposals Will Be Accepted

NOTICE TO PROPOSERS:

1. **IMPORTANT NOTICE** – IF THE AGREEMENT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, PROPOSER/AGREEMENTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS AGREEMENT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK

2. 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.

3. **PUBLIC INFORMATION.** TO THE EXTENT THAT PROPOSER IS SUBMITTING A PROPOSAL FOR A AGREEMENT DESCRIBED BY SECTION 552.371 OF THE TEXAS GOVERNMENT CODE, PROPOSER 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 PROPOSAL, AND THE AGREEMENTOR OR VENDOR AGREES THAT THE AGREEMENT CAN BE TERMINATED IF THE AGREEMENTOR OR VENDOR KNOWINGLY OR INTENTIONALLY FAILS TO COMPLY WITH A REQUIREMENT OF THAT SUBCHAPTER.

SCHEDULE OF EVENTS

RFP 25000017

For

Hogan Park Golf Course Concession Management RFP

Event	Date*
RFP Released	9/21/2024
Cutoff Date for inquiries and clarification	10/2/2024
Proposal Due Date	10/7/2024
Notification of Vendor Interviews / Product Demonstrations	To Be Determined
Intended Date for Agreement Award	10/22/2024

*These dates are our intended schedule; however, they may be changed as necessary without further notice.

NOTE:

From the issuance date of this RFP until a Contractor(s) is selected, all verbal communication is not binding. The City will only be bound by written comments submitted by the Purchasing Office.

SPECIAL TERMS AND CONDITIONS

Proposal Requirements /Terms

1. Unless otherwise called for, the number of copies specified in the RFP, shall be submitted typewritten or printed in ink. Many Requests for Proposals are in a word format that can be completed on your computer and will be noted on the cover page if available.

2. Each proposal should be placed in a separate envelope completely and properly identified with the RFP number, due time and date. Proposal must be time stamped at the appointed receipt location before the hour and date specified for the proposal receipt. Responsibility for having the proposal properly marked and to the opening location by the specified date and time is solely the offeror's. All copies of the proposal may be delivered in the same box/package.

3. Any Proposal may be withdrawn in writing prior to the date and time set for receipt of proposals. Any proposals not so withdrawn shall constitute an irrevocable offer, for a minimum period as stated in the RFP following the final acceptance date, to provide the commodity or service set forth in the attached specifications, or until a selection has been made by the City.

4. Late proposals will not be accepted under any circumstances.

5. Proposal should give full firm name and address of Offeror. Failure to manually sign the proposal will disqualify it. The person signing the proposal should show title or authority to bind his/her firm in agreement. Insert your Federal Employer's Identification Number _____ or Sole owner should enter SSN _____-____-_____.

6. Purchases made for City use are exempt from State Sales Tax and Federal Excise Tax. Do not include tax in your proposal. Tax exemption certificates will be furnished by the City upon request.

7. Telephone proposals are not acceptable when in response to an RFP.

Conditions

The City of Midland is requesting proposals with the intent of awarding a agreement for the requirement contained in this RFP. However, the City is not obligated to award a agreement on this solicitation and reserves the right to reject any and all proposals and award the proposal to best serve the interests of the City.

1. Offerors electing to respond to this RFP are responsible for all costs of proposal preparation. The City is not liable for any costs incurred by a offeror in response to this RFP.

2. No public disclosures or news releases pertaining to this RFP shall be made without prior written approval from purchasing.

3. In case of a tie between two or more offerors, the award will be made in accordance with preferences as outlined by statute.

4. The Offeror agrees to protect the City from claims involving infringement of patents or copyrights.

5. The Offeror hereby assigns to Purchaser, any and all claims for overcharges associated with any agreement resulting from this RFP which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. 1973 and which arise under the antitrust laws of the State of Texas, Texas Business and Commercial Code Ann. Sec. 15.01, et seq. (1967).

6. No substitutions or cancellation permitted without the written approval of the City Purchasing Agent. Deliveries made pursuant to a resulting agreement shall be made during normal working hours only, unless approval for late delivery has been obtained.

7. Contractor shall submit two copies of an itemized invoice to Accounts Payable, The City of Midland, Texas, P.O. Box 1152, Midland Texas 79702. Each copy of the invoice shall reference the P.O. and the RFP numbers.

8. In the event of a conflict between the standard proposal requirements and conditions and the attached detail specification, the detail specifications shall govern.

9. Governing Law & Venue: This agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any disputes or lawsuits arising from the performance of this agreement shall be exclusively in Midland County, Texas. The parties agree that all performance under this agreement shall take place in Midland, County, Texas. The Contractor and City agree that all payments made under this agreement shall take place in Midland County, Texas.

10. This obligation and undertakings of each of the parties to this agreement shall be deemed to have been performed in Midland County, Texas.

1. GENERAL INFORMATION

1.1. INTRODUCTION

The City of Midland (hereinafter referred to as "the City") is pleased to invite you to submit a proposal for Concession Management Services at Hogan Park Golf Course specified herein. Proposals submitted in response to the specifications contained herein shall comply with the following instructions and procedures.

Request for Proposal Standard Information

This Request for Proposal (RFP) is issued in accordance with City of Midland Policy, the RFP Manual and the statutes of the State of Texas. The RFP process is a procurement option allowing the award to be evaluated based on stated criteria. The RFP states the relative importance of all criteria. No other criteria, other than as outlined in the Request for Proposal, will be used.

1.2. INITIAL EVALUATION

Upon receipt, the proposal information will be disclosed only to persons participating in the evaluation or contracting process until the proposal has been reviewed and all marked trade secrets have been removed (see "Trade Secrets and Other Withheld Information" statement below). After this review, all remaining proposal materials will be available under the open records act. The proposals will be initially evaluated by the committee as being "responsive" or "non-responsive".

1.3. DISCUSSION/NEGOTIATION

Although proposals may be accepted and an agreement awarded without discussion, the City may initiate discussions should clarification or negotiation be necessary. Offerors should be prepared to send qualified personnel to Midland, Texas to discuss technical and contractual aspects of the proposal.

1.4. BEST AND FINAL OFFER

The "Best and Final Offer" is an option available to the City under the RFP process allowing one or more offerors to submit a best and final offer. Offerors may be contacted, asking that they submit their best and final offer, which must include the discussed and/or negotiated changes.

1.5. AWARD

1.5.1 IF THE AGREEMENT 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.

1.6. TRADE SECRETS

1.6.1. All information received in response to this RFP will be available to the public except for:

1.6.1.1. trade secrets meeting the requirements of Texas Government Code Title 5, Chapter 552, Subchapter C, § 552.110; and

1.6.1.2. matters involving individual safety as determined by the department.

1.6.2. In order for an offeror to claim trade secret material, the following conditions must be met. Information to be withheld must be clearly marked and separated from the rest of the proposal.

1.6.2.1. The proposal may not contain trade secret matter in the cost or price.

1.6.2.2. An affidavit from the offeror's legal counsel attesting to and explaining the validity of the trade secret claim must be attached to each proposal containing trade secrets. In

addition, offerors submitting a proposal containing trade secrets must be prepared to pay all legal costs and fees associated with defending the claim for trade secret protection in the event of an open records request from another party.

1.6.3. Documents not meeting all of the requirements of (1) and (2) will be available for public inspection, including copyrighted materials.

1.7. LATE PROPOSALS

Proposals received after the time specified for receipt of proposals will be destroyed or returned at the offeror's expense after consultation with the offeror. There are no exceptions to this deadline.

1.8. PREPARING A RESPONSE

This RFP contains the instructions governing the proposals to be submitted and a description of the mandatory requirements. To be eligible for consideration, an offeror must meet the intent of all mandatory requirements. Compliance with the intent of a mandatory requirement will be determined by the Purchasing Office. When imperative language (shall, will, must) appears in any section of the RFP, it is considered to be mandatory.

1.8.1 Offerors shall promptly notify the City of any ambiguity, inconsistency or error, which they may discover upon examination of this RFP.

1.9. CLARIFICATION/ INTERPRETATION

Offerors requiring clarification or interpretation of any section or sections contained in this RFP shall make a written request to the City Purchasing Agent or on Bonfire by the deadline described in the Schedule of Events. All written correspondence must be addressed to:

The City Of Midland
Office of the Purchasing Agent
P.O. Box 1152
Midland, TX 79702

FAX: (432) 685-0523

OR

e-mail: purchasing@midlandtexas.gov

1.10. FORMAT FOR INQUIRIES:

Each offeror submitting written questions must clearly address each question by reference to a specific section, page and item of this RFP. An official written answer will be provided to all questions received. Verbal responses shall not be considered binding.

1.11. INTERPRETATION:

Any interpretation, correction or change of this RFP will be made by written Addendum. Interpretations, corrections, or changes of this RFP made in any other manner will not be binding and offerors shall not rely upon such interpretations, corrections, or changes.

The City of Midland Purchasing Office will issue any necessary Addenda.

A point-by-point response to all numbered sections, subsections, paragraphs, subparagraphs, and appendices must be submitted by each offeror in order to be considered for selection.

1.12. PROPOSAL ORGANIZATION AND SUBMISSION

Offerors must organize proposals into sections following the format of this RFP, with tabs separating each section. If no exception, explanation, or clarification is required in the offeror's response to a specific subsection, the offeror shall indicate so in the point-by-point response with the following:

"(Offeror's Name)", understands and will comply.

1.13. OFFER PRICING

Offerors must respond to this RFP by utilizing the RFP requirements. The RFP requirements section will be used as the primary representation of each offeror's cost and will be used extensively during proposal evaluations. Additional information should be included as necessary

to explain in detail the offeror's cost.

Proposals should be complete to the degree that all of the information sought by this RFP is supplied in the order requested.

1.14. ALTERNATE PROPOSALS

Offerors may submit, at their option, multiple proposals, in which case each proposal shall be evaluated as a separate document.

1.15. SUBMITTING A SEALED PROPOSAL

1.15.1. Number of copies and Location:

1.15.1.1. Offerors must submit one electronic sealed proposal on Bonfire. Sealed Proposals must be received by the date before the time stated on the face of the Request for Proposal Cover Page, local time. Sealed Proposals received after this time will not be accepted for consideration. Facsimile copies are not acceptable.

1.15.1.2. Please be sure to label the outermost package of the RFP whether it is an envelope, box or overnight package with the RFP number, RFP description and closing date so that it is visible when received by the City.

1.15.2. Each Offeror who submits a proposal represents that:

1.15.2.1. The proposal is based upon an understanding of the specifications and requirements described in this RFP.

1.15.2.2. Costs for developing and delivering responses to this RFP and any subsequent presentations of the proposal as requested by the City are entirely the responsibility of the offeror. The City is not liable for any expense incurred by the offerors in the preparation and presentation of their proposals.

1.15.2.3. All materials submitted in response to this RFP become the property of the City and are to be appended to any formal documentation, which would further define or expand any contractual relationship between the City and offeror resulting from this RFP process.

1.15.3. The proposals must be signed in ink by an individual authorized to legally bind the business submitting the proposal.

1.15.4. A proposal may not be modified, withdrawn or canceled by the offeror for a 120-day period following the deadline for proposal submission, or receipt of best and final offer, if required, as defined in the Schedule of Events, and offeror so agrees in submitting the proposal.

1.16. RIGHTS RESERVED

While the City has every intention to award an agreement as a result of this RFP, issuance of the RFP in no way constitutes a commitment by the City of Midland to award an agreement. Upon a determination, such actions would be in its best interests, the City in its sole discretion reserves the right to:

A) waive any formality;

b) cancel or terminate this RFP;

c) reject any or all proposals received in response to this document;

d) waive any undesirable, inconsequential, or inconsistent provisions of this document, which would not have significant impact on any proposal; not award, or if awarded, terminate any agreement if the City determines adequate City funds are not available.

1.17. OFFEROR INTERVIEW / PRODUCT DEMONSTRATION

After receipt of all proposals and before the determination of the award, respondents may be required to make an oral presentation and product demonstration in Midland, Texas to clarify their response or to further define their offer. Oral presentations and product demonstrations, if requested, shall be at the offeror's expense.

1.18. SUBCONTRACTING

1.18.1. The successful offeror will be the Prime Contractor and shall be responsible, in total, for all work of subcontractors. All subcontractors must be listed in the proposal. The City reserves the right to approve all subcontractors.

1.18.2. The contractor shall be responsible to the City for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by the contractor. Further, nothing contained within this document, or any agreement documents created as a result of any agreement awards derived from this RFP shall create any contractual relationships between any subcontractor and the City.

1.19. INSURANCE REQUIREMENTS

See Agreement provisions and terms.

1.20. CONTRACTOR'S RESPONSIBILITIES

The successful offeror shall keep informed of, and shall comply with all applicable laws, ordinances, rules, regulations and orders of the City, County, State, Federal or public bodies having jurisdiction affecting any work to be done to provide the services required. The offeror shall provide all necessary safeguards for safety and protection, as set forth by the United States Department of Labor, Occupational Safety and Health Administration.

1.21. OFFEROR COMPETITION

The City encourages free and open competition among offerors. Whenever possible, specifications, proposal requests and conditions are designed to accomplish this objective, consistent with the necessity to satisfy the City's need to procure technically sound, cost-effective services.

The offeror's signature on a proposal in response to this RFP guarantees that the prices quoted have been established without collusion of other eligible offerors and without effort to preclude the City of Midland from obtaining the best possible price.

1.22. AGREEMENT PROVISIONS AND TERMS

1.22.1. Agreement Execution

1.22.1.1. The City will execute an agreement with the successful offeror(s). The City requires that the RFP and the terms and conditions attached to it, the offeror's response, the best and final offer (if required), and any formal addenda to the RFP be included as part of any agreement documents.

1.22.2. Terms and Conditions

Agreement that will be executed by the successful offeror and the City.

1.22.3. Exceptions to Agreement Terms & Conditions

Offerors should notify the City of any terms within the sample agreement that either precludes them from responding to the RFP or add unnecessary cost.

1.22.4. The initial agreement term will be awarded for a term of five (5) years, with five (5) one-year extensions.

1.22.5. Agreement Extension

The offeror agrees that, through the term of the initial agreement and any agreed-upon extension, the City will be entitled to any price reductions at least equal to any lower prices made available to any other customer of comparable volume.

1.22.6. Escalation

Annual pricing adjustments to agreement extensions following the initial agreement term, if applicable, shall not exceed seventy-five percent (75%) of the rate of increase in the cost of living as reflected in the Federal Bureau of Labor Statistics, Consumer Price Index (CPI) for all Urban Consumers (1982-84=100; through November 1991 = 137.8) or any other index which

may be substituted in the future. The CPI for the latest twelve (12) month period of the agreement will be the CPI base on which later adjustments are computed. Each time an adjustment is made, the earlier CPI base will be replaced by the adjusted CPI base. The percentage of adjustment to agreement prices shall in no event exceed the percentage change in the index.

2. PROPOSAL WAIVERS:

2.1. WAIVER OF ATTORNEY FEES: BY SUBMITTING THIS PROPOSAL, OFFEROR 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 PROPOSAL, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS PROPOSAL. OFFEREOR SPECIFICALLY AGREES THAT IF OFFEROR BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS PROPOSAL, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS PROPOSAL, 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, OFFEROR AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH OFFEROR MIGHT OTHERWISE BE ENTITLED.

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

2.3. OFFEROR IS RELYING ON ITS OWN JUDGMENT. OFFEROR HAD THE OPPORTUNITY TO DISCUSS THESE PROPOSAL DOCUMENTS WITH COMPETENT LEGAL COUNSEL PRIOR TO SUBMISSION OF THE PROPOSAL OR EXECUTION OF THE AGREEMENT.

2.4. <u>WAIVER:</u>

2.5. BY SUBMITTING A PROPOSAL, THE OFFEROR AGREES TO WAIVE AND DOES HEREBY VOLUNTARILY AND INTENTIONALLY WAIVE, ABANDON AND RELINQUISH ANY CLAIM THE OFFEROR HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY OF MIDLAND, TEXAS, AND THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

2.5.1. THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY PROPOSAL;

2.5.2. WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE PROPOSAL DOCUMENTS OR THE AGREEMENT DOCUMENTS;

2.5.3. ACCEPTANCE OR REJECTION OF ANY PROPOSALS; OR

2.5.4. AWARD OF THE AGREEMENT.

2.6. BY SUBMITTING A PROPOSAL, THE OFFEROR ACKNOWLEDGES THAT THE OFFEROR UNDERSTANDS ALL OF THE TERMS OF THE PROPOSAL DOCUMENTS AND CONSENTS TO THE PROPOSAL PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A PROPOSAL, THE OFFEROR ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE OFFEROR AND THE CITY OF MIDLAND, TEXAS. THE OFFEROR AGREES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE PROPOSAL AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

2.7. BY SIGNING THE EXECUTION OF OFFER, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S). IF THIS FORM IS NOT SIGNED AND INCLUDED WITH YOUR PROPOSAL DOCUMENTS YOUR PROPOSAL WILL BE CONSIDERED NON-RESPONSIVE AND WILL BE REJECTED.

3. SCOPE OF PROJECT

To provide concession management services to the patrons of the City of Midland's Municipal Golf Course to include Hogan Park Golf Course, 3600 North Fairgrounds Road, Midland, Texas. The Contractor would be required to provide concessions at a minimum while open to the general public.

3.1. GENERAL INFORMATION

3.1.1. Minimum Qualification Criteria

3.1.1.1. Terms of Agreement

3.1.1.2. The City will grant the selected Proposer a five (5) year contract term. In addition, the contract will contain five (5) one-year options which may be exercised by the City at its sole discretion.

3.1.2. Concession Agreement

3.1.3. Rent

3.1.4. Additional Information

3.1.4.1. The City of Midland will not be responsible for any oral instructions given with regard to the completion and submission of any proposal.

3.1.4.2. A Proposer may withdraw its proposal prior to the time set for receipt of proposals, provided its request is in writing and is received by Erika Martinez, Purchasing Manager, before the date and time set for the receipt of proposals. After this date and time, no Proposer may withdraw its proposal except with the consent of the City. Corrections to errors made by the Proposer in the proposal will not be accepted after submission of the proposal.

3.1.4.3. The City reserves the right to reject any or all proposals.

3.1.4.4. The City reserves the right to waive any irregularities.

3.1.5. Confidentiality

3.1.5.1. All documents submitted in connection with the proposal become the property of the City of Midland upon opening. All documents received in connection with this proposal will remain confidential and will not be released or distributed in any form until such time that an Award of an Agreement is made by the City of Midland. At that time, all documents, with the exception of proprietary or confidential financial records of unsuccessful proposers, will be subject to examination and release in accordance with Texas Public Record laws.

4. REQUIREMENTS

NOTE: Complete the attached Hogan Golf Course Concession Management Worksheet.

5. VENDOR QUALIFICATIONS

5.1. INFORMATION VERIFICATION

The City may make such investigations as deemed necessary to determine the ability of the offeror to supply the products and perform the services specified.

5.2. RIGHT TO REJECT

The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, the offeror fails to satisfy the City that offeror is properly qualified to carry out the obligations of the agreement.

5.3. VENDOR CAPABILITIES

In determining the capabilities of an offeror to perform the services specified herein, the following informational requirements must be met by the offeror and will be weighed by the City. (Note: Each item must be thoroughly addressed. Taking exception to any requirements listed in this Section may disqualify the proposal):

5.3.1. References

5.3.1.1. Offeror shall provide a minimum of three (3) references that are using services of the type proposed in this RFP. The references should fall within the categories identified below. At a minimum, the offeror shall provide the company name, the location where the services were provided, contact person(s), customer telephone number, a complete description of the service type, and dates the services were provided The City reserves the right to use any information or additional references deemed necessary to establish the ability of the offerors to perform the conditions of the agreement. Negative references may be grounds for proposal disqualification.

5.3.2. Vendor Stability

5.3.2.1. Offerors shall demonstrate their financial stability to supply, install and support the services specified.

5.3.2.2. Provide financial statements, preferably audited, for the two (2) consecutive years immediately preceding the issuance of this RFP.

5.3.2.3. Provide copies of any quarterly financial statements that have been prepared since the end of the period reported by your most recent annual report.

5.3.2.4. Offerors shall specify how long the company submitting the proposal has been in business doing Concessions with a minimum of five (5) years' experience is required.

6. EVALUATION PROCESS

6.1. EVALUATION PROCEDURE

6.1.1. Committee Actions

6.1.1.1. The evaluation committee will separate proposals into "responsive" and "non-responsive" proposals. Non-responsive proposals will be eliminated from further consideration.

6.1.1.2. The evaluation committee will evaluate the remaining proposals and determine whether to award the agreement to the best proposal or to seek a best and final offer before awarding a agreement. Selection and award will be based on the offeror's proposal and other items outlined in this RFP.

6.1.1.3. Responses must be complete and address all the criteria listed. Information or materials presented by offerors outside the formal response or subsequent "best and final offer," if requested, will not be considered and will have no bearing on any award.

6.2. EVALUATION CRITERIA

This Contract will be awarded to the bidder who provides goods or services at the best value for the City of Midland. The evaluation committee will review and evaluate the offers according to

the following criteria:

6.2.1. Company Service Qualifications- Capability to perform the required services for the Concession Management **(25%)**

6.2.2. **Quality of concession goods to be provided-** Vendor must provide approach to performance and quality assurance of services **(20%)**

6.2.3. Years in concession business- Reputation, personal and professional experience in Concession Management **(15%)**

6.2.4. **Cost of concession goods to consumer analysis -**Price will be evaluated for fairness and reasonable costs **(15%)**

6.2.5. Funding percentage allocation to the City of Midland- Percentage that will be allocated to the City of Midland to perform Concession Management **(15%)**

6.2.6. **References -** Vendors shall submit (3) business references, preferably from current customers **(10%).**

7. PROPOSAL CONTENTS

The following items constitute the RFP submittal in response to the request herein:

7.1. THE RFP

7.2. CONCESSION MANAGEMENT WORKSHEET

7.3. REQUESTED ATTACHMENTS

7.3.1. References

7.3.2. Financial Information

7.4. ADDITIONAL INFORMATION (SUCH AS MENU)

8. TEXAS PUBLIC INFORMATION ACT

Notwithstanding any other provisions, this request for proposals, along with any associated agreement, is subject to the Texas Public Information Act.

Hogan Golf Course Concession Management Worksheet
25000017

Please list the food and beverage items below as requested.

Featured Item	Consumer Cost Per Item	City %	Additional Detail
Prepared Food			
Burger	$7.50	5	Cooked to Order
BBL Burger	$9.50	5	Cooked to Order
Deluxe Club	$9.25	5	
Chicken Strip Basket	$9.00	5	
Grilled Cheese	$6.00	5	
Philly Cheese Steak	$8.75	5	Cooked to Order
Deluxe Frito Pie	$8.25	5	
Prepackaged Foods			
Chips	$1.75	5	
Pastries	$2.00	5	
Peanuts	$2.00	5	
Trail mix	$2.00	5	
Candy	$1.75	5	
Crackers	$1.50	5	

Featured Item	Consumer Cost Per Item	City %	Additional Detail
Drinks (Bottled, Canned, Fountain, Draft Beer, and/or Canned Beer)			
Fountain Drinks (sm, med, lg, xlarge	$1.75 - $3.50	5	
Bottle Water	$2.00	5	
Gatorade	$2.00	5	
Energy Drink	$4.25	5	
Domestic Can Beer	$3.50	5	
Import Can Beer	$4.25	5	
Six Pack can Beer	$19.00	5	
White Claw, Truely	$5.00	5	
Beers on Tap 16oz - 24oz	$4.75 - $5.50	5	
Snacks			
Ham/Turkey & Cheese Sandwich	$4.00	5	
Hot Dogs	$4.00	5	
Jalapeno Sausage Dog	$4.50	5	
Basket of Fries	$5.00	5	
Frito Pie	$5.50	5	
Taquitos	$5.50	5	
Hot Wings	$12.50	5	
Onion Rings	$5.00	5	
Chili Dog	$5.50	5	

VENDOR CONTACT:
All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:

The City Of Midland
Office of the Purchasing Agent
P.O. Box 1152
Midland, TX 79702

OR FAX: (432) 685-0523
E-mail: purchasing@midlandtexas.gov

All vendors on the bid list will then be notified of the questions and presented with an answer. Verbal responses shall not be considered binding.

Award:
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.

BID WAIVERS:

A. WAIVER OF ATTORNEY FEES: BY SUBMITTING THIS BID, BIDDER AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE 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, THE BIDDER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH BIDDER MIGHT OTHERWISE BE ENTITLED.

BIDDER AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. THE BIDDER ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE BID DOCUMENTS INCLUDING BUT NOT LIMITED TO THE CONTRACT. THE BIDDER FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND THE BIDDER. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

THE BIDDER AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THESE BID DOCUMENTS, INCLUDING THE CONTRACT, WITH COMPETENT LEGAL COUNSEL PRIOR TO SUBMISSION OF THE BID OR EXECUTION OF THE CONTRACT.

B. WAIVER: BY SUBMITTING A BID, THE BIDDER AGREES TO WAIVE AND DOES HEREBY VOLUNTARILY AND INTENTIONALLY WAIVE, ABANDON AND RELINQUISH ANY CLAIM THE BIDDER HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY OF MIDLAND, TEXAS, AND THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

1. **THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY BID;**
2. **WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE BID DOCUMENTS OR THE CONTRACT DOCUMENTS;**
3. **ACCEPTANCE OR REJECTION OF ANY BIDS; OR**
4. **AWARD OF THE CONTRACT.**

BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES THAT THE BIDDER UNDERSTANDS ALL OF THE TERMS OF THE BIDDING DOCUMENTS AND CONSENTS TO THE BIDDING PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE BIDDER AND THE CITY OF MIDLAND, TEXAS. THE BIDDER AGREES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE REQUEST FOR BID AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

If this form is not signed and included with your bid documents your bid will be considered non-responsive and will be rejected.

O'Mulligan's 19th Hole
Company Name

Oct. 4, 2024
Date

Kristi Grebeck
Authorized Signature

432 889-6916
Phone

Kristi Grebeck
Print Above Name

Fax

NOTICE TO BIDDERS

IF THIS PURCHASE REQUIRES A CONTRACT, THE ATTACHED **CONTRACT AND INSURANCE REQUIREMENTS ARE NON-NEGOTIABLE**. MODIFICATIONS BY BIDDER/CONTRACTOR OF ANY MATERIAL TERM(S) TO THE CONTRACT DOCUMENTS WILL BE DEEMED A NON-RESPONSIVE BID. NON-RESPONSIVE BIDS WILL BE REJECTED. BIDDER/CONTRACTOR MUST BE WILLING TO SIGN THE CONTRACT AS IS AND WITHOUT MODIFICATIONS, PROVIDE PROPERLY EXECUTED BONDS (IF APPLICABLE) AND PROVIDE INSURANCE SPECIFICALLY AS REQUIRED WITHIN THE CONTRACT DOCUMENTS **WITHIN 21 DAYS** OF THE DATE OF THE TRANSMITTAL LETTER.

IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE ABOVE REQUIREMENTS, THEN **THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER**.

IMPORTANT NOTICE – IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE, WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.

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. For further instructions on how to comply with Texas Government Code Section 2252.908 and Texas Local Government Code Section 176.006,

please go to https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and https://www.ethics.state.tx.us/filinginfo/conflict_forms.htm.

ANY VENDOR WHO FAILS TO COMPLY WITH THE TERMS OF THE AWARD **MAY BE DECLARED AN IRRESPONSIBLE VENDOR**. BIDS SUBMITTED BY SAID VENDOR SHALL NOT BE CONSIDERED AGAIN FOR A MINIMUM PERIOD OF SIX MONTHS AS DETERMINED BY THE CITY MANAGER.

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

_____

Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 Kristie Grebeck

Signature of vendor doing business with the governmental entity

10/5/24

Date

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

CITY OF MIDLAND

Consideration of Location of Bidder's Principal Place of Business
For Bids of $50,000 up to $100,000 for Services and $500,000 for Commodities
Affidavit of Eligibility

Pursuant to Texas Local Government Code 271.9051, in purchasing real property, personal property that is not affixed to real property, or services, if the City receives one or more bids from a bidder whose principal place of business is in the City of Midland and whose bid is within five percent (5%) of the lowest bid price received by the City from a bidder who is not a resident of the City of Midland, the City may enter into a contract with:

(1) the lowest bidder; or

(2) the bidder whose principal place of business is in the City of Midland if the City Council determines, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City of Midland created by the contract award, including the employment of residents of the City of Midland and increased tax revenues to the City of Midland.

In order to receive consideration, bidders must submit this affidavit to:

Erika Martinez
Purchasing Manager
City of Midland
300 N. Loraine St.,
PO BOX 1152
Midland, TX 79702-1152

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: O'mulligan's 19th Hole

Local Address (must be within the City limits): 3600 N. Fairgrounds rd. Midland, TX 79702

1. Is the above address the principal place of business for the business named above? ☒ Yes ☐ No
2. How many residents of the City of Midland are employed at the above business location? 19
3. Year your business was established in the City of Midland: 2004
4. If you collect sales tax for ANY class of customer, provide the following Reseller information:

   Reseller Permit Number: _____

   Company Name and Address (as it appears on permit):

   _____

   _____

   _____

5. Does your business have more than one office in the State of Texas? ☐ Yes ☒ No
   If Yes, identify the office location considered as the point-of sale for the purpose of sales tax calculation:

   _____

   _____

6. Was the local business required to pay business and/or real property tax for the most recent tax year?

   ☐ Yes ☒ No

   If Yes, did the local business pay any of this tax to the City of Midland? ☐ Yes ☒ No

Under penalty of perjury, the undersigned states that the foregoing statements are true and correct. It is further acknowledged that any person, firm, corporation or entity intentionally submitting false information to the City in an attempt to qualify for eligibility shall be prohibited from bidding on City of Midland products and services for a period of one (1) year.

Authorized Signature: Kristi Greback Date: Oct. 4, 2024

Printed Name and Title: Kristi Greback

----- Forwarded Message -----
From: Delgado, Edgar E <edgar.e.delgado@conocophillips.com>
To: Kristi Grebeck <grbck@aol.com>
Cc: Day, Amanda <amanda.day@conocophillips.com>; Delgado, Edgar E <edgar.e.delgado@conocophillips.com>
Sent: Thursday, October 3, 2024 at 09:47:06 AM CDT
Subject: ConocoPhillips Yearly Tournament

To: Whom it May concern

We started our **Permian Mini Masters COP Golf Tournament** this past year and realized that partnering up with Omulligans was a huge part of our success.
COP was able to raise over $100K for the United Way of Midland.

Mrs. Grebeck was very fair in costs of the services and they were extremely professional with our staff as well as our invited guests to the tournament.
They were also instrumental in advising us on how a tournament needs to be run and helped us with various logistic items.

In addition to this, her staff is second to none, they are amazing and extremely helpful & professional.

They provided COP with top service and took care of any problems that came up immediately.

Should you have any questions feel free to contact me either via cell or email.

Because of the success we plan on having this tournament again in 2025 (scheduled for 4/11/25).

Ed Delgado | **Production Technology Manager** | ConocoPhillips

O: 432-221-0300 | **C**: 432-230-8174 | 600 W. Illinois Avenue, Midland, TX 79701

Knights of Columbus Midland Council 3071

10/2/2024

To: Whom it may concern

The Knights of Columbus Golf League would highly recommend that O'Mulligans and Kristi Grebeck stay on as the concession vendor for Hogan Park Golf Course. Kristi is always there for our Monday Night League and the pre-season Sullivan Memorial Tournament we have every year. There are plenty of people working to make things run smoothly. The food is very good and the prices are more than fair and competitive. The golf cart girls are always fully stocked and the bathrooms are always clean.

When we started our league it was at Nueva Vista and we moved the league to Hogan Park because of the service was so bad at Nueva Vista. After the first meeting with Kristi we knew we made the right choice and even though we had been asked to move back we have stayed at Hogan Park for all the good people including the golf staff.

I hope Kristi is awarded the contract because she has surely made our Monday Night Golf League an enjoyable place to be.

If you have any question please don't hesitate to give me a call.

Sincerely,

Bob Weidner

10-3-2024

To Whom it May Concern

I am writing to express our strong support for O'Mulligans in their application to renew their license as concessionaire at Hogan Golf Course. Over the past 20 years, they have demonstrated exceptional management of the concessions, consistently providing high-quality services to patrons.

Under the leadership of Kristi, O'Mulligans has exemplified honesty and integrity in all aspects of their operations. Their commitment to the Midland community is evident through their dedication to maintaining excellent standards and fostering a welcoming environment for all visitors.

As a valued customer, O'Mulligans has set high benchmarks in service and professionalism. We have been consistently impressed with their attention to detail and their proactive approach to meeting the needs of the golf course and its guests.

We fully support O'Mulligans' efforts to continue as the concessionaire at Hogan Golf Course. We are confident that their continued partnership will greatly benefit the facility and the community it serves.

Please feel free to contact me if you require any additional information.

Sincerely,

Jess Walker

Sales Manager

Standard Sales Odessa

(432) 550-7380

Dear City of Midland,

Thank you for your consideration and appraisal on our bid for continuing contract to provide concessions at Hogan Park Golf Course. We have found a love for the golf course and providing our services to the patrons who frequent the property. It is in our opinion that we have continued to offer an above standard level consistency and professionalism while managing a record number of rounds, patrons, tournaments and events. We hope to continue and grow along with the City of Midland and Hogan Park Golf Course.

Thank You

Kristi Grebeck
Owner
O'Mulligans 19th Hole

IMPORTANT: READ CAREFULLY BEFORE MAKING BID
GENERAL CONDITIONS OF BIDDING

1. All bids are to be submitted as specified in the procurement document(s).

2. Each Bidder is requested to provide: Descriptive literature clearly marked to show each item on this bid. Any catalog or manufacturer's reference in this proposal is descriptive, but not restrictive, and is used only to indicate type and quality. If, however, the bidder proposes similar but not identical terms, he must furnish all particulars. If no mention is made of any exceptions, it is assumed that he is bidding on the article specified and not on an approved equal and he will be required to deliver exact article specified.

3. Prices should be itemized. (Indicate unit price and extend to show total price.) In case of discrepancy between the unit price and the extension, the unit price shall govern.

4. Unit price for each item offered shall include all discounts; e.g., trade, seasonal, etc. with net 30 days payment terms. Discounts shall not be shown as such but shall be incorporated in the base bid price. Any bid showing discounts will be considered an alternate bid. The City of Midland will not be responsible for any goods delivered without a purchase order number.

5. 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. The City of Midland reserves the right to award by item or by total bid, or to reject any or all bids or parts of bids. Further, the City of Midland reserves all rights granted by Section 271.027 of the Texas Local Government Code. The City of Midland reserves the right to award the bid to the lowest responsible bidder.

6. Time of proposed delivery shall be stated in number of calendar days.

7. NOTE: The City of Midland, Texas is exempt from all Federal, State and City tax. Please do not include these taxes in your bid price or invoice. Taxable items must be so designated, and the City will supply vendor with a Tax Exemption Certificate, properly executed.

8. All items are to be delivered, unloaded and stacked at the location indicated on the Bid Request and Purchase Order.

9. All items are to be delivered F.O.B. to the City of Midland, Texas with freight prepaid and included in the bid.

10. Detailed specifications rule over General specifications (headings, etc.)

11. The City of Midland reserves the right to remove a company from the bid list for (1) continued failure to respond to request for bids, (2) failure to deliver merchandise within promised time, or (3) delivery of substandard merchandise.

12. No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or be financially interested, directly or indirectly, in the sale to the City of any lands, materials, supplies or services except as allowed under chapter 176 of the Local Government Code. Form CIQ shall be submitted and placed on file with the City of Midland.

13. The City shall determine the most advantageous bid for the City and accept the proposal of the responsible party submitting the lowest and/or most advantageous bid or reject any and all bids.

14. The City of Midland, Texas may consider as informal any bid not prepared and submitted in accordance with the provisions hereof, and may waive, in its sole discretion, any informalities.

15. Public Information. To the extent that Bidder is submitting a bid for a contract described by Section 552.371 of the Texas Government Code, Bidder 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 bid, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

STANDARD PURCHASE TERMS AND CONDITIONS
PURCHASING DIVISION, CITY OF MIDLAND, TEXAS

"Seller", as used herein, has the same meaning as "Company". "Buyer", as used herein, has the same meaning as "City".

Seller and Buyer agree as follows:

1. SELLER TO PACKAGE GOODS - Seller will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows; (a) Seller's name and address, (b) Consignee's name, and address, and purchase order number, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing slip. Seller shall bear cost of packaging unless otherwise provided. Goods shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. Buyer's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

2. SHIPMENT UNDER RESERVATION PROHIBITED - Seller is not authorized to ship the goods under reservation and no tender of a bill of lading will serve as a tender of goods.

3. TITLE & RISK OF LOSS - The title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the point or points of delivery in Midland, Texas.

4. NO REPLACEMENT OF DEFECTIVE TENDER - Every tender or delivery of goods must fully comply with all provisions of this contract as to time of delivery, quality and the like. If a tender is made which does not fully conform, this shall constitute a breach and Seller shall not have the right to substitute a conforming tender, provided, where the time for performance has yet expired, the Seller may reasonably notify Buyer of his intention to cure and may then make a conforming tender within the contract time but not afterward.

5. PLACE OF DELIVERY - The place of delivery shall be that set forth in the block of the purchase order entitled "deliver to".

6. INVOICES - Seller shall submit separate ORIGINAL invoices, on each purchase order. Invoices shall indicate the purchase order number. All invoices must be mailed to City of Midland, Accounts Payable, P.O. Box 1152, Midland, TX 79702-1152. Payment will be made within 30 days from the date the invoice and properly executed receiving documents are received by City of Midland, Accounts Payable at the above address. Invoices sent to any other address will delay payment.

7. GRATUITIES - The buyer may, by written notice to the seller, cancel this contract without liability to Seller, if it is determined by Buyer that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the seller, or any agent or representative of the Seller, to any officer or employee of the City of Midland with a view toward securing a contract or securing favorable treatment with respect to performing of such a contract. In the event this contract is cancelled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Seller in providing such gratuities.

8. WARRANTY - PRICE -

a. The price to be paid by the Buyer shall be that contained in Seller's bid which Seller warrants to be no higher than Seller's current prices on order by others for products of the kind and specifications covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Seller breaches this warranty, the prices of the items shall be reduced to the Seller's current prices on order by others, or in the alternative, Buyer may cancel this contract without liability to Seller for breach or Seller's actual expense.

b. The Seller warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Seller for the purpose of securing business. For breach or violation of this warranty the Buyer shall have the right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

9. WARRANTY - PRODUCT - Seller shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Seller warrants that the goods furnished will conform to the specification, drawings, and description listed in the bid invitation, and to the sample(s) furnished by Seller, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern.

10. SAFETY WARRANTY - Seller warrants that the product sold to Buyer shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, Buyer may return the product for correction or replacement at the Seller's expense. In the event Seller fails to make the appropriate correction within a reasonable time, correction made by buyer will be at Seller's expense.

11. RIGHT OF INSPECTION - Buyer shall have the right to inspect the goods at delivery before accepting them.

12. CANCELLATION - Buyer shall have the right to cancel for default all or any part of the undelivered portion of this order if Seller breached any of the terms hereof including warranties of Seller if the Seller becomes insolvent or commits acts of bankruptcy. Such right of cancellation is in addition to and not in lieu of any other remedies which Buyer may have in law or equity.

13. TERMINATION - The performance of work under this order may be terminated in whole, or in part by the Buyer in accordance with this provision. Termination of work hereunder shall be effected by the delivery to Seller of a "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Such right of termination is in addition to and not in lieu of the rights of Buyer set forth in Clause 13, herein.

14. FORCE MAJEURE - Neither party shall be held responsible for losses, resulting if the fulfillment of any terms or provisions of this contract is delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence said party is unable to prevent.

15. ASSIGNMENT - DELEGATION - No right or interest in this contract shall be assigned or delegation of any obligation made by Seller without the written permission of the Buyer. Any attempted assignment or delegation by the Seller shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

16. MODIFICATIONS - This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

17. INTERPRETATION - PAROL EVIDENCE - This writing, plus any specifications for bids and performance provided by Buyer in its advertisement for bids, is intended by the parties as a final expression of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this agreement. Acceptance or acquiescence in a course of performance rendered under this agreement shall not be relevant to determine the meaning of this agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.

18. ADVERTISING - Seller shall not advertise or publish without Buyer's prior consent the fact that Buyer has entered into the contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state or local government.

19. RIGHT TO ASSURANCE - Whenever one party to the contract in good faith has reason to question the other party's intent to perform he may demand that the other party give written assurance of this intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

20. PROTECTION AGAINST ROYALTIES OR PATENT INFRINGEMENT - The Seller shall pay all royalties and license fees, and shall provide for the use of any design, device, material or process covered by letters patent or copyright by suitable legal agreement with Patentee or Owner thereof. The Seller shall defend all suits or claims for infringement of any patent or copyrights and shall indemnify and save the Buyer harmless from any loss on account thereof, except that Buyer shall defend all such suits and claims and shall be responsible for all such loss when a particular design, device, material or process is allowed to the Seller, the Seller shall indemnify and save Buyer harmless from any loss on account thereof. If the material or process specified or required by Buyer is an infringement, the Seller shall be responsible for such loss unless he promptly gives written notice to the buyer of such infringement.

21. TIME - It is hereby expressly agreed and understood that time is of the essence for the performance of this contract, and any failure by contract to meet the time specifications of this agreement will cause Seller to be in default of this agreement.

22. TAX - The City of Midland is exempt from all Federal, State and City tax. Please do not include these taxes in your bid price or invoice. Taxable items must be so designated, and the City will supply vendor with a Tax Exemption Certificate, properly executed.

23. **INSURANCE –**

The following provisions apply unless the agreement is for the supply of goods only:

Seller 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:	$500,000.00 per occurrence
Business Automobile Liability:	$250,000.00 combined single limit - Personal Injury and Property Damage
Worker's Compensation:	Statutory limits
Employers' Liability:	$500,000.00 per accident or occurrence

The Commercial General Liability shall be on a per project or policy aggregate, including completed operations, and shall be on an occurrence basis.

The Workers' Compensation coverage provided by Seller shall inure to the benefit of employees injured during the course and scope of their employment by Seller pursuant to this agreement.

The Business Automobile Liability insurance provided by Seller 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 $250,000.00 covering any vehicle used for the execution of the work that is the subject of this agreement.

All insurance required pursuant to this agreement, except for Worker's Compensation Insurance, shall name the Buyer as an additional insured on a claims occurred basis. All insurance required pursuant to this agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the Buyer.

The parties agree that, prior to the execution of the agreement, Seller shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured, on a claims occurred basis, on all policies except for Worker's Compensation. The Seller and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."

Buyer shall be provided the notice by Seller's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Buyer shall not be required to provide any insurance whatsoever pursuant to this agreement.

Seller shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this agreement 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).

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

25. RELEASE - NOTWITHSTANDING ANY OTHER PROVISIONS, SELLER HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES BUYER, BUYER'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH SELLER 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 BUYER'S NEGLIGENCE.

26. 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.

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

28. 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, Seller or his legal representative, shall give the City Manager, or any other reasonable official of the Buyer, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one-hundred-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 the Seller will settle, the physical and mailing addresses of Seller at the time and date the claim was presented and the physical and mailing addresses of Seller for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Seller 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 Buyer from any liability whatsoever. The Buyer is under no obligation to provide notice to Seller that Seller's notice is insufficient. Buyer 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, Seller's failure to comply with the requirements herein shall perpetually bar Seller's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Buyer has actual or constructive notice or knowledge of said claim or alleged damages. Seller agrees that the requirements of this entire agreement are reasonable.

29. INDEMNITY (NOT APPLICABLE TO PURCHASE AGREEMENTS) - SELLER WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'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 SELLER, its agents or employees, or any subcontractor, arising out of, or resulting from, Seller's use of, or activities on, the agreement premises, and Seller will be required to pay any judgment with costs which may be obtained against Buyer or any of its officers, agents or employees, including reasonable attorney's fees.

SELLER SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND BUYER AND ALL OF BUYER'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, ACCIDENTAL DEATH, 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 BUYER, BUYER'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 SELLER OR SELLER'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 SELLER WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST BUYER OR ANY OF BUYER'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

30. SOVEREIGN IMMUNITY - By executing this agreement the Buyer is not waiving its right of sovereign immunity. The Buyer is retaining its immunity from suit. The Buyer is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

31. THIRD PARTY BENEFICIARY - The Buyer'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.

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

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

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

33. CONSIDERATION - The terms of this agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

34. CERTIFICATION - In accordance with the Texas Local Government Code, the City of Midland Department of Facilities and Fleet Management does hereby certify that the City of Midland is in compliance with Sections 252, 271 and all applicable sections of the Texas Local Government Code and other state law as it applies to procurement and contracting issues.

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

36. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS - Seller shall at all times during the term of this agreement comply with applicable federal, state, and local laws regarding Seller's activities pursuant to this agreement, including but not limited to all applicable sections of the Municipal Code of Midland, Texas, as may be amended, said sections being hereby incorporated by reference and made a part of this agreement for all legal purposes. Failure to abide by any such law mentioned herein constitutes grounds for the immediate termination of this agreement.

City Council Meeting

Item Number: 13

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION RATIFYING THE PROCUREMENT OF CONSTRUCTION SERVICES FROM BOLER EQUIPMENT SERVICE, INC. FOR THE EMERGENCY REPAIR OF THE STORM DRAIN LOCATED NORTH OF MOCKINGBIRD LANE, BETWEEN VALWOOD DRIVE AND ROCKWOOD DRIVE; AND AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $686,961.00 (DISTRICT 1) (GENERAL SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)

Purpose:

Resolution ratifying the purchase and approving payment for emergency storm line repairs just north of Mockingbird Lane between Valwood Drive and Rockwood Drive performed by Boler Equipment Service Inc, for a total cost of $686,961.00.

Recommended City Council Action:

Approve

Fiscal Impact:

Funds are available in the FY2025 Drainage operating budget.

Strategic Priority:

(Strengthen and Sustain our Infrastructure)

Discussion:

Boler Equipment Service Inc, was called for the emergency storm line repairs just north of Mockingbird Lane between Valwood Drive and Rockwood Drive. Boler's swift response and efficient execution of repairs, including the replacement of all failed storm pipes in the area, minimized disruption and mitigated potential risks linked to the pipe failure. Please see the attached memo from Abe Langston, Transportation Manager, for additional information.

Therefore, please consider a resolution ratifying the purchase and approving payment for emergency storm line repairs just north of Mockingbird Lane between Valwood Drive and Rockwood Drive performed by Boler Equipment Service Inc, for a total cost of $686,961.00.

Morris Williams Jr.

City Manager’s Office

INTEROFFICE MEMORANDUM

TO: Erika Martinez, Purchasing Manager

FROM: Abe Langston, Transportation Manager

SUBJECT: Ratification of Emergency Storm Line Repair-Mockingbird Heights

DATE: January 14, 2025

CC: Bobby Wojciechowski

In late June the Transportation Division received notice that a large hole had developed on top of the storm line just north of Mockingbird Lane between Valwood Dr. and Rockwood Dr. After further inspection damaged storm pipe was identified as the problem. The type of pipe was 30" corrugated metal pipe. This posed an immediate threat to public safety and property, necessitating urgent action to prevent further damage or potential flooding.

Boler Equipment Service, Inc. (Boler) is currently contracted by the City of Midland for the UEP and the COMPASS programs. Boler was able to respond quickly and executed the necessary repairs, which included replacing all of the failed storm pipe in the area. Their rapid response ensured minimal disruption and mitigated potential risks associated with the pipe failure.

The catastrophic failure posed significant risks to infrastructure and public safety. Immediate repair was critical to prevent further deterioration and flooding. Boler demonstrated exceptional professionalism and efficiency in addressing the emergency. Their swift action averted further damage. Boler's invoice appears to be in line with current pricing trends. Therefore, we are recommending the approval of funds to pay Boler for their services in addressing the storm pipe failure at Mockingbird Heights. Their contribution was instrumental in safeguarding public infrastructure and maintaining safety.

Requested Action: Approval to ratify payment in the amount of $686,961.00 to Boler Equipment Service, Inc. for emergency storm pipe repair services. Funding for this payment is available in the Stormwater Fiscal Year 2025 operating budget under account 400482-57001 (Capital Building & Structures).

RESOLUTION NO. _____

RESOLUTION RATIFYING THE PROCUREMENT OF CONSTRUCTION SERVICES FROM BOLER EQUIPMENT SERVICE, INC. FOR THE EMERGENCY REPAIR OF THE STORM DRAIN LOCATED NORTH OF MOCKINGBIRD LANE, BETWEEN VALWOOD DRIVE AND ROCKWOOD DRIVE; AND AUTHORIZING PAYMENT IN AN AMOUNT NOT TO EXCEED $686,961.00

WHEREAS, a hole developed in the storm drain located north of Mockingbird Lane, between Valwood Drive and Rockwood Drive; and

WHEREAS, the City's Engineering Services Department determined that the repair of said storm drain (the "Emergency Repair") was necessary due to unforeseen damage to public property and was of an emergency nature to preserve and protect the public health and safety of the residents of the City of Midland; and

WHEREAS, construction services were procured from Boler Equipment Service, Inc. ("Contractor") for the Emergency Repair in the amount of $686,961.00 as shown in the invoice that is attached hereto as Exhibit "A" and incorporated herein for all purposes; and

WHEREAS, the City Council finds that the expenditure for the Emergency Repair is exempt from competitive bidding requirements because it is a procurement that is necessary due to unforeseen damage to public property and is necessary to preserve and protect the public health and safety of the residents of the City of Midland; and

WHEREAS, the City Council finds it necessary to ratify and approve the procurement of the above-referenced construction services for the Emergency Repair from Contractor at a total cost not to exceed $686,961.00 and to authorize payment therefor;

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

SECTION ONE. That the recitals stated above are hereby adopted and approved for all purposes.

SECTION TWO. That the procurement of construction services for the Emergency Repair from Contractor is hereby ratified and approved.

SECTION THREE. That the City Comptroller is hereby authorized and directed to pay Contractor for said construction services in the amount of $686,961.00 from funds available in the FY2025 Drainage operating budget upon receipt of proper invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2025, 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:

_____
Gabriel McClelland, Director of Engineering Services

_____
Regina Stephenson, General Services Director

APPROVED ONLY AS TO FORM:

_____

John Ohnemiller, City Attorney

Boler Equipment Service, Inc.

P.O. Box 80428
Midland, TX 79708

432-694-0660

Invoice

Date	Invoice #
12/6/2024	1021251

Bill To	Ship To
City of Midland Service Center P.O. Box 1152 Midland, Tx 79702	ATTN: Natalie Burgard Mockingbird SD Emergency Repair

Project Number	Terms	Due Date	Date of Service
	DUE UPON RECE...	12/6/2024	12/6/2024

Quantity	Item Code	Description	Price Each	Amount
1	MISC-H	LS, Mobilization	51,000.00	51,000.00
1	MISC-H	LS, Traffic Control	20,000.00	20,000.00
1	MISC-H	LS, Tree Removal and Disposal	25,000.00	25,000.00
345	MISC-H	SY, Removal & Disposal of Existing Asphalt	15.00	5,175.00
91	MISC-H	LF, Removal & Disposal of Existing Concrete Curb and Gutter	15.00	1,365.00
475	MISC-H	SY, Removal & Disposal of Existing Concrete Sidewalk	15.00	7,125.00
164	MISC-H	SY, Removal & Disposal of Existing Valley Gutter and Fillet	50.00	8,200.00
1,393	MISC-H	LF, Removal & Disposal of Exist. CMP	20.00	27,860.00
174	MISC-H	LF, 18" HDPE	146.00	25,404.00
309	MISC-H	LF, 24" HDPE	200.00	61,800.00
393	MISC-H	LF, 30" HDPE	230.00	90,390.00
463	MISC-H	LF, 42" HDPE	275.00	127,325.00
2	MISC-H	EA, 60" FBGLS Manholes	12,056.00	24,112.00
345	MISC-H	SY, 2" Type D HMAC	80.00	27,600.00
98	MISC-H	SY, Concrete Fillet	135.00	13,230.00
91	MISC-H	LF, Concrete Curb and Gutter	75.00	6,825.00
4	MISC-H	EA, Handicap Ramp	4,500.00	18,000.00
475	MISC-H	SY, 5' Concrete Sidewalk	85.00	40,375.00
66	MISC-H	SY, Concrete Valley Gutter	135.00	8,910.00
229	MISC-H	CY, 2 Sack	185.00	42,365.00
1,393	MISC-H	LF, Open Trench	20.00	27,860.00
184	MISC-H	SF, Inlet Box Top Replacement	130.00	23,920.00
6	MISC-H	EA, Ring and Cover Replacement	520.00	3,120.00

****ALL SALES FINAL****

Subtotal	$686,961.00
Payments/Credits	$0.00
Sales Tax (0.0%)	$0.00
Balance Due	$686,961.00
Total	$686,961.00

ORIGINAL

EXHIBIT "A"

Boler Equipment Service, Inc.

P.O. Box 80428
Midland, TX 79708

432-694-0660

Invoice

Date	Invoice #
12/6/2024	1021251

Bill To	Ship To
City of Midland Service Center P.O. Box 1152 Midland, Tx 79702	ATTN: Natalie Burgard Mockingbird SD Emergency Repair

Project Number	Terms	Due Date	Date of Service
	DUE UPON RECE...	12/6/2024	12/6/2024

Quantity	Item Code	Description	Price Each	Amount
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463	MISC-H	LF, 42" HDPE	275.00	127,325.00
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345	MISC-H	SY, 2" Type D HMAC	80.00	27,600.00
98	MISC-H	SY, Concrete Fillet	135.00	13,230.00
91	MISC-H	LF, Concrete Curb and Gutter	75.00	6,825.00
4	MISC-H	EA, Handicap Ramp	4,500.00	18,000.00
475	MISC-H	SY, 5' Concrete Sidewalk	85.00	40,375.00
66	MISC-H	SY, Concrete Valley Gutter	135.00	8,910.00
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6	MISC-H	EA, Ring and Cover Replacement	520.00	3,120.00

****ALL SALES FINAL****

Subtotal	$686,961.00
Payments/Credits	$0.00
Sales Tax (0.0%)	$0.00
Balance Due	$686,961.00
Total	$686,961.00

ORIGINAL

City Council Meeting

Item Number: 14

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Daniel Humbert, Senior Planner

Subject: MOTION APPROVING, WITH STAFF'S RECOMMENDED CONDITIONS, A PRELIMINARY PLAT OF LONGVIEW SUBDIVISION, SECTION 4, BEING A REPLAT OF ALL OF LONGVIEW SUBDIVISION, SECTION 2, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST COUNTY ROAD 50 AND NORTH COUNTY ROAD 1275) (EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES (DISTRICT: NONE) (DEVELOPMENT SERVICES) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)

Purpose:

Landgraf, Crutcher & Associates, on behalf of GF Elite Estate Holdings, Ltd., is requesting to replat Longview Subdivision, Section 2, a tract of 243.31-acres, into 389 lots for ownership purposed and future residential development.

A motion to vacate the Planning and Zoning Commission's approved Longview Subdivision, Section 3 for the purpose of reconfiguring the layout of the subdivision for future residential development was approved by the Commission on October 7, 2024, and by Council on October 22, 2024.

Current Zoning:

ETJ, Extraterritorial Jurisdiction.

This request has been routed to all respective departments for internal review. The comments are below.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Discussion:

BUILDING CODE: (Approved)

ETJ, no jurisdiction.

SURVEYOR: (Approved)

No comments received.

ENGINEERING: (Approved with Conditions)

IMPACT FEES: Plat is located outside of service areas. [For the Applicant’s information only.]

ROW: Refer to transportation's comments, if any. [For the Applicant’s information only.]

PAVING: Deferral for wastewater, paving and sidewalks approved by Council on 2/13/2018, motion 021-2018. [For the Applicant’s information only.]

WATER: Water provided by greater Gardendale Water Supply District. [For the Applicant’s information only.]

FIRE HYDRANTS: Required as needed to meet NFPA, IFC & City Fire Code; and/or comply with directives of City Fire Marshal. After January 14, 2020 - Fire hydrants shall be spaced no more than 500' apart, Pressure Indicator Rings are to be installed and will require the developers/contractors to pay for the flow test. [For the Applicant’s information only.]

PRO RATA: None. [For the Applicant’s information only.]

SEWER: Deferral for wastewater, paving and sidewalks approved by Council on 2/13/2018, motion 021-2018. [For the Applicant’s information only.]

DRAINAGE: Drainage study has been submitted and is in review. [For the Applicant’s information only.]

EASEMENTS: Show existing and proposed. [For the Applicant’s information only.]

SIDEWALKS: Deferral for wastewater, paving and sidewalks approved by Council on 2/13/2018, motion 021-2018. [For the Applicant’s information only.]

DIMENSION: * * *

OTHER: * * *

TRANSPORTATION: (Approved)

No additions or changes to site access are approved with plat or zoning review. Driveways or other access points are approved only with construction drawing review. [For the Applicant's information only.] No objections to plat. [For the Applicant's information only.]

FIRE: (Approved)

No additional comments.

OIL AND GAS: (Approved)

Not in the City limits- no oil or gas jurisdiction.

GIS: (Approved with Conditions)

Please provide two sets of x-y coordinates and label one POB. (these are different than the coordinates given for the section corners)

Based on metes and bounds, the plat does not close.

Should new ROW be separated from lots or are they an easement?

Are these ROW private? Are they being dedicated?

Surrounding plats separated ROW from parcels.

See markup for block and lot numbering. (provided via email)

Please include recording information for 20' waterline and access easement.

Discuss with planning how legal description should be worded. (Since the whole subdivision was vacated previously.)

For the legal, I'm not sure how you want to label it, but since Longview Sec 3 was vacated previously in V-24-0065, you may need to just say it is a plat in X Section number, etc. being a previously vacated plat of a X.XX. acres or something to that effect.)

I don't think much was changed on this versus previously submitted so I'm using the same markup from before the lots and block numbers along with some of the other notes that still stand. (see the attachment)

PUBLIC WORKS: (Approved)

The county recommends a drainage study and a Proof of groundwater certification or a will serve commitment letter from a public water provider.

Since most of these lots are less that one acre, there must be a public water provider or public sewer provider. (or both)

I request that any drainage study requirements be checked for compliance, seeing as how our commissioner has been receiving many complaints about increased flooding in the area.

CRMWD: (Approved)

No comments.

HEALTH DEPARTMENT: (Approved)

Yes, the health department will review applications from the proposed lots of Longview Subdivision, Section 4, REPLAT OF LONGVIEW SUBIVISION SECTION 3 CABINET L PAGE 98 LOCATED IN SECTION 20, BLOCK 40, T-1-S, T. & P. RR. CO. SURVEY lots are .5 acre with public water system access that all lots must tie into this public water system, property owner cannot drill a water well on their property, septic applications must be designed by an Registered Sanitarian or Professional Engineer and must be installed by a Texas OSSF licensed installer, property owner must contact the pipeline company to get the setback to their pipeline before any excavation can occur, to ensure the proposed plans on the application for the septic system will meet the setbacks from the existing water well and public water lines on the property and the existing water wells on the adjacent properties

PLANNING: (Approved with Conditions)

The Legal Description should read, "… Midland County Texas." and not "City and County of Midland, Texas" [Informational]

Lot numbers cannot be repeated in the same block. Block 14 for instance has repeated lot numbers. If preferable, you can assign letters to the lots along with numbers such as 1A, 2A, 3A, etc. Revise and verify that the numbering follows this rule. [Informational]

Verify that the names of all adjacent subdivisions or additions or the names of record owners of adjoining parcels of unplatted land are being shown on the plat. Westview Addition, Section 14 is labeled on the plat but there is no Section 14. It should be labeled as Section 4. The other abutting subdivisions/property owners should be labeled as well. The properties immediately south of the proposed subdivision are not labeled for instance. [Midland City Code 11-2-3(A)1(d)]

Approval by the Council will be required prior to consideration of a final plat by the commission for any preliminary plat that is ten hectares (25 acres) or more. [Midland City Code 11-2-3(D)11(a)(1)]

Label Owner's Certificate [Informational]

The Owner's Certificate should read [11-2-3(H)3(m)(1)]:

STATE OF TEXAS
COUNTY OF MIDLAND
WHEREAS, _____is/are the record owner(s) of a tract of land situated in the _____ Survey, County of Midland, and more particularly described (as follows:) (hereon.) [use whichever applies]
BEGINNING … (if applicable)

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:
That _____ do(es) hereby adopt this plat designating the hereinabove described property as _____, an addition to the City of Midland, Texas, and, hereby dedicate to the public use forever the streets, alleys and easements (and parks) (and parkways) (and drainage basins) [include all that apply] shown thereon.
WITNESS our hands at (City, State), this the _____ day of _____, 20_____ . (Include a separate statement for each location or date of signature.)

Add Acknowledgement and have it read as follows [11-2-3(H)3(m)(1)]:

ACKNOWLEDGMENT
STATE OF TEXAS COUNTY OF
This plat was acknowledged before me on (DATE) by (NAME OF OWNERS SIGNING ABOVE).
(Notary Seal) Notary Public, State of Texas

Staff recommends approval of the Preliminary Plat of Longview Subdivision, Section 4, subject to conditions A through C.

Condition:

A. All certificates must be written as detailed in Section 11-2-3 Platting Procedures by Final Plat submittal. [11-2-3(H)3(m)(1)]

B. Approval of this preliminary plat is subject to the Final plat including all plat comments, conditions, and requirements must be satisfied by all pertinent City departments before filing for recording with the County Clerk of Midland County, Texas.

C. Approval by the City Council shall be required prior to consideration of a final plat by the Commission on which any preliminary plat is ten hectares (25 acres) or more in area and is located in any survey section (approximately one square mile) which does not contain a publicly owned site or sites intended for both a public school and park, or public site reservation therefor; Midland City Code 11-2-3(D)11(a)(6).

Attachments:

Preliminary Plat
Application

Location Map
Aerial Photo
PowerPoint Presentation

City Manager's Office

LCA Job # 2022-072.5

MIDLAND Planning Division

Preliminary Plat Application

Project Number: _____

Case Number: _____

Proposed Subdivision Plat Name: **Longview Subdivision, Section 4**

Legal Description (attached sealed Metes and Bounds): Being a replat of Longview Subdivision, Section 3, Cabinet L, Page 98, Located in Section 20, Block 40, T-1-S, T&P RR Survey

Midland County, Texas

Property Owner Printed Name: GF Elite Estate Holdings, Ltd.		Phone (432)563-0663 Email	
Address 2909 W. Wall Street	City Midland	State TX	Zip 79701
Developer *(if different than Owner)* Printed Name:		Phone ( ) Email	
Address	City	State	Zip
Representative *(if acting as Agent, see affidavit on page 2)* Firm: Landgraf, Crutcher & Associates Printed Name: LCA		Phone (432) 332-5058 Email gmr@lcaodessa.com	
Address 521 N. Texas Avenue	City Odessa	State TX	Zip 79761

Current Zoning: N/A - Property is in the ETJ

Reason for Platting: Ownership purposes, future permit requirements

Plat Information	Total Acreage: 243.31
Type: ☒ Single-Family Residential ☐ Multi-Family Residential ☐ Commercial ☒ Extraterritorial Jurisdiction (ETJ)	
Number of Residential Lots: 389	Number of Multi-Family Dwelling Units:

Submittal and Fees

Items to be submitted with this application form:

- 1 FOLDED Copy of Dimensioned Plat
- 1 Extra Copy (11x17)
- Digital Files (JPEG & PDF)
- Application Fee – Payable to the 'City of Midland'

Request for a Development Agreement

Do you expect to request a development agreement with the City? ☐ Yes ☐ No

If yes, contact the City Engineer at (432) 685-7286

Provisions
A plat application will not be considered filed pursuant to Section 212.009 of the Texas Local Government Code until all required documents and fees have been submitted and ***all of the terms and conditions of the Subdivision Ordinance, including all necessary studies, plans and supporting information are accepted and approved,*** or the applicant has filed a waiver request for sections from which the plat deviates. Once a plat meets the requirements to be considered filed with the City, the application will be placed on the Planning and Zoning Commission agenda for consideration under the time requirements set out in Section 212.009.

Signature *(by property owner only – authorized agent must sign affidavit below)*

Property Owner (signature):	Date:

Property Owner (printed) :_____

The Preliminary Plat shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Subdivision Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Gracie Rodriguez who, being by me duly sworn, upon oath says: That (s)he is authorized by GR Elite Estate Holdings, LLC the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Rodriguez
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 19th day of November, 20 24, to certify which witness my hand and seal of office.

ALMA AURORA GARZA
Notary Public, State of Texas
Comm. Expires 03-27-2027
Notary ID 134273686

Alma Aurora Garza
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☐ Property Owner Authorization	☐ 1 Copy of Dimensioned Plat	☐ Plat in Digital Format (PDF/JPEG)
☐ Application Fee	☐ 1 Copy of Plat (11x17)	
Check #_____		

Received By:	Date:

****Application will not be considered for scheduling until reviewed by a planner.****

ENVIRONMENTAL · CIVIL ENGINEERING · LAND SURVEYING
ENG. FIRM# 001363 · SURV. FIRM# 10034300
521 NORTH TEXAS · ODESSA, TEXAS 79761
(432) 332-5058 OR 580-8812 · FAX (432) 332-8812

November 18, 2024

City of Midland- Planning Department
Attn: Landon Ochoa
300 N. Loraine
Midland, Texas 79702

To whom it may concern:

I/We, GF Elite Estate Holdings, Ltd, authorize LCA to act as our agent for the platting/zoning purposes regarding Longview Subdivision, Section 4. As Client we consent to LCA signing all applications and/or needed documentation, receiving all comments and/or needed information and representing me/us at any all hearings for the duration of this project.

Sincerely,

By: Filiberto Lozoya
GF Elite Estate Holdings, Ltd.

11-19-24
Date:

STATE OF TEXAS §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared Filiberto Lozoya, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said _____ for the purposes and consideration therein expressed and, in the capacity, therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 11 day of November, A.D., 2024.

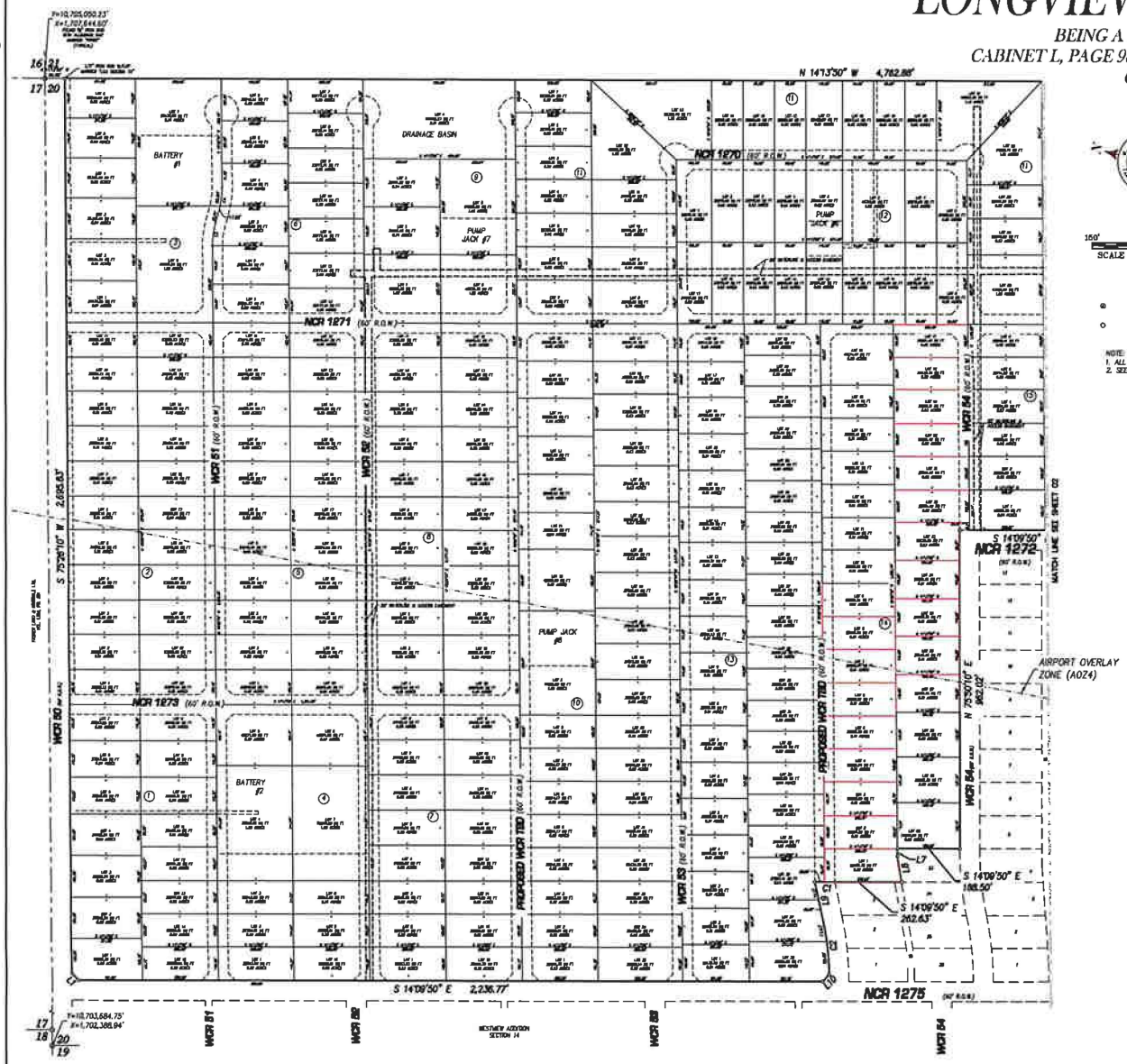
KARLA MICHELLE MUNOZ NOTARY PUBLIC STATE OF TEXAS ID 132758810 EXP. 11-02-2027

Notary Public in and for the State of Texas
My Commission Expires: 11/2/2027

PRELIMINARY PLAT

LONGVIEW SUBDIVISION, SECTION 4

BEING A REPLAT OF LONGVIEW SUBDIVISION, SECTION 3
CABINET L, PAGE 98 LOCATED IN SECTION 20, BLOCK 40, T-1-S, T&P RR SURVEY
CITY AND COUNTY OF MIDLAND, TEXAS





LEGEND

- ● FOUND 1/2" I.R. W/CAP "LCA ODESSA TX" UNLESS OTHERWISE NOTED
- ○ SET 1/2" I.R. W/CAP UNLESS OTHERWISE NOTED

NOTE:
1. ALL DRILL SITE RADII ARE 135'
2. SEE EASEMENT DETAIL SHEET 03



VICINITY MAP
SCALE: N.T.S.

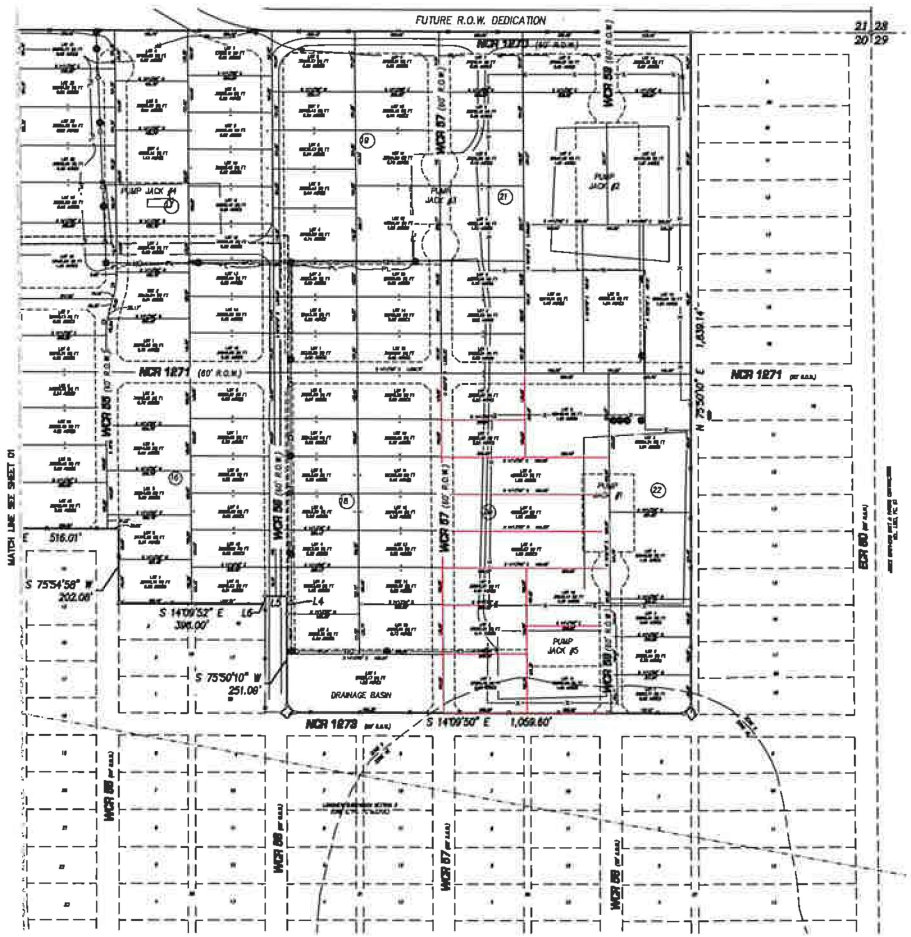
PAGE 1 OF 4
LONGVIEW SUBDIVISION, SECTION 4

LCA
ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING
521 North Texas, Odessa Tx. 79761 F-001363 F-1003300
Phone # (432) 339-3638 E-Mail : lca@caodessa.com

PRELIMINARY PLAT

LONGVIEW SUBDIVISION, SECTION 4

BEING A REPLAT OF LONGVIEW SUBDIVISION, SECTION 3
CABINET L, PAGE 98 LOCATED IN SECTION 20, BLOCK 40, T-1-S, T&P RR SURVEY
CITY AND COUNTY OF MIDLAND, TEXAS





150' 0 150'
SCALE : 1" = 150'

LEGEND

- ● FOUND 1/2" I.R. W/CAP "LCA ODESSA TX" UNLESS OTHERWISE NOTED
- ○ SET 1/2" I.R. W/CAP UNLESS OTHERWISE NOTED

NOTE:
1. ALL DRILL SITE RADII ARE 135'
2. SEE EASEMENT DETAIL SHEET 03

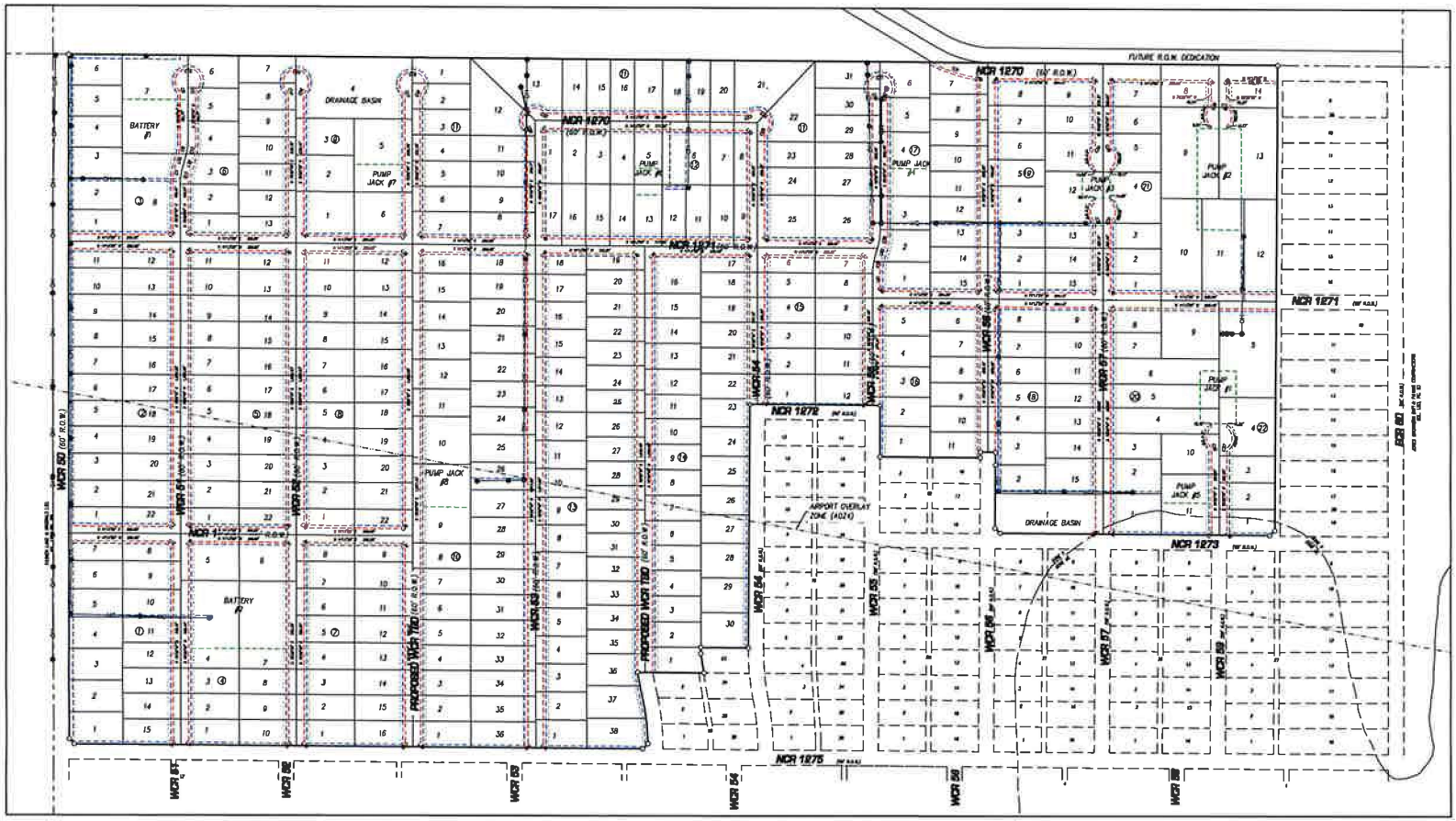
PAGE 2 OF 4
LONGVIEW SUBDIVISION, SECTION 4

LCA
ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING
321 North Texas, Odessa Tx. 79761 F-001863 F-10034300
Phone # (432) 889-5038 E-Mail : lca@zoodessa.com

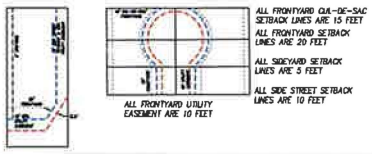
PRELIMINARY PLAT

LONGVIEW SUBDIVISION, SECTION 4

BEING A REPLAT OF LONGVIEW SUBDIVISION, SECTION 3
CABINET L, PAGE 98 LOCATED IN SECTION 20, BLOCK 40, T-1-S, T&P RR SURVEY
CITY AND COUNTY OF MIDLAND, TEXAS



SET BACK DETAIL



PAGE 3 OF 4
LONGVIEW SUBDIVISION, SECTION 4

LCA
ENVIRONMENTAL • CIVIL ENGINEERING • LAND SURVEYING
321 North Texas, Odessa Tx. 79761 P-0013963 F-1093 1309
Phone # (432) 381-3038 E-Mail : lca@caodessa.com

PRELIMINARY PLAT

LONGVIEW SUBDIVISION, SECTION 4

BEING A REPLAT OF LONGVIEW SUBDIVISION, SECTION 3
CABINET L, PAGE 98 LOCATED IN SECTION 20, BLOCK 40, T-1-S, T&P RR SURVEY
CITY AND COUNTY OF MIDLAND, TEXAS

THE STATE OF TEXAS
COUNTY OF MIDLAND

Beginning at (N= 10,704,932.68 and E= 1,702,699.14) a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northeast corner of this tract and being in the east line of North County Road 1270 as shown on the plat of Longview Subdivision, recorded in Cabinet C, Page 71, Plat Records Midland County, from whence a 5/8" Iron Rod with Aluminum Cap marked "Piper" found at the northeast corner of Section 20, Block 40, T-1-S, T&P RR Survey, bears North 14°13'50" West, a distance of 60.00 feet;

THENCE, South 14°13'50" East, along the east line of said Longview Subdivision, the east right-of-way of North County Road 1270, and the east line of said Section 20, Block 40, a distance of 4,762.88 feet to a point;

Thence, South 75°50'10" West, passing the southeast corner of Lot 8 Block 29 of said Longview Subdivision at the north line of an alley at 60.00 feet, and along the south line of said Block 29 and Block 28, a distance of 1,839.14 feet,

THENCE, North 59°09'50" West, a distance of 28.28 feet;

THENCE, North 14°09'50" West, along the west line of said Block 28, the west line of Block 35 and Block 22 of the said Longview Subdivision, a distance of 1,059.59 fee;

THENCE, North 30°50'10" East, a distance of 28.28 feet to the south right-of-way of Sparkaville County Road 58;

THENCE, North 75°50 10" East, along the south right-of-way of said Sparkaville County Road 58 and the north line of said Block 22, a distance of 300.03 feet,

THENCE, North 14°09'50" West, crossing the right-of-way of said Sparkaville County Road 58, a distance of 59.83 feet to the north right-of-way of said Sparkaville County Road 58 and the south line of Block 19 of said Longview Subdivision;

THENCE, North 75°50'10" West, along the north right-of-way of said Sparkaville County Road 58 and the south line of Block 19 of said Longview Subdivision, a distance of 20.00 feet to the southeast corner of Lot 16, Block 19 of the said Longview Subdivision;

THENCE, North 14°09'50" West, along the east line of said Lot 16 and the east line of Lot 3, Block 19 of said Longview Subdivision, a distance of 356.13 feet to the northeast corner of said Lot 3, Block 19, in the south right-of-way of Lugsdon County Road 57;

THENCE, North 75°50'10" East, along the south right-of-way of said Lugsdon County Road 57 and the north line of said Block 19, a distance of 199.79 feet,

THENCE, North 14°09'50" West, crossing Lugsdon County Road 57 and along the west line of Lots 26 and 1, Block 17 of said Longview Subdivision and the east right-of-way of Lancer Street, a distance of 516.01 feet to the north right-of-way of Jamesville County Road 56,

THENCE, South 75°50'10" West, along the north right-of-way of said Jamesville County Road 56 and the south line of Block 15, a distance of 902.03 feet to the northeast corner of Lot 23, Block 15 of the said Longview Subdivision,

THENCE, along the lines of said Lot 23, Block 15 the following three calls
1) North 14°09'50" West, a distance of 116.92 feet;
2) South 75°50'10" West, a distance of 23.28 feet;
3) South 59°09'50" East, a distance of 97.92 feet to the northwest corner of said Lot 24 and the north-est corner of Lot 24, Block 15

THENCE, North 14°09'50" West, along the east line of Lot 3 Block 15 of the said Longview Subdivision, and crossing Bristow County Road 55, a distance of 282.61 feet to the north right-of-way of said Bristow County Road 55 and the south line of Block 12 of the said Longview Subdivision, said point being the PC of a curve to the left;

THENCE, along the north right-of-way of said Bristow County Road 55 and the south right-of-way of said Block 12 curve to the left having an arc distance of 10.68 feet, a delta angle of 00°37'11", a radius of 987.26 feet, and a chord bearing of S 64°21'32" W and a chord distance of 10.68 feet;

THENCE, South 64°02'22" West, along and right-of-way of Bristow County Road 55 and the south line of said Block 12, a distance of 100.00 feet to a PC of a curve to the right,

THENCE, along the north line of said right-of-way of Bristow County Road 55 and the south line of said Block 12, curve to the right having an arc distance of 172.99 feet, a delta angle of 10°02'22", a radius of 987.26 feet, and a chord bearing of S 29°13'55"W and a chord distance of 172.77 feet;

THENCE, North 59°29'01" West, a distance of 28.12 feet to the east right-of-way of Perrysville County Road 1275 and the west line of said Block 12,

THENCE, North 14°09'50" West, along the east right-of-way of said Perrysville County Road and the east lines of said Block 12 and the east lines of Blocks 11, 7, 6 and 1 of the said Longview Subdivision, a distance of 2,226.77 feet.

THENCE, North 30°50'10" East, a distance of 28.28 feet to the south right-of-way of said Allensville County Road 58;

THENCE North 75°26'10" East, along the south right-of-way of said Allensville County Road, a distance of 2,693.83 feet to the POINT OF THE BEGINNING, containing 243.30 acres of land

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S 30°36'10" W	28.38'
L2	S 59°09'50" E	28.28'
L3	S 30°50'10" W	28.28'
L4	S 75°50'34" W	48.93'
L5	S 14°09'50" E	60.00'
L6	N 76°54'34" E	22.30'
L7	N 75°50'10" E	23.28'
L8	N 66°10'37" E	77.82'
L9	N 64°02'22" E	98.99'
L10	S 59°29'01" E	28.12'
L11	S 59°21'50" E	28.19'
L12	N 30°36'10" E	28.37'
L13	S 59°23'50" E	28.20'
L14	N 30°36'10" E	28.37'
L15	S 59°23'50" E	28.20'
L16	S 87°50'12" E	30.72'
L17	S 30°36'10" W	28.38'
L18	N 59°23'50" W	28.20'
L19	S 30°36'10" W	28.37'
L20	N 59°23'50" W	28.20'
L21	S 30°36'10" W	28.37'
L22	N 87°50'12" W	30.72'

LINE TABLE		
LINE #	BEARING	DISTANCE
L23	S 59°21'50" E	28.19'
L24	N 30°36'10" E	28.37'
L25	S 59°23'50" E	28.20'
L26	N 30°36'10" E	28.37'
L27	S 59°23'50" E	28.20'
L28	N 30°36'10" E	28.38'
L29	S 59°23'50" E	28.20'
L30	S 30°36'10" W	28.37'
L31	N 59°23'50" W	28.20'
L32	S 30°36'10" W	28.37'
L33	N 59°21'50" W	28.19'
L34	S 30°36'10" W	28.37'
L35	S 59°23'50" E	28.20'
L36	N 30°36'10" E	28.37'
L37	S 59°23'50" E	28.20'
L38	N 30°36'10" E	28.38'
L39	S 59°23'50" E	28.20'
L40	S 30°36'10" W	28.37'
L41	N 59°21'50" W	28.19'
L42	S 30°36'10" W	28.37'
L43	S 59°23'50" E	28.20'
L44	S 30°36'10" W	28.38'

LINE TABLE		
LINE #	BEARING	DISTANCE
L45	N 59°23'50" W	28.20'
L46	S 30°36'10" W	28.37'
L47	N 59°23'50" W	28.20'
L48	N 30°36'10" E	28.37'
L49	N 59°23'50" W	28.20'
L50	N 30°36'10" E	28.37'
L51	S 59°23'50" E	28.20'
L52	N 30°36'10" E	28.37'
L53	S 30°36'10" W	28.38'
L54	N 59°23'50" W	28.20'
L55	S 30°36'10" W	28.37'
L56	S 59°21'50" E	28.19'
L57	N 30°36'10" E	28.37'
L58	S 59°23'50" E	28.20'
L59	N 59°23'50" W	28.20'
L60	S 30°36'10" W	28.37'
L61	S 75°26'10" W	49.78'
L62	N 87°50'15" W	39.55'
L63	N 30°36'10" E	28.37'
L64	S 59°23'50" E	28.20'
L65	N 34°05'11" E	30.03'
L66	N 59°23'50" W	28.20'

LINE TABLE		
LINE #	BEARING	DISTANCE
L67	N 30°36'10" E	28.37'
L68	S 59°23'50" E	28.20'
L69	S 59°21'50" E	28.19'
L70	N 30°36'10" E	28.37'
L71	N 59°23'50" W	28.20'
L72	S 30°36'10" W	28.37'
L73	S 30°38'10" W	28.38'
L74	N 59°23'50" W	28.20'
L75	N 30°36'10" E	28.37'
L76	S 59°23'50" E	28.20'
L77	S 59°21'50" E	28.19'
L78	S 30°38'10" W	28.38'
L79	S 30°36'10" W	28.37'
L80	N 59°23'50" W	28.20'

CURVE TABLE					
Curve #	DELTA	RADIUS	LENGTH	CD. BEARING	CD. DIST.
C1	0°37'11"	987.15'	10.68'	N 64°20'57" E	10.68'
C2	11°00'48"	900.15'	173.03'	N 69°14'00" E	172.78'
C3	16°43'38"	250.00'	72.99'	S 83°47'59" W	72.73'
C4	16°43'38"	250.00'	72.99'	S 83°47'59" W	72.73'
C5	18°51'12"	250.00'	82.81'	S 83°39'10" W	82.55'
C6	16°43'38"	190.00'	55.47'	S 83°47'58" W	55.27'
C7	16°41'30"	280.00'	81.57'	N 83°49'01" E	81.28'
C8	16°43'38"	220.00'	64.23'	N 83°47'59" E	64.00'
C9	48°11'23"	10.00'	8.41'	N 51°20'28" E	8.16'
C10	278°22'46"	50.00'	241.19'	S 14°33'50" E	68.67'
C11	48°11'23"	10.00'	8.41'	N 80°28'09" W	8.16'
C12	16°43'38"	280.00'	81.74'	S 83°47'58" W	81.45'
C13	16°48'21"	220.00'	64.40'	S 83°48'37" W	64.17'
C14	48°11'23"	10.00'	8.41'	N 51°20'28" E	8.16'
C15	278°22'46"	50.00'	241.19'	S 14°33'50" E	68.67'
C16	48°11'23"	10.00'	8.41'	N 80°28'09" W	8.16'
C17	48°11'23"	10.00'	8.41'	N 51°20'28" E	8.16'
C18	278°22'46"	50.00'	241.19'	S 14°33'50" E	68.67'
C19	48°11'23"	10.00'	8.41'	N 51°20'28" E	8.16'

CURVE TABLE					
Curve #	DELTA	RADIUS	LENGTH	CD. BEARING	CD. DIST.
C21	186°42'46"	50.00'	162.94'	S 59°23'50" E	99.83'
C22	48°11'23"	10.00'	8.41'	S 09°51'31" W	8.16'
C23	48°11'23"	10.00'	8.41'	S 38°19'52" E	8.16'
C24	186°02'46"	50.00'	162.38'	S 30°36'10" W	99.89'
C25	48°11'23"	10.00'	8.41'	N 80°28'09" E	8.16'
C26	48°11'23"	10.00'	8.41'	N 51°20'28" E	8.16'
C27	278°22'46"	50.00'	241.19'	S 14°33'50" E	66.67'
C28	48°11'23"	10.00'	8.41'	N 80°28'09" W	8.16'
C29	16°43'38"	220.00'	64.23'	S 83°47'58" W	64.00'
C30	16°41'12"	220.00'	64.07'	S 83°49'10" W	63.83'
C31	20°16'04"	500.60'	177.05'	N 04°00'39" E	176.10'
C32	48°11'23"	10.00'	8.41'	S 51°20'28" E	8.16'
C33	48°11'23"	10.00'	8.41'	S 80°28'09" E	8.16'
C34	48°11'23"	10.00'	8.41'	N 80°28'09" W	8.16'
C35	48°11'23"	10.00'	8.41'	N 51°20'28" E	8.16'
C36	48°11'23"	10.00'	8.41'	N 51°20'28" E	8.16'
C37	48°11'23"	10.00'	8.41'	N 80°28'09" W	8.16'
C38	48°10'23"	10.00'	8.41'	N 80°28'39" W	8.16'
C39	48°12'22"	10.00'	8.41'	S 51°19'58" W	8.17'

CERTIFICATE OF APPROVAL

Plat approved by the Commission

This is to certify that the above and foregoing Plat of Longview Subdivision, Section 4, was approved by proper action of the City Planning and Zoning Commission of the City of Midland, Texas

on this _____ day of _____, _____.

SIGNED _____
CHAIRMAN OF PLANNING & ZONING COMMISSION
LUCY SANTIAGA

SIGNED _____
SECRETARY OF PLANNING & ZONING COMMISSION
LANMON OCHOA

THE UTILITY COMPANIES CERTIFICATE

This plat has been checked for accessibility or utilities

_____ ATMOS ENERGY

_____ AT&T TELEPHONE COMPANY

_____ ONCOR ELEC. DIC

_____ OPTIMUM

_____ ATTACHMENT BROADBAND

LICENSE AGENTS

1. Approval or a site plan by the City of Midland may be required before this lot may be developed and before a building permit may be obtained.
2. Selling a portion of this addition by metes and bounds may be a violation of city ordinance and state law subject to fines and withholding of utilities and building permits
3. Bearings & distances shown on this plat are relative to the Texas Coordinate System, 1983NAD (Central Zone) Combined Grid Factor of 0.99994043135 Theta Angle of 00°54'00" Coordinates are based on the City of Midland Control Monuments as published in U.S. Survey Feet as provided by the City of Midland
4. According to the FEMA Flood Insurance Rate Map Number 48329C0300F Dated September 26, 2008, a portion of the property lies in a flood hazard area zone "AE", "X shaded", and the majority in zone "X unshaded."
5. All lot corners shall be monumented with a 1/2 inch iron rod with a plastic cap stamped "LCA ODESSA TX" unless otherwise noted.
6. Initial impact fees will be assessed during the final platting process. Implementation and collection of impact fees will take place during the building permit process. Additional impact fees or increase in fees may not be addressed against the tract unless the number of service units to be developed on the tract increases.
7. Comply with the existing drainage analysis titled XXXXXXXXXXXX, sealed by Levi Bryant P.E. and approved by the City of Midland on XXXXXXXX, or any revisions, corrections, amendments, or replacements of this drainage analysis that are approved by the City of Midland
8. The Coordinates for the ends of the AOZ-4 line as shown, were provided by The City of Midland GIS Department.
9. The properties lies within the City of Midland's "Airport Height and Commutative Land Use Zoning" (AOZ-4) Ordinance No. 9302. Any person who desires to erect a new structure or rebuild, replace, or enlarge an existing structure or establish a new use or substantially change an existing use in the AOZ-4 must apply for and receive a permit. A permit shall be granted unless the new structure or the new use would be a height hazard or a prohibited land use as set forth in Sections 11.11.8, 11.13.9, and Table 1 of this chapter or would otherwise violate this chapter. Applications for permits shall be submitted to and issued by the City of Midland Building Official.

SURVEYOR'S CERTIFICATE
KNOW ALL MEN BY THESE PRESENTS:

That I, John F. Landgraf, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that the plat was prepared from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the subdivision regulations of the City of Midland, Texas.

PRELIMINARY
THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED FOR, VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT.
JOHN F. LANDGRAF, R.P.L.S. # 2410

OWNER: GF TITLE ESTATE HOLDSDOG LTD
2909 W. WALL STREET
MIDLAND, TEXAS 79701
PHONE: (432) 553-0663

ENGINEER: LANDGRAF SURVEYING & MAPPING INC
521 N NORTH TEXAS
ODESSA, TEXAS 79761-5131
PHONE: (432) 332-5958

PLAT FILED FOR RECORD
MIDLAND COUNTY, TEXAS

No. _____ CABINET _____

DATE: _____ PAGE _____

SURVEYOR'S CERTIFICATE
KNOW ALL MEN BY THESE PRESENTS:

That I, ALBERTO LOZOYA, do hereby adopt this plat designating the herein described property as an addition to Midland County, Texas, and do hereby dedicate to the public use forever the streets, alley and easements shown thereon for the purpose and consideration therein expressed, and an easement of egress and ingress for truck collection, and location and maintenance of yard containers, and as a condition of said easement that no construction shall commence on the said lot or lots until the exact location of said containers there with have been selected and approved by the Director of Utilities.

WITNESS our hands at Midland, Texas this the _____ day of _____ 2024

GF TITLE ESTATE HOLDSINGS I LTD
ALBERTO LOZOYA

THE 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 ALBERTO LOZOYA, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office this _____ day of _____ 2024

My commission expires _____

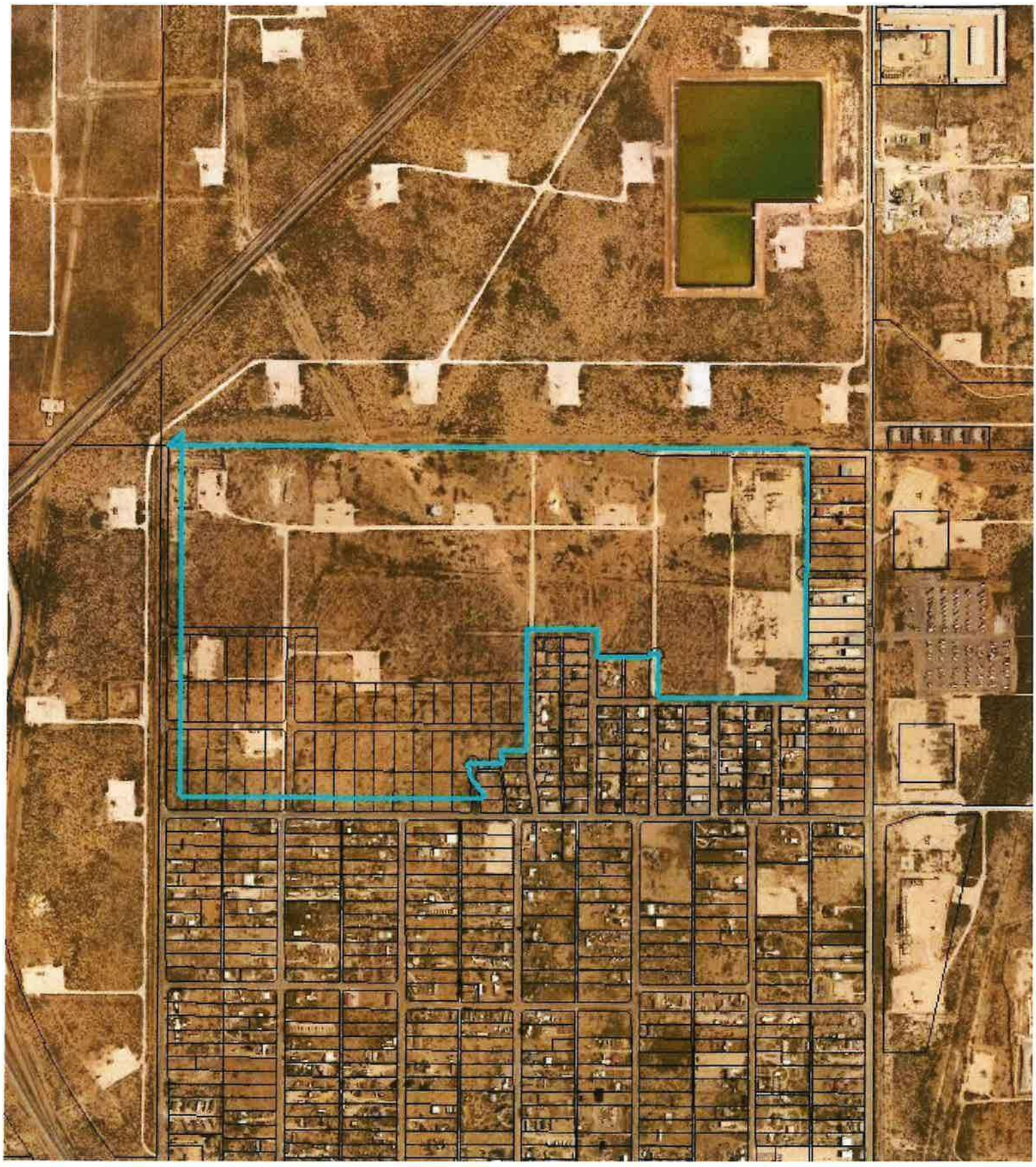
_____
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

PLAT FILED FOR RECORD
MIDLAND COUNTY, TEXAS

No. _____ CABINET _____

DATE: _____ PAGE _____

LCA
ENVIRONMENTAL · CIVIL ENGINEERING · LAND SURVEYING
521 North Texas, Odessa Tx. 79761 P-001363 F-10003300
Phone # (432) 337-5038 E-Mail: lca@lcatexas.com





LOCATION MAP

SUB-23-0869 **Scale: 1" = 1,424'**

Proposed plat of Longview Subdivision, Section 4, being a replat of Longview Subdivision, Section 2, Midland County Texas.

Generally located on the southeast corner of the intersection of West County Road 50 and North County Road 1275. (ETJ)

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 MADE FROM THE USE OF THIS DATA.

PACKET

MIDLAND
Be the Energy!

LONGVIEW SUBDIVISION, SECTION 4

ITEM _
PRELIMINARY PLAT

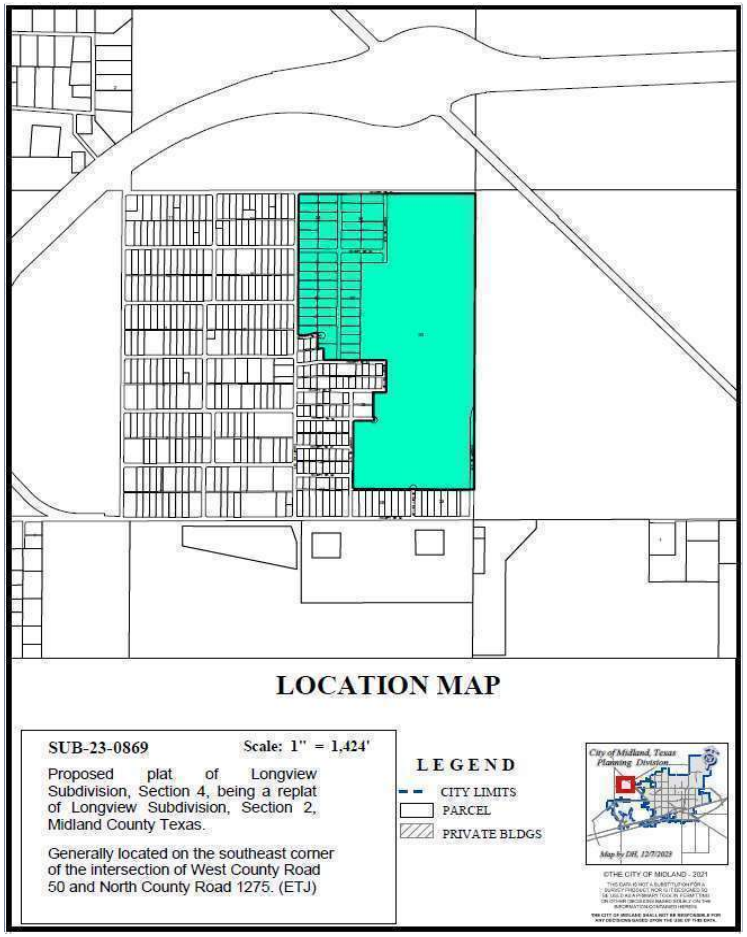
14.1

January 14, 2025

Visit Our Website
MIDLANDTEXAS.GOV

APPLICATION SUMMARY

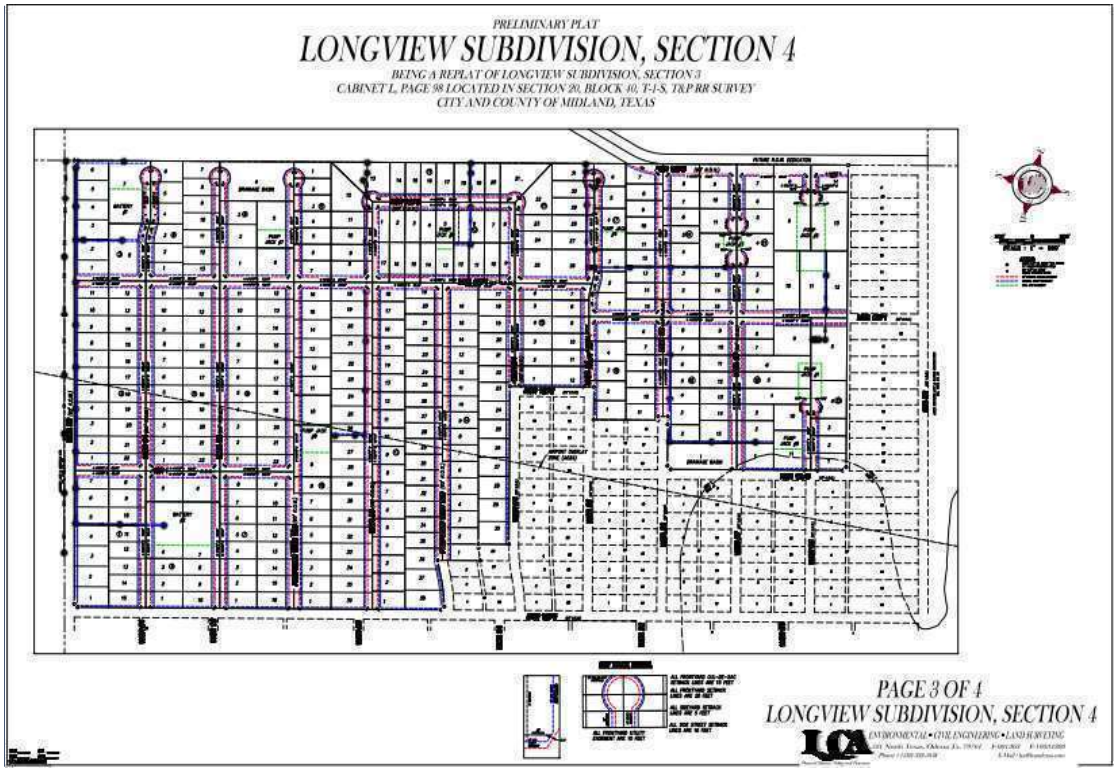
- **Property Owner & Developer:** GF Elite Estate Holdings, Ltd.
- **Representative:** Landgraf, Crutcher & Associates
- **Application Type:** Preliminary Plat
- **Address:** Generally located on the southeast corner of the intersection of West County Road 50 and North County Road 1275 (ETJ)



MIDLAND
Be the Energy!

PLAT DETAILS

- **Acreage:** 243.31-acres
- **Number of lots:** 389 lots
- **Reason for Request:** Future residential development

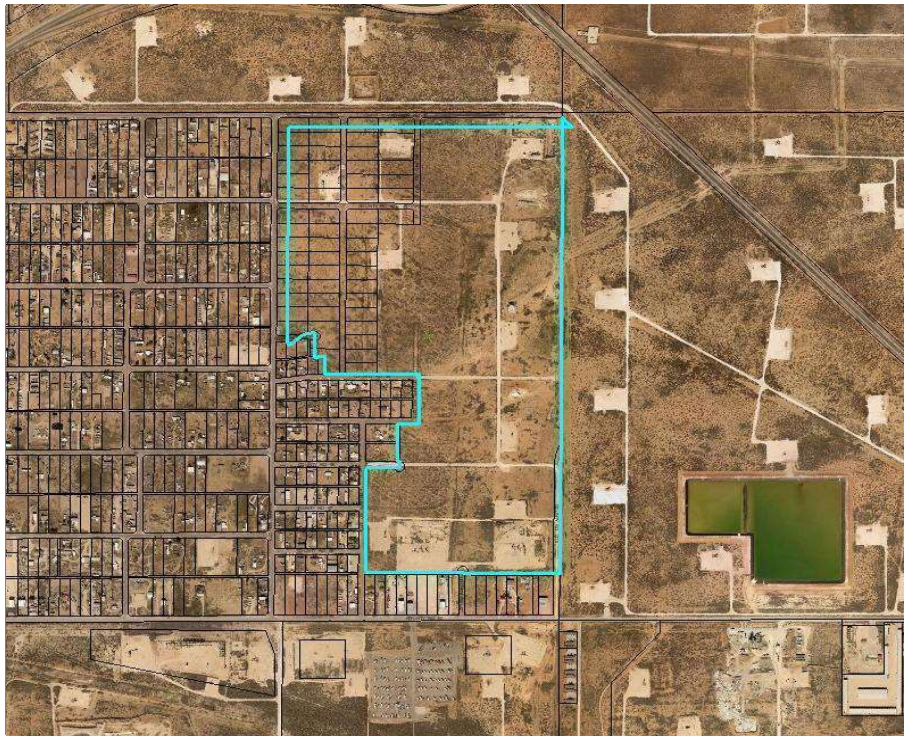


LAND USE

- **Current Use:** Vacant

- **Proposed Use:** Residential

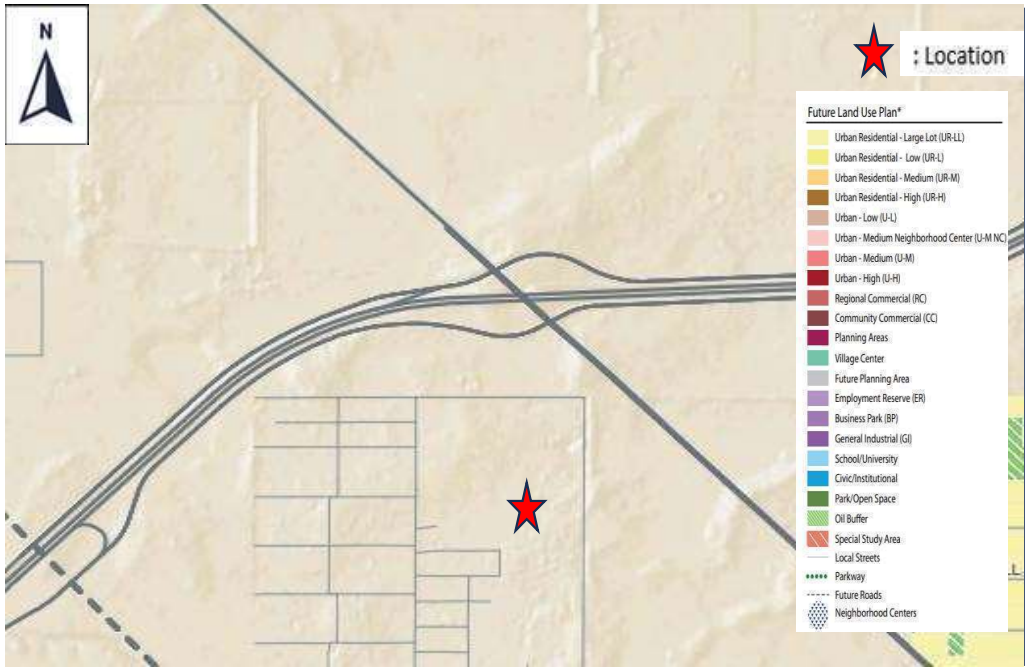
- **Surrounding Uses:**
  - **North/East:** Vacant
  - **West:** Single-Family Residential
  - **South:** Oil and Gas Production & Industrial Services



MIDLAND
Be the Energy!

COMPREHENSIVE PLAN ANALYSIS

- **TCT Land Use Designation:**
  - None



MIDLAND
Be the Energy!

RELATED ITEMS

- The preliminary plat was approved on December 16, 2024, by the Planning & Zoning Commission.

- A motion to vacate the Planning and Zoning Commission's approved Longview Subdivision, Section 3 for the purpose of reconfiguring the layout of the subdivision for future residential development was approved by the Commission on October 7, 2024, and by Council on October 22, 2024.



STAFF RECOMMENDATION

Staff recommends **APPROVAL** of the Preliminary Plat of Longview Subdivision, Section 4 subject to the following conditions:

- All certificates must be written as detailed in Section 11-2-3 Platting Procedures by Final Plat submittal. [11-2-3(H)3(m)(1)]
- Approval of this preliminary plat is subject to the Final plat including all plat comments, conditions, and requirements must be satisfied by all pertinent City departments before filing for recording with the County Clerk of Midland County, Texas.
- Approval by the City Council shall be required prior to consideration of a final plat by the Commission on which any preliminary plat is ten hectares (25 acres) or more in area and is located in any survey section (approximately one square mile) which does not contain a publicly owned site or sites intended for both a public school and park, or public site reservation therefor; Midland City Code 11-2-3(D)11(a)(6).



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 15

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Lindsey Adams, Intergovernmental Relations Officer

Subject: MOTION CREATING A PROJECT ACCOUNT INTO WHICH FEES RECEIVED FOR RIGHT-OF-WAY LICENSES THAT DO NOT INVOLVE LAND USED BY THE UTILITIES DEPARTMENT OR DEPARTMENT OF AIRPORTS SHALL BE DEPOSITED; AND REQUIRING THE FUNDS IN SAID PROJECT ACCOUNT TO BE APPROPRIATED AND USED FOR ACQUISITIONS OF REAL PROPERTY FOR ROAD PROJECTS (DISTRICT: ALL) (ENGINEERING SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)

Purpose:

The purpose of this item is to create a project account that will collect the fees we receive for right-of-way licenses that do not involve utilities or airport to use for acquisitions of real property for road projects. This project account will allow us to have a source to acquire needed right-of-way for road projects.

Recommended City Council Action:

Approve

Fiscal Impact:

Creation of a project account to deposit fees received for right-of-way licenses; said fees will be appropriated for acquisitions of real property for road projects.

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

As Midland grows, we see continued need to acquire right of way for road projects that add capacity, connectivity and overall road infrastructure to help Midlanders commute more safely and efficiently.

City Manager's Office

City Council Meeting

Item Number: 16

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Greg Snow,

Subject: **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, IN SUPPORT OF THE MIDLAND POLICE DEPARTMENT'S PARTICIPATION ON THE OPERATION LONE STAR TASK FORCE; APPROVING THE FORM OF AN INTERLOCAL COOPERATION AGREEMENT PROVIDING FOR THE MIDLAND POLICE DEPARTMENT'S PARTICIPATION ON THE OPERATION LONE STAR TASK FORCE; AND AUTHORIZING THE CHIEF OF POLICE TO EXECUTE AN INTERLOCAL COOPERATION AGREEMENT WITH ALL NECESSARY AND APPROPRIATE ENTITIES TO EFFECTUATE THE MIDLAND POLICE DEPARTMENT'S PARTICIPATION ON THE OPERATION LONE STAR TASK FORCE (DISTRICT: ALL) (POLICE) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

Purpose:

Operation Lone Star Task Force (the "OLS Task Force") was established through the efforts of the Governor's Office and a coalition of Texas law enforcement agencies for the purpose of: (i) securing the border between the United States and Mexico; (ii) stopping the smuggling of drugs, weapons, and people into Texas; and (iii) preventing, detecting, and interdicting transnational criminal activity between ports of entry.

Recommended City Council Action:

Approve

Fiscal Impact:

None

Strategic Priority:

(Set the Standard for a Safe and Secure City)

Discussion:

The OLS Task Force achieves its purposes and goals by: (i) executing mutual-aid law enforcement agreements between police agencies to cooperate in criminal interdiction efforts and related criminal investigations; (ii) providing additional investigative and arrest authority to law enforcement officers employed by the OLS Task Force's member agencies; and (iii) providing for the payment of expenses incurred by the OLS Task Force in the performance of law enforcement activities.



City Manager's Office

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, IN SUPPORT OF THE MIDLAND POLICE DEPARTMENT'S PARTICIPATION ON THE OPERATION LONE STAR TASK FORCE; APPROVING THE FORM OF AN INTERLOCAL COOPERATION AGREEMENT PROVIDING FOR THE MIDLAND POLICE DEPARTMENT'S PARTICIPATION ON THE OPERATION LONE STAR TASK FORCE; AND AUTHORIZING THE CHIEF OF POLICE TO EXECUTE AN INTERLOCAL COOPERATION AGREEMENT WITH ALL NECESSARY AND APPROPRIATE ENTITIES TO EFFECTUATE THE MIDLAND POLICE DEPARTMENT'S PARTICIPATION ON THE OPERATION LONE STAR TASK FORCE

WHEREAS, Operation Lone Star Task Force (the "*OLS Task Force*") was established through the efforts of the Governor's Office and a coalition of Texas law enforcement agencies for the purpose of: (i) securing the border between the United States and Mexico; (ii) stopping the smuggling of drugs, weapons, and people into Texas; and (iii) preventing, detecting, and interdicting transnational criminal activity between ports of entry; and

WHEREAS, the OLS Task Force achieves its purposes and goals by: (i) executing mutual-aid law enforcement agreements between police agencies to cooperate in criminal interdiction efforts and related criminal investigations; (ii) providing additional investigative and arrest authority to law enforcement officers employed by the OLS Task Force's member agencies; and (iii) providing for the payment of expenses incurred by the OLS Task Force in the performance of law enforcement activities; and

WHEREAS, the City Council finds it to be in the public interest to support the Midland Police Department's participation on the OLS Task Force; and

WHEREAS, the City Council finds it to be in the public interest to approve the form of an interlocal cooperation agreement providing for the Midland Police Department's participation on the OLS Task Force; and

WHEREAS, the City Council finds it to be in the public interest to authorize the

Police Chief to execute an interlocal cooperation agreement with all necessary and appropriate entities to effectuate the Midland Police Department's participation on the Operation Lone Star Task Force;

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

SECTION ONE. That the above recitals are hereby adopted and approved.

SECTION TWO. That the City Council hereby supports the Midland Police Department's participation on the OLS Task Force.

SECTION THREE. That the City Council hereby approves the form of the interlocal cooperation agreement containing the terms and conditions under which the Midland Police Department may participate on the OLS Task Force. The form of said interlocal cooperation agreement being substantially similar to that of Exhibit A, which is attached hereto and incorporated herein for all purposes.

SECTION FOUR. That the City Council hereby authorizes and directs the Police Chief to execute an interlocal cooperation agreement with all necessary and appropriate entities to effectuate the Midland Police Department's participation on the Operation Lone Star Task Force.

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., 2025, 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:

_____
John Ohnemiller, City Attorney

INTERLOCAL COOPERATION AGREEMENT
between
the City of Midland, Texas,
and _____
regarding the Operation Lone Star Task Force

This Interlocal Cooperation Agreement ("Agreement") is made effective as of _____, 2025, between the **CITY OF MIDLAND, TEXAS** ("City"), and _____ ("Entity").

WITNESSETH:

WHEREAS, pursuant to Chapter 362 of the Texas Local Government Code Chapter 362, a county, municipality, or joint airport may, pursuant to an order or resolution of its governing body, form a mutual interlocal agency to assist in criminal and narcotic law enforcement investigations; and

WHEREAS, pursuant to Chapter 791 of the Texas Local Government Code, a local governmental body may contract or agree with one or more local government bodies for the performance of governmental functions in which the contracting parties are mutually interested; and

WHEREAS, Operation Lone Star Task Force Operation Lone Star Task Force was established through the efforts of the Governor's Office and a coalition of Texas law enforcement agencies for the purpose of: (i) securing the border between the United States and Mexico; (ii) stopping the smuggling of drugs, weapons, and people into Texas; and (iii) preventing, detecting, and interdicting transnational criminal activity between ports of entry; and

WHEREAS, the parties to this Agreement may better and more efficiently utilize their respective law enforcement resources by providing for the coordination of criminal interdiction and narcotics investigations efforts between the parties as members of Operation Lone Star Task Force; and

WHEREAS, this Agreement shall govern and construe the Midland Police Department's obligations and interests as such relate to its participation on Operation Lone Star Task Force; and

WHEREAS, this Agreement states the purpose, terms, rights, objectives, duties, and responsibilities of the parties to this Agreement regarding the Midland Police Department's participation on Operation Lone Star Task Force;

NOW THEREFORE, for and in consideration of the premises and the mutual promises, covenants, and agreements set forth in this Agreement, the parties enter into this Agreement under the following terms and conditions:

1. Definitions

"Law Enforcement Agency" shall mean one or more of the law enforcement agencies subject to this agreement.

"Law Enforcement Officer" shall have the meaning provided by Texas Local Government Code Section 362.001(2).

"Lead Agency" shall mean the law enforcement agency that initiates the criminal investigation within the jurisdictional limits of the political subdivision for which the agency provides law enforcement services.

2. Purpose of Agreement

The purpose of the Agreement is to create and establish a framework that governs the Midland Police Department's participation on Operation Lone Star Task Force. Pursuant to order or resolution of the governing bodies of the parties, the parties enter into this Agreement to (1) form a mutual aid law enforcement agreement between police agencies to cooperate in criminal interdiction efforts and related criminal investigations, (2) to provide additional investigative and arrest authority to Law Enforcement Officers employed the law enforcement agencies within the jurisdictional limits of the parties, and (3) to provide for the payment of expenses incurred in the performance of law enforcement activities during these operations.

3. Personnel and Equipment

Each Law Enforcement Agency shall assign Law Enforcement Officers (on an as needed and requested basis) and shall provide all necessary vehicles and equipment for the Law Enforcement Officers assigned. All personnel assigned shall remain the employees of the party making this assignment, and shall not be considered as employees, agents, or servants, of any other party to the agreement. All compensation of services of Law Enforcement Officers assigned during these enforcement operations shall be paid by the party that regularly employs said officers. All supplies and expenses incurred by the Law Enforcement Officer while participating during these enforcement operations shall be paid by the Law Enforcement Agency that acquired the supplies or incurred the expense.

4. Administration and Supervision

The Lead Agency for each joint effort shall supervise and direct the activities of the Law Enforcement Officers during the operations. All Law Enforcement Officers in each joint effort shall be under the direct command of the Lead Agency.

Notwithstanding the provisions of the preceding paragraph, the heads of the law enforcement agencies shall have the sole discretion in making assignments of Law Enforcement Officers who are employed by the respective law enforcement agencies during the enforcement operations, including the time period of the assignment. The heads of the law enforcement agencies shall also retain their discretion in the assignment of vehicles, K-9 units, and other equipment and supplies owned or under the control of their respective law enforcement agencies.

5. Extent of Authority

Any Law Enforcement Officer assigned to conduct these law enforcement operations shall be empowered to enforce all laws and ordinances applicable in the jurisdictions of the political subdivisions that are parties to this agreement, including the power to make arrests and to execute search warrants.

6. Interjurisdictional Considerations

A Law Enforcement Officer regularly employed by a party's Law Enforcement Agency shall be considered an employee of such Law Enforcement Agency for purposes of this Agreement. Any Law Enforcement Officer who is assigned to participate in an operation under this Agreement shall have all the powers of a Law Enforcement Officer anywhere within the jurisdictional limits of the political subdivision in which the operation is conducted. Qualification for office by any responding Law Enforcement Officer in these operations shall constitute qualification for office with the Lead Agency and no additional cost, bond, or compensation is required.

7. Compensation of Assigned Law Enforcement Officers

The party employing the Law Enforcement Officers assigned shall pay all wages and disability payments, pension payments, damages to equipment and clothing, medical expenses, as well as travel, food, and lodging expenses incurred by its assigned officers in the performance of the law enforcement operation activities.

8. Civil Liability and Indemnification

In accordance with Section 791.006 of the Texas Government Code, a party requesting assistance for responses to incidents and operations conducted within said party's jurisdiction (a "Requesting Party") is responsible for any civil liability that arises from said incidents and operations pursuant to this Agreement. It is the intent of the parties to shield the responding party, its officers, agents, servants and employees from civil liability.

9. Disposition of Forfeited Assets

The sharing of assets forfeited will be handled on a case-by-case basis between the agency of primary jurisdiction and those agencies participating in the enforcement action and investigation from which the assets were forfeited.

10. Term of Agreement & Termination

This Agreement shall be for an initial term of one (1) year. This Agreement shall be automatically renewed without further action unless terminated by either party. This Agreement may be terminated at any time by either party with or without cause upon the submission of (30) days' advance written notice to the other party. Any notice of termination shall be sent to other party to this Agreement at the address listed in Paragraph 13 of this Agreement.

11. Amendment clause:

This Agreement may be modified or amended by written agreement between the Parties.

12. Payment from Current Funds

Each party for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

13. Notices

Any notice provided for under the terms of this agreement by either party to the other shall be made in writing at the addresses indicated below, and may be affected by personal delivery or by register or certified mail, return receipt requested. Each party may change the address at which notice may be sent by giving notice of such change to the other parties in accordance with provisions of this paragraph.

If to City:	*If to Entity:*
Chief of Police	_____
Midland Police Department	_____
601 N. Loraine Street	_____
Midland, Texas 79701	_____

14. Construction

This Agreement shall be interpreted, construed, and governed by the laws of the State of Texas and shall be enforceable in any court of competent jurisdiction.

15. Captions

The captions and headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provision hereof.

16. Prior Agreements

This Agreement supersedes any and all other agreements, either oral or in writing between the parties with respect to the subject matter of this contract and contains all of the covenants and agreements between the parties with respect to the subject matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or other agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not set forth in this Agreement and that no agreement, statement, or promise not contained in this Agreement shall be valid or binding.

17. Authorization of Funding

Each party certifies that payments made under this Agreement will be made from current revenues and any future payments are subject to future appropriations.

All expenditures will be subject to the standard purchasing procedures of the purchasing agency and applicable state law.

18. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

19. Severability

In case any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalid, illegal or unenforceable provision shall not affect any other provision of this Agreement and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

20. Assignment

This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns. This Agreement may not be assigned by any party without the written consent of the other party.

21. Effect of Waivers

No waiver by either party of any default, violations, or breach of the terms, provisions, and covenants contained in this Agreement may be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants of this Agreement.

22. Exercise of Police Power

This Agreement and all activities under this Agreement are undertaken solely as an exercise of the police power of the parties, exercised for the health, safety, and welfare of the public generally, and not for the benefit of any particular person or persons. The parties do not have and may not be deemed to have any duty to any particular person or persons.

23. Warranty

The individuals executing this Agreement on behalf of each party represent and warrant that they are each the duly authorized representatives of such party on whose behalf the individuals are signing, each with full power and authority to bind said party to each tern and condition set forth in the Agreement.

24. Immunities Not Waived

Nothing in this Agreement waives any governmental, official, or other immunity or defense of any of the parties or their officers, employees, representatives, and agents as a result of the execution of this Agreement and the performance of the covenants contained in this Agreement.

25. No Mutual Indemnification

To the extent allowed by the Constitution and laws of the State of Texas, each party to this Agreement agrees to assume any and all risks of liability, loss, damages, claims, or causes of action and related expenses, including attorney fees, caused directly or indirectly by or as the results of the negligent acts or omissions of such party and its officers, employees, and agents.

26. Effective Date

This Agreement is effective on the date when the last party executes this Agreement.

27. Multiple Originals

Two (2) copies of this Agreement are executed; each shall be deemed an original.

28. Critical Incident Assistance

To the extent possible, the parties agree to provide the following support during Critical Incidents (as defined below). "Critical Incident" means any incident that is unusual, violent, and/or involves a perceived threat to human life or critical infrastructure (e.g., school shootings, natural disasters, mass casualty incidents, etc.).

A. Mutual aid assistance between law enforcement agencies to include personnel, equipment and/or other resources needed by requesting agency to respond to, control or investigate a critical incident.
B. Investigative and arrest authority to Law Enforcement Officers/deputies employed by law enforcement agencies of the parties.

[Signature Page Follows]

EXECUTED by the parties as of the first date indicated above.

CITY OF MIDLAND, TEXAS:

By: _____

Name: _____

Title: _____

ENTITY: _____

By: _____

Name: _____

Title: _____

INTERLOCAL COOPERATION AGREEMENT
between
the City of Midland, Texas,
and _____
regarding the Operation Lone Star Task Force

This Interlocal Cooperation Agreement ("Agreement") is made effective as of _____, 2025, between the **CITY OF MIDLAND, TEXAS** ("City"), and _____ ("Entity").

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WHEREAS, pursuant to Chapter 791 of the Texas Local Government Code, a local governmental body may contract or agree with one or more local government bodies for the performance of governmental functions in which the contracting parties are mutually interested; and

WHEREAS, Operation Lone Star Task Force Operation Lone Star Task Force was established through the efforts of the Governor's Office and a coalition of Texas law enforcement agencies for the purpose of: (i) securing the border between the United States and Mexico; (ii) stopping the smuggling of drugs, weapons, and people into Texas; and (iii) preventing, detecting, and interdicting transnational criminal activity between ports of entry; and

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Notwithstanding the provisions of the preceding paragraph, the heads of the law enforcement agencies shall have the sole discretion in making assignments of Law Enforcement Officers who are employed by the respective law enforcement agencies during the enforcement operations, including the time period of the assignment. The heads of the law enforcement agencies shall also retain their discretion in the assignment of vehicles, K-9 units, and other equipment and supplies owned or under the control of their respective law enforcement agencies.

2. Extent of Authority

Any Law Enforcement Officer assigned to conduct these law enforcement operations shall be empowered to enforce all laws and ordinances applicable in the jurisdictions of the political subdivisions that are parties to this agreement, including the power to make arrests and to execute search warrants.

3. Interjurisdictional Considerations

A Law Enforcement Officer regularly employed by a party's Law Enforcement Agency shall be considered an employee of such Law Enforcement Agency for purposes of this Agreement. Any Law Enforcement Officer who is assigned to participate in an operation under this Agreement shall have all the powers of a Law Enforcement Officer anywhere within the jurisdictional limits of the political subdivision in which the operation is conducted. Qualification for office by any responding Law Enforcement Officer in these operations shall constitute qualification for office with the Lead Agency and no additional cost, bond, or compensation is required.

4. Compensation of Assigned Law Enforcement Officers

The party employing the Law Enforcement Officers assigned shall pay all wages and disability payments, pension payments, damages to equipment and clothing, medical expenses, as well as travel, food, and lodging expenses incurred by its assigned officers in the performance of the law enforcement operation activities.

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In accordance with Section 791.006 of the Texas Government Code, a party requesting assistance for responses to incidents and operations conducted within said party's jurisdiction (a "Requesting Party") is responsible for any civil liability that arises from said incidents and operations pursuant to this Agreement. It is the intent of the parties to shield the responding party, its officers, agents, servants and employees from civil liability.

6. Disposition of Forfeited Assets

The sharing of assets forfeited will be handled on a case-by-case basis between the agency of primary jurisdiction and those agencies participating in the enforcement action and investigation from which the assets were forfeited.

7. Term of Agreement & Termination

This Agreement shall be for an initial term of one (1) year. This Agreement shall be automatically renewed without further action unless terminated by either party. This Agreement may be terminated at any time by either party with or without cause upon the submission of (30) days' advance written notice to the other party. Any notice of termination shall be sent to other party to this Agreement at the address listed in Paragraph 13 of this Agreement.

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This Agreement may be modified or amended by written agreement between the Parties.

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Each party for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

10. Notices

Any notice provided for under the terms of this agreement by either party to the other shall be made in writing at the addresses indicated below, and may be affected by personal delivery or by register or certified mail, return receipt requested. Each party may change the address at which notice may be sent by giving notice of such change to the other parties in accordance with provisions of this paragraph.

If to City:	*If to Entity:*
Chief of Police	_____
Midland Police Department	_____
601 N. Loraine Street	_____
Midland, Texas 79701	_____

11. Construction

This Agreement shall be interpreted, construed, and governed by the laws of the State of Texas and shall be enforceable in any court of competent jurisdiction.

12. Captions

The captions and headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provision hereof.

13. Prior Agreements

This Agreement supersedes any and all other agreements, either oral or in writing between the parties with respect to the subject matter of this contract and contains all of the covenants and agreements between the parties with respect to the subject matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or other agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not set forth in this Agreement and that no agreement, statement, or promise not contained in this Agreement shall be valid or binding.

14. Authorization of Funding

Each party certifies that payments made under this Agreement will be made from current revenues and any future payments are subject to future appropriations.

All expenditures will be subject to the standard purchasing procedures of the purchasing agency and applicable state law.

15. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

16. Severability

In case any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalid, illegal or unenforceable provision shall not affect any other provision of this Agreement and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

17. Assignment

This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns. This Agreement may not be assigned by any party without the written consent of the other party.

18. Effect of Waivers

No waiver by either party of any default, violations, or breach of the terms, provisions, and covenants contained in this Agreement may be deemed or construed to constitute a waiver of any other violation or breach of any of the terms, provisions, and covenants of this Agreement.

19. Exercise of Police Power

This Agreement and all activities under this Agreement are undertaken solely as an exercise of the police power of the parties, exercised for the health, safety, and welfare of the public generally, and not for the benefit of any particular person or persons. The parties do not have and may not be deemed to have any duty to any particular person or persons.

20. Warranty

The individuals executing this Agreement on behalf of each party represent and warrant that they are each the duly authorized representatives of such party on whose behalf the individuals are signing, each with full power and authority to bind said party to each tern and condition set forth in the Agreement.

21. Immunities Not Waived

Nothing in this Agreement waives any governmental, official, or other immunity or defense of any of the parties or their officers, employees, representatives, and agents as a result of the execution of this Agreement and the performance of the covenants contained in this Agreement.

22. No Mutual Indemnification

To the extent allowed by the Constitution and laws of the State of Texas, each party to this Agreement agrees to assume any and all risks of liability, loss, damages, claims, or causes of action and related expenses, including attorney fees, caused directly or indirectly by or as the results of the negligent acts or omissions of such party and its officers, employees, and agents.

23. Effective Date

This Agreement is effective on the date when the last party executes this Agreement.

24. Multiple Originals

Two (2) copies of this Agreement are executed; each shall be deemed an original.

25. Critical Incident Assistance

To the extent possible, the parties agree to provide the following support during Critical Incidents (as defined below). "Critical Incident" means any incident that is unusual, violent, and/or involves a perceived threat to human life or critical infrastructure (e.g., school shootings, natural disasters, mass casualty incidents, etc.).

A. Mutual aid assistance between law enforcement agencies to include personnel, equipment and/or other resources needed by requesting agency to respond to, control or investigate a critical incident.
B. Investigative and arrest authority to Law Enforcement Officers/deputies employed by law enforcement agencies of the parties.

[Signature Page Follows]

EXECUTED by the parties as of the first date indicated above.

CITY OF MIDLAND, TEXAS:

By: _____

Name: _____

Title: _____

ENTITY: _____

By: _____

Name: _____

Title: _____

City Council Meeting

Item Number: 17

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Greg Snow,

Subject: **RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF $40,515.00 FROM THE FISCAL YEAR 2024 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM PROVIDED BY THE OFFICE OF JUSTICE PROGRAMS FOR THE UNITED STATES DEPARTMENT OF JUSTICE; SAID GRANT FUNDS SHALL BE USED TO PURCHASE AND INSTALLATION OF A DIRECT- LINK BRIDGE SERIES RESPONSE SYSTEM HARDLINE PHONE FOR THE POLICE DEPARTMENT; AND APPROPRIATING SAID GRANT FUNDS TO THE POLICE JUSTICE GRANT FUND WITH A $10,000.00 SUBAWARD TO MIDLAND COUNTY'S TACTICAL TEAM FOR TRAINING AND AMMUNITION (DISTRICT: ALL) (POLICE) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

Purpose:

Upon acceptance, the awarded $40,515 from the Department of Justice Fiscal Year 2024 Edward Byrne Memorial Justice Assistance Grant Program will be deposited into the Police Justice Grant Fund and be appropriated for the new hardline phone system and the $10,000 sub-award for Midland County.

Recommended City Council Action:

Approve

Fiscal Impact:

Grant funds shall be deposited into the Justice Assistance Grant Fund 074 and $30,515 will be appropriated for the Police Depatment’s hardline phone system. The $10,000 subaward shall be set aside and appropriated to Midland Conty for training and ammunition.

Strategic Priority:

(Set the Standard for a Safe and Secure City)

Discussion:

The hardline phone system purchased with grant funding will allow Midland Police to diffuse hostage and hostile situations quickly while promoting citizen and officer safety.

Monroe William Jr.

City Manager's Office

Department of Justice (DOJ)

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Name and Address of Recipient:	CITY OF MIDLAND 300 N LORAINE ST # 210
City, State and Zip:	MIDLAND, TX 79701
Recipient UEI:	CPZ1T3B85A64

Project Title: Midland PD Negotiator Hardline Phone System, Midland County Training Ammunition	**Award Number:** 15PBJA-24-GG-05028-JAGX
Solicitation Title: BJA FY 24 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation	
Federal Award Amount: $40,515.00	**Federal Award Date:** 12/5/24
Awarding Agency: Office of Justice Programs Bureau of Justice Assistance **Funding Instrument Type:** Grant	
Opportunity Category: O **Assistance Listing:** 16.738 - Edward Byrne Memorial Justice Assistance Grant Program	
Project Period Start Date: 10/1/23	**Project Period End Date:** 9/30/27
Budget Period Start Date: 10/1/23	**Budget Period End Date**: 9/30/27

Project Description:

The City of Midland and Midland County will use joint JAG funds for the overall goal of general and violent crime reduction. The City of Midland Police Department will use their portion of the JAG grant funding for the purchase and installation of a Direct-Link Bridge Series Response System hardline phone. A modernized and reliable hardline phone system is essential to the success of Negotiator team operations and the overall safety of Midland and the region. To further law enforcement capabilities and strenghten defensive forces, Midland County has requested $10,000.00 of the joint allocation for the purchase of ammunition. The ammuniton purchased will benefit the County's Tactical Team support and training program.

Award Letter

December 5, 2024

Dear CHRISTY WEAKLAND,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Justice Programs (OJP) has approved the application submitted by CITY OF MIDLAND for an award under the funding opportunity entitled 2024 BJA FY 24 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation. The approved award amount is $40,515.
Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance. For COPS Office and OVW funding the Award Offer also includes any Other Award Documents.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by OJP, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Prior to accepting the award, your Entity Administrator must assign a Financial Manager, Grant Award Administrator, and Authorized Representative(s) in the Justice Grants System (JustGrants). The Entity Administrator will need to ensure the assigned Authorized Representative(s) is current and has the legal authority to accept awards and bind the entity to the award terms and conditions. To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

To access your funds, you will need to enroll in the Automated Standard Application for Payments (ASAP) system, if you haven't already completed the enrollment process in ASAP. The Entity Administrator should have already received an email from ASAP to initiate this process.

Congratulations, and we look forward to working with you.

Brent J. Cohen
Acting Assistant Attorney General

Office for Civil Rights Notice for All Recipients

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) enforces federal civil rights laws and other provisions that prohibit discrimination by recipients of federal financial assistance from OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW).

Several civil rights laws, including Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal financial assistance (recipients) to give assurances that they will comply with those laws. Taken together, these and other civil rights laws prohibit recipients from discriminating in the provision of services and employment because of race, color, national origin, religion, disability, and sex or from discriminating in the provision of services on the bases of age.

Some recipients of DOJ financial assistance have additional obligations to comply with other applicable nondiscrimination provisions like the Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of religion in addition to race, color, national origin, and sex. Recipients may also have related requirements regarding the development and implementation of equal employment opportunity programs.

OCR provides technical assistance, training, and other resources to help recipients comply with civil rights obligations. Further, OCR administratively enforces civil rights laws and nondiscrimination provisions by investigating DOJ recipients that are the subject of discrimination complaints. In addition, OCR conducts compliance reviews of DOJ recipients based on regulatory criteria. These investigations and compliance reviews permit OCR to evaluate whether DOJ recipients are providing services to the public and engaging in employment practices in a nondiscriminatory manner.

For more information about OCR, your civil rights and nondiscrimination responsibilities, how to notify your employees or beneficiaries of their civil rights protections and responsibilities and how to file a complaint, as well as technical assistance, training, and other resources, please visit www.ojp.gov/program/civil-rights-office/outreach. If you would like OCR to assist you in fulfilling your civil rights or nondiscrimination responsibilities, please contact us at askOCR@ojp.usdoj.gov or www.ojp.gov/program/civil-rights-office/about#ocr-contacts.

Memorandum Regarding NEPA

NEPA Letter Type

OJP - Ongoing NEPA Compliance Incorporated into Further Developmental Stages

NEPA Letter

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party.? Accordingly,?prior to obligating?funds for any of the specified activities, the grantee must first determine if any of the specified activities will be?funded by the grant.

?

The specified activities requiring environmental analysis are:

a. New construction;

b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;

c.? A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;

d.? Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see https://www.bja.gov/Funding/nepa.html.

NEPA Coordinator

First Name **Middle Name** **Last Name**

Orbin	no value	Terry

Award Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Recipient Information

Recipient Name
CITY OF MIDLAND

UEI
CPZ1T3B85A64

Street 1
300 N LORAINE ST # 210

Street 2

City
MIDLAND

State/U.S. Territory
Texas

Zip/Postal Code
79701

Country
United States

County/Parish
no value

Province
no value

Award Details

Federal Award Date
12/5/24

Award Type
Initial

Award Number
15PBJA-24-GG-05028-JAGX

Supplement Number
00

Federal Award Amount
$40,515.00

Funding Instrument Type
Grant

Assistance Listing Number	Assistance Listings Program Title
16.738	Edward Byrne Memorial Justice Assistance Grant Program

Statutory Authority

Pub. L. No. 90-351, Title I, Part E, subpart 1 (codified at 34 U.S.C. 10151-10158); see also 28 U.S.C. 530C(a).

[ ] *I have read and understand the information presented in this section of the Federal Award Instrument.*

Project Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Solicitation Title

2024 BJA FY 24 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation

Awarding Agency
OJP

Program Office
BJA

Application Number
GRANT14281146

Grant Manager	Phone Number	E-mail Address
Meredith Healey	202-445-9753	Meredith.Healey@usdoj.gov

Project Title
Midland PD Negotiator Hardline Phone System, Midland Ccunty Training Ammunition

Performance Period Start Date	Performance Period End Date
10/01/2023	09/30/2027

Budget Period Start Date	Budget Period End Date
10/01/2023	09/30/2027

Project Description
The City of Midland and Midland County will use joint JAG funds for the overall goal of general and violent crime reduction. The City of Midland Police Department will use their portion of the JAG grant funding for the purchase and installation of a Direct-Link Bridge Series Response System hardline phone. A modernized and reliable hardline phone system is essential to the success of Negotiator team operations and the overall safety of Midland and the region. To further law enforcement capabilities and strenghten defensive forces, Midland County has requested $10,000.00 of the joint allocation for the purchase of ammunition. The ammuniton purchased will benefit the County's Tactical Team support and training program.

[ ] *I have read and understand the information presented in this section of the Federal Award Instrument.*

Financial Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

[ ] *I have read and understand the information presented in this section of the Federal Award Instrument.*

Award Conditions

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Condition 1

Meaningful access requirement for individuals with limited English proficiency

The recipient, and any subrecipient at any tier, must take reasonable steps to ensure that individuals with limited English proficiency (LEP) have meaningful access to their programs and activities to comply with Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits discrimination on the basis of national origin, including discrimination against individuals with LEP. Such steps may require providing language assistance services, such as interpretation or translation services. The Department of Justice guidance on compliance with this requirement may be found at "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (67 Fed. Reg. 41455-41472) (https://www.federalregister.gov/d/02-15207) and is incorporated by reference here.

Condition 2
Compliance with general appropriations-law restrictions on the use of federal funds (FY 2024)
The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions that may be set out in applicable appropriations acts are indicated at https://ojp.gov/funding/Explore/FY24AppropriationsRestrictions.htm, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

Condition 3
Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38.

Among other things, 28 C.F.R. Part 38 states that recipients may not use direct Federal financial assistance from the Department to support or engage in any explicitly religious activities except when consistent with the Establishment Clause of the First Amendment and any other applicable requirements. An organization receiving Federal financial assistance also may not, in providing services funded by the Department of Justice, or in their outreach activities related to such services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38 also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations. In addition, Part 38 states that a faith-based organization that participates a Department of Justice funded program retains its independence from the Government and may continue to carry out its mission consistent with religious freedom and conscience protections in Federal law.

Recipients and subrecipients that provide social services under this award must give written notice to beneficiaries and prospective beneficiaries prior to the provision of services (if practicable) which shall include language substantially similar to the language in 28 CFR Part 38, Appendix C, sections (1) through (4). A sample written notice may be found at https://www.ojp.gov/program/civil-rights-office/partnerships-faith-based-and-other-neighborhood-organizations.

In certain instances, a faith-based or religious organization may be able to take religion into account when making hiring decisions, provided it satisfies certain requirements. For more information, please see https://www.ojp.gov/funding/explore/legaloverview2024/civilrightsrequirements.

Condition 4
Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions

regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqts.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

Condition 5
Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

Condition 6
Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this award from OJP.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at https://ojp.gov/funding/Part200UniformRequirements.htm.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.334.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

Condition 7
Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at https://oig.justice.gov/hotline/contact-grants.htm (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at https://oig.justice.gov/hotline.

Condition 8
Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

Condition 9
Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

Condition 10
Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

Condition 11
Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at https://ojp.gov/financialguide/DOJ/index.htm), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

Condition 12
Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

Among other items, 28 C.F.R. § 42.106(d), 28 C.F.R. § 42.405(c), and 28 C.F.R. § 42.505(f) contain notice requirements that covered recipients must follow regarding the dissemination of information regarding federal nondiscrimination requirements.

Condition 13
Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at https://ojp.gov/funding/Explore/Interact-Minors.htm (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

Condition 14
Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

Condition 15
Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (https://www.e-verify.gov/) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

Condition 16
Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

Condition 17
Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified

to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

Condition 18
Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

Condition 19
OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at https://www.ojp.gov/funding/implement/training-guiding-principles-grantees-and-subgrantees.

Condition 20
Specific post-award approval required to use a noncompetitive approach in any procurement contract that would

exceed $250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, $250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed $250,000)), and are incorporated by reference here.

Condition 21
Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope Grant Award Modification (GAM) to eliminate any inappropriate duplication of funding.

Condition 22
Required training for Grant Award Administrator and Financial Manager

The Grant Award Administrator and all Financial Managers for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after January 1, 2021, will satisfy this condition.

In the event that either the Grant Award Administrator or a Financial Manager for this award changes during the period of performance, the new Grant Award Administrator or Financial Manager must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after the date the Entity Administrator enters updated Grant Award Administrator or Financial Manager information in JustGrants. Successful completion of such a training on or after January 1, 2021, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at https://onlinegfmt.training.ojp.gov/. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

Condition 23
Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to

contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

Condition 24
Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

Condition 25
Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

Condition 26
Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "Personally Identifiable Information (PII)" (2 CFR 200.1) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

Condition 27
Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at https://www.sam.gov/. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at https://ojp.gov/funding/Explore/SAM.htm (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

Condition 28
Compliance with restrictions on the use of federal funds--prohibited and controlled equipment under OJP awards

Consistent with Executive Order 14074, “Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety,” OJP has prohibited the use of federal funds under this award for purchases

or transfers of specified equipment by law enforcement agencies. In addition, OJP requires the recipient, and any subrecipient ("subgrantee") at any tier, to put in place specified controls prior to using federal funds under this award to acquire or transfer any property identified on the "controlled equipment" list. The details of the requirement are posted on the OJP web site at https://www.ojp.gov/funding/explore/prohibited-and-controlled-equipment (Award condition: Compliance with restrictions on the use of federal funds--prohibited and controlled equipment under OJP awards), and are incorporated by reference here.

Condition 29
Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

Condition 30
All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at https://ojp.gov/funding/Explore/SubawardAuthorization.htm (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

Condition 31
Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

Among other items, 28 C.F.R. § 54.140 contains notice requirements that covered recipients must follow regarding the dissemination of information regarding federal nondiscrimination requirements.

Condition 32
The recipient understands that, in accepting this award, the Authorized Representative declares and certifies, among other things, that he or she possesses the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accepts (or adopts) all material requirements that relate to conduct throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

Condition 33

Verification and updating of recipient contact information

The recipient must verify its Grant Award Administrator, Financial Manager, and Authorized Representative contact information in JustGrants, including telephone number and e-mail address. If any information is incorrect or has changed, the award recipient's Entity Administrator must make changes to contact information through DIAMD. Instructions on how to update contact information in JustGrants can be found at https://justicegrants.usdoj.gov/training/training-entity-management.

Condition 34
FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of $30,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at https://ojp.gov/funding/Explore/FFATA.htm (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than $30,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

Condition 35
Body-worn cameras, policies and procedures

In accepting this award, the recipient agrees not to use award funds for purchases of body-worn cameras or related expenses for any agency unless that agency has policies and procedures in place that reinforce appropriate agency Use of Force policies and training and address technology usage, evidence acquisition, data storage and retention, as well as privacy issues, accountability and discipline.

Condition 36
Body armor - compliance with NIJ standards and other requirements

Ballistic-resistant and stab-resistant body armor purchased with award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards, and is listed on the NIJ Compliant Body Armor Model List. In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information and the NIJ Compliant Body Armor List may be found by following the links located on the NIJ Body Armor page: https://nij.ojp.gov/topics/equipment-and-technology/body-armor. In addition, if recipient uses funds under this award to purchase body armor, the recipient is strongly encouraged to have a "mandatory wear" policy in effect. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

Condition 37
The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

Condition 38
Any written, visual, or audio publications funded in whole or in part under this award, with the exception of press releases, shall contain the following statements: "This project was supported by Grant No. <AWARD_NUMBER>

awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice." The current edition of the DOJ Grants Financial Guide provides guidance on allowable printing and publication activities.

Condition 39
Any Web site that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service: "This Web site is funded in whole or in part through a grant from the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)." The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.

Condition 40
Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

Condition 41
The recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.

Condition 42
Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

Condition 43
Justification of consultant rate

Approval of this award does not indicate approval of any consultant rate in excess of $650 per day. A detailed justification must be submitted to and approved by the OJP program office prior to obligation or expenditure of such funds.

Condition 44
The recipient agrees that no funds under this grant award (including via subcontract or subaward, at any tier) may be used for unmanned aircraft systems (UAS), which includes unmanned aircraft vehicles (UAV), or for any accompanying accessories to support UAS.

Condition 45
Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if

OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.

Condition 46
Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https:/ / it.ojp.gov/ gsp_grantcondition. The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

Condition 47
Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

Condition 48
In accepting this award, the recipient agrees that grant funds cannot be used for Facial Recognition Technology (FRT) unless the recipient has policies and procedures in place to ensure that the FRT will be utilized in an appropriate and responsible manner that promotes public safety, and protects privacy, civil rights, and civil liberties and complies with all applicable provisions of the U.S. Constitution, including the Fourth Amendment's protection against unreasonable searches and seizures and the First Amendment's freedom of association and speech, as well as other laws and regulations. Recipients utilizing funds for FRT must make such policies and procedures available to DOJ upon request.

Condition 49
Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

Condition 50
Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership (www.ctfli.org). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

Condition 51
Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

a. New construction;

b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;

c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;

d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and

e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at https://bja.gov/Funding/nepa.html, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

Condition 52
Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the time of closeout.

Condition 53
All State and Local JAG recipients must submit quarterly Federal Financial Reports (SF-425). Additionally, State JAG and Local JAG Category Two ($25K or more) must submit semi-annual performance reports through JustGrants and Local JAG Category One (Less than $25K) must submit annual performance reports through JustGrants. Consistent

with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website: https://bjapmt.ojp.gov/. For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage (https://bjapmt.ojp.gov/help/jagdocs.html). Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

Condition 54
Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

Condition 55
Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2022

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2022), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum-- (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via an Award Condition Modification (ACM)). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through an Award Condition Modification (ACM), the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

Condition 56
If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS. With the exception of Forensic Genetic Genealogy, no profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS. Booking agencies should work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see National Rapid DNA Booking Operational Procedures Manual).

Condition 57
Recipients utilizing award funds for forensic genealogy testing must adhere to the United States Department of Justice Interim Policy Forensic Genealogical DNA Analysis and Searching (https://www.justice.gov/olp/page/file/1204386/download), and must collect and report the metrics identified in Section IX of that document to BJA.

Condition 58
Submission of eligible records relevant to the National Instant Background Check System

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court

dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.

Condition 59
Prohibition on use of award funds for match under BVP program

JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

Condition 60
Extreme risk protection programs funded by JAG must include, at a minimum: pre-deprivation and post-deprivation due process rights that prevent any violation or infringement of the Constitution of the United States, including but not limited to the Bill of Rights, and the substantive or procedural due process rights guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States, as applied to the States, and as interpreted by State courts and United States courts (including the Supreme Court of the United States). Such programs must include, at the appropriate phase to prevent any violation of constitutional rights, at minimum, notice, the right to an in-person hearing, an unbiased adjudicator, the right to know opposing evidence, the right to present evidence, and the right to confront adverse witnesses; the right to be represented by counsel at no expense to the government; pre-deprivation and post-deprivation heightened evidentiary standards and proof which mean not less than the protections afforded to a similarly situated litigant in Federal court or promulgated by the State's evidentiary body, and sufficient to ensure the full protections of the Constitution of the United States, including but not limited to the Bill of Rights, and the substantive and procedural due process rights guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States, as applied to the States, and as interpreted by State courts and United States courts (including the Supreme Court of the United States). The heightened evidentiary standards and proof under such programs must, at all appropriate phases to prevent any violation of any constitutional right, at minimum, prevent reliance upon evidence that is unsworn or unaffirmed, irrelevant, based on inadmissible hearsay, unreliable, vague, speculative, and lacking a foundation; and penalties for abuse of the program.

Condition 61
Expenditures prohibited without waiver

No funds under this award may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.

Condition 62
Exceptions regarding Prohibited and Controlled Equipment under OJP awards

Notwithstanding any provision to the contrary in the other terms and conditions of this award, including in the condition regarding "Compliance with restrictions on the use of federal funds--prohibited and controlled equipment under OJP awards," the requirements for the “Transfer/Sale of Award-Funded Controlled Equipment to Other LEAs” and the requirements for the “Transfer/Sale of Award-Funded Controlled Equipment to NON-LEAs” do not apply to this award.

Condition 63
Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

Condition 64

Initial period of performance; requests for extension.

The recipient understands that for award amounts of less than $25,000 under JAG (Category 1), the initial period of performance of the award is two years. The recipient further understands that any requests for an extension of the period of performance for an award of less than $25,000 will be approved automatically for up to a total of two additional years, pursuant to 34 U.S.C. 10152(f) and in accordance with the program solicitation associated with this award.

Any request for an extension of the period of performance beyond a four-year award period will require approval, and the approval (if any) will be at the discretion of the Director of BJA.

Condition 65
Withholding of funds for Budget narrative or information

The recipient may not expend or draw down any award funds until the recipient submits, and OJP reviews and accepts, the required budget information or narrative for the award, and an Award Condition Modification has been issued to remove this condition.

Condition 66
Withholding of funds for Required certification from the chief executive of the applicant government

The recipient may not expend or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and an Award Condition Modification has been issued to remove this condition.

[ ] *I have read and understand the information presented in this section of the Federal Award Instrument.*

Award Acceptance

Declaration and Certification to the U.S. Department of Justice as to Acceptance

By checking the declaration and certification box below, I--

A. Declare to the U.S. Department of Justice (DOJ), under penalty of perjury, that I have authority to make this declaration and certification on behalf of the applicant.

B. Certify to DOJ, under penalty of perjury, on behalf of myself and the applicant, to the best of my knowledge and belief, that the following are true as of the date of this award acceptance: (1) I have conducted or there was conducted (including by applicant's legal counsel as appropriate and made available to me) a diligent review of all terms and conditions of, and all supporting materials submitted in connection with, this award, including any assurances and certifications (including anything submitted in connection therewith by a person on behalf of the applicant before, after, or at the time of the application submission and any materials that accompany this acceptance and certification); and (2) I have the legal authority to accept this award on behalf of the applicant.

C. Accept this award on behalf of the applicant.

D. Declare the following to DOJ, under penalty of perjury, on behalf of myself and the applicant: (1) I understand that, in taking (or not taking) any action pursuant to this declaration and certification, DOJ will rely upon this declaration and certification as a material representation; and (2) I understand that any materially false, fictitious, or fraudulent information or statement in this declaration and certification (or concealment or omission of a material fact as to either) may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the applicant to civil penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and/or §§ 3801-3812) or otherwise.

Agency Approval

Title of Approving Official	Name of Approving Official	Signed Date And Time
Acting Assistant Attorney General	Brent J. Cohen	12/1/24 5:48 PM

Authorized Representative

[ ] no value

Entity Acceptance

Title of Authorized Entity Official

no value

Signed Date And Time

no value

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE CITY OF MIDLAND IN CONJUNCTION WITH MIDLAND COUNTY TO ACCEPT THE FISCAL YEAR 2024 BUREAU OF JUSTICE ASSISTANCE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FUNDS TOTALING $40,515.00; THE CITY OF MIDLAND WILL RECEIVE $30,515.00 AND MIDLAND COUNTY WILL RECEIVE $10,000.00 OF THE GRANT FUNDS; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING GRANT FUNDS

WHEREAS, the City of Midland (the "*City*") has received notice that the City and Midland County have been awarded a combined total of $40,515.00 through the Fiscal Year 2024 Edward Byrne Memorial Justice Assistance Grant Program, with said grant funds to be used to purchase law enforcement equipment, technology, and other materials directly related to basic law enforcement; and

WHEREAS, the City and Midland County were required to allocate and divide grant funds to be received by each law enforcement entity, and said entities filed a joint application with the Bureau of Justice Assistance to receive said grant funds; and

WHEREAS, the $40,515.00 in grant funds will be divided so that the City will receive $40,515.00 and Midland County will receive $10,000.00 of the grant funds; and

WHEREAS, the grant funds will be used by the Midland Police Department to purchase equipment, technology, and other material directly related to basic law enforcement, specifically, a new hardline phone system; and

WHEREAS, the City Council finds it to be in the public interest to accept the grant award and to appropriate the grant funds;

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

SECTION ONE. That the City hereby accepts the grant award of $40,515.00, which will be divided so that the City will receive $30,515.00 and Midland County will receive $10,000.00 of the grant funds as made by the Fiscal Year 2024 Justice Assistance Grant Program. Said grant funds shall be used by the Midland Police Department to

purchase equipment, technology and other material directly related to basic law enforcement, specifically, a new hardline phone system.

SECTION TWO. That the City Manager, or his designee, is hereby authorized and directed to evidence the City's acceptance by executing all necessary documents in order to accept the grant funds.

SECTION THREE. That the City Treasurer is hereby authorized and directed, upon receipt of $40,515.00, to deposit such funds into the Justice Grant Fund (074) and to appropriate the following amounts to a project(s) established by the City's Finance Department for purposes consistent with this resolution.

JAG 24 City Portion
..... $30,515.00

JAG 24 County Portion
..... $10,000.00

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., 2025, 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:

_____
Greg Snow, Interim Police Chief

_____
Christy Weakland, Director of Finance

APPROVED AS TO FORM ONLY:

_____
John Ohnemiller, City Attorney

City Council Meeting

Item Number: 18

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Greg Snow,

Subject: **MOTION ACCEPTING A DONATION IN THE AMOUNT OF $40,000.00 FROM MEC PETROLEUM CORPORATION; SAID FUNDS SHALL BE USED FOR THE PURCHASE OF NECESSARY PROTECTIVE EQUIPMENT FOR THE MIDLAND POLICE DEPARTMENT; AND AUTHORIZING THE APPROPRIATION OF $40,000.00 IN THE POLICE TECHNOLOGY AND EQUIPMENT FUND UPON THE CITY OF MIDLAND'S RECEIPT OF SAID FUNDS. (DISTRICT: ALL) (POLICE) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

Purpose:

Authorize a motion to accept a donation in the amount of $40,000.00 from the MEC Petroleum Corporation to the Midland Police Department.

Recommended City Council Action:

Approve

Fiscal Impact:

Upon receipt of donation, $40,000 will be deposited into the Police Technology and Equipment Fund and appropriated to purchase bullet resistant vests.

Strategic Priority:

(Set the Standard for a Safe and Secure City)

Discussion:

The funds from this donation will be used to purchase bullet resistant protective gear for officers.

Morris Williams Jr.

City Manager's Office

City Council Meeting

Item Number: 19

Meeting Date: January 14, 2025

To: City Council / City Manager

From: John Simmons, Manager, Right-of-Way

Subject: MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE (25-329-003) WITH BAHIA PIPELINE LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 30, BLOCK 36, T-3-S, T&P RR CO. SURVEY, IN MIDLAND COUNTY AND GLASSCOCK COUNTY, TEXAS (DISTRICT: NONE) (UTILITIES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)

Purpose:

This motion will provide the applicant with a 50’ wide 300.96 rod right of way in the Midland County portion of said Section 30 and 21.53 rods of right of way in the Glasscock County portion of Section 30 for a 30” common carrier natural gas pipeline on City of Midland owned Sprayberry Farm real property. The applicant will also be granted 20’ wide temporary access rights as shown on the attached Exhibits as well as temporary workspace. This Right of Way License will also grant the applicant a 20’ wide access, 322.89 rod access road located in Section 21, Block 37, T-3-S in Midland County.

This Right-of-Way License is proposed for an initial (10) year period, paid in advance. It shall automatically renew at the end of the initial term and each successive term for additional terms of 10 years.

Recommended City Council Action:

Approve

Fiscal Impact:

Application fee (one time): $1,000

10-Years Paid In advance:

30” pipeline (321.59 rods x $810/rod): $260,487.90
20’ wide access road (322.89 rods x $150.00): $48,433.50

Surface Damages: included in new annual rate

Total Collected: $309,921.40

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

This Right of Way is in the South Half of Section 30 in the Sprayberry Farm area and is over 2 miles from COM infrastructure. The proposed pipeline is a common carrier, natural gas line and will be buried a minimum of thirty-six inches (36”) deep. The road will allow access to valve connection and compression facilities and maintenance.

Certificates of Insurance are on file

City Secretary to record all documents in both Midland and Glasscock Counties.

City Manager’s Office

RIGHT OF WAY LICENSE

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

Date: January 15, 2025

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: BAHIA PIPELINE LLC

Licensee's Representative: **Jamie Lavergne Bryan**

Licensee's Mailing Address: 1100 Louisiana St. Ste. 1000
Houston, Texas 77002

Property: As described in Exhibits A and B

License Number: **25-329-003**

Licensee desires use of certain Property (as defined below) owned by Licensor in Midland County and Glasscock County, Texas, for purposes set forth below. Licensee acknowledges and agrees that it must obtain a license (the "License") in order to use the public lands of Licensor.

W I T N E S S E T H:

For and in consideration of the execution of this license (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. Renewal Term. This License shall automatically renew at the end of the Initial Term and each successive term for additional terms of ten (10) years.

C. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License that is not disputed, in good faith, and that failure continues for sixty (60) days after written notice of the failure to pay 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 sixty (60) days after Licensor delivers notice to Licensee reasonably detailing the breach or default; provided however, that if such cure cannot be reasonably completed within said 60-day period, Licensee shall have as much time as is reasonably necessary to cure such failure so long as Licensee diligently commences and completes such cure.

Additionally, Licensor may require Licensee to relocate the Pipeline in the event that an applicable rule or regulation promulgated by the TCEQ and/or EPA requires the lowering or removing of the Pipeline. In the event Licensor requires Licensee to relocate all or any part of the Pipeline or appurtenant facilities pursuant to this section, Licensor agrees to grant to Licensee the necessary temporary workspace to accomplish the relocation and, if necessary, a new license on land suitable for the relocation at no additional cost, subject to the terms of this Agreement, and Licensor and Licensee shall execute an appropriate amendment to this Agreement to reflect the new location of any of the License.

Upon expiration or termination of this License, Licensee shall remove all above-ground equipment and structures associated with the undertakings contemplated by this License and cut, fill the line with grout or other appropriate inert substance and cap the pipeline. Licensee shall ensure that the pipeline is abandoned in an environmentally safe manner in accordance with applicable laws, rules and regulations. After removal of all above-ground 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. Grantee shall be required to remove the Pipeline upon termination of this Agreement if any applicable rule or regulation promulgated by the Texas Railroad Commission, TCEQ and/or EPA requires such removal upon abandonment. 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, to the extent of any applicable statute of limitations.

II. Financial Consideration

A. License Fee. The Initial Term license fee in the amount of THREE HUNDRED EIGHT THOUSAND NINE HUNDRED TWENTY-ONE and 40/100 Dollars ($308,921.40) ("License Fee") shall be due and payable on or prior to the Commencement Date of this License.

B. Surface Damage Fee. Purposefully omitted.

C. 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.

D. Renewal Fee Adjustment. For each renewal term, Licensor and Licensee agree there shall be an inflation adjustment and the payment, described in paragraph II.A above, shall be adjusted at each renewal according to the Chained Consumer Price Index for All Urban Consumers (as

determined by the Bureau of Labor Statistics) beginning with January 15, 2035, and each succeeding ten (10) year period thereafter until the termination of this Agreement; however, the amounts paid shall not be less than the rates stated herein.

E. 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.

F. Late Payment. Notwithstanding anything herein to the contrary, if the Licensee fails to timely remit a renewal fee, Licensee shall thereafter have thirty (30) days following its actual receipt of written notice from Licensor of such payment not being received to remit any such renewal fee, and the parties hereto agree that any such payment made during the 30-day cure period will be deemed a timely remitted renewal fee sufficient to continue and extend the easement rights granted by Licensor to Licensee under the Agreement. Grantee shall have the right to pay in advance any renewal fee. Licensee's failure to make payment of any of the above fees within thirty (30) days after notice 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 fifty (50) feet in width of the pipeline and road locations as shown on **Exhibits A and B** attached hereto and incorporated herein for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing, thereon, along the herein described pipeline locations, a pipeline, not to exceed thirty (30) inches in diameter, for the transportation of natural gas, liquefied minerals (including without limitation, condensate, whether obtained from oil or gas wells), natural gas liquids or other mineral solutions and a twenty (20) foot wide access road and to have the right of ingress and egress at convenient points for such purpose. Licensor does hereby grant unto Licensee temporary workspace and a twenty (20) foot temporary access road for purposes consistent with the furtherance of this License as described in **Exhibits A and B**. **Licensee shall provide Licensor with a complete as-built survey within ninety (90) days of completion of the pipeline(s) and facilities described herein. If the Licensee fails to timely provide the as-built survey, Grantee shall thereafter have thirty (30) days following its actual receipt of written notice from Grantor of such survey not being received to remit any such survey, and the parties hereto agree that any such survey received during the 30-day cure period will be deemed timely remitted.**

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 be in the same or better condition in compliance with Licensor's reasonable 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 reasonable standard specifications.

D. Pipeline Depth. Licensee covenants and agrees that it will bury the pipeline to be constructed hereunder no less than thirty-six inches (36") in depth. Licensee further covenants and agrees that all trenches shall be leveled out on either side of each pipeline and that one (1) foot of soil fill shall be placed over the trench 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 not be unreasonably withheld, conditioned or delayed.

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 so long as such improvements do not unreasonably interfere with Licensee's pipeline and meets any applicable depth and separation requirements.

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 so long as such improvements do not unreasonably interfere with Licensee's pipeline and meets any applicable depth and separation requirements. 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, and Licensor will reimburse Licensee for the cost of the relocation. Licensee shall have the right to present alternative proposals for Licensor's consideration. In the event that a governmental entity or agency, other than Licensor, or court of law requires Licensee to remove, alter, change, adapt, or conform any of Licensee's facilities, Licensee shall comply with such requirement without claim for reimbursement for the cost of the relocation or for damages against Licensor.

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 so long as same do not unreasonably interfere with Licensee's pipeline and meets any applicable depth and separation requirements.

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 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 not be unduly withheld, conditioned or delayed. 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, subject to the applicable statute of limitations.

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 (except as used for pipeline maintenance and inspection), 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. The relocation, change, or alteration shall be at the sole cost of Licensor. In the event that a governmental entity or agency, other than Licensor, or court of law requires Licensee to remove, alter, change, or relocate any of relocate any pipeline, property, or casing of Licensee, Licensee shall comply with such requirement without claim for reimbursement for the cost of the relocation or for damages against Licensor. 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 so long as the same do not interfere with or damage Licensee's Pipeline and meet any applicable depth and separation requirements. 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 so long as the same do not interfere with or damage Licensee's Pipeline and meet any applicable depth and separation requirements.

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 include 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 include 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 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, REASONABLE ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY UNAFFILIATED WITH THE INDEMNITEES, DIRECTLY 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 ACT OR OMISSION OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "LIABILITIES"). 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.

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(S), CASING SYSTEM, OR COMPRESSOR STATION OR OTHER PERMITTED FACILITIES OR STRUCTURES DESCRIBED HEREIN.

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, REASONABLE ATTORNEYS' FEES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, ALL REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED IN ENFORCING THIS INDEMNITY) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY UNAFFILIATED WITH THE INDEMNIFIED PARTIES, ARISING OUT OF, CAUSED BY OR RESULTING FROM (IN WHOLE OR IN PART) (i) FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY 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 APPLICABLE 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.

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 AND COVERED BY THE INDEMNIFICATION PROVISIONS HEREIN.

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. Notwithstanding the foregoing, Grantee may assign this Agreement, in whole or in part, without the consent of Grantor, to any (i) entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control of, Grantee or (ii) to any bank, financing institution or other lender, or groups thereof, pursuant to the terms of any financing or security

agreements or deeds of trust.

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 (L.) 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. 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. 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.**

H. 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.

I. 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.

J. 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 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.

K. 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.

L. 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.

M. 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.

N. 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.

O. 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.

P. Counterpart Execution. This License may be executed in several counterparts, and any such agreement shall be deemed an original for all intents and purposes.

Q. Recordable Release. 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.

R. 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.

[Signature Pages Follow]

LICENSOR:
CITY OF MIDLAND, TEXAS

By:_____
Tommy Gonzalez, City Manager

ATTEST:

_____
Marcia Bentely-German, City Secretary

APPROVED AS TO CONTENT AND COMPLETENESS:

_____
Carl Craigo, Director of Utilities

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

LICENSEE:
BAHIA PIPELINE LLC

By: Jamie Lavergne Bryan
Printed Name: Jamie Lavergne Bryan
Title: Attorney and Agent-in-Fact

THE STATE OF Texas §
§
COUNTY OF Harris §

BEFORE ME, the undersigned authority, on this 19th day of December, 2024 personally appeared Jamie Lavergne Bryan an officer of Bahia 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 19th day of December, 2024.

Notary Public, State of Texas

CASSIE ANNA BLAKE
Notary Public, State of Texas
Comm. Expires 10-14-2027
Notary ID 130261802

Bahia Pipeline
TX-MD-0037.00062
Revision 2
Midland County, Texas

EXHIBIT "A"
ROAD RIGHT OF WAY

CENTERLINE DESCRIPTION OF A TWENTY-(20)-FOOT-WIDE ROAD RIGHT OF WAY SITUATED IN SECTION 21, BLOCK 37, T-3-S, T. & P. R.R. CO. SURVEY, A-136 IN MIDLAND COUNTY, TEXAS, AND OVER AND ACROSS THAT THE CITY OF MIDLAND, TEXAS TRACT DESCRIBED IN VOLUME 1160, PAGE 622 OF THE DEED RECORDS OF MIDLAND COUNTY, TEXAS (D.R.M.C.T.) SAID TWENTY-(20)-FOOT-WIDE RIGHT OF WAY BEING SITUATED TEN-(10)-FEET ON EACH SIDE OF THE HEREIN DESCRIBED CENTERLINE, SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING, being a point on the east line of said tract [N: 10,643,002.78, E: 1,828,168.67], and the west line of that Jay H. Floyd, Jr., Tract described in Volume 112, Page 267 of said D.R.M.C.T., from which a 1-inch iron pipe found marking the northeast corner of said tract bears North 14°29'20" West, 5,249.92 feet;

THENCE across said tract the following bearings and distances:

South 75°37'24" West, 1,396.06 feet;

South 75°09'08" West, 777.19 feet;

South 75°30'55" West, 1,430.54 feet;

South 74°59'28" West, 675.63 feet;

South 75°32'51" West, 747.51 feet;

South 77°41'09" West, 185.78 feet;

South 67°19'13" West, 25.38 feet;

South 17°01'19" West, 25.31 feet;

South 12°56'40" East, 64.31 feet to a point on the south line thereof [N: 10,641,601.38, E: 1,823,105.66], and the north line of that tract described in deed to the LHS Ranch, L.L.C. as recorded in Volume 1645, Page 328 of the Official Public Records of Midland County, Texas (O.P.R.M.C.T.), for the **POINT OF TERMINATION**, from which a 2-1/2-inch iron pipe found marking the southeast corner of said tract bears North 76°04'09" East, 5,252.85 feet;

Said Centerline having a total length of 5,327.71 feet (322.89 rods).

NOTES

1) Ownership and tract information shown herein is based on abstracting services provided by others. This description was prepared without a commitment for title insurance. Easements of record may exist and are not indicated herein. This description does not represent a boundary survey.
2) All coordinates, bearings, distances and areas are referenced to the Texas Coordinate System of 1983 (2011 Adjustment), Central Zone (4203), U.S. survey feet, based on GPS observations made by Tablerock Survey, LLC.
3) Refer to the attached plat of this document, made this day in conjunction with and considered an integral part of this description.



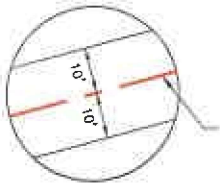
12/12/2024
Michael D. McGuinness — Date
Registered Professional Land Surveyor
State of Texas License No. 1965

Tablerock Survey, LLC
2002 Timberloch Place, Suite 110
The Woodlands, TX., 77380
Phone: 832-415-3869
TBPELS Firm License No. 10194261

EXHIBIT "B"

ROAD RIGHT OF WAY CENTERLINE LENGTH

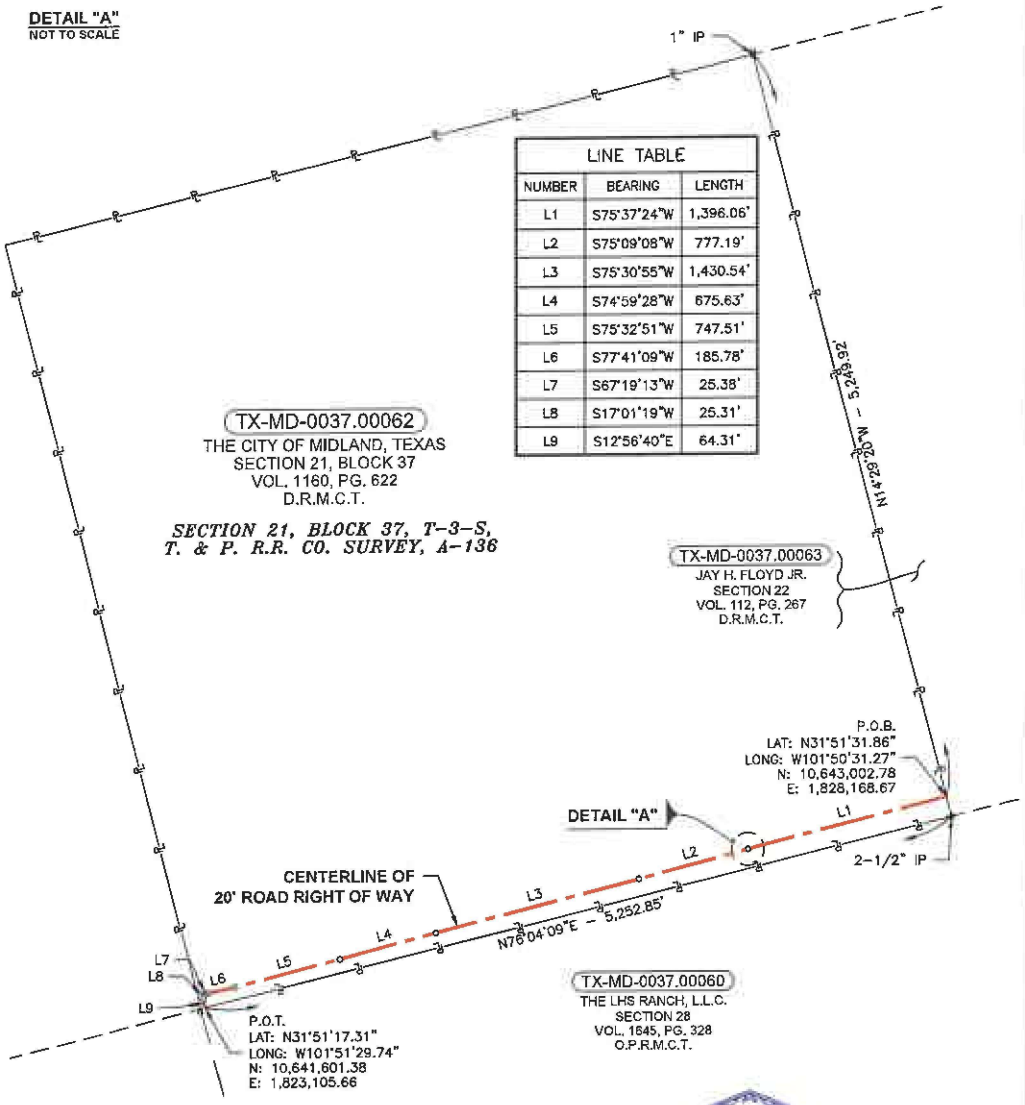
5,327.71 FEET = 322.89 RODS



CENTERLINE OF 20' WIDE ROAD RIGHT OF WAY

DETAIL "A"
NOT TO SCALE





LINE TABLE		
NUMBER	BEARING	LENGTH
L1	S75°37'24"W	1,396.06'
L2	S75°09'08"W	777.19'
L3	S75°30'55"W	1,430.54'
L4	S74°59'28"W	675.63'
L5	S75°32'51"W	747.51'
L6	S77°41'09"W	185.78'
L7	S67°19'13"W	25.38'
L8	S17°01'19"W	25.31'
L9	S12°56'40"E	64.31'

NO.	REVISIONS	BY	DATE
0	ISSUED FOR FINAL	TRS	4/17/2024
1	ROW MARKUPS	TRS	04/18/202
2	CLIENT REQUEST	TRS	12/11/202

NOTES:

1. OWNERSHIP AND TRACT INFORMATION SHOWN HEREON IS BASED ON ABSTRACTING SERVICES PROVIDED BY OTHERS. THIS PLAT WAS PREPARED WITHOUT A COMMITMENT FOR TITLE INSURANCE. EASEMENTS OF RECORD MAY EXIST AND ARE NOT SHOWN HEREON. THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY.
2. ALL COORDINATES, BEARINGS AND DISTANCES ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983 (2011 ADJUSTMENT), CENTRAL ZONE (4203), U.S. SURVEY FEET BASED ON GPS OBSERVATIONS MADE BY TABLEROCK SURVEY, LLC.
3. SEE THE LEGAL DESCRIPTION MADE THIS DAY IN CONJUNCTION WITH AND CONSIDERED AN INTEGRAL PART OF THIS PLAT OF EASEMENT.



12/12/2024

MICHAEL D. MCGUINNESS — DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS LICENSE NO. 1965

O.P.R.M.C.T. OFFICIAL PUBLIC RECORDS MIDLAND COUNTY, TEXAS
D.R.M.C.T. DEED RECORDS MIDLAND COUNTY, TEXAS
VOL., PG. VOLUME, PAGE
DOC # DOCUMENT NUMBER

LEGEND

0' 500' 1000'
GRAPHIC SCALE IN FEET

POINT OF BEGINNING	P.O.B.	ROAD CENTERLINE	
POINT OF TERMINATION	P.O.T.	PROPERTY LINE	
POINT OF REFERENCE	P.O.R.	SURVEY LINE	
POINT OF EXIT	P.O.E.	ADJOINER PROPERTY	
POINT OF RE-ENTRY	P.O.R.E.	EXISTING PIPELINE	
RIGHT OF WAY	R.O.W.	FLY TIE	
FOUND MONUMENT	•	IRON ROD	IR
POINT OF INTERSECTION	○	IRON PIPE	IP

TABLEROCK
2002 TIMBERLOCH PL., STE. 110
THE WOODLANDS, TX 77380
OFFICE: 832-415-3869
TBPELS FIRM NO. 10194251

Enterprise Products
Bahia Pipeline LLC

PROJECT: BAHIA PIPELINE			
DWN. BY: MGB.	DATE: 4/17/2024		
CHK. BY: SRS	DATE: 4/17/2024		
PAGE: 2 OF 2	REV: 2		

TX-MD-0037.00062
20' WIDE ROAD RIGHT OF WAY
THE CITY OF MIDLAND, TEXAS
MIDLAND COUNTY, TEXAS

S:\2.0 Projects\Enterprise\GCP2023-0980 Ent. Bahia\Tracts\Midland County\TX-MD-0037.00062_S2\Preliminary\DWG\TX-MD-0037.00062_REV2.dwg

Bahia Pipeline
TX-MD-0042.00000_70_71
Revision 5
Midland County, Texas

EXHIBIT "A"

THE CITY OF MIDLAND, TEXAS

CENTERLINE DESCRIPTION OF A FIFTY-(50)-FOOT-WIDE RIGHT OF WAY SITUATED IN SECTION 30, BLOCK 36 THE T.&P. RR. CO. SURVEY, A-957 IN MIDLAND COUNTY, TEXAS, AND OVER AND ACROSS THAT TRACT DESCRIBED IN DEED TO THE CITY OF MIDLAND, TEXAS AS RECORDED IN VOLUME 1508, PAGE 593 OF THE OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS (O.P.R.M.C.T.) SAID FIFTY-(50)-FOOT-WIDE RIGHT OF WAY BEING SITUATED TWENTY-FIVE-(25)-FEET ON EACH SIDE OF THE HEREIN DESCRIBED CENTERLINE, THE SIDELINES OF SAID RIGHT OF WAY BEING LENGTHENED OR SHORTENED TO INTERSECT THE BOUNDARIES OF THE ABOVE REFERENCED TRACT OF LAND, SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING, being a point on the west line of said tract [N: 10,645,356.90, E: 1,843,945.77], and the east line of that tract described in deed to Jay H. Floyd, Jr. as recorded in Volume 1825, Page 402 of said O.P.R.M.C.T. from which a 1-inch iron pipe found marking the northwest corner of said Section 30 bears North 14°12'33" West, 1,410.70 feet;

THENCE across said tract the following bearing and distance:

> North 77°35'35" East, 4,950.95 feet to a point on the east line thereof [N: 10,646,420.64, E: 1,848,781.09], and the west line of that tract described in deed to The City of Midland, Texas as recorded in Volume 20, Page 534 of the Official Public Records of Glasscock County, Texas (O.P.R.G.C.T.), for the **POINT OF TERMINATION**, from which a 1-inch iron rod found marking the southeast corner of said Section 30 bears South 21°02'10" East, 3,697.34 feet;

Said Centerline having a total length of 4,950.95 feet (300.06 rods) and said Right of Way containing 5.68 acres of land, more or less.

TEMPORARY WORKSPACE

BEING a sixty-(60)-foot-wide strip of land, parallel and coincident with and adjoining the side of the above described fifty-(50)-foot wide Right of Way. Said strip of land shall extend the entire length of said Right of Way as shown on the attached plat containing 6.80 acres of land, more or less.

ADDITIONAL TEMPORARY WORKSPACE

BEING an additional temporary workspace as shown on the attached plat containing 0.344 acres (15,000 square feet) of land, more or less.

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Bahia Pipeline
TX-MD-0042.00000_70_71
Revision 5
Midland County, Texas

EXHIBIT "A"

TEMPORARY ROAD RIGHT OF WAY

(TX-MD-0042.00070)

CENTERLINE DESCRIPTION OF A TWENTY-(20)-FOOT-WIDE TEMPORARY ROAD RIGHT OF WAY SITUATED IN SECTION 30, BLOCK 36 THE T.&P. RR. CO. SURVEY, A-957 IN MIDLAND COUNTY, TEXAS, AND OVER AND ACROSS THAT TRACT DESCRIBED IN DEED TO THE CITY OF MIDLAND, TEXAS AS RECORDED IN VOLUME 1508 PAGE 593 OF THE OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS (O.P.R.M.C.T.) SAID TWENTY-(20)-FOOT-WIDE RIGHT OF WAY BEING SITUATED TEN-(10)-FEET ON EACH SIDE OF THE HEREIN DESCRIBED CENTERLINE, SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING, being a point on the west line of said tract [N: 10,645,356.90, E: 1,843,945.77], and the east line of that tract described in deed to Jay H. Floyd, Jr. as recorded in Volume 1825, Page 402 of said O.P.R.M.C.T. from which a 1-inch iron pipe found marking the northwest corner of said tract bears North 14°12'33" West, 1,410.70 feet;

THENCE across said tract the following bearings and distances:

North 79°20'14" East, 269.54 feet;

THENCE along a curve to the left having a delta angle of 04°13'07", a radius of 5,371.85 feet, and arc length of 395.53 feet, and a long chord which bears North 79°10'03" East, 395.44 feet;

North 75°54'41" East, 423.12 feet;

North 74°47'34" East, 470.96 feet;

North 74°29'36" East, 185.13 feet;

North 75°19'37" East, 527.43 feet;

North 74°42'19" East, 305.49 feet;

North 73°54'09" East, 107.43 feet;

North 72°18'52" East, 133.40 feet;

North 75°10'17" East, 164.88 feet;

North 76°16'17" East, 135.78 feet;

North 77°31'06" East, 79.52 feet;

THENCE along a curve to the right having a delta angle of 28°03'03", a radius of 322.46 feet, and arc length of 157.87 feet, and a long chord which bears South 85°13'22" East, 156.30 feet;

South 57°13'02" East, 26.52 feet;

South 17°39'33" East, 26.02 feet;

South 09°58'57" East, 78.20 feet;

South 12°58'14" East, 587.07 feet to a point within said tract [N: 10,646,100.28, E: 1,847,208.49], for the **POINT OF TERMINATION**, from which a 1-inch iron rod found marking the southeast corner of Section 30 bears South 42°48'30" East, 4,267.22 feet;

Centerline of Said Temporary Road Right of Way having a total length of 4,073.89 feet (246.90 rods) and said Temporary Road Right of Way containing 1.87 acres of land, more or less.

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Bahia Pipeline
TX-MD-0042.00000_70_71
Revision 5
Midland County, Texas

EXHIBIT "A"

TEMPORARY ROAD RIGHT OF WAY

(TX-MD-0042.00071)

CENTERLINE DESCRIPTION OF A TWENTY-(20)-FOOT-WIDE TEMPORARY ROAD RIGHT OF WAY SITUATED IN SECTION 30, BLOCK 36 THE T.&P. RR. CO. SURVEY, A-957 IN MIDLAND COUNTY, TEXAS, AND OVER AND ACROSS THAT TRACT DESCRIBED IN DEED TO THE CITY OF MIDLAND, TEXAS AS RECORDED IN VOLUME 1508 PAGE 593 OF THE OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS (O.P.R.M.C.T.) SAID TWENTY-(20)-FOOT-WIDE RIGHT OF WAY BEING SITUATED TEN-(10)-FEET ON EACH SIDE OF THE HEREIN DESCRIBED CENTERLINE, SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING, being a point within said tract [N: 10,646,075.10, E: 1,844,041.44], from which a 1-inch iron pipe found marking the northwest corner of said tract bears North 34°14'20" West, 785.46 feet;

THENCE within said tract the following bearings and distances:

South 41°53'32" East, 18.22 feet;

South 14°05'23" East, 640.29 feet to a point within thereof [N: 10,645,440.51, E: 1,844,209.48], for the **POINT OF TERMINATION**, from which a 1-inch iron rod found marking the southeast corner of Section 30 bears South 67°16'22" East, 6,395.36 feet;

Centerline of said Temporary Road Right of Way having a total length of 658.51 feet (39.91 Rods) and said Temporary Road Right of Way containing 0.302 Acres of land, more or less.

Said Temporary Road Right of Way having combined length of 4,732.40 Feet (286.81 Rods) and containing 2.173 Acres of land, more or less.

NOTES

1) Ownership and tract information shown herein is based on abstracting services provided by others. This description was prepared without a commitment for title insurance. Easements of record may exist and are not indicated herein. This description does not represent a boundary survey.
2) All coordinates, bearings, distances and areas are referenced to the Texas Coordinate System of 1983 (2011 Adjustment), Central Zone (4203), U.S. survey feet, based on GPS observations made by Tablerock Survey, LLC.
3) Refer to the attached plat of this document, made this day in conjunction with and considered an integral part of this description.

STATE OF TEXAS
REGISTERED
MICHAEL D. MCGUINNESS
1965
PROFESSIONAL
LAND SURVEYOR

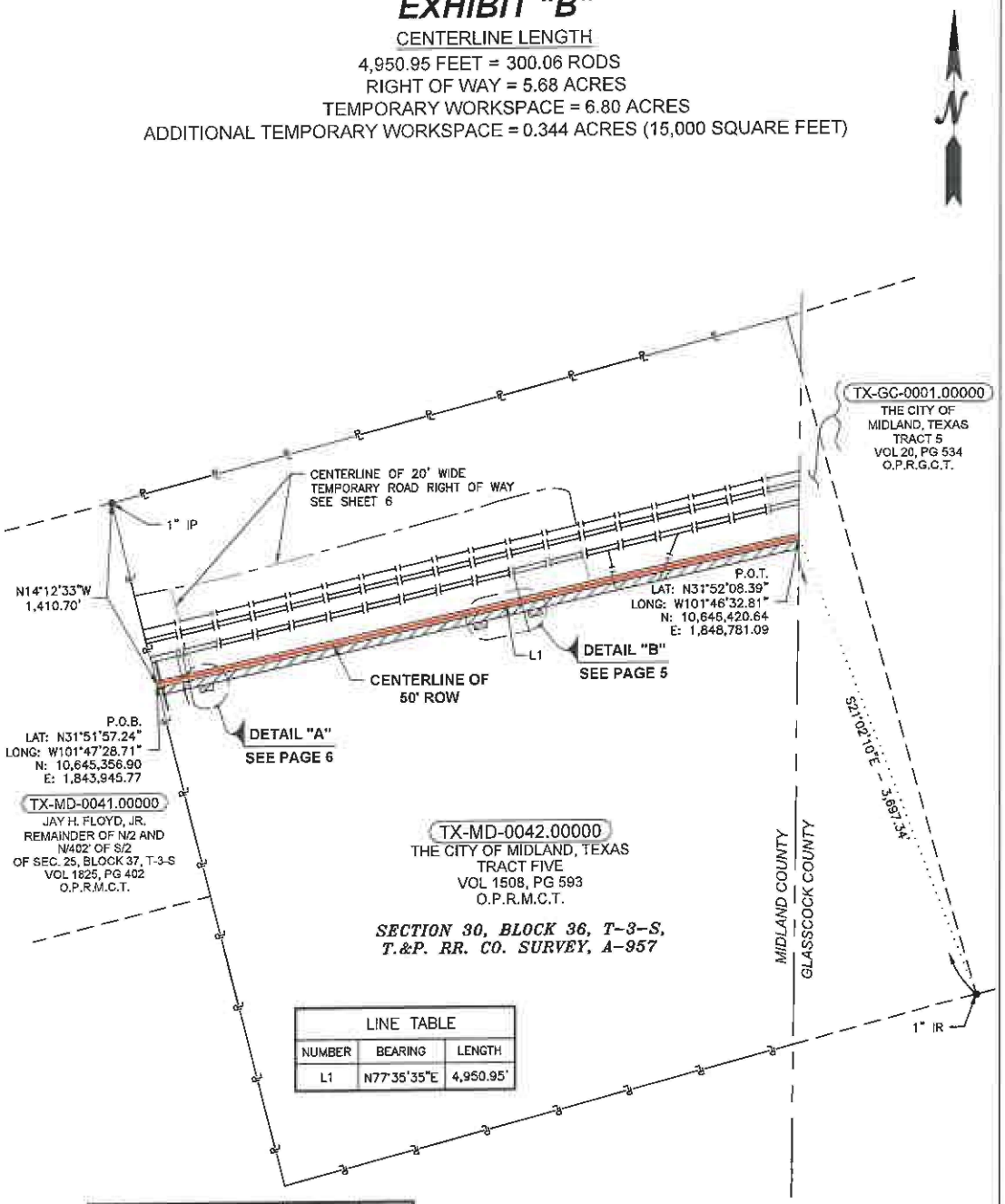
12/16/2024

Michael D. McGuinness Date
Registered Professional Land Surveyor
State of Texas License No. 1965

Tablerock Survey, LLC
2002 Timberloch Place, Suite 110
The Woodlands, TX., 77380
Phone: 832-415-3869
TBPELS Firm License No. 10194261

EXHIBIT "B"

CENTERLINE LENGTH
4,950.95 FEET = 300.06 RODS
RIGHT OF WAY = 5.68 ACRES
TEMPORARY WORKSPACE = 6.80 ACRES
ADDITIONAL TEMPORARY WORKSPACE = 0.344 ACRES (15,000 SQUARE FEET)



LINE TABLE		
NUMBER	BEARING	LENGTH
L1	N77°35'35"E	4,950.95'

NO.	REVISIONS	BY	DATE
6	ISSUED FOR FINAL	TRS	12/09/2023
1	ROW MARKUP	TRS	12/18/2023
2	ROW MARKUP	TRS	12/24/2023
3	ROW MARKUP	TRS	02/16/2024
4	ROW MARKUP	TRS	02/27/2024
5	CLIENT REQUEST	TRS	12/11/2024

NOTES:

1. OWNERSHIP AND TRACT INFORMATION SHOWN HEREON IS BASED ON ABSTRACTING SERVICES PROVIDED BY OTHERS. THIS PLAT WAS PREPARED WITHOUT A COMMITMENT FOR TITLE INSURANCE. EASEMENTS OF RECORD MAY EXIST AND ARE NOT SHOWN HEREON. THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY.
2. ALL COORDINATES, BEARINGS AND DISTANCES ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983 (2011 ADJUSTMENT), CENTRAL ZONE (4203), U.S. SURVEY FEET BASED ON GPS OBSERVATIONS MADE BY TABLEROCK SURVEY, LLC.
3. SEE THE LEGAL DESCRIPTION MADE THIS DAY IN CONJUNCTION WITH AND CONSIDERED AN INTEGRAL PART OF THIS PLAT OF EASEMENT.

12/16/2024
MICHAEL D. MCGUINNESS — DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS LICENSE NO. 1965

O.P.R.M.C.T. OFFICIAL PUBLIC RECORDS MIDLAND COUNTY, TEXAS
O.R.M.C.T. OFFICIAL RECORDS MIDLAND COUNTY, TEXAS
O.P.R.G.C.T. OFFICIAL PUBLIC RECORDS GLASSCOCK COUNTY, TEXAS
VOL., PG VOLUME, PAGE
DOC # DOCUMENT NUMBER
RIGHT-OF-WAY (ROW)
TEMPORARY WORKSPACE (T.W.S.)
ADDITIONAL TEMPORARY WORKSPACE (A.T.W.S.)

LEGEND

0' 500' 1000'
GRAPHIC SCALE IN FEET

POINT OF BEGINNING P.O.B.
POINT OF TERMINATION P.O.T.
POINT OF REFERENCE P.O.R.
POINT OF EXIT P.O.E.
POINT OF RE-ENTRY P.O.R.E.
RIGHT OF WAY R.O.W.
FOUND MONUMENT ●
POINT OF INTERSECTION ○
CENTERLINE
PROPERTY LINE
SURVEY LINE
ADJOINER PROPERTY
EXISTING PIPELINE
FLY TIE
IRON ROD IR
IRON PIPE IP

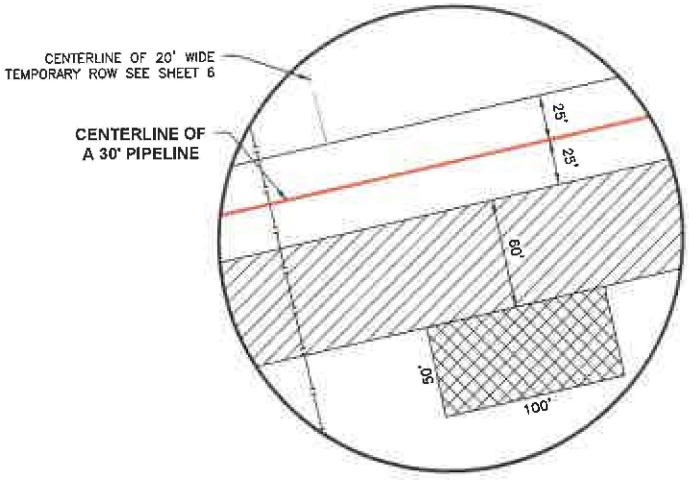
TABLEROCK
2705 TIMBERLOCH PL., STE. 110
THE WOODLANDS, TX 77380
OFFICE: 832-415-3869
TBPELS FIRM NO. 10194261

Enterprise Products
Bahia Pipeline LLC

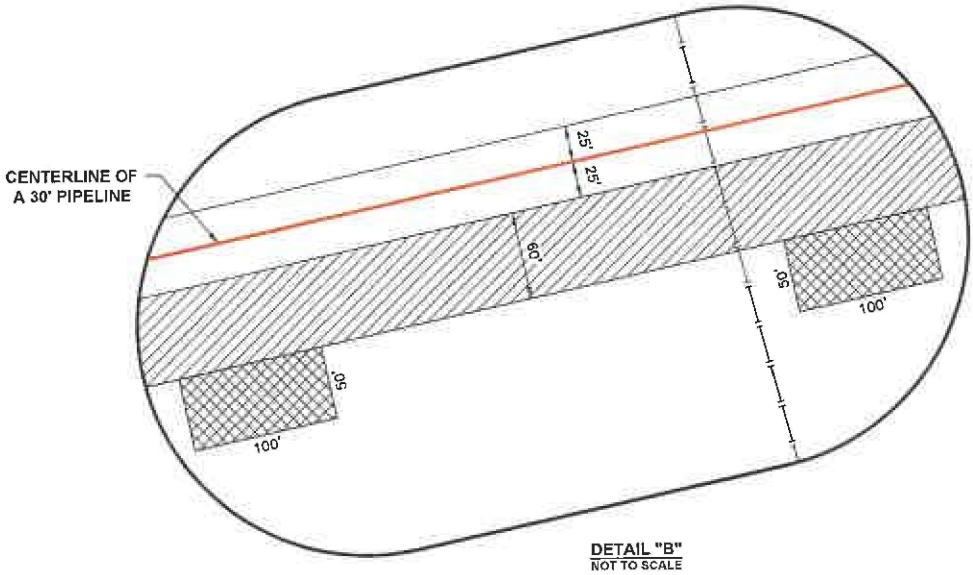
PROJECT: BAHIA PIPELINE
DWN. BY: DJC DATE: 12/7/2023
CHK. BY: SKS DATE: 12/7/2023
PAGE: 4 OF 7 REV: 5

TX-MD-0042.00000_70_71
50' WIDE RIGHT OF WAY
THE CITY OF MIDLAND, TEXAS
MIDLAND COUNTY, TEXAS

EXHIBIT "B"



DETAIL "A"
NOT TO SCALE



DETAIL "B"
NOT TO SCALE

O.P.R.M.C.T. OFFICIAL PUBLIC RECORDS MIDLAND COUNTY, TEXAS
O.R.M.C.T. OFFICIAL RECORDS MIDLAND COUNTY, TEXAS
O.P.R.G.C.T. OFFICIAL PUBLIC RECORDS GLASSCOCK COUNTY, TEXAS
VOL., PG VOLUME, PAGE
DOC. # DOCUMENT NUMBER
RIGHT-OF-WAY (ROW)
TEMPORARY WORKSPACE (T.W.S.)
ADDITIONAL TEMPORARY WORKSPACE (A.T.W.S.)

LEGEND

POINT OF BEGINNING P.O.B.
POINT OF TERMINATION P.O.T.
POINT OF REFERENCE P.O.R.
POINT OF EXIT P.O.E.
POINT OF RE-ENTRY P.O.R.E.
RIGHT OF WAY R.O.W.
FOUND MONUMENT •
POINT OF INTERSECTION o

CENTERLINE
TEMPORARY ACCESS EASEMENT
ADJOINER PROPERTY
EXISTING PIPELINE
FLY TIE
IRON ROD IR
IRON PIPE IP

TABLEROCK
2002 TIMBERLOCH PL., STE. 110
THE WOODLANDS, TX 77380
OFFICE: 832-415-3869
TBPELS FIRM NO. 10194261

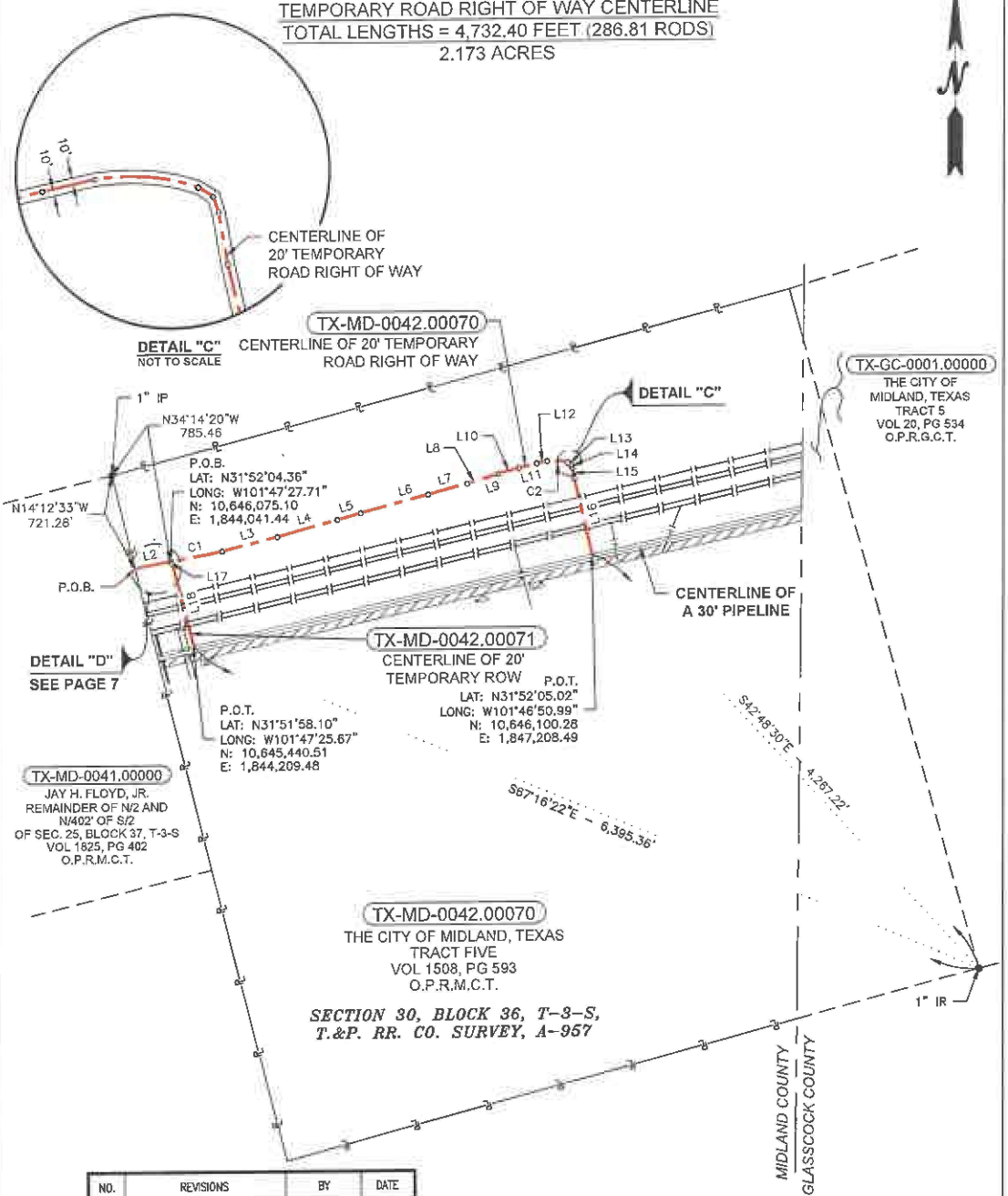
Enterprise Products
Bahia Pipeline LLC

PROJECT: BAHIA PIPELINE
DWN. BY: DJC DATE: 12/7/2023
CHK. BY: SHS DATE: 12/7/2023
PAGE: 5 OF 7 REV: 5

TX-MD-0042.00000_70_71
50' WIDE RIGHT OF WAY
THE CITY OF MIDLAND, TEXAS
MIDLAND COUNTY, TEXAS

EXHIBIT "B"

TEMPORARY ROAD RIGHT OF WAY CENTERLINE
TOTAL LENGTHS = 4,732.40 FEET (286.81 RODS)
2.173 ACRES



NO.	REVISIONS	BY	DATE
0	ISSUED FOR FINAL	TRS	12/09/2023
1	ROW MARKUP	TRS	12/18/2023
2	ROW MARKUP	TRS	12/24/2023
3	ROW MARKUP	TRS	02/16/2024
4	ROW MARKUP	TRS	02/27/2024
5	CLIENT REQUEST	TRS	12/11/2024

NOTES:

1. OWNERSHIP AND TRACT INFORMATION SHOWN HEREON IS BASED ON ABSTRACTING SERVICES PROVIDED BY OTHERS. THIS PLAT WAS PREPARED WITHOUT A COMMITMENT FOR TITLE INSURANCE. EASEMENTS OF RECORD MAY EXIST AND ARE NOT SHOWN HEREON. THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY.
2. ALL COORDINATES, BEARINGS AND DISTANCES ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983 (2011 ADJUSTMENT), CENTRAL ZONE (4203), U.S. SURVEY FEET BASED ON GPS OBSERVATIONS MADE BY TABLEROCK SURVEY, LLC.
3. SEE THE LEGAL DESCRIPTION MADE THIS DAY IN CONJUNCTION WITH AND CONSIDERED AN INTEGRAL PART OF THIS PLAT OF EASEMENT.

STATE OF TEXAS
REGISTERED
MICHAEL D. MCGUINNESS
1965
PROFESSIONAL
LAND SURVEYOR

12/16/2024
MICHAEL D. MCGUINNESS — DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS LICENSE NO. 1965

O.P.R.M.C.T. OFFICIAL PUBLIC RECORDS MIDLAND COUNTY, TEXAS
O.R.M.C.T. OFFICIAL RECORDS MIDLAND COUNTY, TEXAS
O.P.R.G.C.T. OFFICIAL PUBLIC RECORDS GLASSCOCK COUNTY, TEXAS
VOL, PG VOLUME, PAGE
DOC # DOCUMENT NUMBER
RIGHT-OF-WAY (ROW)
TEMPORARY WORKSPACE (T.W.S.)
ADDITIONAL TEMPORARY WORKSPACE (A.T.W.S.)

LEGEND

0' 500' 1000'
GRAPHIC SCALE IN FEET

POINT OF BEGINNING P.O.B.
POINT OF TERMINATION P.O.T.
POINT OF REFERENCE P.O.R.
POINT OF EXIT P.O.E.
POINT OF RE-ENTRY P.O.R.E.
RIGHT OF WAY R.O.W.
FOUND MONUMENT ●
POINT OF INTERSECTION ○

ROAD CENTERLINE
PROPERTY LINE
SURVEY LINE
ADJOINER PROPERTY
EXISTING PIPELINE
FLY TIE
IRON ROD IR
IRON PIPE IP

TABLEROCK
2425 TIMBERLOCH PL., STE. 110
THE WOODLANDS, TX 77380
OFFICE: 832-415-3869
TBPELS FIRM NO. 10194261

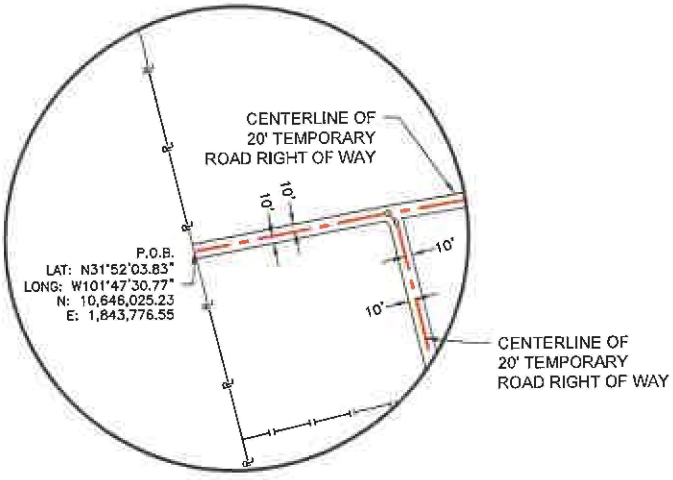
Enterprise Products
Bahia Pipeline LLC

PROJECT: BAHIA PIPELINE
DWN. BY: DJC DATE: 12/7/2023
CHK. BY: SRS DATE: 12/7/2023
PAGE: 6 OF 7 REV: 5

TX-MD-0042.00000_70_71
20' WIDE TEMPORARY ROAD RIGHT OF WAY
THE CITY OF MIDLAND, TEXAS
MIDLAND COUNTY, TEXAS

PACKET 19.23 January 14, 2025

EXHIBIT "B"



DETAIL "D"
NOT TO SCALE

TAR LINE TABLE		
NUMBER	BEARING	LENGTH
L2	N79°20'14"E	269.54'
L3	N75°54'41"E	423.12'
L4	N74°47'34"E	470.96'
L5	N74°29'36"E	185.13'
L6	N75°19'37"E	527.43'
L7	N74°42'19"E	305.49'
L8	N73°54'09"E	107.43'
L9	N72°18'52"E	133.40'
L10	N75°10'17"E	164.88'
L11	N76°16'17"E	135.78'
L12	N77°31'06"E	79.52'
L13	S57°13'02"E	26.52'
L14	S17°39'33"E	26.02'
L15	S9°58'57"E	78.20'
L16	S12°58'14"E	587.07'
L17	S41°53'32"E	18.22'
L18	S14°05'23"E	640.29'

TAR CURVE TABLE					
CURVE NUMBER	LENGTH	RADIUS	DELTA	CH BEARING	CH LENGTH
C1	395.53'	5,371.85'	4°13'07"	N79°10'03"E	395.44'
C2	157.87'	322.46'	28°03'03"	S85°13'22"E	156.30'

NO.	REVISIONS	BY	DATE
0	ISSUED FOR FINAL	TRS	12/09/2023
1	ROW MARKUP	TRS	12/18/2023
2	ROW MARKUP	TRS	12/24/2023
3	ROW MARKUP	TRS	02/16/2024
4	ROW MARKUP	TRS	02/27/2024
5	CLIENT REQUEST	TRS	12/11/2024

O.P.R.M.C.T. OFFICIAL PUBLIC RECORDS MIDLAND COUNTY, TEXAS
O.R.M.C.T. OFFICIAL RECORDS MIDLAND COUNTY, TEXAS
O.P.R.G.C.T. OFFICIAL PUBLIC RECORDS GLASSCOCK COUNTY, TEXAS
VOL., PG VOLUME, PAGE
DOC # DOCUMENT NUMBER

LEGEND

POINT OF BEGINNING	P.O.B.	ROAD CENTERLINE	
POINT OF TERMINATION	P.O.T.	PROPERTY LINE	
POINT OF REFERENCE	P.O.R.	SURVEY LINE	
POINT OF EXIT	P.O.E.	ADJOINER PROPERTY	
POINT OF RE-ENTRY	P.O.R.E.	EXISTING PIPELINE	
RIGHT OF WAY	R.O.W.	FLY TIE	
FOUND MONUMENT	●	IRON ROD	IR
POINT OF INTERSECTION	○	IRON PIPE	IP

TABLEROCK
2002 TIMBERLOCH PL., STE. 110
THE WOODLANDS, TX 77380
OFFICE: 832-415-3869
TBPELS FIRM NO. 10194251

Enterprise Products
Bahia Pipeline LLC

PROJECT: BAHIA PIPELINE			
DWN. BY: DJC	DATE: 12/7/2023		
CHK. BY: SRS	DATE: 12/7/2023		
PAGE: 7 OF 7	REV: 5		

TX-MD-0042.00000_70_71
20' WIDE TEMPORARY ROAD RIGHT OF WAY
THE CITY OF MIDLAND, TEXAS
MIDLAND COUNTY, TEXAS

Bahia Pipeline
TX-GC-0001.00000
Revision 1
Glasscock County, Texas

EXHIBIT "A"

THE CITY OF MIDLAND, TEXAS

CENTERLINE DESCRIPTION OF A FIFTY-(50)-FOOT-WIDE RIGHT OF WAY SITUATED IN SECTION 30, BLOCK 36, THE T.&P. RR. CO. SURVEY, A-1241 IN GLASSCOCK COUNTY, TEXAS, AND OVER AND ACROSS THAT TRACT DESCRIBED IN DEED TO THE CITY OF MIDLAND, TEXAS AS RECORDED IN VOLUME 20, PAGE 534 OF THE OFFICIAL PUBLIC RECORDS OF GLASSCOCK COUNTY, TEXAS (O.P.R.G.C.T.) SAID FIFTY-(50)-FOOT-WIDE RIGHT OF WAY BEING SITUATED TWENTY-FIVE-(25)-FEET ON EACH SIDE OF THE HEREIN DESCRIBED CENTERLINE, THE SIDELINES OF SAID RIGHT OF WAY BEING LENGTHENED OR SHORTENED TO INTERSECT THE BOUNDARIES OF THE ABOVE REFERENCED TRACT OF LAND, SAID CENTERLINE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING, being a point on the west line of said tract [N: 10,646,420.64, E: 1,848,781.09], and the east line of that tract described in deed to The City of Midland, Texas as recorded in Volume 1508, Page 593 of the Official Public Records of Midland County, Texas (O.P.R.M.C.T.) from which a 1-inch iron pipe found marking the northwest corner of Section 30 bears North 86°38'40" West, 5,190.49 feet;

THENCE across said tract the following bearing and distance:

> North 77°35'35" East, 355.17 feet to a point on the east line thereof [N: 10,646,496.95, E: 1,849,127.97], and the west line of that tract described in deed to Elizabeth Diane Herrman as recorded in Volume 156, Page 266 of said O.P.R.G.C.T., for the **POINT OF TERMINATION**, from which a 1-inch iron rod found marking the southeast corner of said tract bears South 15°31'55" East, 3,660.93 feet;

Said Centerline having a total length of 355.17 feet (21.53 rods) and said Right of Way containing 0.408 acres (17,758 square feet) of land, more or less.

TEMPORARY WORKSPACE

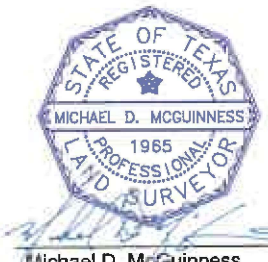
BEING a sixty-(60)-foot-wide strip of land, parallel and coincident with and adjoining the side of the above described fifty-(50)-foot wide Right of Way. Said strip of land shall extend the entire length of said Right of Way as shown on the attached plat containing 0.511 acres (22,260 square feet) of land, more or less.

ADDITIONAL TEMPORARY WORKSPACE

BEING an additional temporary workspace as shown on the attached plat containing 0.115 acres (5,000 square feet) of land, more or less.

NOTES

1) Ownership and tract information shown herein is based on abstracting services provided by others. This description was prepared without a commitment for title insurance. Easements of record may exist and are not indicated herein. This description does not represent a boundary survey.
2) All coordinates, bearings, distances and areas are referenced to the Texas Coordinate System of 1983 (2011 Adjustment), Central Zone (4203), U.S. survey feet, based on GPS observations made by Tablerock Survey, LLC.
3) Refer to the attached plat of this document, made this day in conjunction with and considered an integral part of this description.



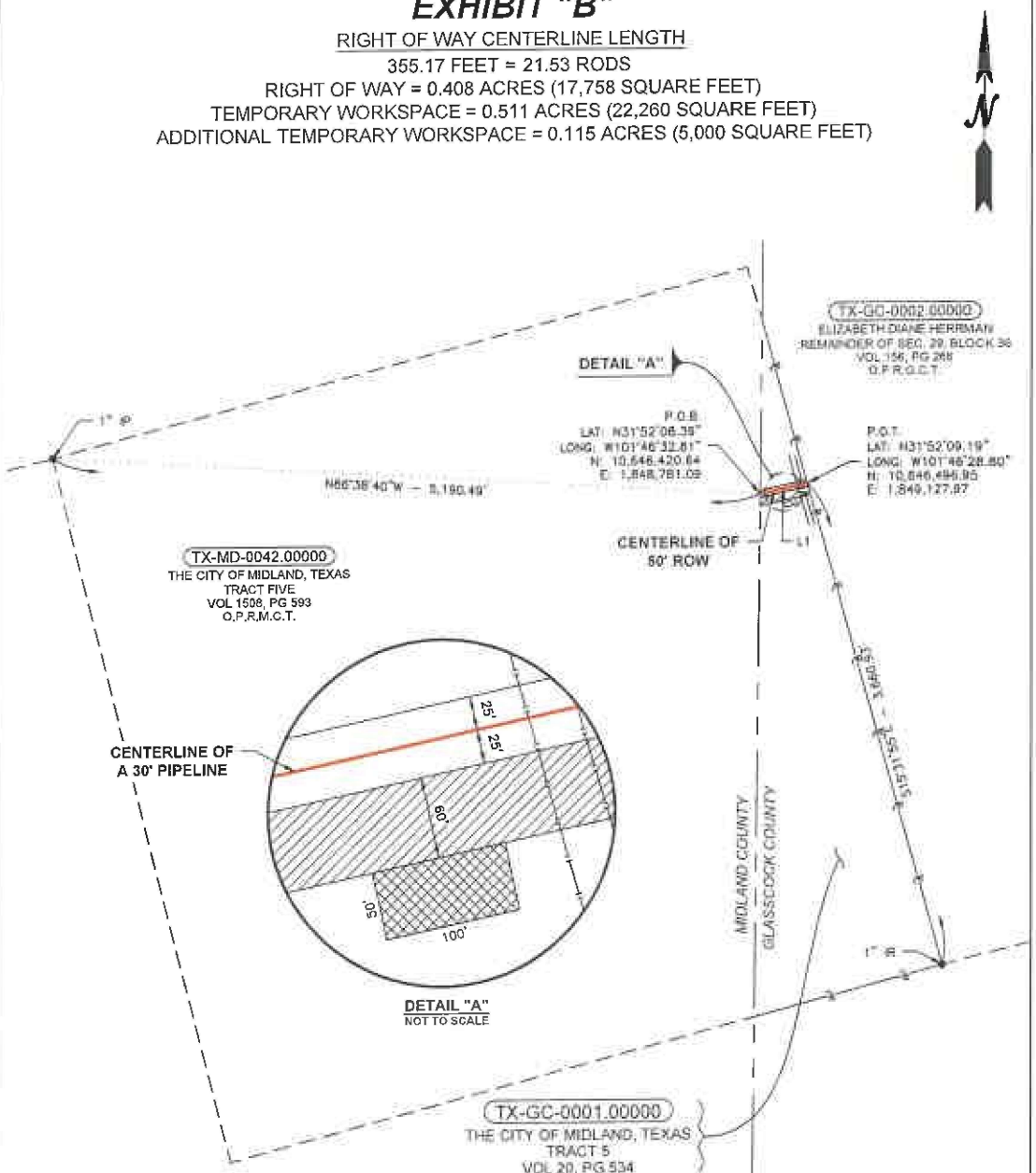
12/16/2024

Michael D. McGuinness Date
Registered Professional Land Surveyor
State of Texas License No. 1965

Tablerock Survey, LLC
2002 Timberloch Place, Suite 110
The Woodlands, TX., 77380
Phone: 832-415-3869
TBPELS Firm License No. 10194261

EXHIBIT "B"

RIGHT OF WAY CENTERLINE LENGTH
355.17 FEET = 21.53 RODS
RIGHT OF WAY = 0.408 ACRES (17,758 SQUARE FEET)
TEMPORARY WORKSPACE = 0.511 ACRES (22,260 SQUARE FEET)
ADDITIONAL TEMPORARY WORKSPACE = 0.115 ACRES (5,000 SQUARE FEET)



LINE TABLE		
NUMBER	BEARING	LENGTH
L1	N77°35'35"E	355.17'

NO.	REVISIONS	BY	DATE
0	ISSUED FOR FINAL	TRS	12/07/2023
1	CLIENT REQUEST	TRS	12/11/2024

NOTES:

1. OWNERSHIP AND TRACT INFORMATION SHOWN HEREON IS BASED ON ABSTRACTING SERVICES PROVIDED BY OTHERS. THIS PLAT WAS PREPARED WITHOUT A COMMITMENT FOR TITLE INSURANCE. EASEMENTS OF RECORD MAY EXIST AND ARE NOT SHOWN HEREON. THIS PLAT DOES NOT REPRESENT A BOUNDARY SURVEY.
2. ALL COORDINATES, BEARINGS AND DISTANCES ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983 (2011 ADJUSTMENT), CENTRAL ZONE (4203), U.S. SURVEY FEET BASED ON GPS OBSERVATIONS MADE BY TABLEROCK SURVEY, LLC.
3. SEE THE LEGAL DESCRIPTION MADE THIS DAY IN CONJUNCTION WITH AND CONSIDERED AN INTEGRAL PART OF THIS PLAT OF EASEMENT.

STATE OF TEXAS
REGISTERED
MICHAEL D. MCGUINNESS
1965
PROFESSIONAL
LAND SURVEYOR

12/16/2024
MICHAEL D. MCGUINNESS — DATE
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS LICENSE NO. 1965

O.P.R.G.C.T. OFFICIAL PUBLIC RECORDS GLASSCOCK COUNTY, TEXAS
O.R.G.C.T. OFFICIAL RECORDS GLASSCOCK COUNTY, TEXAS
O.P.R.M.C.T. OFFICIAL PUBLIC RECORDS MIDLAND COUNTY, TEXAS
VOL, PG VOLUME, PAGE
DOC # DOCUMENT NUMBER
RIGHT-OF-WAY (ROW)
TEMPORARY WORKSPACE (T.W.S.)
ADDITIONAL TEMPORARY WORKSPACE (A.T.W.S.)

LEGEND

0' 500' 1000'
GRAPHIC SCALE IN FEET

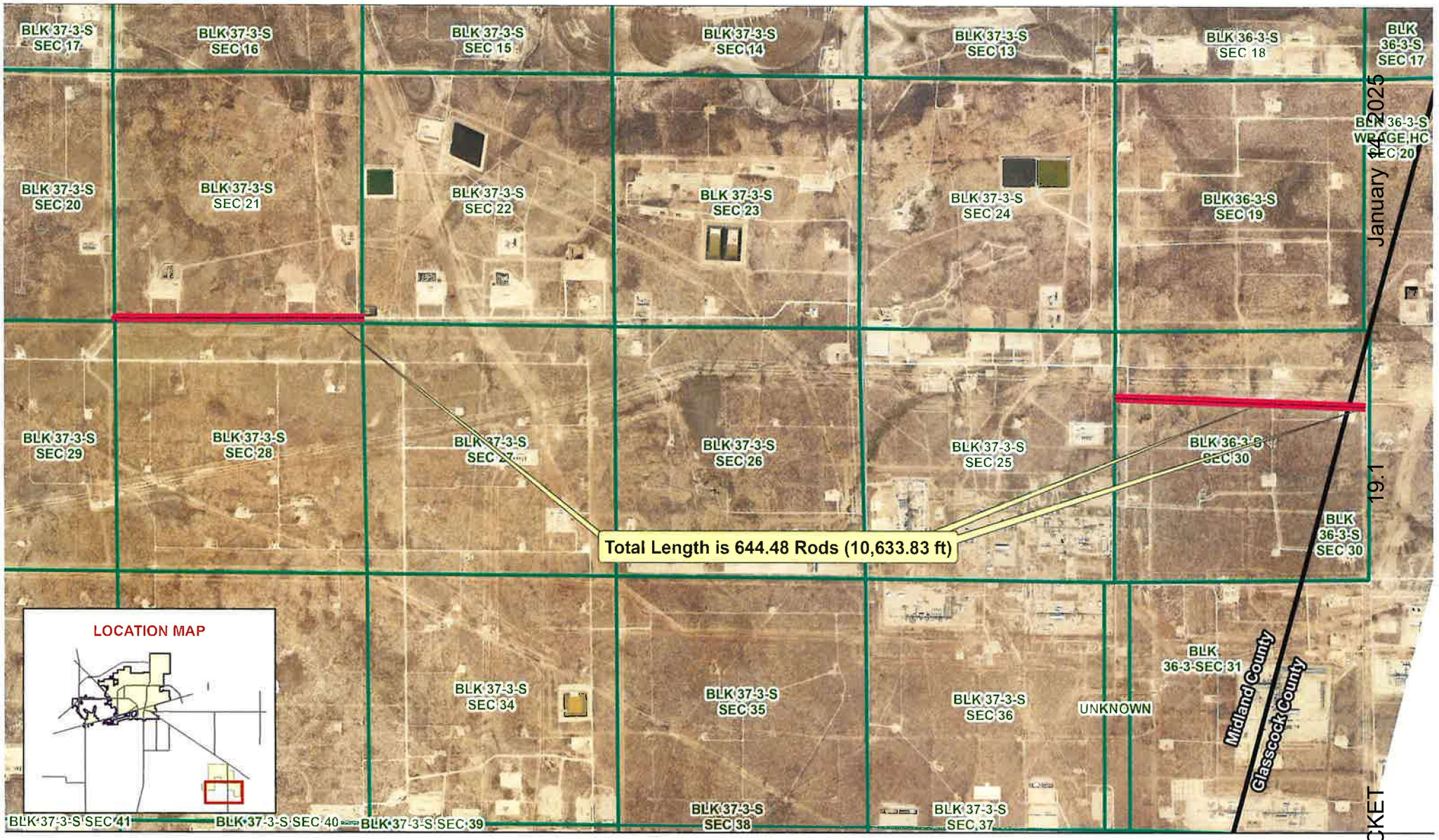
POINT OF BEGINNING	P.O.B.	CENTERLINE	
POINT OF TERMINATION	P.O.T.	PROPERTY LINE	
POINT OF REFERENCE	P.O.R.	SURVEY LINE	
POINT OF EXIT	P.O.E.	ADJOINER PROPERTY	
POINT OF RE-ENTRY	P.O.R.E.	EXISTING PIPELINE	
RIGHT OF WAY	R.O.W.	FLY TIE	
FOUND MONUMENT	●	IRON ROD	IR
POINT OF INTERSECTION	○	IRON PIPE	IP

TABLEROCK
2925 TECHNOLOGY FOREST BLVD., BLDG. 3, SUITE 110
THE WOODLANDS, TX 77381
OFFICE: 832-415-3869
TBPELS FIRM NO. 10194261

Enterprise Products
Bahia Pipeline LLC

PROJECT: BAHIA PIPELINE
DWN. BY: DJC DATE: 12/7/2023
CHK. BY: SRS DATE: 12/7/2023
PAGE: 2 OF 2 REV: 1

TX-GC-0001.00000
50' WIDE RIGHT OF WAY
THE CITY OF MIDLAND, TEXAS
GLASSCOCK COUNTY, TEXAS



Date: 2/18/202

Legend

- Proposed ROW
- Survey Section
- County Boundary

Enterprise Proposed ROW in Spraberry

0 1,000 2,000 Feet

©THE CITY OF MIDLAND - 2024

THE FACE OF THIS DOCUMENT CONTAINS MICROPRINTING

JPMORGAN CHASE BANK, N.A.

Enterprise Products

Enterprise Products Operating LLC
P.O. Box 4324
Houston, TX 77210-4324

Land Account
4300300/49000

Check No. 097638

Date: 12/19/24

PAY TO THE ORDER OF: City of Midland

$ 1,000.00
VOID AFTER 180 DAYS

One thousand dollars + 00/100 **DOLLARS**

MEMO Aff fee

AUTHORIZED SIGNATURE

Cassie Blake
Print Name

⑈097638⑈ ⑆044115443⑆ 66263996 2⑈

ORIGINAL DOCUMENT HAS A WATERMARK ON BACK

THE FACE OF THIS DOCUMENT CONTAINS MICROPRINTING

JPMORGAN CHASE BANK, N.A.

Enterprise Products

Enterprise Products Operating LLC
P.O. Box 4324
Houston, TX 77210-4324

Land Account

Check No. 097640

Date: 12/19/24

PAY TO THE ORDER OF: City of Midland

$ 308,921.40
VOID AFTER 180 DAYS

Three hundred eight thousand, nine hundred twenty one dollars + 40/xx **DOLLARS**

MEMO

AUTHORIZED SIGNATURE

Cassie Blake
Print Name

⑈097640⑈ ⑆044115443⑆ 66263996 2⑈

ORIGINAL DOCUMENT HAS A WATERMARK ON BACK

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 10/04/2023

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:	Old Republic Insurance Company	24147
INSURER B:	Lexington Insurance Company	19437
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
Bahia Pipeline, LLC,
1100 Louisiana Street 10th Floor
Houston TX 77002 USA

COVERAGES **CERTIFICATE NUMBER:** 570102095125 **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	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY / PRO-JECT / LOC OTHER:			MWZY31308823	04/18/2023	04/18/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$1,000,000 $1,000,000 Excluded $1,000,000 $6,000,000 $2,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY			MWTB 313086 23	04/18/2023	04/18/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$1,000,000
A	X UMBRELLA LIAB / OCCUR EXCESS LIAB / X CLAIMS-MADE DED / RETENTION			MWZU31362823	04/18/2023	04/18/2024	EACH OCCURRENCE AGGREGATE	$9,000,000 $9,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N: N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		MWC31308523	04/18/2023	04/18/2024	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT	$1,000,000 $1,000,000 $1,000,000

Certificate No : 570102095125

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Right-of-Way License Agreement. Certificate Holder is included as Additional Insured in accordance with the policy provisions of the General Liability policy. The insurance available to any person or organization qualifying as an additional insured will not exceed the minimum coverage and limits required by the contract or agreement between the Named Insured and the Certificate Holder. A Waiver of Subrogation is granted in favor of Certificate Holder in accordance with the policy provisions of the General Liability, Automobile Liability, Umbrella Liability and Workers' Compensation policies.

CERTIFICATE HOLDER

City of Midland
300 N. Loraine
Midland TX 79701 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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City Council Meeting

Item Number: 20

Meeting Date: December 17, 2024, January 14, 2025

To: City Council / City Manager

From: Daniel Humbert, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR LOT 1, BLOCK 1, CAVENDER ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ARLINGTON ROAD AND DEAUVILLE BOULEVARD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR AUTOMOBILE OR OTHER MOTORIZED VEHICLE SALES AND SERVICE; 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)

Purpose:

Maverick Engineering, on behalf of Cavender Real Estate of Midland IV, LLC, is requesting a Specific Use Designation without Term for an Automobile or Other Motorized Vehicle Sales and Service located at 6701 South Highway 191.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority:

Quality of Life and Place

Discussion:

Surrounding Zoning and Land Use:

The zoning to the south is MF-16, Multiple-Family Dwelling District. The surrounding zoning to the north and east is RR, Regional Retail District. There is no zoning to the west as it is part of the ETJ, Extraterritorial Jurisdiction.

There is no adjacent land use to the north, south, east and west as all properties are vacant and undeveloped.

Analysis:

The property is located at 6701 South Highway 191 and is currently vacant and undeveloped. The property is zoned RR, Regional Retail District which allows for the use of an *Automobile or Other Motorized Vehicle Sales and Service* with a Specific Use Designation without Term. Per the definition of *Automobile or Other Motorized Vehicle Sales and Service* as defined in Section 11-1-2.01.33:

A business providing sales, display and service of new and used motorized vehicles, including motorcycles, RVs, and boats – not including semi-truck or heavy truck sales. [11-1-2.01.33]

The dealership will have to comply with the regulations set forth in Section 11-1-4.04.A.6:

a. Allowed by Specific Use Designation, according to the permitted Use Chart.

b. All exterior light sources shall be of a down-light type, indirect, diffused, or shielded type luminaries and so installed as to reduce glare effect and consequent interference with use of adjacent properties and boundary streets.

c. No intermittent or flashing lights shall be permitted.

d. Luminaries shall be mounted at a height not to exceed 30 feet as measured vertically from the horizontal surface of the nearest parking pavement.

e. All building façades shall be constructed with the same masonry materials that meet the masonry regulations for the zoning district in which the property is located.

f. No exterior auditory devices shall be permitted.

The hours of operation for the Cavender Mercedes-Benz Dealership are:

Monday through Saturday from 9:00 a.m. to 8:00 p.m.

The proposed hours of operation for the Automobile or Other Motorized Vehicle Sales and Service are:

Monday through Saturday from 9:00 a.m. to 8:00 p.m.

The request is in compliance with the Tall City Tomorrow Comprehensive Plan as the Tall City Tomorrow Plan designated this area as U-H, Urban-High. The U-H designation supports regional commercial. The Cavender Mercedes-Benz Dealership and the Automobile or Other Motorized Vehicle Sales and Service is a use that is complementary to the surrounding future development.

The request is also in compliance with Chapter 6-Character Plan Goal 4, which is to "Identify partnerships to produce neighborhood and commercial centers that are attractive, functional, and of high quality." This Automobile or Other Motorized Vehicle Sales and Service will contribute to the production of more quality products that meet the needs of today's residents, reflect the pride residents have in their community, and that will last well into the future.

This project has been circulated to all City departments for review. Below are the department comments.

Fire: (Approved)

No Objections.

Engineering: (Approved)

No objection. [For the Applicant's information only.]

Transportation: (Approved)

No objection. [For the Applicant's information only.]

Building Code: (Approved)

No Objections.

Planning:

The Planning & Zoning Commission recommended approval of this request on November 4, 2024.

This request meets all requirements; therefore, staff recommends approval of the request of the Specific Use Designation without Term for an Automobile or Other Motorized Vehicle Sales and Service, subject to Conditions A through C.

Conditions:

A. **That the use and development of the Property for the Specific Use shall significantly conform to the site plan, which is attached hereto as Exhibit "A" and incorporated herein for all purposes.**

B. **That the use and development of the Property for the Specific Use shall conform to standards set forth in Section 11-1-4.04.A.6 of the City Code.**

C. **That the operator of the Specific Use shall obtain a Certificate of Occupancy prior to using the Property for the Specific Use to ensure that the conditions of this Specific Use Designation With Term are satisfied.**

Letters of Objection:

As of December 10, 2024, staff has received no letters of objection.

Attachments:

Application
Site Plan (Exhibit A)
Maps
Photos
PowerPoint

Jose E. Ort

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR LOT 1, BLOCK 1, CAVENDER ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF ARLINGTON ROAD AND DEAUVILLE BOULEVARD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR AUTOMOBILE OR OTHER MOTORIZED VEHICLE SALES AND SERVICE; 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 Without Term for Lot 1, Block 1, Cavender 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 Without Term for automobile or other motorized vehicle sales and service (the "Specific Use"), 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 use and development of the Property for the Specific Use shall significantly conform to the site plan, which is attached hereto as Exhibit "A" and incorporated herein for all purposes.

B. That the use and development of the Property for the Specific Use shall conform to standards set forth in Section 11-1-4.04.A.6 of the City Code.

C. That the operator of the Specific Use shall obtain a Certificate of Occupancy prior to using the Property for the Specific Use to ensure that the conditions of this Specific Use Designation With Term are satisfied.

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., 2024; 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., 2025, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2025.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

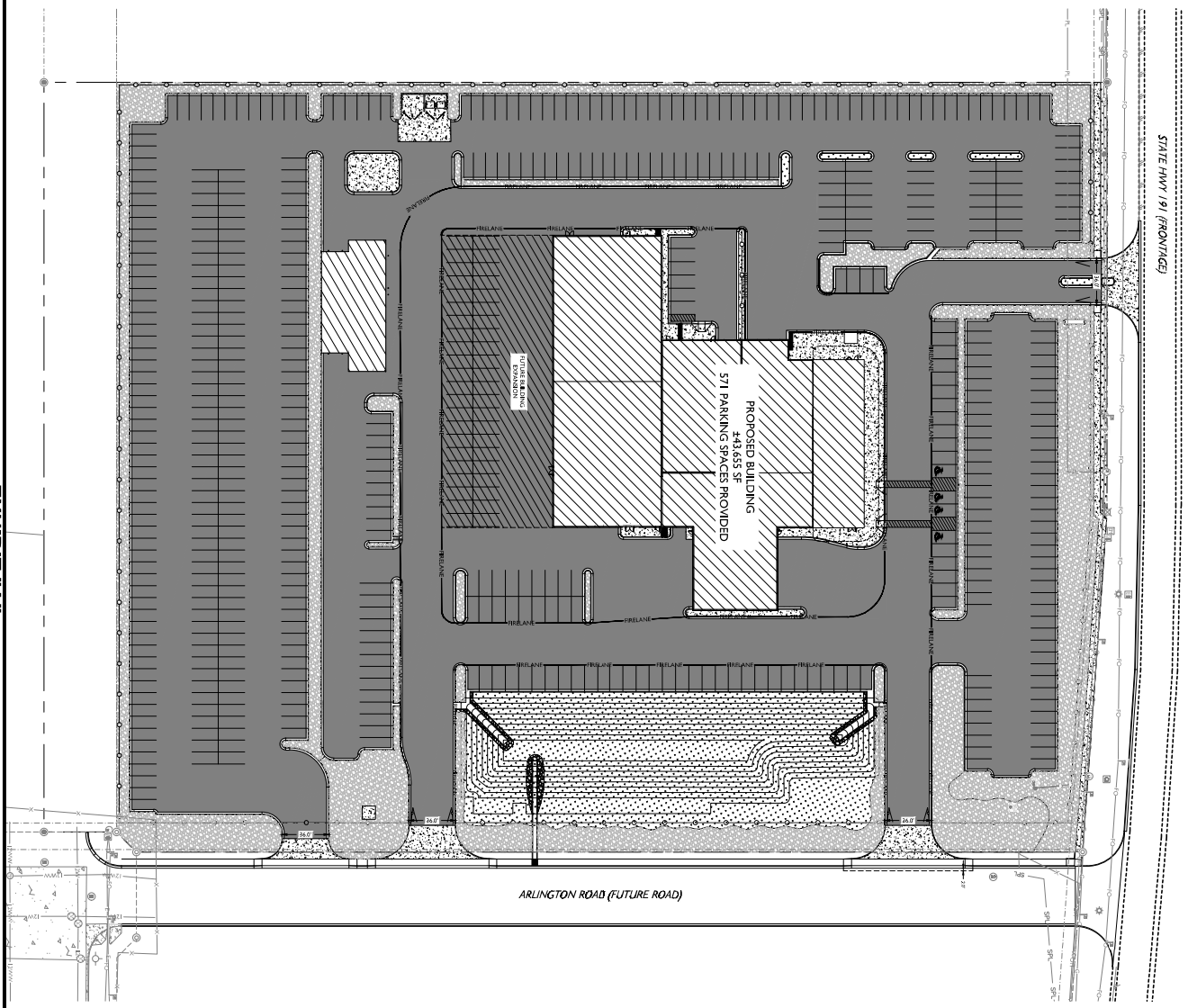
APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

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F:\2024\240009-CAVENDER AUTO FAMILY-MERCEDES BENZ NEW SITE MIDLAND\SUD\240009 CAVENDER MERCEDES SUD SITE PLAN.DWG

EXHIBIT "A"



SHEET 1		**SITE PLAN** **CAVENDER AUTO MIDLAND** BEING A 10.72 ACRE TRACT OF LAND, SITUATED IN SECTION 38, BLOCK 40, TOWNSHIP 1 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS.	Know what's below. Call before you dig.	DRAWN BY: TDE CHECKED BY: CLB APPROVED BY: ALM DATE: 10/01/2024 JOB: 240009	Δ	REVISIONS	BY	APPR.	DATE	MAVERICK **MAVERICK** ENGINEERING / SURVEY / WATER RESOURCES 1909 W Wall St. Ste. "K", Midland, TX 79701 Tel: (432) 262-0999 Fax: (432) 262-0989 ENGINEER FIRM #: F-15089 SURVEY FIRM #: 10194452 www.Maverick-Eng.com

Docusign Envelope ID: 72215D6E-CE4D-42CD-89AC-CB05433F95AB

MIDLAND Planning Division

Specific Use Designation Application (Non-Alcohol)

Case Number: _____

Ord. Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Cavender Real Estate of Midland IV, LLC		Phone (210) 410-0075 Email stephenc@cavendertoyota.com	
Address 5778 Stemmons, Ste. 130	City San Antonio	State TX	Zip 78238

Property Owner Printed Name: See applicant info		Phone ( ) Email	
Address	City	State	Zip

Representative *(if different from Applicant or Property Owner)* Firm: Maverick Engineering Printed Name: Chase B. Dunnam, PE		Phone (432) 262-0999 Email cdunnam@maverick-eng.com	
Address 1909 W. Wall St., Ste. K	City Midland	State TX	Zip 79701

Type of Permit: Automobile Sales and Service

For Office Use Only
☐ with Term ☐without Term

Is there any Code Enforcement action pending on property? ☐ Yes ■ No

Street Address: 6701 SH 191

Legal Description
Lot: 1 Block: 1 Subdivision: Cavender Addition

Current Zoning: RR

Maximum Floor Area: Approx. 43,655 SF

Maximum Occupancy: TBD

Proposed hours and days of use or operation: 9:00 AM - 8:00 PM , Monday-Saturday

Reason for request: To operate a business that includes "Automobile or Other Motorized Vehicle Sales and Service" in RR zoning

Applicant's opinion as to why the request will not adversely affect the public safety, health, morals, general welfare, and convenience: This development is following all state and local guidelines. The proposed use matches the use of adjacent developments, so there will be no change.

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan showing
  - Parking (if applicable)
  - Building Footprint
- Digital Copies of Site Plan (PDF/JPEG)

Signatures

DocuSigned by:

Applicant (signature): Stephen Cavender 8C7BEF73AA67477...

Date: 10/11/2024

Applicant (printed): Stephen Cavender

Property Owner (signature):

Date:

Property Owner (printed) : _____

The Specific Use Designation shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Ashlee Devine who, being by me duly sworn, upon oath says: That (s)he is authorized by Stephen Cavender, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 11th day of October, 20 24, to certify which witness my hand and seal of office.

SAVANNAH DAVIS
Notary Public, State of Texas
Comm. Expires 05-20-2028
Notary ID 134907724

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☑ Property Owner Authorization

☑ Application Fee

Check # 4983

☑ Dimensioned Site Plan

☑ Site Plan in Digital Format (PDF/JPEG)

Received By: Brittany Mong

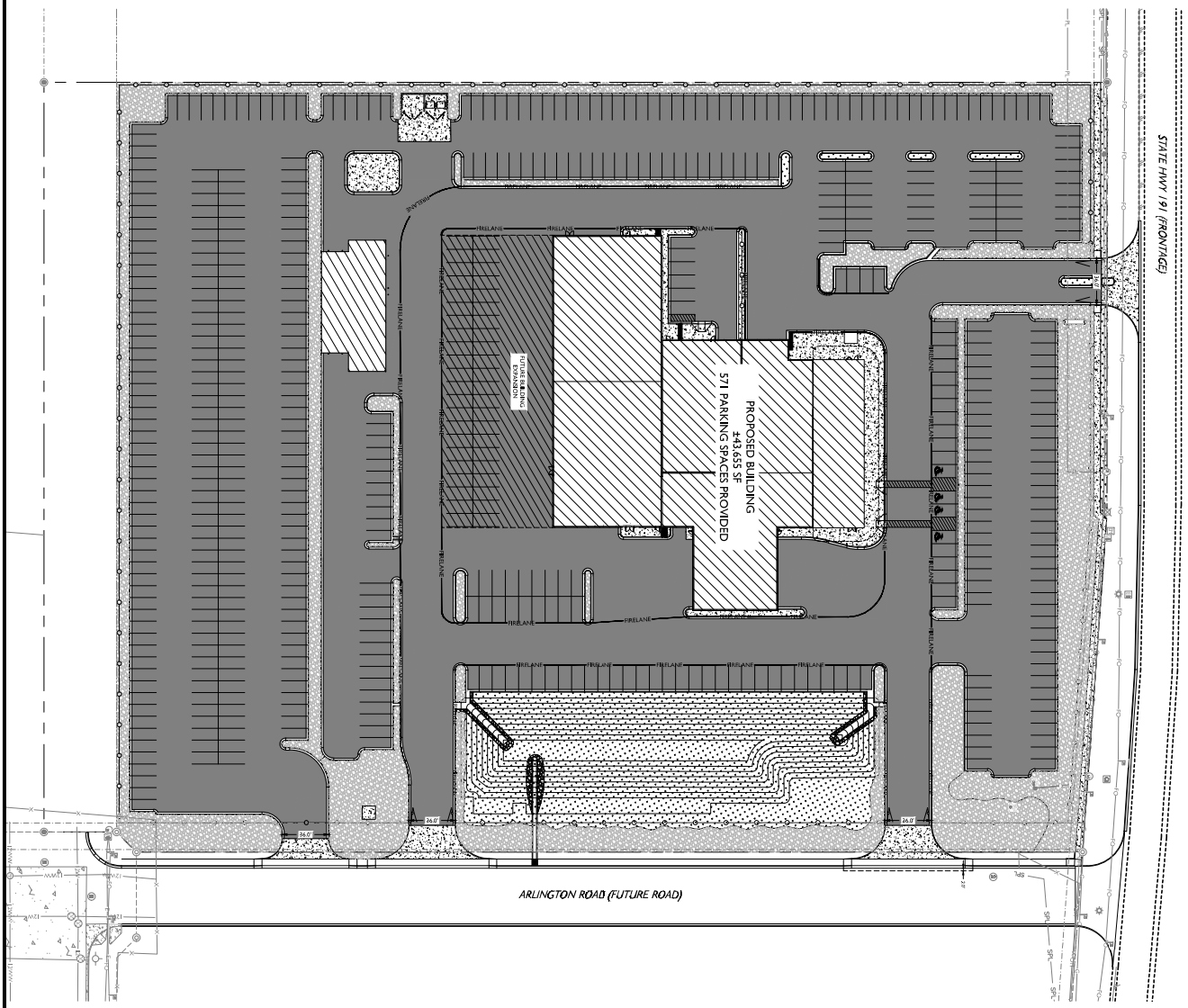
Date: OCT 11 2024

RECEIVED

Application will not be considered for scheduling until reviewed by a planner.

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F:\2024\240009-CAVENDER AUTO FAMILY-MERCEDES BENZ NEW SITE MIDLAND\SUD\240009 CAVENDER MERCEDES SUD SITE PLAN.DWG



SITE PLAN

CAVENDER AUTO MIDLAND

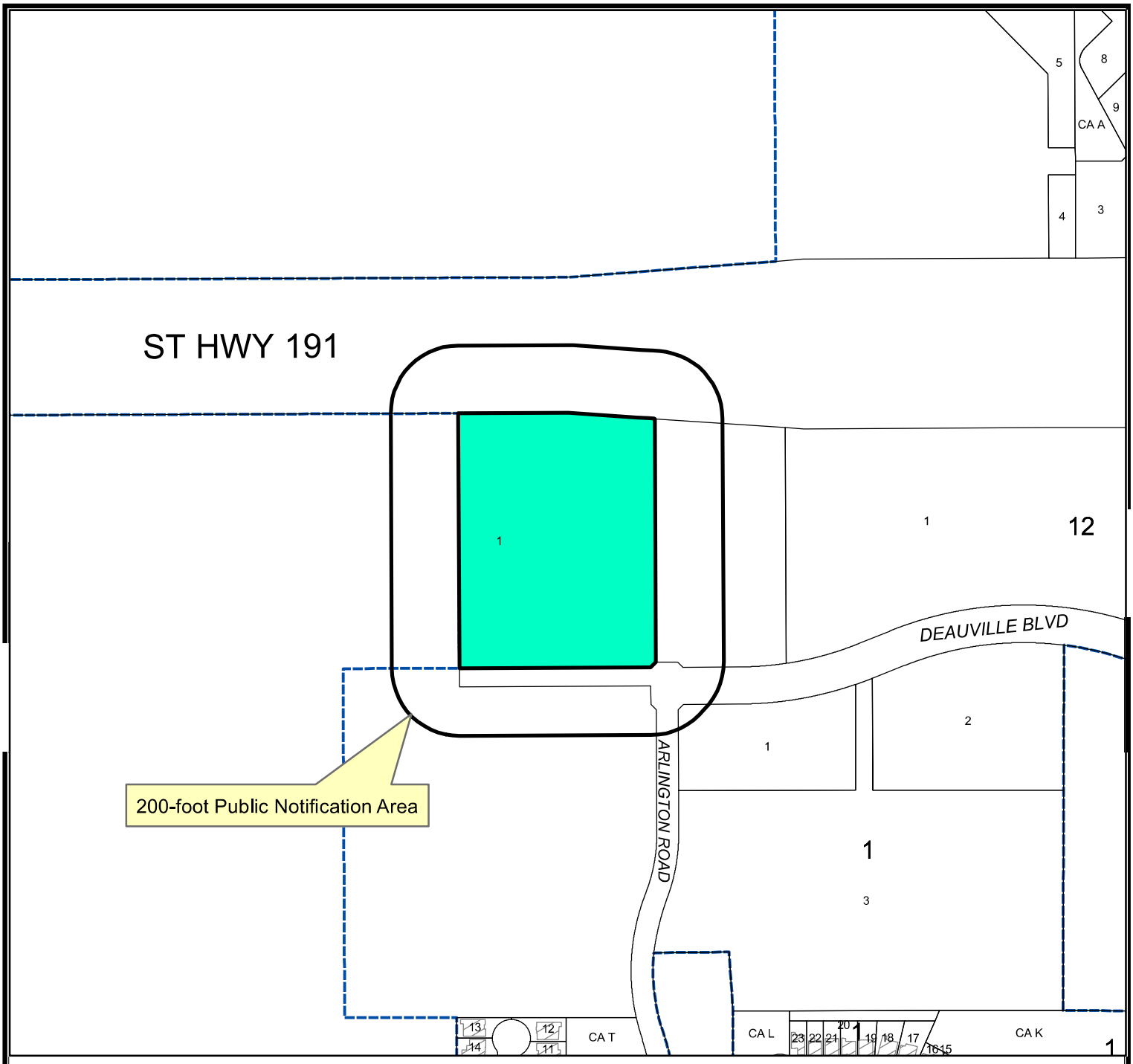
BEING A 10.72 ACRE TRACT OF LAND, SITUTATED IN SECTION 38, BLOCK 40, TOWNSHIP 1 SOUTH, TEXAS AND PACIFIC RAILWAY COMPANY SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS.

Know what's below. Call before you dig.

DRAWN BY:	TDE
CHECKED BY:	CLB
APPROVED BY:	ALM
DATE:	10/01/2024
JOB:	240009

REVISIONS	BY	APPR.	DATE

MAVERICK
ENGINEERING / SURVEY / WATER RESOURCES
1909 W Wall St. Ste. "K", Midland, TX 79701
Tel: (432) 262-0999 Fax: (432) 262-0989
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194452
www.Maverick-Eng.com



Location Map

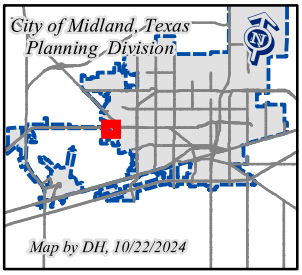
SUDwo-24-0044 **Scale: 1" = 421'**

Consider a request by Maverick Engineering, on behalf of Cavender Real Estate of Midland IV, LLC, for a Specific Use Designation Without Term for an Automobile or Other Motorized Vehicle Sales and Service on Lot 1, Block 1, Cavender Addition, City and County of Midland, Texas.

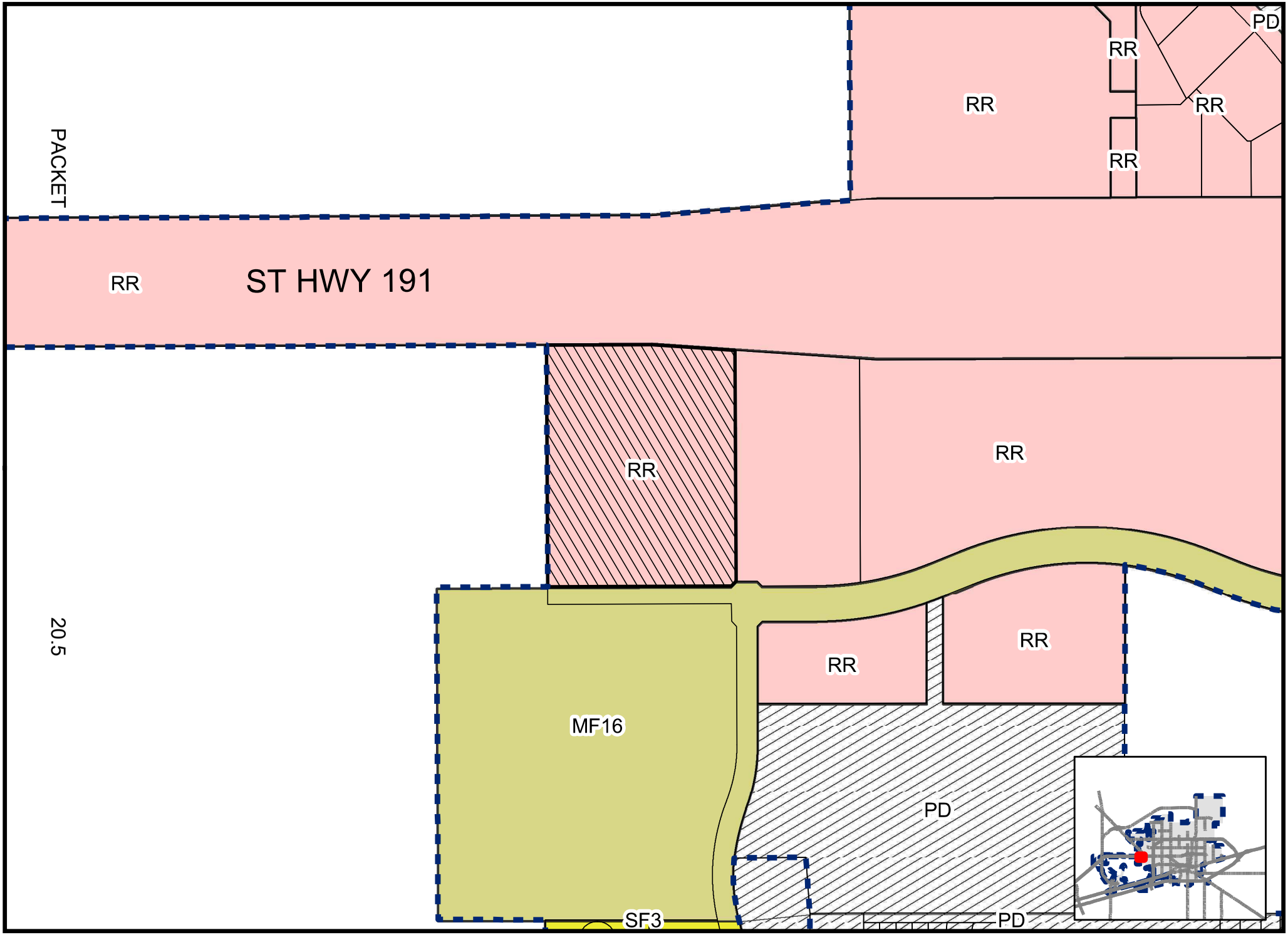
Generally located at the northwest corner of the intersection of Arlington Road and Deauville Boulevard. (DISTRICT 4)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND IS NOT 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.



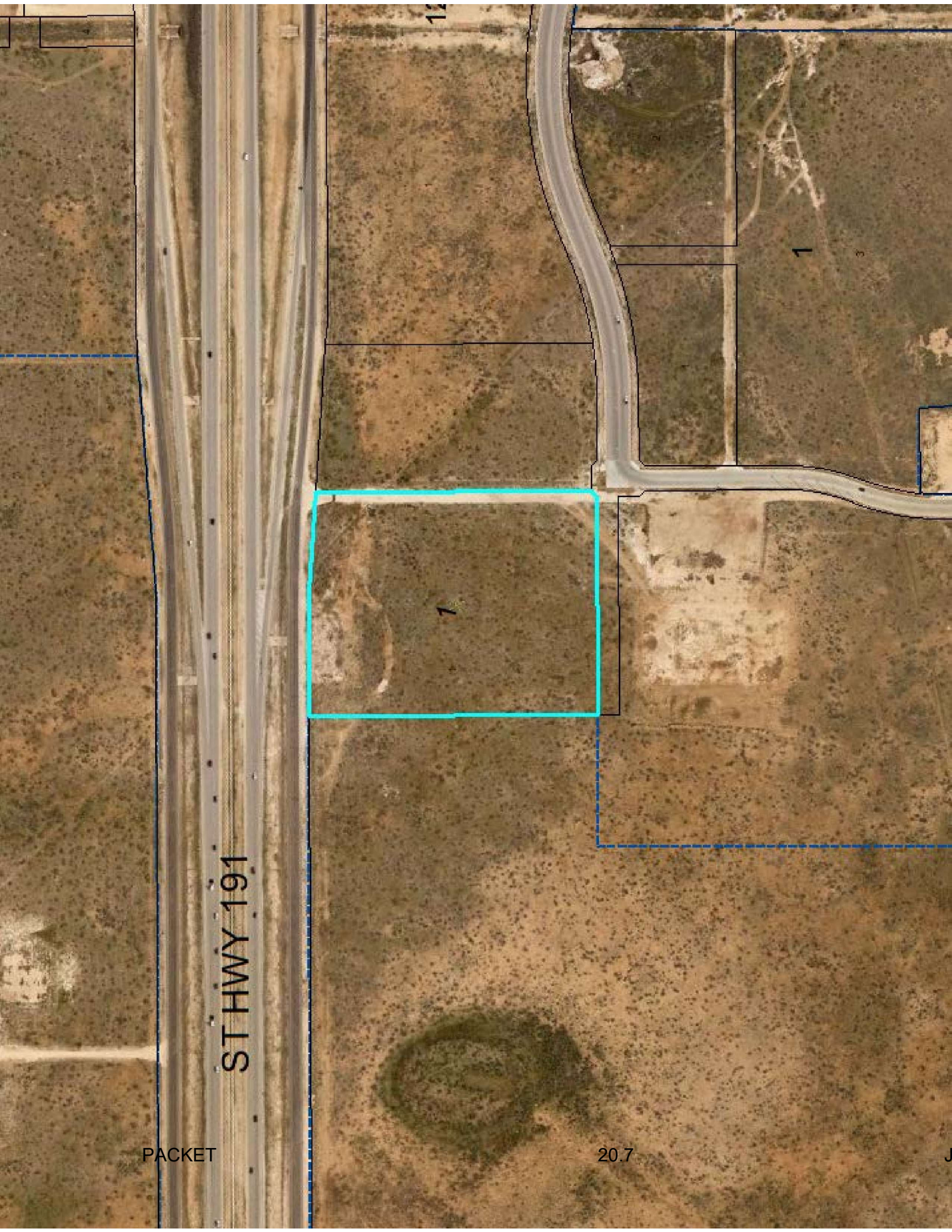
Map DH, 10/23/2024

SUDwo-24-0044

Scale: 1" = 372'

ZONING MAP

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ST HWY 191

PACKET

20.1

CAVENDER MERCEDES-BENZ DEALERSHIP

ITEM _ SPECIFIC USE DESIGNATION WITHOUT TERM

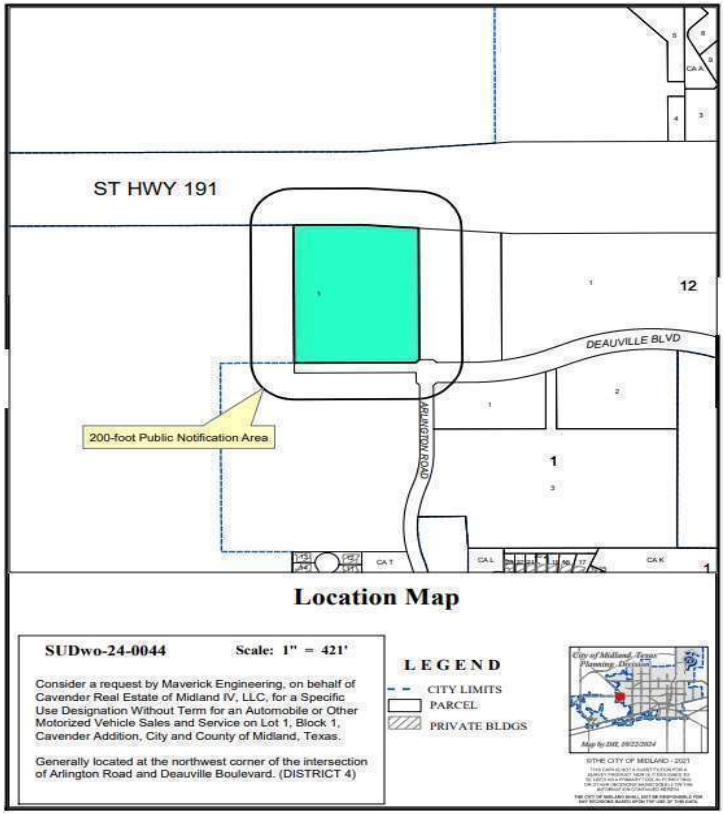
December 17, 2024

Visit Our Website

MIDLANDTEXAS.GOV

APPLICATION SUMMARY

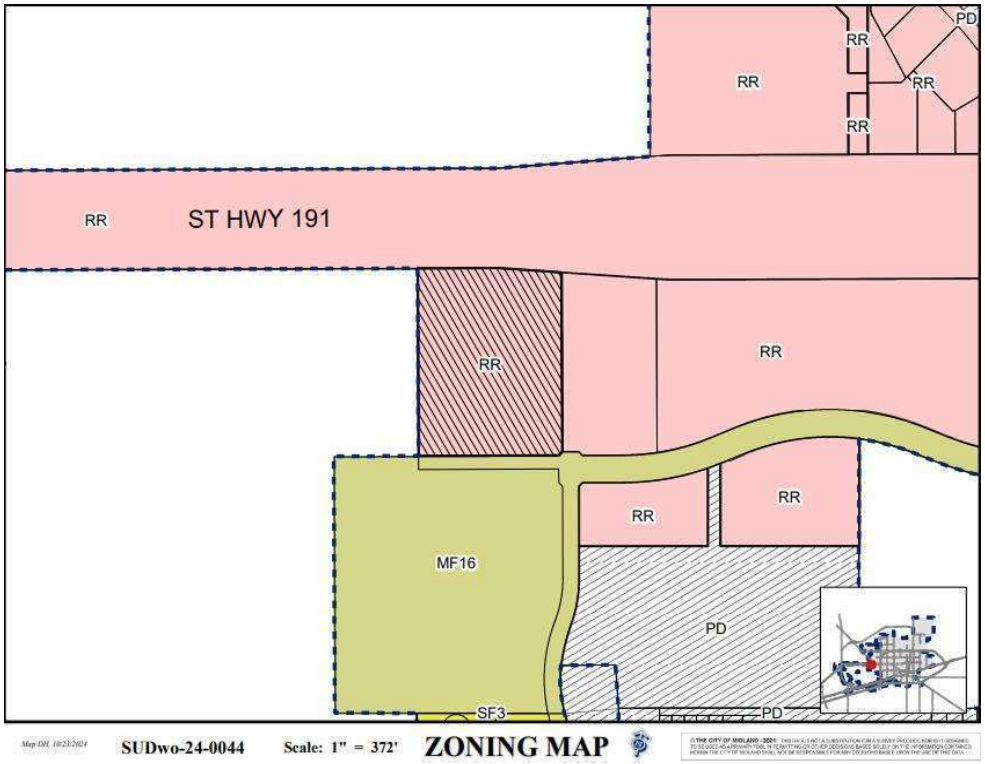
- **Property Owner**: Cavender Real Estate of Midland IV, LLC
- **Applicant:** Chase Dunnam with Maverick Engineering
- **Type:** SUD Without Term for an Automobile or Other Motorized Vehicle Sales and Service
- **Address**: 6701 South Highway 191 (District 4)



ZONING

- **Current Zoning:** RR, Regional Retail
- **Surrounding Zoning:**
  - **North & East:** RR, Regional Retail District
  - **South:** MF-16, Multiple-Family Dwelling District
  - **West:** ETJ, Extraterritorial Jurisdiction

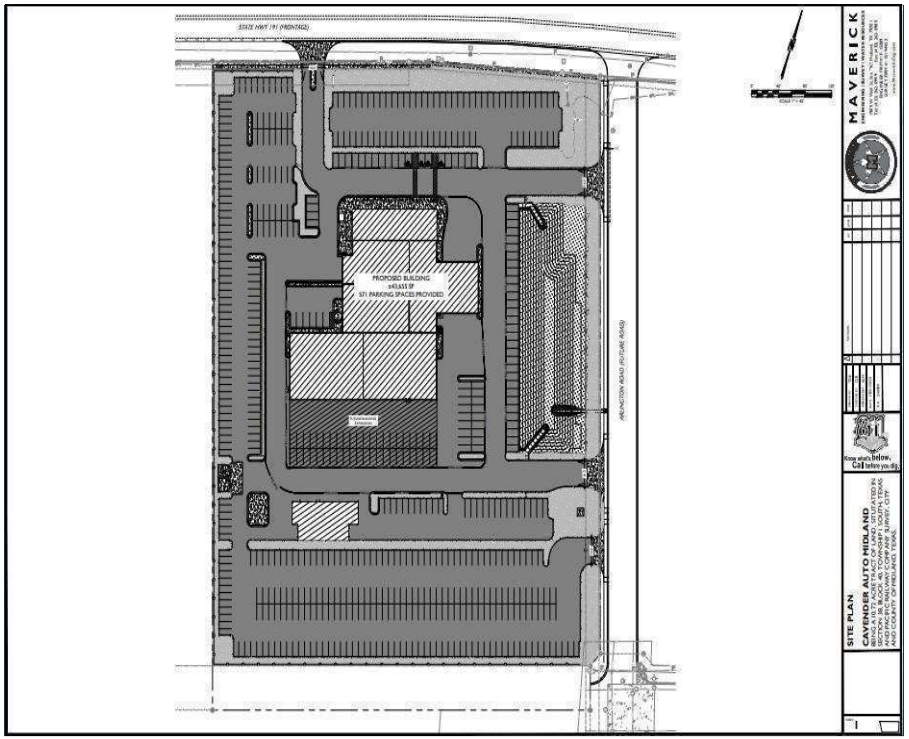
- The use of Automobile or Other Motorized Vehicle Sales and Service is allowed with a Specific Use Designation per the Use Chart in Section 11-1-4.03



INFORMATION

- **Proposed Days and Hours of Operation:**
  - Monday – Saturday, 9:00 a.m. to 8:00 p.m.

- **Proposed Days and Hours of SUDwo:**
  - Monday – Saturday, 9:00 a.m. to 8:00 p.m.



LAND USE

- **Current Use:** Vacant lot
- **Proposed Use:** Automotive sales and service center
- **Surrounding Uses:**
  - **North/South/East/West:** Vacant lot





On Deauville Boulevard, Looking West

MIDLAND
Be the Energy!

COMPREHENSIVE PLAN ANALYSIS

- **TCT 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.
  - Residential uses range from townhomes/ rowhouses up to apartment towers.
  - Parking garages or public parking lots may be found in these areas.
  - Higher levels of urban amenities
    - Request is **compatible** with surrounding area & TCT Plan



MIDLAND
Be the Energy!

RELATED ITEMS

- City Council approved the annexation of this property on August 13, 2024.
- City Council approved the initial zoning of this property on August 13, 2024.
- The Planning and Zoning Commission approved the final plat associated with this request on October 7, 2024.
- This request was recommended for approval by the Planning & Zoning Commission on November 4, 2024.



STAFF'S RECOMMENDATION

- Staff has received no letters of objection as of December 17, 2024.
- Staff recommends approval of the request of the Specific Use Designation without Term for an Automobile or Other Motorized Vehicle Sales and Service, subject to Conditions A through C.

- A. That the use and development of the Property for the Specific Use shall significantly conform to the site plan, which is attached hereto as Exhibit "A "and incorporated herein for all purposes.
- B. That the use and development of the Property for the Specific Use shall conform to standards set forth in Section 11-1-4.04.A.6 of the City Code.
- C. That the operator of the Specific Use shall obtain a Certificate of Occupancy prior to using the Property for the Specific Use to ensure that the conditions of this Specific Use Designation With Term are satisfied.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 21

Meeting Date: December 17, 2024, January 14, 2025

To: City Council / City Manager

From: Alexis M. 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 4,500-SQUARE FOOT PORTION OF BLOCKS 21 AND 22, KELVIEW HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST SCHARBAUER AVENUE), WHICH IS PRESENTLY ZONED LR, LOCAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE 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 3) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

The applicant, Sam Powell Jr., on behalf of Situationz Lounge, is requesting a Specific Use Designation (SUD) with Term for alcoholic beverages sales for on-premises consumption in a lounge, Situationz Lounge is located at 2215 North Big Spring Street.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the City.

Strategic Priority:

(Quality of Life & Place)

Current Zoning:

LR, Local Retail District

Surrounding Zoning and Land Use:

The properties to the north and west are zoned PD- Planned District and are the location of houses and offices, such as Wic Clinic, Tax car title. The properties to the south and east are zoned RR, Regional Retail District and are the locations of businesses and a gas station.

Analysis:

The properties to the west is zoned PD, Planned Development District, for housing development and is a vacant, undeveloped lot. The property to the north is zoned RR, Regional Retail District and is the location of a Wic Clinic and Tax car title. The properties to the south and east are zoned RR, Regional Retail District, and are the locations of businesses and a gas station.

The proposed hours of operation:

Monday through Sunday from 12 a.m. to 12 a.m. (All Day)

The proposed hours of alcohol service:

Monday through Saturday from 11 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 churches, private schools, public schools, public school grounds, athletic stadium, public hospital within 300 feet measurement along the property lines of the street fronts, and from the front door in a direct line across intersection where they occur within this site.

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.” Situationz Lounge is a destination where Midland residents will gather and socialize.

This project has been circulated to all City departments for review. Below are the department comments.

Fire: (Approved)

All future development shall meet the requirements of IFC 2015 ed. and local ordinances.

Engineering: (Approved)

No objection.

Transportation: (Approved)

No objection.

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, 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.

Planning: (Approved with Conditions)

This request meets all requirements; therefore, staff recommends approval of the request of the Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, subject to Condition A through H.

Conditions:

A. That the location of the establishment shall conform to the location shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the serviceable area of the establishment shall be limited to approximately 3,767 square feet as shown in Exhibit "B".

C. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.

D. That the days and hours of alcoholic beverage sales and consumption shall be limited to Monday through Saturday from 11:00 a.m. to 2:00 a.m. of the following day.

E. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

F. That the establishment shall meet all requirements of the Fire Department and Code Administration.

G. 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.

H. That in accordance with Section 9.07.E.3 of the zoning ordinance, the restaurant shall be in operation within 120 days from the final adoption date of this ordinance.

Letters of Objection:

As of December 10, 2024, staff has not received any letters of objections.

Attachments:

Application
Floor Plan (Exhibit B)
Site Location (Exhibit A)
Maps
PowerPoint

Jose E. Ort

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,500-SQUARE FOOT PORTION OF BLOCKS 21 AND 22, KELVIEW HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST SCHARBAUER AVENUE), WHICH IS PRESENTLY ZONED LR, LOCAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE 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 4,500-square foot portion of Blocks 21 and 22, Kelview 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 lounge (the "Establishment") for on-premises consumption, together with the uses permitted in the present LR, Local Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and

restrictions:

A. That the location of the Establishment shall conform to the location shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the serviceable area of the Establishment shall be limited to approximately 3,767 square feet as shown in Exhibit "B", which is attached hereto and incorporated herein for all purposes.

C. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

D. That the days and hours of alcoholic beverage sales and consumption shall be limited to Monday through Saturday from 11:00 a.m. to 2:00 a.m. of the following day.

E. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

F. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

G. 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.

H. 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., 2024; 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., 2025, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2025.

_____
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:

_____
John Ohnemiller, City Attorney


DORSEY AV
LOMA DR
SCHARBAUER DR
HUMBLE AV
8A
21 & 22
Establishment
TR6
PACKET
21.5

EXHIBIT "A"

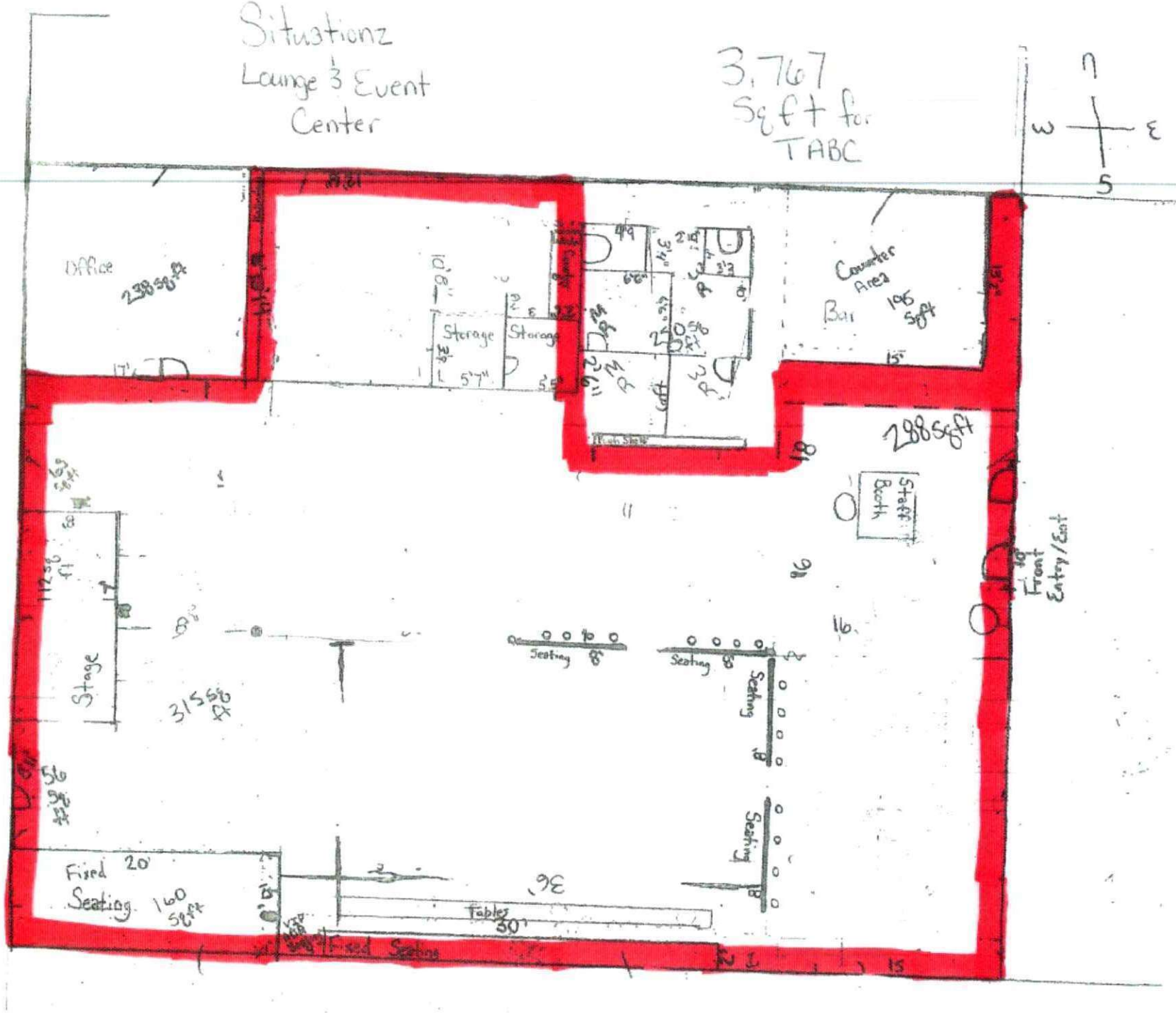

Situationz
Lounge & Event
Center
3,767
Sqft for
TABC
Office
238 Sqft
Storage
Storage
Counter Area
Bar
106 Sqft
288 Sqft
Staff Booth
Front Entry/Exit
Stage
112 Sqft
315 Sqft
Seating
Seating
Seating
Seating
Fixed 20'
Seating 160 Sqft
36'
Tables
30'
Fixed Seating

EXHIBIT "B"

MIDLAND Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: _____

Case Number: SUD-24-0189

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Situationz Lounge & Event Center		Phone (432) 289-0597 Email powellandhall@yahoo.com	
Address: 2215 N. Big Spring #B & C	City: Midland	State: Texas	Zip: 79705
Property Owner Printed Name: MIDLAND REGENCY PARTNERS, LLC		Phone (713) 294-3331 Email JAMES@WTICAP.COM	
Address: 500 WEST OHIO AVE, STE 200	City: MIDLAND	State: TX	Zip: 79701
Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name: Sam Allen Powell Jr		Phone (432) 289-0597 Email powerbroker1126@yahoo.com	
Address: 4310 W. Illinois #290	City: Midland	State: TX	Zip: 79703

Street Address: 2215 N. Big Spring #B Midland, TX 79705

Business Name: Royal Key Concierge & Investment Syndicate, LLC DBA Situationz Lounge & Event Center

Legal Description
Lot: Block: 021 & 22 Subdivision: Kelview Heights

Current Zoning: LR

Reason for Request: Liquor Permit

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*: lounge & event center, Private

Proposed/Current Days and Hours of Operation: 24hrs 7days

Proposed Days and Hours of Alcohol Service: 11AM - 2AM

Total Square Footage of Business: 4,500 sq ft

Square Footage of Alcohol Serviceable Area: ~~4,195 sq ft~~ 3767 sq ft

Restroom Fixtures: Men	**Toilets/Urinals:** 1 / 1	**Bathroom Sinks:** 1
Women	**Toilets:** 2	**Bathroom Sinks:** 1

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seating
  - Exits
  - Restrooms
  - Kitchen (if applicable)
  - Total Square Footage
  - Serviceable Square Footage
- Dimensioned Site Plan showing: *Parking *Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature):	Date: 8/19/2024
Applicant (printed): Sam Allen Powell Jr	
Property Owner (signature):	Date: 8/19/24
Property Owner (printed): JAMES B. GRIFFIS, MANAGER (MIDLAND REGENCY PARTNERS, LLC)	

The Specific Use Designation with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute application on behalf of property owner, agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Sam Allen Powell Jr who, being by me duly sworn, upon oath says: That (s)he is authorized by Midland Regency Partners LLC the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Subscribed and sworn to before me, this 19 day of AUGUST, 2024, to certify which witness my hand and seal of office.

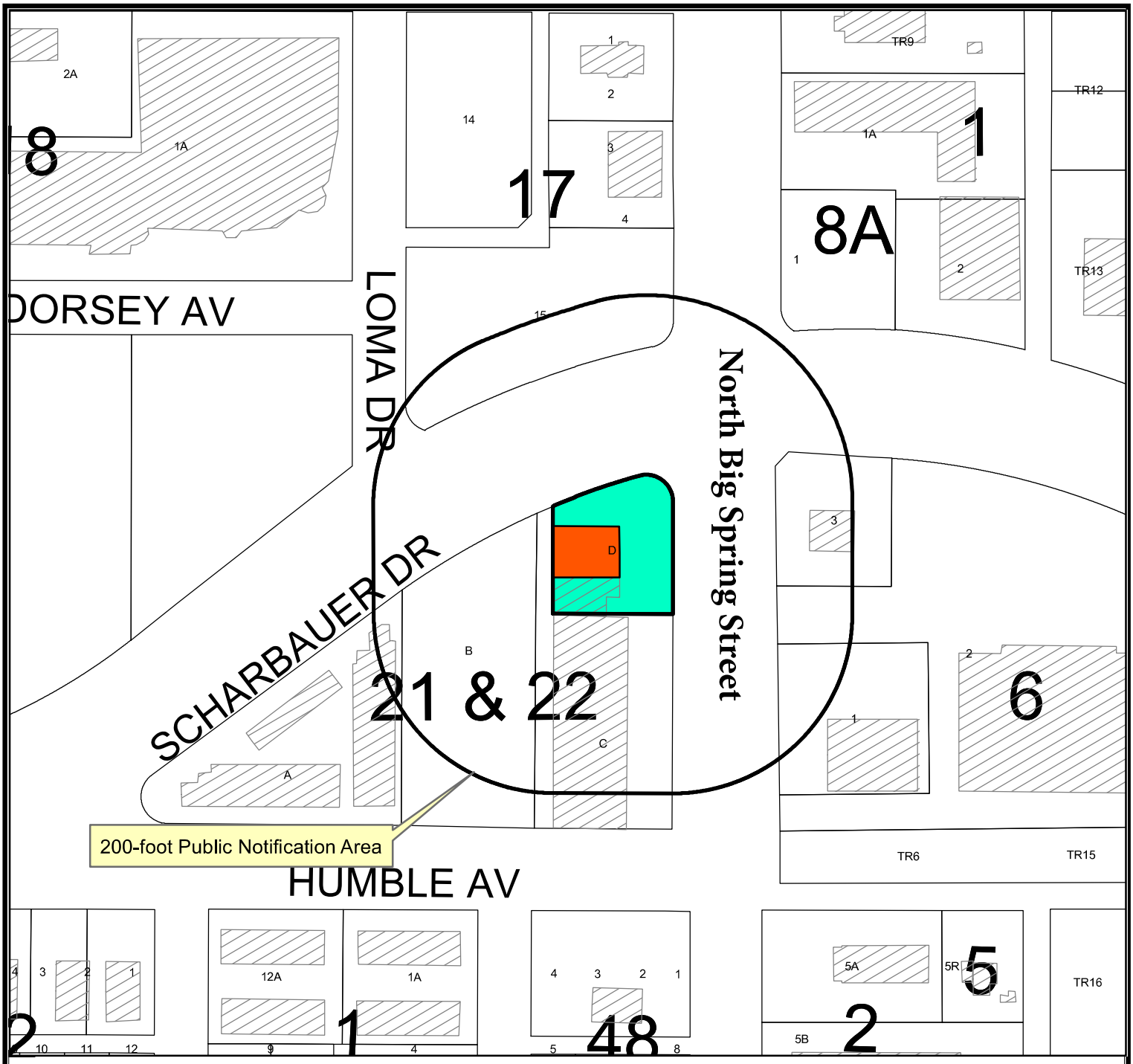
MARY NAVA
Notary Public, State of Texas
Comm. Expires 02-23-2028
Notary ID 11790412

Mary Nava
Notary Public

FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ Dimensioned Floor Plan
☑ Application Fee	☐ Site Plan ?
Check # Paid on diff. App	☐ Plans in Digital Format (PDF/JPEG)
Received By:	Date: RECEIVED OCT 08 2024

****Application will not be considered for scheduling until reviewed by a planner.****



Location Map

SUD-24-0189 **Scale: 1" = 159'**

Consider a request by Situationz Lounge and Event Center for a Specific Use Designation With Term for the sale of all alcoholic beverages for on premises consumption in a lounge on a 4,500-Square Foot portion of Blocks 21 and 22, Kelview Heights Addition, City and County of Midland, Texas

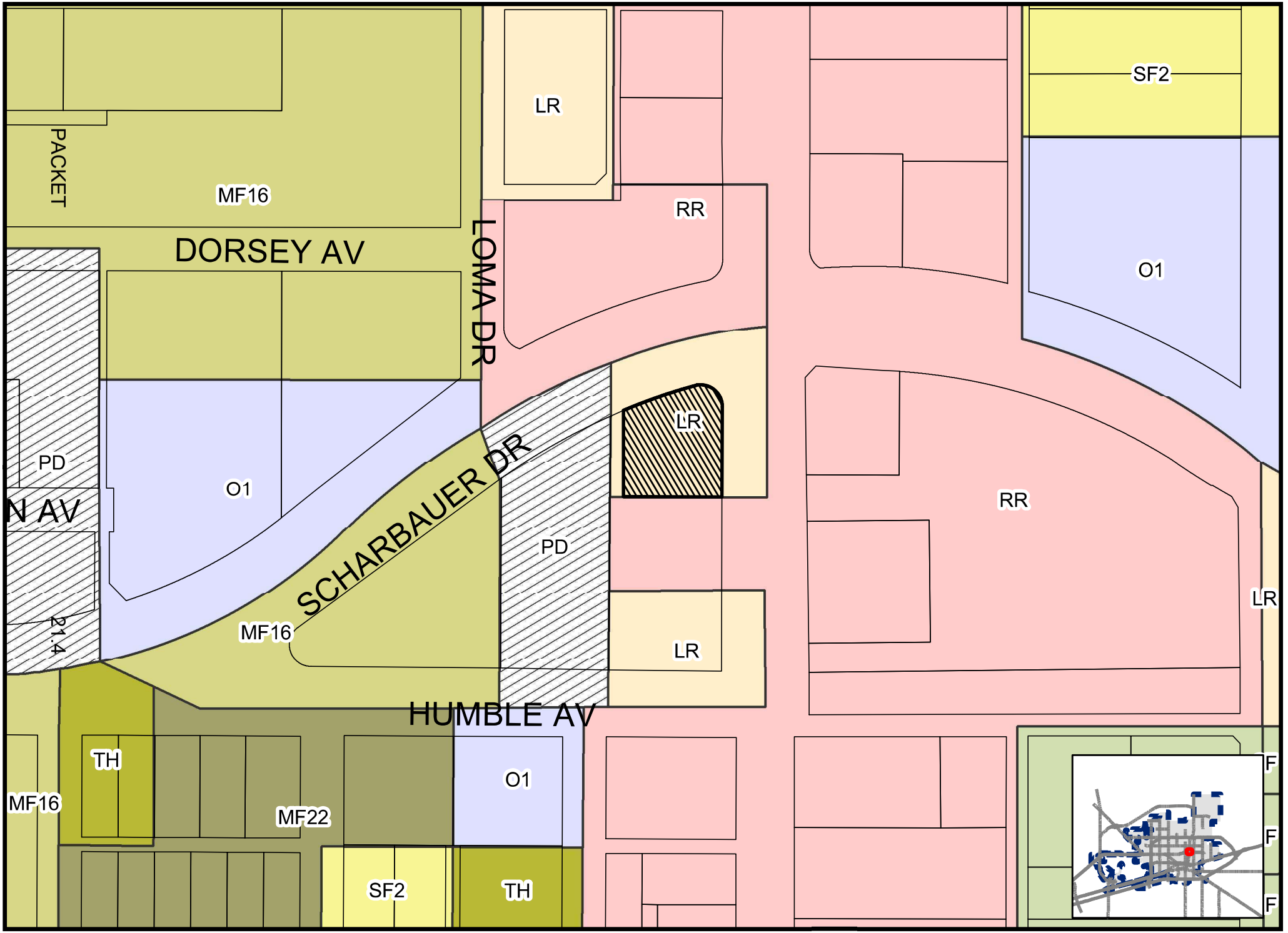
Generally located at the southwest corner of North Big Spring Street and Scharbauer Drive. (District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND NOR IS IT DESIGNED TO BE USED AS THE ONLY 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 DG, 5/1/2024

SUD-24-0189

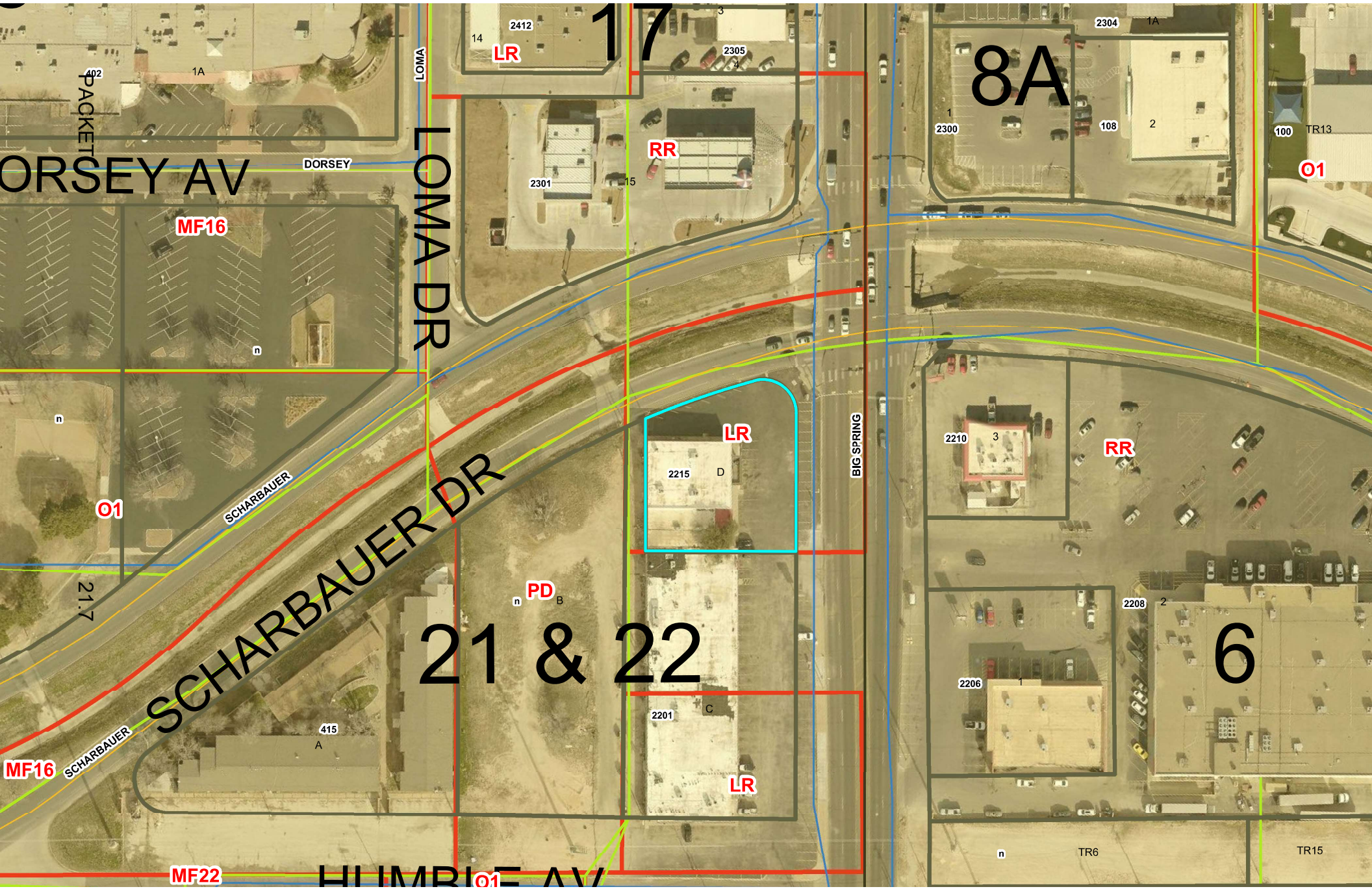
Scale: 1" = 1,977'

ZONING MAP

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VIBEZ

8A
LOMA DR
DORSEY AV
SCHARBAUER DR
21 & 22
HUMBLE AV

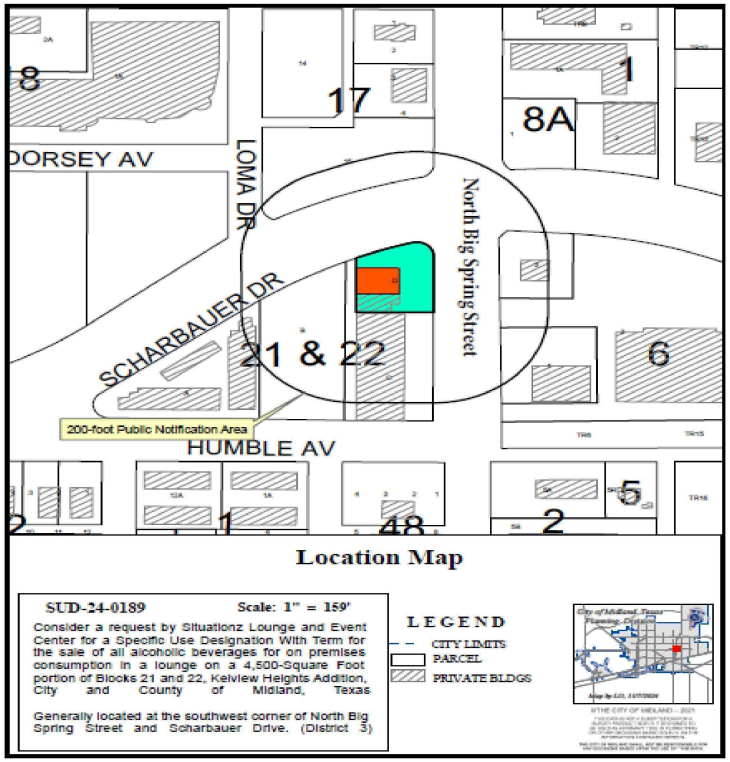

17
8A
21 & 22
6
ORSEY AV
DORSEY
PACKET
LOMA DR
LOMA
SCHARBAUER DR
SCHARBAUER
BIG SPRING
HUMBLE AV
MF16
MF22
O1
LR
RR
PD
TR6
TR13
TR15
402
1A
2412
14
2305
4
2304
2300
108
100
2301
15
2215
D
2210
3
2208
2206
2201
C
415
A
21.7

Situationz
Lounge & Event
Center
3,767
Sq ft for
TABC
Entry/Exit
Front
Staff
Booth
Seating
Seating
Seating
Seating
Fixed Seating
Storage
Storage
Office
Storage
Fixed 20'
Seating


MIDLAND
Be the Energy!
Situationz Lounge
Specific Use Designation
Visit Our Website
MIDLANDTEXAS.GOV

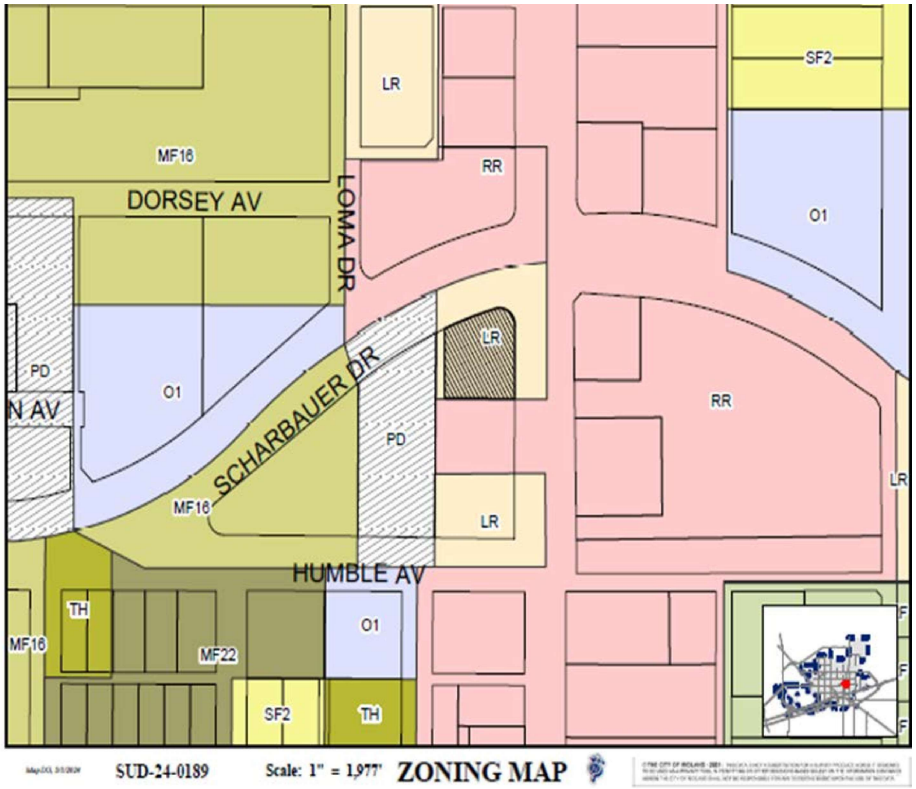
APPLICATION SUMMARY

- **Property Owner**: Midland Regency Partners, LLC
- **Representative:** Sam Allen Powell Jr.
- **Reason for SUD:** Serve alcohol on premises
- **Application Type:** Specific Use Designation
- **Address**: 2215 N. Big Spring (District 3)



ZONING

- **Current Zoning:** LR, Local Retail
- **Surrounding Zoning:**
  - North: RR, Regional Retail
  - South: RR, Regional Retai and LR, Local Retail for shopping center
  - East: RR, Regional Retail for buisnesses
  - West: PD, Planned District for housing development



Ariel View



Site Photo



On N. Big Spring, Looking West

SUD DETAILS

- **Business Area:** 4,500 sq ft
- **Alcohol Serviceable Area:** 3,767 sq ft
- **Proposed Days and Hours of Operation:**
  - Monday - Sunday, 11 a.m. to 2 a.m.
- **Proposed Days and Hours of SUD:**
  - Monday – Saturday 11 a.m. to 2 a.m.



SUD DETAILS

- Section 5-4-4 Compliance: There is no church, public school, public school ground, athletic stadium used by any public school, or public hospital within 300 ft of the building of the subject property.



STAFF'S RECOMMENDATION

- No objections received.
- The Planning & Zoning Commission recommended approval of this request.
- Staff recommends APPROVAL of this SUD subject to the below conditions.



Conditions:

STAFF'S RECOMMENDATION

A. That the location of the establishment shall conform to the location shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the serviceable area of the establishment shall be limited to approximately 3,767 square feet as shown in Exhibit "B" which is attached hereto and incorporated herein for all purposes.

C. That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and fire Code.



STAFF'S RECOMMENDATION

D. That the permitted hours of the sale of alcoholic beverages sales and consumption shall be limited to

Monday through Sunday from 11 a.m. to 2 a.m.

E. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws

F. That the establishment shall meet all requirements of the Fire Department and Code Administration.



STAFF'S RECOMMENDATION

G. 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.

H. That in accordance with section 11-1-9.07. E.3 of the zoning ordinance, the restaurant shall be in operation withing 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: 22

Meeting Date: December 17, 2024, January 14, 2025

To: City Council / City Manager

From: Lindsey Adams, Intergovernmental Relations Officer

Subject: AN ORDINANCE GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF MIDLAND, TEXAS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, PROVIDING FOR THE REPEAL OF ALL EXISTING FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC (DISTRICT: ALL) (DEVELOPMENT SERVICES) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)

Purpose:

This franchise agreement allows Oncor Electric Delivery Company to use City rights-of-way to provide electricity to Midland residents and businesses. It outlines the terms, conditions, and requirements for constructing, operating, and maintaining the electric delivery system within public spaces.

Recommended City Council Action:

Approve

Fiscal Impact:

As compensation for using the City's public rights-of-way, Oncor will make quarterly payments to the City equal to 4% of its gross revenues from services specified in the "Retail Delivery Service Tariff" (effective 1/1/2002) with the first payment due March 1, 2025 and the final

payment due June 1, 2028.

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

The ordinance takes effect upon Council approval and Oncor's written acceptance. It establishes a new franchise agreement for electric service delivery, maintaining the same provisions for operations in public rights-of-way, with no major changes from previous franchise agreements. This ensures service continues seamlessly after the prior franchise's expiration.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF MIDLAND, TEXAS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, PROVIDING FOR THE REPEAL OF ALL EXISTING FRANCHISE ORDINANCES TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC.

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

SECTION 1. GRANT OF AUTHORITY. That there is hereby granted to Oncor Electric Delivery Company LLC, its successors and assigns (herein called "Company"), the right, privilege and franchise to construct, extend, maintain and operate in, along, under and across the present and future streets, alleys, highways, easements held by the City of Midland, Texas (herein called "City") to which City holds the property rights in regard to use for utilities, public ways and other public property ("Public Rights- of-Way" or "Rights-of-Way") of City electric power lines, with all necessary or desirable appurtenances (including underground conduits, poles, towers, wires, transmission lines, telephone and communication lines, and other structures for Company's own use), (herein called "Facilities") for the purpose of delivering electricity to City, the inhabitants thereof, and persons, firms and corporations beyond the corporate limits thereof, for the term set out in Section 14.

SECTION 2. PURPOSE. The provisions set forth in this ordinance represent the terms and conditions under which Company shall construct, operate, and maintain the System within the Public Rights-of-Way of City. In granting this Franchise, City does not in any manner surrender or waive its regulatory or other rights and powers under and by virtue of the Constitution and statutes of the State of Texas as the same may be amended, nor any of its rights and powers under or by virtue of present or future ordinances of City, except as may be expressly set out herein. Company also retains all of its lawful authority and rights under the Public Utility Regulatory Act ("PURA") and any other applicable federal, state, and local laws, rules, and regulations. Not included in this Franchise are any facilities, including any equipment attached in any way to Company's facilities, whether owned by Company or not, that provide data delivery, cable service, telephone service, or any other service or product not required by Company for, or necessary for the support of, the transmittal and delivery of electricity.

SECTION 3.

A. Company shall obtain a permit from City for all excavations of the Public Right-of- Way (if required by City ordinance), except in cases of (i) emergency conditions or (ii) routine maintenance and repair of facilities that do not involve any of the following (a) cutting or breaking of pavement or (b) closure of traffic lane for longer than 24 hours or (c) boring or (d) excavation greater than 100 cubic feet or (iii) connection of real property to a utility service on the same side of the Public Rights-of-Way if connection does not require a pavement cut in the Public Rights-of-Way or (iv) replacement of a single damaged pole and associated work within a ten (10) foot radius of the damaged pole or (v) installation of aerial lines on less than 11 existing poles or installation of aerial lines on less than 11 new poles.

B. City shall have the ability at any time to require Company to repair, remove or abate any distribution pole, wire, cable, or other distribution structure that is determined to be unnecessarily dangerous to life or property. After receipt of notice, Company shall either cure said dangerous condition within a reasonable time, or provide City with facts or arguments in refuting or defending its position that said condition is not a condition that is unnecessarily dangerous to life or property. Upon reasonable request by City, Company shall provide information to City and discuss Company's performance of its obligations and responsibilities under this franchise.

C. Company's property and operations within the Public Rights-of-Way of City shall be subject to such reasonable laws, rules, and regulations of City as may be authorized by applicable law from time to time for the protection of the general public. City shall endeavor to provide Company with reasonable notice and opportunity to review and comment upon any new or revised City laws, rules, or regulations that impact Company's use of the Public Rights-of- Way, but the failure to do so shall not affect the applicability of such laws, rules, or regulations to Company. This Franchise shall in no way affect or impair the rights, obligations or remedies of the parties under PURA, or other state or federal laws, rules, or regulations. Nothing herein shall be deemed a waiver, release or relinquishment of either party's right to contest, appeal, or file suit with respect to any action or decision of the other party.

D. Company shall construct its facilities in conformance with the applicable provisions of the

National Electrical Safety Code.

E. Company's Facilities shall be erected so as not to unreasonably interfere with: 1) existing streets, alleys, highways, and sidewalks or with the existing vehicular and pedestrian traffic thereon; 2) existing gas, electric, or telephone fixtures; or 3) existing water hydrants or mains, drainage facilities or sanitary sewer facilities. When Company makes, or causes to be made, excavations, or places, or causes to be placed, obstructions in any Public Rights-of-Way, Company shall place, erect, and maintain barriers and lights to identify the location of such excavations or obstructions, all in accordance with the most recent edition of the Manual on Uniform Traffic Control Devices and/or any applicable city, state or federal laws, rules or regulations that impact Company's use of the Public Rights-of-Way.

F. The location of Company's facilities in the Public Rights-of-Way shall be subject to approval by the City Manager or the City Manager's designated representative (the "Manager") prior to construction; provided however, said approval shall not be unreasonably withheld. This approval will be obtained through City's permitting process (if required by City Ordinance). In the event of a conflict between the location of the proposed facilities of Company and the locations of the facilities of City or other authorized Public Rights-of-Way users which exist, the Manager shall resolve the conflict and determine the location of the respective facilities within City's Public Rights-of-Way, subject to Company's right to request review of the matter by any court or regulatory agency having jurisdiction. To avoid a facilities location conflict, the Manager will designate a reasonable alternate location within City's Public Rights-of-Way for Company's facilities if a reasonable alternate location exists. In determining the location of Company's facilities within City, Company shall not interfere with then existing or planned (assuming City notifies Company in writing of the planned structures, equipment and facilities prior to Company installing its facilities in the applicable area) above-ground and underground structures, equipment and facilities of City, other utility franchisees (which have received a franchise from City) and other persons (whether a natural person or business entity of any kind) who have received City's consent to place and locate equipment or facilities within the Public Rights-of- Way.

G. Company shall restore at Company's expense, all work within City Public Rights-of-Way, to a condition equally as good as it was immediately prior to being disturbed by Company's construction, excavation, repair or removal or to a condition agreed upon by City and Company. If City or Company believe that there are extenuating circumstances that do not allow for restoration

of all work within City Rights-of-Way to a condition equally as good as it was immediately prior to being disturbed by Company, City and Company will negotiate an alternative restoration plan (in writing) to remedy the situation. Absent an agreement to an alternative restoration plan, either party has a right to request review of the matter by any court or regulatory agency having jurisdiction.

H. Company shall provide complete information regarding the location of current and future overhead and underground wires and poles within the Public Rights-of-Way of City. Reproducible copies of available maps showing the location of all overhead and underground wires and poles within the Public Rights-of-Way shall be furnished to the City Manager upon request. The maps shall be provided in electronic/digital format, if available, when requested by City pursuant to a confidentiality agreement under Section 9.

SECTION 4.

City reserves the right to lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines, cables, and conduits, or other improvements and to do and permit to be done any underground or overhead work that may be necessary or proper in, across, along, over, or under Public Rights-of-Way occupied by Company. City also reserves the right to change in any manner any curb, sidewalk, highway, alley, public way, street, utility lines (or in the case of utility line owned by Company, to require that change by Company), storm sewers, drainage basins, drainage ditches, and the like. City shall provide Company with at least thirty (30) days' notice when requesting Company to relocate facilities and shall specify a new location for such facilities along the Public Rights-of-Way. City-requested relocations of Company facilities in the Public Rights-of-Way, including relocations that City requires to permit the widening or straightening of a street as provided by Section 37.101(c) of PURA, shall be at Company's expense; provided however, if City is the end use Retail Customer (customer who purchases electric power or energy and ultimately consumes it) requesting the removal or relocation of Company Facilities for its own benefit, or the project requiring the relocation is solely aesthetic/beautification in nature, it will be at the total expense of City. Provided further, if the relocation request includes, or is for, the Company to relocate above-ground facilities to an underground location, City shall be fully responsible for the additional cost of placing the facilities underground. If any other corporation or person (other than City) requests Company to relocate Company facilities located in City Rights-of-Ways, Company shall not be bound to make such changes until such other corporation or person shall have undertaken, with good and sufficient bond, to reimburse Company for any costs, loss, or expense

which will be caused by, or arises out of such change, alteration, or relocation of Company's Facilities. City may not request Company to pay for any relocation which has already been requested, and paid for, by any entity other than City.

If City abandons any Public Rights-of-Way in which Company has facilities, such abandonment shall be conditioned on Company's right to maintain its use of the former Public Rights-of-Way and on the obligation of the party to whom the Public Rights-of-Way is abandoned to reimburse Company for all removal or relocation expenses if Company agrees to the removal or relocation of its facilities following abandonment of the Public Rights-of-Way. If the party to whom the Public Rights-of-Way is abandoned requests Company to remove or relocate its facilities and Company agrees to such removal or relocation, such removal or relocation shall be done within a reasonable time at the expense of the party requesting the removal or relocation. If relocation cannot practically be made to another Public Rights-of-Way, the expense of any right- of-way acquisition shall be considered a relocation expense to be reimbursed by the party requesting the relocation.

SECTION 5. INDEMNITY.

A. In consideration of the granting of this Franchise, Company shall, at its sole cost and expense, indemnify and hold City, and its past and present officers, agents and employees harmless against any and all liability arising from suits, actions or claims regarding injury or death to any person or persons, or damages to any property arising out of or occasioned by the intentional and/or negligent acts or omissions of Company or any of its officers, agents, or employees in connection with Company's construction, maintenance and operation of Company's Facilities in City Public Rights-of-Way, including any court costs, reasonable expenses and reasonable defenses thereof.

B. This indemnity shall only apply to the extent that the loss, damage, death or injury is attributable to the negligence or wrongful act or omission of Company or its officers, agents or employees, and does not apply to the extent such loss, damage, death or injury is attributable to the negligence or wrongful act or omission of City or City's officers, agents, or employees or any other person or entity. This provision is not intended to create a cause of action or liability for the benefit of third parties but is solely for the benefit of Company and City.

C. In the event of joint and concurrent negligence or fault of both Company and City, responsibility and indemnity, if any, shall be apportioned comparatively between City and Company in accordance with the laws of the state of Texas without, however, waiving any governmental immunity available to City under Texas law and without waiving any of the defenses

of the parties under Texas law. Further, in the event of joint and concurrent negligence or fault of both Company and City, responsibility for all costs of defense shall be apportioned between ~~the~~ City and Company based upon the comparative fault of each.

D. In fulfilling its obligation to defend and indemnify City, Company shall have the right to select defense counsel, subject to City's approval, which will not be unreasonably withheld. Company shall retain defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this franchise. If Company fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Company shall be liable for all reasonable defense costs incurred by City, except as otherwise provided in section 5.B. and 5.C.

SECTION 6. LIABILITY INSURANCE.

Company shall, at its sole cost and expense, obtain, maintain, or cause to be maintained, and provide, throughout the term of this Franchise, insurance in the amounts, types and coverages in accordance with the following requirements. Such insurance may be in the form of self-insurance to the extent permitted by applicable law or by obtaining insurance, as follows:

A. Commercial general or excess liability on an occurrence or claims made form with minimum limits of five million dollars ($5,000,000) per occurrence and ten million dollars ($10,000,000) aggregate. This coverage shall include the following:

(1) Products/completed operations to be maintained for the warranty period.

(2) Personal and advertising injury.

(3) Contractual liability.

(4) Explosion, collapse, or underground (XCU) hazards.

B. Automobile liability coverage with a minimum policy limit of one million dollars ($1,000,000) combined single limit each accident. This coverage shall include all owned, hired and non-owned automobiles.

C. Workers compensation and employers liability coverage. Statutory coverage limits for Coverage A and five hundred thousand dollars ($500,000) bodily injury each accident, five hundred thousand dollars ($500,000) each employee bodily injury by disease, and five hundred thousand dollars ($500,000) policy limit bodily injury by disease Coverage B employers' liability are required. Company must provide City with a waiver of subrogation for worker's compensation claims.

D. Company must name City, which includes all authorities, commissions, divisions and departments, as well as elected and appointed officials, agents, and volunteers, as an additional insured under the coverage required herein, except Worker's Compensation Coverage. The certificate of insurance must state that City is an additional insured.

E. Company shall require its contractors and subcontractors to maintain, at their sole cost and expense, a minimum of three million dollars ($3,000,000) each occurrence or each accident general liability and automobile liability throughout the course of work performed. Also, contractors and subcontractors will be required to maintain statutory workers' compensation benefits in accordance with the regulations of the State of Texas or state of jurisdiction as applicable. The minimum limits for employers' liability insurance will be five hundred thousand dollars ($500,000) bodily injury each accident, five hundred thousand dollars ($500,000) each employee bodily injury by disease, five hundred thousand dollars ($500,000) policy limit bodily injury by disease. In the event a claim exceeds the contractors' or subcontractors' insurance coverage, Company shall be responsible for covering the difference.

Company shall provide proof of its insurance in accordance with this Franchise within 30 days of the effective date of the Franchise and annually thereafter. Company will not be required to furnish separate proof when applying for permits.

SECTION 7. COMPENSATION TO CITY. In consideration of the grant of said right, privilege and franchise by City and as full payment for the right, privilege and franchise of using and occupying the said Public Rights-of-Way, and in lieu of any and all occupation taxes, assessments, municipal charges, fees, easement taxes, franchise taxes, license, permit and inspection fees or charges, street taxes, bonds, street or alley rentals, and all other taxes, charges, levies, fees and rentals of whatsoever kind and character which City may impose or hereafter be authorized or empowered to levy and collect, excepting only the usual general or special ad valorem taxes which City is authorized to levy and impose upon real and personal property, sales and use taxes, and special assessments for public improvements, Company shall pay to City the following:

A. A final quarterly payment was made on or before December 1, 2024 for the basis period of July 1, 2024 through September 30, 2024 and the privilege period of July 1, 2025 through September 30, 2025 in accordance with the provisions in the previous franchise.

B. As authorized by Section 33.008(b) of PURA, the original franchise fee factor calculated for City in 2002 was 0.002944 (the "Base Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within City's municipal boundaries for determining franchise payments going forward.

Due to a 2006 agreement between Company and City the franchise fee factor was increased to a franchise fee factor of 0.003091 (the "Current Factor"), multiplied by each kilowatt hour of electricity delivered by Company to each retail customer whose consuming facility's point of delivery is located within City's municipal boundaries on a quarterly basis.

However, consistent with the 2006 agreement, should the Public Utility Commission of Texas at any time disallow Company's recovery through rates of the higher franchise payments made under the Current Factor as compared to the Base Factor, then the franchise fee factor shall immediately revert to the Base Factor of 0.002944 and all future payments, irrespective of the time period that is covered by the payment, will be made using the Base Factor.

Company shall make quarterly payments as follows:

Payment Due Date	Basis Period	Privilege Period (Following Pmt)
March 1	Oct. 1 – Dec. 31	Oct. 1 – Dec. 31
June 1	Jan. 1 – Mar. 31	Jan. Mar. 31
September 1	Apr. 1 – Jun. 30	Apr. 1 – Jun. 30
December 1	Jul. 1 – Sept. 30	Jul. 1 – Sept. 30

1. The first payment hereunder shall be due and payable on or before March 1, 2025 and will cover the basis period of October 1, 2024 through December 31, 2024 and the privilege period of October 1, 2025 through December 31, 2025. If this franchise is not effective prior to the first quarterly payment date, Company shall pay any payments due within 30 days of the effective date of this agreement. The final payment under this franchise is due on or before June 1, 2028 and covers the basis period of January 1,

2028 through March 31, 2028 and the privilege period of January 1, 2029 through March 31, 2029; and

2. After the final payment date of June 1, 2028, Company may continue to make additional quarterly payments in accordance with the above schedule. City acknowledges that such continued payments will correspond to privilege periods that extend beyond the term of this Franchise and that such continued payments will be recognized in any subsequent franchise as full payment for the relevant quarterly periods.

C. A sum equal to four percent (4%) of gross revenues received by Company from services identified as DD1 through DD24 in Section 6.1.2 "Discretionary Service Charges," in Oncor's Tariff for Retail Delivery Service (Tariff), effective 1/1/2002, that are for the account and benefit of an end-use retail electric consumer. Company shall, upon request by City, provide a cross reference to Discretionary Service Charge numbering changes that are contained in Company's current approved Tariff.

1. The franchise fee amounts based on "Discretionary Service Charges" shall be calculated on an annual calendar year basis, i.e. from January 1 through December 31 of each calendar year.

2. The franchise fee amounts that are due based on "Discretionary Service Charges" shall be paid at least once annually on or before April 30 each year based on the total "Discretionary Service Charges", as set out in Section 7.C., received during the preceding calendar year. The initial Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2025 and will be based on the calendar year January 1 through December 31, 2024. The final Discretionary Service Charge franchise fee amount will be paid on or before April 30, 2030 and will be based on the calendar months of January 1, 2029 through March 31, 2029.

3. Company may file a tariff or tariff amendment(s) to provide for the recovery of the franchise fee on Discretionary Service Charges.

4. City agrees (i) to the extent City acts as regulatory authority, to adopt and approve that portion of any tariff which provides for 100% recovery of the franchise fee on Discretionary Service Charges; (ii) in the event City intervenes in any regulatory proceeding before a federal or state agency in which the recovery of the franchise fees on such Discretionary Service Charges is an issue, City will take an affirmative position supporting the 100% recovery of such franchise fees by Company and; (iii) in the event

of an appeal of any such regulatory proceeding in which City has intervened, City will take an affirmative position in any such appeals in support of the 100% recovery of such franchise fees by Company.

5. City agrees that it will take no action, nor cause any other person or entity to take any action, to prohibit the recovery of such franchise fees by Company.

6. In the event of a regulatory disallowance of the recovery of the franchise fees on the Discretionary Service Charges, Company will not be required to continue payment of such franchise fees.

D. With each payment of compensation required by Section 7.B., Company shall furnish to City a statement, executed by an authorized officer of Company or designee, providing the total kWh delivered by Company to each retail customer's point of delivery within City and the amount of payment for the period covered by the payment.

E. With each payment of compensation required by Section 7.C., Company shall furnish to City a statement, executed by an authorized officer of Company or designee, reflecting the total amount of gross revenues received by Company from services identified in its "Tariff for Retail Delivery Service," Section 6.1.2, "Discretionary Service Charges," Items DD1 through DD24.

F. If either party discovers that Company has failed to pay the entire or correct amount of compensation due, the correct amount shall be determined by mutual written agreement between City and Company and City shall be paid by Company within thirty (30) calendar days of such determination. Any overpayment to City through error or otherwise will, at the sole option of City, either be refunded to Company by City within thirty (30) days of such determination or offset against the next payment due from Company. Acceptance by either party of any payment due under this section shall not be deemed to be a waiver by the other party of any claim of breach of this Franchise, nor shall the acceptance by either party of any such payments preclude the other party from later establishing that a larger amount was actually due or from collecting any balance due. Nothing in this section shall be deemed a waiver by either party of its rights under law or equity.

G. Any late or delinquent payments due to City by Company under this Franchise shall accrue interest. Interest on late or delinquent payments shall be calculated in accordance with the interest rate for customer deposits established by the Public Utility Commission of Texas in

accordance with Texas Utilities Code Section 183.003, as amended for the time period involved.

H. The franchise fee payable to City pursuant to Section 7.B. hereunder, except as agreed to by Company and City in Section 7.F., shall not be offset by any payment by Company to City relating to ad valorem taxes.

SECTION 8. FAVORED NATIONS.

This Section applies only if, after the effective date of this Franchise Agreement, Company enters into a new municipal franchise agreement or renews an existing municipal franchise agreement with another municipality that provides for a different method of calculation of franchise fees for use of the Public Rights-of-Way than the calculation under PURA, Section 33.008(b), which, if applied to City, would result in a greater amount of franchise fees owed City than under this Franchise Agreement. In the event of an occurrence as described in this Section, City shall have the option to:

A. Have Company select, within 30 days of City's request, any or all portions of the franchise agreement with the other municipality or comparable provisions that, at Company's sole discretion, must be considered in conjunction with the different method of the calculation of franchise fees included in that other franchise agreement; and

B. Modify this franchise agreement to include both the different method of calculation of franchise fee found in the franchise agreement with the other municipality and all of the other provisions identified by Company pursuant to Subsection 8.A. In no event shall City be able to modify the franchise to include the different method of calculation of franchise fee found in the franchise agreement with the other municipality without this franchise also being modified to include all of the other provisions identified by Company pursuant to Subsection 8.A.

C. City may not exercise the option provided in this Section if any of the provisions that would be included in this franchise are, in Company's sole opinion, inconsistent with or in any manner contrary to any then-current rule, regulation, ordinance, law, Code, or City Charter. In the event of a regulatory disallowance of the increase in franchise fees paid pursuant to City's exercise of its option pursuant to this Section, then at any time after the regulatory authority's entry of an order disallowing recovery of the additional franchise fee expense in rates, Company shall have the

right to cancel the modification of the franchise made pursuant to this Section, and the terms of the Franchise shall immediately revert to those in place prior to City's exercise of its option under this Section.

D. Notwithstanding any other provision of this franchise, should City exercise the option provided in this Section, and then adopt any rule, regulation, ordinance, law, Code, or Charter that, in Company's sole opinion, is inconsistent with or in any manner contrary to the provision included in this franchise pursuant to this Section, then Company shall have the right to cancel all of the modifications to this franchise made pursuant to this Section and, effective as of the date of City's adoption of the inconsistent provision, the terms of the franchise shall revert to those in place prior to City's exercise of its option under this Section. The provisions of this Section apply only to the amount of the franchise fee to be paid and do not apply to other franchise fee payment provisions, such as the timing of such payments. The provisions of this Section do not apply to differences in the franchise fee factor that result from the application of the methodology set out in PURA Section 33.008(b) or any successor methodology.

SECTION 9. ACCOUNTING MATTERS.

A. Company shall keep accurate books of account at its principal office for the purpose of determining the amount due to City under this Franchise.

B. Pursuant to Section 33.008(e) of the Texas Utilities Code, City may conduct an audit or other inquiry in relation to a payment made by Company less than two (2) years before the commencement of such audit or inquiry. City may, if it sees fit, and upon reasonable notice to Company, have the books and records of Company examined by a representative of City to ascertain the correctness of the reports agreed to be filed herein.

C. Company shall make available to the auditor during Company's regular business hours and upon reasonable notice, such personnel and records as City may, in its reasonable discretion, request in order to complete such audit, and shall make no charge to City therefore.

1. If as the result of any City audit, Company is refunded/credited for an overpayment, or pays City for an underpayment, of the Franchise Fee, such refund/credit or payment shall be made pursuant to the terms established in Section 7.

2. If as a result of a subsequent audit, initiated within two years of an audit which resulted in Company making a payment to City due to an underpayment of the franchise fee of more than 5%,

Company makes another payment to City due to an underpayment of the franchise fee of more than 5%, City may immediately treat this underpayment as an Uncured Event of Default and exercise the remedies provided for in Section 10.C.

D. Company shall assist City in its review by responding to all requests for information no later than thirty (30) days after receipt of a request.

E. If Company provides confidential or proprietary information to City, Company shall be solely responsible for identifying such information with markings calculated to bring City's attention to the proprietary or confidential nature of the information. City agrees to maintain the confidentiality of any non-public information obtained from Company to the extent allowed by law. City shall not be liable to Company for the release of any information City is required by law to release. City shall provide notice to Company of any request for release of non-public information prior to releasing the information so as to allow Company adequate time to pursue available remedies for protection. If City receives a request under the Texas Public Information Act that includes Company's proprietary information, City will notify the Texas Attorney General of the proprietary nature of the document(s). City also will provide Company with a copy of this notification, and thereafter Company is responsible for establishing that an exception under the Act allows City to withhold the information.

SECTION 10. DEFAULT, REMEDIES, AND TERMINATION.

A. Events of Default. The occurrence, at any time during the term of the Franchise Agreement, of any one or more of the following events, shall constitute an Event of Default by Company under this Franchise:

1. The failure of Company to pay the franchise fee on or before the due dates specified herein.

2. Company's material breach or material violation of any material terms, covenants, representations or warranties contained herein.

B. Uncured Events of Default.

1. Upon the occurrence of an Event of Default which can be cured by the immediate payment of money to City, Company shall have thirty (30) calendar days from receipt of written notice from City of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in Section 10.C.

2. Upon the occurrence of an Event of Default by Company which cannot be cured by the immediate payment of money to City, Company shall have sixty (60) calendar days (or such additional time as may be agreed to by City) from receipt of written notice from City of an occurrence of such Event of Default to cure same before City may exercise any of its rights or remedies provided for in Section 10.C.

3. If the Event of Default is not cured within the time period allowed for curing the Event of Default as provided for herein, such Event of Default shall, without additional notice, become an Uncured Event of Default, which shall entitle City to exercise the remedies provided for in Section 10.C.

C. Remedies. City shall notify Company in writing of an alleged Uncured Event of Default as described in Section 10.B., which notice shall specify the alleged failure with reasonable particularity. Company shall, within thirty (30) business days after receipt of such notice or such longer period of time as City may specify in such notice, either cure such alleged failure or in a written response to City either present facts and arguments in refuting or defending such alleged failure or state that such alleged failure will be cured and set forth the method and time schedule for accomplishing such cure. In the event that such cure is not forthcoming, City shall be entitled to exercise any and all of the following cumulative remedies:

1. The commencement of an action against Company at law for monetary damages.

2. The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions that as a matter of equity, are specifically enforceable.

3. The commencement of proceedings to seek revocation of Company's certificate of convenience and necessity to serve any or all of Company's service area located within City.

4. The termination of this Franchise.

D. The rights and remedies of City and Company set forth in this Franchise Agreement shall be in addition to, and not in limitation of, any other rights and remedies provided by law or in equity. City and Company understand and intend that such remedies shall be cumulative to the maximum extent permitted by law and the exercise by City of any one or more of such remedies shall not preclude the exercise by City, at the same or different times, of any other such remedies for the same failure to cure. However, City shall not recover both liquidated damages and actual damages for the same violation, breach, or noncompliance.

E. Termination. In accordance with the provisions of Section 10.C., this Franchise may be terminated upon thirty (30) business day's prior written notice to Company by City. City shall notify

Company in writing at least fifteen (15) business days in advance of the City Council meeting at which the question of forfeiture or termination shall be considered, and Company shall have the right to appear before the City Council in person or by counsel and raise any objections or defenses Company may have that are relevant to the proposed forfeiture or termination. The final decision of the City Council may be appealed to any court or regulatory authority having jurisdiction. Upon timely appeal by Company of the City Council's decision terminating the Franchise, the effective date of such termination shall be either when such appeal is withdrawn or an order upholding the termination becomes final and unappealable. Until the termination becomes effective the provisions of this Franchise shall remain in effect for all purposes. City recognizes Company's right and obligation to provide service in accordance with the Certificate of Convenience and Necessity authorized by the Public Utility Commission of Texas in accordance with the Texas Utilities Code. The failure of either party to insist in any one or more instances upon the strict performance of any one or more of the terms or provisions of this Franchise shall not be construed as a waiver or relinquishment for the future of any such term or provision, and the same shall continue in full force and effect, subject to applicable statute of limitations. No waiver or relinquishment shall be deemed to have been made by either party unless said waiver or relinquishment is in writing and signed by that party.

SECTION 11. NOTICE.

A. Any notices required or desired to be given from one party to the other party to this ordinance shall be in writing and shall be given and shall be deemed to have been served and received if: (i) delivered in person to the address set forth below; (ii) deposited in an official depository under the regular care and custody of the United States Postal Service located within the confines of the United States of America and sent by certified mail, return receipt requested, and addressed to such party at the address hereinafter specified; or (iii) delivered to such party by courier receipted delivery. Either party may designate another address within the confines of the continental United States of America for notice, but until written notice of such change is actually received by the other party, the last address of such party designated for notice shall remain such party's address for notice.

CITY	COMPANY
City Manager	Municipal Relations
City of Midland	Oncor Electric Delivery Company LLC
PO Box 1152	1616 Woodall Rodgers Fwy, 6th Floor
Midland, TX 79701	Dallas, TX 75202-1234

SECTION 12. SEVERABILITY. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable. If any portion of this Ordinance is declared illegal or unconstitutional by the valid final non-appealable judgment or decree of any court of competent jurisdiction, such illegality or unconstitutionality shall not affect the legality and enforceability of any of the remaining portions of this Ordinance.

SECTION 13. TRANSFER AND ASSIGNMENT. The rights granted by this Franchise Agreement inure to the benefit of the Company and any parent, subsidiary, affiliate or successor entity now or hereafter existing. The rights shall not be assignable without the express written consent, by Ordinance, of the City Council of City, unless otherwise superseded by state laws, rules, or regulations, or Public Utility Commission of Texas action, and such consent by City shall not be unreasonably withheld or delayed, except the Company may assign its rights under this Franchise Agreement to a parent, subsidiary, affiliate or successor entity without consent, so long as such parent, subsidiary, affiliate or successor entity assumes all obligations of Company hereunder, and is bound to the same extent as Company hereunder. The Company shall give City written notice within ninety (90) days of any such assignment to a parent, subsidiary, affiliate or successor entity.

SECTION 14. TERM. This Ordinance shall become effective upon Company's written acceptance hereof, said written acceptance to be filed by Company with City within sixty (60) days after final passage and approval hereof by City. The right, privilege and franchise granted hereby shall expire on March 31, 2029; provided that, unless written notice of cancelation is given by either party hereto to the other not less than sixty (60) days before the expiration of this franchise agreement, it shall be automatically renewed for an additional period of five (5) years from such expiration date and shall be automatically renewed thereafter for six (6) month periods until canceled by written notice given not less than sixty (60) days before the expiration of any such renewal period.

SECTION 15. NON-EXCLUSIVE FRANCHISE. This franchise is not exclusive, and nothing herein contained shall be construed so as to prevent City from granting other like or similar rights, privileges and franchises to any other person, firm, or corporation. Any Franchise granted by City to any other person, firm, or corporation shall not unreasonably interfere with this Franchise.

SECTION 16. REPEAL. This Ordinance shall supersede any and all other franchises granted by City to Company, its predecessors and assigns.

SECTION 17. ACCEPTANCE. In order to accept this franchise, Company must file with the City Secretary its written acceptance of this franchise ordinance within sixty (60) days after its final passage and approval by City.

SECTION 18. It is hereby officially found that the meeting at which this Ordinance is passed is open to the public and that due notice of this meeting was posted by City, all as required by law.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2024; 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 duly proposed, read in full and adopted on second reading, the _____ day of _____, A.D., 2025; and passed to third 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., 2025, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

_____
Mayor
The City of Midland

ATTEST:

_____
City Secretary

STATE OF TEXAS §
COUNTY OF MIDLAND §
CITY OF MIDLAND §

City Council Meeting

Item Number: 23

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Madelim Jaquez, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 18 AND 19, BLOCK 1, SKYVIEW DEVELOPMENT, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF EAST LOOP 250 NORTH AND TODD 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 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

The applicant, Debra Dudley Pearce, is requesting a Zone Change from AE, Agricultural Estate District to PD, Planned Development District for a Transition District for the selling of landscape rock, soil and different types of aggregates at 2920 East Loop 250 North.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority:

Quality of Life and Place

Discussion:

Surrounding Zoning and Land Use:

To the north, properties are zoned AE, Agricultural Estate District, encompassing vacant lots and East Loop 250. To the west, the area is also zoned AE, featuring vacant lots with some residential developments further west. The southern region lies within the ETJ, Extraterritorial Jurisdiction and includes residential homes. To the east, there are both AE-zoned and ETJ areas, which remain undeveloped.

Analysis:

The applicant is requesting this zone change to allow for a business which sells various types of rocks for landscaping purposes on the north lot and a residence on the southern lot. This use would fall under the use of Outside Storage as defined in 11-1-2.01 of the City Code:

Section 11-1-2.01.283
The continuous keeping or storage of any finished or unfinished goods, materials, merchandise, or equipment outside of a building for more than 24 hours. For information regarding Outside Storage regulations, see the Use Chart and Section 4.04.A.16.

Although the use is not allowed in the property's current zoning, the PD would allow for this use while maintaining a base zoning of AE which is the zoning of the surrounding area. This zoning allows for agricultural and residential use. However, given that the property is located at a more significant intersection, a commercial or nonresidential use would be more compatible than residential. Additionally, The Tall City Tomorrow Comprehensive Plan designates this area as Urban Residential-Large Lot (UR-LL) which calls for larger lot sizes and open space. A use such as this would certainly be a more open type of use than others, and therefore would be consistent with this designation, especially given the low intensity it calls for.

Given that the use of Outside Storage is limited to a maximum of twenty percent of the total lot area by the City Code, the applicant is requesting that the PD would allow sixty-four percent of the lot to be the Outside Storage. The Outside Storage would also have a small shop as shown in the site plan (Exhibit A) and would still need to comply with the screening requirements in the City Code as it will be required to have a six-foot screening fence/wall.

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

Oil and Gas: (Approved)

No Oil & Gas well concern for Zoning. Informational: Future plats will need to identify any Oil or Gas wells and include 500 ft. radius for a city permitted well or the 135 ft. radius for non-permitted well radius on plat. Please note if oil & gas wells are not identified or left off a plat, this could prevent receiving city permits for structures. Any plugged and abandoned (P&A) well would need

to be identified with comments- No structure shall be built over an abandoned well.

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 with conditions)

Access spacing will be required to adhere to the TxDOT Access Management Standards along the state highway. [Reference City Code Section 9-4-5(D).] 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.]

Planning: (Approved with conditions)

Therefore, staff recommends approval of this Zone Change from AE, Agricultural Estate District to PD, Planned Development District Transition District.

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 if such buildings satisfy the requirements of Title XI, Chapter 1 of the City Code and all other applicable ordinances.

B. That the portion of the Property described as Lot 19, Block 1, Skyview Development, City and County of Midland, Texas ("Lot 19") may be used for the sale, delivery, and pick-up of landscape materials (the "Business Use"). The portion of the Property described as Lot 18, Block 1, Skyview Development, City and County of Midland, Texas ("Lot 18") shall not be used for the Business Use.

C. That Lot 19 may be used for Outside Storage, as such term is defined in Section 11-1-2.01 of the City Code, subject to the following conditions:

1. **That the Outside Storage shall be limited to a maximum of 64 percent of the total area of Lot 19.**

2. **That the use of Lot 19 for Outside Storage shall be done in compliance with the screening requirements set forth in Section 11-1-9.07.F.8 of the City Code.**

3. **That Lot 18 shall not be used for Outside Storage.**

Letters of Objection:

Staff has not received any letters of objection as of December 10, 2024.

Attachments:

Application
Site Plan (Exhibit A)
Maps
PowerPoint

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 18 AND 19, BLOCK 1, SKYVIEW DEVELOPMENT, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF EAST LOOP 250 NORTH AND TODD 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 Lots 18 and 19, Block 1, Skyview Development, City and County of Midland, Texas (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 AE, Agricultural Estate District 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 PD, Planned Development District for a Transition 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"; provided, however, that buildings not shown on the site plan may be located on the Property if such buildings satisfy the requirements of Title XI, Chapter 1 of the City Code and all other applicable ordinances.

B. That the portion of the Property described as Lot 19, Block 1, Skyview Development, City and County of Midland, Texas ("Lot 19") may be used for the sale, delivery, and pick-up of landscape materials (the "Business Use"). The portion of the Property described as Lot 18, Block 1, Skyview Development, City and County of Midland, Texas ("Lot 18") shall not be used for the Business Use.

C. That Lot 19 may be used for Outside Storage, as such term is defined in Section 11-1-2.01 of the City Code, subject to the following conditions:

1. That the Outside Storage shall be limited to a maximum of 64 percent of the total area of Lot 19.

2. That the use of Lot 19 for Outside Storage shall be done in compliance with the screening requirements set forth in Section 11-1-9.07.F.8 of the City Code.

3. That Lot 18 shall not be used for Outside Storage.

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., 2025; 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., 2025, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2025.

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:

John Ohnemiller, City Attorney

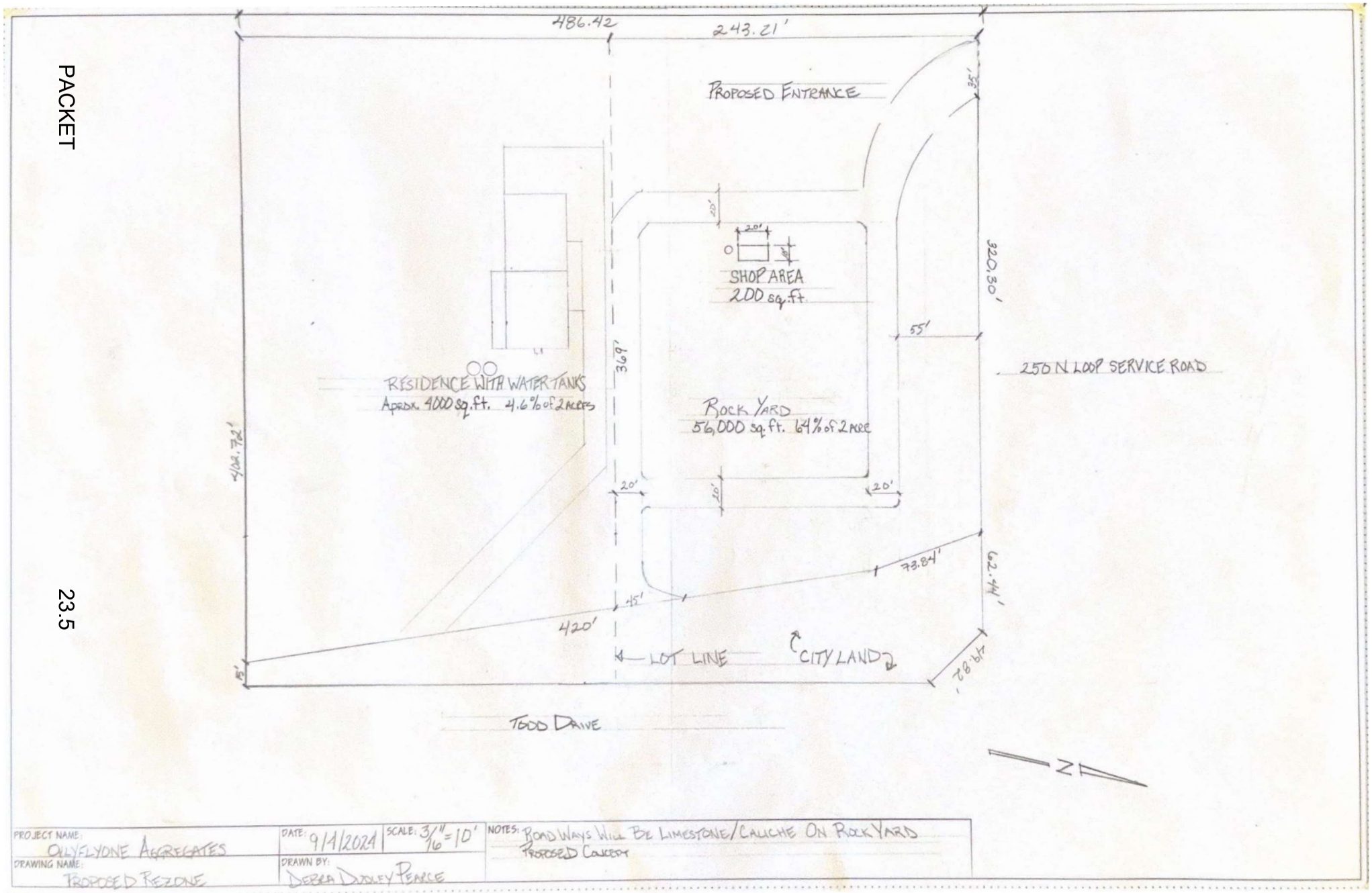

486.42
243.21'
PROPOSED ENTRANCE
35'
20'
20'
SHOP AREA
200 sq.ft.
320.30'
55'
250 N LOOP SERVICE ROAD
RESIDENCE WITH WATER TANKS
Aprox. 4000 sq.ft. 4.6% of 2 ACRES
369'
ROCK YARD
56,000 sq.ft. 64% of 2 ACRE
20'
20'
20'
73.84'
62.44'
45'
420'
LOT LINE
CITY LAND
79.82'
TODD DRIVE
N
PROJECT NAME: OLLY/LYONE AGGREGATES
DRAWING NAME: PROPOSED REZONE
DATE: 9/1/2021
SCALE: 3/16" = 10'
DRAWN BY: DEBRA DUDLEY PEARCE
NOTES: ROAD WAYS WILL BE LIMESTONE/CALICHE ON ROCK YARD
PROPOSED CONCEPT

EXHIBIT "A"

MIDLAND
Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: _____

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Debra Dudley Pearce		Phone (831)224-5093 Email oilflyone@gmail.com	
Address 4908 Timber Ct	City Midland	State Texas	Zip 79707

Property Owner Printed Name: WTG Fuels		Phone (831) 224-5093 Email 831 224-5093	
Address 211 N Colorado	City Midland	State Texas	Zip 79701

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name: Debra Dudley Pearce		Phone (831) 224-5093 Email	
Address	City	State	Zip

Street Address: 2920 East Loop 250 N, Midland TX 79705

Legal Description
Lot: 18, 19 Block: 1 Subdivision: Skyview Development

Current Zoning: AE

Proposed Zone: PD
(List by tracts if more than one district is requested)

Reason for Zone Change Request:
Would like to make North lot a rock yard and a residence on the South lot

Present Use of Property: Lot is presently not being used

Proposed Use of Property: Moving our Rock Yard where we will be selling Landscape rock, soil and different types of aggregates

How would this zone change affect the public health, safety and welfare?
I do not believe this will affect any of these

Describe how conditions affecting the property have changed since present zoning designation: N/A

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature):	Date: 10/30/2024
Applicant (printed): Debra Dudley Pearce	
Property Owner (signature):	Date: 10/30/2024
Property Owner (printed) : WTG Fuels	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear_____who, being by me duly sworn, upon oath says: That (s)he is the owner of _____or authorized by_____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this_____day of_____, 20____, to certify which witness my hand and seal of office.

_____

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☑ Property Owner Authorization ☑ Dimensioned Site Plan

☐ Application Fee ☑ Plans in Digital Format (PDF/JPEG)

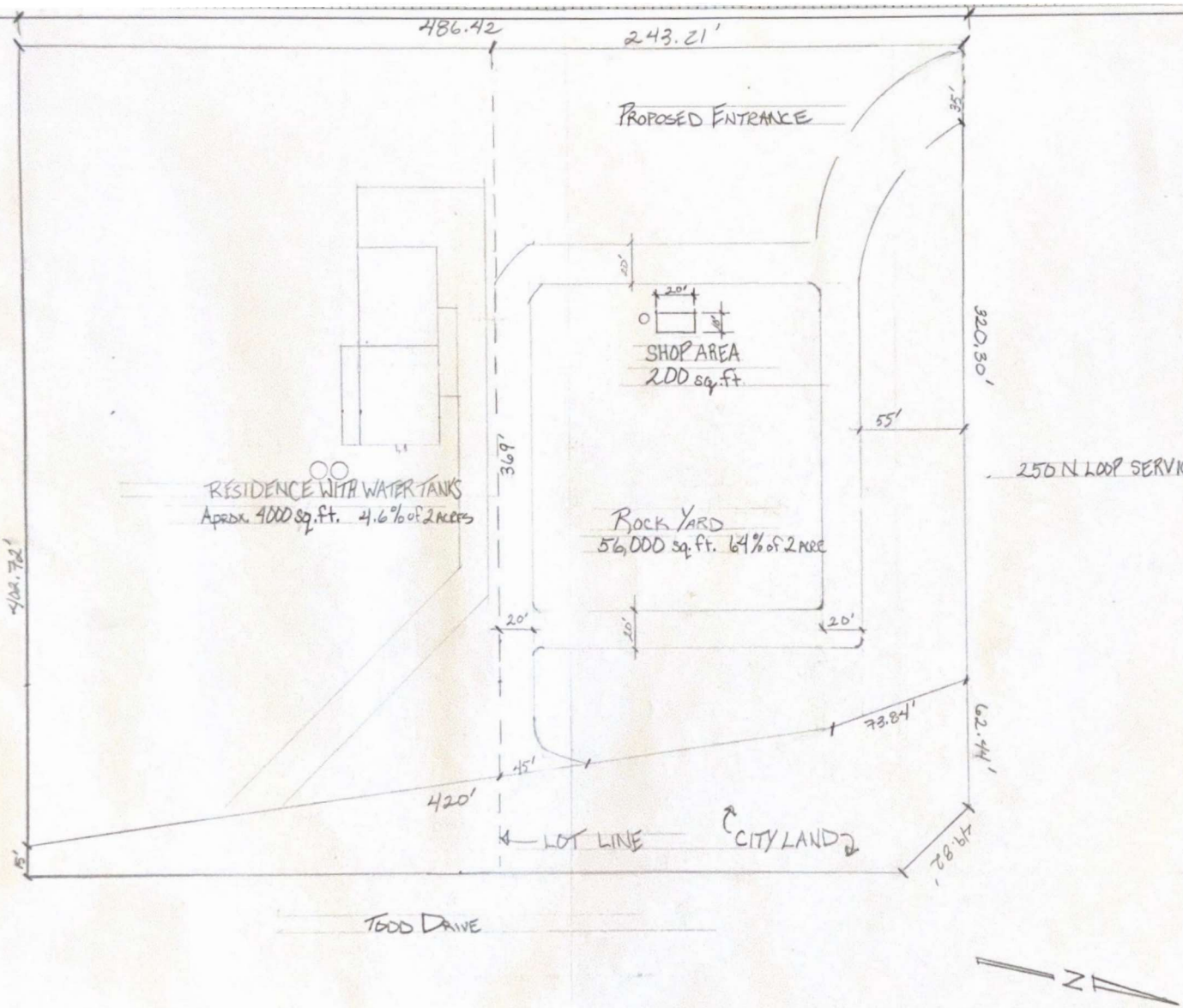
Check #_____

RECEIVED
OCT 30 2024

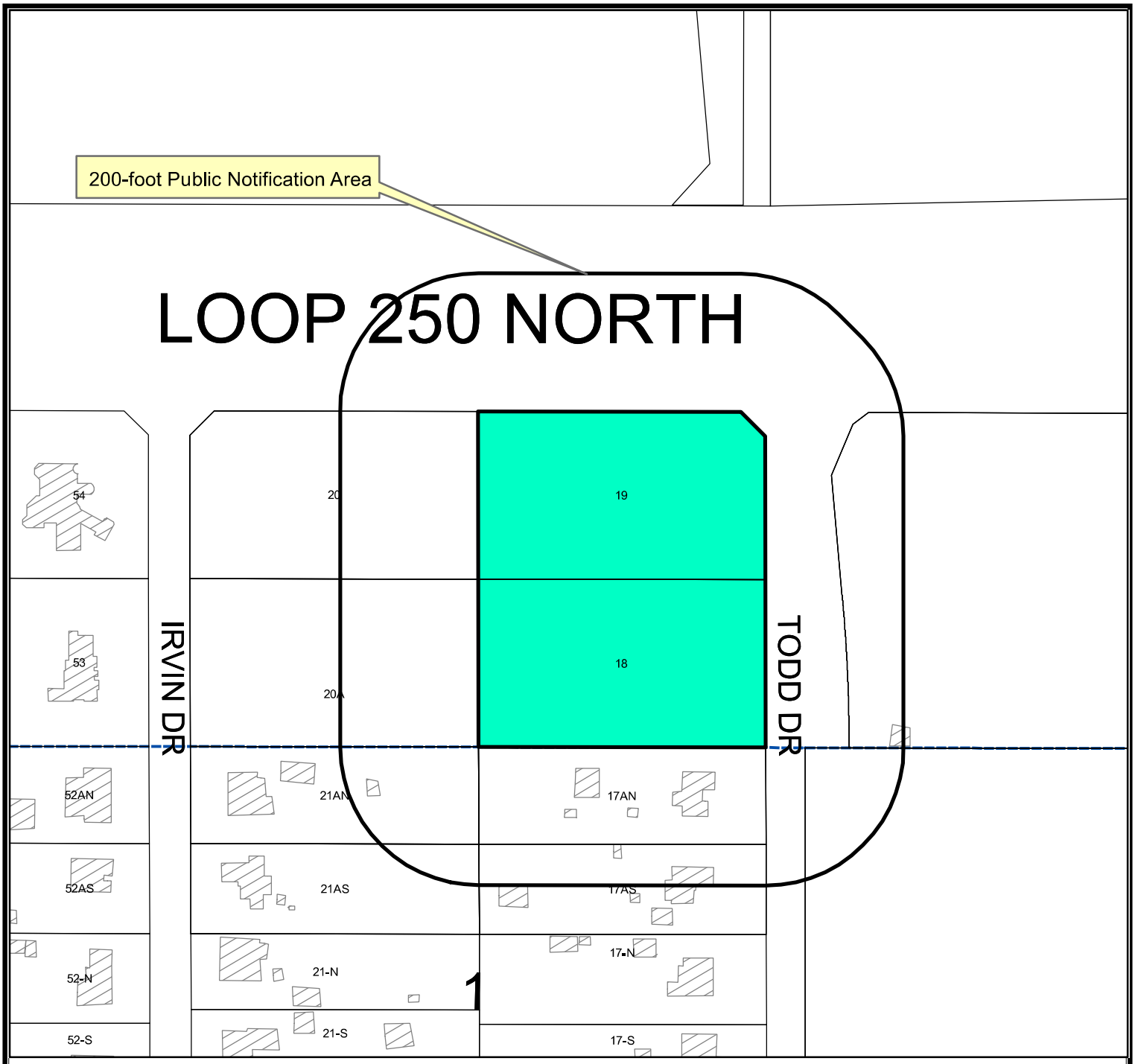
Received By: Madison Sawyer Date:

BY: .....

****Application will not be considered for scheduling until reviewed by a planner.****



PROJECT NAME: OLLYFLYONE AGGREGATES
DRAWING NAME: PROPOSED REZONE
DATE: 9/1/2024
SCALE: 3/16" = 10'
DRAWN BY: DEBRA DUDLEY PEARCE
NOTES: ROAD WAYS WILL BE LIMESTONE/CALICHE ON ROCK YARD
PROPOSED CONCEPT



Location Map

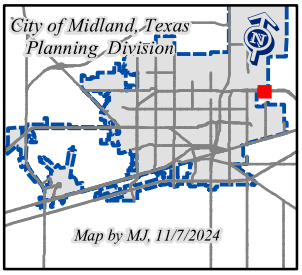
Z-24-0389 **Scale: 1" = 207'**

Consider a request by Debra Dudley Pearce for a zone change from, AE, Agricultural Estate District to PD, Planned Development District for transition District, on Lots 18 and19, Block 1, Skyview Development, City and County of Midland, Texas.

Generally located on the southwest corner of East Loop 250 North and Todd Dr. (Council District 1)

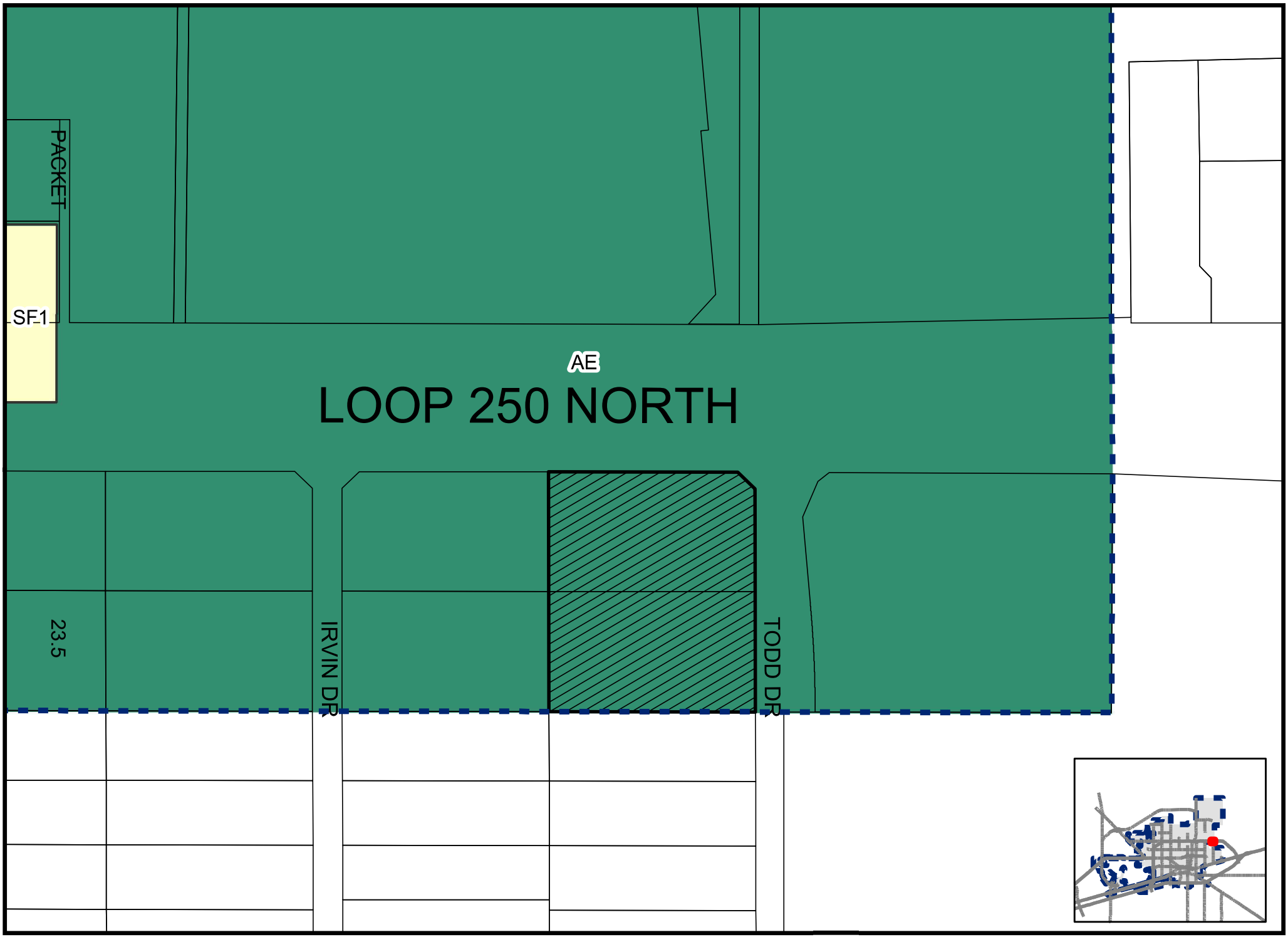
LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND IS 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.

January 14, 2025



Map by MJ 11/7/2024

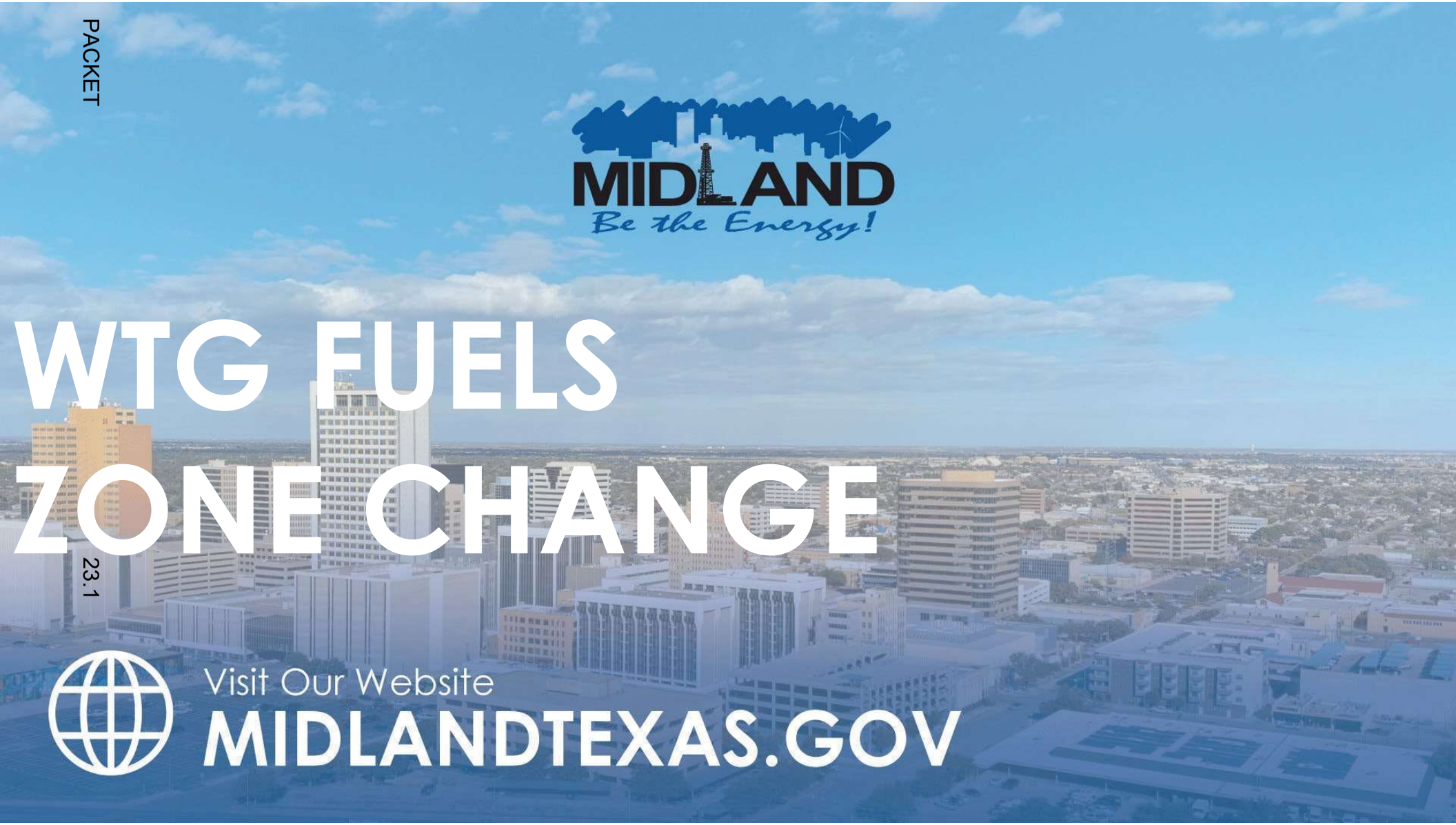
Z-24-0389

Scale: 1" = 243'

ZONING MAP

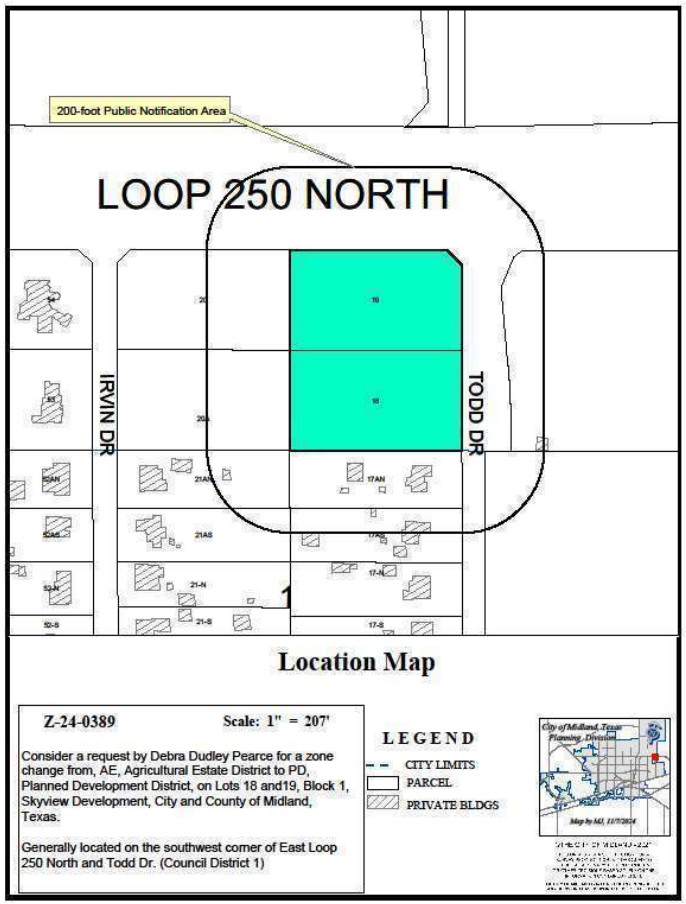
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LOOP 250 NORTH
TODD DR
IRVIN DR


MIDLAND
Be the Energy!
WTG FUELS
ZONE CHANGE
Visit Our Website
MIDLANDTEXAS.GOV

APPLICATION SUMMARY

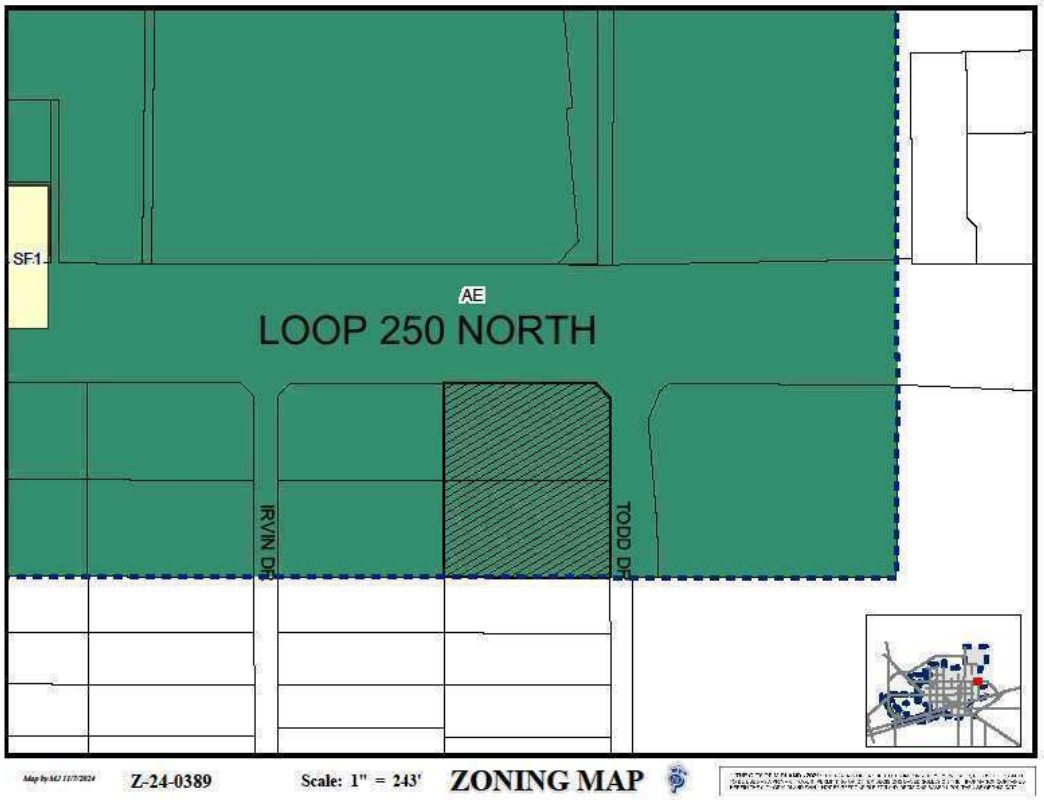
- **Property Owner**: WTG Fuels
- **Applicant:** Debra Dudley Pearce
- **Zone Change**
- **Address:** 2920 East Loop 250 N, Midland, Texas 79705 (District 1)
- **Reason for Request:** To allow the sale of landscaping rock, soil, and different types of aggregates.



ZONING

Current Zoning: AE, Agricultural Estate District

- **Surrounding Zoning:**
  - North: AE, Agricultural Estate District
  - South: ETJ, Extraterritorial Jurisdiction
  - East: AE, Agricultural Estate District
  - West: AE, Agricultural Estate District
- **Proposed Zoning:** PD, Planned Development District for a Transition District.



LAND USE

- **Current Use of the Property:** Vacant
- **Proposed Use of the Property:** Rock yard
- **Surrounding Uses:**
- North: Loop 250 North and vacant lots
- South: Residential (ETJ)
- East: Vacant
- West: Vacant



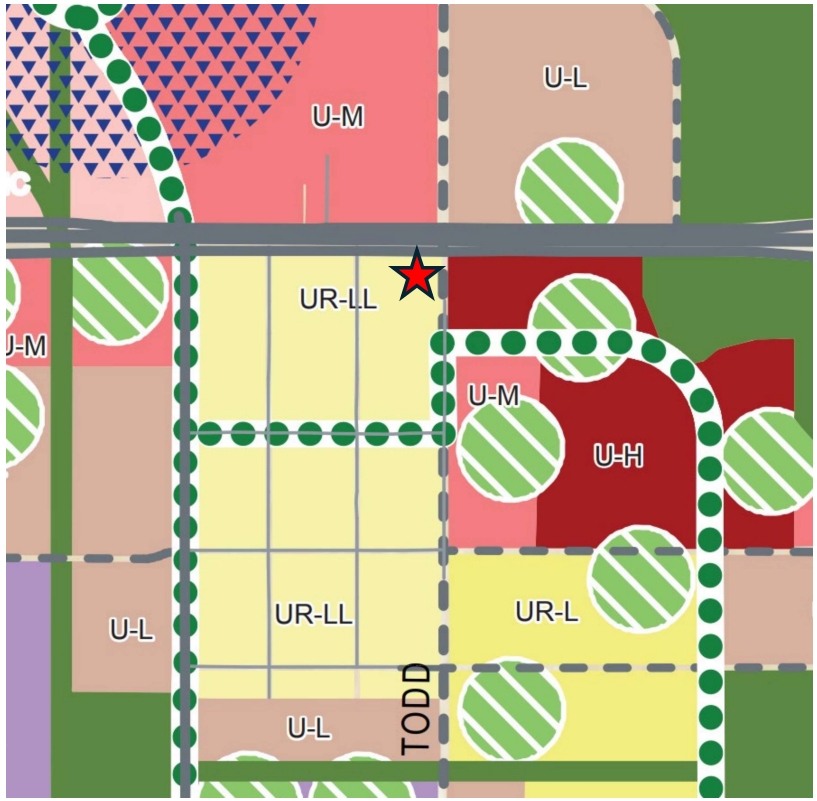


On Todd Dr, Looking west.

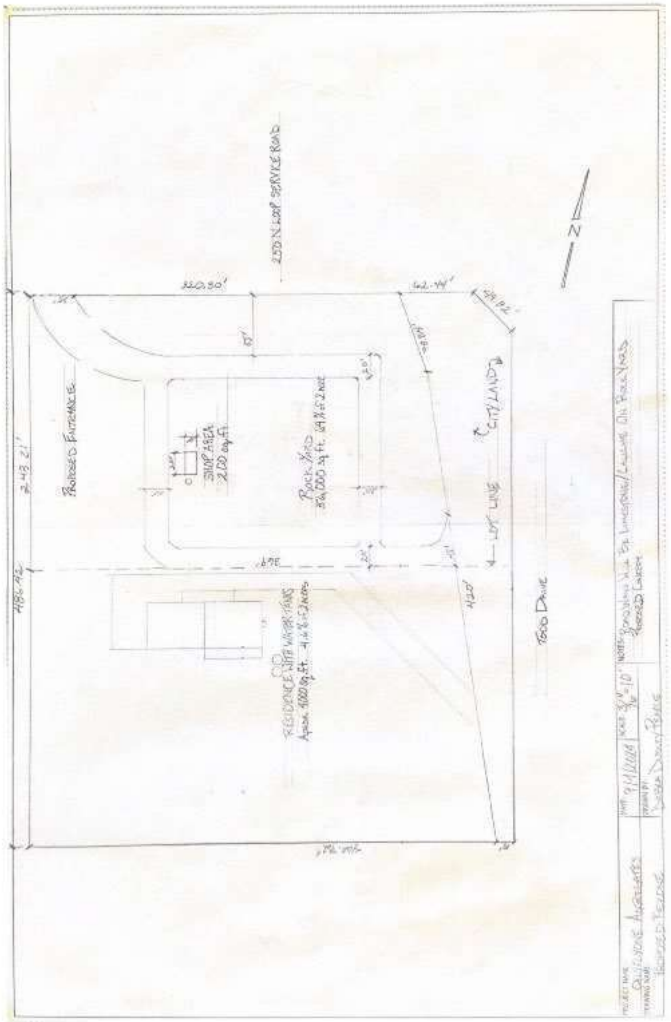
COMPREHENSIVE PLAN

- **TCT Land Use Designation:** UR-LL, Urban Residential-Large lot.

- **Supported Uses:**
  •A use such as this would certainly be a more open type of use than others, and therefore would be consistent with this designation, especially given the low intensity it calls for.



MIDLAND
Be the Energy!



Site Plan (Exhibit A)

STAFF'S RECOMMENDATION

- No objections received.

- Staff recommends APPROVAL of this zone change from AE, Agricultural Estate District to PD, Planned Development District for a Transition District under the following conditions.



STAFF'S RECOMMENDATION

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 if such buildings satisfy the requirements of Title XI, Chapter 1 of the City Code and all other applicable ordinances.



STAFF'S RECOMMENDATION

Conditions:

B. That the portion of the Property described as Lot 19, Block 1, Skyview Development, City and County of Midland, Texas ("Lot 19") may be used for the sale, delivery, and pick-up of landscape materials (the "Business Use"). The portion of the Property described as Lot 18, Block 1, Skyview Development, City and County of Midland, Texas ("Lot 18") shall not be used for the Business Use.



STAFF'S RECOMMENDATION

Conditions:

C. That Lot 19 may be used for Outside Storage, as such term is defined in Section 11-1-2.01 of the City Code, subject to the following conditions:

1. That the Outside Storage shall be limited to a maximum of 64 percent of the total area of Lot 19.

2. That the use of Lot 19 for Outside Storage shall be done in compliance with the screening requirements set forth in Section 11-1-9.07.F.8 of the City Code.

3. That Lot 18 shall not be used for Outside Storage.




MISSION
Deliver exceptional services and promote a high quality of life and place for ALL our citizens.

City Council Meeting

Item Number: 24

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Garrick Clayton, Oil and Gas Coordinator

Subject: **THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO PERMIAN DEEP ROCK OIL CO., LLC (“OPERATOR”) FOR THE DRILLING OF THE FOLLOWING OIL AND GAS WELLS: KNIGHT 110 MIPA UNIT H110NB; KNIGHT 120 MIPA UNIT 120NW; AND KNIGHT 130 MIPA UNIT H130NB; SAID WELLS BEING GENERALLY LOCATED BETWEEN 1,797 FEET AND 1,837 FEET EAST OF NORTH A STREET AND 1,827 FEET SOUTH OF WEST LOOP 250 NORTH – PUBLIC HEARING ONLY (DISTRICT 1) (DEVELOPMENT SERVICES) (SET THE STANDARD FOR A SAFE AND SECURE CITY)**

Purpose:

The proposed granting of oil and gas well permits to Permian Deep Rock Oil Co., LLC (“Operator”) for the drilling of the following oil and gas wells: Knight 110 MIPA Unit H110NB; Knight 120 MIPA Unit 120NW; and Knight 130 MIPA Unit H130NB; said wells being generally located between 1,797 feet and 1,837 feet east of North A street and 1,827 feet south of W loop 250 N. (public hearing only). Council may consider these permits following a 30-day public comment period and at a regularly scheduled meeting. No notices of objection received.

Recommended City Council Action:

Directional / Informational

Fiscal Impact:

There is no cost to the City to process this application.

Strategic Priority:

(Set the Standard for a Safe and Secure City)

Discussion:

The Oil and Gas Advisory Committee has reviewed the well sites in detail and recommends approval. Permian Deep Rock Oil Co., LLC will be using 24 ft. tall sound walls around the perimeter of the location during drilling and fracing. In addition, a quiet type frac system that will utilize an electric frac fleet, with power generation equipment that will be staged on pad behind sound barriers. A closed loop system will be used for drilling operations so no reserve pits or cuttings will be kept on the property and the Tank Battery for these wells will be located in the county. Permian Deep Rock Oil Co., LLC is requesting the following variances:

(1) To Fencing and shall conform to the surface use agreement
(2) To Landscaping and irrigation and shall conform to the surface use agreement.
(3) To allow for twenty-four hour Hydraulic fracturing operations.
(4) To remove drill cuttings from the surface location.

Attachments: Applications; Location maps; Exhibit - Drill site maps, Exhibit – Overall Location

City Manager's Office

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
11/01/2024	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519

Fee: $4,000.00 Rec'd Yes ✓ No___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Office buildings, City Collection Center, undeveloped pasture

See Exhibit "D"

ATTACHED AS EXHIBIT D **is** ,
Current Tax Roll from Midland Central Appraisal District), **which lists**
the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

***ATTACHED AS EXHIBIT E* is a *(map/p lat/satellite/aerial photo)* depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The *(map/p lat/satellite/aerial photo)* includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

***ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Knight 110 MIPA Unit H110NB

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 1827' FNL & 1837' FWL, Section 14
Block 39, T1S, T&PRR Co. Survey, Midland County, Texas

***ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].**

***ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

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***ATTACHED AS EXHIBIT J* is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].**

***ATTACHED AS EXHIBIT K (if applicable)* is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].**

***ATTACHED AS EXHIBIT L* is the Fencing and Irrigation Plan. [See § J(30)].**

***ATTACHED AS EXHIBIT M*: Road use and repair agreement attached**

***ATTACHED AS EXHIBIT N* is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].**

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: None

(2) Operations: Oncor

Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

See Exhibit "N"

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Trench and encapsulate per TXRRC Rule 27(c)(10)(v)

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V. Additional Required Exhibits

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***ATTACHED AS EXHIBIT U* is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].**

ATTACHED AS EXHIBIT V: Applicants variances

Permian Deep Rock Oil Co.
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

County of Midland)

, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

ESTELLA PENA
Notary Public, State of Texas
My Commission Expires
August 03, 2025
NOTARY ID 13123361-8

[S E A L]

Estella Peña
Notary Public, State of Texas

STATE OF TEXAS
REGISTERED
WILLIAM S ABRAHAM
2052
PROFESSIONAL
LAND SURVEYOR

9/16/24

WILLIAM S. ABRAHAM,
REGISTERED PROFESSIONAL LAND
SURVEYOR TEXAS REGISTRATION NO. 2052

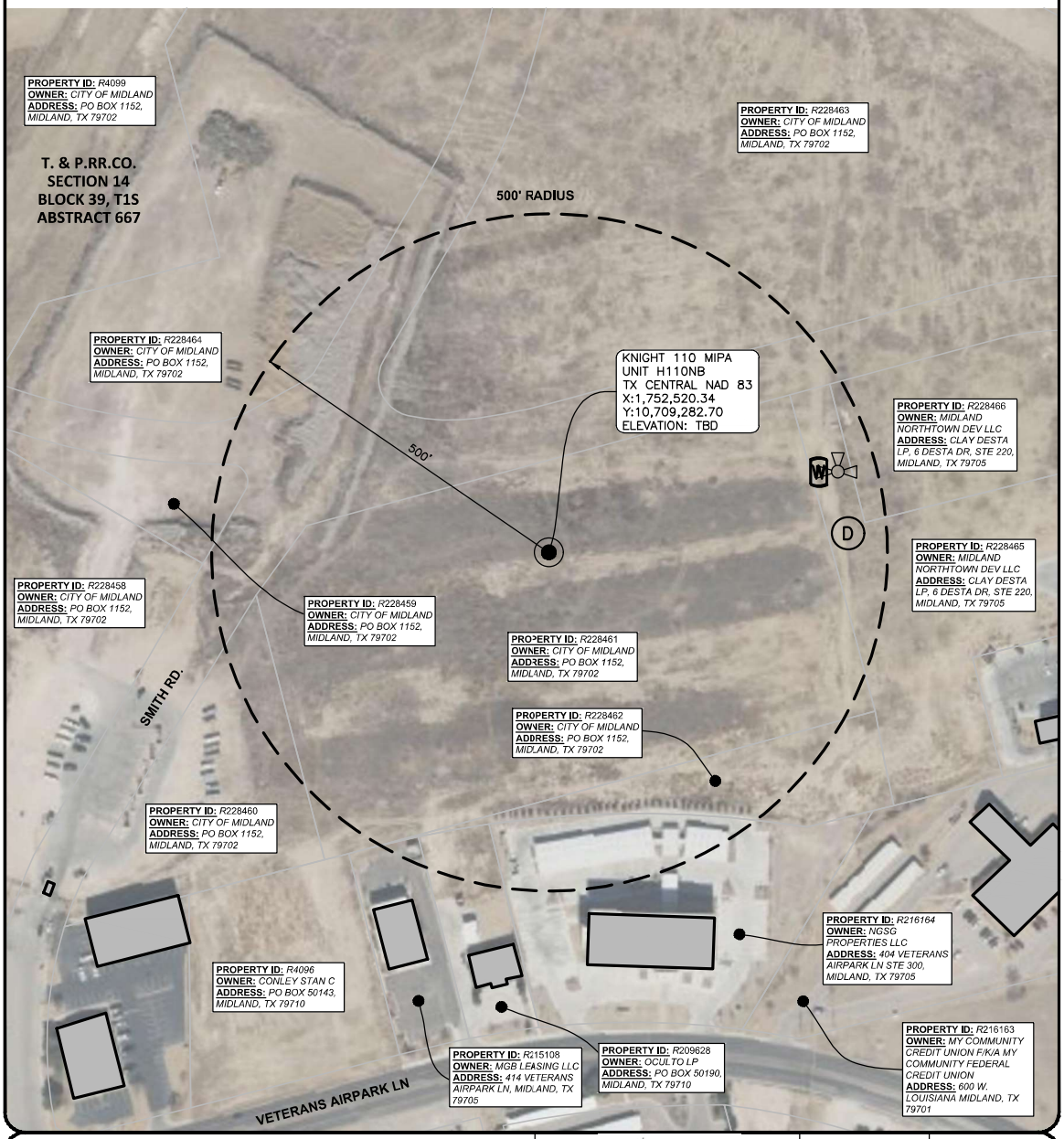
NOTES:

1.ORIGINAL DOCUMENT SIZE: 8.5" X 14"
2.THIS EXHIBIT WAS CREATED FOR THE SOLE PURPOSE OF FILING A PERMIT WITH THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS. THIS IS NOT A "BOUNDARY SURVEY".
3.THE PROPOSED WELL LOCATION WAS SURVEYED ON ---

SYMBOL LEGEND:

FIRE HYDRANT
STORM DRAIN MANHOLE
WATER VALVE

N
W E
S
0' 100' 200'



WARNING: PLAT MAY NOT SHOW ALL CROSSINGS OF PIPELINES OR CABLES. USE TEXAS ONE CALL SYSTEM BEFORE EXCAVATION ON PROPERTY.

WELL RADIUS

PROPOSED KNIGHT 110 MIPA UNIT H110NB

T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S, ABSTRACT 667, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS
WELL SECTION LINE TIES: 1,837' FSWL & 1,827' FNWL

NOTES:
1. SURVEY RECONSTRUCTION FILED IN THE OFFICE OF ATWELL, LLC.
2. ALL BEARING AND GRID COORDINATES SHOWN ARE BASED ON THE TEXAS COORDINATE SYSTEM OF NAD 83, CENTRAL ZONE.
3. THIS PLAT DOES NOT CONSTITUTE A BOUNDARY SURVEY.

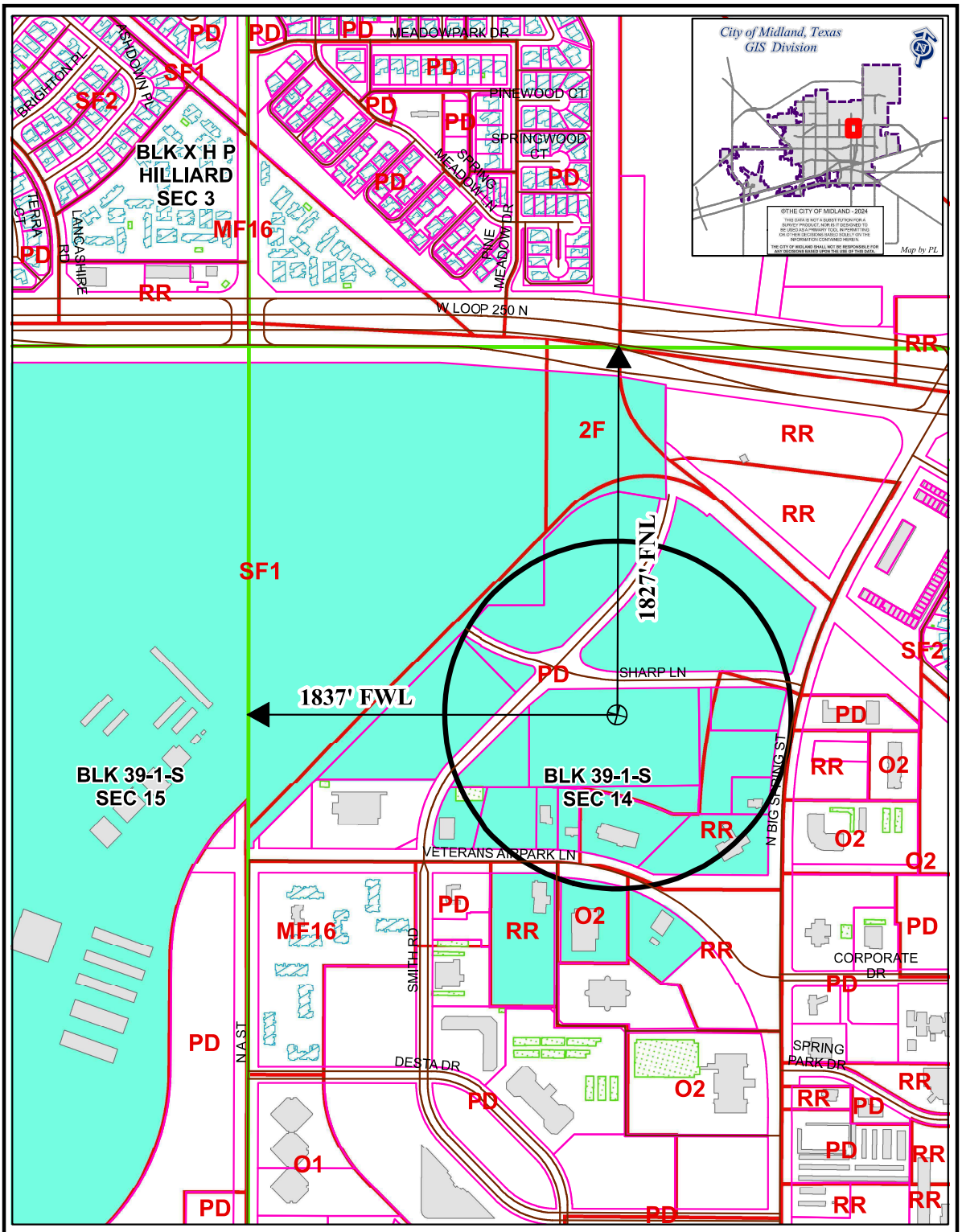
PERMIAN DEEP ROCK OIL COMPANY

ATWELL
866.850.4200 www.atwell-group.com
10100 Reunion Place, Suite 700
San Antonio, Texas 78216
TBPLS FIRM # 10194153

DRAWN	EL	DATE	8/23/24
CHECKED		DATE	
APP'D		DATE	
SCALE	1"=200'	PAGE	4 OF 4

REV#	DATE	DESC.

JOB NAME KNIGHT 110 MIPA UNIT H110NB
JOB NO. 24009307



LOCATION AND ZONING MAP

Oil - 064962 - 2024 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1,827' FNL and 1,837' FWL, Section 14, Block 39, T-1-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,837 feet east of North A Street extension and 1,827 feet south of W Loop 250 N.

Knight 110 MIPA Unit H110NB

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
RE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
SF1, SF2, SF3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
11/01/2024	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519

Fee: $4,000.00 Rec'd Yes ✓ No___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Office buildings, City Collection Center, undeveloped pasture

See Exhibit "D"

ATTACHED AS EXHIBIT D **is** ,
Current Tax Roll from Midland Central Appraisal District), **which lists**
the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

***ATTACHED AS EXHIBIT E* is a *(map/p lat/satellite/aerial photo)* depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The *(map/p lat/satellite/aerial photo)* includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

***ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Knight 120 MIPA Unit H120NW

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 1827' FNL & 1817' FWL, Section 14
Block 39, T1S, T&PRR Co. Survey, Midland County, Texas

***ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].**

***ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

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Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: None

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Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

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See Exhibit "N"

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See Exhibit "O"

V. Additional Required Exhibits

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ATTACHED AS EXHIBIT V: Applicants variances

Permian Deep Rock Oil Co.
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

County of Midland)

, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

ESTELLA PENA
Notary Public, State of Texas
My Commission Expires
August 03, 2025
NOTARY ID 13123361-8

[S E A L]

Estella Peña
Notary Public, State of Texas

STATE OF TEXAS
REGISTERED
WILLIAM S ABRAHAM
2052
PROFESSIONAL
LAND SURVEYOR

9/16/24

WILLIAM S. ABRAHAM,
REGISTERED PROFESSIONAL LAND
SURVEYOR TEXAS REGISTRATION NO. 2052

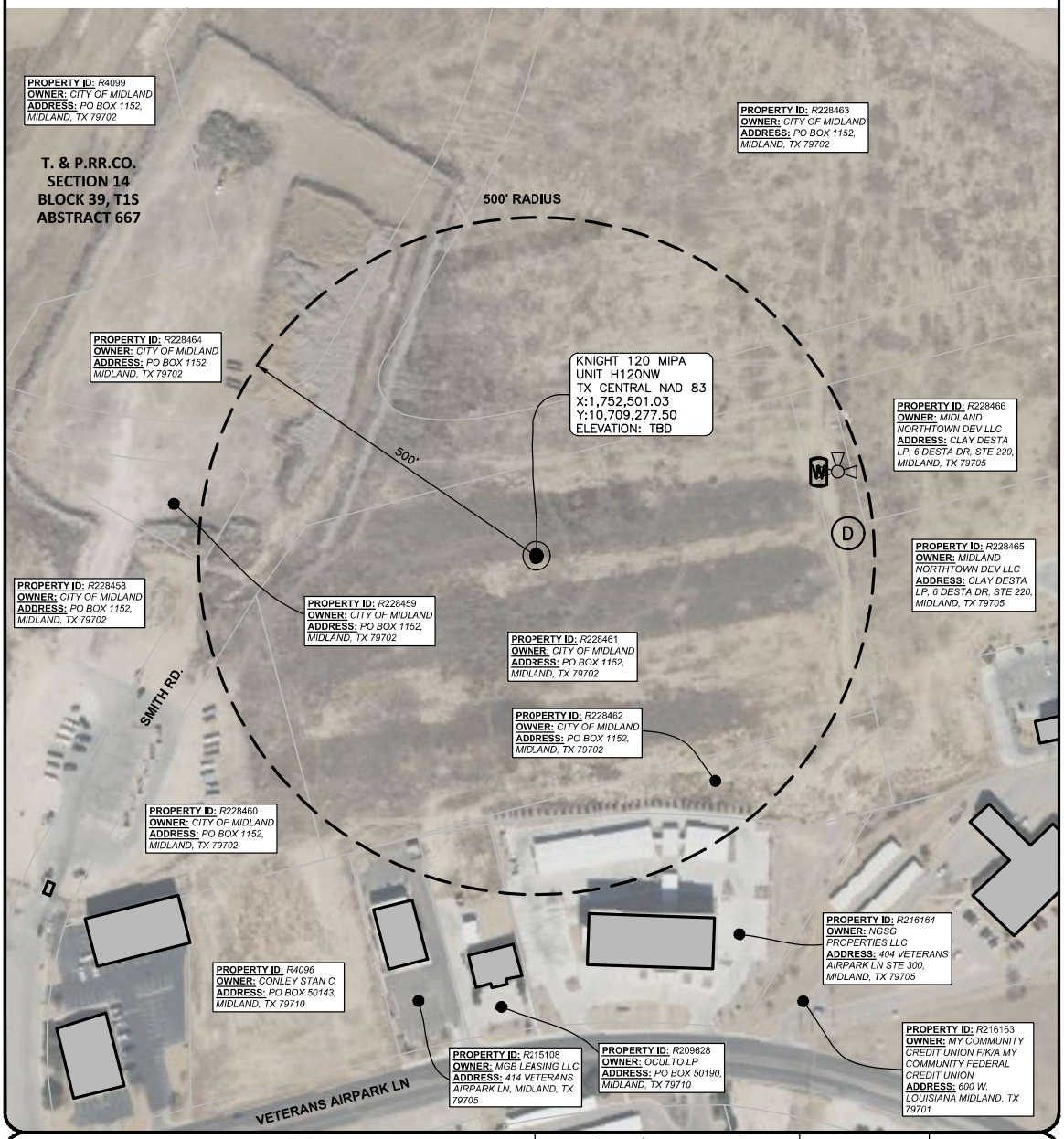
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SYMBOL LEGEND:

FIRE HYDRANT
STORM DRAIN MANHOLE
WATER VALVE

N
W E
S
0' 100' 200'



WARNING: PLAT MAY NOT SHOW ALL CROSSINGS OF PIPELINES OR CABLES. USE TEXAS ONE CALL SYSTEM BEFORE EXCAVATION ON PROPERTY.

WELL RADIUS

PROPOSED KNIGHT 120 MIPA UNIT H120NW

T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S, ABSTRACT 667, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS
WELL SECTION LINE TIES: 1,817' FSWL & 1,827' FNWL

NOTES:
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2. ALL BEARING AND GRID COORDINATES SHOWN ARE BASED ON THE TEXAS COORDINATE SYSTEM OF NAD 83, CENTRAL ZONE.
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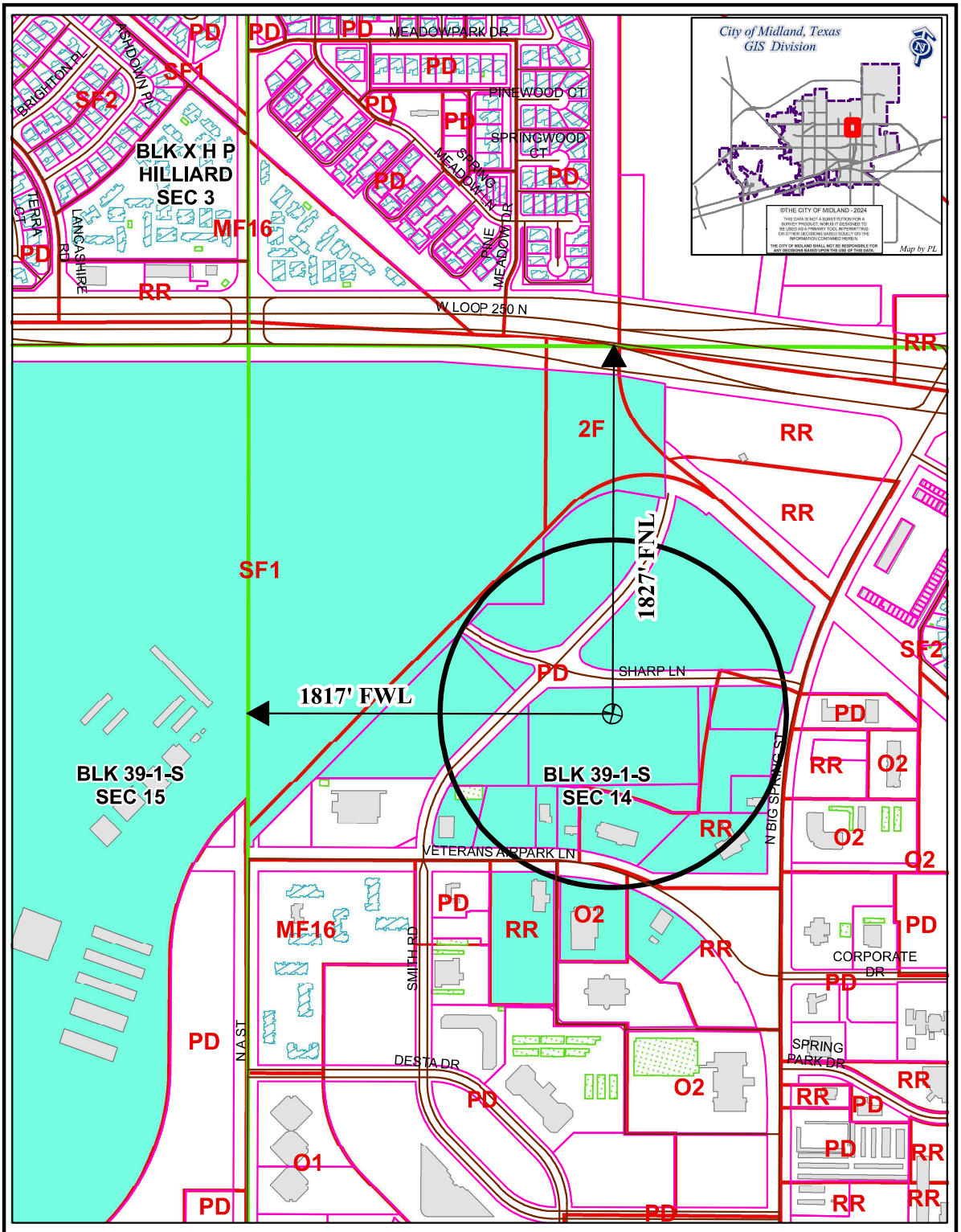
PERMIAN DEEP ROCK OIL COMPANY

ATWELL
866.850.4200 www.atwell-group.com
10100 Reunion Place, Suite 700
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TBPLS FIRM # 10194153

DRAWN	EL	DATE	8/23/24
CHECKED		DATE	
APP'D		DATE	
SCALE	1"=200'	PAGE	4 OF 4

REV#	DATE	DESC.

JOB NAME: KNIGHT 120 MIPA UNIT H120NW
JOB NO.: 24009907



LOCATION AND ZONING MAP

Oil - 064963 - 2024 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1,827' FNL and 1,817' FWL, Section 14, Block 39, T-1-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,817 feet east of North A Street extension and 1,827 feet south of W Loop 250 N.

Knight 120 MIPA Unit H120NW

LEGEND

CITY PARCELS | PUBLIC BLDGS | CITY LIMITS
COUNTY PARCELS | PRIVATE BLDGS | 860 FT. BUFFER
ZONING | ACCESSORY BLDGS | SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
LF1, LF2, LF3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
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MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

MIDLAND
Planning Division

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(Pursuant to Midland City Ordinance No. 8769)

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Date	Operator Name (must match W-1)	Operator Address
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Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519

Fee: $4,000.00 Rec'd Yes ✓ No___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4

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IV. Well & Operations Information

Proposed Well Name: Knight 130 MIPA Unit H130NB

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 1827' FNL & 1797' FWL, Section 14
Block 39, T1S, T&PRR Co. Survey, Midland County, Texas

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[NAME OF COMPANY]

By _____
Its General Manager

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, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

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[S E A L]

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STATE OF TEXAS
REGISTERED
WILLIAM S ABRAHAM
2052
PROFESSIONAL
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9/16/24

WILLIAM S. ABRAHAM,
REGISTERED PROFESSIONAL LAND
SURVEYOR TEXAS REGISTRATION NO. 2052

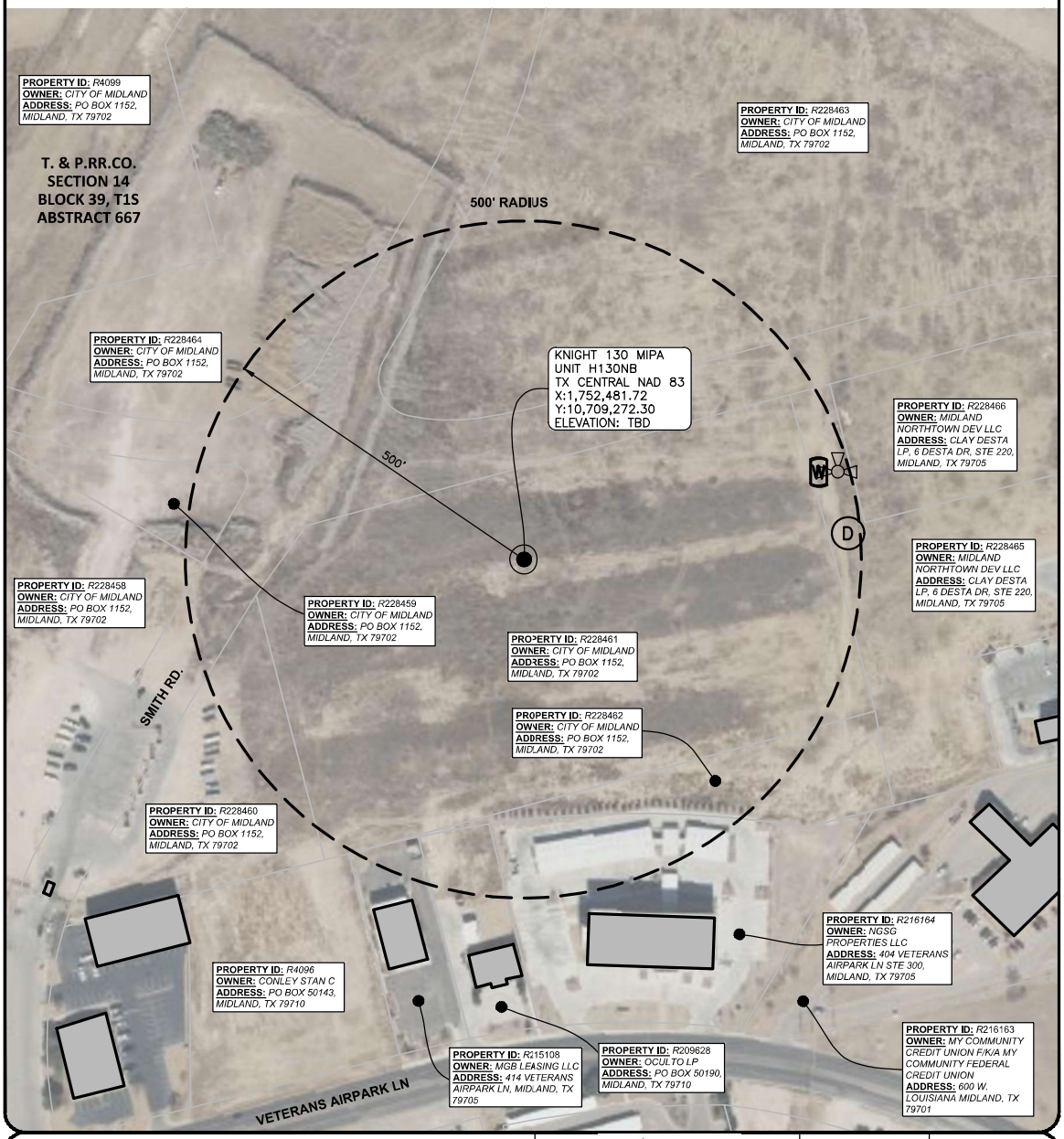
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2.THIS EXHIBIT WAS CREATED FOR THE SOLE PURPOSE OF FILING A PERMIT WITH THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS. THIS IS NOT A "BOUNDARY SURVEY".
3.THE PROPOSED WELL LOCATION WAS SURVEYED ON ---

SYMBOL LEGEND:

FIRE HYDRANT
STORM DRAIN MANHOLE
WATER VALVE

N
W E
S
0' 100' 200'



WARNING: PLAT MAY NOT SHOW ALL CROSSINGS OF PIPELINES OR CABLES. USE TEXAS ONE CALL SYSTEM BEFORE EXCAVATION ON PROPERTY.

WELL RADIUS

PROPOSED KNIGHT 130 MIPA UNIT H130NB

T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S, ABSTRACT 667, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS
WELL SECTION LINE TIES: 1,797' FSWL & 1,827' FNWL

NOTES:
1. SURVEY RECONSTRUCTION FILED IN THE OFFICE OF ATWELL, LLC.
2. ALL BEARING AND GRID COORDINATES SHOWN ARE BASED ON THE TEXAS COORDINATE SYSTEM OF NAD 83, CENTRAL ZONE.
3. THIS PLAT DOES NOT CONSTITUTE A BOUNDARY SURVEY.

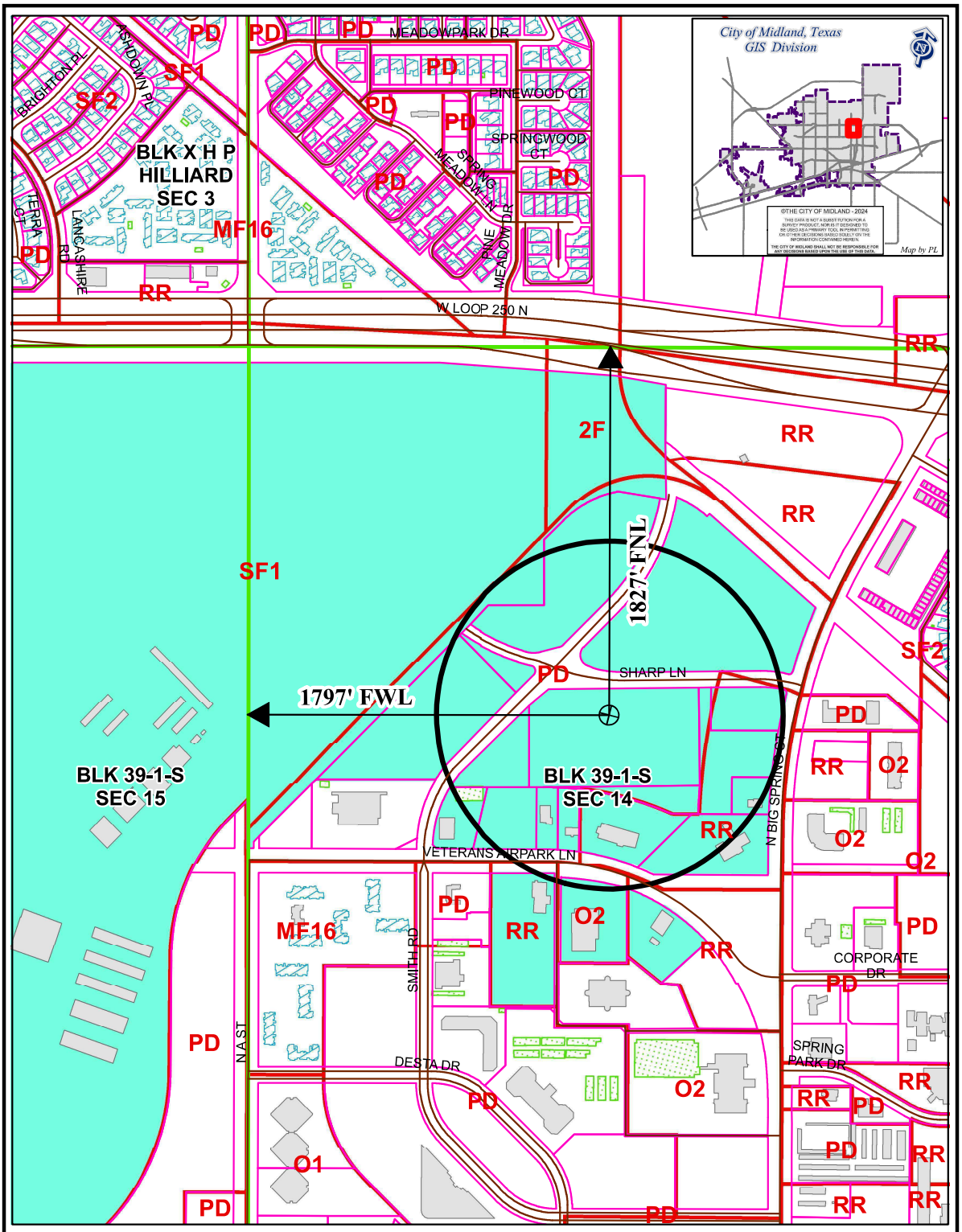
PERMIAN DEEP ROCK OIL COMPANY

ATWELL
866.850.4200 www.atwell-group.com
10100 Reunion Place, Suite 700
San Antonio, Texas 78216
TBPLS FIRM # 10194153

DRAWN	EL	DATE	8/23/24
CHECKED		DATE	
APP'D		DATE	
SCALE	1"=200'	PAGE	4 OF 4

REV#	DATE	DESC.

JOB NAME KNIGHT 130 MIPA UNIT H130NB
JOB NO. 24009907



LOCATION AND ZONING MAP

Oil - 064964 - 2024 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1,827' FNL and 1,797' FWL, Section 14, Block 39, T-1-S, T&P RR CO Survey, Midland County, Texas.

Generally located 1,797 feet east of North A Street extension and 1,827 feet south of W Loop 250 N.

Knight 130 MIPA Unit H130NB

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

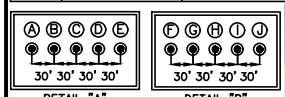
ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
SF1, SF2, SF3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

PACKET

MIDLAND COUNTY, TEXAS

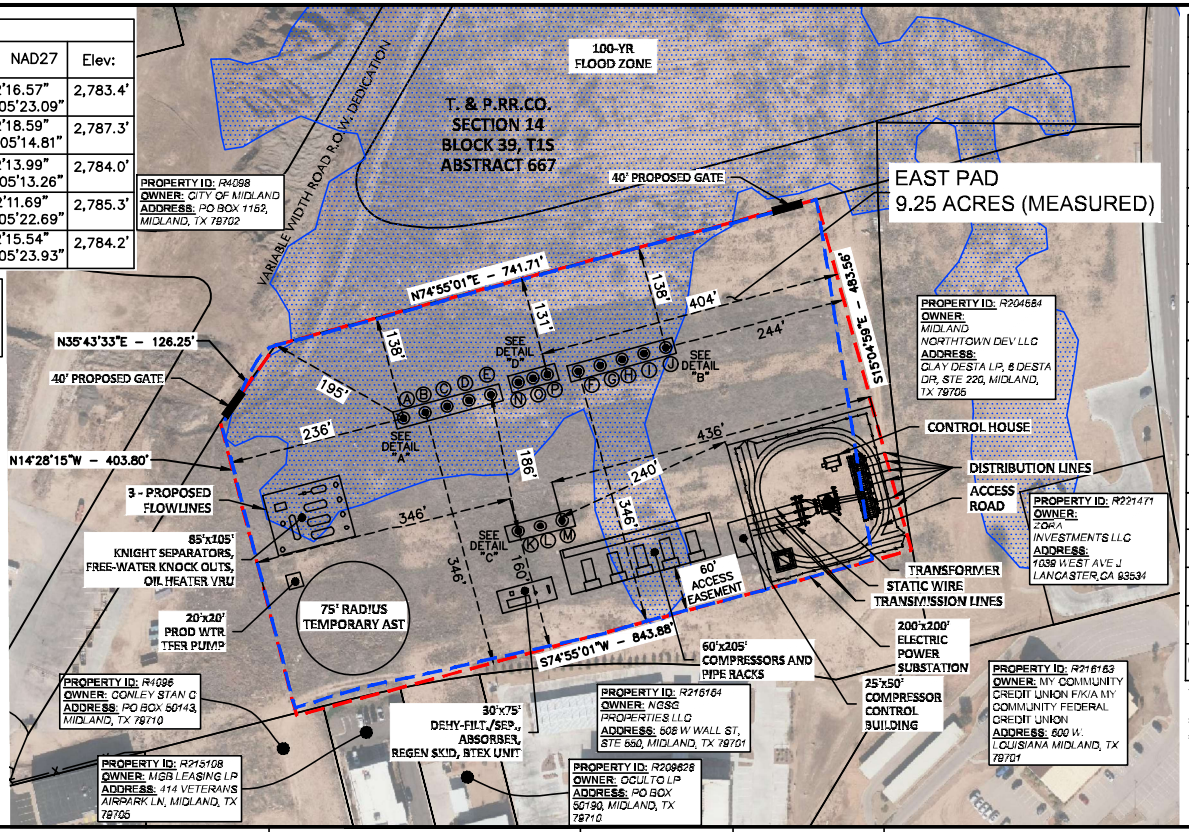
Coordinates			
Corner No.	State Plane TX–C NAD27	Geographic NAD27	Elev:
①	N: 866745.51 E: 1455693.62	Lat: 32°02'16.57" Long: –102°05'23.09"	2,783.4'
②	N: 866938.51 E: 1456409.77	Lat: 32°02'18.59" Long: –102°05'14.81"	2,787.3'
③	N: 866471.61 E: 1456535.60	Lat: 32°02'13.99" Long: –102°05'13.26"	2,784.0'
④	N: 866252.03 E: 1455720.80	Lat: 32°02'11.69" Long: –102°05'22.69"	2,785.3'
⑤	N: 866643.02 E: 1455619.90	Lat: 32°02'15.54" Long: –102°05'23.93"	2,784.2'





10/28/24

WILLIAM S. ABRAHAM,
REGISTERED PROFESSIONAL LAND
SURVEYOR TEXAS REGISTRATION NO. 2052



Well Information			
Well No.	State Plane TX–C NAD27	Geographic NAD27	Elev:
Ⓐ KNIGHT 135 MIPA UNIT #H135WA	N: 866648.48 E: 1455862.69	Lat: 32°02'15.63" Long: 102°05'21.11"	2,781.6'
Ⓑ KNIGHT 130 MIPA UNIT #H130SS	N: 866656.28 E: 1455891.65	Lat: 32°02'15.71" Long: 102°05'20.78"	2,782.2'
Ⓒ KNIGHT 130 MIPA UNIT #H130LS	N: 866664.08 E: 1455920.62	Lat: 32°02'15.80" Long: 102°05'20.44"	2,782.0'
Ⓓ KNIGHT 130 MIPA UNIT #H130WB	N: 866671.88 E: 1455949.59	Lat: 32°02'15.88" Long: 102°05'20.11"	2,782.7'
Ⓔ KNIGHT 125 MIPA UNIT #H125WA	N: 866679.67 E: 1455978.56	Lat: 32°02'15.96" Long: 102°05'19.77"	2,783.3'
Ⓕ KNIGHT 115 MIPA UNIT #H115WA	N: 866710.78 E: 1456094.49	Lat: 32°02'16.29" Long: 102°05'18.43"	2,783.6'
Ⓖ KNIGHT 110 MIPA UNIT #H110SS	N: 866718.67 E: 1456123.40	Lat: 32°02'16.37" Long: 102°05'18.10"	2,783.7'
Ⓗ KNIGHT 110 MIPA UNIT #H110LS	N: 866726.47 E: 1456152.37	Lat: 32°02'16.45" Long: 102°05'17.76"	2,783.9'
Ⓘ KNIGHT 110 MIPA UNIT #H110WB	N: 866734.27 E: 1456181.34	Lat: 32°02'16.53" Long: 102°05'17.43"	2,784.6'
Ⓙ KNIGHT 110 MIPA UNIT #H110UH	N: 866742.06 E: 1456210.31	Lat: 32°02'16.61" Long: 102°05'17.09"	2,786.0'
Ⓚ KNIGHT 120 MIPA UNIT #H120MS	N: 866496.84 E: 1456014.91	Lat: 32°02'14.16" Long: 102°05'19.32"	2,783.0'
Ⓛ KNIGHT 120 MIPA UNIT #H120LS	N: 866504.64 E: 1456043.88	Lat: 32°02'14.24" Long: 102°05'18.98"	2,782.6'
Ⓜ KNIGHT 120 MIPA UNIT #H120WB	N: 866512.44 E: 1456072.85	Lat: 32°02'14.32" Long: 102°05'18.65"	2,782.6'
Ⓝ KNIGHT 130 MIPA UNIT #H130NB	N: 866696.20 E: 1456014.92	Lat: 32°02'16.13" Long: 102°05'19.35"	TBD
Ⓞ KNIGHT 120 MIPA UNIT #H120NW	N: 866701.40 E: 1456034.23	Lat: 32°02'16.18" Long: 102°05'19.13"	TBD
Ⓟ KNIGHT 110 MIPA UNIT #H110NB	N: 866706.60 E: 1456053.54	Lat: 32°02'16.24" Long: 102°05'18.91"	TBD

TOTAL AREA OF WELL PAD
= 9.25 ACRES
= 402,945 SQ. FEET

EXHIBIT "G"

KNIGHT 135 MIPA UNIT #H135WA, KNIGHT 130 MIPA UNIT #H130SS, KNIGHT 130 MIPA UNIT #H130LS, KNIGHT 130 MIPA UNIT #H130WB, KNIGHT 125 MIPA UNIT #H125WA, KNIGHT 115 MIPA UNIT #H115WA, KNIGHT 110 MIPA UNIT #H110SS, KNIGHT 110 MIPA UNIT #H110LS, KNIGHT 110 MIPA UNIT #H110WB, KNIGHT 110 MIPA UNIT #H110UH, KNIGHT 120 MIPA UNIT #H120MS, KNIGHT 120 MIPA UNIT #H120LS, KNIGHT 120 MIPA UNIT #H120WB, KNIGHT 130 MIPA UNIT #H130NB, KNIGHT 120 MIPA UNIT #H120NW & KNIGHT 110 MIPA UNIT #H110NB
SITUATED IN
T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S, ABSTRACT 667 OF THE CITY MIDLAND, MIDLAND COUNTY, TEXAS.

REV. 8

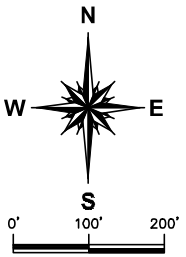
DRAWING NAME
EXHIBIT "G" - KNIGHT MIPA EAST PAD

PERMIAN DEEP ROCK OIL COMPANY

ATWELL

DRAWN	MA	DATE	01/03/22
CHECKED	LF	DATE	01/03/22
APP'D		DATE	
SCALE	1"=200'	PAGE	1 OF 2

REV#	DATE	DESC.
6 - RS	07/07/23	WELL REVISION
7 - EL	12/01/23	CLIENT REVISIONS
8 - RS	10/10/24	WELL REVISION
JOB NO.	21003805	



LEGEND

- PAD LINE
- EXISTING GRAVEL LINE
- SURFACE HOLE LOCATION

NOTES

1. ALL BEARINGS & DISTANCES SHOWN HEREON ARE GRID BASED UPON TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM OF 1927, US SURVEY FOOT, AS DERIVED FROM AN ON THE GROUND SURVEY PERFORMED BY ATWELL, LLC ON MARCH 2023.

Date: Oct 28, 2024, 4:26pm User ID: rsolis
File: K:\21003805 – Arrington – MIPA Wells East Pad\11 MAPPING\00 PLAN SETS\00 PLAT – TENTATIVE PRELIM\01 REV 0\Exhibit G\Rev8\21003805 – Arrington – MIPA Wells East Pad – Exhibit G – Rev8.dwg

City Council Meeting

Item Number: 25

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Garrick Clayton, Oil and Gas Coordinator

Subject: THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO PERMIAN DEEP ROCK OIL CO., LLC (“OPERATOR”) FOR THE DRILLING OF THE FOLLOWING OIL AND GAS WELLS: KNIGHT 140 MIPA UNIT H140 NB; KNIGHT 150 MIPA UNIT H150 NB; AND KNIGHT 160 MIPA UNIT H160 NW; SAID WELLS BEING GENERALLY LOCATED BETWEEN 878 FEET AND 913 FEET EAST OF NORTH A STREET AND BETWEEN 1,885 AND 1,921 FEET SOUTH OF WEST LOOP 250 NORTH – PUBLIC HEARING ONLY (DISTRICT 1) (DEVELOPMENT SERVICES) (SET THE STANDARD FOR A SAFE AND SECURE CITY)

Purpose:

The proposed granting of oil and gas well permits to Permian Deep Rock Oil Co., LLC (“Operator”) for the drilling of the following oil and gas wells: KNIGHT 140 MIPA UNIT H140 NB; KNIGHT 150 MIPA UNIT H150 NB; and KNIGHT 160 MIPA UNIT H160 NW; said wells being generally located between 878 feet and 913 feet east of North A street and between 1,885 feet and 1,921 feet south of W loop 250 N. (public hearing only). Council may consider these permits following a 30-day public comment period and at a regularly scheduled meeting. No notices of objection received.

Recommended City Council Action:

Directional / Informational

Fiscal Impact:

There is no cost to the City to process this application.

Strategic Priority:

(Set the Standard for a Safe and Secure City)

Discussion:

The Oil and Gas Advisory Committee has reviewed the well sites in detail and recommends approval. Permian Deep Rock Oil Co., LLC will be using 24 ft. tall sound walls around the perimeter of the location during drilling and fracing. In addition, a quiet type frac system that will utilize an electric frac fleet, with power generation equipment that will be staged on pad behind sound barriers. A closed loop system will be used for drilling operations so no reserve pits or cuttings will be kept on the property and the Tank Battery for these wells will be located in the county. Permian Deep Rock Oil Co., LLC is requesting the following variances:

(1) requests variance to spacing for a residence or commercial structure within 500 feet.
a. KNIGHT 140 MIPA UNIT H140 NB variance of 240 feet
b. KNIGHT 150 MIPA UNIT H150 NB variance of 231 feet
c. KNIGHT 160 MIPA UNIT H160 NW variance of 224 feet
(2) To Fencing and shall conform to the surface use agreement
(3) To Landscaping and irrigation and shall conform to the surface use agreement.
(4) To allow for twenty-four hour Hydraulic fracturing operations.
(5) To remove drill cuttings from the surface location.

Attachments: Applications; Location maps; Exhibit - Drill site maps, Exhibit – Overall Location.

City Manager's Office

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
11/01/2024	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519

Fee: $4,000.00 Rec'd Yes ✓ No___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Office buildings, City Collection Center, undeveloped pasture

See Exhibit "D"

ATTACHED AS EXHIBIT D **is** ,
Current Tax Roll from Midland Central Appraisal District), **which lists**
the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

***ATTACHED AS EXHIBIT E* is a *(map/p lat/satellite/aerial photo)* depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The *(map/p lat/satellite/aerial photo)* includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

***ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Knight 140 MIPA Unit H140NW

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 1885′ FNL & 913′ FWL, Section 14
Block 39, T1S, T&PRR Co. Survey, Midland County, Texas

***ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].**

***ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

***ATTACHED AS EXHIBIT I* is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments *(also file copy of W-1 with City Secretary before commencement of drilling operations).* [See § J(16) and (20)].**

***ATTACHED AS EXHIBIT J* is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].**

***ATTACHED AS EXHIBIT K (if applicable)* is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].**

***ATTACHED AS EXHIBIT L* is the Fencing and Irrigation Plan. [See § J(30)].**

***ATTACHED AS EXHIBIT M*: Road use and repair agreement attached**

***ATTACHED AS EXHIBIT N* is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].**

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: None

(2) Operations: Oncor

Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

See Exhibit "N"

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Trench and encapsulate per TXRRC Rule 27(c)(10)(v)

See Exhibit "O"

V. Additional Required Exhibits

***ATTACHED AS EXHIBIT P* is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].**

***ATTACHED AS EXHIBIT Q* : Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by applicant are current. (See § J(29)**

***ATTACHED AS EXHIBIT R* is the required Insurance Certificate. [See § J(19) and § K(3)].**

***ATTACHED AS EXHIBIT S (if applicable)* is the Drainage Plan relating to Applicant's proposed operations. [See § J(21)].**

***ATTACHED AS EXHIBIT T* is Applicant's Emergency Action Response Plan. [See § J(22)].**

***ATTACHED AS EXHIBIT U* is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].**

ATTACHED AS EXHIBIT V: Applicants variances

Permian Deep Rock Oil Co.
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

County of Midland)

, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

ESTELLA PENA
Notary Public, State of Texas
My Commission Expires
August 03, 2025
NOTARY ID 13123361-8

[S E A L]

Estella Peña
Notary Public, State of Texas

STATE OF TEXAS
REGISTERED
WILLIAM S ABRAHAM
2052
PROFESSIONAL
LAND SURVEYOR

9/16/24

WILLIAM S. ABRAHAM,
REGISTERED PROFESSIONAL LAND
SURVEYOR TEXAS REGISTRATION NO. 2052

NOTES:

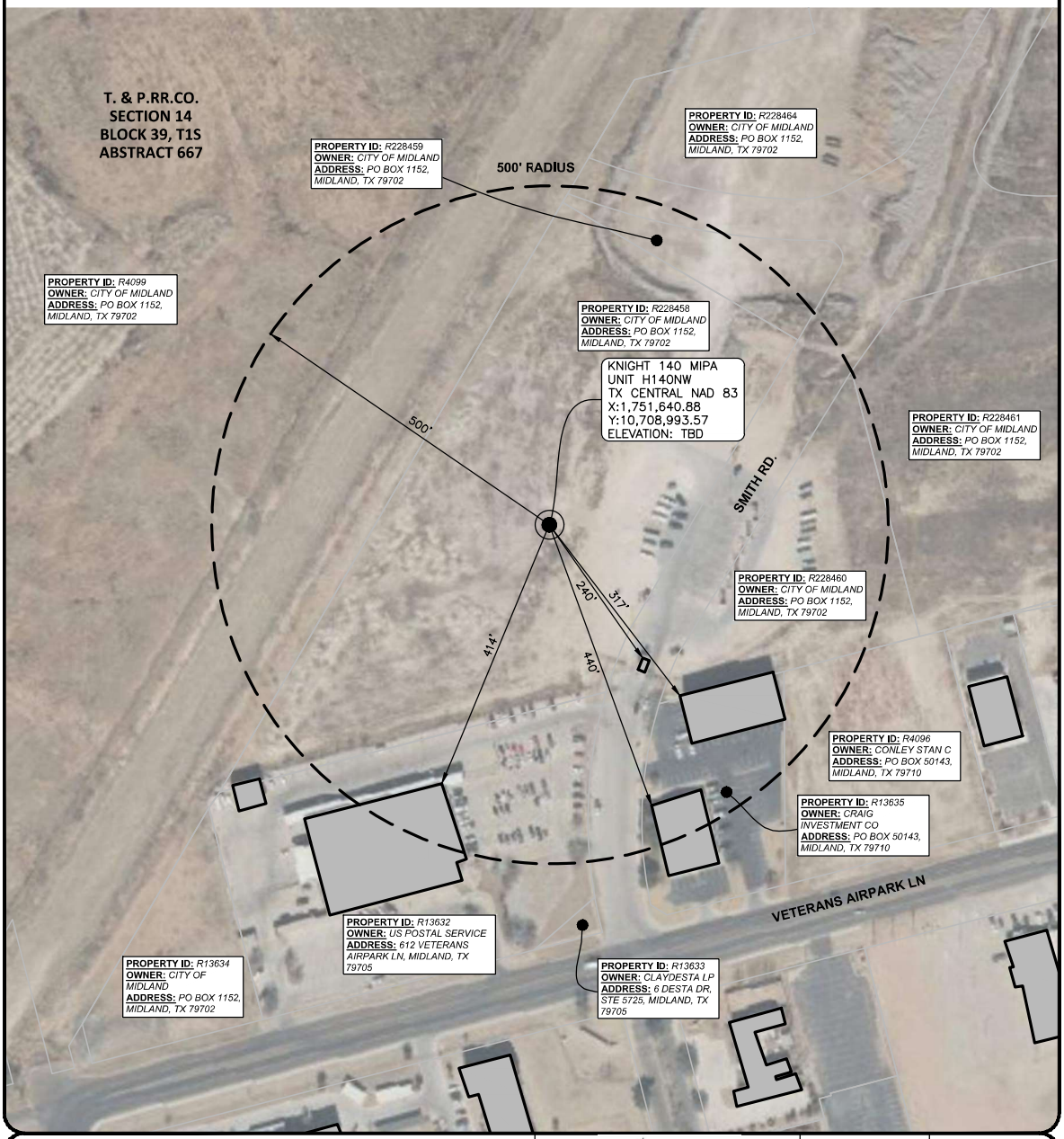
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3. THE PROPOSED WELL LOCATION WAS SURVEYED ON ---

SYMBOL LEGEND:

- FIRE HYDRANT
- STORM DRAIN MANHOLE
- WATER VALVE

N
W E
S

0' 100' 200'



WARNING: PLAT MAY NOT SHOW ALL CROSSINGS OF PIPELINES OR CABLES. USE TEXAS ONE CALL SYSTEM BEFORE EXCAVATION ON PROPERTY.

WELL RADIUS

PROPOSED KNIGHT 140 MIPA UNIT H140NW

T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S,
ABSTRACT 667, CITY OF MIDLAND,
MIDLAND COUNTY, TEXAS
WELL SECTION LINE TIES: 913' FSWL & 1,885' FNWL

NOTES:
1. SURVEY RECONSTRUCTION FILED IN THE OFFICE OF ATWELL, LLC.
2. BEARING AND GRID COORDINATES SHOWN ARE BASED ON THE TEXAS COORDINATE SYSTEM OF NAD 83, CENTRAL ZONE.
3. THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY.

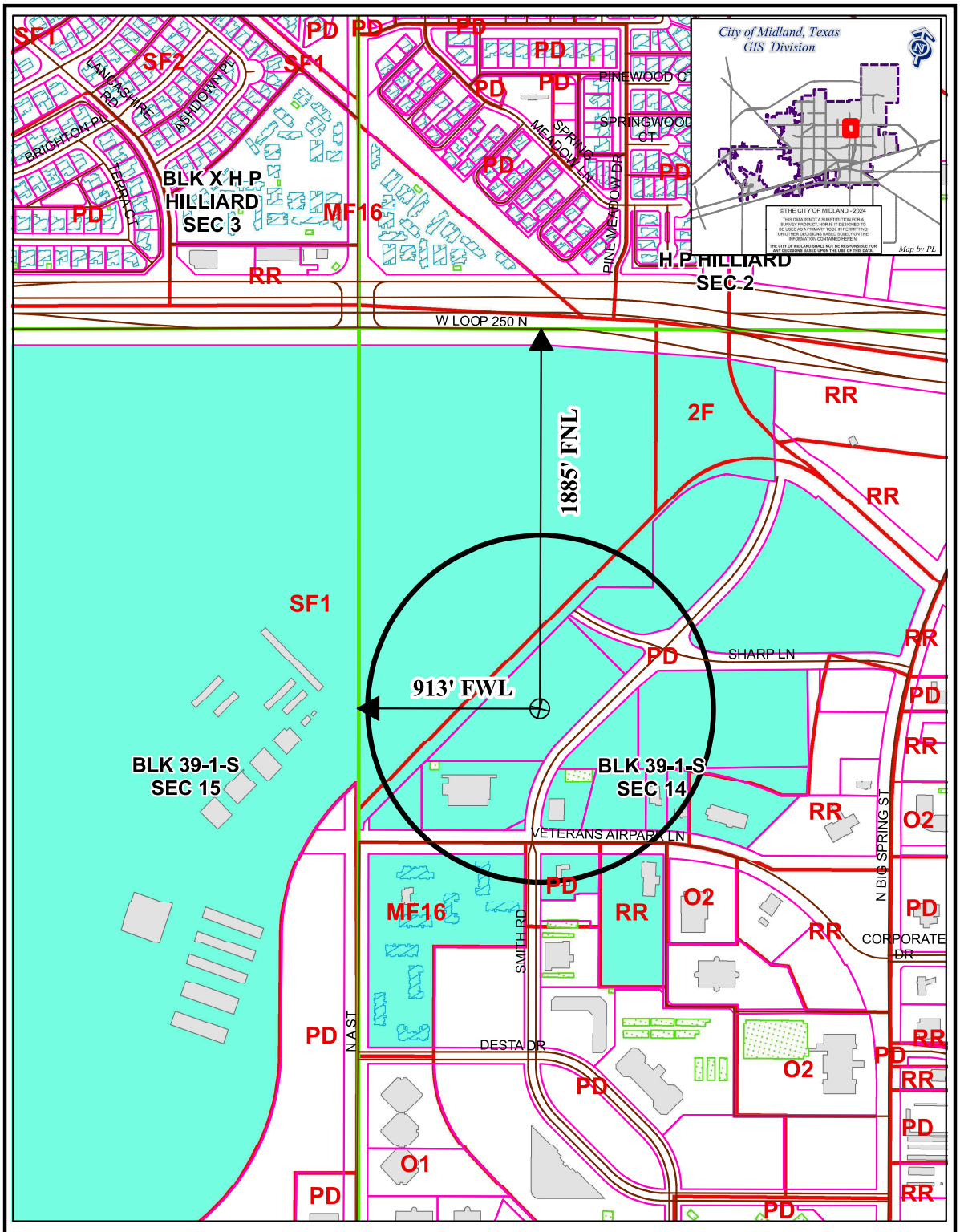
PERMIAN DEEP ROCK OIL COMPANY

ATWELL
366.850.4200 www.atwell-group.com
10100 Reunion Place, Suite 700
San Antonio, Texas 78216
TBPLS FIRM # 10194153

DRAWN	EL	DATE	8/23/24
CHECKED		DATE	
APP'D		DATE	
SCALE	1"=200'	PAGE	4 OF 4

REV#	DATE	DESC.

JOB NAME: KNIGHT 140 MIPA UNIT H140NW
JOB NO. 24005507



LOCATION AND ZONING MAP

Oil - 064965 - 2024 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1,885' FNL and 913' FWL, Section 14, Block 39, T-1-S, T&P RR CO Survey, Midland County, Texas.

Generally located 913 feet east of North A Street extension and 1,885 feet south of W Loop 250 N.

Knight 140 MIPA Unit H140NW

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
RE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
SF1, SF2, SF3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
11/01/2024	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519

Fee: $4,000.00 Rec'd Yes ✓ No___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Office buildings, City Collection Center, undeveloped pasture

See Exhibit "D"

ATTACHED AS EXHIBIT D **is** ,
Current Tax Roll from Midland Central Appraisal District), **which lists**
the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

***ATTACHED AS EXHIBIT E* is a *(map/p lat/satellite/aerial photo)* depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The *(map/p lat/satellite/aerial photo)* includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

***ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Knight 150 MIPA Unit H150NB

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 1903′ FNL & 896′ FWL, Section 14
Block 39, T1S, T&PRR Co. Survey, Midland County, Texas

***ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].**

***ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

***ATTACHED AS EXHIBIT I* is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments *(also file copy of W-1 with City Secretary before commencement of drilling operations).* [See § J(16) and (20)].**

***ATTACHED AS EXHIBIT J* is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].**

***ATTACHED AS EXHIBIT K (if applicable)* is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].**

***ATTACHED AS EXHIBIT L* is the Fencing and Irrigation Plan. [See § J(30)].**

***ATTACHED AS EXHIBIT M*: Road use and repair agreement attached**

***ATTACHED AS EXHIBIT N* is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].**

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: None

(2) Operations: Oncor

Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

See Exhibit "N"

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Trench and encapsulate per TXRRC Rule 27(c)(10)(v)

See Exhibit "O"

V. Additional Required Exhibits

***ATTACHED AS EXHIBIT P* is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].**

***ATTACHED AS EXHIBIT Q* : Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by applicant are current. (See § J(29)**

***ATTACHED AS EXHIBIT R* is the required Insurance Certificate. [See § J(19) and § K(3)].**

***ATTACHED AS EXHIBIT S (if applicable)* is the Drainage Plan relating to Applicant's proposed operations. [See § J(21)].**

***ATTACHED AS EXHIBIT T* is Applicant's Emergency Action Response Plan. [See § J(22)].**

***ATTACHED AS EXHIBIT U* is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].**

ATTACHED AS EXHIBIT V: Applicants variances

Permian Deep Rock Oil Co.
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

County of Midland)

, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

ESTELLA PENA
Notary Public, State of Texas
My Commission Expires
August 03, 2025
NOTARY ID 13123361-8

[S E A L]

Estella Peña
Notary Public, State of Texas

STATE OF TEXAS
REGISTERED
WILLIAM S ABRAHAM
2052
PROFESSIONAL
LAND SURVEYOR

9/16/24

WILLIAM S. ABRAHAM,
REGISTERED PROFESSIONAL LAND
SURVEYOR TEXAS REGISTRATION NO. 2052

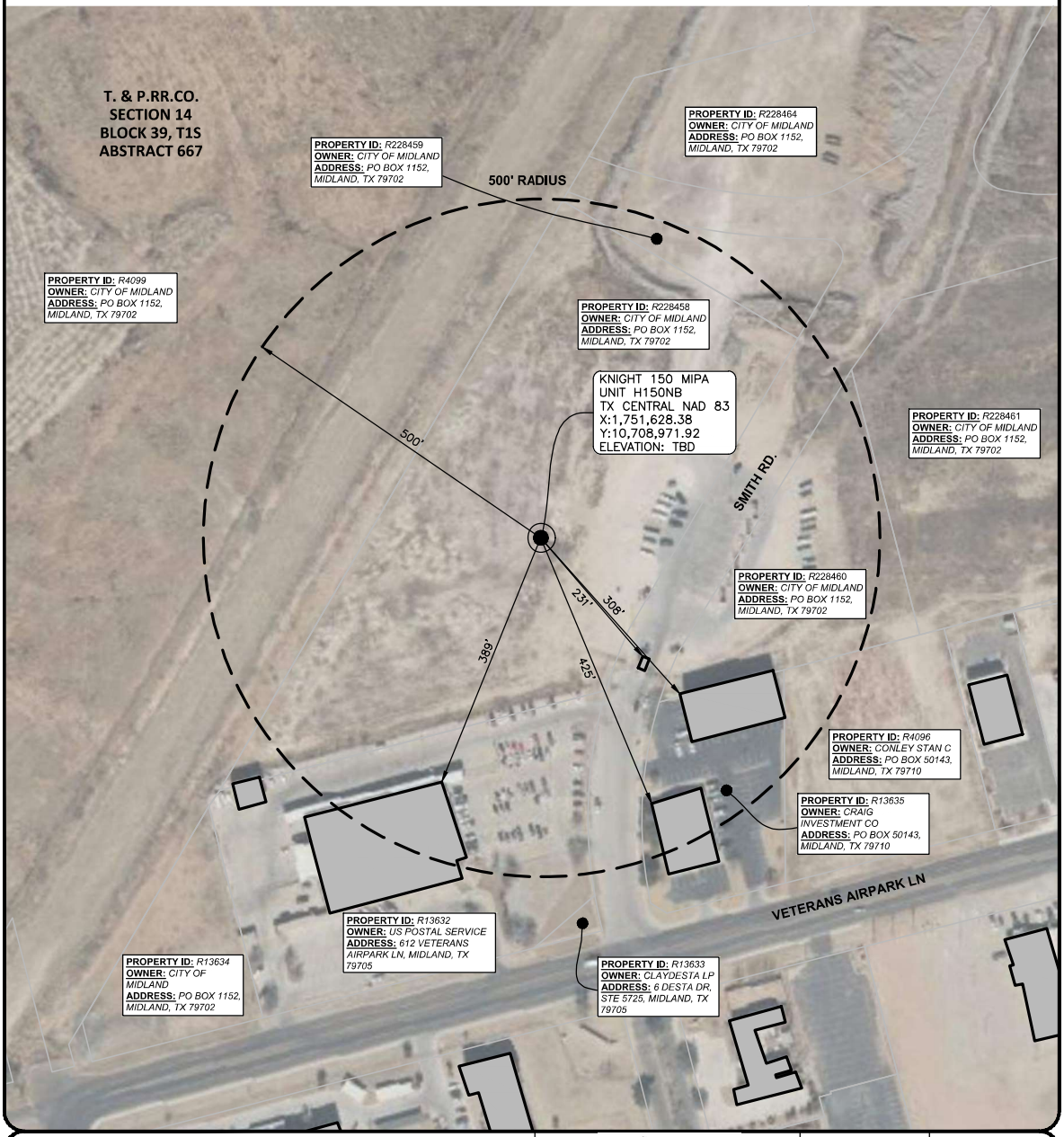
NOTES:

1. ORIGINAL DOCUMENT SIZE: 8.5" X 14"
2. THIS EXHIBIT WAS CREATED FOR THE SOLE PURPOSE OF FILING A PERMIT WITH THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS. THIS IS NOT A "BOUNDARY SURVEY".
3. THE PROPOSED WELL LOCATION WAS SURVEYED ON ---

SYMBOL LEGEND:

- FIRE HYDRANT
- STORM DRAIN MANHOLE
- WATER VALVE

N
W E
S
0' 100' 200'



WARNING: PLAT MAY NOT SHOW ALL CROSSINGS OF PIPELINES OR CABLES. USE TEXAS ONE CALL SYSTEM BEFORE EXCAVATION ON PROPERTY.

WELL RADIUS

PROPOSED KNIGHT 150 MIPA UNIT H150NB

T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S, ABSTRACT 667, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS
WELL SECTION LINE TIES: 896' FSWL & 1,903' FNWL

NOTES:
1. SURVEY RECONSTRUCTION FILED IN THE OFFICE OF ATWELL, LLC.
2. BEARING AND GRID COORDINATES SHOWN ARE BASED ON THE TEXAS COORDINATE SYSTEM OF NAD 83, CENTRAL ZONE.
3. THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY.

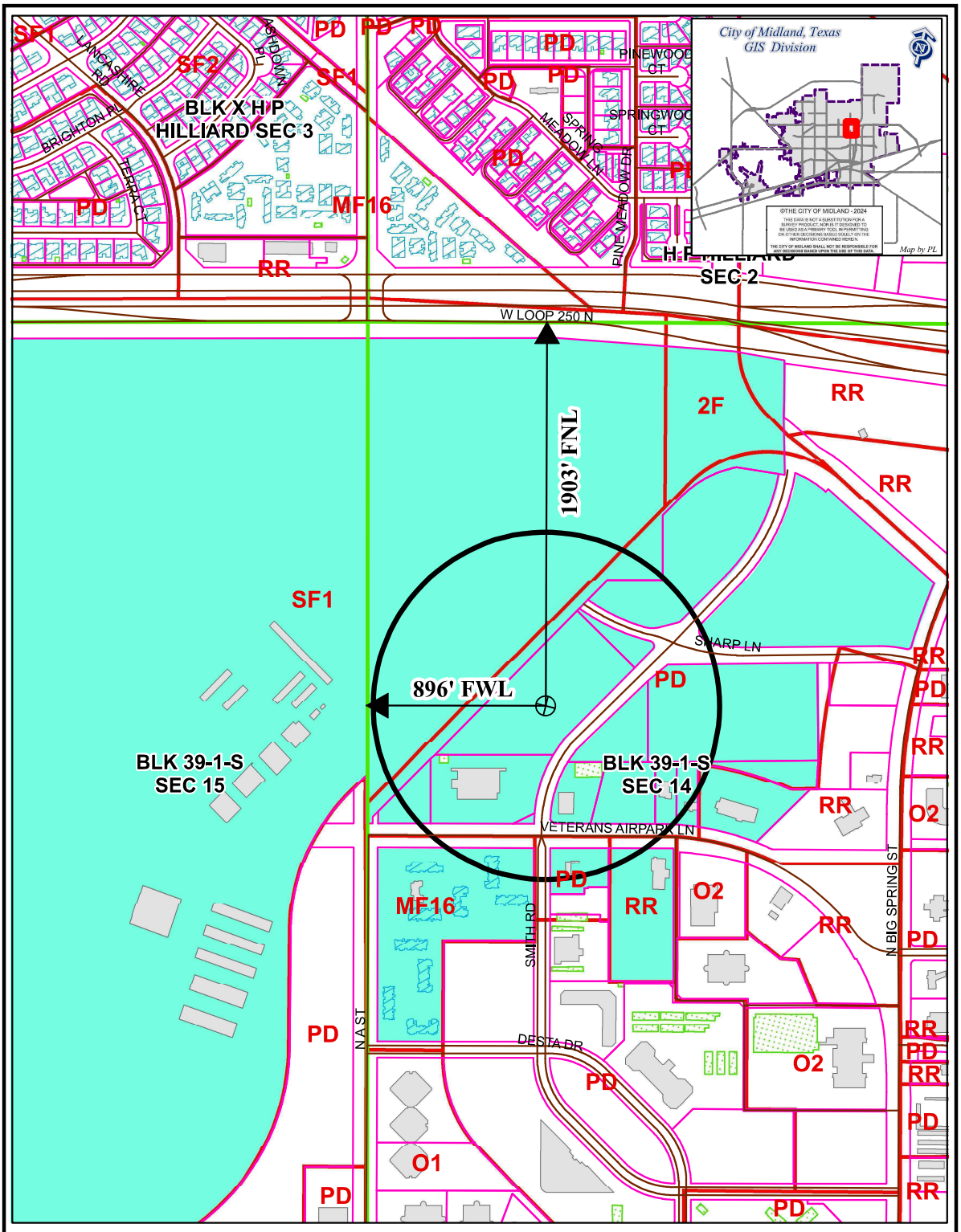
PERMIAN DEEP ROCK OIL COMPANY

ATWELL
366.850.4200 www.atwell-group.com
10100 Reunion Place, Suite 700
San Antonio, Texas 78216
TBPLS FIRM # 10194153

DRAWN	EL	DATE	8/23/24
CHECKED		DATE	
APP'D		DATE	
SCALE	1"=200'	PAGE	4 OF 4

REV#	DATE	DESC.

JOB NAME: KNIGHT 150 MIPA UNIT H150NB
JOB NO. 24005507



LOCATION AND ZONING MAP

Oil - 064966 - 2024 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1,903' FNL and 896' FWL, Section 14, Block 39, T-1-S, T&P RR CO Survey, Midland County, Texas.

Generally located 896 feet east of North A Street extension and 1,903 feet south of W Loop 250 N.

Knight 150 MIPA Unit H150NB

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
RE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
RR, F2, IF3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
11/01/2024	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele.
Kyle M. Hammond	500 W. Wall St. Ste 300 Midland, TX 79701	432-682-6685 Rep. Fax 432-684-4519

Fee: $4,000.00 Rec'd Yes ✓ No___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Office buildings, City Collection Center, undeveloped pasture

See Exhibit "D"

ATTACHED AS EXHIBIT D **is** ,
Current Tax Roll from Midland Central Appraisal District), **which lists**
the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

***ATTACHED AS EXHIBIT E* is a *(map/p lat/satellite/aerial photo)* depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The *(map/p lat/satellite/aerial photo)* includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

***ATTACHED AS EXHIBIT F* is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Knight 160 MIPA Unit H160NW

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 1921′ FNL & 878′ FWL, Section 14
Block 39, T1S, T&PRR Co. Survey, Midland County, Texas

***ATTACHED AS EXHIBIT G* is the Location Site Plan [See § J(9)].**

***ATTACHED AS EXHIBIT H* is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

***ATTACHED AS EXHIBIT I* is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments *(also file copy of W-1 with City Secretary before commencement of drilling operations).* [See § J(16) and (20)].**

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(1) Drilling: None

(2) Operations: Oncor

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See Exhibit "N"

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ATTACHED AS EXHIBIT V: Applicants variances

Permian Deep Rock Oil Co.
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

County of Midland)

, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

ESTELLA PENA
Notary Public, State of Texas
My Commission Expires
August 03, 2025
NOTARY ID 13123361-8

[S E A L]

Estella Peña
Notary Public, State of Texas

STATE OF TEXAS
REGISTERED
WILLIAM S ABRAHAM
2052
PROFESSIONAL
LAND SURVEYOR

9/16/24

WILLIAM S. ABRAHAM,
REGISTERED PROFESSIONAL LAND
SURVEYOR TEXAS REGISTRATION NO. 2052

NOTES:

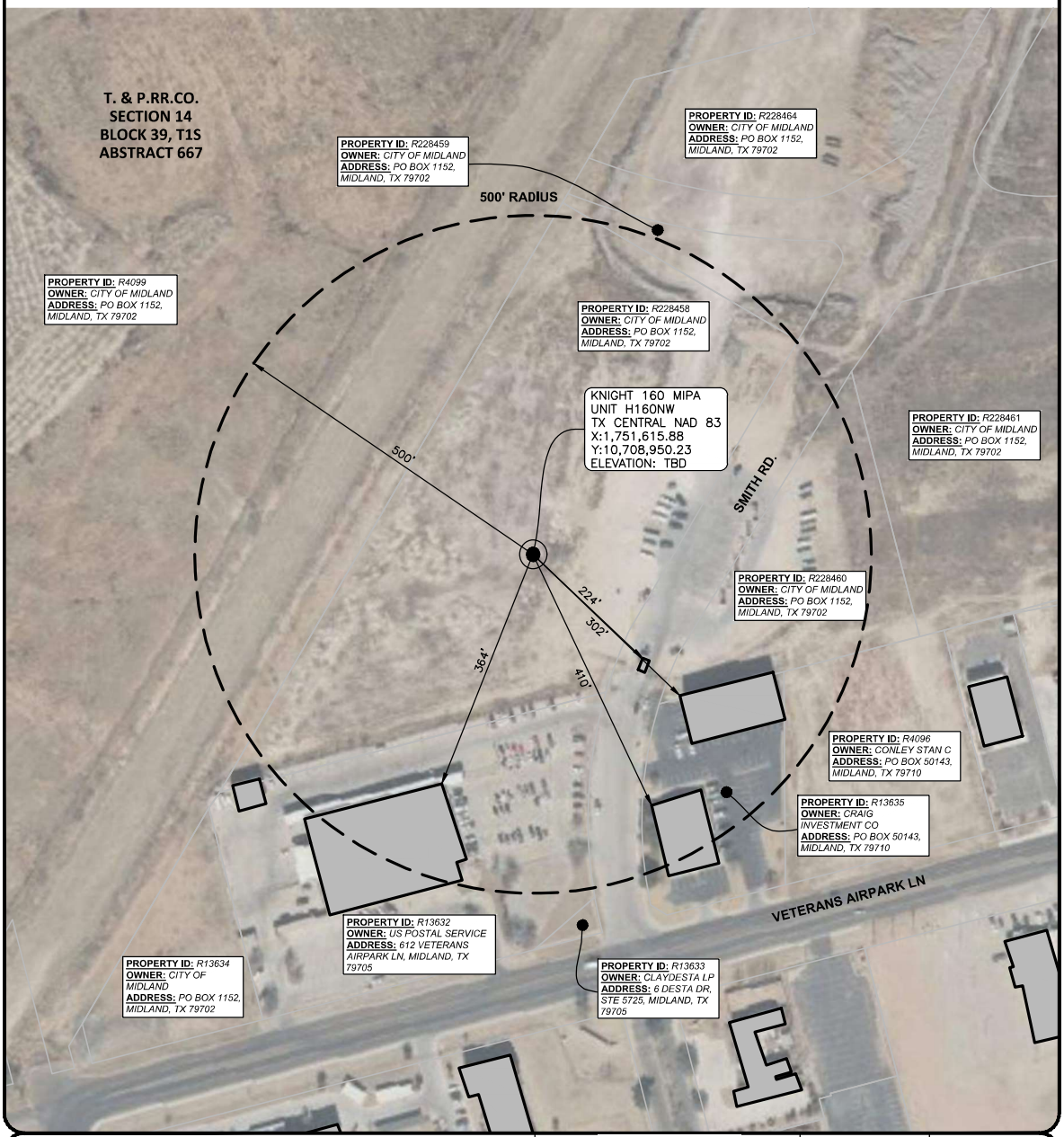
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SYMBOL LEGEND:

- FIRE HYDRANT
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- WATER VALVE

N
W E
S

0' 100' 200'



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WELL RADIUS

PROPOSED KNIGHT 160 MIPA UNIT H160NW

T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S,
ABSTRACT 667, CITY OF MIDLAND,
MIDLAND COUNTY, TEXAS
WELL SECTION LINE TIES: 878' FSWL & 1,921' FNWL

NOTES:
1. SURVEY RECONSTRUCTION FILED IN THE OFFICE OF ATWELL, LLC.
2. BEARING AND GRID COORDINATES SHOWN ARE BASED ON THE TEXAS COORDINATE SYSTEM OF NAD 83, CENTRAL ZONE.
3. THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY.

PERMIAN DEEP ROCK OIL COMPANY

ATWELL
366.850.4200 www.atwell-group.com
10100 Reunion Place, Suite 700
San Antonio, Texas 78216
TBPLS FIRM # 10194153

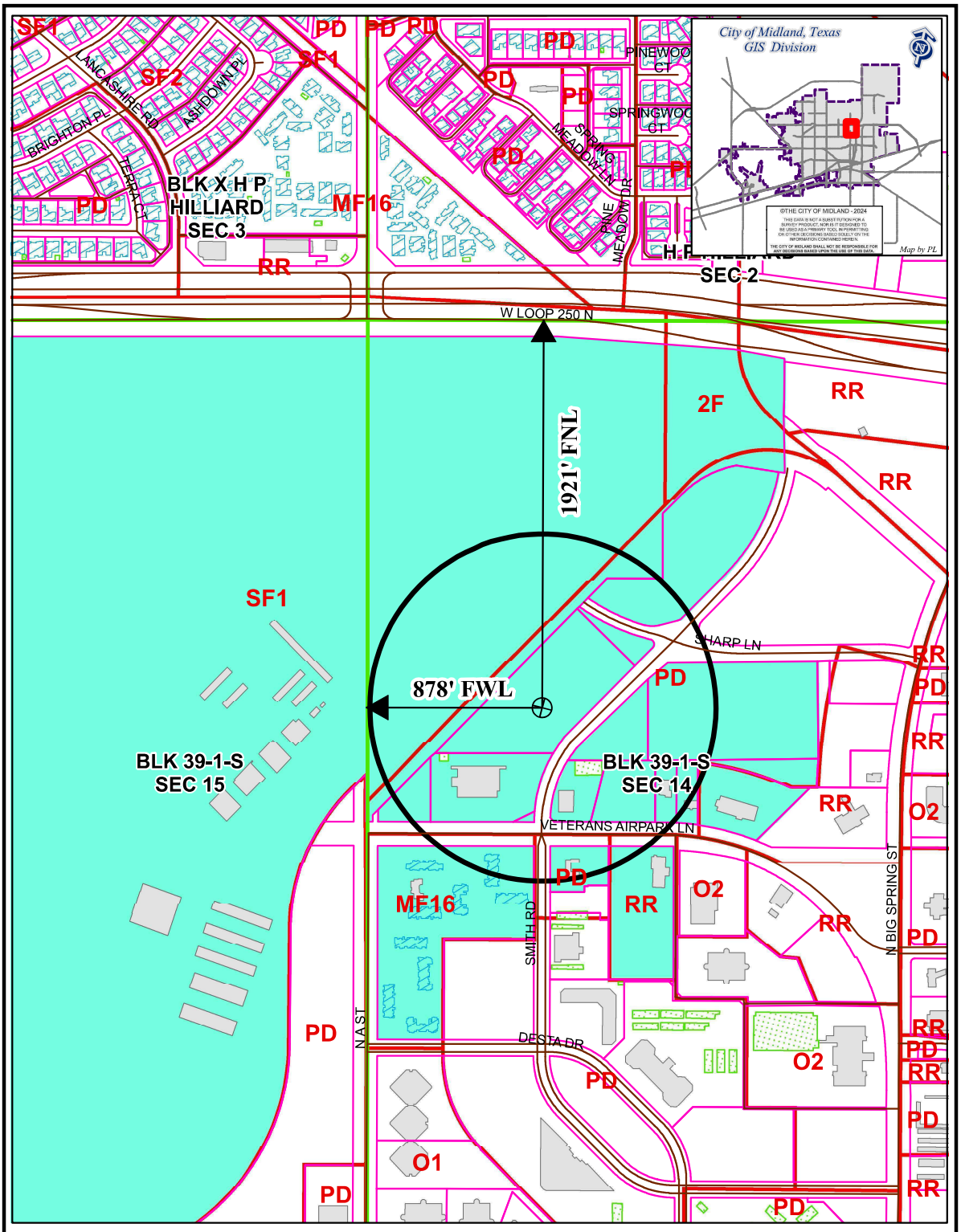
DRAWN	EL	DATE	8/23/24
CHECKED		DATE	
APP'D		DATE	
SCALE	1"=200'	PAGE	4 OF 4

REV#	DATE	DESC.

JOB NAME: KNIGHT 160 MIPA UNIT H160NW
JOB NO. 24005507

PAGE 25.1

January 14, 2025



LOCATION AND ZONING MAP

Oil - 064967 - 2024 **Scale: 1" = 600'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1,921' FNL and 878' FWL, Section 14, Block 39, T-1-S, T&P RR CO Survey, Midland County, Texas.

Generally located 878 feet east of North A Street extension and 1,921 feet south of W Loop 250 N.

Knight 160 MIPA Unit H160NW

LEGEND

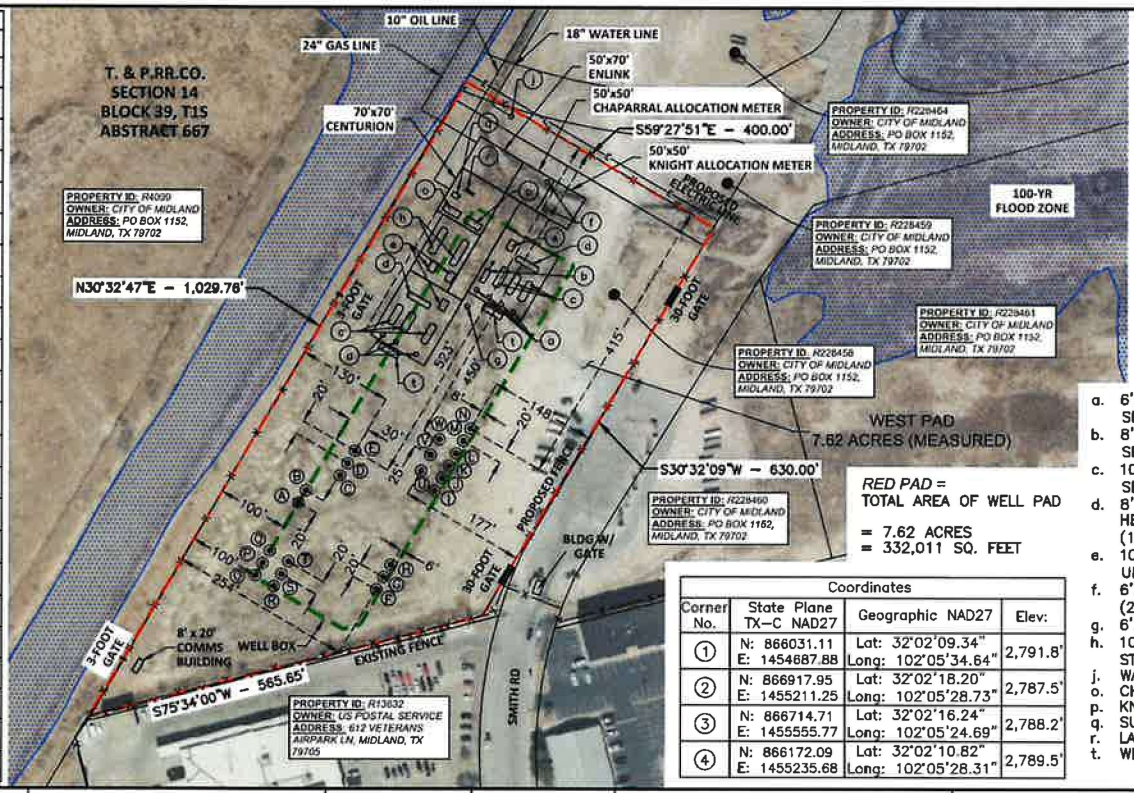
CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
RR	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
SF1, SF2, SF3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

MIDLAND COUNTY, TEXAS

Well Information				
	Well No.	State Plane TX–C NAD27	Geographic NAD27	Elev:
A	CHAPARRAL #H110UH	N: 866329.07 E: 1454979.94	Lat: 32°02'12.33" Long: 102°05'31.31"	2,791.2'
B	KNIGHT #H140UH	N: 866346.29 E: 1454990.13	Lat: 32°02'12.51" Long: 102°05'31.19"	2,792.5'
C	KNIGHT 160 MIPA UNIT H160 WB	N: 866367.09 E: 1455037.33	Lat: 32°02'12.72" Long: 102°05'30.65"	2,790.6'
D	KNIGHT 155 MIPA UNIT H155 WA	N: 866384.33 E: 1455047.49	Lat: 32°02'12.89" Long: 102°05'30.53"	2,790.5'
E	KNIGHT 150 MIPA UNIT H150 SS	N: 866401.56 E: 1455057.64	Lat: 32°02'13.06" Long: 102°05'30.42"	2,790.4'
F	CK MIPA ALLOC H105 WA	N: 866207.62 E: 1455087.56	Lat: 32°02'11.15" Long: 102°05'30.03"	2,790.5'
G	KNIGHT 160 MIPA UNIT H160 MS	N: 866224.94 E: 1455097.56	Lat: 32°02'11.32" Long: 102°05'29.92"	2,790.5'
H	KNIGHT 160 MIPA UNIT H160 LS	N: 866242.26 E: 1455107.56	Lat: 32°02'11.50" Long: 102°05'29.81"	2,790.6'
I	KNIGHT 150 MIPA UNIT H150 LS	N: 866346.18 E: 1455167.56	Lat: 32°02'12.53" Long: 102°05'29.13"	2,790.4'
J	KNIGHT 150 MIPA UNIT H150 WB	N: 866363.50 E: 1455177.56	Lat: 32°02'12.71" Long: 102°05'29.02"	2,790.5'
K	KNIGHT 145 MIPA UNIT H145 WA	N: 866380.83 E: 1455187.56	Lat: 32°02'12.88" Long: 102°05'28.90"	2,790.5'
L	KNIGHT 140 MIPA UNIT H140 MX	N: 866398.14 E: 1455197.56	Lat: 32°02'13.05" Long: 102°05'28.79"	2,791.0'
M	KNIGHT 140 MIPA UNIT H140 LX	N: 866415.46 E: 1455207.56	Lat: 32°02'13.22" Long: 102°05'28.68"	2,791.0'
N	KNIGHT 140 MIPA UNIT H140 WX	N: 866432.78 E: 1455217.56	Lat: 32°02'13.40" Long: 102°05'28.56"	2,791.0'
O	CHAPARRAL 110 MIPA UNIT H110NB	N: 866227.00 E: 1454920.00	Lat: 32°02'11.31" Long: 102°05'31.98"	2,790.3'
P	CHAPARRAL 110 MIPA UNIT H115WA	N: 866244.21 E: 1454930.18	Lat: 32°02'11.49" Long: 102°05'31.87"	2,790.4'
Q	CHAPARRAL 110 MIPA UNIT H110SS	N: 866261.43 E: 1454940.38	Lat: 32°02'11.66" Long: 102°05'31.75"	2,790.4'
R	CHAPARRAL 110 MIPA UNIT H120NW	N: 866212.00 E: 1454945.98	Lat: 32°02'11.17" Long: 102°05'31.68"	2,790.3'
S	CHAPARRAL 110 MIPA UNIT H110LS	N: 866229.23 E: 1454956.13	Lat: 32°02'11.34" Long: 102°05'31.56"	2,790.3'
T	CHAPARRAL 110 MIPA UNIT H110WB	N: 866246.47 E: 1454966.28	Lat: 32°02'11.51" Long: 102°05'31.45"	2,790.3'
U	KNIGHT 160 MIPA UNIT H160NW	N: 866374.18 E: 1455149.08	Lat: 32°02'12.81" Long: 102°05'29.35"	TBD
V	KNIGHT 150 MIPA UNIT H150NB	N: 866395.83 E: 1455161.58	Lat: 32°02'13.02" Long: 102°05'29.21"	TBD
W	KNIGHT 140 MIPA UNIT H140NW	N: 866417.48 E: 1455174.08	Lat: 32°02'13.24" Long: 102°05'29.07"	TBD



STATE OF TEXAS · REGISTERED · WILLIAM S ABRAHAM 2052 PROFESSIONAL LAND SURVEYOR

10/28/24

WILLIAM S. ABRAHAM, REGISTERED PROFESSIONAL LAND SURVEYOR TEXAS REGISTRATION NO. 2052

RED PAD =
TOTAL AREA OF WELL PAD

= 7.62 ACRES
= 332,011 SQ. FEET

Coordinates			
Corner No.	State Plane TX–C NAD27	Geographic NAD27	Elev:
1	N: 866031.11 E: 1454687.88	Lat: 32°02'09.34" Long: 102°05'34.64"	2,791.8'
2	N: 866917.95 E: 1455211.25	Lat: 32°02'18.20" Long: 102°05'28.73"	2,787.5'
3	N: 866714.71 E: 1455555.77	Lat: 32°02'16.24" Long: 102°05'24.69"	2,788.2'
4	N: 866172.09 E: 1455235.68	Lat: 32°02'10.82" Long: 102°05'28.31"	2,789.5'

a. 6'X15' VERT. 2 PH. PRODUCTION SEPARATOR, (250 PSI)
b. 8'X20' HORIZONTAL PRODUCTION SEPARATOR (TEST), (125 PSI)
c. 10'X30' HORIZONTAL PRODUCTION SEPARATOR (BULK), (125 PSI)
d. 8'X35' HORIZONTAL ELECTRIC OIL HEATER, (125 PSI)
e. 10'X15' VAPOR RECOVERY UNIT – 4 UNITS (80 PSI)
f. 6'X15' VERTICAL SCRUBBER, (250 PSI)
g. 6'X12' DIA. EMERGENCY TANK
h. 10'X40' HORIZONTAL OIL STABILIZER, (75 PSI)
j. WATER METER
o. CHAPARRAL LACT
p. KNIGHT LACT
q. SUMP TANK
r. LAUNCHER
t. WELL HEADER

EXHIBIT "G"

KNIGHT WEST PAD WELLS
SITUATED IN
T. & P. RR. CO. SURVEY, SECTION 14, BLOCK 39, T1S, ABSTRACT 667 OF THE CITY MIDLAND, MIDLAND COUNTY, TEXAS.

REV.	DRAWING NAME
9	EXHIBIT "G" - KNIGHT WEST PAD

PERMIAN DEEP ROCK OIL COMPANY

ATWELL

DRAWN	MA	DATE	03/14/23
CHECKED	LF	DATE	03/14/23
APP'D		DATE	
SCALE	1"=200'	PAGE	1 OF 2

REV#	DATE	DESC.
7-FI	7/26/24	CLIENT UPDATES
8-RS	8/13/24	REVISED WELLS
9-RS	10/10/24	REVISED WELLS
JOB NO.	19002229	

N W E S

0' 100' 200'

LEGEND

PRODUCT LINE
PAD LINE
SURFACE HOLE LOCATION

NOTES

1. ALL BEARINGS & DISTANCES SHOWN HEREON ARE GRID BASED UPON TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM OF 1927, US SURVEY FOOT, AS DERIVED FROM AN ON THE GROUND SURVEY PERFORMED BY ATWELL, LLC ON JUNE, 2024.

City Council Meeting

Item Number: 26

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Beatriz Quezada, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 1A, 2A, 3, AND 4, BLOCK 3, WEST 191 INDUSTRIAL PARK ADDITION, SECTION 10, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO C, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 1,600 FEET EAST OF FARM-TO-MARKET ROAD 1788); 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)

Purpose:

The applicant, John M. Newton with Newton Engineering, PC, is requesting a zone change from RR, Regional Retail District to C, Commercial District, for the properties located at 10910, 10912, 10916, and 10918 State Highway 191 to develop warehouse/office type uses and a restaurant.

Recommended City Council 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 properties to the north, east, south and west are all zoned RR, Regional Retail District. Surrounding uses include vacant lots to the west and south and commercial offices to the north and east.

Analysis:

The subject properties are currently vacant, undeveloped lots zoned RR, Regional Retail District. The applicant is seeking this zone change to conform to the development of warehouse/office type uses. The surrounding properties adjacent to the lots have similar developments that fit the plans of the property owner. One of the lots is intended to be the location of a restaurant. This addition would serve the local workforce, providing convenient meal options for employees and promoting ease of access for the community.

The Tall City Tomorrow Comprehensive Plan has no designation for this area.

This property is located in the AOZ-4 and therefore future building permits may require additional review by the airport before approval.

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.

Oil and Gas: (Approved)

No Oil & Gas well concern for Zoning.

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:

Therefore, staff recommends approval of this zone change from of RR, Regional Retail District, to C, Commercial District.

Letters of Objection:

As of January 10, 2025, staff has not received any letters of objection for this request.

Attachments:

Application
Site Plan
Maps
City Manager's Office

Jose E. Ort

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 1A, 2A, 3, AND 4, BLOCK 3, WEST 191 INDUSTRIAL PARK ADDITION, SECTION 10, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO C, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 1,600 FEET EAST OF FARM-TO-MARKET ROAD 1788); 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 1A, 2A, 3, and 4, Block 3, West 191 Industrial Park Addition, Section 10, 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 RR, Regional Retail 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., 2025; 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., 2025, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2025.

_____
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:

_____
John Ohnemiller, City Attorney

MIDLAND
Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: _____

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: PB Anderson Properties, LLC		Phone (432) 967-1535 Email robert@andersonhomestx.com	
Address 10804 HWY 191	City Midland	State TX	Zip 79707

Property Owner SAME AS APPLICANT Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Representative *(if different from Applicant or Property Owner)* Firm: Newton Engineering, PC Printed Name: John M. Newton		Phone (432) 770-0499 Email john@newtoncivil.com	
Address 4501 A Santa Rosa Dr.	City Midland	State TX	Zip 79707

Street Address: 10910, 10912,10916, 10918 HWY 191, Midland, Tx 79707

Legal Description
Lot: Block: Subdivision: Lot 1A, 2A, 3, and 4, Block 3 West 191 Industrial Section 10

Current Zoning: Regional Retail-RR

Proposed Zone: Commercial-C
(List by tracts if more than one district is requested)

Reason for Zone Change Request: To conform to the development

Present Use of Property: Undeveloped

Proposed Use of Property: Office, Retail, and Office with yard and garage

How would this zone change affect the public health, safety and welfare?
This project would provide much needed office and retail space for the community

Describe how conditions affecting the property have changed since present zoning designation: The property is being developed to what the staff determined to be commercial instead of Regional Retail.

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature): Robert Anderson	Date: 9-12-24
Applicant (printed): Robert Anderson- PB Anderson Properties LLC	
Property Owner (signature): Robert Anderson	Date: 9-12-24
Property Owner (printed) : ROBERT ANDERSON	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear Robert Anderson who, being by me duly sworn, upon oath says: That (s)he is the owner of PB Anderson Properties authorized by Robert Anderson, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

DEBORAH KAYE JULIAN
My Notary ID # 125681662
Expires June 3, 2027

Robert Anderson
Authorized Agent (*signature*)

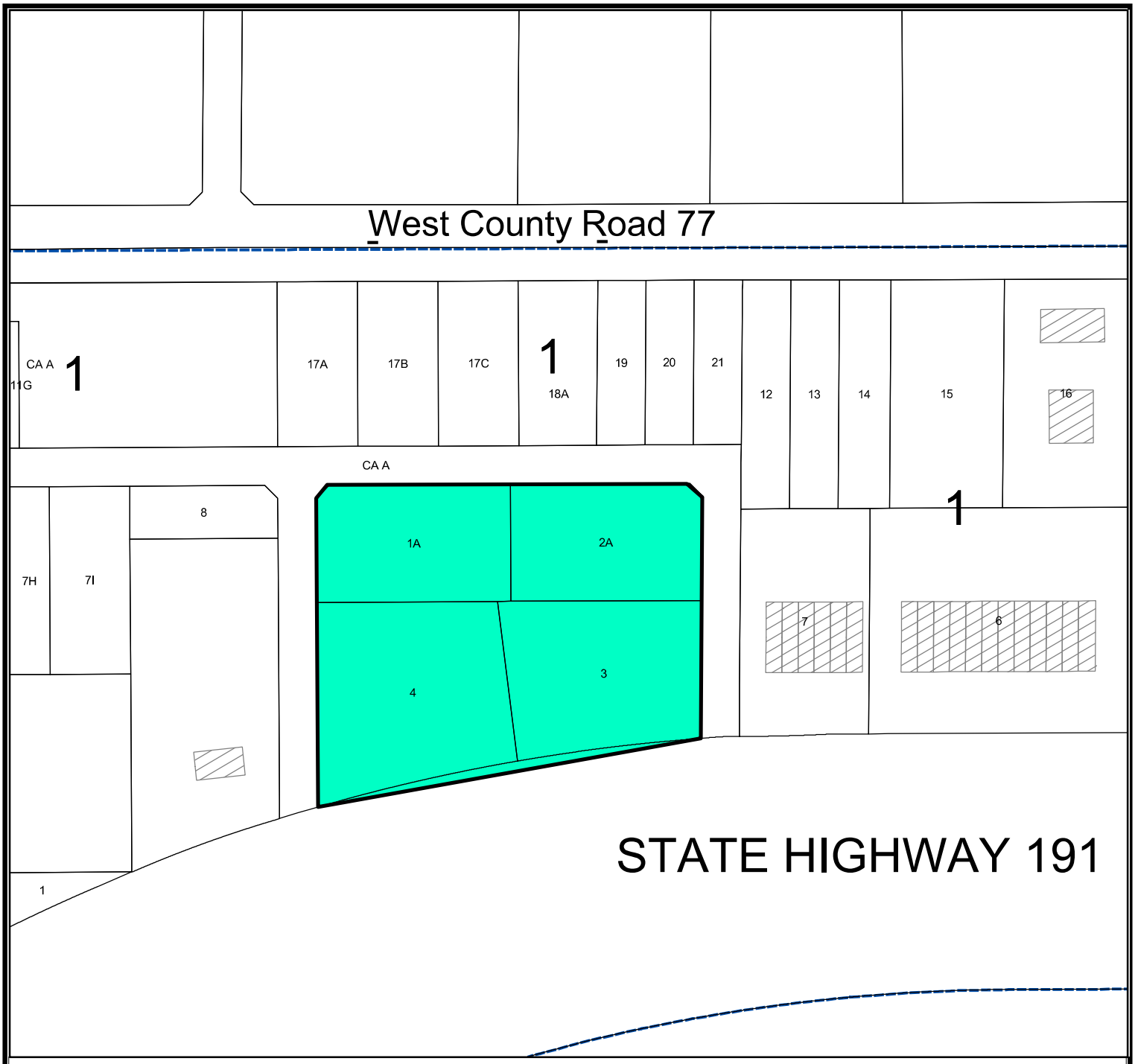
Subscribed and sworn to before me, this 12 day of September, 2024, to certify which witness my hand and seal of office.

Deborah Julian
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☐ Property Owner Authorization	☐ Dimensioned Site Plan
☐ Application Fee	☐ Plans in Digital Format (PDF/JPEG)
Check # 1718	
Received By:	Date:

Application will not be considered for scheduling until reviewed by a planner. January 14, 2025



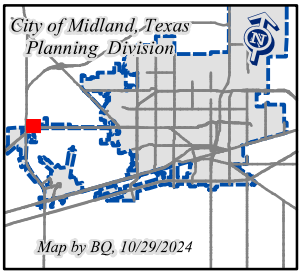
Location Map

Z-24-0397 **Scale: 1" = 1,500**

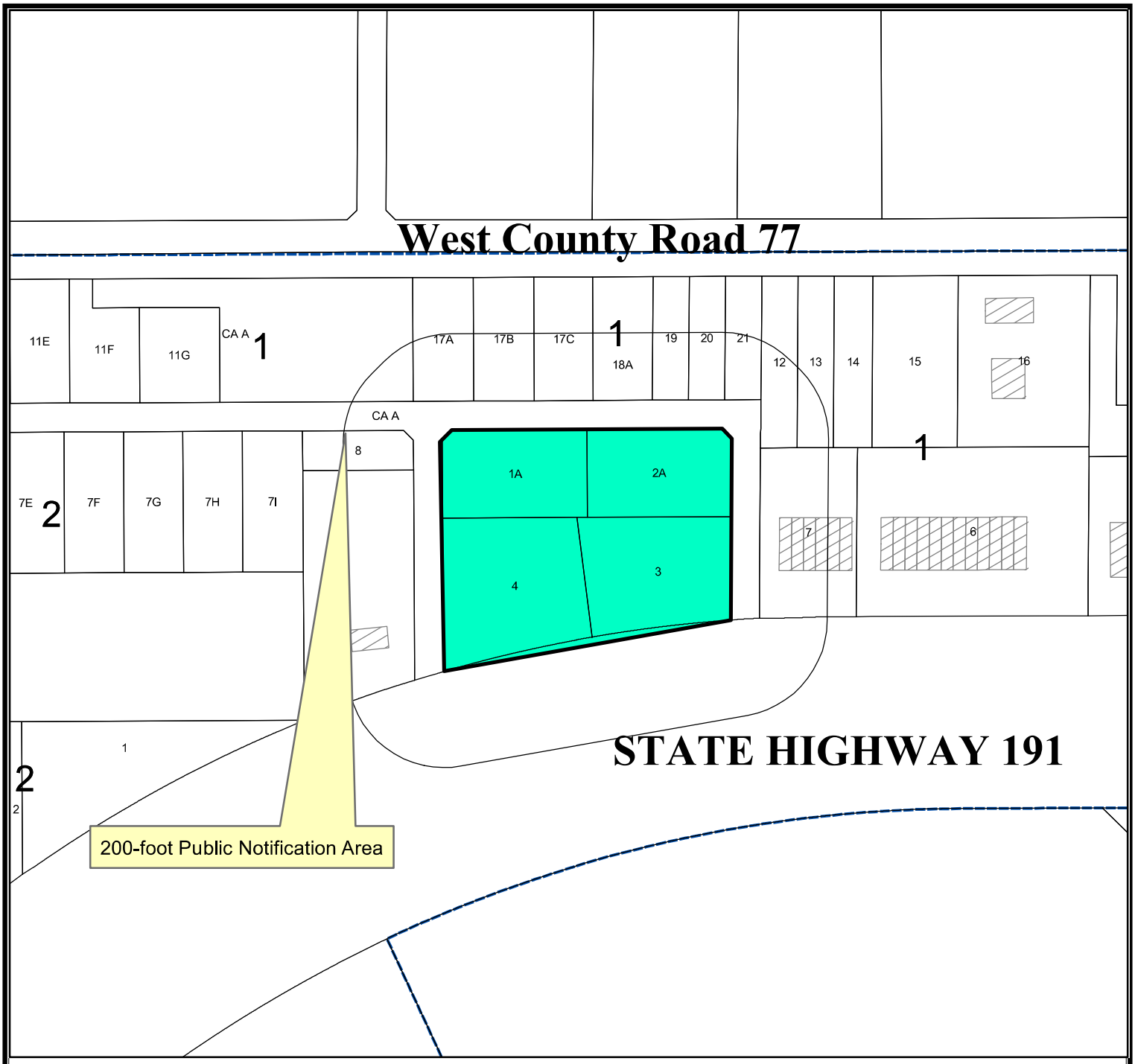
Consider a request by Newton Engineering, PC, for a zone change from RR, Regional Retail District to C, Commercial District on Lots 1A, 2A, 3, and 4, Block 3, West 191 Industrial Park Section 10, City and County of Midland, Texas.
Generally located on the north side of State Highway 191, approximately 1,750-feet of Farm to Market 1788.(Council District 4)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND 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.



Location Map

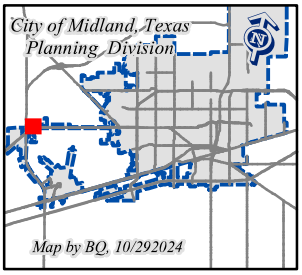
Z-24-0397 **Scale: 1" = 1,500'**

Consider a request by Newton Engineering, PC, for a zone change from RR, Regional Retail District, to C, Commercial District, on Lots 1A, 2A, 3, and 4, Block 3, West 191 Industrial Park, Section 10, City and County of Midland, Texas.

Generally located on the north side of State Highway 191, approximately 1,600-feet east of Farm to Market 1788.(Council District 4)

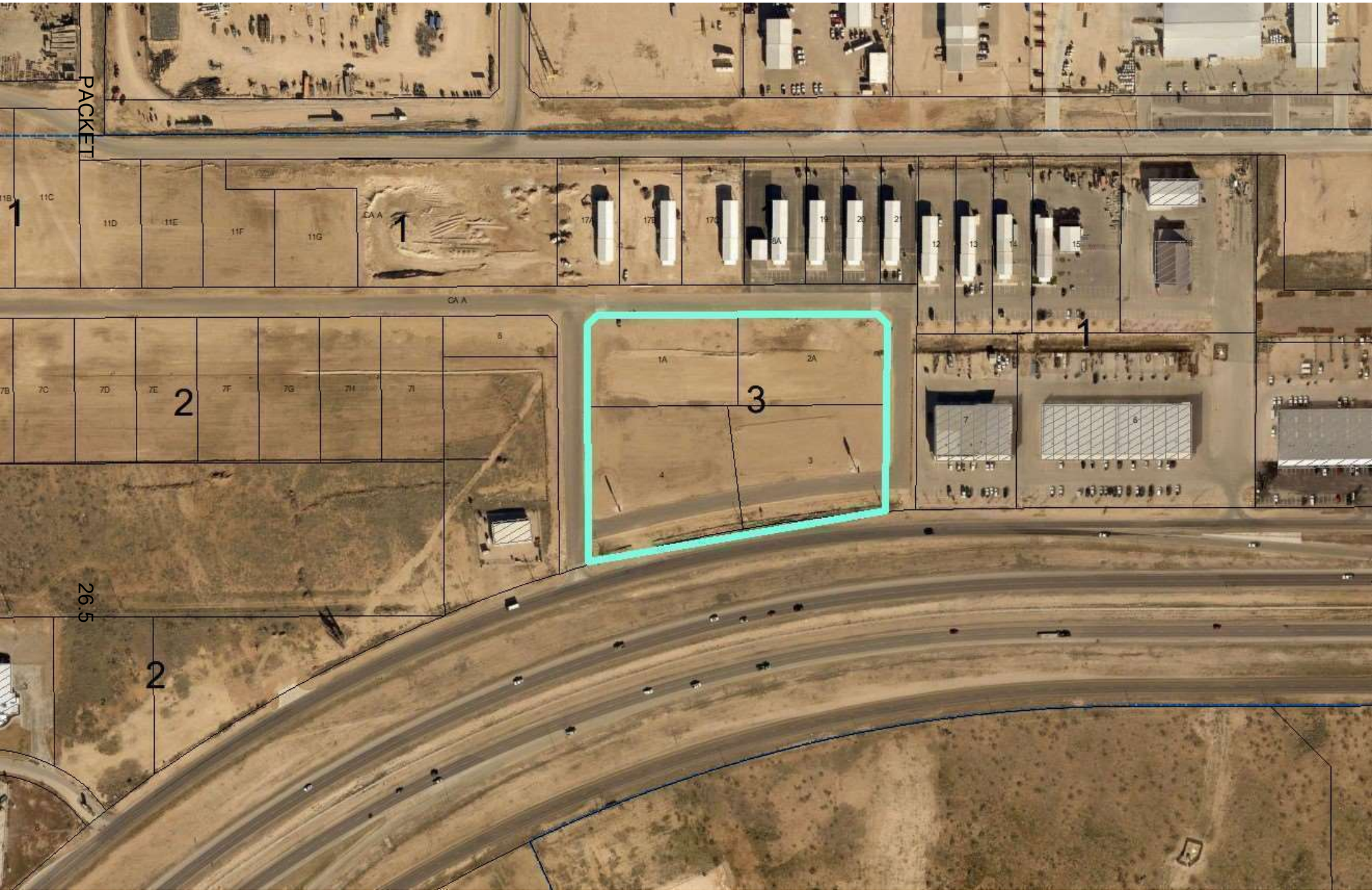
LEGEND

- 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.

January 14, 2025


PACKET
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PACKET

MIDLAND
Be the Energy!

HWY 191 PB ANDERSON PROPERTIES

ITEM_
ZONE CHANGE

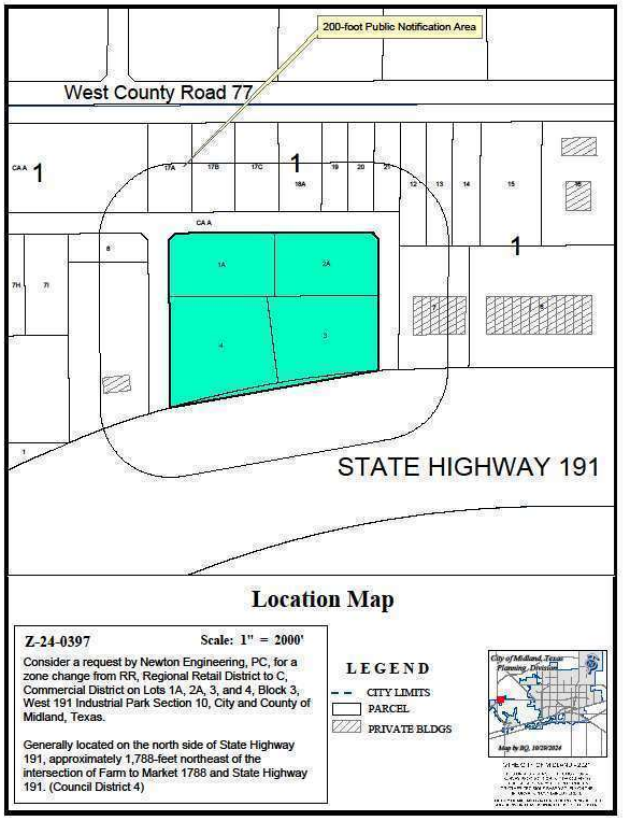
26.1

January 14, 2025

Visit Our Website
MIDLANDTEXAS.GOV

APPLICATION SUMMARY

- **Property Owner**: PB Anderson Properties, LLC
- **Applicant:** John Newton, with Newton Engineering, PC (acting on property owners' behalf)
- **Zone Change**
- **Address:** 10910, 10912, 10916 & 10918 HWY 191
- **Reason for request**: Build a restaurants with a drive-thru window and offices with warehouse.

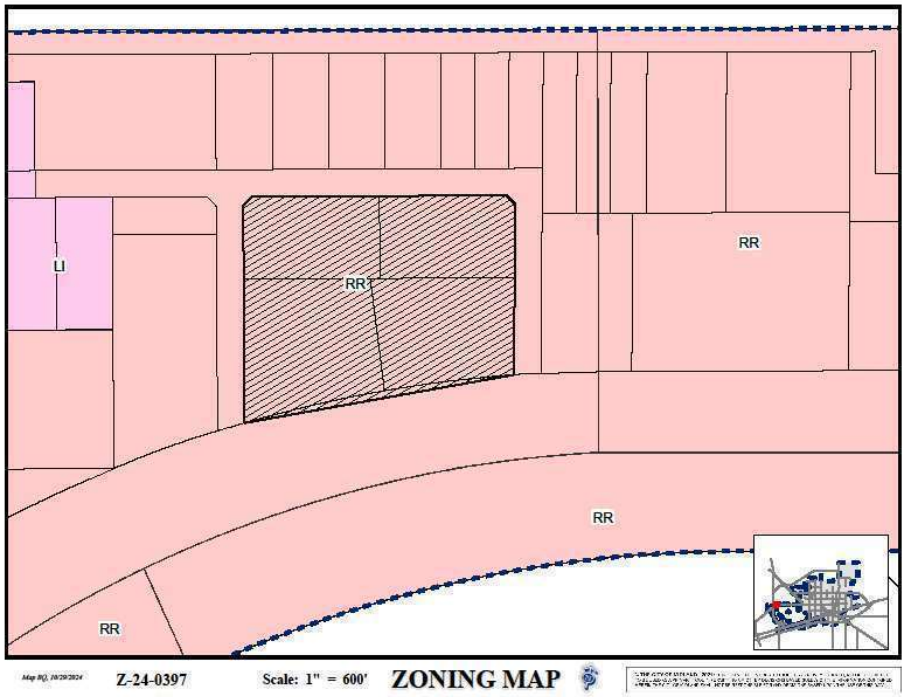


ZONING

- **Current Zoning:** RR, Regional Retail

- **Surrounding Zoning:**
  - **North/South/East/West**: RR, Regional Retail

- **Proposed Zoning:** C, Commercial District



LAND USE

- **Current Use of the Property**: Vacant
- **Proposed Use of the Property**: Office space with yard and garage along with restaurants with a drive through window
- **Surrounding Uses**:
  - **North/East**: Office Use
  - **South**: Vacant
  - **West**: Vacant and Office Use

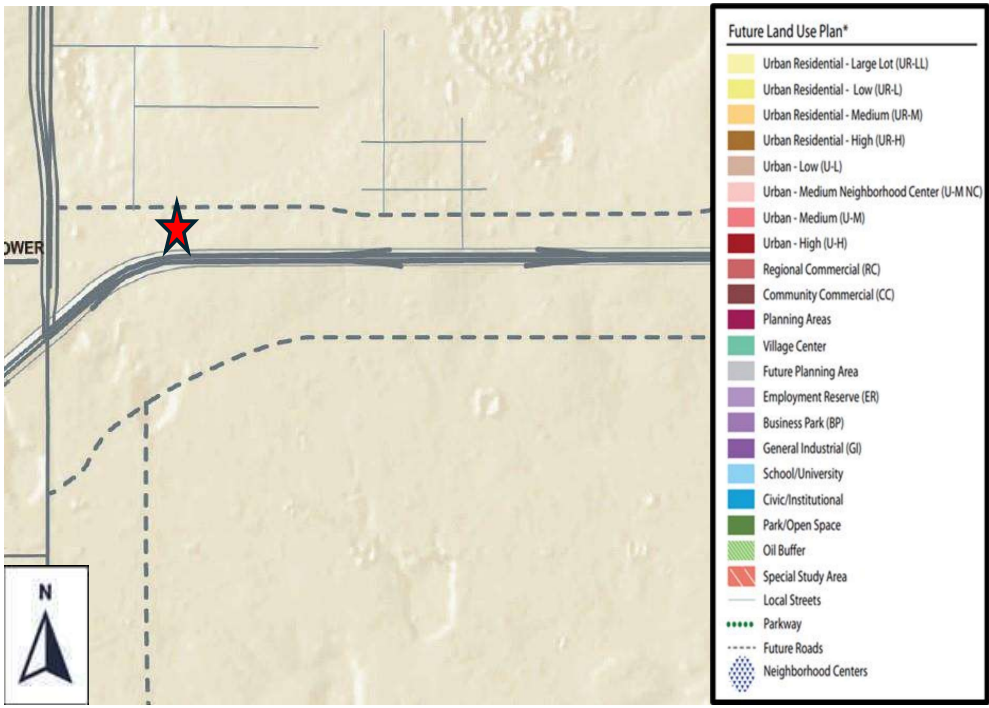




On an easement, Looking East.

COMPREHENSIVE PLAN

- TCT Land Use Designation: Not designated



STAFF'S RECOMMENDATION

- No objections received.
- The Planning & Zoning Commission recommended APPROVAL of this request on December 2, 2024
- Staff recommends APPROVAL of this zone change from RR, Regional Retail District, to C, Commercial District.



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: January 14, 2024

To: City Council / City Manager

From: Madelim Jaquez, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 17.18-ACRE TRACT OF LAND OUT OF SECTION 31, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH FAIRGROUNDS ROAD AND EAST CYNTHIA 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 2) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

The applicant, Newton Engineering, PC, on behalf of Midland Habitat for Humanity, is requesting a Zone Change from AE, Agricultural Estate District to PD, Planned Development District, for Housing Development, on a property located at the southeast corner of the intersection of North Fairgrounds Road and East Cynthia Drive to create single-family lots for residential development.

Recommended City Council Action:

Approve

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 properties to the north are zoned SF2, Single-Family Dwelling District, AE, Agricultural Estate District and PD, Planned Development District for housing development and are vacant lots and single-family residential. The properties to the west are zoned PD, Planned Development District for recreation center, with a single-family residential subdivision further west and consist of vacant lots and single-family residential. The properties to the south are zoned MH, Manufactured Housing District, SF2, Single-Family Dwelling District and AE, Agricultural Estate District, and consist of single-family residential, and manufactured housing. The properties to the east are zoned PD, Planned Development District for housing development and AE, Agricultural Estate District which consist of vacant lots.

Analysis:

The applicant is seeking this zone change from AE, Agricultural Estate District to PD, Planned Development District, for Housing Development, in order to develop a single-family residential subdivision which is not allowed in the AE district. The vacant lot is located in AE, Agricultural Estate District and its surrounded by a single-family residential neighborhood, single-family dwellings, a manufactured housing development and vacant lots. If granted, this PD will allow for smaller lot dimensions while also requiring greenspace/parkland as shown in the site plan (Exhibit B).

This request is consistent with the Tall City Tomorrow Comprehensive Plan, which designated this area as Urban Residential-Low (UR-L). This designation calls for any single-family detached homes, and other single-family attached and small lot single-family homes.

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)

All future development shall meet the requirements of IFC 2015 ed. and local ordinances.

Oil and Gas: (Approved)

No Oil and Gas issues

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 from AE, Agricultural Estate District to PD, Planned Development District, for Housing Development subject to conditions A and B.

Conditions:

A. **That the property, including the minimum dimensions of each lot and the minimum area of each lot, shall substantially conform to the site plan attached hereto as Exhibit "B".**

B. **That the only permitted use of the lot described in Exhibit "B" as Lot 18, Block 2, also identified as "PLAYGROUND SITE", shall be "Park, Playground, or Community Center, Public" as such term is defined in Section 11-1-2.01 of the City Code.**

Letters of Objection:

Staff has not received any letters of objection as of January 10, 2025.

Attachments:

Application

Survey (Exhibit A)
Site Plan (Exhibit B)
Maps
PowerPoint Presentation

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 17.18-ACRE TRACT OF LAND OUT OF SECTION 31, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH FAIRGROUNDS ROAD AND EAST CYNTHIA 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 17.18-acre tract of land out of Section 31, Block 38, T-1-S, T&P RR Co. Survey, 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 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 "B" 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, including the minimum dimensions of each lot and the minimum area of each lot, shall substantially conform to the site plan attached hereto as Exhibit "B".

B. That the only permitted use of the lot described in Exhibit "B" as Lot 18, Block 2, also identified as "PLAYGROUND SITE", shall be "Park, Playground, or Community Center, Public" as such term is defined in Section 11-1-2.01 of the City Code.

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., 2025; 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., 2025, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2025.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Elizabeth Triggs, Planning and Development Officer

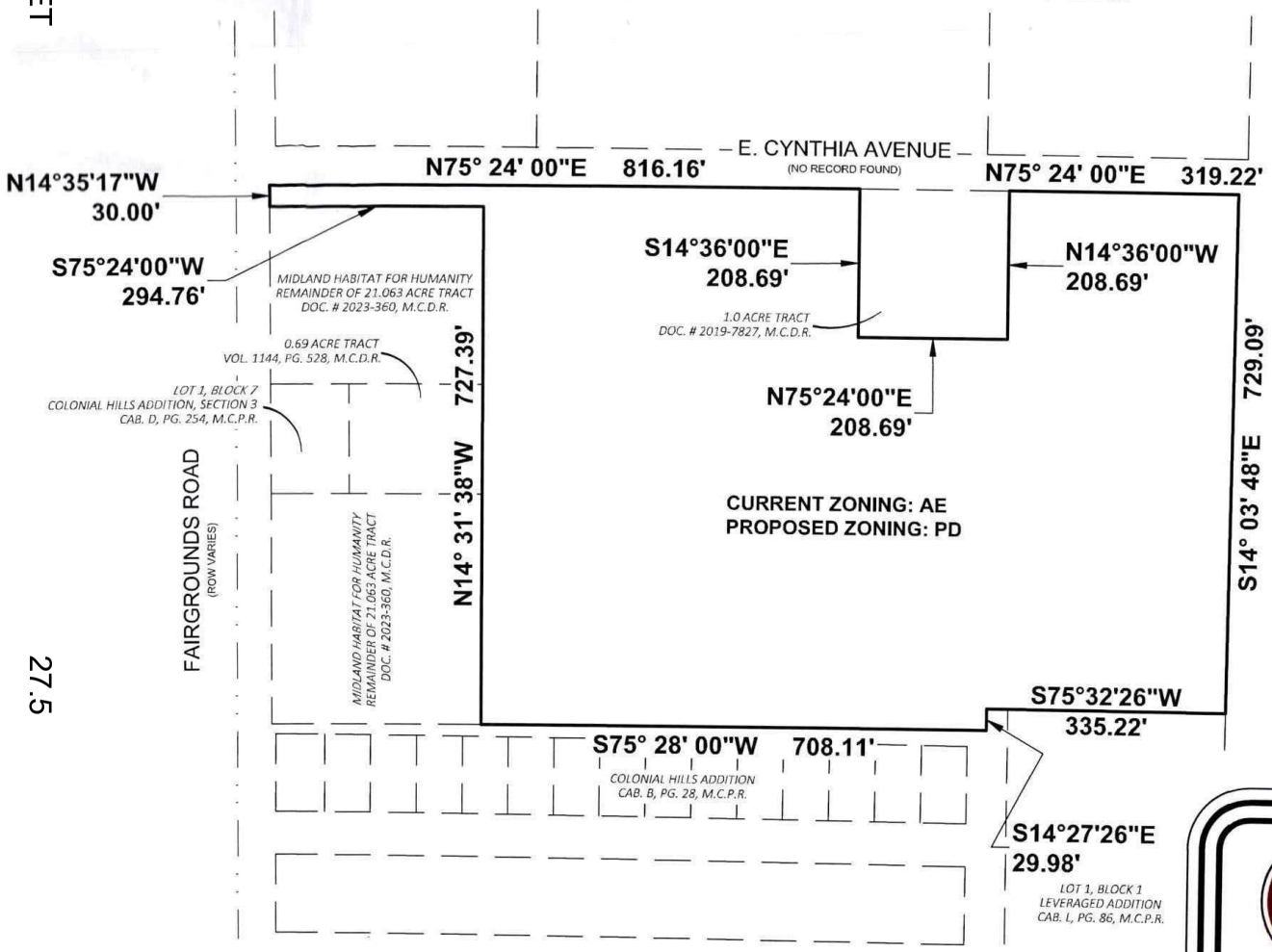
APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

ZONING EXHIBIT OF

A 17.18 ACRE TRACT

LOCATED IN SECTION 31, BLOCK 38, T-1-S, T&P RR. CO. SURVEY,
CITY AND COUNTY OF MIDLAND, TEXAS.



GRAPHIC SCALE
0 200' 400'
(IN FEET)
ORIGINAL PLOTTED AT A SCALE OF 1"=200'
ON 8.5" x 14" PAPER

HEAVY PLOTTED LINES INDICATE LIMITS OF SURVEY.

EXHIBIT "A" ACCOMPANIES THIS EXHIBIT.

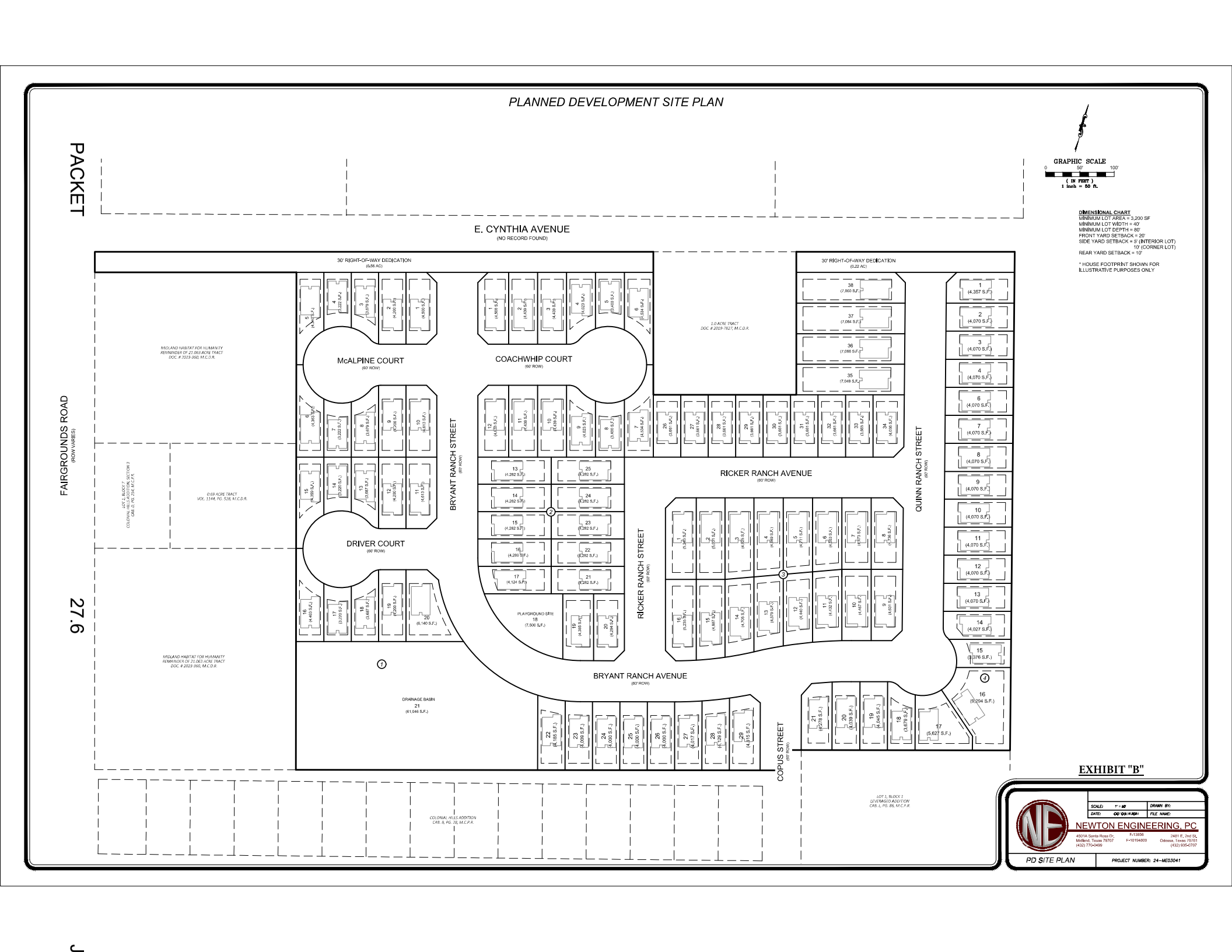
EXHIBIT "A"

NEWTON ENGINEERING, PC
4501A Santa Rosa Dr.
Midland, Texas 79707
(432) 770-0499
F-13856
F-10194809
2481 E. 2nd St.
Odessa, Texas 79761
(432) 935-0707

Prepared For: MIDLAND HABITAT FOR HUMANITY

Job No: 24-ME03041

PLANNED DEVELOPMENT SITE PLAN



MIDLAND
Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: _____

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Midland Habitat for Humanity		Phone (432) 978-2919 Email jhopkins@midlandhabitat.org	
Address P.O. Box 2555	City Midland	State Texas	Zip 79701

Property Owner Printed Name: Midland Habitat for Humanity		Phone (432) 978-2919 Email jhopkins@midlandhabitat.org	
Address P.O. Box 2555	City Midland	State Texas	Zip 79701

Representative *(if different from Applicant or Property Owner)* Firm: Newton Engineering, PC Printed Name: Kyle L. Newton, PE		Phone (432) 935-0707 Email kyle@newtoncivil.com	
Address 4501A Santa Rosa Drive	City Midland	State Texas	Zip 79707

Street Address:

Legal Description
Lot: Block: Subdivision:

Current Zoning: AE

Proposed Zone: PD-SF-3
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Create single family lots for affordable housing development.

Present Use of Property: Vacant

Proposed Use of Property: Affordable housing development

How would this zone change affect the public health, safety and welfare?
No negative impact

Describe how conditions affecting the property have changed since present zoning designation: The site is planned to be developed as affordable housing instead of estate lots.

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature):	Date: 11/4/24
Applicant (printed): Joey Hopkins	
Property Owner (signature):	Date:
Property Owner (printed) :	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear Joey Hopkins who, being by me duly sworn, upon oath says: That (s)he is the owner of _____ or authorized by Midland Habitat for Humanity, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 4th day of November, 2024, to certify which witness my hand and seal of office.

FLOR MARIA GALINDO
Notary Public, State of Texas
Comm. Expires 02-16-2026
Notary ID 12374673

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

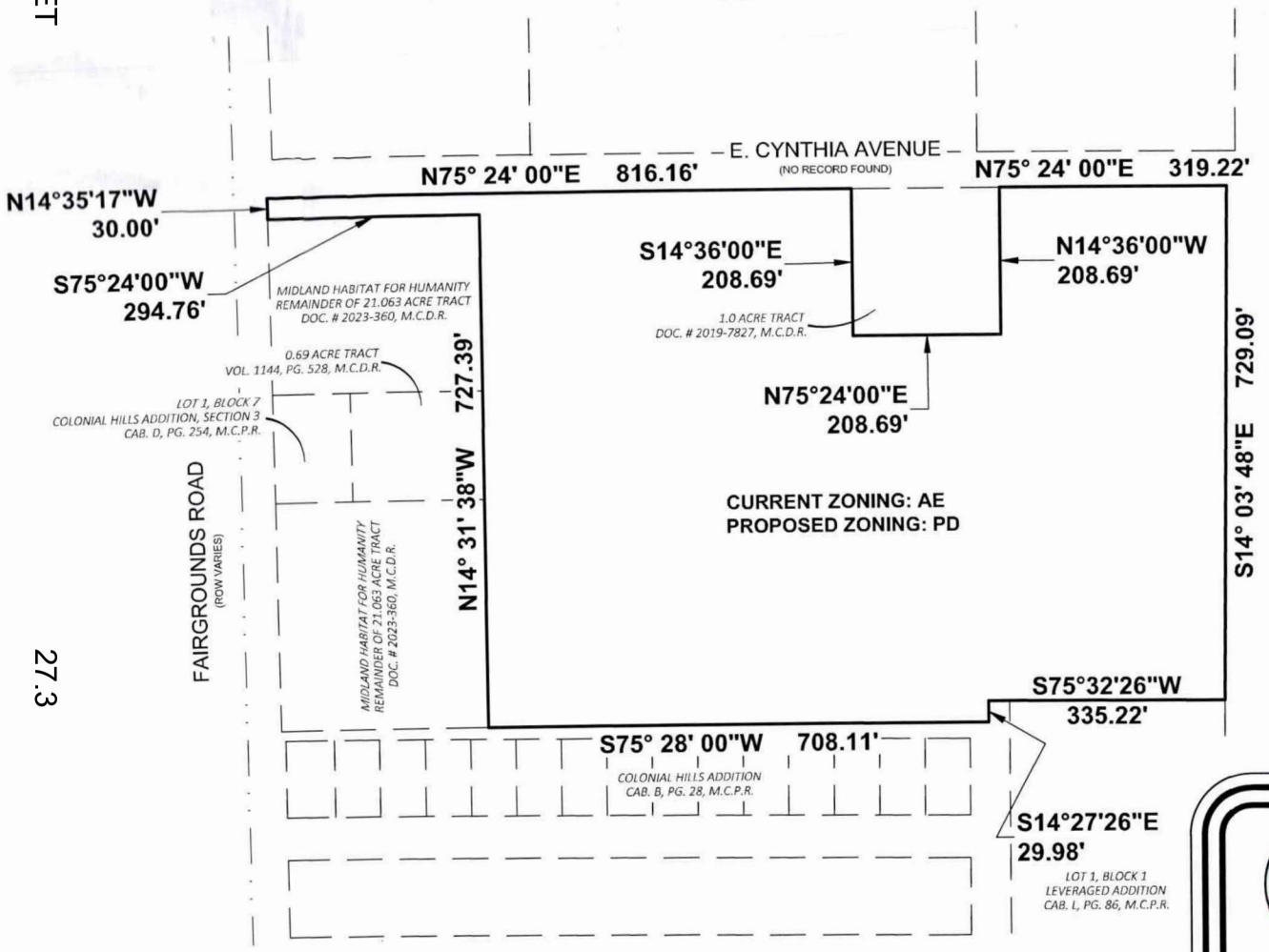
☑ Property Owner Authorization	☑ Dimensioned Site Plan
☐ Application Fee	☑ Plans in Digital Format (PDF/JPEG) -will send to Alexis
Check # 1894	
Received By: Marlene Reyes	Date: NOV 05 2024

Application will not be considered for scheduling until reviewed by staff.

ZONING EXHIBIT OF

A 17.18 ACRE TRACT

LOCATED IN SECTION 31, BLOCK 38, T-1-S, T&P RR. CO. SURVEY,
CITY AND COUNTY OF MIDLAND, TEXAS.



GRAPHIC SCALE
0 200' 400'
(IN FEET)
ORIGINAL PLOTTED AT A SCALE OF 1"=200'
ON 8.5" x 14" PAPER

HEAVY PLOTTED LINES INDICATE LIMITS OF SURVEY.

EXHIBIT "A" ACCOMPANIES THIS EXHIBIT.

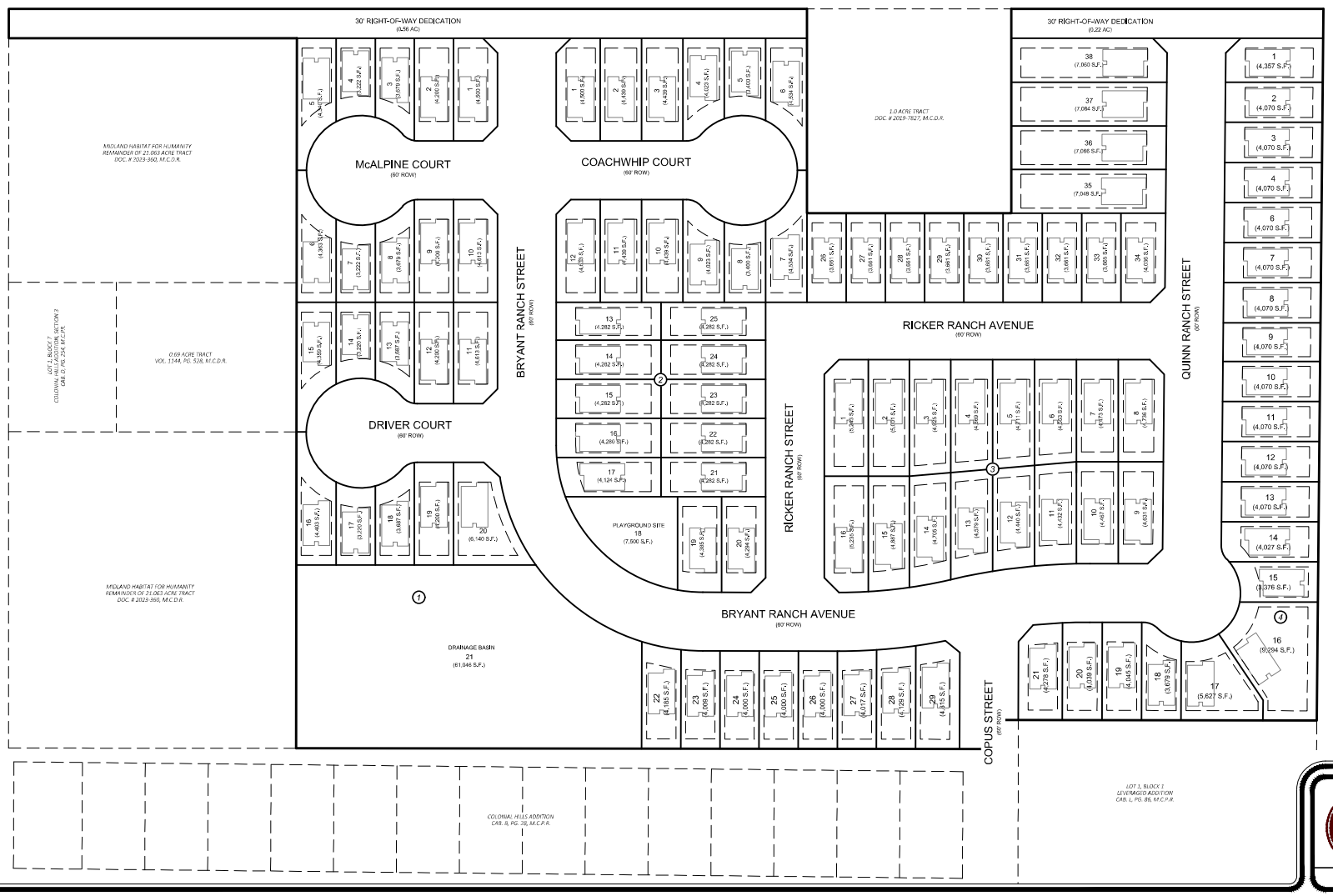
NEWTON ENGINEERING, PC
4501A Santa Rosa Dr.
Midland, Texas 79707
(432) 770-0499
F-13856
F-10194809
2481 E. 2nd St.
Odessa, Texas 79761
(432) 935-0707

Prepared For: MIDLAND HABITAT FOR HUMANITY | Job No: 24-ME03041

PACKET

27.4

PLANNED DEVELOPMENT SITE PLAN



GRAPHIC SCALE
0 50' 100'
(IN FEET)
1 inch = 50 ft.

DIMENSIONAL CHART
MINIMUM LOT AREA = 3,200 SF
MINIMUM LOT WIDTH = 40'
MINIMUM LOT DEPTH = 80'
FRONT YARD SETBACK = 20'
SIDE YARD SETBACK = 5' (INTERIOR LOT)
10' (CORNER LOT)
REAR YARD SETBACK = 10'

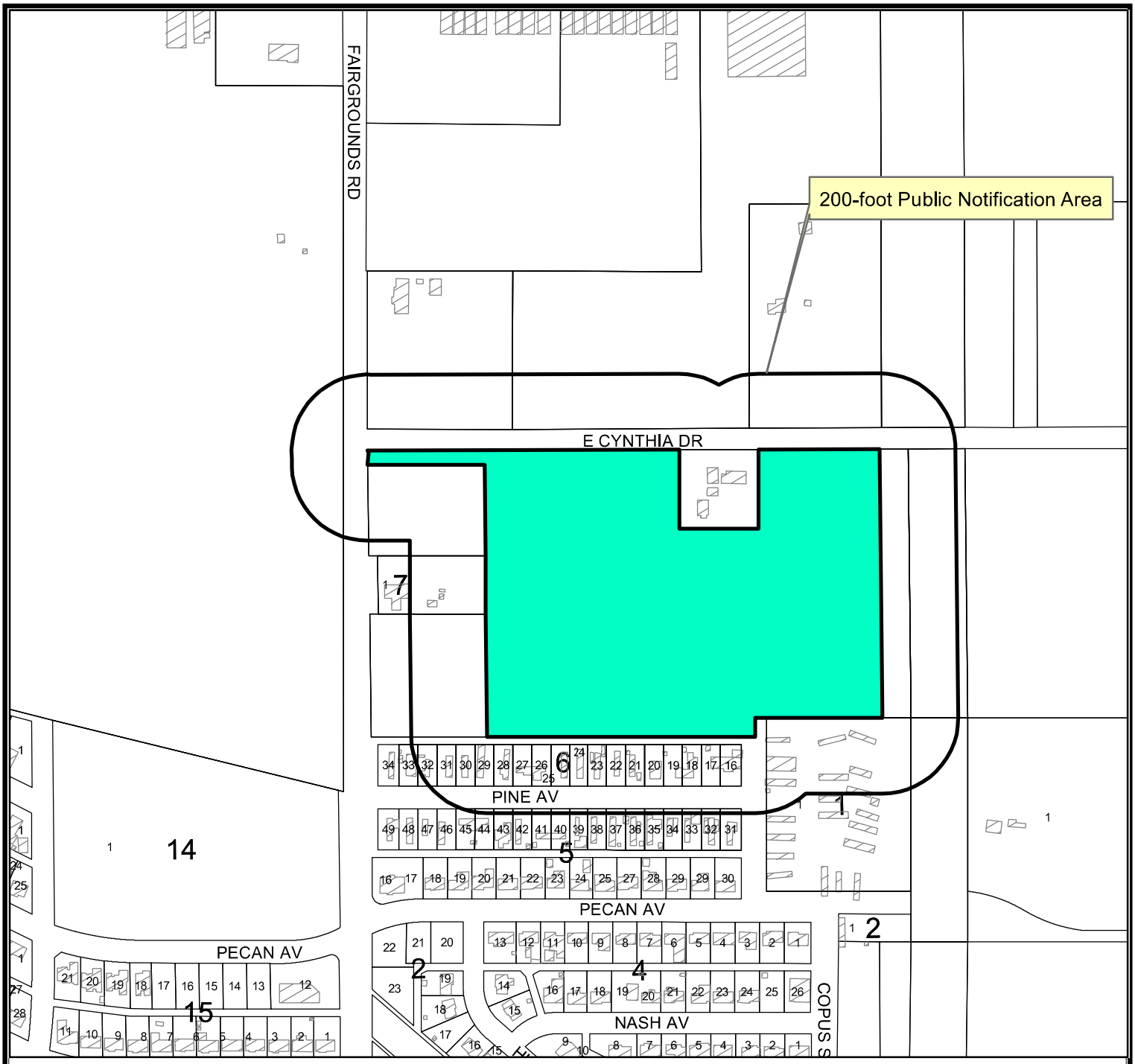
* HOUSE FOOTPRINT SHOWN FOR ILLUSTRATIVE PURPOSES ONLY

SCALE: 1" = 50'	DRAWN BY:
DATE: 00/00/0000	FILE NAME:

NEWTON ENGINEERING, PC
4501A Santa Rosa Dr.
Midland, Texas 79707
(432) 770-0499
F-13856
F-10154809
2401 E. 2nd St.
Odessa, Texas 79761
(432) 935-0707

PID SITE PLAN

PROJECT NUMBER: 24-MED3041



Location Map

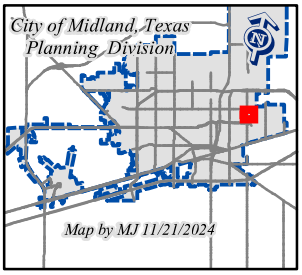
Z-24-0398 **Scale: 1" = 377'**

Consider a request by Newton Engineering, PC, on behalf of Midland Habitat for Humanity, for a zone change from AE, Agricultural Estate District to PD, Planned Development District, for Housing Development, for a 17.18-acre tract of land located in Section 31, Block 38, T-1-S, T&P RR. CO. Survey, City and County of Midland, Texas.

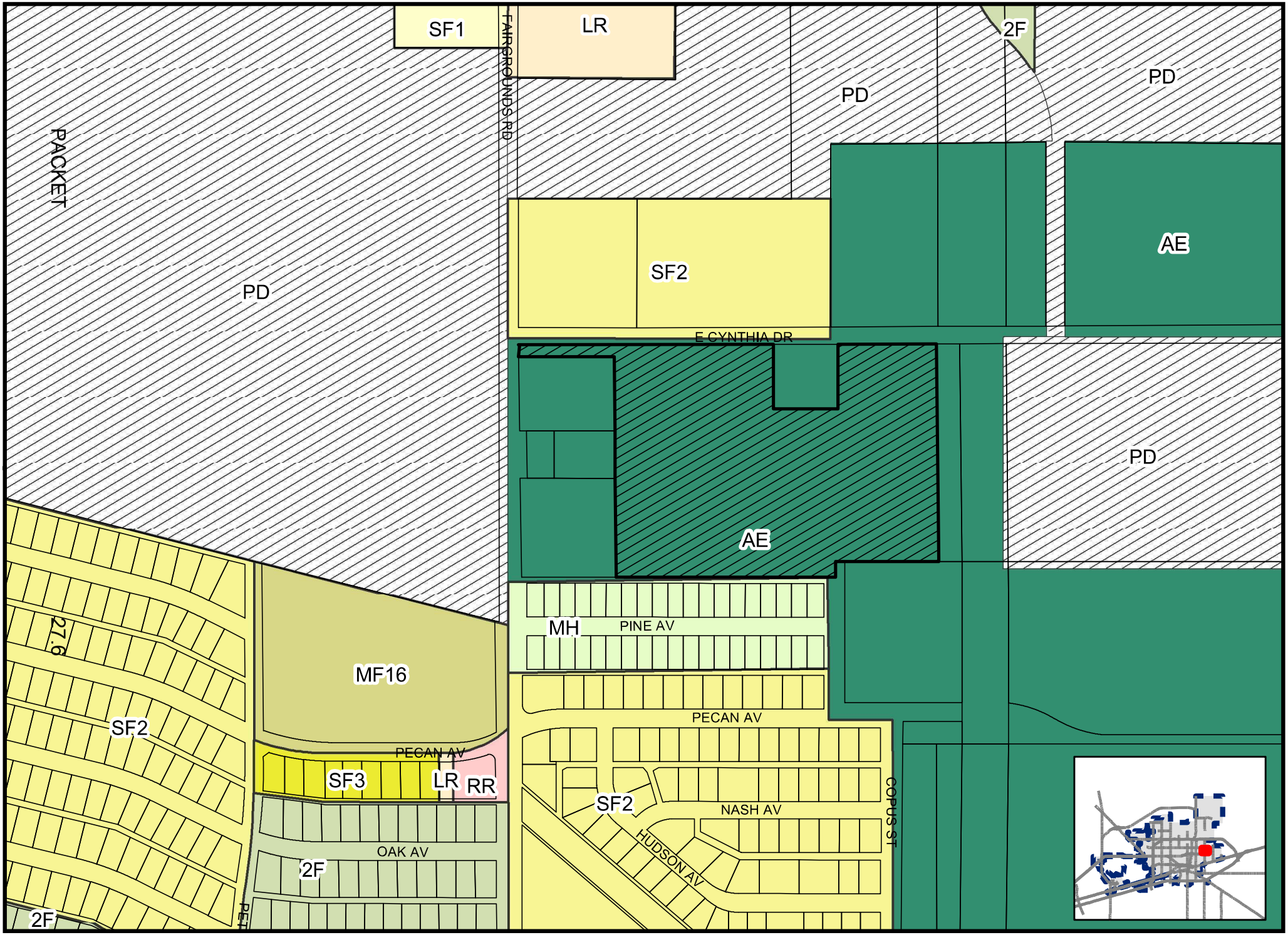
Generally located at the southeast corner of the intersection of North Fairgrounds Road and East Cynthia Drive. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND IS 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 11/21/2024

Z-24-0398

Scale: 1" = 389'

ZONING MAP

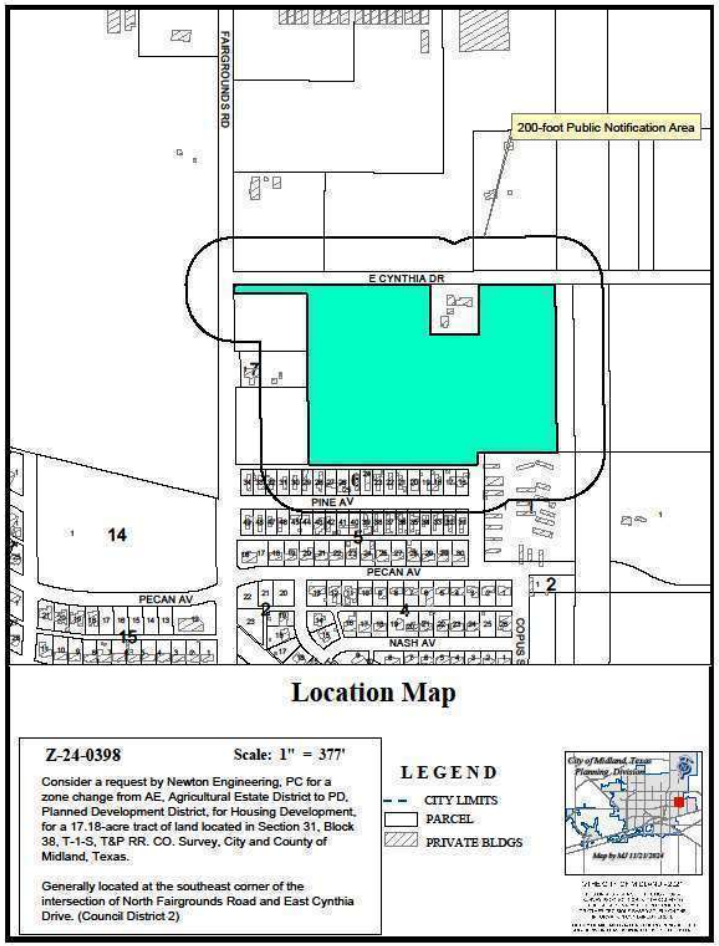
©THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.


E CYNTHIA DR
PINE AV
PECAN AV
NASH AV
FAIRGROUNDS RD
PECAN AV
14
15
PACKET
27.7


MIDLAND
Be the Energy!
HABITAT FOR
HUMANITY
Visit Our Website
MIDLANDTEXAS.GOV

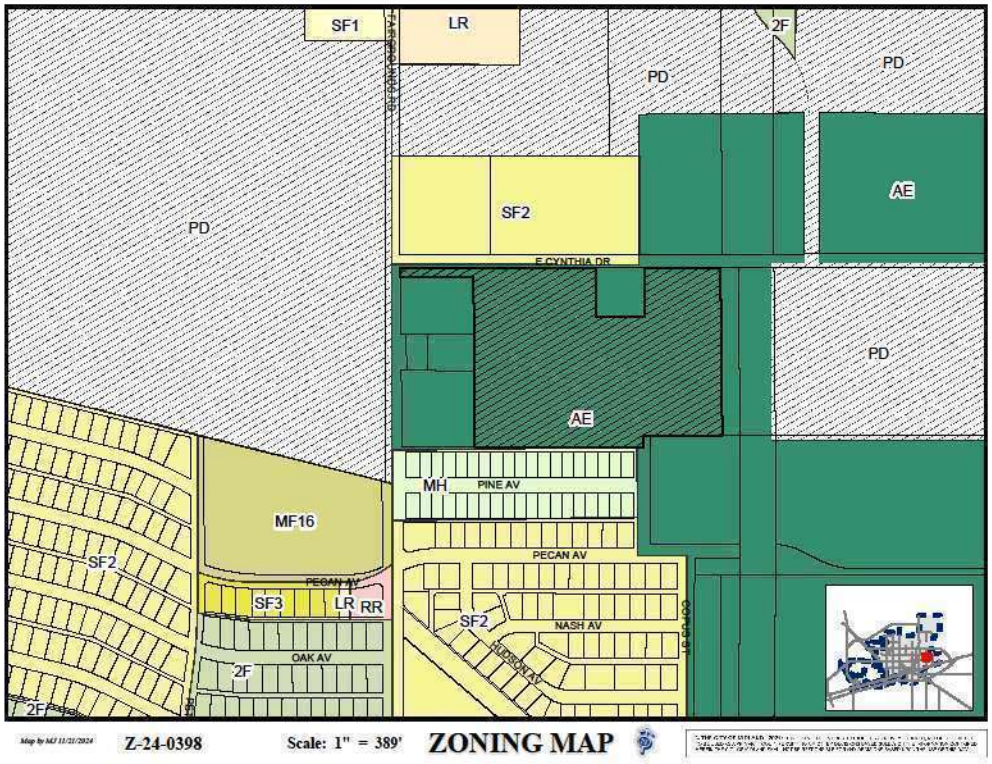
APPLICATION SUMMARY

- **Property Owner**: Midland Habitat for Humanity
- **Applicant/ Representative:** Newton Engineering, PC
- **Zone Change**
- **Address:** Southeast corner of North Fairgrounds Road and East Cynthia Drive (District 2)
- **Reason for Request:** To create single-family lots for residential development.



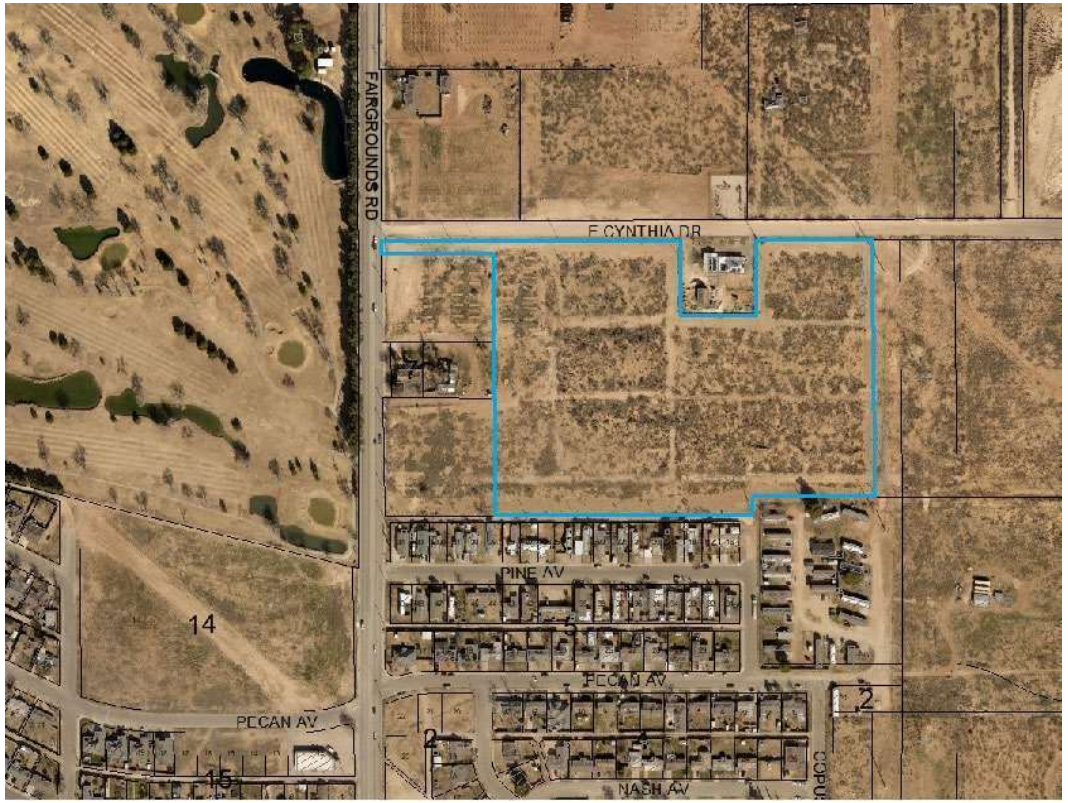
ZONING

- **Current Zoning:** AE, Agricultural Estate District
- **Surrounding Zoning:**
  - North: SF2, Single-Family Dwelling District
  - South: MH, Manufactured Housing District
  - East: PD, Planned Development District, for Housing Development
  - West: PD, Planned Development District for recreation center
- **Proposed Zoning:** Planned Development District, for Housing Development



LAND USE

- **Current Use of the Property:** Vacant
- **Proposed Use of the Property:** Single-Family Dwellings
- **Surrounding Uses:**
- North: Residential and vacant lots
- South: Residential
- East: Vacant lots
- West: Golf course and residential



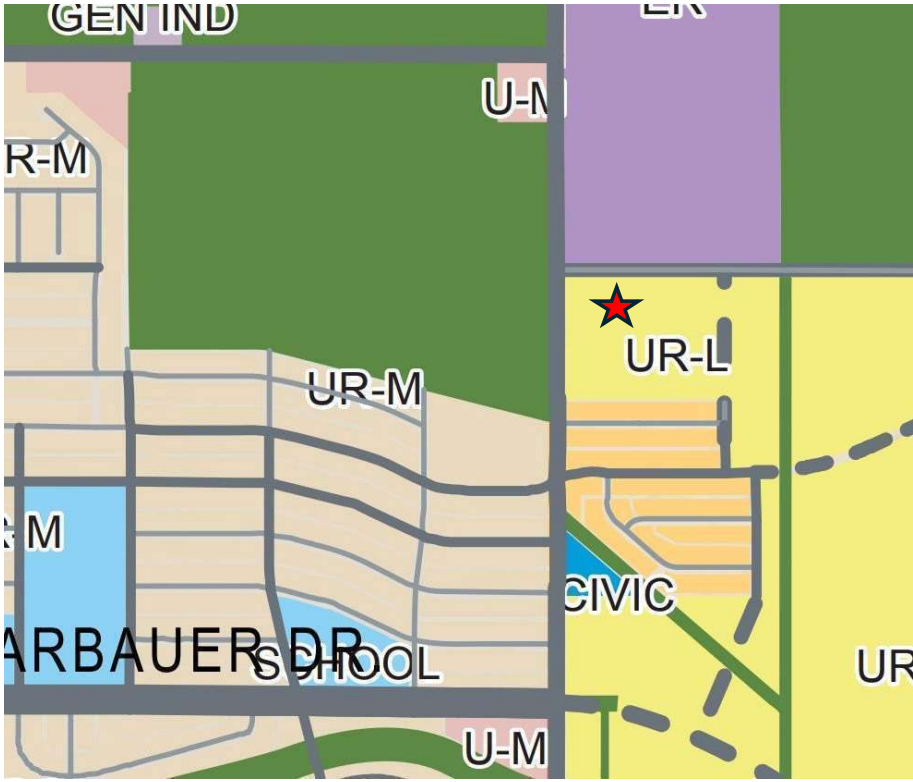
MIDLAND
Be the Energy!

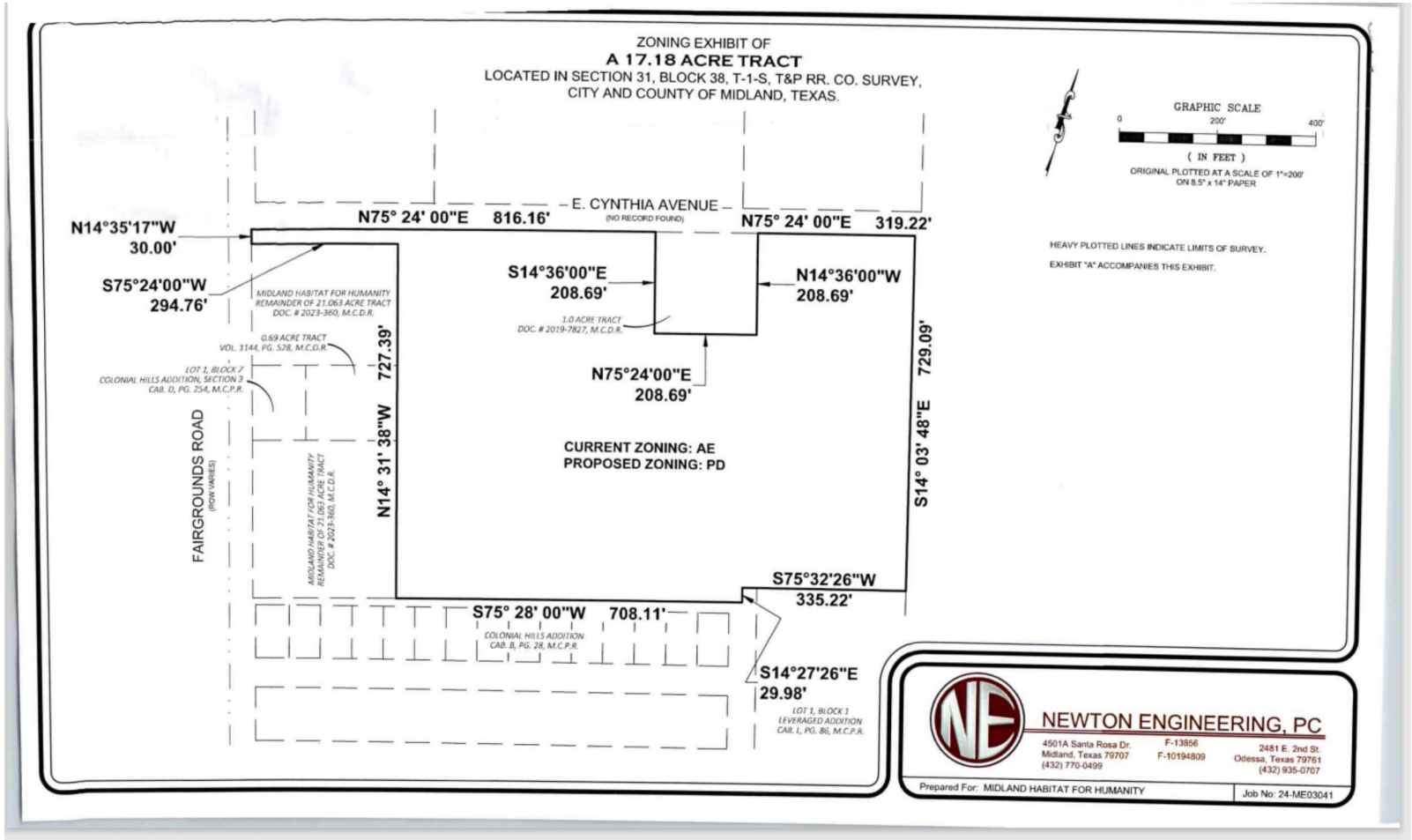


On Cynthia Drive, Looking Southeast.

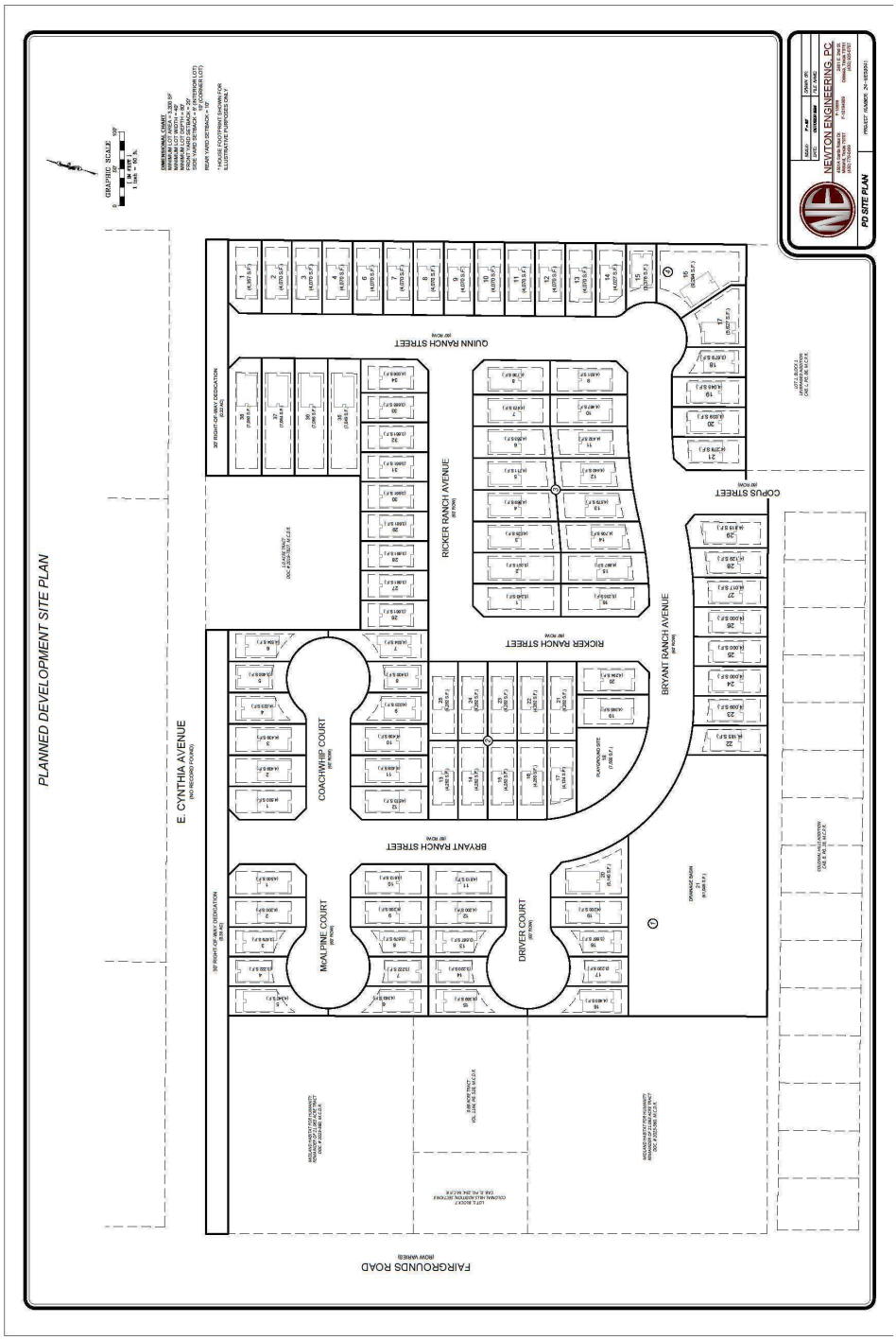
COMPREHENSIVE PLAN

- **TCT Land Use Designation:** UR-L, Urban Residential-Low
- **Supported Uses:**
  - Supports single-family detached, attached and small lot homes.
  - Request is compatible with the surrounding area, and the Tall City Tomorrow Plan.





Survey (Exhibit A)



Site Plan (Exhibit B)

STAFF'S RECOMMENDATION

- No objections received.
- The Planning & Zoning Commission recommended approval of this request on December 16, 2024.
- Staff recommends APPROVAL of this zone change from AE, Agricultural Estate District to PD, Planned Development District, for Housing Development subject to conditions below.
- **Conditions:**
  - **A. That the property, including the minimum dimensions of each lot and the minimum area of each lot, shall substantially conform to the site plan attached hereto as Exhibit "B".**



STAFF'S RECOMMENDATION

- **Conditions:**

B. That the only permitted use of the lot described in Exhibit "B" as Lot 18, Block 2, also identified as "PLAYGROUND SITE", shall be "Park, Playground, or Community Center, Public" as such term is defined in Section 11-1-2.01 of the City Code.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 28

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Madelim Jaquez, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 6.75-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 1, AMARON ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO MF-22, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WOLCOTT AVENUE AND CAMP 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)

Purpose:

The applicant, Woda Cooper Companies, Inc. is requesting a Zone Change from RR, Regional Retail District, to MF-22, Multiple-Family Dwelling District, on a property located at the southwest corner of the intersection of Wolcott Avenue and Camp Street to develop an apartment complex.

Recommended City Council Action:

Approve

Fiscal Impact:

The request has no significant impact on the City’s budget.

Strategic Priority:

Quality of Life and Place

Discussion:

Current Zoning:

RR, Regional Retail District.

Surrounding Zoning and Land Use:

The properties to the north are zoned RR, Regional Retail District, and are currently RV and Boat storage units. The properties to the east are zoned O-2, Office Districts, and are currently hotels. The properties to the south are zoned RR, Regional Retail District, and there are currently apartments. The properties to the west are RR, Regional Retail District, and TP, Technology Park District, which currently include apartments and vacant lots.

Analysis:

The subject property is zoned RR, Regional Retail District. The applicant is seeking this zone change in order to construct Multiple-Family Dwellings, which is not an allowed use in the current zoning district according to the current zoning code ordinance use chart [11-1-4.03]. The Future Land Use Map Chapter 3 of the Tall City Tomorrow Comprehensive Plan designates this area as Civic/Institutional/School/University however, given that there are apartment complexes on the adjacent properties to the south and east, the proposed use will be compatible with the surrounding area.

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 objection

Oil and Gas: (Approved)

No Oil & Gas well concern for Zoning. Informational: Future plats will need to identify any Oil or Gas wells and include 500 ft. radius for a city permitted well or the 135 ft. radius for non-permitted well radius on plat. Please note if oil & gas wells are not identified or left off a plat, this could prevent receiving city permits for structures. Any plugged and abandoned (P&A) well would need to be identified with comments- No structure shall be built over an abandoned well.

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)

Therefore, staff recommends approval of this zone change from RR, Regional Retail District, to MF-22, Multiple-Family Dwelling District.

Letters of Objection:

Staff has not received any letters of objection as of January 10, 2025.

Attachments:

Application
Survey (Exhibit A)
Site Plan (Exhibit B)
Maps

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 6.75-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 1, AMARON ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO MF-22, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF WOLCOTT AVENUE AND CAMP 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 6.75-acre tract of land out of Lot 1, Block 1, Amaron Addition, 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 MF-22, Multiple-Family Dwelling 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 RR, Regional Retail District to MF-22, Multiple-Family Dwelling District.

SECTION TWO. That a site plan, which is attached hereto as Exhibit "B" and incorporated herein for all purposes, is hereby adopted, and the use and development of the Property (i) shall conform to the regulations of the MF-22, Multiple-Family Dwelling District

and (ii) shall substantially conform to the site plan.

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

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

SECTION SIX. 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 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., 2025; 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., 2025, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2025.

_____
Lori Merritt Blong, Mayor

ATTEST:

_____
Marcia Bentley-German, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

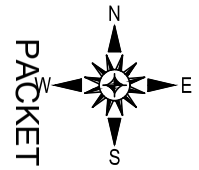
_____
Elizabeth Triggs, Planning and Development Officer

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"

PACKET



GENERAL NOTES:

1. SURVEYOR DID NOT ABSTRACT THE SUBJECT PROPERTY, THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE AND WOULD BE SUBJECT TO ANY AND ALL CONDITIONS OR RESTRICTIONS THAT A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE MAY DISCLOSE.
2. BEARING ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE 4202 (NAD 83).

Legal Description

Being a 6.75 acre tract of land situated in Section 3, Block 39, T-2-S, T&P Railroad Co. Survey, City of Midland, Midland County, Texas and being the remainder of Lot 1, Block 1, Amaron Addition, an addition to the City of Midland as recorded in Cabinet C, Slide 142, Plat Records Midland, County, Texas.

Beginning at a found 1/2 inch capped iron rod for the intersection of the Wolcott Avenue south line and the west line of Camp Road;

Thence South 12°40'41" East with the Camp Road west line a distance of 45.07 feet to a found railroad spike for corner and the beginning of a curve to the right having a radius of 147.49 feet, a central angle of 45°17'11", and a long chord that bears South 09°05'59" West a distance of 113.56 feet;

Thence along said curve to the right and west line of Camp Road an arc distance of 116.58 feet to a found railroad spike for corner;

Thence South 31°40'42" West with the Camp Road west line a distance of 278.03 feet to a found 1/2 inch capped iron rod for the beginning of a curve to the left having a radius of 208.72 feet, a central angle of 41°06'22", and a long chord that bears South 11°23'46" West a distance of 146.55 feet;

Thence along said curve to the left and west line of Camp Road an arc distance of 149.74 feet to a found 1/2 inch iron rod for an exterior corner of Lot 1A, Block 1, Amaron Addition Section 4, an addition to the City of Midland as recorded in Cabinet F, Slide 156, Plat Records Midland County, Texas;

Thence North 13°57'56" West with said Lot 1A east line a distance of 198.87 feet to a found 1/2 inch capped iron rod for an exterior corner of said Lot 1A;

Thence South 76°34'01" West with the Lot 1A north line a distance of 767.64 feet to a found 1/2 inch iron rod for an interior ell corner of said Lot 1A;

Thence North 13°41'58" West with the Lot 1A east line a distance of 280.17 feet to a found 1/2 inch iron rod in the south line of Wolcott Avenue;

Thence North 76°33'32" East with the Wolcott Avenue south line a distance of 1073.42 feet to the Point of Beginning and Containing 294,068 square feet, 6.75 acres of land, more or less.

To: Woda Cooper Companies

This is to certify this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Survey, jointly established and adopted by ALTA and NSPS, and includes items 2, 3, 4, 6(a),6(b), 7(a), 7(b)(1), 8, 9, 10, 13, 16, 17 and 19 of Table A thereof. The fieldwork was completed on December 5, 2024.

Charles F Stark 12/10/2024

Charles F. Stark, RPLS
Texas Registration No. 5084

STATE OF TEXAS
REGISTERED
CHARLES F. STARK
5084
PROFESSIONAL
LAND SURVEYOR

USE OF THIS ELECTRONIC SEAL/SIGNATURE AUTHORIZED BY CHARLES F. STARK, R.P.L.S. TEXAS REGISTRATION NO. 5084

Barron•Stark Engineers
6221 Southwest Boulevard, Suite 100
Fort Worth, Texas 76132
(O) 817.231.8100 (F) 817.231.8144
Texas Registered Engineering Firm F-10998
Texas Registered Survey Firm F-10158800
www.barronstark.com

ALTA/NSPS LAND TITLE SURVEY

6.75 ACRE TRACT
REMAINDER OF LOT 1, BLOCK 1
AMARON ADDITION
CABINET C, SLIDE 142
PLAT RECORDS MIDLAND COUNTY, TEXAS

PROJECT NO. 560-10463 DECEMBER 2024 SHEET 1 OF 1

USER: CHUCK STARK
PLOTTED ON: 12/10/2024 4:35 PM
FILE NAME: N:\BARRON STARK SWIFT ENG\560 - WODA COOPER COMPANIES\10463 - WOLCOTT APARTMENTS MIDLAND\07 SURVEY\DRAWING\560-10463 - WOLCOTT AVE TITLE SURVEY 12-10-24.DWG

EXHIBIT "B"

PACKET

SITE DATA
-6.7 ACRES
-148 UNITS
-21.93 UNITS/ACRE

UNIT TABULATION

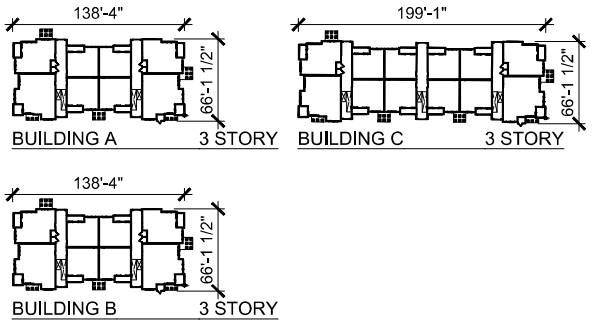
UNIT TYPE	# UNITS	UNIT S.F.	TOTAL S.F.
A1 - ONE BEDROOM AREA, ONE BATH	32	565 S.F.	18,080 S.F.
B1 - TWO BEDROOM AREA, TWO BATH	58	820 S.F.	47,560 S.F.
C1 - THREE BEDROOM AREA, TWO BATH	58	1,010 S.F.	58,580 S.F.
TOTAL	148		124,220 S.F.

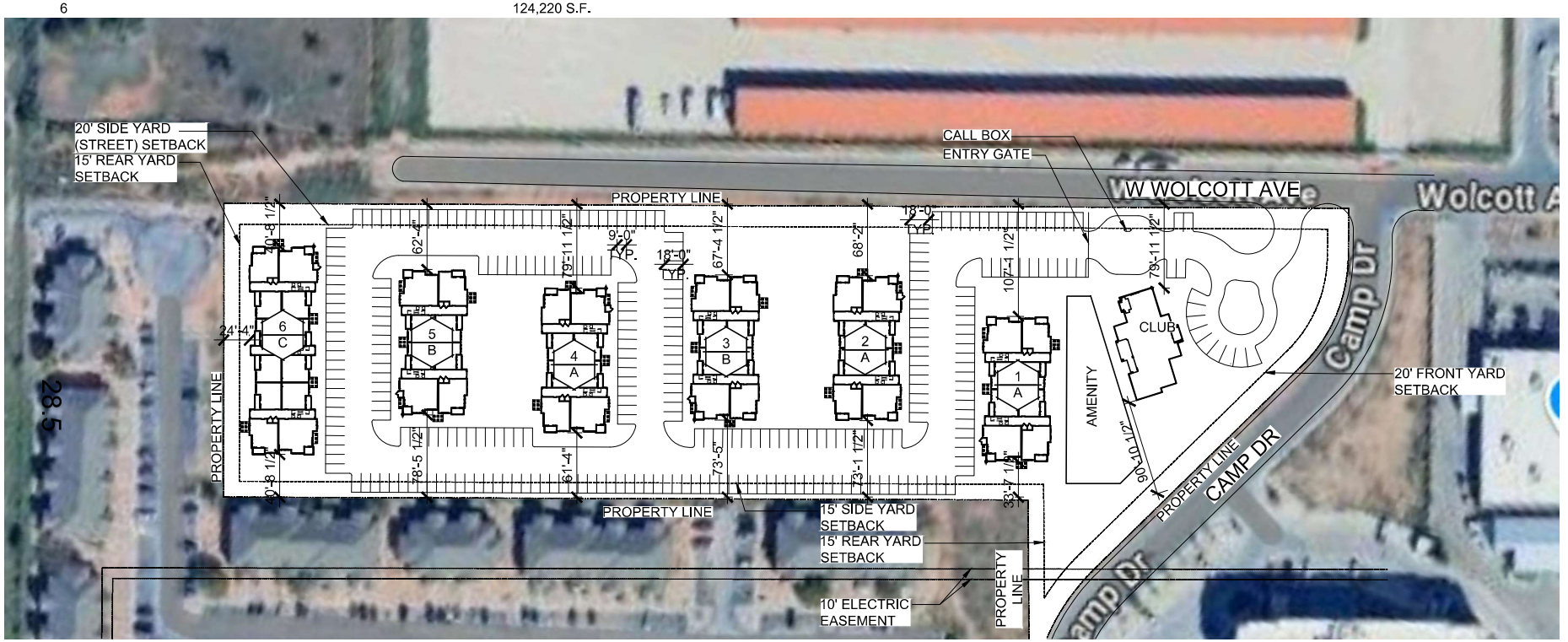
BUILDING TABULATION

TYPE	# BLDGS.	UNITS/BLDG.	UNIT TYPES	BLDG. S.F.	TOTAL SQ. FT.
A	3	24	B1-12, C1-12	21,960 S.F.	65,880 S.F.
B	2	20	A1-10, B1-6, C1-4	14,610 S.F.	29,220 S.F.
C	1	36	A1-6, B1-18	29,120 S.F.	29,120 S.F.
TOTAL	6				124,220 S.F.

PARKING TABULATION

PARKING REQUIRED:		
1.25 PER 1 BDRM	(1.50x32)	48
2.0 PER 2 BDRM	(2.0x58)	116
2.5 PER 2 BDRM	(2.5x58)	145
+ 1 ADDITIONAL SPACE PER 4 UNITS	(148/4)	37
TOTAL		346
PARKING PROVIDED:		
STANDARD		339
CLUBHOUSE		13
TOTAL		352





GRAPHIC SCALE
0 100' 200'
(IN FEET)
1 inch = 100 ft.

SITE PLAN

SCALE: 1"=100'-0"

Cross architects

PROJECT: # 24071

WOLCOTT APARTMENTS
MIDLAND, TEXAS

DATE: XX.XX.XX

A1.0

SITE PLAN

Copyright © 2024

MIDLAND
Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: _____

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Woda Cooper Companies, Inc.		Phone (216) 316-7224 Email osarig@wodagroup.com	
Address: 500 South Front Street	City: Columbus	State: OH	Zip: 43215

Property Owner Printed Name: Liquid Gold Solutions LLC		Phone (918) 910-2030 Email; vik.gopi@gmail.com	
Address: 1312 S Kalanchoe Avenue	City: Broken Arrow	State: OK	Zip: 74012

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address: Corner of Wolcott Avenue & Camp Drive. Directly North of 2300 Camp Drive, Midland, TX, 79701

Legal Description
Lot:001 Block:001 Subdivision: Amaron

Current Zoning: Regional Retail (RR)	**Proposed Zone:** MF-22 *(List by tracts if more than one district is requested)*

Reason for Zone Change Request: Development of Multi-Family is necessary in this targeted growth area of Midland; area certainly supports it given Park Glen Apartments directly to the south.

Present Use of Property: Vacant Land

Proposed Use of Property: Multi-Family General Occupancy Apartments

How would this zone change affect the public health, safety and welfare? There is currently strong demand for Multi-Family in Midland with demand for 429 units in 2024. This zone change would allow residents of Midland seeking rental housing an adequate place to live, especially given there are currently 0 units under construction in the past 12 months as of October 2024.

Describe how conditions affecting the property have changed since present zoning designation: Park Glen Apartments was built in 1999 directly south of the property, proving this area of Midland is one amenable to multi-family. Midland county's population has increased by 1.3% year over year as of 2024 with no new units under construction.

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature): Omer Sarig	Date: 10/8/24
Applicant (printed): Omer Sarig	
Property Owner (signature):	Date: 10/4/24
Property Owner (printed): VIKRAM GOPI	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF ~~TEXAS~~ Oklahoma
COUNTY OF ~~MIDLAND~~ Tulsa

Before me, the undersigned authority, on this day personally appear VIKRAM GOPI who, being by me duly sworn, upon oath says: That (s)he is the owner of Liquid Gold Solutions LLC or authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 4th day of October, 2024, to certify which witness my hand and seal of office.

DANIELLA NEEDHAM NOTARY PUBLIC Commission #22014045 IN AND FOR TULSA COUNTY STATE OF OKLAHOMA

NOTARY PUBLIC.

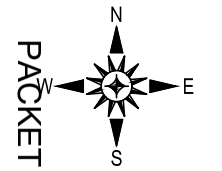
FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ Dimensioned Site Plan
☑ Application Fee	☑ Plans in Digital Format (PDF/JPEG)
Check # Invoice	
Received By:	Date: RECEIVED OCT 09 2024

BY: .....

Application will not be considered for scheduling until reviewed by a planner.

PACKET



GRAPHIC SCALE 1"=100'

50 0 50 100

GENERAL NOTES:

1. SURVEYOR DID NOT ABSTRACT THE SUBJECT PROPERTY, THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE AND WOULD BE SUBJECT TO ANY AND ALL CONDITIONS OR RESTRICTIONS THAT A CURRENT TITLE REPORT OR ABSTRACTORS CERTIFICATE MAY DISCLOSE.
2. BEARING ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE 4202 (NAD 83).

28.4

Legal Description

Being a 6.75 acre tract of land situated in Section 3, Block 39, T-2-S, T&P Railroad Co. Survey, City of Midland, Midland County, Texas and being the remainder of Lot 1, Block 1, Amaron Addition, an addition to the City of Midland as recorded in Cabinet C, Slide 142, Plat Records Midland, County, Texas.

Beginning at a found 1/2 inch capped iron rod for the intersection of the Wolcott Avenue south line and the west line of Camp Road;

Thence South 12°40'41" East with the Camp Road west line a distance of 45.07 feet to a found railroad spike for corner and the beginning of a curve to the right having a radius of 147.49 feet, a central angle of 45°17'11", and a long chord that bears South 09°05'59" West a distance of 113.56 feet;

Thence along said curve to the right and west line of Camp Road an arc distance of 116.58 feet to a found railroad spike for corner;

Thence South 31°40'42" West with the Camp Road west line a distance of 278.03 feet to a found 1/2 inch capped iron rod for the beginning of a curve to the left having a radius of 208.72 feet, a central angle of 41°06'22", and a long chord that bears South 11°23'46" West a distance of 146.55 feet;

Thence along said curve to the left and west line of Camp Road an arc distance of 149.74 feet to a found 1/2 inch iron rod for an exterior corner of Lot 1A, Block 1, Amaron Addition Section 4, an addition to the City of Midland as recorded in Cabinet F, Slide 156, Plat Records Midland County, Texas;

Thence North 13°57'56" West with said Lot 1A east line a distance of 198.87 feet to a found 1/2 inch capped iron rod for an exterior corner of said Lot 1A;

Thence South 76°34'01" West with the Lot 1A north line a distance of 767.64 feet to a found 1/2 inch iron rod for an interior ell corner of said Lot 1A;

Thence North 13°41'58" West with the Lot 1A east line a distance of 280.17 feet to a found 1/2 inch iron rod in the south line of Wolcott Avenue;

Thence North 76°33'32" East with the Wolcott Avenue south line a distance of 1073.42 feet to the Point of Beginning and Containing 294,068 square feet, 6.75 acres of land, more or less.

To: Woda Cooper Companies

This is to certify this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Survey, jointly established and adopted by ALTA and NSPS, and includes items 2, 3, 4, 6(a),6(b), 7(a), 7(c)(1), 8, 9, 10, 13, 16, 17 and 19 of Table A thereof. The fieldwork was completed on December 5, 2024.

Charles F Stark 12/10/2024

Charles F. Stark, RPLS
Texas Registration No. 5084

STATE OF TEXAS
REGISTERED
CHARLES F. STARK
5084
PROFESSIONAL
LAND SURVEYOR

USE OF THIS ELECTRONIC SEAL/SIGNATURE AUTHORIZED BY CHARLES F. STARK, R.P.L.S. TEXAS REGISTRATION NO. 5084

ALTA/NSPS LAND TITLE SURVEY

6.75 ACRE TRACT
REMAINDER OF LOT 1, BLOCK 1
AMARON ADDITION
CABINET C, SLIDE 142
PLAT RECORDS MIDLAND COUNTY, TEXAS

PROJECT NO. 560-10463 DECEMBER 2024 SHEET 1 OF 1

Barron•Stark Engineers
6221 Southwest Boulevard, Suite 100
Fort Worth, Texas 76132
(O) 817.231.8100 (F) 817.231.8144
Texas Registered Engineering Firm F-10998
Texas Registered Survey Firm F-10158800
www.barronstark.com

USER: CHUCK STARK
PLOTTED ON: 12/10/2024 4:35 PM
FILE NAME: N:\BARRON STARK SWIFT ENG\560 - WODA COOPER COMPANIES\10463 - WOLCOTT APARTMENTS MIDLAND\07 SURVEY\DRAWING\560-10463 - WOLCOTT AVE TITLE SURVEY 12-10-24.DWG

PACKET

SITE DATA
-6.7 ACRES
-148 UNITS
-21.93 UNITS/ACRE

UNIT TABULATION

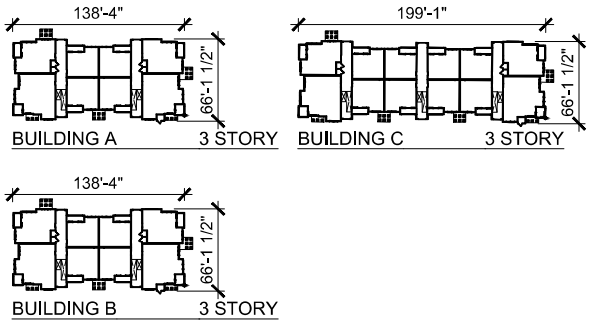
UNIT TYPE	# UNITS	UNIT S.F.	TOTAL S.F.
A1 - ONE BEDROOM AREA, ONE BATH	32	565 S.F.	18,080 S.F.
B1 - TWO BEDROOM AREA, TWO BATH	58	820 S.F.	47,560 S.F.
C1 - THREE BEDROOM AREA, TWO BATH	58	1,010 S.F.	58,580 S.F.
TOTAL	148		124,220 S.F.

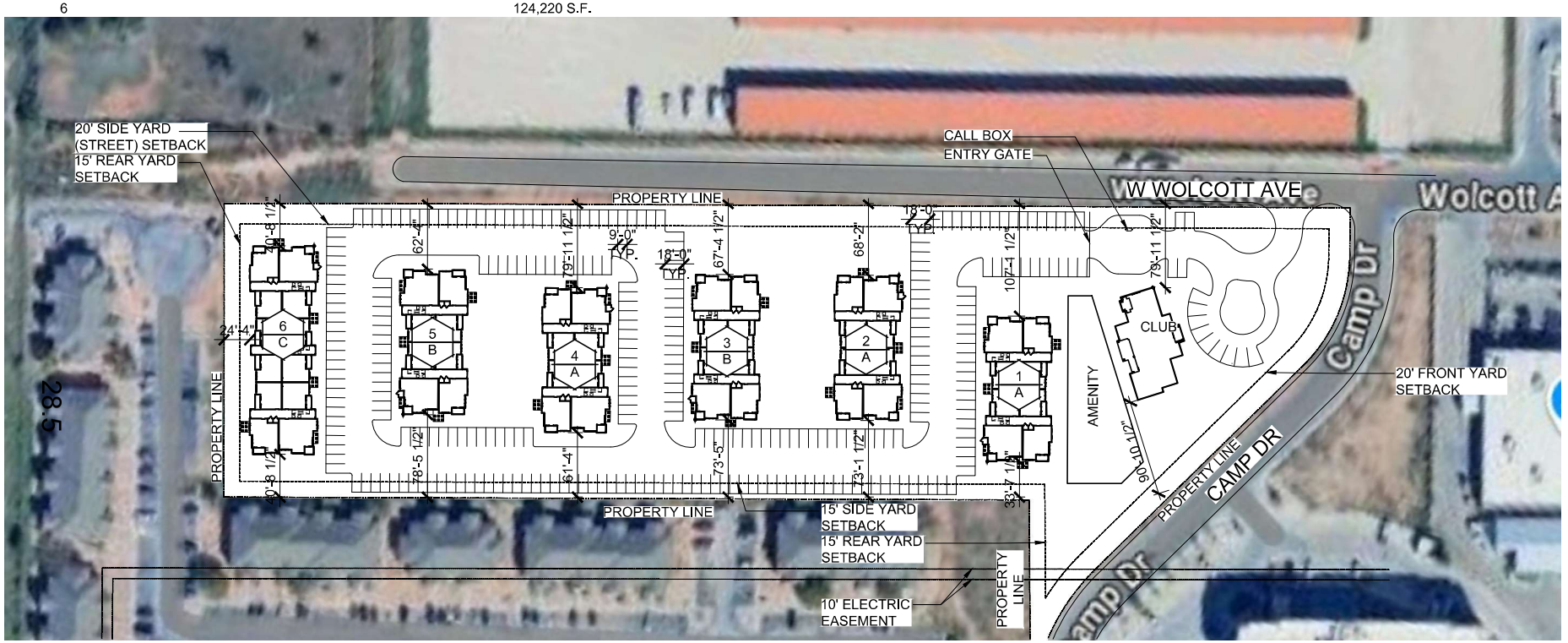
BUILDING TABULATION

TYPE	# BLDGS.	UNITS/BLDG.	UNIT TYPES	BLDG. S.F.	TOTAL SQ. FT.
A	3	24	B1-12, C1-12	21,960 S.F.	65,880 S.F.
B	2	20	A1-10, B1-6, C1-4	14,610 S.F.	29,220 S.F.
C	1	36	A1-6, B1-18	29,120 S.F.	29,120 S.F.
TOTAL	6				124,220 S.F.

PARKING TABULATION

PARKING REQUIRED:		
1.25 PER 1 BDRM	(1.50x32)	48
2.0 PER 2 BDRM	(2.0x58)	116
2.5 PER 2 BDRM	(2.5x58)	145
+ 1 ADDITIONAL SPACE PER 4 UNITS	(148/4)	37
TOTAL		346
PARKING PROVIDED:		
STANDARD		339
CLUBHOUSE		13
TOTAL		352





GRAPHIC SCALE
0 100' 200'
(IN FEET)
1 inch = 100 ft.

SITE PLAN
SCALE: 1"=100'-0"

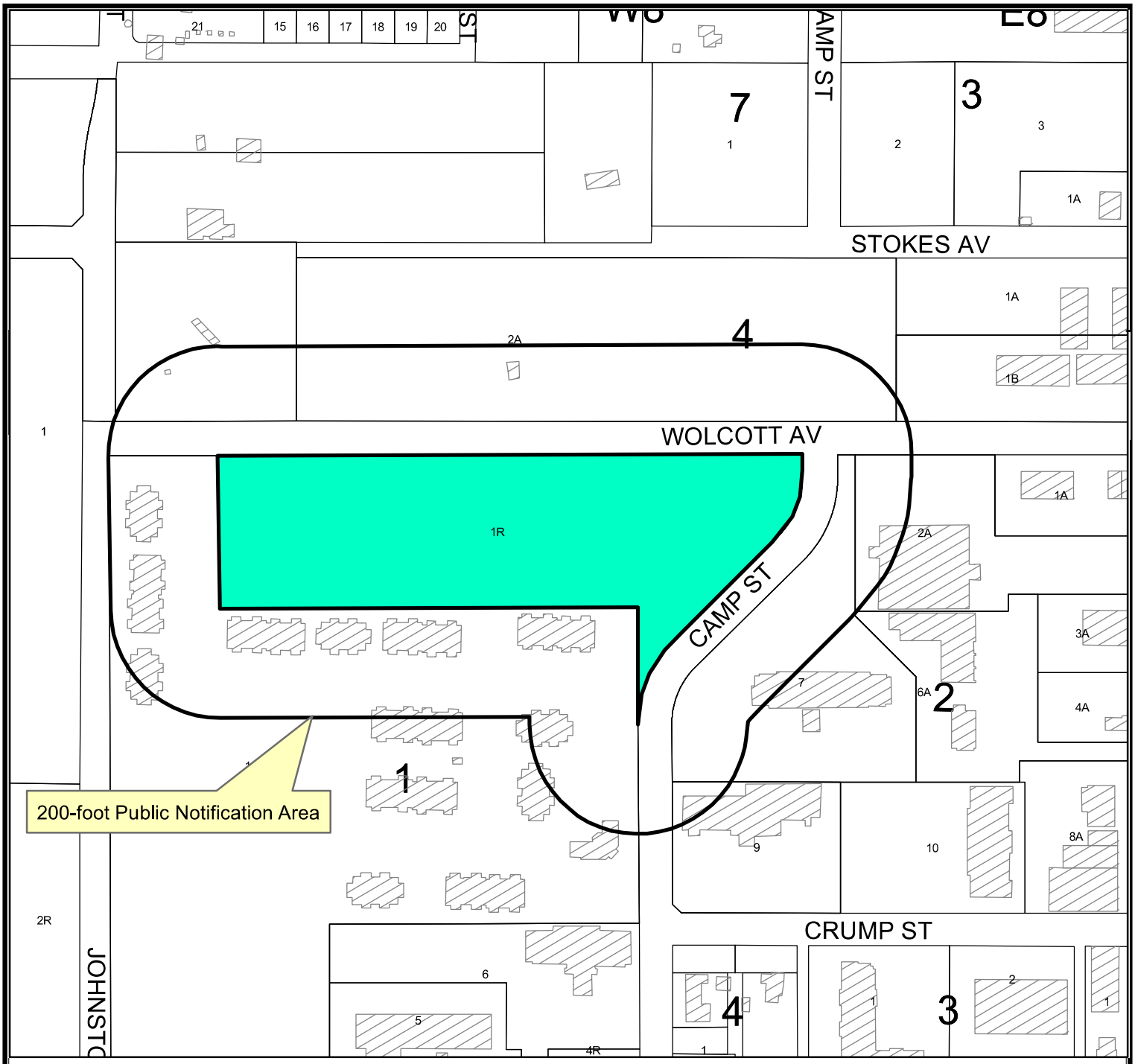
Cross architects
PROJECT: # 24071

WOLCOTT APARTMENTS
MIDLAND, TEXAS

DATE: XX.XX.XX

A1.0
SITE PLAN

Copyright © 2024



Location Map

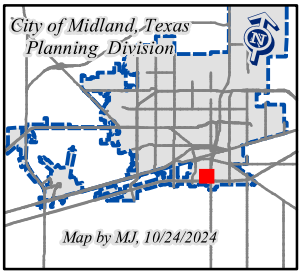
Z-24-0395 **Scale: 1" = 262'**

Consider a request by Woda Cooper Companies, Inc. for a zone change from RR, Regional Retail, to MF-22, Multiple-Family Dwelling District, on a 6.75-acre tract of land out of Lot 1, Block 1, Amaron Addition, City and County of Midland, Texas.

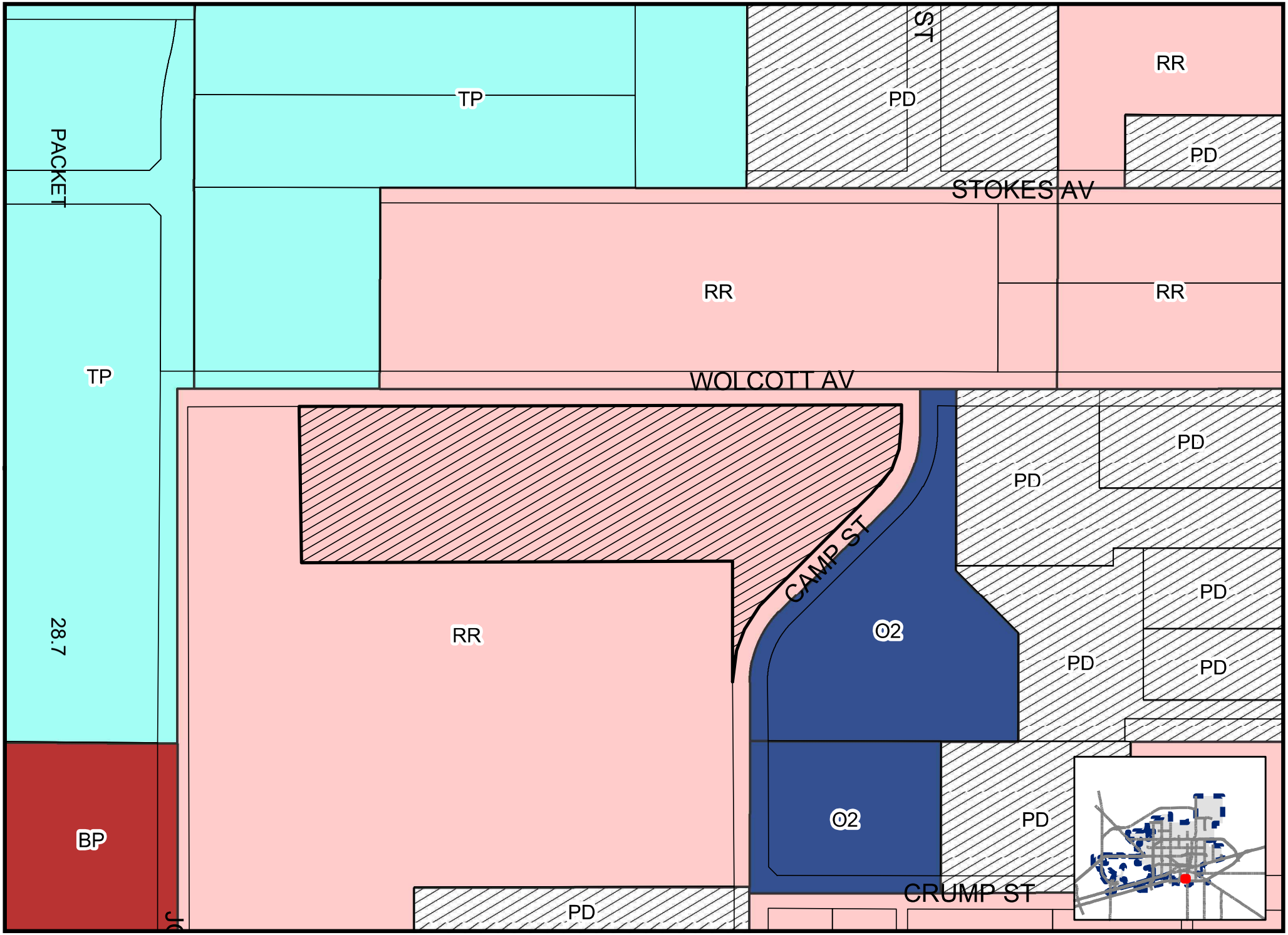
Generally located at the southwest corner of the intersection of Wolcott Avenue and Camp Street. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2021
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND IS 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 MJ, 10/24/2024

Z-24-0395

Scale: 1" = 214'

ZONING MAP

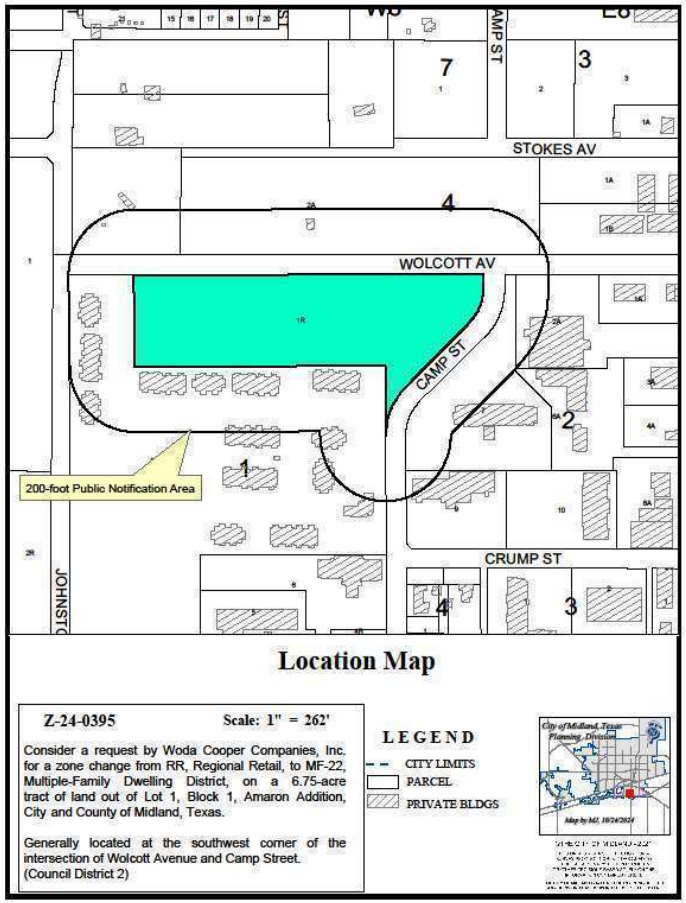
©THE CITY OF MIDLAND - 2021: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

STOKES AV
WOLCOTT AV
CRUMP ST
CAMP ST
4
2


MIDLAND
Be the Energy!
WODA COOPER
Visit Our Website
MIDLANDTEXAS.GOV

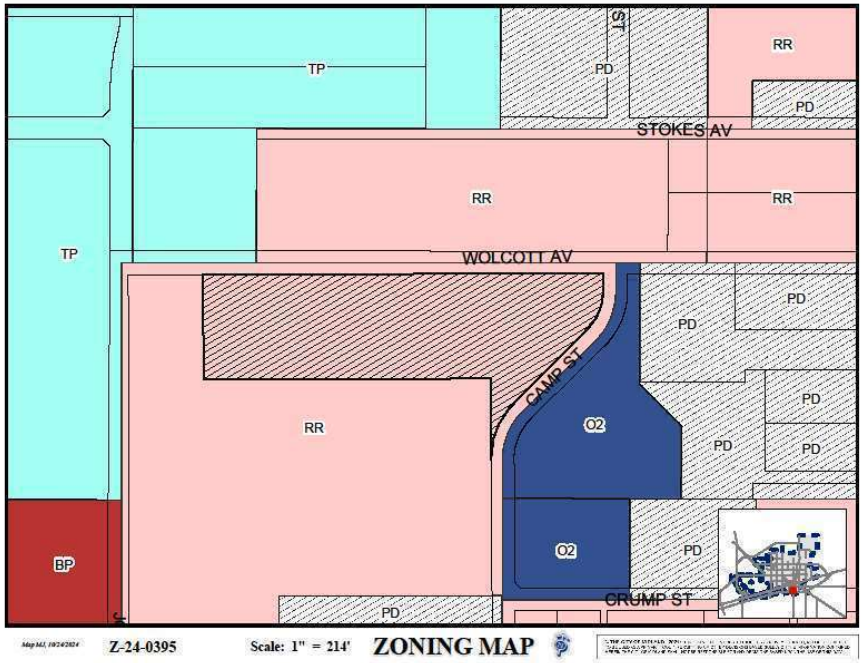
APPLICATION SUMMARY

- **Property Owner**: Liquid Gold Solutions LLC
- **Applicant/ Representative:** Woda Cooper Companies, Inc
- **Zone Change**
- **Address:** Southwest corner of Wolcott Avenue and Camp Street (District 2)
- **Reason for Request:** For development of Multiple-Family Dwellings



ZONING

- **Current Zoning:** RR, Regional Retail
- **Surrounding Zoning:**
  - North: RR, Regional Retail
  - South: RR, Regional Retail
  - East: O2, Office District
  - West: RR, Regional Retail and TP, Technology Park District
- **Proposed Zoning:** MF-22, Multiple-Family Dwelling District



LAND USE

- **Current Use of the Property:** Vacant
- **Proposed Use of the Property:** Apartments
- **Surrounding Uses:**
- North: RV and boat storage
- South: Apartments
- East: Hotels
- West: Apartments and Vacant lots



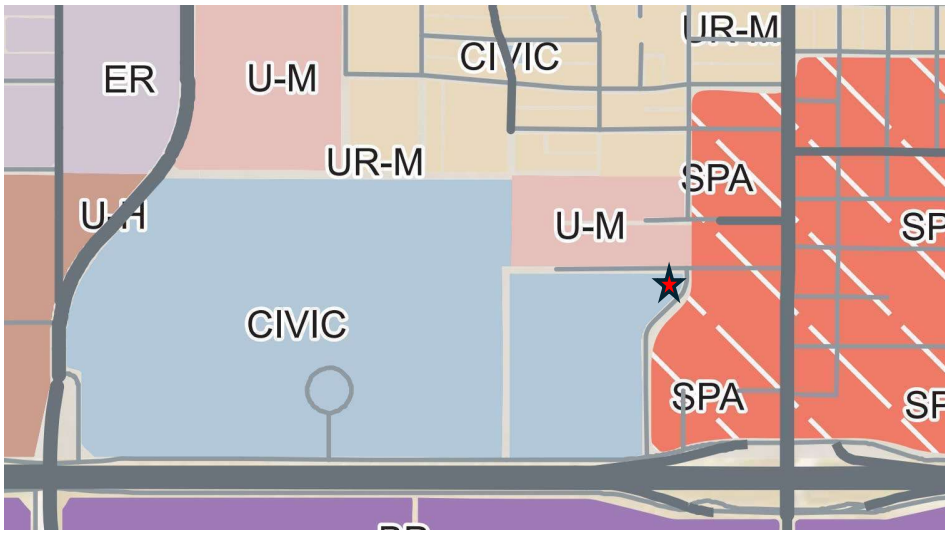
MIDLAND
Be the Energy!

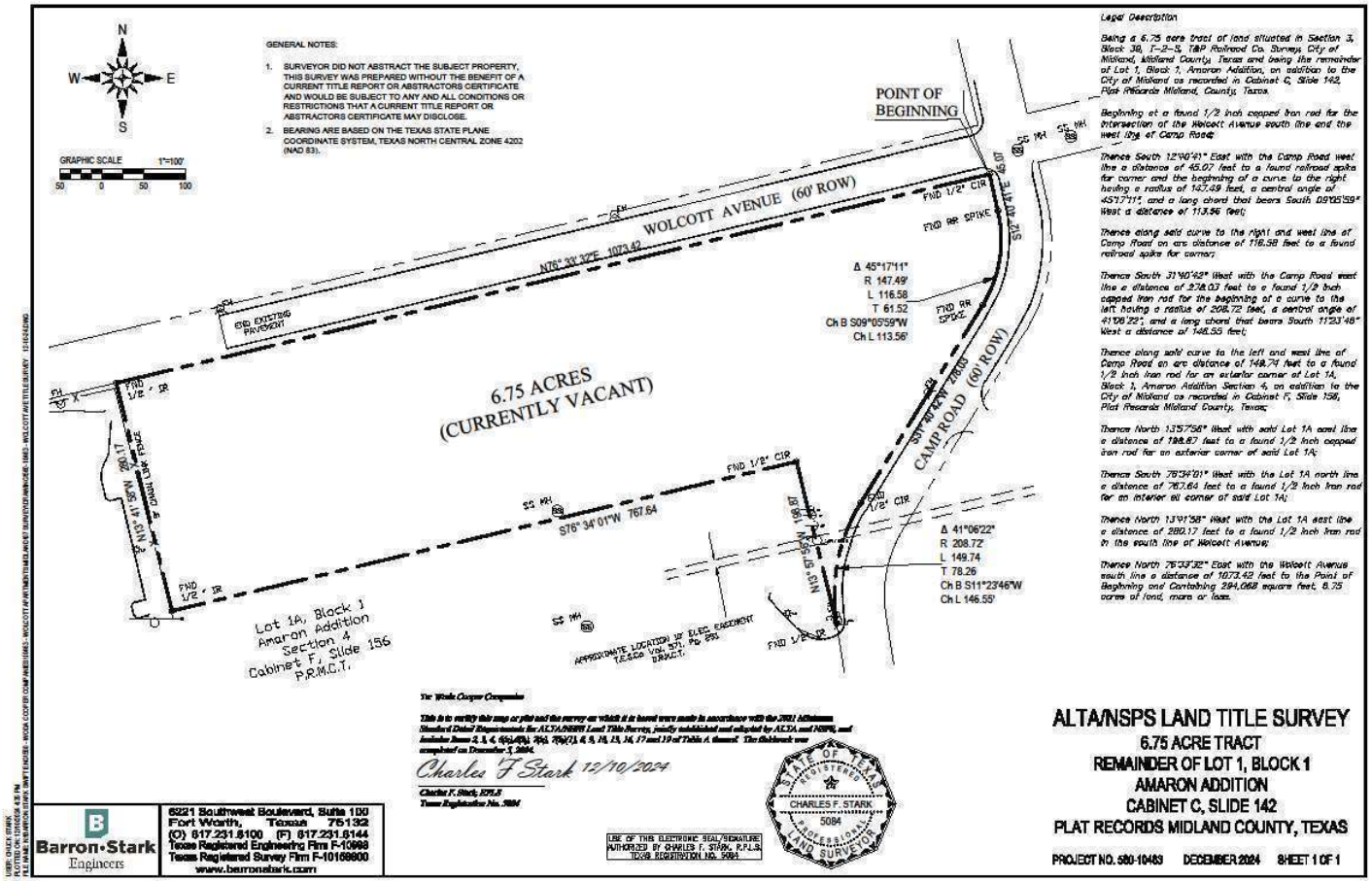


On Wolcott Avenue, Looking South.

COMPREHENSIVE PLAN

- **TCT Land Use Designation:** Civic/Institutional/School/University
- **Supported Uses:**
  - Supports other: Government or non-profit organizations and accessory uses.
- Request is compatible with the surrounding area, but not the Tall City Tomorrow Plan.





Survey (Exhibit A)

SITE DATA
-6.7 ACRES
-148 UNITS
-21.93 UNITS/ACRE

UNIT TABULATION

UNIT TYPE	# UNITS	UNIT S.F.	TOTAL S.F.
A1 - ONE BEDROOM AREA, ONE BATH	32	565 S.F.	18,080 S.F.
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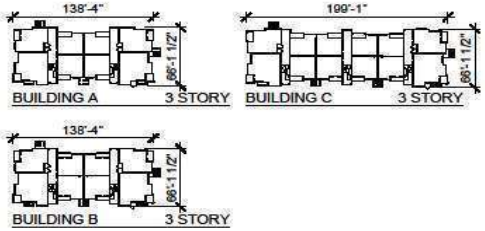
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B	2	20	A1-10, B1-6, C1-4	14,610 S.F.	29,220 S.F.
C	1	36	A1-6, B1-18	29,120 S.F.	29,120 S.F.
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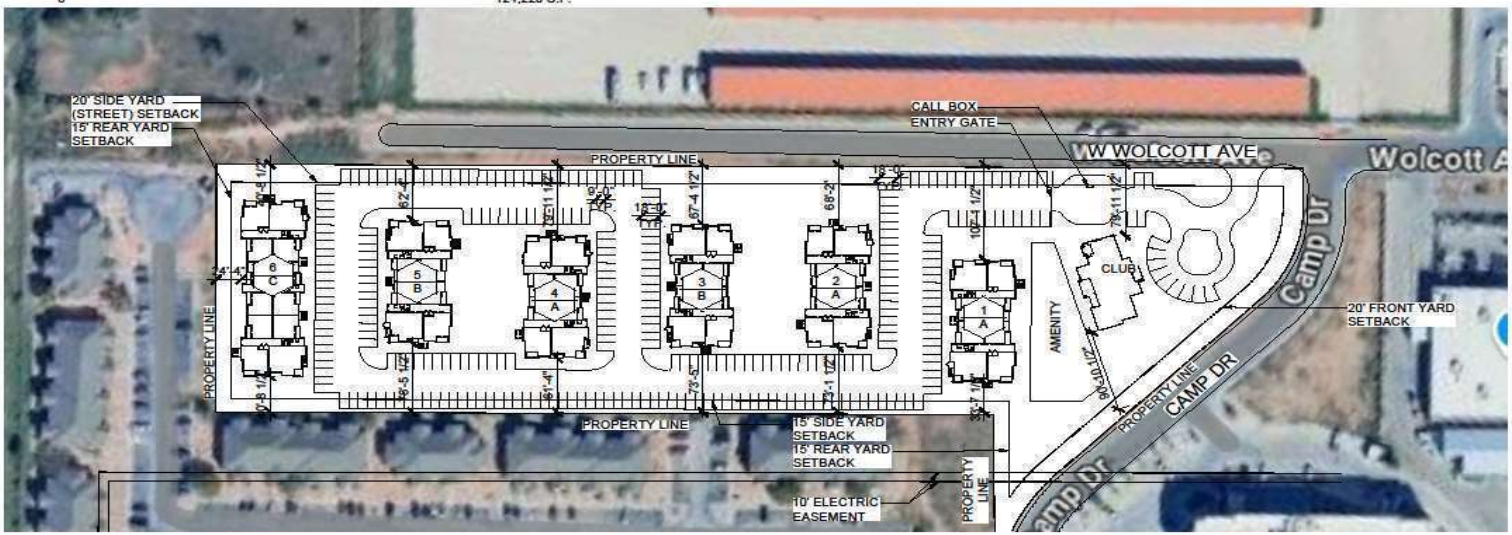
PARKING TABULATION
PARKING REQUIRED:

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2.0 PER 2 BDRM	(2.0x58)	116
2.5 PER 2 BDRM	(2.5x58)	145
+ 1 ADDITIONAL SPACE PER 4 UNITS	(148/4)	37
TOTAL		346

PARKING PROVIDED:

STANDARD	339
CLUBHOUSE	13
TOTAL	352





GRAPHIC SCALE
0 100' 200'
(IN FEET)
1 inch = 100 ft.

SITE PLAN
SCALE: 1"=100'-0"

cross architects
PROJECT: # 24071

WOLCOTT APARTMENTS
MIDLAND, TEXAS

DATE: XX.XX.XX
A1.0
SITE PLAN
Copyright © 2024

Site Plan (Exhibit B)

STAFF'S RECOMMENDATION

- No objections received.
- The Planning & Zoning Commission recommended approval of this request on November 18, 2024.
- Staff recommends APPROVAL of this zone change from RR, Regional Retail, to MF-22, Multiple-Family Dwelling District.




MISSION
Deliver exceptional services and promote a high quality of life and place for ALL our citizens.

City Council Meeting

Item Number: 29

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Beatriz Quezada, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 7, BLOCK 22, GREENWOOD ADDITION, THIRD, FOURTH AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH CALHOUN STREET AND EAST NEW YORK 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)

Purpose:

The applicant, Louis Clay, is requesting a Zone Change from MF-22, Multiple-Family Dwelling District, to SF-3, Single-Family Dwelling District, to build a single-family dwelling at 511 South Calhoun Street.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority:

(Quality of Life and Place)

Discussion:

Current Zoning:

MF-22, Multiple-Family Dwelling District.

Surrounding Zoning and Land Use:

All adjacent lots are zoned MF-22, Multiple-Family Dwelling District. Surrounding land use includes single-family dwellings to the north, south and east and a vacant lot to the west.

Analysis:

The subject property is zoned MF-22, Multiple-Family Dwelling District. This district is intended to provide development of attached residential units up to 22 units per acre. Louis Clay is seeking this zone change to build a single-family dwelling on the vacant lot. The property does not meet the minimum lot dimension requirements for the MF-22, Multiple-Family Dwelling District but does meet all requirements of the SF-3, Single-family Dwelling District zoning. Approval of this zone change request would provide uniformity to the future residential development of this area.

The property previously had a structure that was demolished in August 2024. The abutting residence to the north of the property was built in 2017 by the applicant, Louis Clay.

This request is consistent with the Tall City Tomorrow Comprehensive Plan, Chapter 3, which designated this area as UR-M, Urban-Medium Neighborhood. This designation calls for any single-family zoning district.

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 objection to zoning.

Oil and Gas: (Approved)

No Oil & Gas Issues.

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:

Therefore, staff recommends approval of this Zone Change from MF-22, Multiple-Family Dwelling District, to SF-3, Single-Family Dwelling District.

Letters of Objection:

As of January 10, 2025, not received any letters of objection for this request.

Attachments:

Application
Site Plan
Maps
Power Point

Jose E. Ortiz

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 7, BLOCK 22, GREENWOOD ADDITION, THIRD, FOURTH AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH CALHOUN STREET AND EAST NEW YORK 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 Lot 7, Block 22, Greenwood Addition, Third, Fourth and Fifth Sections, City and County of Midland, Texas (the "Property") 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 MF-22, Multiple-Family Dwelling 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., 2025; 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., 2025, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2025.

_____
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:

_____
John Ohnemiller, City Attorney

MIDLAND Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: _____

Case Number: Z-24-0401

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Louis Clay		Phone (432) 631-2909 Email tallcityboss@yahoo.com	
Address 1215 Lynn	City Midland	State TX	Zip 79705

Property Owner Printed Name: Louis Clay		Phone (432) 631-2909 Email tallcityboss@yahoo.com	
Address 1215 Lynn	City Midland	State TX	Zip 79705

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone (432) 631-2909 Email	
Address	City	State	Zip

Street Address: 511 S. Calhoun

Legal Description
Lot: Block: Subdivision: Greenwood

Current Zoning: MF 22

Proposed Zone: SF-2
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Build a single family Home

Present Use of Property: MF 22

Proposed Use of Property: Build a single family home

How would this zone change affect the public health, safety and welfare? None

Describe how conditions affecting the property have changed since present zoning designation: None

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature): Louis Clay	Date: 11-20-2024
Applicant (printed): Louis Clay	
Property Owner (signature): Louis Clay	Date: 11-20-2024
Property Owner (printed) : Louis Clay	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear_____who, being by me duly sworn, upon oath says: That (s)he is the owner of _____or authorized by_____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this_____day of_____, 20____, to certify which witness my hand and seal of office.

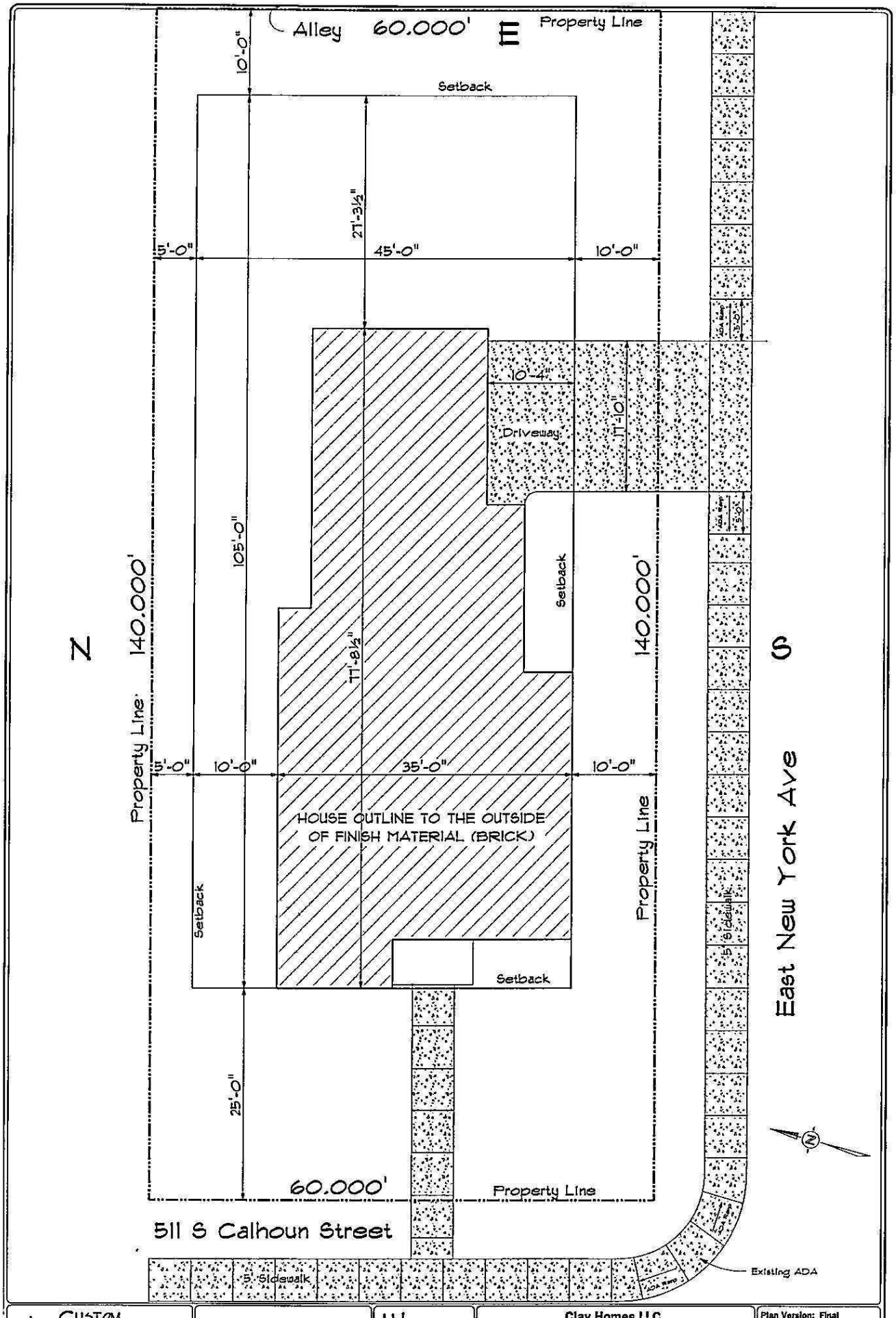
_____

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ Dimensioned Site Plan
☑ Application Fee	☑ Plans in Digital Format (PDF/JPEG)
Check # Invoice	
Received By:	Date: RECEIVED NOV 20 2024

****Application will not be considered for scheduling until reviewed by a planner.****



CUSTOM LIVING SPACES
RESIDENTIAL DESIGN
Kevin Rabenaldt
Midland & San Antonio, Texas
kevin.rabenaldt@yahoo.com
Cell 432.889.8872

511 S Calhoun Street
Lot 22 Blk 7
Greenwood Addition

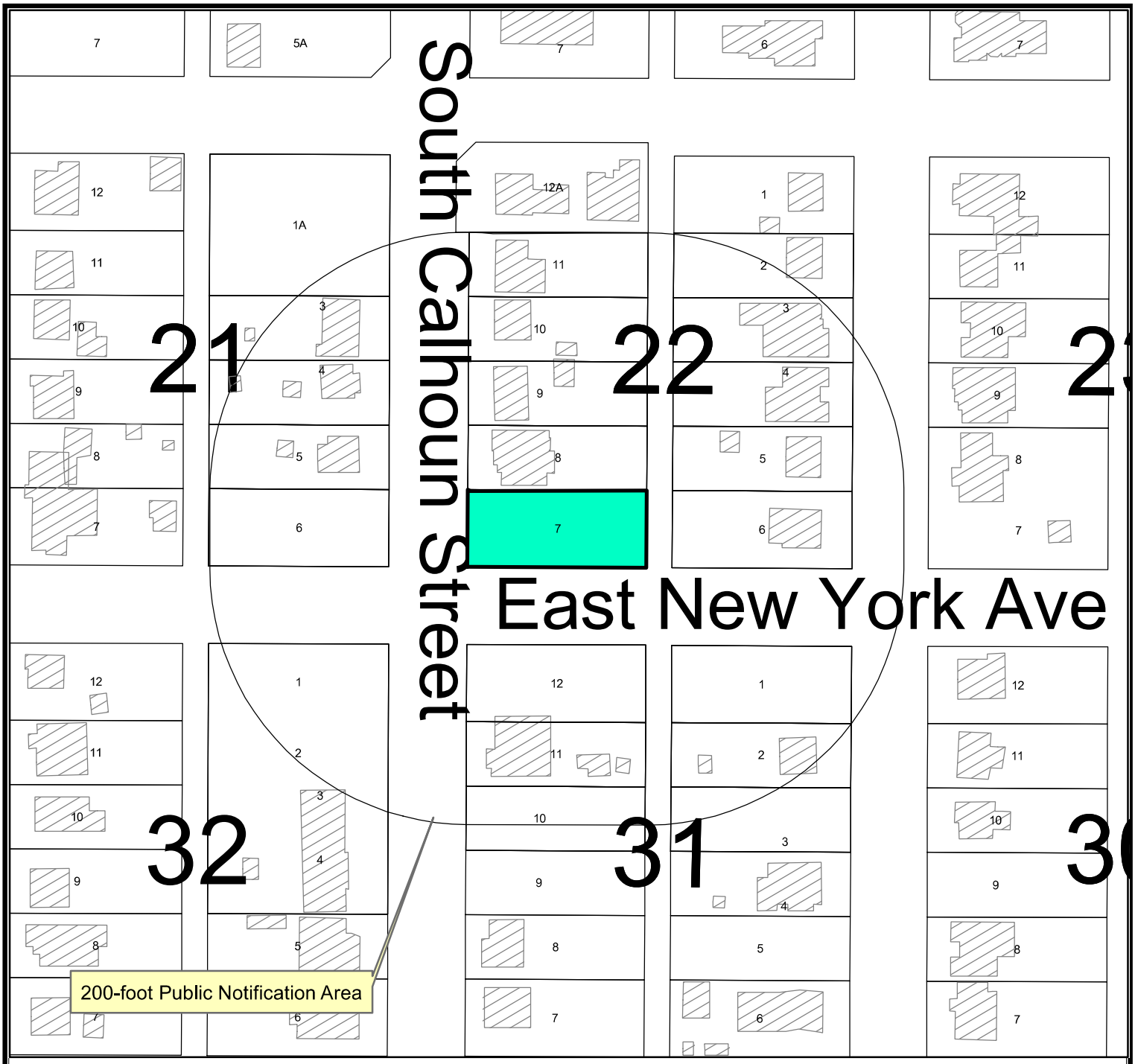
City of Midland,
Midland County, Texas

W

Clay Homes LLC
Odessa, Texas
1" = 10'
01 5 10 15 20 25 30
SCALE: 1" = 10'

Plan Version: Final
Date: 10-8-24
Print Date: 10/8/2024
511 S Calhoun Midland, Clay 7-24

SITE PLAN



Location Map

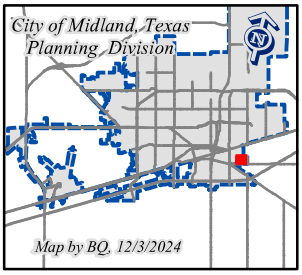
Z-24-0401 **Scale: 1" = 800'**

Consider a request by Louis Clay for a zone change from MF-22, Multiple-Family Dwelling District, to SF-3, Single-Family Dwelling District, on Lot 7, Block 22, Greenwood Addition, Third, Fourth and Fifth Sections, City and County of Midland, Texas.

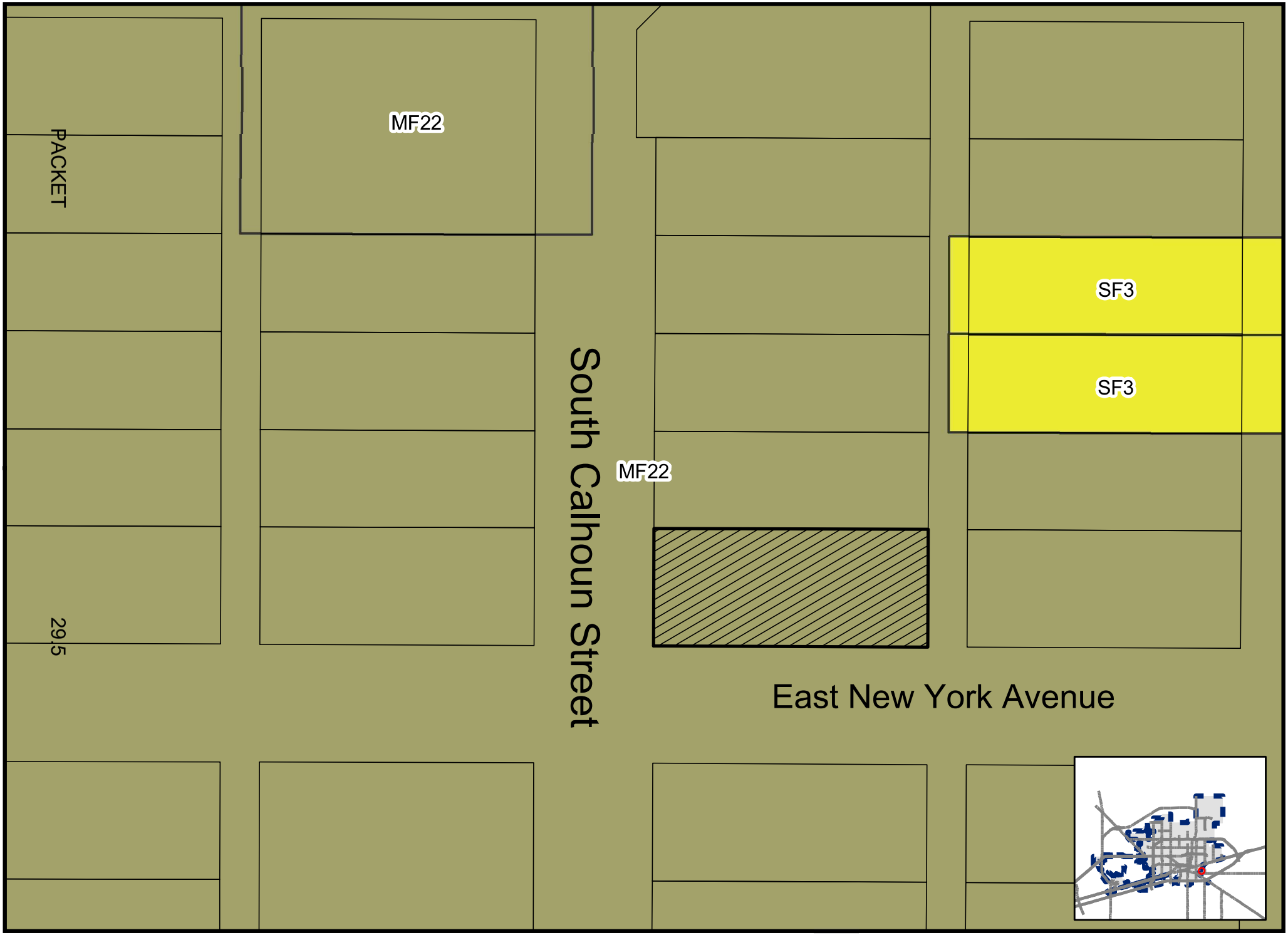
Generally located at the northeast corner of the intersection of South Calhoun Street and East New York Avenue. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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Map BQ, 12/3/2024

Z-24-0401

Scale: 1" = 600'

ZONING MAP

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2
2
3
1
2
3

PUBLIC NOTICE


MIDLAND
Be the Energy!
511 S Calhoun
ITEM#
Visit Our Website
MIDLANDTEXAS.GOV

APPLICATION SUMMARY

- **Property Owner/Applicant**: Louis Clay
- **Zone Change**
- **Address:** 511 S Calhoun
- **Reason for request:** To build a single-family dwelling unit.



ZONING

- **Current Zoning:** MF-22, Single-Family Dwelling District
- **Surrounding Zoning:**
  - **East/South/West:** MF-22, Single-Family Dwelling District
  - **North:** SF-3, Single-Family Dwelling District, MF-22, Single-Family Dwelling District
- **Proposed Zoning:** SF-3 Single Family Dwelling District.



MIDLAND
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LAND USE

- Current Use of the Property: Vacant
- Proposed Use of the Property: Residential
- Surrounding Uses:
- North: Residential
- South: Residential
- East: Residential
- West: Vacant



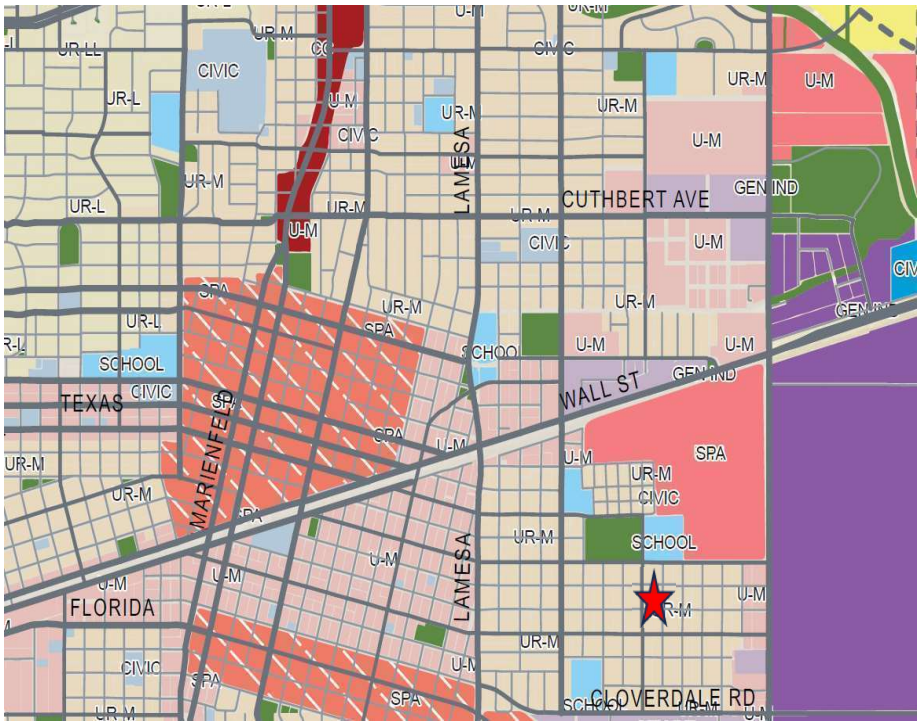
MIDLAND
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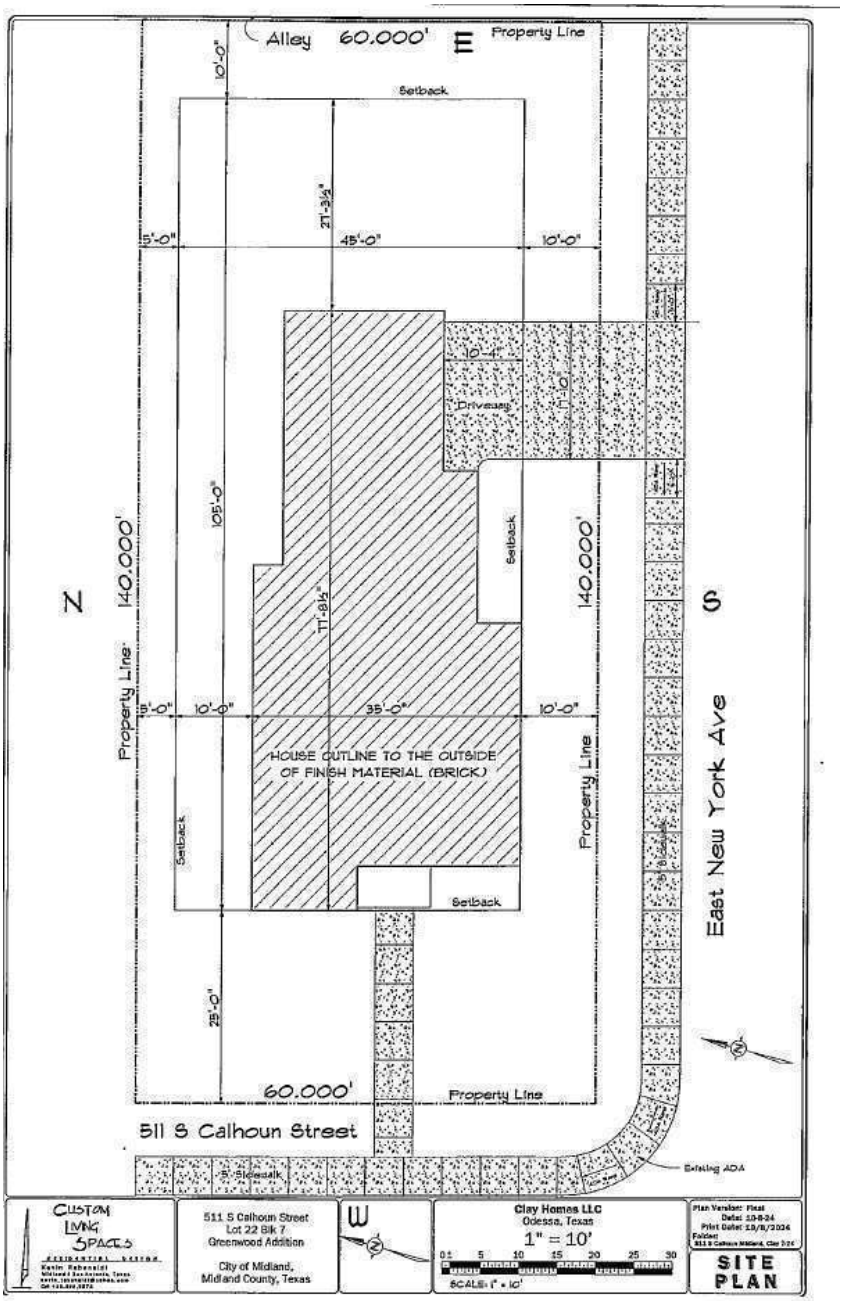
On S Calhoun, Looking east.

COMPREHENSIVE PLAN

- TCT Land Use Designation: Urban Residential- Medium (UR-M)
  Supported Uses:
  - Supports a mix of housing types including single-family detached, single-family attached and townhomes.
  - Request is compatible with the surrounding area and the Tall City Tomorrow Plan.



Site Plan (Exhibit A)



STAFF'S RECOMMENDATION

- No objections received.
- The Planning & Zoning Commission recommended APPROVAL of this request on December 16, 2024.
- Staff recommends APPROVAL of this zone change from MF-22, Multi-Family Dwelling District to SF-3, Single-Family Dwelling District.



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: January 14, 2025

To: City Council / City Manager

From: Beatriz Quezada, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 9, BLOCK 28, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MADISON STREET, APPROXIMATELY 100 FEET NORTH OF EAST WALL 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)

Purpose:

The applicant, Obsidian Reality, on behalf of Archie Williams Jr., is requesting a Zone Change from MF-22, Multi-Family Dwelling District, to SF-3, Single-Family Dwelling District, to build a single-family dwelling on the vacant lot located at 104 N Madison Street.

Recommended City Council Action:

Approve

Fiscal Impact:

None.

Strategic Priority:

(Quality of Life and Place)

Discussion:

Current Zoning:

MF-22, Multiple-Family Dwelling District.

Surrounding Zoning and Land Use:

The adjacent lots to the west, north, and south are all zoned MF-22, Multiple-Family Dwelling District. The lots to the east are zone Single-Family Dwelling District. The surrounded land use of the adjacent properties to the north, south, east and west are all residential. The zone change would not change the land use, and it will remain as residential.

Analysis:

The subject property is zoned MF-22, Multiple-Family Dwelling District. This district is intended to provide development of attached residential units up to 22 units per acre. Archie Williams Jr. with Obsidian Reality is seeking this zone change to construct a single-family dwelling on the vacant lot. The property does meet the requirement to build a single-family home in the proposed zone. Changing this zone would help the future residential development of this area.

This request is consistent with the Tall City Tomorrow Comprehensive Plan, Chapter 3, which designated this area as UR-M, Urban-Medium Neighborhood. This designation calls for any single-family zoning district.

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.

Oil and Gas: (Approved)

No Oil & Gas well concern for Zoning.

Informational: Future plats will need to identify any Oil or Gas wells and include 500 ft. radius for a city permitted well or the 135 ft. radius for non-permitted well radius on plat. Please note if oil & gas wells are not identified or left off a plat, this could prevent receiving city permits for structures. Any plugged and abandoned (P&A) well would need to be identified with comments- No structure shall be built over an abandoned well.

Engineering: (Approved)

No objection to zone change. 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 entirely 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. An elevation certificate based off of finish construction will be required for the Certificate of Occupancy.

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:

Therefore, staff recommends the approval of this zone change from MF-22, Multiple-Family Dwelling District, to SF-3, Single-Family Dwelling District.

Letters of Objection:

As of January 10, 2025, Staff has not received any letters of objection.

Attachments:

Application
Maps
Power Point

Jose E. Ort

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 9, BLOCK 28, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MADISON STREET, APPROXIMATELY 100 FEET NORTH OF EAST WALL 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 Lot 9, Block 28, Moody Addition, City and County of Midland, Texas (the "Property") 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 MF-22, Multiple-Family Dwelling 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., 2025; 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., 2025, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2025.

_____
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:

_____
John Ohnemiller, City Attorney

MIDLAND Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: _____

Case Number: Z-24-0402

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Archie L Williams JR		Phone (432) 889-7437 Email ARCHIEWILLIAMS2004@YAHOO.COM	
Address 2204 N D ST	City MIDLAND	State TEXAS	Zip 79705

Property Owner Printed Name: Archie L Williams JR		Phone (432) 889-7437 Email ARCHIEWILLIAMS2004@YAHOO.COM	
Address 2204 N D	City MIDLAND	State TX	Zip 79705

Representative *(if different from Applicant or Property Owner)* Firm: OBSIDIAN REALTY Printed Name:		Phone ( ) Email	
Address 426 W SHANDON	City MIDLAND	State TX	Zip 79705

Street Address:

Legal Description
Lot: 9 Block: 28 Subdivision: MOODY ADDITION

Current Zoning: 1	**Proposed Zone:** *(List by tracts if more than one district is requested)*

Reason for Zone Change Request: CITY WILL NOT ALLOW MF2

Present Use of Property: LOT

Proposed Use of Property: RESIDENTIAL HOUSE

How would this zone change affect the public health, safety and welfare? NONE

Describe how conditions affecting the property have changed since present zoning designation: NONE

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature): Archie Williams JR	Date: 11/20/24
Applicant (printed): Archie Williams JR	
Property Owner (signature): Archie Williams JR	Date: 11/20/24
Property Owner (printed) : Archie L Williams JR	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear_____who, being by me duly sworn, upon oath says: That (s)he is the owner of _____or authorized by_____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this_____day of_____, 20____, to certify which witness my hand and seal of office.

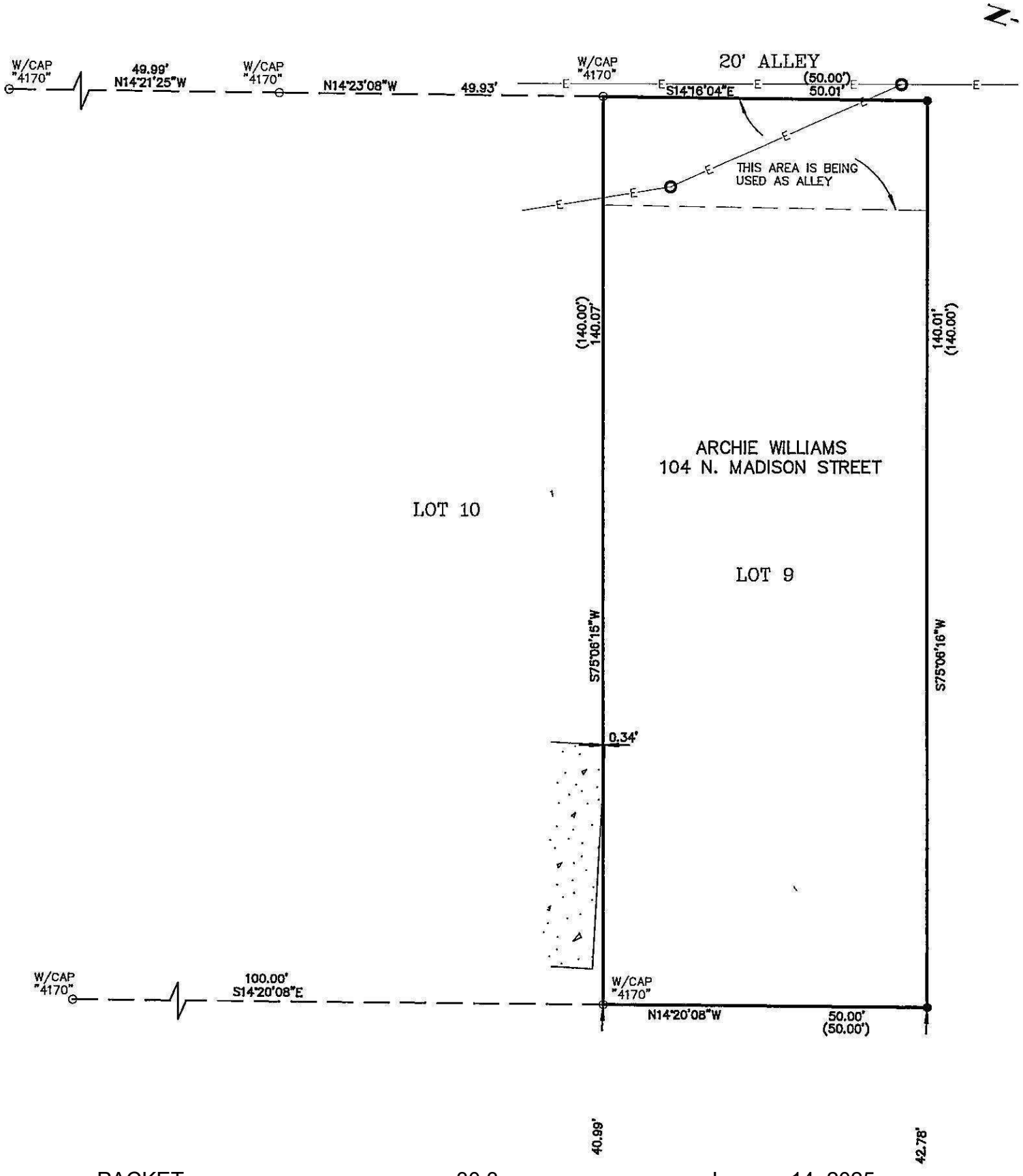
_____
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

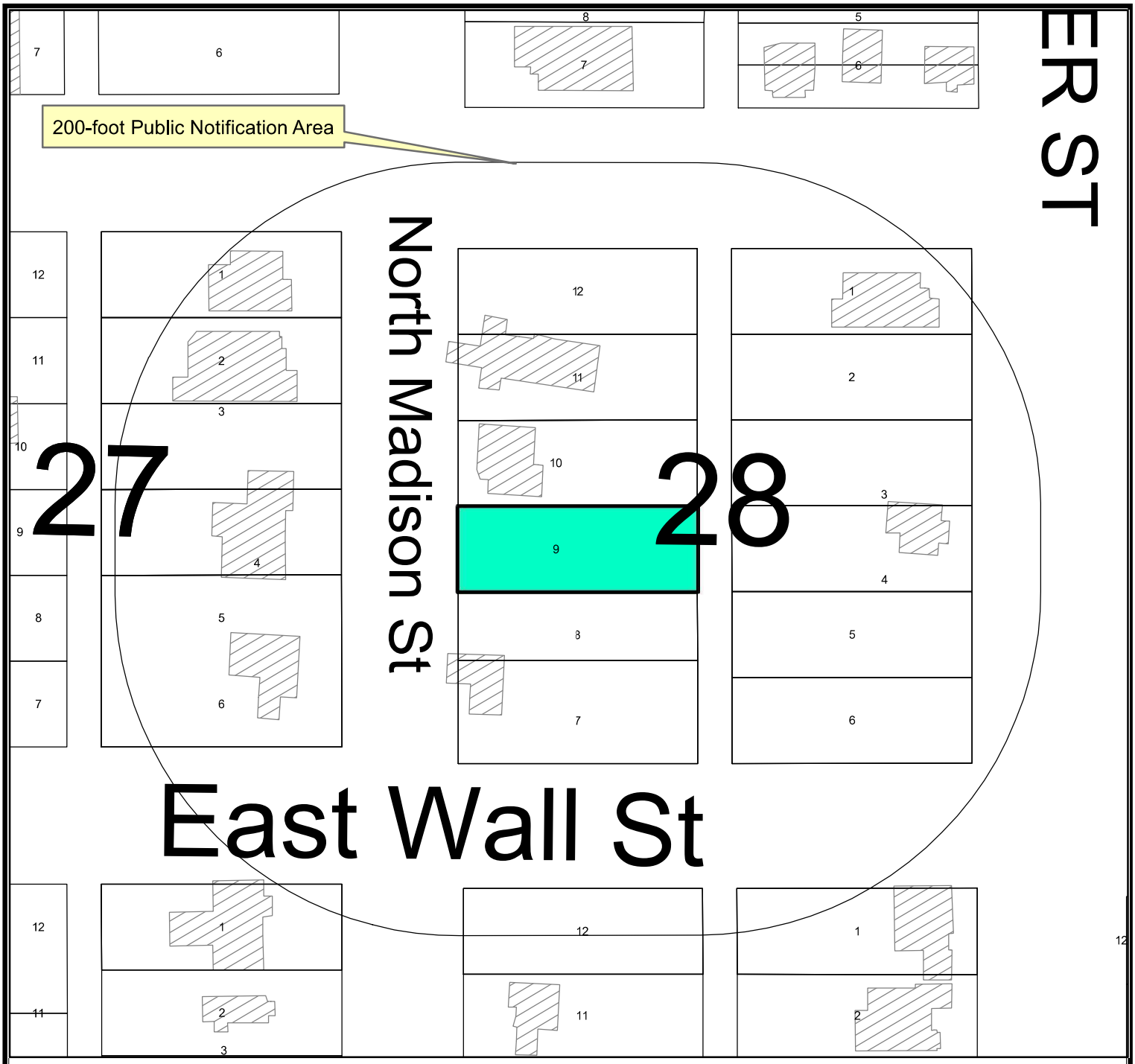
FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ Dimensioned Site Plan
☑ Application Fee	☑ Plans in Digital Format (PDF/JPEG)
Check # Invoice	
Received By:	Date: NOV 20 2024

Application will not be considered for scheduling until reviewed by a planner.

COPYRIGHT 2024
This survey plat is being provided solely for the use of: Archie Williams
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 April 18, 2024,
which shall take place within 90 days after the survey was provided.





Location Map

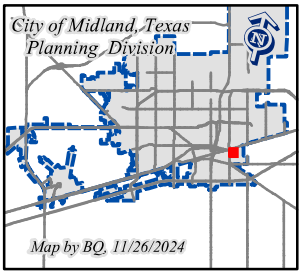
Z-24-0402 **Scale: 1" = 600'**

Consider a request by Obsidan Reality for a zone change from MF-22, Multiple-Family Dwelling District, to SF-3, Single-Family Dwelling District, on Lot 9, Block 28, Moody Addition, City and County of Midland, Texas.

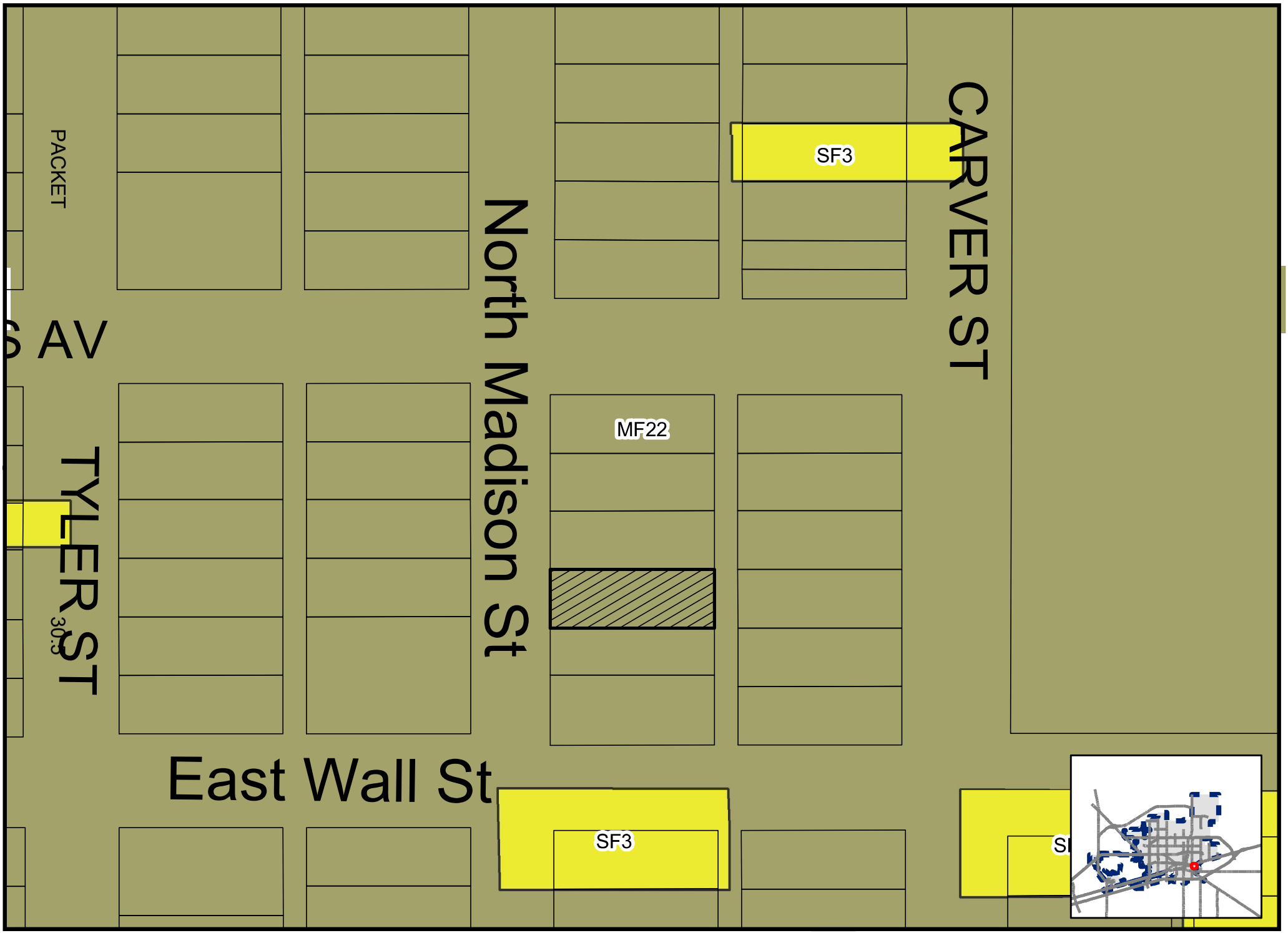
Generally located on the east side of North Madison Street, approximately 100 feet north of East Wall Street. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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Map BQ, 11/26/2024

Z-24-0402

Scale: 1" = 800'

ZONING MAP

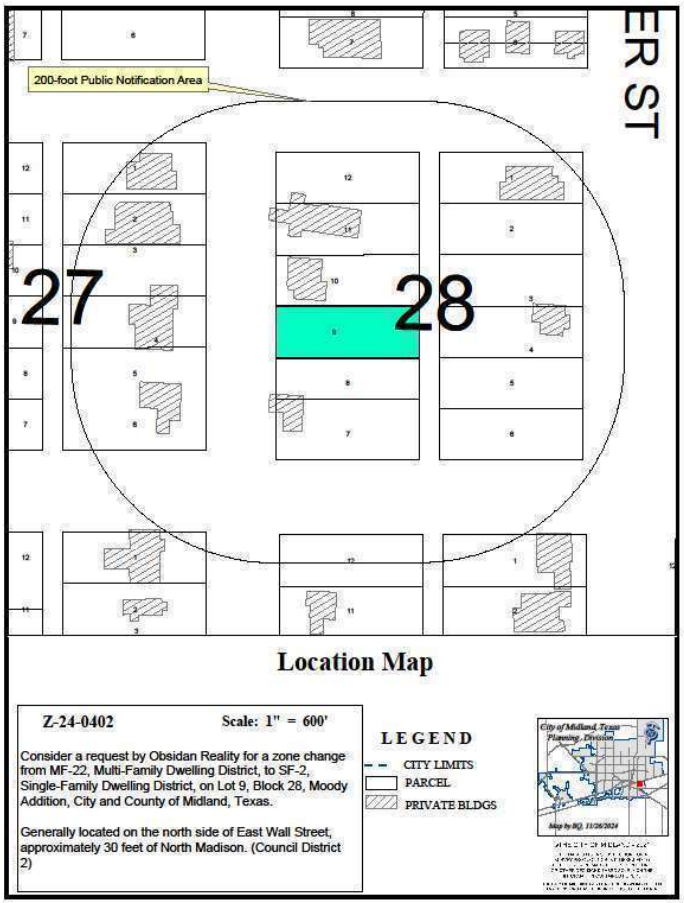
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104 N Madison
ITEM#
30.1
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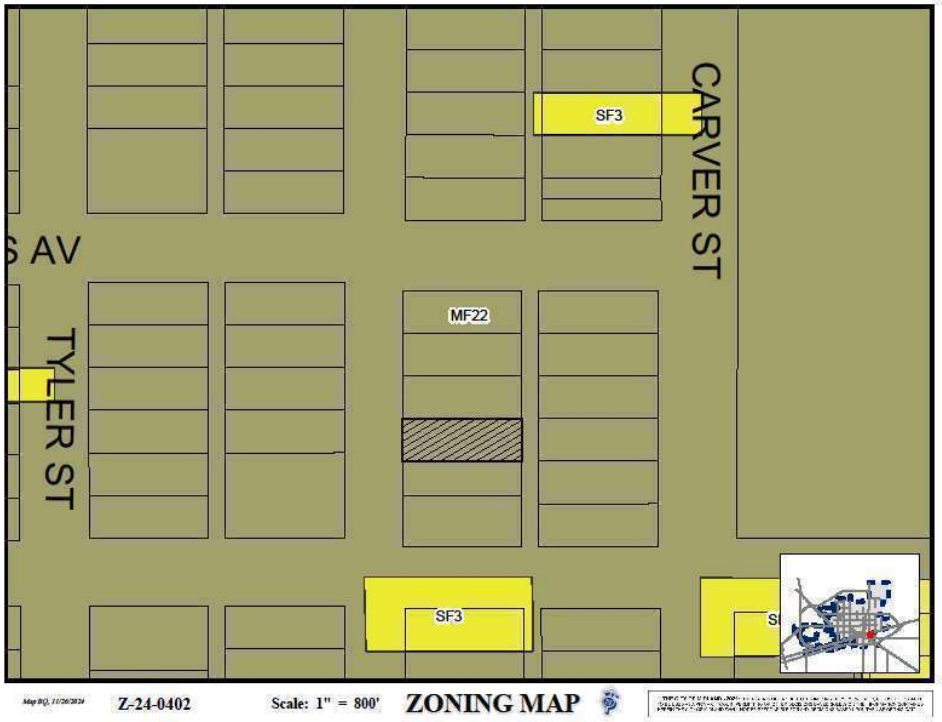
APPLICATION SUMMARY

- **Property Owner/Applicant**: Archie L Williams
- **Representative:** Obsidian Reality
- **Zone Change**
- **Address:** 104 N Madison Street
- **Reason for request:** To build a single-family dwelling unit.



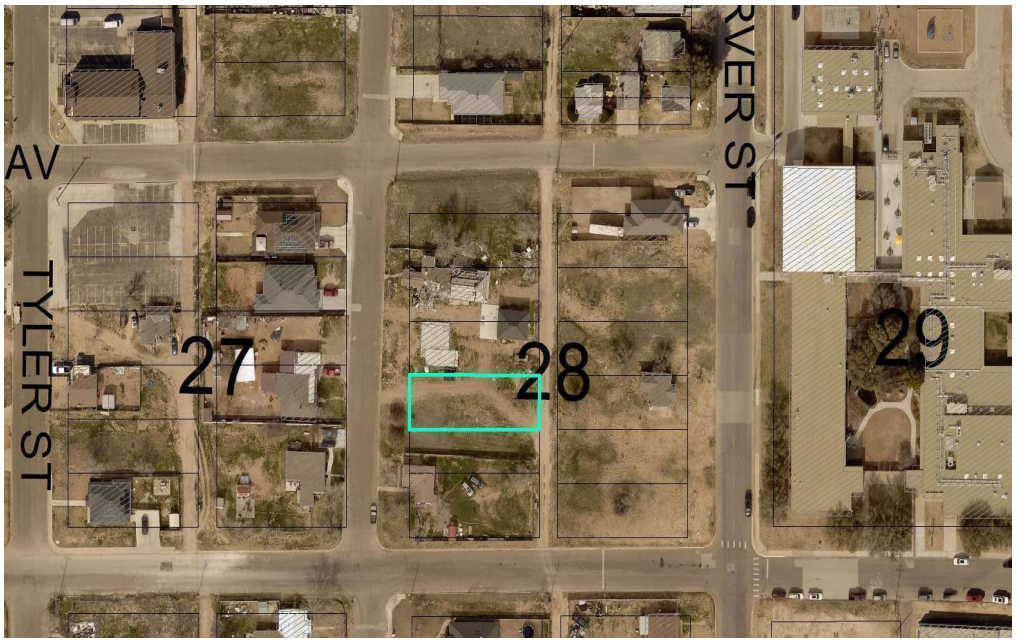
ZONING

- **Current Zoning: MF-22, Single-Family Dwelling District**
- **Surrounding Zoning:**
  - **North/East/West:** MF-22, Single-Family Dwelling District
  - **South:** SF-3, Single-Family Dwelling District, MF-22, Single-Family Dwelling District
- **Proposed Zoning:** SF-3, Single Family Dwelling District.



LAND USE

- **Current Use of the Property:** Vacant
- **Proposed Use of the Property:** Residential
- **Surrounding Uses:**
  - North: Residential
  - South: Residential
  - East: Vacant
  - West: Residential



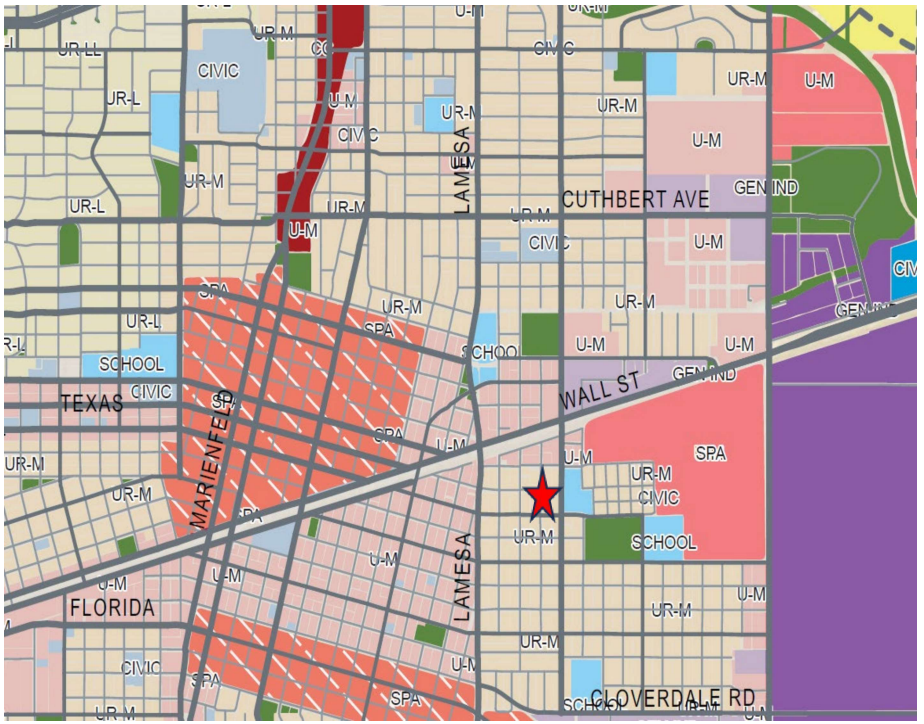
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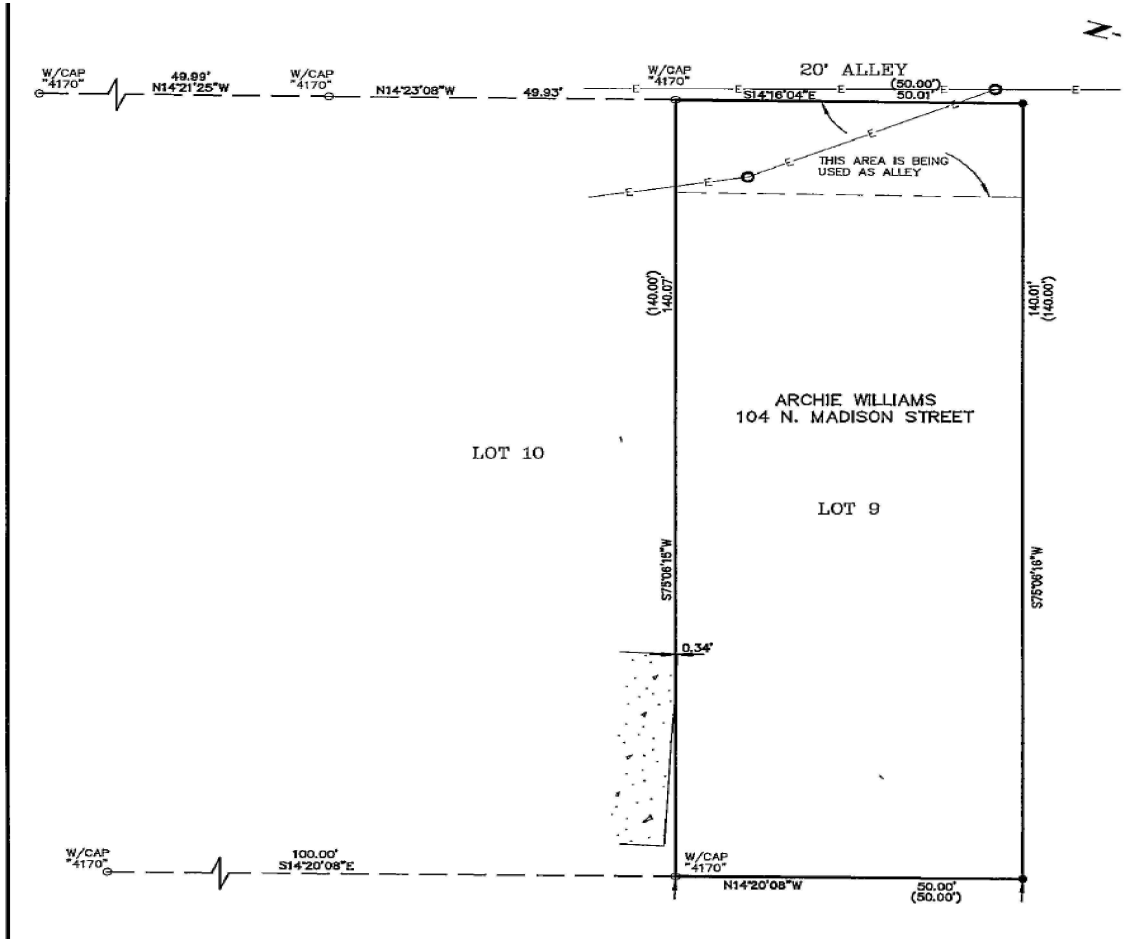
On North Madison, Looking south.

COMPREHENSIVE PLAN

- TCT Land Use Designation: Urban Residential- Medium (UR-M)
  Supported Uses:
  - Supports a mix of housing types including single-family detached, single-family attached and townhomes.
  - Request is compatible with the surrounding area and the Tall City Tomorrow Plan.



MIDLAND
Be the Energy!



Site Plan (Exhibit A)

STAFF'S RECOMMENDATION

- No objections received.
- The Planning & Zoning Commission recommended APPROVAL of this request on December 16, 2024.
- Staff recommends APPROVAL of this zone change from MF-22, Multi-Family Dwelling District to SF-3, Single-Family Dwelling District.



MISSION

Deliver exceptional services and promote a high quality of life and place for ALL our citizens.



City Council Meeting

Item Number: 31

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Alexis M. 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 LOT 2, BLOCK 1, 349 RETAIL ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH STATE HIGHWAY 349, APPROXIMATELY 330 FEET NORTH OF TEJAS), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE 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 1) (DEVELOPMENT SERVICES) (QUALITY OF LIFE AND PLACE)

Purpose:

The applicant, Philly's Golf Club, LLC, is requesting a Specific Use Designation (SUD) with Term for alcoholic beverages sales for on-premises consumption in a lounge on a property located at 6409 North Highway 349.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the City.

Strategic Priority:

(Quality of Life & Place)

Current Zoning:

RR, Regional Retail District

Surrounding Zoning and Land Use:

The properties to the north and west are zoned RR, Regional Retail District. The properties to the south are zoned PD, Planned Development District for shopping center and PD, Planned Development District for Industrial District to the east. The properties east, north and west are vacant and the property to the south is the location of a Dollar Tree.

Analysis:

The property is zoned RR, Regional Retail District. The RR zoning allows for alcoholic beverages sales for on-premises consumption in a lounge with the approval of an SUD. The total area of the lounge, Philly's Golf Club, is 8,500-square feet and the proposed alcohol serviceable area is 5,750-square feet.

The proposed hours of operation:

Monday through Sunday from 8 a.m. to 2 a.m.

The proposed hours of alcohol service:

Monday through Saturday from 8 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 churches, private schools, public schools, public school grounds, athletic stadium, public hospital within 300 feet measurement along the property lines of the street fronts, and from the front door in a direct line across intersection where they occur within this site.

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." Philly's Golf Club is a destination where Midland residents will gather and socialize.

This project has been circulated to all City departments for review. Below are the department comments.

Fire: (Approved)

All future development shall meet the requirements of IFC 2015 ed. and local ordinances.

Engineering: (Approved)

No objection.

Transportation: (Approved)

No objection.

Building Code: (Approved)

The SUD for Philly's Golf Club is acceptable. The property must adhere to the maximum occupant load of 380 persons for the alcohol serviceable area. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning: (Approved with Conditions)

This request meets all requirements; therefore, staff recommends approval of the request of the Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, subject to Conditions A through G.

Conditions:

A. That the serviceable area of the Establishment shall be limited to approximately 5,750 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 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.

A. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

B. 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.

C. 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 January 13, 2024, staff has received no letters of objection.

Attachments:

Application
Floor Plan (Exhibit A)
Site Plan
Maps
PowerPoint

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOT 2, BLOCK 1, 349 RETAIL ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH STATE HIGHWAY 349, APPROXIMATELY 330 FEET NORTH OF TEJAS), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE 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 Lot 2, Block 1, 349 Retail 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 lounge (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 5,750 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 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., 2025; 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., 2025, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2025.

_____
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:

_____
John Ohnemiller, City Attorney

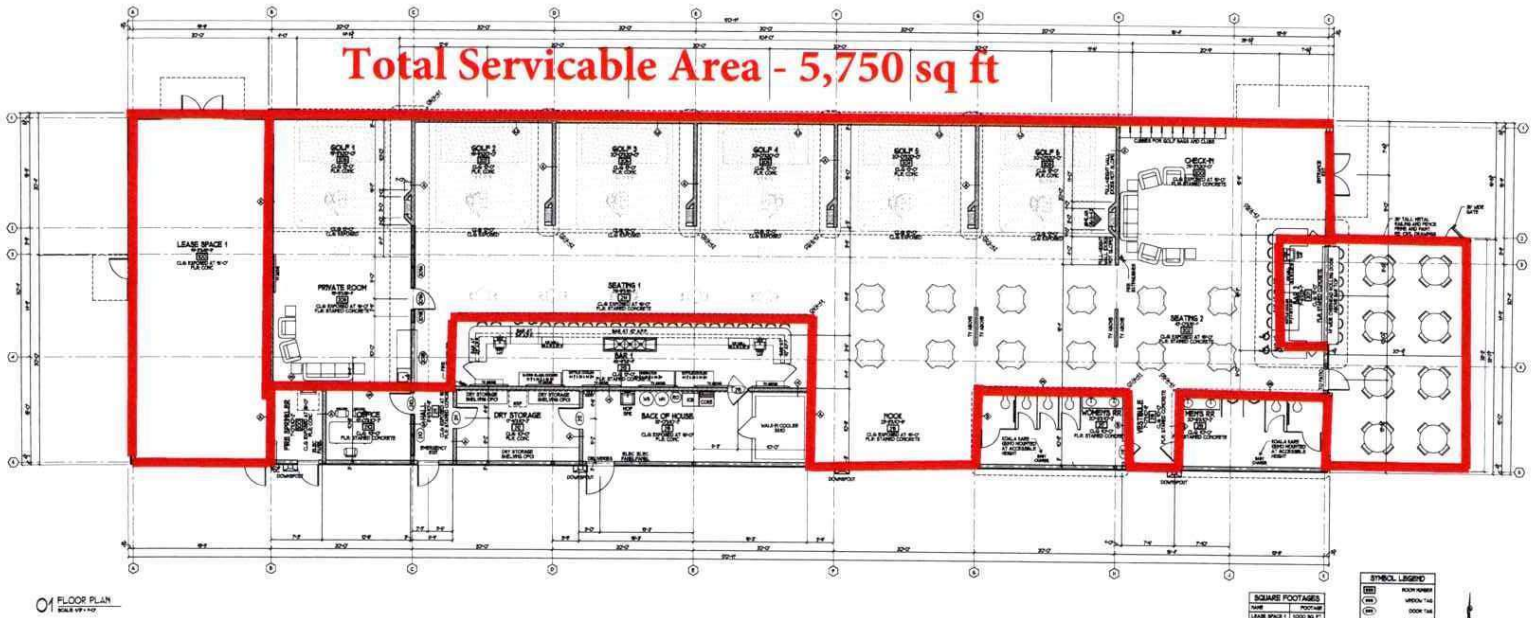


EXHIBIT "A"

DATE
8/1/2024
REVISION
DRAWN BY
LUIS

DESIGN & DRAFTING BY:
CORNERSTONE DESIGN GROUP
PHONE: (432)664-8005

SHEET TITLE
FLOOR PLAN

7/31/2024
LUIS DELVALLE
REGISTERED ARCHITECT
STATE OF TEXAS
LUIS R. DELVALLE
1403 NEW MEXICO
ARCH NORTH MIDKIFF ROAD
MIDLAND, TEXAS 79705

PHILLY'S GOLF CLUB
SUITE 2 - 6409 NORTH 349
MIDLAND, TEXAS 79707
PROJECT NUMBER: 24002

SHEET NUMBER
A-2.1
SHEET 2 OF 5

08/01/24 - 03:09 PM

MIDLAND
Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: _____

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: RYAN HERNANDEZ PHILLY'S GOLF CLUB, LLC		Phone (432) 556-8156 Email ryan@ovisenergyllc.com	
Address 1908 WASHITA	City MIDLAND	State TX	Zip 79705

Property Owner Printed Name: Fierce Property Investments		Phone (432) 413-3079 Email	
Address 4416 Briarwood Ave	City Midland	State TX	Zip 79707

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address: 6409 N HWY 349 SUITE #1 MIDLAND, TEXAS 79705

Business Name: PHILLY'S GOLF CLUB

Legal Description
Lot: Block: Subdivision:

Current Zoning:

Reason for Request: WE WOULD LIKE TO BE ABLE TO OFFER OUR GUESTS A DRINK.

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*: ENTERTAINMENT/LOUNGE

Proposed/Current Days and Hours of Operation: 11AM - 12AM , Sometimes 12AM-2AM

Proposed Days and Hours of Alcohol Service: 11AM- 12AM, Sometimes 12AM-2AM

Total Square Footage of Business: 8500 sqft

Square Footage of Alcohol Serviceable Area: [redacted] ~5,750

Restroom Fixtures:			
Men	**Toilets/Urinals:** 2 1 2	**Bathroom Sinks:** 2
Women	**Toilets:** 4	**Bathroom Sinks:** 2

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seating
  - Exits
  - Restrooms
  - Kitchen (if applicable)
  - Total Square Footage
  - Serviceable Square Footage
- Dimensioned Site Plan showing:
  - Parking
  - Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature): _____ Date: 10/25/24

Applicant (printed): RYAN HERNANDEZ

Property Owner (signature): _____ Date: 10/25/24

Property Owner (printed): Christopher M. Butler 10/25/24

The Specific Use Designation with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Ryan Hernandez who, being by me duly sworn, upon oath says: That (s)he is authorized by Christopher Butler the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

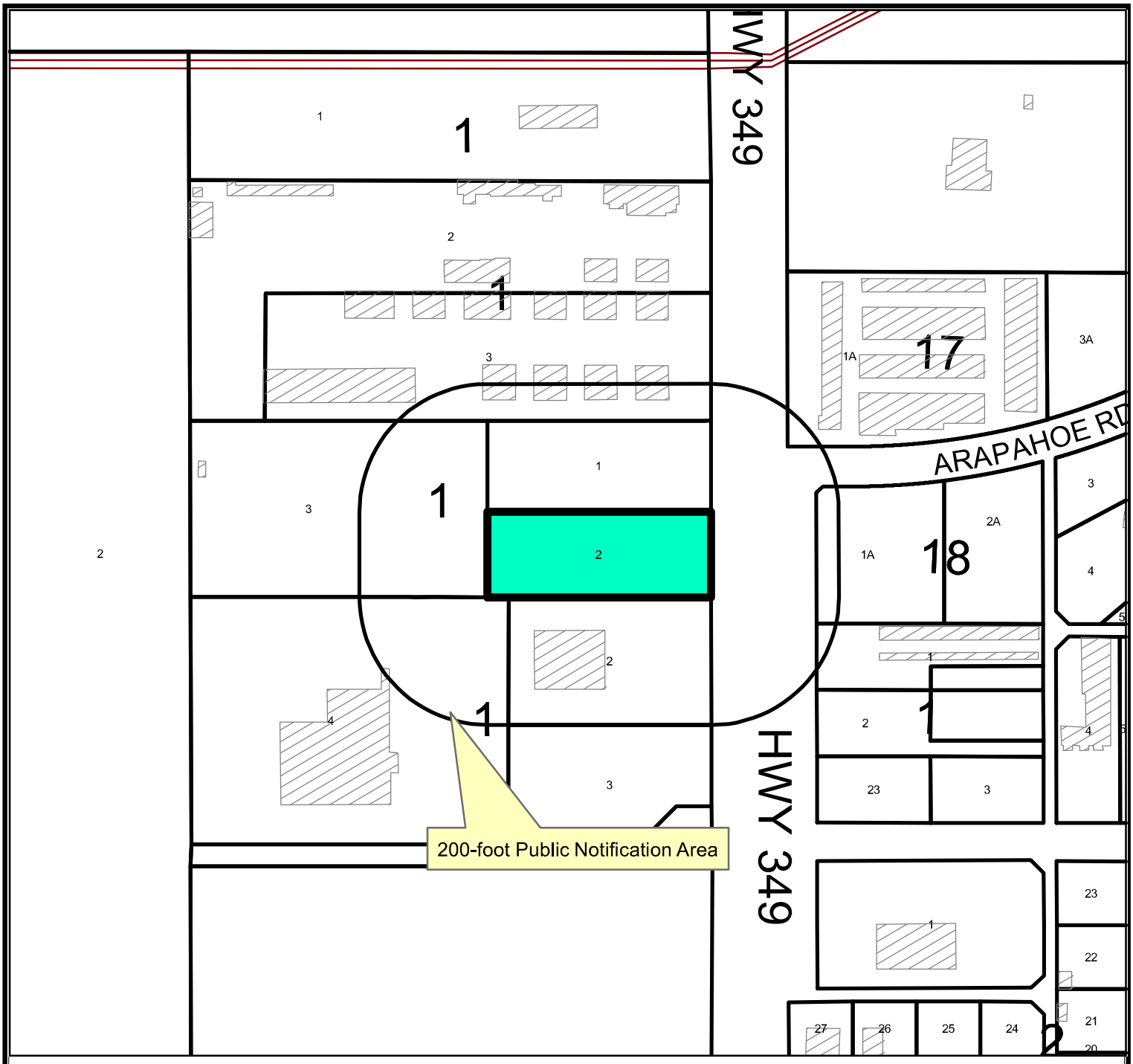
_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 11 day of November 2024 to certify which witness my hand and seal of office.

REBEKKAH HERNANDEZ
Notary Public, State of Texas
Comm. Expires 03-06-2026
Notary ID 130786238

_____
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

Application will not be considered for scheduling until reviewed by a planner.



Location Map

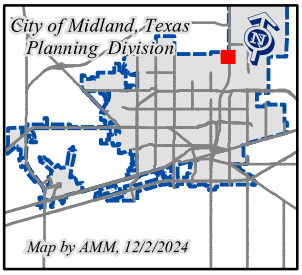
SUD-24-0190 **Scale: 1" = 684'**

Consider a request by Philly's Golf Club, LLC for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages for on premises consumption in a lounge on Lot 2, Block 1, 349 Retail Addition, City and County of Midland, Texas.

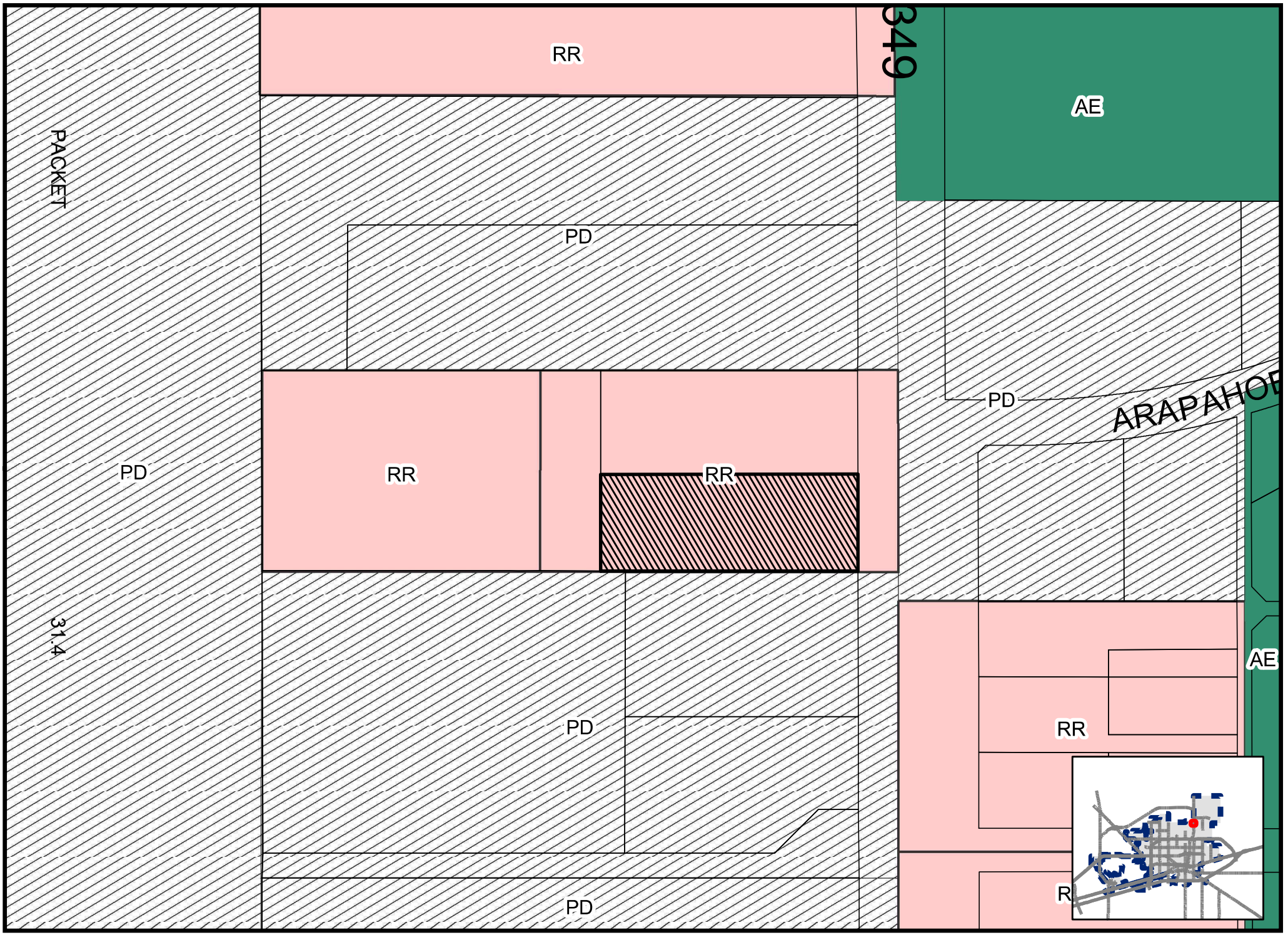
Generally located on the west side of North Highway 349, approximately 330 feet north of Tejas. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND NOR IS IT DESIGNED TO BE USED AS THE ONLY 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 AMM, 12/2/2024

SUD-24-0190

Scale: 1" = 977'

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.

PHILLY'S GOLF CLUB
SUITE 2 - 6409 NORTH 349
MIDLAND, TEXAS 79707
PROJECT NUMBER 24002
FLOOR PLAN
SHEET NUMBER
A-2.1
CORNERSTONE DESIGN GROUP
DESIGN & DRAFTING BY
PHONE (432)694-4005
DATE
8/1/2024
REVISION
DRAWN BY
LMS
SYMBOL LEGEND
WALL LEGEND
SQUARE FOOTAGES
Total Servicable Area - 5,750 sq ft
01 FLOOR PLAN

ARAPAHOE RD
17
18
HWY 349

NO PARKING FIRE LANE

PACKET

MIDLAND
Be the Energy!

PHILLY'S GOLF CLUB

ITEM
SPECIFIC USE DESIGNATION WITH TERM

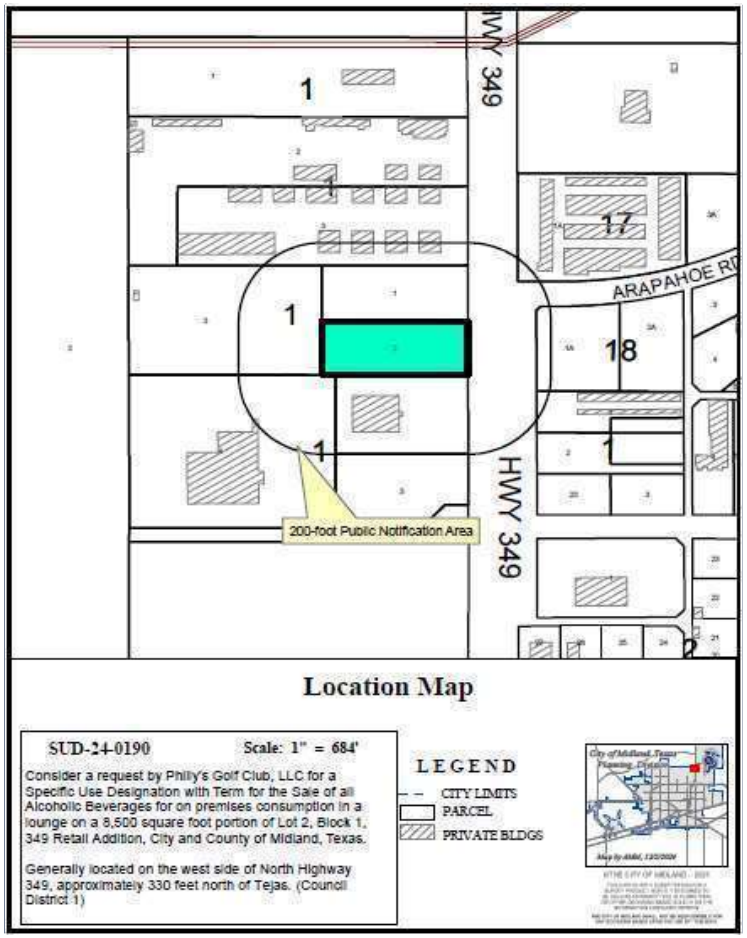
31.1

January 14, 2025

Visit Our Website
MIDLANDTEXAS.GOV

APPLICATION SUMMARY

- **Property Owner:** Fierce Property Investments
- **Applicant:** Ryan Hernandez
- **Application Type:** Specific Use Designation With Term
- **Address:** 6409 North Highway 349 (District 1)



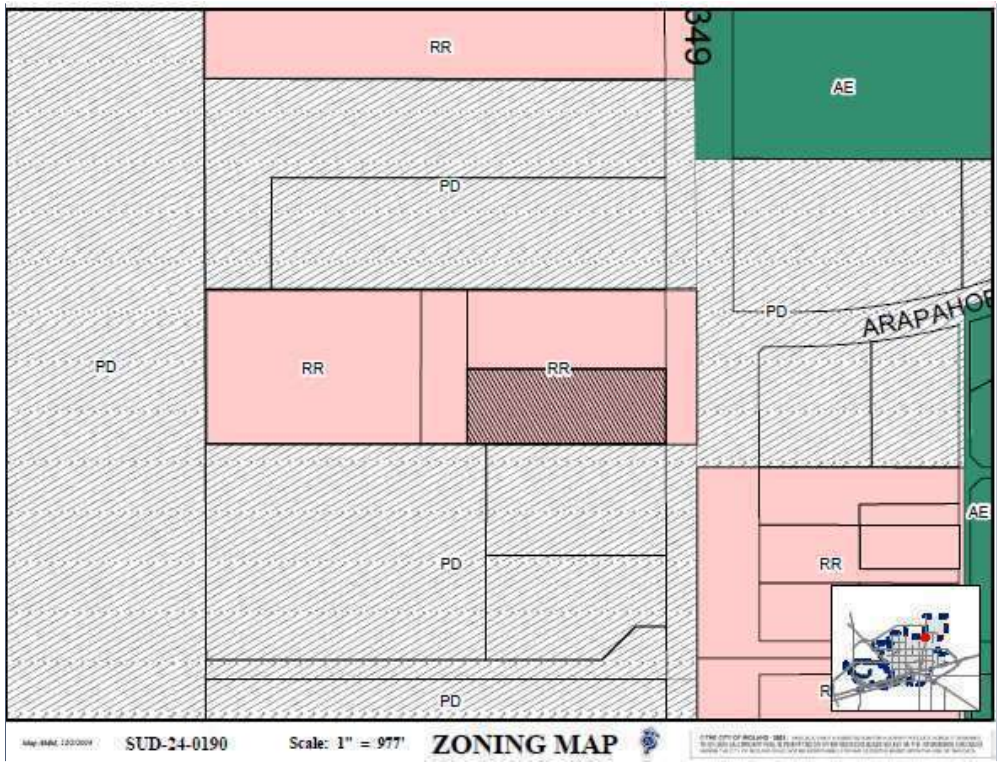
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ZONING

Current Zoning: RR, Regional Retail District

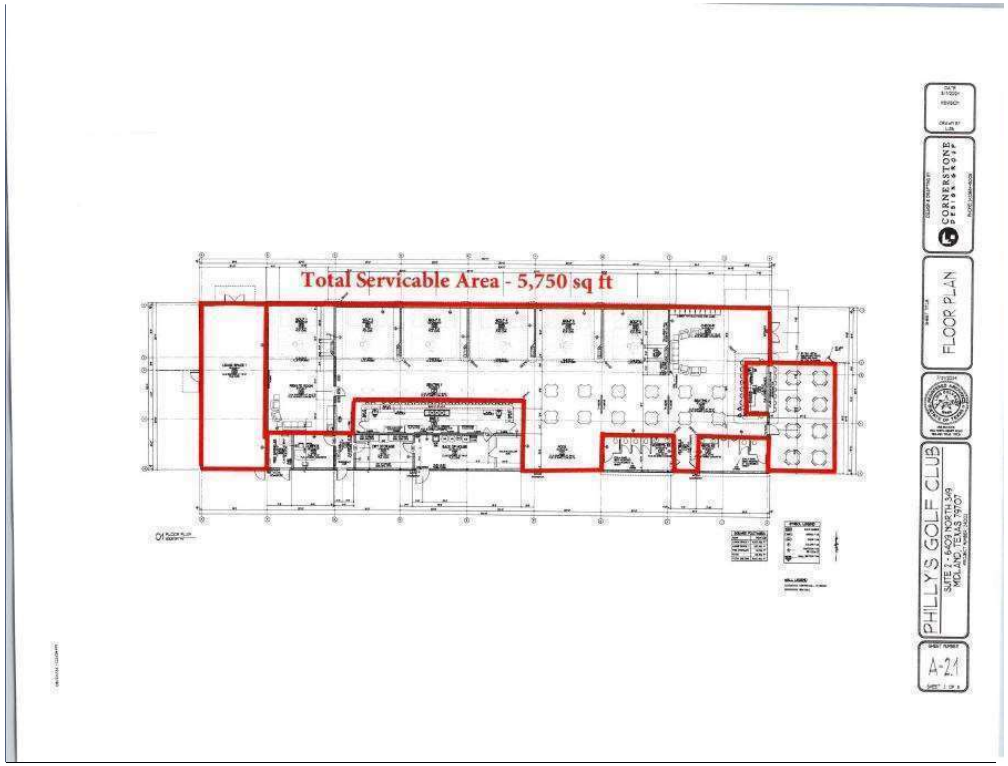
Surrounding Zoning:

- **North/West:** RR, Regional Retail District
- **South:** PD, Planned Development District for shopping center
- **East:** PD, Planned Development District for Industrial District



SUD DETAILS

- **Square Footage of SUD:** 5,750 sq ft
- **Proposed Days and Hours of Operation:**
  - Monday – Saturday, 8 a.m. to 2 a.m.
- **Proposed Days and Hours of SUD:**
  - Monday – Saturday, 8 a.m. to 2 a.m.
  - Sundays, 10 a.m. to 2 a.m.
- **Section 5-4-4 Compliance:** There is no church, public-school, public-school ground, athletic stadium used by any public school, or public hospital within 300 ft of the building of the subject property.



MIDLAND
Be the Energy!

LAND USE

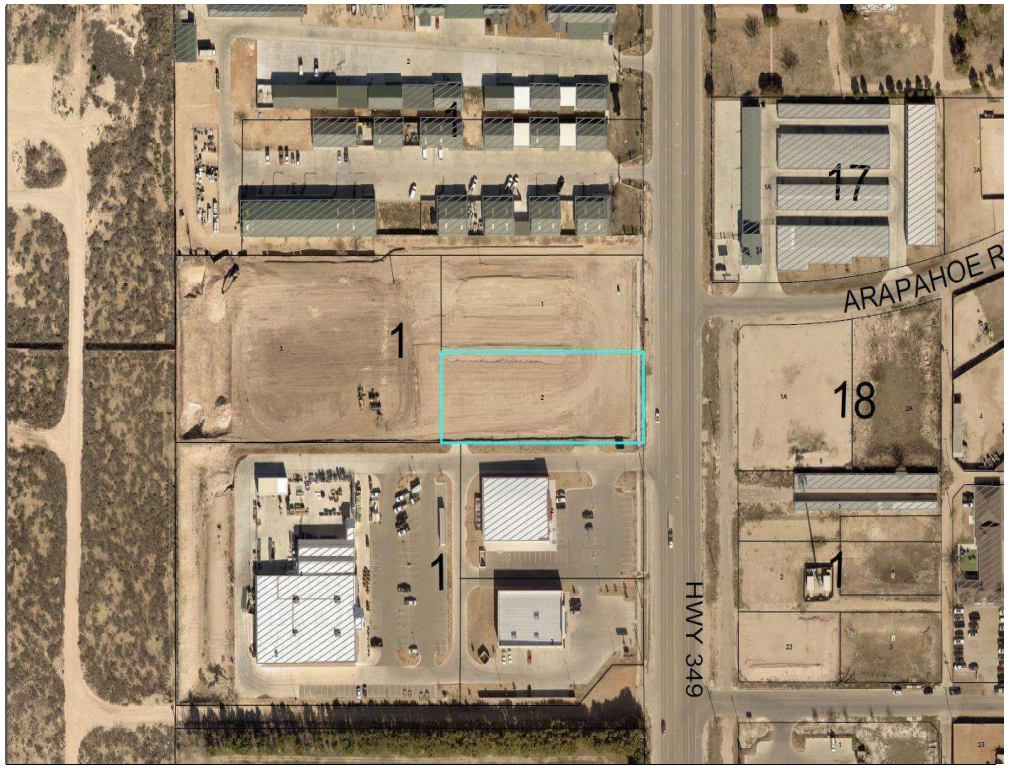
- **Current Use of the Property:** Vacant

- The use of Alcohol is allowed with a Specific Use Designation per the Use Chart in Section 11-1-4.03.

- **Surrounding Uses:**

  - **North/East/West:** Vacant

  - **South:** Commercial use



MIDLAND
Be the Energy!



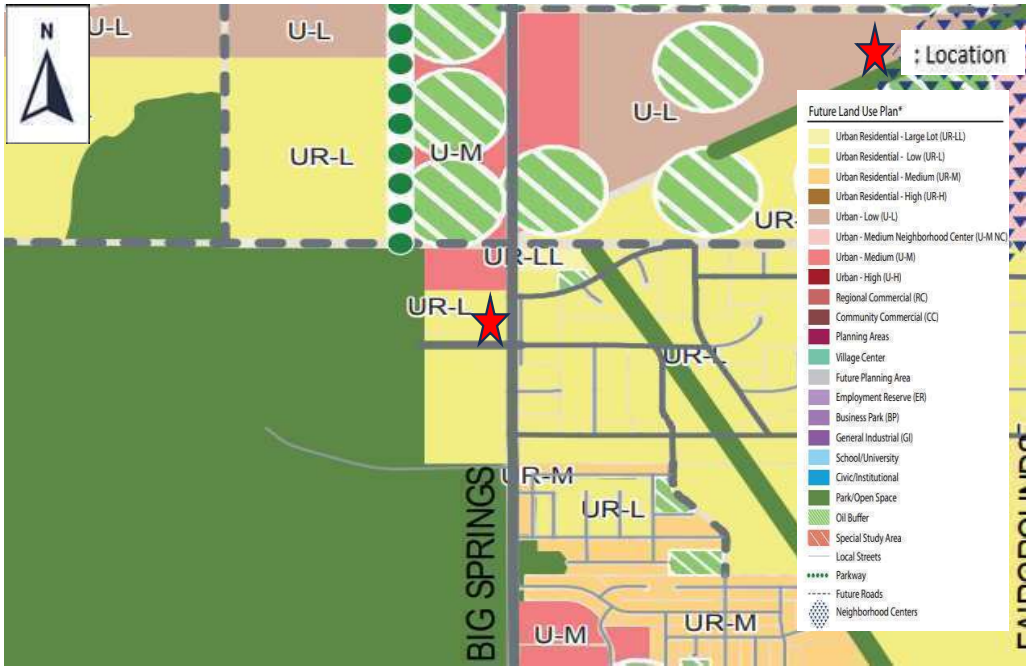
LAND USE

On North Highway 349, Looking West

MIDLAND
Be the Energy!

COMPREHENSIVE PLAN ANALYSIS

- **TCT Land Use Designation:** UR-L, Urban Residential- Low
- **Supported Uses**
  - Restrictive land use, emphasizing single-family detached development, although innovative single-family forms may be permitted with special review. Civic uses are generally allowed, with special permission for higher intensity uses. Developments will be provided with full city services. .
- Request is **compatible** with the surrounding area and the Tall City Tomorrow Plan.



STAFF RECOMMENDATION

- No objections have been received.
- Staff recommends **APPROVAL** of this Specific Use Designation With Term for a restaurant subject to the following conditions.
- **That the serviceable area of the Establishment shall be limited to approximately 5,750 square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.**
- **That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.**
- **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 2:00 a.m. of the following day; and Sunday from 10:00 a.m. to 2:00 a.m. of the following day.



STAFF RECOMMENDATION

- That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.
- That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.
- 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.
- 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: **32**

Meeting Date: **January 14, 2025**

To: **City Council / City Manager**

From: **Jamie Barton,**

Subject: **DISCUSSION AND CONSIDERATION OF ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE AND SALE OF "CITY OF MIDLAND, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2025," INCLUDING THE ADOPTION OF AN ORDINANCE AUTHORIZING THE ISSUANCE OF SUCH BONDS, ESTABLISHING PARAMETERS FOR THE SALE AND ISSUANCE OF SUCH BONDS AND DELEGATING CERTAIN MATTERS TO AN AUTHORIZED OFFICIAL OF THE CITY (DISTRICT: NONE) (FINANCE) (PROVIDE SOUND GOVERNANCE & FISCAL MANAGEMENT)**

Purpose:

Adoption of an ordinance for the refunding of outstanding obligations of the City for the following issue or series, to wit: City of Midland, Texas, Tax and Limited Pledge Revenue Certificates of Obligation, Series 2016, Dated September 15, 2016.

Recommended City Council Action:

Approve

Fiscal Impact:

Total issuance size for the City of Midland, Texas General Obligation Refunding Bonds, Taxable Series 2016 is a not-to-exceed $22 million. The refunding will produce a Minimum net present value of at least 3.0% for remaining term of the bonds. Fees incidental to the sale of the bonds will be paid from bond proceeds.

Strategic Priority:

(Provide Sound Governance & Fiscal Management)

Discussion:

This bond issuance will refund, on a current basis, the Tax and Limited Pledge Revenue Certificates of Obligation, Series 2016. This ordinance provides for the Delegation of Authority to the Pricing Officer, the City Manager or the Finance Director, allowing for the City to take the most advantageous pricing to fulfill the obligations of the ordinance. See Hilltop Security schedule for further specifics on dollar value of savings.

Morris Williams Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE authorizing the issuance of "CITY OF MIDLAND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2025"; levying a continuing direct annual ad valorem tax for the payment of said Bonds; resolving other matters incident and related to the issuance, sale, payment and delivery of said Bonds; establishing procedures for the sale and delivery of said Bonds; and delegating matters relating to the sale and issuance of said Bonds to an authorized City official.

WHEREAS, the City of Midland, Texas (the "City") currently has outstanding obligations of the City of the following issue or series, to wit: City of Midland, Texas, Tax and Limited Pledge Revenue Certificates of Obligation, Series 2016, dated September 15, 2016 (hereinafter called the "Refunded Obligations");

WHEREAS, pursuant to the provisions of Texas Government Code, Chapter 1207, as amended ("Chapter 1207"), the City Council of the City (the "Council") is authorized to issue refunding bonds and deposit the proceeds of sale directly with any place of payment for the Refunded Obligations, or other authorized depository, and such deposit, when made in accordance with Chapter 1207 and the ordinances authorizing the issuance of the Refunded Obligations, shall constitute the making of firm banking and financial arrangements for the discharge and final payment of the Refunded Obligations; and

WHEREAS, the City shall by this Ordinance, in accordance with the provisions of Texas Government Code, Section 1207.007, as amended, delegate to a Pricing Officer (hereinafter designated) the authority to determine the principal amount and certain other specified terms of the Bonds to be issued, negotiate the terms of sale thereof and select the specific maturities, in whole or in part, of the Refunded Obligations to be refunded; and

WHEREAS, the Council hereby finds and determines that it is a public purpose and in the best interests of the City to refund the Refunded Obligations in order to achieve a present value debt service savings, with such savings, among other information and terms, to be included in a pricing certificate (the "Pricing Certificate") to be executed by the Pricing Officer, all in accordance with the provisions of Texas Government Code, Section 1207.007, as amended; now, therefore

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

SECTION 1. Authorization - Series Designation - Principal Amount - Purpose - Bond Date. General obligation refunding bonds of the City shall be and are hereby authorized to be issued in the maximum aggregate principal amount hereinafter set forth to be designated and bear the title "CITY OF MIDLAND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2025", or such other designation as specified in the Pricing Certificate (herein referred to as the "Bonds"), for the purpose of providing funds for the discharge and final payment of certain obligations of the City (described in the preamble hereof and finally identified in the Pricing Certificate and referred to herein as the "Refunded Obligations") and to pay the costs and expenses of issuance, in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Chapter 1207. The Bonds shall be dated (the "Bond Date") as provided in the Pricing Certificate.

SECTION 2. Fully Registered Obligations - Terms. The Bonds shall be issued as fully registered obligations, without coupons, and (other than the Initial Bonds referenced in Section 8

hereof) shall be in denominations of $5,000 or any integral multiple (within a Stated Maturity) thereof, shall be lettered "R" and numbered consecutively from one (1) upward and principal shall become due and payable on a date certain in each of the years (the "Stated Maturities") and in amounts and bear interest at the rate(s) per annum in accordance with the details of the Bonds as set forth in the Pricing Certificate.

The Bonds shall bear interest on the unpaid principal amounts from the date specified in the Pricing Certificate at the rate(s) per annum shown in the Pricing Certificate (calculated on the basis of a 360-day year consisting of twelve 30-day months). Interest on the Bonds shall be payable in each year, on the dates, and commencing on the date, set forth in the Pricing Certificate.

SECTION 3. Delegation of Authority to Pricing Officer. (a) As authorized by Texas Government Code, Section 1207.007, as amended, the City Manager or Director of Finance of the City (either, the "Pricing Officer") is hereby authorized to act on behalf of the City in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including selection of the specific maturities or series, in whole or in part, of the Refunded Obligations to be refunded, determining the aggregate principal amount of the Bonds, the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the date from which interest on the Bonds will accrue, the interest payment dates, the record date, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, determination of the use of a book-entry-only securities clearance, settlement and transfer system, the designation of a paying agent/registrar, the designation of an escrow agent, if applicable, satisfying the requirements of Chapter 1207, the terms of any bond insurance applicable to the Bonds, including any modification of the continuing disclosure undertaking contained in Section 31 hereof as may be required by the purchasers of the Bonds in connection with any amendments to Rule 15c2-12, and all other matters relating to the issuance, sale and delivery of the Bonds, all of which shall be specified in the Pricing Certificate, provided that:

(i) the aggregate original principal amount of the Bonds shall not exceed $22,000,000;

(ii) the refunding must produce a net present value debt service savings of at least 3.00%, net of any City contribution;

(iii) the maximum true interest cost for the Bonds shall not exceed 5.00%; and

(iv) the maximum maturity date of the Bonds shall not exceed March 1, 2042.

The execution of the Pricing Certificate shall evidence the sale date of the Bonds by the City to the Purchasers (hereinafter defined).

If the Pricing Officer determines that bond insurance results in a net reduction of the City's interest costs associated with the Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of such series of the Bonds, to make the selection of the municipal bond

insurance company for such series of the Bonds (the "Insurer") and to obtain from the Insurer a municipal bond insurance policy or policies in support of the Bonds. The Pricing Officer shall have the authority to determine the provisions of the commitment for any such policy and to execute any documents to effect the issuance of said policy by the Insurer.

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount for the Bonds not exceeding the amount authorized in subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The delegation made hereby shall expire if not exercised by the Pricing Officer within 180 days of the date hereof. The Bonds shall be sold to the purchaser(s)/underwriter(s) named in the Pricing Certificate (the "Purchasers"), at such price and with and subject to such terms as set forth in the Pricing Certificate and the Purchase Contract (hereinafter defined), and may be sold by negotiated or competitive sale or by private placement. The Pricing Officer is hereby delegated the authority to designate the Purchasers, which delegation shall be evidenced by the execution of the Pricing Certificate.

SECTION 4. Terms of Payment - Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar (as defined below), and the payment thereof shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of the paying agent/registrar for the Bonds (the "Paying Agent/Registrar") shall be as provided in the Pricing Certificate. Books and records relating to the registration, payment, exchange and transfer of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached hereto as **Exhibit A** and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Pricing Officer is hereby authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a commercial bank, trust company, financial institution, or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

The Bonds shall be payable at their Stated Maturities or upon their earlier redemption, only upon the presentation and surrender of the Bonds to the Paying Agent/Registrar at its designated offices as provided in the Pricing Certificate (the "Designated Payment/Transfer Office"); provided, however, while a Bond is registered to Cede & Co., the payment thereof upon a partial redemption of the principal amount thereof may be accomplished without presentation and surrender of such Bond. Interest on a Bond shall be paid by the Paying Agent/Registrar to the Holders whose names appears in the Security Register at the close of business on the Record Date (which shall be set forth in the Pricing Certificate) and such interest payments shall be made (i) by check sent United States mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying

Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

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

SECTION 5. Registration - Transfer - Exchange of Bonds - Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every Holder of the Bonds issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Bond may be transferred or exchanged for Bonds of like maturity and amount and in authorized denominations upon the Security Register by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar at its Designated Payment/Transfer Office for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender for assignment or transfer of any Bond (other than the Initial Bonds authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, new Bonds, executed on behalf of and furnished by the City, shall be registered and issued to the assignee or transferee of the previous Holder; such Bonds to be of authorized denominations, of like Stated Maturity, and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bonds authorized in Section 8 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds, executed on behalf of and furnished by the City, to the Holder requesting the exchange.

All Bonds issued upon any such transfer or exchange of Bonds shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States mail, first class postage prepaid, to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

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

Bonds canceled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered, and delivered in lieu thereof pursuant to the provisions of Section 11 hereof, and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to transfer or exchange any Bond called for redemption, in whole or in part, within forty-five (45) days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

SECTION 6. Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in the applicable sections hereof relating to the payment and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement, and transfer system provided by The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York ("DTC"), in accordance with the requirements and procedures identified in the current DTC Operational Arrangements memorandum, as amended, the Blanket Issuer Letter of Representations, by and between the City and DTC, and the Letter of Representations from the Paying Agent/Registrar to DTC (collectively, the "Depository Agreement") relating to the Bonds.

In the event the Pricing Officer elects to utilize DTC's "Book-Entry-Only" System, which election shall be made by the Pricing Officer in the Pricing Certificate, pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC and who shall hold said Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City decides to discontinue the use of the system of book-entry transfers through DTC, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 4 and 5 hereof.

SECTION 7. Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor or the Mayor Pro Tem under the City's seal reproduced or impressed thereon and attested by the City Secretary or Deputy City Secretary. The signature of said officials on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officials of the City on the date of the adoption of this Ordinance shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9(c), executed manually or by facsimile by the Comptroller of Public Accounts of the State of Texas, or his or her duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such registration certificate duly executed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered, and delivered.

SECTION 8. Initial Bonds. The Bonds herein authorized shall be initially issued as fully registered Bonds as specified in the Pricing Certificate, being a single, fully registered Bond in the aggregate principal amount noted and principal installments to become due and payable as provided in the Pricing Certificate and numbered T-1 (hereinafter called the "Initial Bond") and the Initial Bond shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond shall be the Bond submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond, the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9. Forms.

(a) Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and, with the Bonds to be completed and modified with the information set forth in the Pricing Certificate, may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends on insured Bonds and any reproduction of an opinion of counsel) thereon as may, consistently herewith, be established by the City or determined by the Pricing Officer. The Pricing Certificate shall set forth the final and controlling forms and terms of the Bonds. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds and the Initial Bond shall be printed, lithographed, engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

(b) Form of Definitive Bonds.

REGISTERED NO. R-_____ PRINCIPAL AMOUNT $_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF MIDLAND, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2025

Bond Date:	Interest Rate:	Stated Maturity:	CUSIP No.:
_____, 2025	_____%	_____, 20__	_____

Registered Owner:

Principal Amount: DOLLARS

The City of Midland (hereinafter referred to as the "City"), a body corporate and political subdivision in the Counties of Midland and Martin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on the Stated Maturity date specified above the Principal Amount hereinabove stated [(or so much thereof as shall not have been paid upon prior redemption)], and to pay interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date in which case it shall bear interest from the _____) at the per annum rate of interest specified above computed on the basis of a 360 day year of twelve 30 day months; such interest being payable on _____ and _____ in each year, commencing _____, 20__, until maturity [or prior redemption]. Principal of this Bond is payable at its Stated Maturity [or upon its prior redemption] to the registered owner hereof, upon presentation and surrender, at the designated offices of the Paying Agent/Registrar executing the registration certificate appearing hereon, initially in _____, _____, or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office")[; provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Bond]. Interest is payable to the registered owner of this Bond (or Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the _____ day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on

which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in its title issued in the aggregate principal amount of $_____ (herein referred to as the "Bonds") for the purpose of providing funds for the discharge and final payment of certain outstanding obligations of the City and to pay the costs and expenses of issuance, under and in strict conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Chapter 1207, as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

[The Bonds shall not be subject to redemption prior to maturity]

[The Bonds maturing on the dates hereinafter identified (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Interest and Sinking Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

Term Bonds due _____, 20__		Term Bonds due _____, 20__	
Redemption Date	Principal Amount	Redemption Date	Principal Amount
_____, 20__		_____, 20__	
_____, 20__*		_____, 20__*	

* Stated maturity.

The particular Term Bonds of a Stated Maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a Stated Maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like Stated Maturity which, at least fifty (50) days prior to a mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.]

[The Bonds maturing on and after _____, 20__, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of $5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on _____, 20__, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to the date fixed for any redemption of Bonds, the City shall cause a written notice of such redemption to be sent by United States mail, first class postage prepaid, to the registered owners of each Bond to be redeemed, in whole or in part, at the address shown on the Security Register and subject to the terms and provisions relating thereto contained

in the Ordinance. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor; provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within forty-five (45) days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.]

The Bonds are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City. Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the owner or holder of this Bond by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Bonds; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which this Bond may be discharged at or prior to its maturity [or redemption], and deemed to be no longer Outstanding thereunder; and for other terms and provisions contained therein. Capitalized terms used herein and not otherwise defined have the meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

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

It is hereby certified, recited, represented, and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions, and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened, and have been performed in regular and due time, form, and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Bonds by the levy of a tax as aforestated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City.

CITY OF MIDLAND, TEXAS

ATTEST: _____
[Mayor][Mayor Pro Tem]

_____
[City Secretary][Deputy City Secretary]

(City Seal)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bond only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

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

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

WITNESS my signature and seal of office this _____.

_____
Comptroller of Public Accounts
of the State of Texas

(Seal)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

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

The designated office of the Paying Agent/Registrar in _____, is the Designated Payment/Transfer Office for this Bond.

_____
_____
as Paying Agent/Registrar

Registration Date:

_____

By: _____
Authorized Signature

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee): _____
_____
(Social Security or other identifying number: _____
_____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature guaranteed:

_____

_____

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

(f) The Initial Bond shall be in the form set forth therefor in subsection (b) of this Section, except the heading and paragraph one shall be amended to read as follows:

NO. T-1 $_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF MIDLAND, TEXAS
GENERAL OBLIGATION REFUNDING BOND
SERIES 2025

Bond Date: _____, 2025

Registered Owner:

Principal Amount: DOLLARS

The City of Midland (hereinafter referred to as the "City"), a body corporate and political subdivision in the Counties of Midland and Martin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the registered owner named above, or the registered assigns thereof, the Principal Amount hereinabove stated on _____ in the years and in principal amounts in accordance with the following schedule:

STATED MATURITY	PRINCIPAL AMOUNT	INTEREST RATE(S)

(Information to be inserted from Pricing Certificate)

[(without right of prior redemption)][(or so much principal thereof as shall not have been redeemed prior to maturity)] and to pay interest on the unpaid principal installments hereof from the _____ at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on _____, 20__, and each _____ and _____ thereafter, until maturity [or prior redemption]. Principal installments of this Bond are payable in the year of maturity [or on a redemption date] to the registered owner hereof by _____ (the "Paying Agent/Registrar"), upon presentation and surrender at its designated offices, initially in _____, _____, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date," which is the _____ day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to

the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the registered owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

SECTION 10. Levy of Taxes. To provide for the payment of the "Debt Service Requirements" of the Bonds, being (i) the interest on the Bonds and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount is the greater) there is hereby levied, and there shall be annually assessed and collected in due time, form, and manner, a tax on all taxable property in the City, within the limitations by law prescribed, sufficient to pay such Debt Service Requirements on the Bonds as the same becomes due and payable; and such tax hereby levied on each one hundred dollars' valuation of taxable property in the City for the payment of the Debt Service Requirements of the Bonds shall be at a rate from year to year as will be ample and sufficient to provide funds each year to pay the principal of and interest on said Bonds while Outstanding; full allowance being made for delinquencies and costs of collection; the taxes levied, assessed, and collected for and on account of the Bonds shall be accounted for separate and apart from all other funds of the City and shall be deposited in the "SPECIAL SERIES 2025 GENERAL OBLIGATION REFUNDING BOND FUND", or such other fund designation as specified in the Pricing Certificate (the "Interest and Sinking Fund") to be maintained at an official depository of the City's funds; and such tax hereby levied, and to be assessed and collected annually, is hereby pledged to the payment of the Bonds.

PROVIDED, however, with regard to any payment to become due on the Bonds prior to the tax delinquency date next following the annual assessment of taxes levied which next follows the Bond Date, if any, sufficient current funds will be available and are hereby appropriated to make such payments; and the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary of the City, individually or jointly, are hereby authorized and directed to transfer and deposit in the Interest and Sinking Fund such current funds which, together with the accrued interest received from the initial purchasers, will be sufficient to pay the payments due on the Bonds prior to the tax delinquency date next following the annual assessment of taxes levied which next follows the Bond Date.

The Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary or Deputy City Secretary of the City, individually or jointly, are hereby authorized and directed to cause to be transferred to the Paying Agent/Registrar for the Bonds, from funds on deposit in the Interest and Sinking Fund, amounts sufficient to fully pay and discharge promptly each installment of interest and principal of the Bonds as the same accrues or matures or comes due by reason of redemption prior to maturity; such transfers of funds to be made in such manner as will cause collected funds to be deposited with the Paying Agent/Registrar on or before each principal and interest payment date for the Bonds.

SECTION 11. Mutilated - Destroyed - Lost and Stolen Bonds. In case any Bond shall be mutilated, destroyed, lost, or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number

not contemporaneously outstanding, in exchange and substitution for such mutilated Bond; and with respect to a lost, destroyed, or stolen Bond, a replacement Bond may be issued only upon the approval of the City and after (i) the filing by the Holder with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss, or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, destroyed, lost, or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation of the City, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Bonds.

SECTION 12. Satisfaction of Obligation of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance and the Pricing Certificate, then the pledge of taxes levied under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall thereupon cease, terminate, and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities (as defined below) shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting or consulting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as “arbitrage bonds” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated

Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

Unless otherwise modified by the Pricing Officer, the term "Government Securities" shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations unconditionally guaranteed or insured by the agency or instrumentality and, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

The City reserves the right, subject to satisfying the requirements of (i) and (ii) above, to substitute other Government Securities for the Government Securities originally deposited, to reinvest the uninvested moneys on deposit for such defeasance and to withdraw for the benefit of the City moneys in excess of the amount required for such defeasance.

Upon such deposit as described above, such Bonds shall no longer be regarded to be outstanding or unpaid. Provided, however, the City has reserved the option, to be exercised at the time of the defeasance of the Bonds, to call for redemption, at an earlier date, those Bonds which have been defeased to their maturity date, if the City: (i) in the proceedings providing for the firm banking and financial arrangements, expressly reserves the right to call the Bonds for redemption; (ii) gives notice of the reservation of that right to the Holders of the Bonds immediately following the making of the firm banking and financial arrangements; and (iii) directs that notice of the reservation be included in any redemption notices that it authorizes.

SECTION 13. Ordinance a Contract - Amendments - Outstanding Bonds. This Ordinance, together with the Pricing Certificate, shall constitute a contract with the respective Holders of each such series from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section and in Section 31 hereof. The City may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance or any provision in the Pricing Certificate in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the consent of Holders who own a majority of the aggregate of the principal amount of any affected Bonds then Outstanding, amend, add to, or rescind any of the provisions of this Ordinance or any provision in the Pricing Certificate; provided that, without the consent of all Holders of Outstanding Bonds, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of and interest on the Bonds, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of or interest on the Bonds, (2) give any preference to any Bond over any other Bond, or (3) reduce the aggregate principal amount of Bonds required to be held by Holders for consent to any such amendment, addition, or rescission.

The term "Outstanding" when used in this Ordinance with respect to Bonds means, as of the date of determination, all Bonds within such series theretofore issued and delivered under this Ordinance, except:

(1) those Bonds within such series cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds within such series deemed to be duly paid by the City in accordance with the provisions of Section 12 hereof; and

(3) those mutilated, destroyed, lost, or stolen Bonds within such series which have been replaced with Bonds registered and delivered in lieu thereof as provided in Section 11 hereof.

SECTION 14. Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction, or improvement of which is to be financed (or refinanced) directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(i) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds (including property financed with Gross Proceeds of the Refunded Obligations), and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department, and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction, or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds (including property financed with Gross Proceeds of the Refunded Obligations), other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed, or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(i) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six (6) years after the day on which the last outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(iii) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the Holders thereof for federal income tax purposes, the City shall pay to the United States out of its general fund or other appropriate fund, or, if permitted by applicable Texas statute, regulation, or opinion of the Attorney General of the State of Texas, the Interest and Sinking Fund, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place, and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(iv) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (ii) and (iii), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(b) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(c) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, or Director of Finance of the City, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as one or more of such persons deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption, or similar or other appropriate certificate, form, or document.

(d) Bonds Not Hedge Bonds. At the time the original obligations refunded by the Bonds were issued, the City reasonably expected to spend at least 85% of the spendable proceeds of such obligations within three years after such obligations were issued and (2) not more than 50% of the proceeds of the original obligations refunded by the Bonds were invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

(e) Current Refunding. The Bonds are being issued to pay and discharge in full the Refunded Obligations and such payment of the Refunded Obligations will occur within ninety (90) days after the issuance of the Bonds.

(f) Qualified Tax-Exempt Obligations. The Pricing Officer is hereby authorized to designate in the Pricing Certificate the designation of the Bonds as "qualified tax-exempt obligations" in accordance with the provisions of the paragraph (3) of subsection (b) of Section 265 of the Code in the event the Bonds qualify for such designation and confirm that the Bonds are not "private activity bonds" as defined in the Code and confirm the amount of "tax-exempt obligations" to be issued by the City (including all subordinate entities of the City) for the calendar year in which the Bonds are issued will not exceed the applicable limitation.

SECTION 15. Sale of Bonds - Official Statement. The Bonds authorized by this Ordinance are to be sold by the City to the Purchasers in accordance with a bond purchase agreement in the event of a negotiated sale, letter agreement to purchase in the event of a private placement, or the successful bid form in the event of a competitive sale, as applicable (either, the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer in accordance with Section 3 hereof. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract for and on behalf of the City, as the act and deed of this Council, and to make a determination as to whether the terms are in the City's best interests, which determination shall be final.

With regard to such terms and provisions of the Purchase Contract, the Pricing Officer is hereby authorized to come to an agreement with the Purchasers on the following, among other matters:

1. The details of the purchase and sale of the Bonds;
2. The details of any public offering of the Bonds by the Purchasers, if any;
3. The details of any Official Statement or similar disclosure document (and, if appropriate, any Preliminary Official Statement) relating to the Bonds and the City's Rule 15c2-12 compliance, if applicable;
4. A security deposit for the Bonds, if any;
5. The representations and warranties of the City to the Purchasers;
6. The details of the delivery of, and payment for, the Bonds;
7. The Purchasers' obligations under the Purchase Contract;
8. The certain conditions to the obligations of the City under the Purchase Contract;
9. Termination of the Purchase Contract;
10. Particular covenants of the City;
11. The survival of representations made in the Purchase Contract;
12. The payment of any expenses relating to the Purchase Contract;
13. Notices; and
14. Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Bonds.

The Mayor or Mayor Pro Tem and the City Secretary or Deputy City Secretary of the City are further authorized and directed to deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement prepared in connection with the offering of the Bonds by the Purchasers, in final form as may be required by the Purchasers, and such final Official Statement as delivered by said officials shall constitute the Official Statement authorized for distribution and use by the Purchasers.

SECTION 15. Escrow Agreement. An escrow agreement (the "Escrow Agreement") by and between the City and an authorized escrow agent (the "Escrow Agent"), if any such agreement is required in connection with the issuance of the Bonds, shall be attached to and approved in the Pricing Certificate. Such Escrow Agreement is hereby authorized to be finalized and executed by the Pricing Officer for and on behalf of the City and as the act and deed of this Council; and such Escrow Agreement as executed by said Pricing Officer shall be deemed approved by this Council and constitute the Escrow Agreement herein approved. With regard to the finalization of certain terms and provisions of any Escrow Agreement, the Pricing Officer is hereby authorized to come to an agreement with the Escrow Agent on the following details, among other matters:

1. The identification of the Refunded Obligations;
2. The creation and funding of the Escrow Fund or Funds; and
3. The Escrow Agent's compensation, administration of the Escrow Fund or Funds, and the settlement of any paying agent's charges relating to the Refunded Obligations.

Furthermore, appropriate officials of the City in cooperation with the Escrow Agent are hereby authorized and directed to make the necessary arrangements for the purchase of the escrowed securities referenced in the Escrow Agreement, if any, and the delivery thereof to the Escrow Agent on the day of delivery of the Bonds to the Purchasers for deposit to the credit of the "CITY OF MIDLAND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, SERIES 2025 ESCROW FUND" (referred to herein as the "Escrow Fund"), or such other designation as specified in the Pricing Certificate; all as contemplated and provided in Chapter 1207, the Ordinance, the Pricing Certificate and the Escrow Agreement.

On or immediately prior to the date of the delivery of the Bonds to the Purchasers, the Pricing Officer, or other authorized City official listed in Section 33 hereof, shall also cause to be deposited (and is hereby authorized to cause to be deposited) with the Escrow Agent or the paying agent for the Refunded Obligations from any moneys on deposit in the debt service fund(s) maintained for the payment of the Refunded Obligations an amount which, together with the proceeds of sale of the Bonds, and the investment earnings thereon, will be sufficient to pay in full the Refunded Obligations (or the amount of accrued interest due thereon) scheduled to mature and authorized to be redeemed on the earliest date established in the Pricing Certificate for the redemption of any of the Refunded Obligations (or the earliest date of payment, to be made from moneys in the Escrow Fund(s), as established in the Pricing Certificate, of the amount of accrued interest due thereon).

To the extent an Escrow Agreement is not required in connection with the issuance of the Bonds, the Pricing Officer is authorized to enter into a deposit letter agreement or such other comparable document which evidences the receipt of refunding bond proceeds with the paying agent for the Refunded Obligations if needed. The deposit letter agreement or such other comparable document as executed by the Pricing Officer shall be deemed approved by the City Council and constitute the agreement herein approved.

SECTION 14. Refunded Obligations. (a) In order to provide for the refunding, discharge, and retirement of the Refunded Obligations as selected by the Pricing Officer, the Refunded Obligations, identified, described, and in the amount set forth in the Pricing Certificate, are called for redemption on the first date such Refunded Obligations are subject to redemption or such other date specified by the Pricing Officer in the Pricing Certificate at the price of par plus accrued interest to the redemption date, and notice of such redemption shall be given in accordance with the applicable provisions of the ordinance adopted by this Council, which authorized the issuance of the Refunded Obligations. The Pricing Officer is hereby authorized and directed to issue or cause to be issued a Notice of Redemption for the Refunded Obligations in substantially the form set forth as an exhibit to the Pricing Certificate, to the paying agent/registrar for the Refunded Obligations, in accordance with the redemption provisions applicable to the Refunded Obligations.

(b) The paying agent/registrar for Refunded Obligations is hereby directed to provide the appropriate notice of redemption as required by the ordinance authorizing the issuance of the Refunded Obligations and is hereby directed to make appropriate arrangements so that the Refunded Obligations may be redeemed on the redemption date specified in the Pricing Certificate.

(c) The source of funds for payment of the principal of and interest on the Refunded Obligations on their respective maturity or redemption dates shall be from the funds deposited with the Escrow Agent, pursuant to the Escrow Agreement, if any, or with the paying

agent/registrar for the Refunded Obligations pursuant the provisions of Chapter 1207, this Ordinance and the Pricing Certificate finalized by the Pricing Officer.

SECTION 15. Control and Custody of Bonds. The Mayor or Mayor Pro Tem of the City shall be and is hereby authorized to take and have charge of all necessary ordinances, resolutions, orders and records, including the definitive Bonds and the Initial Bonds, pending the investigation and approval of the Initial Bonds by the Attorney General of the State of Texas, and the registration of the Initial Bonds to the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

Furthermore, the Mayor, Mayor Pro Tem, Deputy Mayor Pro Tem, City Manager, any Assistant City Manager, Director of Finance and City Secretary or Deputy City Secretary, individually or collectively, are hereby authorized and directed to furnish and execute such documents and certifications relating to the City and the issuance of the Bonds, including a certification as to facts, estimates, circumstances and reasonable expectations pertaining to the use and expenditure and investment of the proceeds of the Bonds as may be necessary for the approval of the Attorney General and their registration by the Comptroller of Public Accounts. In addition, such officials, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, are authorized and directed to make the necessary arrangements for the delivery of the Initial Bonds to the initial purchasers.

SECTION 16. Proceeds of Sale. Immediately following the delivery of the Bonds, the proceeds of sale (less those proceeds of sale designated to pay costs of issuance and any accrued interest received from the Purchasers of the Bonds or additional proceeds being deposited to the Interest and Sinking Fund) shall be deposited with the Escrow Agent for application and disbursement in accordance with the provisions of the Escrow Agreement or deposited with the paying agent/registrar for the Refunded Obligations for the payment and redemption of the Refunded Obligations. The proceeds of sale of the Bonds not so deposited with the Escrow Agent (or the paying agent/registrar for the Refunded Obligations) for the refunding of the Refunded Obligations shall be disbursed for payment of costs of issuance, or deposited in the Interest and Sinking Fund for the Bonds, all in accordance with written instructions from the City or its financial advisor. Such proceeds of sale may be invested in authorized investments and any investment earnings realized may be (with respect to the accrued interest received from the Purchasers) deposited in the Interest and Sinking Fund as shall be determined by this Council.

Additionally, the Pricing Officer shall determine the amount of any City contribution to the refunding from moneys on deposit in the interest and sinking fund(s) maintained for the payment of the Refunded Obligations.

SECTION 17. Notices to Holders - Waiver. Wherever this Ordinance or the Pricing Certificate provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case in which notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance or the Pricing Certificate provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given,

and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 18. Cancellation. All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be returned to the City.

SECTION 19. Bond Counsel Opinion. The obligation of the Purchasers to accept delivery of the Bonds is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Attorneys, Dallas, Texas, approving the Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Bonds. A true and correct reproduction of said opinion is hereby authorized to be printed on the Bonds, or an executed counterpart thereof is hereby authorized to be either printed on definitive printed obligations or deposited with DTC along with the global certificates for the implementation and use of the Book-Entry-Only System used in the settlement and transfer of the Bonds. The City Council confirms the continuation of the engagement of Norton Rose Fulbright US LLP as the City's bond counsel.

SECTION 20. CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof, and neither the City nor attorneys approving the Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 21. Benefits of Ordinance. Nothing in this Ordinance or the Pricing Certificate, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof or the Pricing Certificate, this Ordinance and all of its provisions and the Pricing Certificate being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar, and the Holders.

SECTION 22. Inconsistent Provisions. All ordinances or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance or the Pricing Certificate are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 23. Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 24. Effect of Headings. The Section headings herein are for convenience of reference only and shall not affect the construction hereof.

SECTION 25. Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine, or neuter gender shall be considered to include the other genders.

SECTION 26. Severability. If any provision of this Ordinance or the Pricing Certificate or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the Pricing Certificate and the application thereof to other circumstances shall nevertheless be valid, and this Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 27. Incorporation of Findings and Determinations. The findings and determinations of this Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

SECTION 28. Continuing Disclosure Undertaking. This Section shall apply unless the Pricing Officer determines in the Pricing Certificate that an undertaking is not required pursuant to the Rule (defined below).

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

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

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time or officially interpreted by the SEC.

"*SEC*" means the United States Securities and Exchange Commission.

(b) Annual Reports. The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning with the year stated in the Pricing Certificate, financial information and operating data with respect to the City of the general type included in the final Official Statement approved by the Pricing Officer and described in the Pricing Certificate and (2) within twelve months after the end of each fiscal year, beginning with the year stated in the Pricing Certificate, if not provided as part of such financial information and operating data, audited financial statements of the City. If audited financial statements are not available by the required time, the City will provide unaudited financial statements by the required time, and audited financial statements when and if such audited statements become available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

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

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(c) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material;
15. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding item 12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City and (b) the City intends the words used in the immediately preceding items

15 and 16 in this Section to have the meanings ascribed to them in SEC Release No. 34-83885, dated August 20, 2018.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(d) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(e) Limitations, Disclaimers and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) hereof of any Bond calls and defeasance that cause the City to be no longer such an "obligated person."

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

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

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

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

Notwithstanding anything to the contrary in this Ordinance, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the

Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent an underwriter of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 29. Municipal Bond Insurance. The Bonds may be sold with the principal of and interest thereon being insured by a municipal bond insurance provider authorized to transact business in the State of Texas. The Pricing Officer is hereby authorized to make the selection of municipal bond insurance (if any) for the Bonds and make the determination of the provisions of any commitment therefor.

SECTION 30. Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, any Assistant City Manager, Director of Finance and City Secretary or Deputy City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro Tem, City Manager, Director of Finance or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance, including the Pricing Certificate: (i) in order to cure any ambiguity, formal defect or omission in this Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of this Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 31. Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 32. Effective Date. In accordance with the provisions of Texas Government Code, Section 1201.028, as amended, this Ordinance shall be in force and effect from and after its passage on the date shown below and it is so ordained.

[*remainder of page intentionally left blank*]

PASSED AND ADOPTED, this January 14, 2025.

CITY OF MIDLAND, TEXAS

_____
Mayor

ATTEST:

_____
City Secretary

(City Seal)

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT A

form of PAYING AGENT/REGISTRAR AGREEMENT

City Council Meeting

Item Number: **33**

Meeting Date: **January 14, 2025**

To: **City Council / City Manager**

From: **Jamie Barton,**

Subject: **DISCUSSION AND CONSIDERATION OF ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE AND SALE OF "CITY OF MIDLAND, TEXAS TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2025," INCLUDING THE ADOPTION OF AN ORDINANCE AUTHORIZING THE ISSUANCE OF SUCH CERTIFICATES OF OBLIGATION, ESTABLISHING PARAMETERS FOR THE SALE AND ISSUANCE OF SUCH CERTIFICATES OF OBLIGATION AND DELEGATING CERTAIN MATTERS TO AN AUTHORIZED OFFICIAL OF THE CITY (DISTRICT: NONE) (FINANCE) (STRENGTHEN AND SUSTAIN OUR INFRASTRUCTURE)**

Purpose:

Adoption of an ordinance to issue the City of Midland, Texas, Tax and Limited Pledge Revenue Certificates of Obligation, Series 2025, not to exceed $58 million. $28.8 million dollars will be issued for roads; for the purpose of constructing, improving and renovating streets, alleys, culverts and bridges, including drainage and erosion control, landscaping, screening walls, curbs, gutters, sidewalks, lighting, signage and traffic signalization incidental thereto and the acquisition of land, equipment and rights-of-way. The remaining $27.2 million will be issued for parks; for the purpose of acquiring, constructing, improving, remodeling, renovating and equipping park and recreation facilities, including the acquisition of land and rights-of-way.

Recommended City Council Action:

Approve

Fiscal Impact:

Total issuance size for the City of Midland, Texas, Tax and Limited Pledge Revenue Certificates of Obligation, Series 2025, is not to exceed $58 million. Fees incidental to the sale of the bonds will be paid for from bond proceeds.

Strategic Priority:

(Strengthen and Sustain our Infrastructure)

Discussion:

This ordinance provides for the Delegation of Authority to the Pricing Officer, the City Manager or the Finance Director, allowing for the City to take the most advantageous pricing to fulfill the obligations of the ordinance.

Morris Williams Jr.

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE authorizing the issuance of "CITY OF MIDLAND, TEXAS, TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2025"; levying an ad valorem tax upon all taxable property within the City and providing for a limited pledge of the net revenues of the City's Waterworks and Sewer System for the payment of said Certificates; resolving other matters incident and related to the issuance, security, payment and delivery of said Certificates; establishing procedures for the sale and delivery of said Certificates; and delegating matters relating to the sale and issuance of said Certificates to an authorized City official; and providing an effective date.

WHEREAS, a notice of the City Council's intention to issue certificates of obligation in the maximum principal amount of $58,000,000 for the purpose of paying contractual obligations to be incurred for (i) constructing, improving and renovating streets, alleys, culverts and bridges, including drainage and erosion control, landscaping, screening walls, curbs, gutters, sidewalks, lighting, signage and traffic signalization incidental thereto and the acquisition of land, equipment and rights-of-way therefor, (ii) acquiring, constructing, improving, remodeling, renovating and equipping park and recreation facilities, including the acquisition of land and rights-of-way therefor and (iii) paying professional services rendered in connection therewith (the "Notice") has been (a) duly published in the *Midland Reporter-Telegram*, a newspaper of general circulation in the City of Midland, Texas (the "City") on November 15, 2024 and November 22, 2024, the date of the first publication of the Notice being not less than forty-six (46) days prior to the tentative date stated therein for the passage of the ordinance authorizing the issuance of such certificates and (b) duly published continuously on the City's website for at least forty-five (45) days before the tentative date stated therein for the passage of the ordinance authorizing the issuance of such certificates; and

WHEREAS, the *Midland Reporter-Telegram* is a newspaper which devotes not less than twenty-five percent (25%) of its total column lineage to items of general interest, is published not less frequently than once each week, entered as second-class (periodical class) postal matter in the county where it is published, and has been published regularly and continuously for not less than twelve (12) months prior to the date of the publication of the Notice; and

WHEREAS, no petition protesting the issuance of the certificates of obligation described in the Notice, signed by at least 5% of the qualified electors of the City, has been filed with or presented to the City Secretary on or prior to the date of the passage of this Ordinance; and

WHEREAS, the Council hereby finds and determines that the certificates of obligation described in the Notice should be issued and sold in the amount and manner as hereinafter provided; and

WHEREAS, the City Council by this Ordinance, in accordance with the provisions of Texas Government Code, Chapter 1371, as amended ("Chapter 1371"), delegates to a Pricing Officer (hereinafter designated) the authority to determine the principal amount of the Certificates to be issued and to negotiate the terms of sale thereof; now, therefore,

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

SECTION 1: Authorization-Designation-Principal Amount-Purpose. Certificates of obligation of the City shall be and are hereby authorized to be issued in an amount not to exceed the aggregate principal amount hereinafter set forth to be designated and bear the title "CITY OF

MIDLAND, TEXAS, TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2025" or such other designation as specified in the Pricing Certificate (the "Certificates"), for the purpose of paying contractual obligations to be incurred for (i) constructing, improving and renovating streets, alleys, culverts and bridges, including drainage and erosion control, landscaping, screening walls, curbs, gutters, sidewalks, lighting, signage and traffic signalization incidental thereto and the acquisition of land, equipment and rights-of-way therefor, (ii) acquiring, constructing, improving, remodeling, renovating and equipping park and recreation facilities, including the acquisition of land and rights-of-way therefor and (iii) paying professional services rendered in connection therewith; pursuant to authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Texas Local Government Code, Subchapter C of Chapter 271, as amended, and Chapter 1371.

SECTION 2: Fully Registered Obligations- Authorized Denominations- Stated Maturities- Date. The Certificates are issuable in fully registered form only; shall be dated as provided in the Pricing Certificate (the "Certificate Date") and shall be in denominations of $5,000 or any integral multiple thereof (within a Stated Maturity), and the Certificates shall become due and payable on a date certain in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the per annum rate(s) in accordance with the details of the Certificates as provided in the Pricing Certificate.

The Certificates shall bear interest on the unpaid principal amounts thereof from the date specified in the Pricing Certificate (calculated on the basis of a 360-day year consisting of twelve 30-day months). Interest on the unpaid principal amounts of the Certificates shall be payable on the dates in each year and commencing on the date set forth in the Pricing Certificate.

SECTION 3: Delegation of Authority to Pricing Officer.

(a) As authorized by Chapter 1371, the City Manager or Director of Finance of the City (either a "Pricing Officer") is hereby authorized to act on behalf of the City in selling and delivering the Certificates and carrying out the other procedures specified in this Ordinance determining the aggregate principal amount of the Certificates, the date of the Certificates, any additional or different designation or title by which the Certificates shall be known, the price at which the Certificates will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which the Certificates will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the date from which interest on the Certificates will accrue, the interest payment dates, the record date, the price and terms upon and at which the Certificates shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, determination of the use of a book-entry-only securities clearance, settlement and transfer system, the terms of any bond insurance applicable to the Certificates, any modification of the continuing disclosure undertaking contained in Section 33 hereof as may be required by the purchasers of the Certificates in connection with any amendments to Rule 15c2-12, and all other matters relating to the issuance, sale and delivery of the Certificates, all of which shall be specified in the Pricing Certificate, provided that:

(i) the aggregate original principal amount of the Certificates shall not exceed $58,000,000;

(ii) the maximum true interest cost for the Certificates shall not exceed 5.50%; and

(iv) the maximum maturity date of the Certificates shall not exceed March 1, 2046.

The execution of the Pricing Certificate shall evidence the sale date of the Certificates by the City to the Purchasers (hereinafter defined).

If the Pricing Officer determines that bond insurance results in a net reduction of the City's interest costs associated with the Certificates, then the Pricing Officer is authorized, in connection with effecting the sale of the Certificates, to make the selection of the municipal bond insurance company for the Certificates (the "Insurer") and to obtain from the Insurer a municipal bond insurance policy in support of the Certificates. The Pricing Officer shall have the authority to determine the provisions of the commitment for any such policy and to execute any documents to affect the issuance of said policy by the Insurer.

(b) In establishing the aggregate principal amount of the Certificates, the Pricing Officer shall establish an amount not exceeding the amount authorized in subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Certificates are authorized and to pay costs of issuing the Certificates. The delegation made hereby shall expire if not exercised by the Pricing Officer within one (1) year of the date of the adoption of this Ordinance. The Certificates shall be sold to the purchaser(s)/underwriter(s) named in the Pricing Certificate (the "Purchasers"), at such price and with and subject to such terms as set forth in the Pricing Certificate and the Purchase Contract (hereinafter defined), and may be sold by negotiated or competitive sale or by private placement. The Pricing Officer is hereby delegated the authority to designate the Purchasers, which delegation shall be evidenced by the execution of the Pricing Certificate.

SECTION 4: Terms of Payment-Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Certificates, due and payable by reason of maturity, redemption, or otherwise, shall be payable only to the registered owners or holders of the Certificates (the "Holders") appearing on the registration and transfer books (the "Security Register") maintained by the Paying Agent/Registrar. Such payments shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of the paying agent/registrar for the Bonds (the "Paying Agent/Registrar") shall be as provided in the Pricing Certificate. Books and records relating to the registration, payment, transfer and exchange of the Certificates (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, as provided herein and in accordance with the terms and provisions of a "Paying Agent/Registrar Agreement," substantially in the form attached hereto as Exhibit A, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The Pricing Officer is hereby authorized to execute and deliver such Agreement in connection with the delivery of the Certificates. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Certificates are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Certificates, the City agrees to promptly cause a written notice of the change to be sent to each Holder by United States mail, first class postage prepaid, and such notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Certificates shall be payable at the Stated Maturities or the redemption thereof only upon presentation and surrender of the Certificates to the Paying Agent/Registrar at its designated offices as provided in the Pricing Certificate, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the

"Designated Payment/Transfer Office"). Interest on the Certificates shall be paid by the Paying Agent/Registrar to the Holders whose names appear in the Security Register at the close of business on the Record Date which shall be set forth in the Pricing Certificate, which payment of such interest shall be (i) by check sent United States mail, first-class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due.

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

SECTION 5: Registration- Transfer- Exchange of Certificates- Predecessor Certificates. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every Holder of the Certificates issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Certificate may, in accordance with its terms and the terms hereof, be transferred or exchanged for Certificates of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Certificate to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon the surrender of any Certificate for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Certificates of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Certificate or Certificates surrendered for transfer.

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

All Certificates issued in any transfer or exchange of Certificates shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States mail, first-class postage prepaid, to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation

to pay and entitled to the same benefits under this Ordinance, as the Certificates surrendered in such transfer or exchange.

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

Certificates canceled by reason of an exchange or transfer pursuant to the provisions of this Ordinance are hereby defined to be "Predecessor Certificates," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Certificate or Certificates registered and delivered in the exchange or transfer. Additionally, the term "Predecessor Certificates" shall include any mutilated, lost, destroyed, or stolen Certificate for which a replacement Certificate has been issued, registered, and delivered in lieu thereof pursuant to the provisions of Section 28 hereof, and such new replacement Certificate shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Certificate.

Neither the City nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Certificate called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Certificate; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Certificate called for redemption in part.

SECTION 6: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained in this Ordinance relating to the payment, and transfer/exchange of the Certificates, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company ("DTC"), a limited purpose trust company organized under the laws of the State of New York, in accordance with the requirements and procedures identified in the current DTC Operational Arrangements memorandum, as amended, the Blanket Issuer Letter of Representations, by and between the City and DTC, and the Letter of Representation from the Paying Agent/Registrar to DTC (collectively, the "Depository Agreement") relating to the Certificates.

In the event the Pricing Officer elects to utilize DTC's "Book-Entry-Only" System, which election shall be made by the Pricing Officer in the Pricing Certificate, pursuant to the Depository Agreement and the rules of DTC the Certificates shall be deposited with DTC who shall hold said Certificates for its participants (the "DTC Participants"). While the Certificates are held by DTC under the Depository Agreement, the Holder of the Certificates on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Certificate (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Certificates or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general, or the City decides to discontinue the use of the system of book-entry transfers through DTC, the City covenants and agrees with the Holders of the Certificates to cause Certificates to be printed in definitive form and provide for the appropriate Certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Certificates in definitive form shall be assigned, transferred and exchanged on the appropriate

Security Register maintained by the Paying Agent/Registrar and payment of such Certificates shall be made in accordance with the provisions hereof other than this Section.

SECTION 7: Execution - Registration. The Certificates shall be executed on behalf of the City by the Mayor or Mayor Pro Tem under its seal reproduced or impressed thereon and countersigned by the City Secretary or the Deputy City Secretary. The signatures of said officers on the Certificates may be manual or facsimile. Certificates bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Certificate Date shall be deemed to be duly executed on behalf of the City, notwithstanding that one or more of the individuals executing such Certificates shall cease to be such officers at the time of delivery of the Certificates to the initial purchaser(s) and with respect to Certificates delivered in subsequent exchanges and transfers, all as authorized and provided in the Texas Government Code, Chapter 1201, as amended.

No definitive Certificate shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Certificate a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such registration certificate duly executed upon any Certificate shall be conclusive evidence, and the only evidence, that such Certificate has been duly certified, registered and delivered.

No Initial Certificate (as defined below) shall be entitled to any right or benefit under this Ordinance or be valid or obligatory for any purpose unless there appears on such Initial Certificate a certificate of registration substantially in the form provided in Section 9(c), executed manually or by facsimile by the Comptroller of Public Accounts of the State of Texas, or a duly authorized agent.

SECTION 8: Initial Certificate. The Certificates herein authorized shall be initially issued as a single fully-registered certificate in the total principal amount with principal installments to become due and payable as provided in the Pricing Certificate and numbered T-1 (the “Initial Certificate) and shall be registered in the name of the initial purchaser or the designee thereof. The Initial Certificate shall be submitted to the Office of the Attorney General of the State of Texas for approval; certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas; and, delivered to the initial purchaser. Any time after the delivery of the Initial Certificate, the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser, or the designee thereof, shall cancel the Initial Certificate and exchange it for definitive Certificates of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified for such purpose; all pursuant to and in accordance with such written instructions from the initial purchaser, or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms.

(a) Forms Generally. The Certificates, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to appear on each of the Certificates, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and to be completed and modified with the information set forth in the Pricing Certificate and may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform

Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends in the event the Certificates, or any maturities thereof, are purchased with insurance) and any reproduction of an opinion of counsel thereon as may, consistently herewith, be established by the City or determined by the Pricing Officer. The Pricing Certificate shall set forth the final and controlling forms and terms of the Certificates. Any portion of the text of any Certificates may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Certificate.

The definitive Certificates and the Initial Certificates shall be printed, lithographed, engraved, typewritten, photocopied, or produced in any other similar manner, all as determined by the officers executing such Certificates as evidenced by their execution.

(c) Form of Definitive Certificate.

REGISTERED NO. _____ REGISTERED $_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF MIDLAND, TEXAS
TAX AND LIMITED PLEDGE REVENUE
CERTIFICATE OF OBLIGATION
SERIES 2025

Certificate Date:	Interest Rate:	Stated Maturity:	CUSIP NO:
_____, 2025	____%	_____	_____

Registered Owner:

Principal Amount:

The City of Midland (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Midland and Martin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, the Principal Amount stated above, on the Stated Maturity date specified above (or so much thereof as shall not have been paid upon prior redemption) and to pay interest (computed on the basis of a 360-day year consisting of twelve 30-day months) on the unpaid Principal Amount hereof from the date of initial delivery of the Certificates at the per annum rate of interest specified above; such interest being payable on March 1 and September 1 of each year, commencing _____ 1, 20___. Principal of this Certificate is payable at its Stated Maturity or date of redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor. Interest is payable to the registered owner of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the _____ day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first-class postage prepaid, to the address of the registered owner recorded in the Security Register on the Record Date or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or

interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the registered owner hereof and in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts.

This Certificate is one of the series specified in its title issued in the aggregate principal amount of $_____ (the "Certificates") for the purpose of paying contractual obligations to be incurred for (i) constructing, improving and renovating streets, alleys, culverts and bridges, including drainage and erosion control, landscaping, screening walls, curbs, gutters, sidewalks, lighting, signage and traffic signalization incidental thereto and the acquisition of land, equipment and rights-of-way therefor, (ii) acquiring, constructing, improving, remodeling, renovating and equipping park and recreation facilities, including the acquisition of land and rights-of-way therefor and (iii) paying professional services rendered in connection therewith, under and in strict conformity with the Constitution and laws of the State of Texas, particularly Texas Local Government Code, Subchapter C of Chapter 271, as amended, Texas Government Code, Chapter 1371, as amended, and pursuant to an Ordinance adopted by the governing body of the City (herein referred to as the "Ordinance").

The Certificates maturing on and after March 1, 20___, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of $5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on March 1, 20__, or on any date thereafter.

The redemption price shall be par, together with accrued interest to the date of redemption and thirty (30) days prior written notice shall be sent by United States mail, first class postage prepaid, to the registered owners of the Certificates to be redeemed. All redemptions are subject to the terms and provisions relating thereto contained in the Ordinance. If this Certificate (or any portion of the principal sum hereof) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date this Certificate (or the portion of the principal sum hereof to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Certificate is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Certificate to the Paying Agent/Registrar at its Designated Payment/Transfer Office, and a new Certificate or Certificates of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner without charge. If a Certificate is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Certificate to an assignee of the registered owner within forty-five (45) days of the redemption date; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Certificate redeemed in part.

With respect to any optional redemption of the Certificates, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.

The Certificates are payable from the proceeds of an ad valorem tax levied, within the limitations prescribed by law, upon all taxable property in the City and are additionally payable from and secured by a lien on and limited pledge of the Net Revenues (as defined in the Ordinance) of the City's Waterworks and Sewer System (the "System"), such lien and pledge being limited to an amount not in excess of $1,000 and being junior and subordinate to the lien on and pledge of the Net Revenues of the System securing the payment of "Prior Lien Obligations" (as defined in the Ordinance) now outstanding and hereafter issued by the City. In the Ordinance, the City reserves and retains the right to issue Prior Lien Obligations while the Certificates are outstanding without limitation as to principal amount but subject to any terms, conditions or restrictions as may be applicable thereto under law or otherwise and additional certificates equally and ratably secured with the Certificates by a parity lien on and pledge of the Net Revenues of the System.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all the provisions of which the Registered Owner hereof by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the tax levied for the payment of the Certificates; the properties constituting the System; the Net Revenues pledged to the payment of the principal of and interest on the Certificates; the nature and extent and manner of enforcement of the limited pledge; the terms and conditions relating to the transfer of this Certificate; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the registered owners of the Certificates; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the tax levy and the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity of this Certificate, and this Certificate deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein have the meanings assigned in the Ordinance.

This Certificate, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the Registered Owner hereof, or his or her duly authorized agent. When a transfer on the Security Register occurs, one or more fully registered Certificates of authorized denominations and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, may treat the Registered Owner hereof whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Certificate as the owner entitled to payment of principal hereof at its Stated Maturity or its date of redemption, in whole or

in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States mail, first class postage prepaid, to the address of each registered owner appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented, and covenanted that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Certificates is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Certificates to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Certificates do not exceed any constitutional or statutory limitation; and that due provision has been made for the payment of the principal of and interest on the Certificates by the levy of a tax and a pledge of the Net Revenues of the System as aforestated. In case any provision in this Certificate or any application thereof shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions and applications shall not in any way be affected or impaired thereby. The terms and provisions of this Certificate and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Certificate to be duly executed under the official seal of the City as of the Certificate Date.

CITY OF MIDLAND, TEXAS

_____
[Mayor][Mayor Pro Tem]

COUNTERSIGNED:

_____
[City Secretary][Deputy City Secretary]

(SEAL)

(d) Form of Registration Certificate of Comptroller of Public Accounts to Appear on Initial Certificates only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

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

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

WITNESS my signature and seal of office this _____.

_____
Comptroller of Public Accounts
of the State of Texas

(SEAL)

(e) Form of Certificate of Paying Agent/Registrar to appear on definitive Certificates only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

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

The designated offices of the Paying Agent/Registrar in _____, _____ is the Designated Payment/Transfer Office of the Certificate.

_____
_____, _____,
as Paying Agent/Registrar

Registration Date:

_____

By: _____
Authorized Signature

(f) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee:) _____
_____
_____
(Social Security or other identifying number: _____) the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

DATED: _____

Signature Guaranteed:

_____

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

(g) The Initial Certificate(s) shall be in the form set forth in paragraph (b) of this Section, except that the form of the fully registered Initial Certificate shall be modified as follows:

The Heading and the first paragraph shall be amended as follows:

REGISTERED
NO. T-1

REGISTERED
$_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF MIDLAND, TEXAS
TAX AND LIMITED PLEDGE REVENUE
CERTIFICATE OF OBLIGATION
SERIES 2025

Certificate Date: _____, 2025

Registered Owner: _____

Principal Amount: _____ DOLLARS

The City of Midland (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Midland and Martin, State of Texas, for value received, acknowledges itself indebted to and hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, on _____ in each of the years and in principal amounts and bearing interest at per annum rates in accordance with the following schedule:

Year of Stated Maturity	Principal Amount ($)	Interest Rates (%)

(Information to be inserted from the Pricing Certificate)

(or so much thereof as shall not have been paid upon prior redemption) and to pay interest (computed on the basis of a 360-day year consisting of twelve 30-day months) on the unpaid

Principal Amount hereof from the date of initial delivery of the Certificates at the per annum rate of interest specified above; such interest being payable on _____ and _____ of each year, commencing _____ 1, 20__. Principal of this Certificate is payable at its Stated Maturity or redemption to the Registered Owner hereof, by _____, _____, _____ (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated offices initially in _____, _____, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the Registered Owner of this Certificate (or one or more Predecessor Certificates, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the _____ day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first-class postage prepaid, to the address of the Registered Owner recorded in the Security Register on the Record Date or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. If the date for the payment of the principal of or interest on the Certificates shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Paying Agent/Registrar is located are authorized by law or executive order to be closed, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to be closed; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Certificate shall be without exchange or collection charges to the Registered Owner hereof and in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts.

SECTION 10: Definitions. For purposes of this Ordinance and for clarity with respect to the issuance of the Certificates herein authorized, and the levy of taxes and appropriation of Net Revenues for the Certificates, the following definitions are provided:

(a) The term "*Additional Certificates*" shall mean combination tax and revenue certificates of obligation hereafter issued under and pursuant to the provisions of the Act, or similar law hereafter enacted and payable from ad valorem taxes and additionally payable from and secured by a parity lien on and pledge of the Net Revenues of the System of equal rank and dignity with the lien and pledge securing the payment of the Certificates.

(b) The term "*Certificates*" shall mean the "CITY OF MIDLAND, TEXAS, TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2025" or the designation specified in the Pricing Certificate and authorized by this Ordinance.

(c) The term "*Certificate Fund*" shall mean the special fund created and established under the provisions of Section 11 of this Ordinance.

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

(e) The term "*Fiscal Year*" shall mean the annual financial accounting period used with respect to the operations of the System now ending on September 30th of each year; provided, however, the City Council may change, by ordinance duly passed, such annual financial accounting period to end on another date if such change is found and determined to be necessary for budgetary or other fiscal purposes.

(h) Unless otherwise modified by the Pricing Officer, the term "Government Securities" as used herein, shall mean (a) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (b) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the City are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (c) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and (d) any other then authorized securities or obligations that may be used to defease obligations such as the Certificates under the then applicable laws of the State of Texas.

(i) The term "*Gross Revenues*" shall mean all income, revenues, and receipts of every nature derived from or received by virtue of the operation of the System, including interest income and earnings received from the investment of moneys in any special funds created for the payment and security of the Prior Lien Obligations and other obligations payable in whole or in part from and secured by a lien on and pledge of the Net Revenues.

(j) The term "*Net Revenues*" shall mean the Gross Revenues of the System, with respect to any period, after deducting the System's Operating and Maintenance Expenses during such period.

(k) The term "*Operating and Maintenance Expenses*" shall mean all current expenses of maintenance and operation thereof, including all salaries, labor, materials, repairs and extensions necessary to render efficient service, provided, however, that only such expenses for repairs and extensions as in the judgment of the City Council, reasonably and fairly exercised, are necessary to keep the System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair any obligations payable from the Net Revenues of the System, shall be deducted in determining "Net Revenues." Contractual payments for the purchase of water or the treatment of sewage shall be a maintenance and operating expense of the System to the extent provided in the contract incurred therefor and as may be authorized by statute. Depreciation shall never be considered as an expense of operation and maintenance.

(l) The term "*Outstanding*" when used in this Ordinance with respect to Certificates means, as of the date of determination, all Certificates theretofore issued and delivered under this Ordinance, except:

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

(ii) those Certificates deemed to be duly paid by the City in accordance with the provisions of Section 24 hereof; and

(iii) those Certificates that have been mutilated, destroyed, lost, or stolen and replacement Certificates have been registered and delivered in lieu thereof as provided in Section 28 hereof.

(m) The term "*Prior Lien Obligations*" shall mean all bonds or other similar obligations that are payable in whole or in part from and secured by a lien on and pledge of the Net Revenues of the System which is prior and superior in claim, rank and dignity to the lien on and pledge of the Net Revenues securing the payment of the Certificates.

(n) The term "*System*" shall mean the City's existing waterworks and sewer system, including, but not limited to, all properties (real, personal or mixed and tangible or intangible) owned, operated, maintained, and vested in the City for the supply, treatment and distribution of treated water for domestic, commercial, industrial and other uses, and the collection and treatment of water carried wastes, together with all future additions, extensions, replacements and improvements to the System.

SECTION 11: Certificate Fund. For the purpose of paying the interest on and to provide a sinking fund for the payment, redemption and retirement of the Certificates, there shall be and is hereby created a special fund to be designated "SPECIAL 2025 CITY OF MIDLAND, TEXAS, TAX AND LIMITED PLEDGE REVENUE CERTIFICATE OF OBLIGATION FUND", and all moneys deposited to the credit of such Certificate Fund shall be kept and maintained at the City's depository bank, and moneys deposited in said Certificate Fund shall be used for no other purpose. Proper officers of the City are hereby authorized and directed to cause to be transferred to the Paying Agent/Registrar for the Certificates, from funds on deposit in the Certificate Fund, amounts sufficient to fully pay and discharge promptly each installment of interest and principal of the Certificates as the same accrues or matures or comes due by reason of redemption prior to maturity; such transfers of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Certificates at the close of business on the last business day next preceding each interest and/or principal payment date for the Certificates.

Pending the transfer of funds to the Paying Agent/Registrar, money in the Certificate Fund may, at the option of the City, be invested in obligations identified in, and in accordance with the provisions of the "Public Funds Investment Act," Texas Government Code, Chapter 2256, as amended, relating to the investment of "bond proceeds"; provided that all such investments shall be made in such a manner that the money required to be expended from said Certificate Fund will be available at the proper time or times. All interest and income derived from deposits and investments in the Certificate Fund shall be credited to, and any losses debited to, the said Certificate Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Certificates.

SECTION 12: Tax Levy. To provide for the payment of the "Debt Service Requirements" on the Certificates being (i) the interest on said Certificates and (ii) a sinking fund for their redemption at maturity or a sinking fund of 2% (whichever amount shall be the greater), there shall be and there is hereby levied, within the limitations prescribed by law, for the current year and each succeeding year thereafter while said Certificates or any interest thereon shall remain Outstanding, a sufficient tax on each one hundred dollars' valuation of taxable property in said City, adequate to pay such Debt Service Requirements, full allowance being made for delinquencies and costs of collection; said tax shall be assessed and collected each year and applied to the payment of the Debt Service Requirements, and the same shall not be diverted to any other purpose. The taxes so levied and collected shall be deposited into the Certificate Fund. This governing body hereby declares its purpose and intent to provide and levy a tax legally and fully sufficient to pay the said Debt Service Requirements, it having been determined that the existing and available taxing authority of the City for such purpose is adequate to permit a legally sufficient tax in consideration of all other outstanding indebtedness.

PROVIDED, however, with regard to any payment to become due on the Certificates prior to the tax delinquency date next following the annual assessment of taxes levied which next follows the Certificate Date, if any, sufficient current funds will be available and are hereby appropriated to make such payments; and the Mayor, Mayor Pro Tem, City Manager, Director of Finance and City Secretary of the City, individually or jointly, are hereby authorized and directed to transfer and deposit in the Certificate Fund such current funds which, together with any accrued interest received from the initial purchasers, will be sufficient to pay the payments due on the Certificates prior to the tax delinquency date next following the annual assessment of taxes levied which next follows the Certificate Date.

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

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

(i) The amount on deposit in the Certificate Fund after (a) deducting the total amount of Debt Service Requirements to become due on Certificates prior to the Collection Date for the ad valorem taxes to be levied and (b) adding to that amount the amount of Net Revenues of the System appropriated and allocated to pay such Debt Service Requirements prior to the Collection Date for the ad valorem taxes to be levied.

(ii) The amount of Net Revenues and other lawfully available revenues, if any, that are appropriated and to be set aside for the payment of the Debt Service Requirements on the Certificates between the Collection Date for the taxes then to be levied and the Collection Date for the taxes to be levied during the next succeeding calendar year.

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

(p) The amount of taxes to be levied annually each year to pay the Debt Service Requirements on the Certificates shall be the amount established in paragraph (iii) above less the sum total of the amounts established in paragraphs (i) and (ii), after taking into consideration delinquencies and costs of collecting such annual taxes.

SECTION 13: Limited Pledge of Net Revenues. The City hereby covenants and agrees that subject to the prior lien on and pledge of the Net Revenues to the payment and security of the Prior Lien Obligations, the Net Revenues of the System, in an amount not to exceed $1,000, are hereby irrevocably pledged, equally and ratably, to the payment of the principal of and interest on the Certificates. This limited pledge of $1,000 of the Net Revenues made for the payment of the Certificates shall constitute a lien on the Net Revenues until such time as the City shall pay all of such $1,000 in Net Revenues, after which time the pledge shall cease, all in accordance with the terms and provisions of this Ordinance; this limited pledge shall be junior and subordinate to the lien on and pledge of Net Revenues of the System securing the payment of "Prior Lien Obligations" (as defined in the Ordinance) now outstanding and hereafter issued by the City; and, this limited pledge shall be valid and binding without further action by the City.

SECTION 14: System Fund. The City hereby covenants and agrees that all Gross Revenues (excluding earnings from the investment of money held in any special funds or accounts created for the payment and security of Prior Lien Obligations) shall be deposited from

day to day as collected into a "City of Midland Waterworks and Sewer System Fund" (hereinafter called "System Fund") which Fund shall be kept and maintained at an official depository bank of the City. All moneys deposited in the System Fund shall be pledged and appropriated to the extent required for the following purposes and in the order of priority shown, to wit:

First: To the payment of all necessary and reasonable Operating and Maintenance Expenses of the System as defined herein or required by statute to be a first charge on and claim against the Gross Revenues;

Second: To the payment of the amounts required to be deposited in the special Funds created and established for the payment, security and benefit of Prior Lien Obligations in accordance with the terms and provisions of the ordinances authorizing the issuance of Prior Lien Obligations; and

Third: To the payment of the amounts required to be deposited in the special funds and accounts created and established for the payment of the Certificates and Additional Certificates.

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

SECTION 15: Deposits to Certificate Fund. The City hereby covenants and agrees to cause to be deposited in the Certificate Fund from the pledged Net Revenues in the System Fund, an amount not to exceed $1,000.

The City covenants and agrees that the amount of pledged Net Revenues ($1,000), together with ad valorem taxes levied, collected, and deposited in the Certificate Fund for and on behalf of the Certificates, will be an amount equal to one hundred percent (100%) of the amount required to fully pay the interest and principal due and payable on the Certificates. In addition, any surplus proceeds from the sale of the Certificates not expended for authorized purposes shall be deposited in the Certificate Fund, and such amounts so deposited shall reduce the sums otherwise required to be deposited in said Fund from ad valorem taxes and the Net Revenues.

SECTION 16: Security of Funds. All moneys on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of Texas for the security of public funds, and moneys on deposit in such Funds shall be used only for the purposes permitted by this Ordinance.

SECTION 17: Maintenance of System - Insurance. While the Certificates remain Outstanding, the City covenants and agrees to maintain and operate the System with all possible efficiency and to maintain casualty and other insurance on the properties of the System and its operations of a kind and in such amounts customarily carried by municipal corporations in the State of Texas engaged in a similar type business; and that it will faithfully and punctually perform all duties with reference to the System required by the Constitution and laws of the State of Texas.

SECTION 18: Rates and Charges. The City hereby covenants and agrees that rates and charges for services provided by the System will be established and maintained, on the basis of all available information and experience and with due allowance for contingencies, that are reasonably expected to provide Gross Revenues to pay:

(q) Operating and Maintenance Expenses of the System;

(r) the interest on and principal of Prior Lien Obligations and the amounts required to be deposited into any special Funds created and established for the payment and security of the Prior Lien Obligations;

(s) the amounts required to be deposited in the special Funds or Accounts (the Certificate Fund) created for the payment of the Certificates and Additional Certificates;

(t) any other legally incurred indebtedness payable from the revenues of the System and/or secured by a lien on the System or the revenues thereof.

SECTION 19: Records and Accounts - Annual Audit. The City further covenants and agrees that while any Certificates remain Outstanding, it will keep and maintain accurate and complete records and accounts pertaining to the ownership, operation and maintenance of the System. The Holders of the Certificates or any duly authorized agent or agents of such Holders shall have the right to inspect the System and all properties comprising the same. The City further agrees that following the close of each Fiscal Year, it will cause an audit of such books and accounts to be made by an independent firm of Certified Public Accountants. Copies of each annual audit shall be furnished to the Executive Director of the Municipal Advisory Council of Texas at his or her office in Austin, Texas and are available at the City's website, currently www.ci.midland.tx.us.

SECTION 20: Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in the payments to be made to the Certificate Fund, or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance, any Holder shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

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

SECTION 21: Special Covenants. The City hereby further covenants as follows:

(a) It has the lawful power to pledge the Net Revenues of the System supporting this issue of Certificates and has lawfully exercised said powers under the Constitution and laws of the State of Texas, including said power existing Texas Government Code, Chapter 1502, as amended, and Texas Local Government Code, Subchapter C of Section 271, as amended.

(b) Other than for the payment of the outstanding Prior Lien Obligations and the Certificates, the Net Revenues of the System are not in any manner pledged to the payment of any debt or obligation of the City or of the System.

(c) While any Certificates remain Outstanding, the City will not sell, lease, or encumber the System or any substantial part thereof; provided that this covenant shall not be

construed to prohibit the sale of such machinery, or other properties or equipment which has become obsolete or otherwise unsuited to the efficient operation of the System.

(d) To the extent that it legally may, while any of the Certificates are Outstanding, no franchise shall be granted for the installation or operation of any competing waterworks and sanitary sewer systems other than those owned by the City, and the operation of any such systems by anyone other than the City shall be prohibited.

SECTION 22: Issuance of Prior Lien Obligations and Additional Certificates. The City hereby expressly reserves the right to issue Prior Lien Obligations, without limitation as to principal amount but subject to any terms, conditions or restrictions applicable under law or otherwise, and, also reserves the right to issue Additional Certificates which, together with the Certificates, shall be secured by a parity lien on and pledge of the Net Revenues of the System.

SECTION 23: Subordinate to Prior Lien Obligations, Covenants and Agreements. It is the intention of this governing body and accordingly hereby recognized and stipulated that the provisions, agreements and covenants contained herein bearing upon the management and operations of the System and the administering and application of revenues derived from the operation thereof, shall to the extent possible be harmonized with like provisions, agreements and covenants contained in ordinances authorizing the issuance of Prior Lien Obligations, and to the extent of any irreconcilable conflict between the provisions contained herein and in ordinances authorizing the issuance of Prior Lien Obligations, the provisions, agreements and covenants contained therein shall prevail to the extent of such conflict and be applicable to this Ordinance but in all respects subject to the priority of rights and benefits, if any, conferred thereby to the holders or owners of the Prior Lien Obligations. Notwithstanding the above, any change or modification affecting the application of revenues derived from the operation of the System shall not impair the obligation of contract with respect to the pledge of revenues herein made for the payment and security of the Certificates.

SECTION 24: Satisfaction of Obligations of City. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Certificates, at the times and in the manner stipulated in this Ordinance; then the pledge of taxes levied and the lien on and limited pledge of the Net Revenues of the System (to the extent such limited pledge of Net Revenues shall not have been discharged or terminated by prior payment of principal of or interest on the Certificates) under this Ordinance and all covenants, agreements, and other obligations of the City to the Holders shall cease, terminate, and be discharged and satisfied.

Certificates shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Certificates or the principal amount(s) thereof at maturity or (if notice of redemption has been duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Securities (as defined in Section 10(f) above) shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Securities have been certified by an independent accounting or consulting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Certificates, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been

duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City reserves the right, subject to satisfying the requirements of (i) and (ii) above, to substitute other Government Securities for the Government Securities originally deposited, to reinvest the uninvested moneys on deposit for such defeasance and to withdraw for the benefit of the City moneys in excess of the amount required for such defeasance. The City covenants that no deposit of moneys or Government Securities will be made under this Section and no use made of any such deposit which would cause the Certificates to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

The City reserves the option, to be exercised at the time of the defeasance of the Certificates, to call for redemption, at an earlier date, those Certificates which have been defeased to their maturity date, if the City: (i) in the proceedings providing for the firm banking and financial arrangements, expressly reserves the right to call the Certificates for redemption; (ii) gives notice of the reservation of that right to the owners of the Certificates immediately following the making of the firm banking and financial arrangements; and (iii) directs that notice of the reservation be included in any redemption notices that it authorizes.

Any moneys so deposited with the Paying Agent/Registrar and all income from Government Securities held in trust by the Paying Agent/Registrar, or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Certificates, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Certificates and remaining unclaimed for a period of three (3) years after the maturity, or applicable redemption date, of the Certificates such moneys were deposited and are held in trust to pay shall upon the request of the City be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

SECTION 25: Ordinance a Contract - Amendments. This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Certificate remains Outstanding except as permitted in this Section. The City, may, without the consent of or notice to any Holders of the Certificates, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders of the Certificates, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of Holders of the Certificates holding a majority in aggregate principal amount of the Certificates then Outstanding affected thereby, amend, add to, or rescind any of the provisions of this Ordinance; provided that, without the consent of all Holders of Outstanding Certificates, no such amendment, addition, or rescission shall (1) extend the time or times of payment of the principal of, premium, if any, and interest on the Certificates, reduce the principal amount thereof, the redemption price, or the rate of interest thereon, or in any other way modify the terms of payment of the principal of, premium, if any, or interest on the Certificates, (2) give any preference to any Certificate over any other Certificate, or (3) reduce the aggregate principal amount of Certificates required to be held by Holders for consent to any such amendment, addition, or rescission.

SECTION 26: Notices to Holders - Waivers. Wherever this Ordinance provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly

provided) if in writing and sent by United States mail, first class postage prepaid, to the address of each Holder appearing in the Security Register at the close of business on the business day next preceding the mailing of such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Certificates. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Paying Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 27: Cancellation. All Certificates surrendered for payment, redemption, transfer, or exchange, if surrendered to the Paying Agent/Registrar, shall be promptly canceled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already canceled, shall be promptly canceled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Certificates previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Certificates so delivered shall be promptly canceled by the Paying Agent/Registrar. All canceled Certificates held by the Paying Agent/Registrar shall be returned to the City.

SECTION 28: Mutilated, Destroyed, Lost and Stolen Certificates. In case any Certificate shall be mutilated, destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Certificate of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Certificate, or in lieu of and in substitution for such destroyed, lost or stolen Certificate, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Certificate, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Certificate shall be borne by the Holder of the Certificate mutilated, destroyed, lost or stolen.

Every replacement Certificate issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Certificates; notwithstanding the enforceability of payment by anyone of the destroyed, lost or stolen Certificates.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost, or stolen Certificates.

SECTION 29: Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms have the following meanings:

"*Closing Date*" means the date on which the Certificates are first authenticated and delivered to the initial purchasers against payment therefor.

"*Code*" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"*Computation Date*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"*Gross Proceeds*" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Certificates.

"*Investment*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"*Nonpurpose Investment*" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Certificates are invested and which is not acquired to carry out the governmental purposes of the Certificates.

"*Rebate Amount*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"*Regulations*" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Certificates. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"*Yield*" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (2) the Certificates has the meaning set forth in Section 1.148-4 of the Regulations.

(u) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Certificate to become includable in the gross income, as defined in Section 61 of the Code, of the Holder thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Certificate, the City shall comply with each of the specific covenants in this Section.

(v) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Certificates:

(i) exclusively own, operate, and possess all property the acquisition, construction, or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Certificates, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed, or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department, and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Certificates or any property the acquisition, construction, or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Certificates to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output, or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed, or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Certificates directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Certificates.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Certificates to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(i) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Certificate is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Certificates with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its

official transcript of proceedings relating to the issuance of the Certificates until six years after the final Computation Date.

(iii) As additional consideration for the purchase of the Certificates by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of its general fund or other appropriate fund, or, if permitted by applicable Texas statute, regulation, or opinion of the Attorney General of the State of Texas, the Certificate Fund, the amount that when added to the future value of previous rebate payments made for the Certificates equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(iv) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (ii) and (iii), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Certificates, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Certificates not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager and Director of Finance, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as one or more of such persons deem necessary or appropriate in connection with the Certificates, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

(k) Qualified Tax-Exempt Obligations. The Pricing Officer is hereby authorized to designate in the Pricing Certificate the designation of the Certificates as "qualified tax-exempt obligations" in accordance with the provisions of the paragraph (3) of subsection (b) of Section 265 of the Code in the event the Certificates qualify for such designation and confirm that the Certificates are not "private activity bonds" as defined in the Code and confirm the amount of "tax-exempt obligations" to be issued by the City (including all subordinate entities of the City) for the calendar year in which the Certificates are issued will not exceed the applicable limitation.

SECTION 30: Sale of the Certificates – Approval of Official Statement. The Certificates authorized by this Ordinance are to be sold by the City to the Purchasers in accordance with a

bond purchase agreement in the event of a negotiated sale, letter agreement to purchase in the event of a private placement, or the successful bid form in the event of a competitive sale, as applicable (either, the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer in accordance with Section 3 hereof. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract for and on behalf of the City, as the act and deed of this Council, and to make a determination as to whether the terms are in the City's best interests, which determination shall be final.

With regard to such terms and provisions of the Purchase Contract, the Pricing Officer is hereby authorized to come to an agreement with the Purchasers on the following, among other matters:

1. The details of the purchase and sale of the Certificates;

2. The details of any public offering of the Certificates by the Purchasers, if any;

3. The details of any Official Statement or similar disclosure document (and, if appropriate, any Preliminary Official Statement) relating to the Certificates and the City's Rule 15c2-12 compliance, if applicable;

4. A security deposit for the Certificates, if any;

5. The representations and warranties of the City to the Purchasers;

6. The details of the delivery of, and payment for, the Certificates;

7. The Purchasers' obligations under the Purchase Contract;

8. The certain conditions to the obligations of the City under the Purchase Contract;

9. Termination of the Purchase Contract;

10. Particular covenants of the City;

11. The survival of representations made in the Purchase Contract;

12. The payment of any expenses relating to the Purchase Contract;

13. Notices; and

14. Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Certificates.

The Mayor or Mayor Pro Tem and City Secretary or Deputy City Secretary of the City and the Pricing Officer are each further authorized and directed to deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement prepared in connection with the offering of the Certificates by the Purchasers, in final form as may be required by the Purchasers, and such final Official Statement as delivered by said officials shall constitute the Official Statement authorized for distribution and use by the Purchasers.

SECTION 31: Proceeds of Sale. The proceeds of sale of the Certificates, less accrued interest, if any and those proceeds of sale designated to pay costs of issuance and any additional

proceeds being deposited to the Certificate Fund as specified in the Pricing Certificate, shall be deposited in a construction fund maintained at a City depository bank. Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments pursuant to the Public Funds Investment Act, Texas Government Code Chapter 2256, as amended, and, any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Certificate Fund as shall be determined by the City Council. Any accrued interest and all surplus proceeds of sale of the Certificates, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Certificate Fund.

SECTION 32: Control and Custody of Certificates. The Mayor or Mayor Pro Tem of the City shall be and is hereby authorized to take and have charge of all necessary orders and records pending investigation by the Attorney General of the State of Texas, including the printing of the Certificates, and shall take and have charge and control of the Initial Certificates pending the approval thereof by the Attorney General, the registration thereof by the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

Furthermore, the Mayor, Mayor Pro Tem, City Secretary, Deputy City Secretary, City Manager, any Assistant City Manager and Director of Finance, any one or more of said officials, are hereby authorized and directed to furnish and execute such documents and certifications relating to the City and the issuance of the Certificates, including a certification as to facts, estimates, circumstances and reasonable expectations pertaining to the use and expenditure and investment of the proceeds of the Certificates as may be necessary for the approval of the Attorney General, registration by the Comptroller of Public Accounts and delivery of the Certificates to the purchasers thereof and, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Certificates to the initial purchaser(s) and the exchange thereof for definitive Certificates.

SECTION 33: Continuing Disclosure Undertaking. This Section shall apply unless the Pricing Officer determines in the Pricing Certificate that an undertaking is not required pursuant to the Rule (defined below).

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

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

"MSRB" means the Municipal Securities Rulemaking Board.

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

"SEC" means the United States Securities and Exchange Commission.

(b) Annual Reports.

The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning in or after the year stated in the Pricing Certificate, financial information and

operating data with respect to the City of the general type of information contained in the Official Statement approved by the Pricing Officer and described in the Pricing Certificate, and (2) within twelve months after the end of each fiscal year ending in or after the year specified in the Pricing Certificate, audited financial statements of the City. If audited financial statements are not available within 12 months after the end of any fiscal year, the City will provide unaudited financial statements by the required time, and audited financial statements when and if such audited financial statements become available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

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

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(w) Notices of Certain Events.

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

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

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

14. Appointment of a successor or additional trustee or the change of name of a trustee, if material;

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

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

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

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(x) Filings with the MSRB.

All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(y) Limitations, Disclaimers, and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) of this Section of any Certificate calls and defeasance that cause the City to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Certificates; and, nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it

has expressly agreed to provide pursuant to this Section. Except as expressly provided within this Section, the City does not undertake to provide any other information, whether or not it may be relevant or material to a complete presentation of the City's financial results, condition, or prospects; nor does the City undertake to update any information provided in accordance with this Section or otherwise. Furthermore, the City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

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

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

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

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Certificates. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Certificates from lawfully purchasing or selling Certificates in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 34: Bond Counsel's Opinion. The Purchaser's obligation to accept delivery of the Certificates is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Dallas, Texas, approving the Certificates as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for the Certificates. The City Council confirms the continuation of the engagement of Norton Rose Fulbright US LLP as the City's bond counsel.

SECTION 35: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, City Manager, any Assistant City Manager, Director of Finance, City Secretary or Deputy City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Certificates. In addition, prior to the initial delivery of the Certificates, the City Manager, Mayor, Mayor Pro Tem, Director of Finance or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Certificates by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 36: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Certificates shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving said Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Certificates.

SECTION 37: Municipal Bond Insurance. The Certificates may be sold with the principal of and interest thereon being insured by a municipal bond insurance provider authorized to transact business in the State of Texas. The Pricing Officer is hereby authorized to make the selection of municipal bond insurance (if any) for the Certificates and make the determination of the provisions of any commitment therefor.

SECTION 38: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders.

SECTION 39: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 40: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 41: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 42: Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 43: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 44: Incorporation of Findings and Determinations. The findings and determinations of the City Council contained in the preamble hereof are hereby incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

SECTION 45: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code, as amended.

SECTION 46: Effective Date. In accordance with the provisions of Section 1201.028, Texas Government Code, as amended, this Ordinance shall take effect and be in full force immediately from and after its date of adoption shown below.

[Remainder of page intentionally left blank]

PASSED AND APPROVED this the 14th day of January, 2025.

CITY OF MIDLAND, TEXAS

_____
Mayor

ATTEST:

_____
City Secretary

(City Seal)

APPROVED AS TO FORM:

_____
City Attorney

EXHIBIT A

Form of Paying Agent/Registrar Agreement

City Council Meeting

Item Number: 34

Meeting Date: January 14, 2025

To: City Council / City Manager

From: Marcia Bentley-German, City Governance Officer/City Secretary

Subject: MOTION APPOINTING A MAYOR PRO TEMPORE. (DISTRICT: ALL) (CITY SECRETARY'S OFFICE) (TRANSPARENT & CONSISTENT COMMUNICATION)

Purpose:

Consider a motion appointing a Mayor Pro Tempore.

Recommended City Council Action:

Approve

Fiscal Impact:

None

Strategic Priority:

(Transparent & Consistent Communication)

Discussion:

The City Council will select a Mayor Pro Tempore.

Morris William Jr.

City Manager's Office

Date: January 14, 2025

To: The Honorable Mayor and Council

From: Vanessa Magallanes, Chief Deputy City Secretary

Subject: MDC & Planning & Zoning Commission Annual Recruitment

Dear Council, included with this memo are the applications received for the Midland Development Corporation and Planning and Zoning Commission Annual Recruitment, a spreadsheet of the names of the applicants and what board they applied to, attendance records, and the Main Board list for your review to make appointments at the January 14th City Council meeting.

Midland Development Corporation:

2 – Vacancies (Berry & Gardaphe)

1 – Re-Appointment (Brown)

Planning and Zoning Commission:

3 – Vacancies (Carrasco, Villela, & Burkholder)

I would like to see if you all would like to appoint someone from Council as the Council Liaison for the following boards that Councilman Corrales was a part of:

Animal Control Advisory Commission

Building & Fire Code Review Committee/Construction Board of Adjustments & Appeals

Zoning Board of Adjustment & Airport Zoning Board of Adjustment

BOARDS AND COMMISSIONS OF THE CITY OF MIDLAND

January 14, 2025

AIRPORT PLANNING AND DEVELOPMENT BOARD

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

	Appt Date	Term Expires	Eligibility Expires
Justin Kuethe	09/19	Sept 30 2025	Sept 30 2025
Nick McClure	09/19	Sept 30 2025	Sept 30 2025
James Linderman	04/22	Sept 30 2025	Sept 30 2028
Frank Kisner	09/22	Sept 30 2025	Sept 30 2028
Brandon Patterson	09/22	Sept 30 2025	Sept 30 2028
Gena Linebarger	09/20	Sept 30 2026	Sept 30 2026
Benjamin Fietz	09/20	Sept 30 2026	Sept 30 2026
John Echols	09/23	Sept 30 2026	Sept 30 2029
Samuel Jolliffe V	09/23	Sept 30 2026	Sept 30 2029
Dave Joyner	10/21	Sept 30 2027	Sept 30 2027

Justine Ruff (Liaison)
Robin Poole (Council Liaison)

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

Eligibility Requirements: Resident of Midland County

ANIMAL CONTROL ADVISORY COMMISSION

(Advisory)
(Membership - 7; Terms - 4 Years)

	Appt Date	Term Expires	Eligibility Expires
Melissa Griffin-Hobson (daily operations)	08/23	Sept 30 2025	Does Not Expire
VACANT (Jensen (Veterinarian))	04/20	Sept 30 2024	Does Not Expire
Dianne Anderson (County)	11/23	Sept 30 2027	Does Not Expire
Alyson Dial	09/18	Sept 30 2026	Sept 30 2026
Beth Meeks	09/22	Sept 30 2026	Sept 30 2030
Shelly Haney	09/24	Sept 30 2028	Sept 30 2032
Lisa Vandenberg	09/24	Sept 30 2028	Sept 30 2032

Melissa Griffin-Hobson (Staff Liaison)
Dan Corrales (Council Liaison)

Eligibility Requirements: 1 License Veterinarian, 1 Animal Shelter Employee, 1 Animal Welfare Organization Representative, 1 County or Municipal Official, 3 Citizens

BARBARA AND GEORGE H.W. BUSH CONVENTION CENTER ADVISORY BOARD

(Advisory)

(Membership-7; City Appoints 4 Seats; Terms – 3 Years - Staggered)

	Appt Date	Term Expires	Eligibility Expires
Randall Milloy	09/23	Sept 30 2025	Sept 30 2028
Tucker Schneemann	09/23	Sept 30 2025	Sept 30 2028
Dillon Custer	09/23	Sept 30 2026	Sept 30 2029
Tim Jakel Jr.	11/24	Sept 30 2027	Sept 30 2030

Robin Poole (Council Liaison)

Non-voting Ex-Officio member is the City Governance Officer/City Secretary.

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

(Decision Making)

(Membership – 9; Terms – 6 Years)

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

	Appt Date	Term Expires	Eligibility Expires
Ryan Almand (Electrical Contractor)	12/18	Sept 30 2030	Sept 30 2030
Jay Bradford (Architect)	12/18	Sept 30 2030	Sept 30 2030
T.J. McClure (Architect)	12/18	Sept 30 2030	Sept 30 2030
Laurence Oeth (Structural Engineer)	12/18	Sept 30 2030	Sept 30 2030
Gary Glasscock (General Contractor)	12/18	Sept 30 2030	Sept 30 2030
Robert Anderson (Homebuilder)	12/18	Sept 30 2030	Sept 30 2030
Dean Kelly (Plumbing & Mechanical Contractor)	04/22	Sept 30 2028	Sept 30 2034
Kenneth Whiting (Fire Protection)	04/22	Sept 30 2028	Sept 30 2034
Jeff Pinkstaff (Liaison)	12/18	Sept 30 2030	Sept 30 2030

Dan Corrales (Council Liaison)

Eligibility Requirements: Members shall reside within the City.

CAPITAL IMPROVEMENT ADVISORY COMMITTEE

(Advisory)

(Membership – 7)

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

	Appt Date
Carl Craigo	10/19
Walter Pate	06/18
Mark Payne	06/18
Brian Sales	06/18
Gabriel McClelland (Staff Liaison)	09/23
Bill Scott	09/22
Joshua Ferguson	09/24

Robin Poole (Council Liaison)

CITIZENS DEVELOPMENT AND HOTEL/MOTEL ADVISORY BOARD

(Advisory)
(Membership - 7; Terms - 2 Years Staggered)

	Appt Date	**Term Expires**	**Eligibility Expires**
Clint Williamson	04/21*	Sept 30 2025	Sept 30 2025
Heather Bredimus	09/23	Sept 30 2025	Sept 30 2027
Shonna Garcia	03/24*	Sept 30 2025	Sept 30 2029
Charles Harrington	04/24*	Sept 30 2025	Sept 30 2029
Roy Geer	09/24	Sept 30 2026	Sept 30 2028
Michael Dietrich	09/24	Sept 30 2026	Sept 30 2028
Ankur Bhakta	09/22	Sept 30 2026	Sept 30 2026

Marcia Bentley-German (Staff Liaison)
Robin Poole (Council Liaison)
John Norman (Council Liaison)

Eligibility Requirements: Members shall be thoroughly familiar with Chapter 351, “Municipal Hotel Occupancy Taxes”, 1 Member Representative of Hotel/Motel Association.

MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS

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

	Appt Date	**Term Expires**
John Scharbauer	10/24*	Dec 31 2028

MIDLAND DEVELOPMENT CORPORATION

(Decision Making/Separate Legal Entity)
(Membership - 7; Terms -3 Years - Staggered)

	Appt Date	Term Expires	Eligibility Expires
Chase Gardaphe	01/19	Jan 14 2025	Jan 14 2025
Barry Simpson	01/19	Jan 14 2025	Jan 14 2025
Brad Bullock	04/21*	Jan 14 2026	Jan 14 2029
P Lourcey Sams	04/20*	Jan 14 2026	Jan 14 2026
Jill Pennington	04/20*	Jan 14 2026	Jan 14 2026
Zachary Deck	01/23	Jan 14 2026	Jan 14 2029
Elvie Brown	10/23*	Jan 14 2025	Jan 14 2039

Vanessa Magallanes (Staff Liaison)
Amy Stretcher-Burkes (Council Liaison)
Lori Blong – Mayor (Council Liaison)

Eligibility Requirements: No director or employee shall be related to a current City Council member.

MIDLAND DOWNTOWN PARK CONSERVANCY BOARD

(Separate Legal Entity)
(Membership - 7; City Appoints 3 Seats; Terms -3 Years - Staggered)
(Resolution of appointment is made each February and each appointment must be ratified by the Conservancy Board in March at their annual meeting)

	Appt Date	Term Expires	Eligibility Expires
Traci Proctor	02/24	Sep 30 2027	Sep 30 2030
Sharla Hotchkiss	07/20*	Sep 30 2025	Sep 30 2028
Elvie Brown	02/23	Sep 30 2026	Sep 30 2029

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION

(Membership - 7; Terms - 2 Years Staggered)

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

Sharla Hotchkiss (Liaison)

MIDLAND HOUSING AUTHORITY COMMISSION

(Separate Legal Entity)
(Membership - 5; Terms - 2 Years expiring 3 even & 2 odd.)
Appointments Made by Mayor (LGC 392.031)

	Appt Date	Term Expires

Latoya Mayberry	06/21	Oct 2025
Cheryl Wadley (Resident Commissioner)	11/19	Oct 2025
Michelle Evans	10/23	Oct 2025
Neville Peyton	10/23	Oct 2025
Wes Gotcher	09/20	Oct 2026

Isaac Garnett (Staff Liaison)

Eligibility Requirements: No member may be an officer or employee of the City of Midland.

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD

(Decision Making/Separate Legal Entity)
(Membership – 12 with 6 appointed by Midland; Terms - 2 Years Staggered; Can serve 3 terms)

	Appt Date	Term Expires	Eligibility Expires
Don “Woody” Woodward	09/22	Sept 30 2028	Sept 30 2028
Daniel Garcia	11/24	Sept 30 2026	Sept 30 2028
Robert Crites	10/22	Sept 30 2024	Sept 30 2028
Joseph Sanchez	12/19*	Sept 30 2027	Sept 30 2027
Daniel Norwood	04/21*	Sept 30 2029	Sept 30 2029
Lindsey Adams	11/24	Sept 30 2026	Sept 30 2028

Taha Sakrani (Staff Liaison)

MIDLAND SPACEPORT DEVELOPMENT CORPORATION

(Decision Making)
(Membership – 7 with 4 appointed by City of Midland & 3 by Midland County; 2 Year-Terms)

	Appt Date	Term Expires
Frank Kisner (City)	04/23	Sept 30 2025
Stephen Lowery (County)	02/24*	Sept 30 2025
Frank Tarzian (County)	02/24*	Sept 30 2025
Ed Anderson (County)	04/23	Sept 30 2025
John Trischitti III (City)	11/23	Sept 30 2025
Claudius Sanchez Czyzewska (City)	11/23	Sept 30 2025
Dann Schantz	11/24	Sept 30 2026

Justine Ruff (Staff Liaison)

OIL AND GAS ADVISORY COMMITTEE

(Advisory)
(Membership – 5; Terms – 3 Years expiring 2-2-1)
2 real property developer, real estate sales, or developer; 3 Lic. petroleum engineer, engineer w/ bachelor, or geologist

Eligibility

	Appt Date	Term Expires	Expires
Ross Klabon (Petroleum Eng.)	10/19	Sept 30 2025	Sept 30 2025
Layton Hargesheimer	10/23	Sept 30 2026	Sept 30 2029
Nick Stowers (Petroleum Eng.)	09/24	Sept 30 2027	Sept 30 2030
Cameron Willmann (Real Estate)	10/21*	Sept 30 2027	Sept 30 2027
Keith Braun	11/24	Sept 30 2027	Sept 30 2030

Garrick Clayton (Staff Liaison)

Eligibility Requirements: 3 Petroleum Engineers or Geologists and 2 with Property Development or Real Estate Experience.

PARKS AND RECREATION COMMISSION

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

	Appt Date	Term Expires	Eligibility Expires
Amber Voithorer	09/22	Sept 30 2025	Sept 30 2028
Rachel Overman	09/22	Sept 30 2025	Sept 30 2028
Sarah Judge	09/22	Sept 30 2025	Sept 30 2028
Lynn Rogers	09/22	Sept 30 2025	Sept 30 2028
Susannah Prucka	04/20*	Sept 30 2026	Sept 30 2026
Dal Watson	09/20	Sept 30 2026	Sept 30 2026
Andra Jones	09/23	Sept 30 2026	Sept 30 2029
Dustin Johnson	09/24	Sept 30 2027	Sept 30 2030
Marion Bryant	11/24	Sept 30 2027	Sept 30 2030

Laurie Williams (Staff Liaison)
John Norman (Council Liaison)

Eligibility Requirements: Resident Citizen, Taxpayer and Qualified Voter.

PERMIAN BASIN COMMUNITY CENTER FOR MH/MR (PermiaCare)

(Separate Legal Entity)
(Membership 9 - 2 (City); Terms - 2 Years)

	Appt Date	Term Expires	
Derek Cook (City)	06/21	June 2025	
Mickey Cargile (City)*	09/23	June	2025

PERSONNEL BOARD OF APPEALS

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

	Appt. Date	
Scott Dufford	01/14	
Hugh A. “Andy” Shaffer	09/05	
Lori Blong	01/23	

*** Indicates appointment to an unexpired term.**

Mark Widman (Staff Liaison)

Eligibility Requirements: Board consists of two City Council members and one other member who is not a City employee.

PLANNING AND ZONING COMMISSION

(Decision Making)
(Membership - 7; Terms - 3 Years)

	Appt Date	Term Expires	Eligibility Expires
VACANT (Carrasco)	09/21	Sept 30 2024	Sept 30 2027
Emily Holeva	09/22	Sept 30 2025	Sept 30 2028
Abraham Bejil	09/22	Sept 30 2025	Sept 30 2028
VACANT (Villela)	05/23*	Sept 30 2026	Sept 30 2029
Lucy Sisniega	09/20	Sept 30 2026	Sept 30 2026
VACANT (Burkholder)	10/23	Sept 30 2026	Sept 30 2029
Brennan Berry	10/23	Sept 30 2026	Sept 30 2029
ALTERNATES:			
Joshua Sparks	10/23	Sept 30 2026	Sept 30 2029
Dara Richardson	04/24*	Sept 30 2025	Sept 30 2031

Landon Ochoa (Staff Liaison)

Eligibility Requirements: Resident citizen of City of Midland, owner of real property within the City Limits and qualified Voter.

ZONING BOARD OF ADJUSTMENT AND AIRPORT ZONING BOARD OF ADJUSTMENT

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

	Appt Date	Term Expires	Eligibility Expires

Rachel Walker	10/23	Sept 30 2025	Sept 30 2027
Elizabeth Moore	10/23	Sept 30 2025	Sept 30 2027
Robert Gray	01/21*	Sept 30 2027	Sept 30 2027
Deborah Julian	11/24	Sept 30 2026	Sept 30 2028
Brentley LaFoy	11/24	Sept 30 2026	Sept 30 2028

ALTERNATES: (not applicable to Airport Zoning)

Keith Braun	Sept 30 2026
Spencer Manning	Sept 30 2026
VACANCY	**Sept 30 2020**
VACANCY	**Sept 30 2020**

Jeff Pinkstaff (Staff Liaison)

****Updated: January 6, 2025****

Optional Processes for Board and Commission Members

Option 1

Council & Staff Review & Recommendations

- Once open enrollment has ended in June the City Secretary's office receives applications and conducts initial vetting of candidates to verify eligibility and suitability for the boards/commissions (B/C) they are applying for.
- The City Secretary's office will then forward those applications to the Department/Liaison for further vetting and recommendation.
- Council receives all applications for review and are scheduled to meet in Executive Session at the last meeting in July or the first meeting in August to discuss possible candidates early enough that appointments may be made in September.
- Once Council feels they are ready to make appointments, it is added to the agenda for the first or second meeting in September.
- The same process will be conducted for MDC prior to their January appointments.

Option 2

Advisory Committee (made up of Council & Staff)

- Ensure a timely outreach via social media and COM website for public application process
- The City Secretary's office receives applications and conducts initial vetting of candidates to verify eligibility and suitability for the boards/commissions (B/C) they are applying for. The City Secretary's office will then forward those applications to the Department/Liaison for further vetting and recommendation.
- Create an Advisory Committee composed of three sitting Council members and City Manager (or staff appointee) to handle the initial selection of candidates for specific positions on B/C. The committee may choose to bring candidates in for interviews.

- May meet monthly or bi-monthly depending upon the number of applicants. May go ahead and interview candidate prior to open enrollment so there is less strain during the actual open enrollment period.
    - Or may meet right after the open enrollment period and get all the interviews done within a month or 2 (similar to hotel/motel screenings).
- After selection/recommendations have been made, the Advisory Committee submits their findings to the Council for review, and the final choices are voted on during a public Council meeting.

(A variation of the above idea would be to have a Council Member or two in each district be charged with specific B/C's on a rotating basis, ensuring each member aside from the mayor participate in evaluating and scoring candidates to bring before Council for vote). For example, Districts 1 & 2 could be over boards A & B and would conduct the interviews (phone or in person) of the applicants and bring their recommendations to the rest of Council. The City Secretary's office and Department/liaison would still conduct initial vetting and setting up of interviews.)

Option 3

Expert Panel option – this option is similar to option 1

- Advertise the application process via social media, and COM website.
- City Secretary's office accepts applications for B/C
- Form an expert panel of staff members, local business professionals and/or past B/C members to review applications and ensure that candidates have the necessary experience and qualifications - conduct interviews (if needed)
- The expert panel ranks or recommends candidates for Council consideration.
- Council members review the panel's recommendations and make final decisions in a public Council meeting.

Option 4

Optional Processes for Board and Commission Members

Public Input (Townhall - ish) option

- Announce the public application process via social media and COM website.
- City Secretary's office accepts applications for B/C
- Department Heads overseeing each B/C individually review all applications and shortlist candidates based on eligibility and alignment with the specific B/C needs.
- Hold a special meeting with a public hearing where shortlisted candidates are invited to provide a brief (2 min) presentation or answer questions from the public and/or Council.
- Following the public hearing, Council members make the final selection during a public Council meeting vote.

Please note: any of these options could work for both decision-making and non-decision-making boards.

MIDLAND DEVELOPMENT CORPORATION
(Membership - 7: Terms - 3 Years - Staggered)
January 2024-December 2024

MEMBER	TERM EXPIRES	ATTENDANCE	MEETINGS ATTENDED	TOTAL MTGS	ELIGIBLE
VACANT (Gardaphe)	Jan 14 2025	81%	13	16	
VACANT (Simpson)	Jan 14 2025	81%	13	16	
P Lourcey Sams	Jan 14 2026	100%	16	16	
Jill Pennington	Jan 14 2026	75%	12	16	
Brad Bullock	Jan 14 2026	75%	12	16	
Zachary Deck	Jan 14 2026	88%	14	16	
Elvie Brown	Jan 14 2025	100%	16	16	YES
Applicants Name					
Garret Donnelly					
Sheldein Kinnison					
J. Ross Lacy					
Sharla Hotchkiss					

PLANNING AND ZONING COMMISSION
(Advisory; Membership - 7: Terms - 3 Years)
January 2024-December 2024

MEMBER	TERM EXPIRES	ATTENDANCE	MEETINGS ATTENDED	TOTAL MTGS
VACANT (Carrasco)	Sept 30 2024	57%	13	23
Emily Holeva	Sept 30 2025	39%	9	23
Abraham Bejil	Sept 30 2025	83%	19	23
VACANT (Villela)	Sept 30 2026	100%	23	23
Lucy Sisniega	Sept 30 2026	100%	23	23
VACANT (Burkholder)	Sept 30 2026	91%	21	23
Brennan Berry	Sept 30 2026	83%	19	23
ALTERNATES:				
Joshua Sparks	Sept 30 2026	83%	19	23
Dara Richardson (Appt. 4/24)	Sept 30 2025	57%	13	23

Applicants Name	Applicants Name
Abraham Bejil	Tommy Reynolds
Brennan Berry	Dara Richardson
Sarah Dehlinger	Aaron Phillip Scholl
Justin Dolan	Justin Willmon
Joshua Garza	Steven Williams
Charles (Parker) Hall	Lucy Sisniega
Aaron Hunter	Emily Holeva
J. Brian Martin	Joshua Sparks
Brandon P. Ofield	Joy L. Paulson

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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

PLEASE TYPE OR PRINT CLEARLY:

Name: Shelden Kinnison

Address: 2508 Country Club Drive

Midland (City) Texas (State) 79701 (Zip)

Date: 6/7/2024

Phone: 469-732-6787 **(Home)**

_____ **(Business)**

Email: skinnison@chemtechserv.com

I am [✔] **I am not** [ ] **a U.S. Citizen**

Please tell us about yourself:

I have lived in Midland 10 **years.**

Are you a graduate of Midland 101? [ ] **yes** [✔] **no**

Occupation: Regional Operations Manager

Professional and/or Community Activities:

Outside of working full time for ChemTech Services, Inc. for the past decade, my time is utilized by pastoring a small church in our community, First Family Fellowship. I also spend extensive time coaching T-ball (MJBA), soccer (MSA), Volleyball (Boys and Girls Club), and basketball (Upwards at FBCM). My wife and I also spent 5 years serving at SHARE for children with disabilities in Midland

What is your personal vision for the City?

My personal vision for the city is for our city to be one that serves, improves, and grows in healthy ways. We must be a community that looks like Christ in our services and progressions. I desire to be a supportive catalyst for improvements in our community. "We are in Midland, with Midland, and for Midland."

Please specify any time constraints you may have.

Due to my pastoral obligations, the weekends are typically not a good time for me to meet. Evenings after 7pm would be complex as well due to my responsibilities as a husband and father.

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

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

(1) Name of Board/Commission:

Midland Development Corporation

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

"Development equates to improvement." Therefore, I desire to be a part of the team that assists in continually improving our city by focusing on development and all that entails.

What contribution would you most like to make?

The contribution I would most like to make is use my collaboration and verbalization skills when it comes to developmental needs for our wonderful city. I have a mind for leadership, vision, and implementation. I am able to be a big picture partner if needed, and I am also skilled in little details if my focus is needed there.

Additional pertinent information or references:

As a 32-year-old who is married with 4 children, we are rooted in Midland, Texas. This is our home and I have the desire to be a part of the great teams that make our community wonderful, and I want to be a part of the great teams that cast vision and implementation in regards to continued improvements.

(2) Name of Board/Commission:

Midland Housing Authority Commission

What contribution would you most like to make?

I would like to be a part of the team that assists our community members that cannot assist themselves. People matter and I want to show them that Midland sees them as members that matter to us as a community at large.

Additional pertinent information or references:

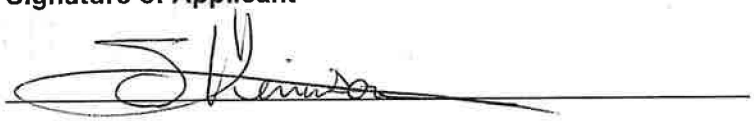
Scott Dufford: 432-559-8471

Jonathan Cotton: 432-741-5390

Darn Wood: 432-248-9648

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

Signature of Applicant



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

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

Submit Via Email

Print Application

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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

PLEASE TYPE OR PRINT CLEARLY:

Date: 10/17/2024

Name: Garrett Donnelly

Phone: 432-559-3684 **(Home)**

Address: 4905 Castleford

432-683-6293 **(Business)**

Midland TX 79705

Email: gdonnelly@eastlandoil.com

(City) (State) (Zip)

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ____**yes** ✔ **no**

I have lived in Midland 40 **years.**

Occupation: Vice President - The Eastland Oil Company

Professional and/or Community Activities:

Commissioner and Secretary Texas Historical Commmission (THC), Former Chair Advisory Board Texas Tech Health Science Center - Permian, Board Member and Construction Chair Safe Place of Midland, Director Permian Basin Petroleum Association Treasurer MHS Lady Bulldawg Basketball Boosters, Board Member Storm WTX FC

What is your personal vision for the City?

I would like to see our city continue its growth as a leader in the Energy Industry, while diversifying and giving as many new opportunities to everyone as possible. As well, I would like to see Midland use its natural assets to develop new opportunities and industries.

Please specify any time constraints you may have.

By statue the Texas HIstorical Commission must meet quarterly and if the meetings overlap I will have to attend the Commission meeting. Most meetings are on the later 1/2 of the week and consist of 2 days.

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

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

(1) Name of Board/Commission:

Midland Development Corporation

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

Economic Devlopment and economic diversification are important to a community such as Midland. This board is at the forefront of such activities.

What contribution would you most like to make?

I would like to be able to lend my experiences working in multiple sectors of the Oil and Gas industry as well along with my experience meeting with communities across the state with the THC to Midland's continued growth and diversification. I would like to help the committee promote the development of a large manufacturing facility in Midland.

Additional pertinent information or references:

Stephen Robertson - Executive Vice President Permian Basin Petroleum Association

Joseph Bell - THC Executive Director

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant

Garrett Donnelly Digitally signed by Garrett Donnelly
Date: 2024.10.21 10:56:37 -05'00'

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

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 11/26/2024

Name: A. Scott Dufford

Phone: _____ **(Home)**

Address: 5025 Mira Vista Circle

432-559-8471 **(Business)**

Midland Texas 79705

Email: scottdufford@vastenergypartners.comm

(City) (State) (Zip)

I am ☑ **I am not** ☐ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ☐ **yes** ☑ **no**

I have lived in Midland _____ years.

Occupation: Geologist / Entreprenuer

Professional and/or Community Activities:

Serverd on the Midland City Council from May 2001 until Jan 2025 . District 3 , At-large and District 1 - while serving on the city council

I served on the audit committee since 2003 until present and and the personnel appeals board from 2004 until present .

What is your personal vision for the City?

I am interested in seeing the city continue to work on "Quality of Place" initiatives that includes parks , city infrastructure as well as

bringing in new attractions that will draw people to Midland . ie Tournament quality facilities , New Convention Center, Centennial Park , two new downtown hotels , the Zoo , Costco —— I want families to feel

like they dont always need to go out of town to find decent competition in whatever sport their kids are playing . Midland can become a destination spot for the Permian Basin

Please specify any time constraints you may have.

I have no time constraints

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

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

(1) Name of Board/Commission:

Midland Development Corp.

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

I have served on the city council since the inception of the MDC and herlped shape its business model by expanding the definition of "Economic Devlopement" with the help of our former city attorney .

The MDC early on mainly worked by trying to bribe businesses thru economic incentives to relocate their businesses to Midland . We changed that thinking and started to fund brick and morter type projects ie new roads , new infrastructre , leveragring MDC monies by partering with TXDOT and the purchasing of abandon buildings and imploding them to enhance our downtown to make room for new development to occur .

What contribution would you most like to make?

Just bring my years of experience , expertise and instutional knowledge to the MDC along with my business acumen and problem solving ability .

Additional pertinent information or references:

none

(2) Name of Board/Commission:

MDC

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant



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PO Box 1152

Midland, TX 79702

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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 11/20/2024

Name: J.Ross Lacy

Phone: 432-254-1126 **(Home)**

Address: 5007 Apple Creek Rd. 432-897-1664 **(Business)**

Midland TX 79707

Email: j.rosslacy@gmail.com

(City) (State) (Zip)

I am [✔] **I am not** [ ] **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? [ ] **yes** [✔] **no**

I have lived in Midland 35 **years.**

Occupation: Director of Development

Professional and/or Community Activities:

Midland City Councilman District 4 2014-2019

What is your personal vision for the City?

For the city to continue to grow and prosper. As our city grows we have to focus on our infrastructure, quality of life and quality of place.

Please specify any time constraints you may have.

None

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

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

(1) Name of Board/Commission:

Midland Development Corporation

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

As a former city council liason to the MDC, I am very familiar with the goals, mission, and overall structure. I wish to continue to give back to my community. The MDC is a critical component to the overall success of the city.

What contribution would you most like to make?

Use my years on the city council and as a business leader in the community to foster an environment that promotes expansion and prepares the city for the next 50 years.

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant



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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 11/22/2024

Name: Sharla Hotchkiss

Phone: 432-684-6140 **(Home)**

Address: 1701 Community Lane

(Business)

Midland, Texas 79

Email: sehotch@gmail.com

(City) (State) (Zip)

I am [✔] **I am not** [ ] **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? [ ] **yes** [✔] **no**

I have lived in Midland 52 **years.**

Occupation:

Professional and/or Community Activities:

business owner, lifelong volunteer, professional trainer and facilitator for NMO's, farm manager, appointee to local, regional and state boards and commissions

What is your personal vision for the City?

a dynamic city with excellent leadership, strong financials, long-term and short-term planning, and involved citizens

Please specify any time constraints you may have.

should be no problem

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

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

(1) Name of Board/Commission:

Midland Development Corporation

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

Decisions made by the MDC make a concrete difference for the future of Midland.

What contributions would I most like to make:

I have experience in areas that are of interest for the future of Midland. For Example:

I served on the tri-Cities Water committee for 6 years, researching availability of water sources for this area.

I was appointed by the governor to serve on the Texas Workforce Investment Council for 14 years. This Council is statutorily responsible for promoting the development of a well-educated, highly skilled workforce for Texas and advocates an integrated workforce that provides quality, relevant service that addresses the needs of Texas businesses and its workers.

As an appointed member of the Permian Basin Regional Planning Commission Solid Waste Advisory Commission for 19 years, I helped design and implement the Solid Waste Plan for the COG and provided oversight of programs and grants.

I served 9 years on our Planning and Zoning Commission, Chairman 1 year. I've helped design 2 master plans, conducted public meetings to access the interests of our citizens and helped to write City ordinances.

As a founding member and past president of the Healthy Minds Board our formation and success enabled Midland/Odessa to attract funds that provide education for the public and support for Behavioral Health counseling.

I am a peacemaker. My skills as a facilitator and mediator can be helpful in stressful situations (hopefully this commission won't need these skills!)

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

Signature of Applicant

Sharla E Goodwin

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City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702

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Print Application

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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

PLEASE TYPE OR PRINT CLEARLY:

Date: 11/26/2024

Name: Rance C Norton

Phone: 254.396.2499 **(Home)**

Address: 408 Spring Meadow CT

_____ **(Business)**

Midland (City) Texas (State) 79705 (Zip)

Email: rance.norton@rojoenergy.com

I am [✔] **I am not** [ ] **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? [ ] **yes** [✔] **no**

I have lived in Midland 7 **years.**

Occupation: Business Development

Professional and/or Community Activities:

I've been in Midland for 7 years. I've served in various positions working my way to CEO of a hydraluic fracturing company before selling it. I currently serve as Business Development for Solnexus Chemical / Agri-Empresa. I ran unsuccessfully for City Council at-large.

What is your personal vision for the City?

I want to see Midland progress. If we aren't moving forward, we are stepping back. The average age of Midlanders is 34, and I want to represent them. We need to do things in Midland to retain talent and companies. I want to help in these endeavors.

Please specify any time constraints you may have.

None

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

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

(1) Name of Board/Commission:

Midland Development Corporation

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

When I ran for City Council one of my main topics was growth and development. I have a strong passion for grwing and developing Midland. I want to do whatever I can to move this City forward in a positive direction.

What contribution would you most like to make?

I'd like to serve on the MDC board. I want to be a part of the decisions that are being made to progress this city. I want to be a voice for the younger Midlanders who have made a decision to call Midland HOME!

Additional pertinent information or references:

(2) Name of Board/Commission:

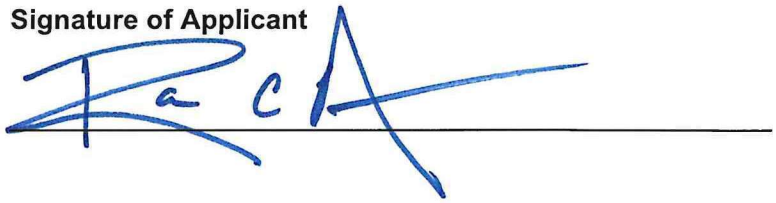
Any other board or commission I could help the city!

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant



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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Name: Melissa "Mel" Mosier

Address: 210 S Tyler St

Midland TX 79701

(City) (State) (Zip)

Date: 11/26/2024

Phone: 432-640-9278 **(Home)**

(Business)

Email: melmosier.shrm@gmail.com

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

I have lived in Midland 7 **years.**

Are you a graduate of Midland 101? ✔ **yes** ____ **no**

Occupation: HR/HSE Director

Professional and/or Community Activities:

I am the HR and Safety Director for an oil and gas company, focusing on workforce management and safety. I mentor HR professionals and colleagues to support growth and collaboration in the field. I also help local citizens find jobs with companies hat embrace second-chance hiring through PEOs.

What is your personal vision for the City?

To build a thriving, inclusive community where individuals and businesses succeed. I want economic growth by promoting workforce opportunities, including second-chance hiring. By prioritizing safety, collaboration, and innovation, we can create a stronger, more connected city.

Please specify any time constraints you may have.

I have flexibility in my schedule in the evening and lunch times. Morning meetings could be a challenge, but again with advance notice I am flexible.

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

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

(1) Name of Board/Commission:

Barbara & George H W Convention Center Advisory Board-

Midland Spaceport Development Corporation

Oil and Gas Advisory Committee

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

I am passionate about serving the city of Midland and contributing to its growth and development. Joining any of these boards allows me to apply my leadership, strategic planning, and community engagement skills to make a positive impact. My goal is to help create

opportunities, enhance resources, and ensure Midland remains a thriving and vibrant city for all its residents.

What contribution would you most like to make?

I aim to contribute by fostering collaboration and creating strategies that drive growth and opportunity for Midland. My focus would be on improving resources, supporting workforce initiatives, and enhancing the city's infrastructure. I want to help ensure Midland remains a thriving and innovative community for all.

Additional pertinent information or references:

Chuck Harrington- City of Midland- Retired

Melissa Wicker - Thirve Mortgage- Chair Elect Midland Chamber of Commerce

Brian Stubbs- Board Member- MOUTD- I was the Board Liason for MOUTD for 4yrs.

(2) Name of Board/Commission:

Parks and Recreation Commission

Zoning Board of Adjustment and Airport Zoning Board of Adjustment

What contribution would you most like to make?

I aim to contribute by fostering collaboration and creating strategies that drive growth and opportunity for Midland. My focus would be on improving resources, supporting workforce initiatives, and enhancing the city's infrastructure. I want to help ensure Midland remains a thriving and innovative community for all.

Additional pertinent information or references:

EJ Baldridge- Board Member (Past) I was the Board Liason for MOUTD for 4yrs

Cameron Walker- Ex Officio for MOUTD-

Mayor Lori Blong and Marcia Bentley-German

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Signature of Applicant

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

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

Brennan P. Berry

400 W. ILLINOIS AVE., SUITE 1630, MIDLAND, TX
C: +1 646 460 4778
BBERRY@ERPFUNDS.COM

SKILLS / VALUE ADD

- Strong understanding of the real estate, travel and hotel industry with exposure to the Middle East, UK and US markets
- Results-driven and consistent high-performer; recognized for achievements related to strong sales performance
- Consistently demonstrate leadership, strong work-ethic and conscientious approach to work

PROFESSIONAL EXPERIENCE

ENERGY RELATED PROPERTIES — Midland, Texas
Chief Operating Officer, Partner — *June 2015 - Present*

- Oversee property management and leasing efforts of a 2.5 million square foot portfolio of office and industrial properties throughout the Permian Basin
- Manage a team of 25 professionals including property managers, engineers and accounting staff
- Maintain key investor relationships including the distribution of financial reporting, leasing updates and market analyses
- Serve as primary point of contact for capital improvement projects and coordinate with contractors and key stakeholders
- Responsible for designing and executing marketing campaigns, including social and traditional media
- Identify acquisition targets and negotiate purchase terms for single and multi-tenant industrial properties

FOUR SEASONS HOTELS AND RESORTS — London, United Kingdom
Account Director, London Worldwide Sales Office — *January 2014 – May 2015*
Account Manager, London Worldwide Sales Office — *November 2011 – January 2014*

- Managed Greater London-based 3rd party meeting planner accounts and corporate end-user clients
- Grew account base revenue over 90% from 2011 to 2013 (2011 goal of £1.57 mil. and 2013 actual revenue of over £3 mil.)
- Achieved President's Club level results in 2013 (exceeded 135% of annual goal)
- Awarded Sales Manager of the Quarter in Q3 2013 out of entire WSO network (roughly 40 eligible candidates)
- Planned and executed familiarization trips with clients to a variety of hotels in the Four Seasons portfolio
- Organized international sales developments and London networking events on behalf of hotels and resorts, managing budgets, client invitations and program logistics
- Managed European Business Development Initiative in 2013, one of twelve colleagues selected globally out of the entire sales and marketing organization

FOUR SEASONS HOTELS AND RESORTS — Dubai, United Arab Emirates
Regional Sales Manager, Middle East Worldwide Sales Office — *February 2010 – November 2011*
Sales Coordinator, Middle East Worldwide Sales Office — *June 2007 – January 2010*

- Managed travel agent and wholesale accounts in the United Arab Emirates and Kuwait
- Identified and prospected potential corporate, group, government and retail travel agent accounts
- Achieved President's Club recognition in 2011 and Sales Manager of the Quarter in Q4 2010
- Organized quarterly sales developments, typically representing 25 hotels throughout the major cities of the GCC
- Oversaw and implemented prospecting campaigns designed to target specific sectors in various markets in the Middle East
- Assisted with the development of an annual marketing plan as well as an annual budget for the regional sales office
- Collaborated with airlines to organize familiarization trips for Middle East-based clients to various Four Seasons Hotels
- Developed a quarterly electronic newsletter and a bi-annual update targeting clients in the meeting planning sector
- Participated in sales trainings in the Middle East that focused on prospecting, communication and account management

THE BROOKINGS INSTITUTION — Washington, D.C.
Intern, Middle East Policy — *Spring 2007*

- Worked at the Saban Center for Middle East Policy for the Project on U.S. Relations with the Islamic World, specifically researching programs designed to improve relations between the two regions in the wake of 9/11 and interviewing their principals to assess their best practices. Our findings were compiled into the policy paper titled: *The Opportunity of the Obama Era: Can Civil Society Help Bridge Divides between the United States and a Diverse Muslim World?*
- Assisted in organizing the U.S.-Islamic World Forum, a joint-venture between Brookings and the Qatar Ministry of Foreign Affairs

U.S. – SAUDI ARABIAN BUSINESS COUNCIL — Washington, D.C.
Intern, Research Department — *Fall 2006*

- Researched, compiled and wrote articles for the council's quarterly newsletter and press releases for the council's website
- Updated sector reports weekly, particularly in petrochemicals, tourism and transportation, and power generation
- Updated and edited annual Saudi Arabian business guide in addition to creating new sections for emerging industries

FERRIS, BAKER WATTS, INC. — Washington, D.C.
Intern, Washington Sales Office — *Winter 2004 - Spring 2005*

- Coordinated in-house operational tasks such as account setups, transfers, and regulatory compliance
- Provided consultation on equity and fixed-income selection
- Developed comprehensive asset allocation plans and portfolio recommendations
- Encoded client account activity electronically to generate performance reports and statements

EDUCATION

THE GEORGE WASHINGTON UNIVERSITY Washington, D.C.
Bachelor of Arts in International Affairs, Concentration in Middle East & Asia, Minor in History *May 2007*
GPA: Major 3.5
Awards: Dean's List 2006 – 2007
Abroad: Semester in Beirut, Lebanon at the American University of Beirut *Spring 2006*
Semester in Tokyo, Japan at Kanda University of International Studies *Fall 2005*
AIESEC exchange to Egypt on Department of State-sponsored Salaam Program *Summer 2005*
Lived in Jeddah, Saudi Arabia on a US Department of State-sponsored homestay program *Summer 2002*
Languages: Arabic – Proficient in Lebanese colloquial dialect
French – Intermediate level
Japanese – Intermediate level

ADDITIONAL

- Licensed real estate broker in Texas and Florida
- Member of the Board of Governors at the Midland Community Theater
- Board Member of the Downtown Midland Management District
- Graduate of the Leadership Midland Class of 2018 (Midland Chamber of Commerce program)

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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

PLEASE TYPE OR PRINT CLEARLY:

Date: 9/2/2022

Name: Brennan Berry

Phone: (646) 460-4778 **(Home)**

Address: 1503 Harvard Aave.

(432) 242-8850 **(Business)**

Midland TX 79701

Email: bberry@erpfunds.com

(City) (State) (Zip)

I am [✓] **I am not** [ ] **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? [ ] **yes** [✓] **no**

I have lived in Midland 7 **years.**

Occupation: Real Estate Invesment

Professional and/or Community Activities:

Currently working as the Chief Operating Officer for ERP Funds, a Midland-based real estate investment fund that focuses on commercial real estate investments in the Permian Basin (operating over 2.5 million SF as of 2022). I graduated from Leadership Midland in 2018 and currently serve on the Board of Governors for the Midland Community Theater in addition to the DMMD board.

What is your personal vision for the City?

Quality of life in Midland has always been something of interest to me and an area that I would like to pursue with local government. Midland has come a long way in the 7 years that I've lived here however I think we are just at the beginning of really changing the city for the better and through further leadership, I'm confident we can achieve great results.

Please specify any time constraints you may have.

Available to meet most weekdays, either during business hour or after hours. I am generally pretty flexible in regards to timing.

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

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

(1) Name of Board/Commission:

Airport Planning and Development Board

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

I have had a lifelong interest in aviation and previously worked in the travel industry at Four Seasons Hotels and Resorts. Since moving to Midland in 2015, I have pursued my private pilot's license and will soon be working on my instrument rating.

What contribution would you most like to make?

As a frequent user of both Midland International Airport and Midland Airport, I'd like to see these assets optimized and provide guidance wherever possible.

Additional pertinent information or references:

Scooter Brown (fellow partner at ERP Funds)

(2) Name of Board/Commission:

Planning and Zoning Commission

What contribution would you most like to make?

Help with thoughtful development in Midland that provides the best outcome for the community at large.

Additional pertinent information or references:

As someone who works in commercial real estate, I believe I can share insights that would hopefully be unique and relevant, and to use my expertise in the field when providing recommendations to City Council.

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

Signature of Applicant



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

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

Submit Via Email

Print Application

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 11/18/2024

Name: Abraham Bejil

Phone: 432-288-7667 **(Home)**

Address: 5202 Hilltop Dr.

432-221-1644 **(Business)**

Midland TX 79707

Email: abraham.bejil@midlandhealth.org

(City) (State) (Zip)

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ____**yes** ✔ **no**

I have lived in Midland _____ **years.**

Occupation: VP Facility Services

Professional and/or Community Activities:

I am currently employed at Midland Health and have served as the VP of Facility Services for the last 4 years. I also serve on the Planning and Zoning Commission and have enjoyed being apart of the vision of our community. I enjoy serving our youth through the Stonegate 4-5 boys ministry and also our special needs population as a board member at Bynum School.

What is your personal vision for the City?

My vision is for a vibrant community where all residents feel a sense of belonging. I see a city with a thriving downtown that serves as a hub for culture, commerce, and connection. I envision a city with plenty of green space where families can enjoy the outdoors. By fostering growth while prioritizing sustainability, we can build a Midland that future generations will be proud to call home.

Please specify any time constraints you may have.

None at this time.

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

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

(1) Name of Board/Commission:

Planning and Zoning

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

Serving our community is both necessary and fulfilling. I have enjoyed serving on P&Z and wish to continue my efforts and commitment to Midland while also providing my personal experiences of the process of construction and design within Midland.

What contribution would you most like to make?

My time and commitment to both the city and community to be the voice of reason.

Additional pertinent information or references:

Jeff Beard Exec, VP CrownRock Minerals LP jbeard@crownquest.com

Stephen Bowerman CEO Midland Health 432-221-4877

Jay Bradford, AIA JSA Architects: 432-559-1891

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant

Abraham Bejil

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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 7/26/2024

Name: Justin Dolan

Phone: 214-682-6542 **(Home)**

Address: 810 Harvard Ave.

432-688-1374 **(Business)**

Midland TX 79701

Email: jdolan@lcalawfirm.com

(City) (State) (Zip)

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ____**yes** ✔ **no**

I have lived in Midland 9 **years.**

Occupation: Attorney

Professional and/or Community Activities:

Community Children's Clinic Board Member; PBLA; Midland County Bar Association

What is your personal vision for the City?

I want it to grow and be a great place to raise my family. The infrastructure needs upgrading and we need to do better in order to attract employees and companies to stay in Midland.

Please specify any time constraints you may have.

I am flexible but also have two young children so during the work week is best time for me to meet.

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

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

(1) Name of Board/Commission:

Planning & Zoning

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

The P&Z commission appeals to me as having a direct impact on what is built or allowed to be built in the city.

What contribution would you most like to make?

I would like to be invovled on the decision making process in Midland and to better the community as a whole. I believe becoming actively involved with a board or commission is the best place to do just that.

Additional pertinent information or references:

(2) Name of Board/Commission:

Oil and Gas Advisory Commission

What contribution would you most like to make?

The Oil and Gas Advisory commission interests me because my main job focus is in the oil and gas field. I feel like my work as an oil and gas attorney makes me qualified to help guide the direction of the city's oil and gas operations.

Additional pertinent information or references:

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Signature of Applicant



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PLEASE TYPE OR PRINT CLEARLY:

Date: 3/26/2024

Name: Sarah Dehlinger

Phone: 432-559-5281 **(Home)**

Address: 3118 Chelsea Pl. _____ **(Business)**

Midland TX 79705

Email: sdehlinger26@gmail.com

(City) (State) (Zip)

I am [✔] **I am not** [ ] **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? [ ] **yes** [✔] **no**

I have lived in Midland 24 **years.**

Occupation: Assistant Office Manager

Professional and/or Community Activities:

Board Member of the RJH Foundation

What is your personal vision for the City?

My vision for Midland is expansion. Midland needs to grow with new businesses and recreational activities for people of all ages. Midland is rapidly growing, which allows for new businesses to come. I think it is essential for the Planning and Zoning Commission to be a part of that process.

Please specify any time constraints you may have.

My schedule allows for flexibility.

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

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

(1) Name of Board/Commission:

Planning and Zoning Commission

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

I am looking to get more involved in Midland, and I think serving on the planning and zoning commission is a great way to achieve that goal and to have a say in the future. I was born and raised here, so I can appreciate Midland's history and also understand

that there is a need for improvement, and I would love to be a part of the decision process to expand.

What contribution would you most like to make?

I want to make Midland the place people want to move to instead of the place people have to move to for work. Since I am younger, I can provide a fresh outlook and understand what people want to see to make Midland more appealing.

I am well-organized, and I can focus on small details while still looking at the big picture.

Additional pertinent information or references:

Richard Coats 432-528-2835

Terry Lynn Lane 432-967-3703

Susan Palmer 432-978-7816

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant

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PLEASE TYPE OR PRINT CLEARLY:

Date: 8/7/2024

Name: Joshua Garza

Phone: 432 803 8403 **(Home)**

Address: 221 Peregrine HIll Circle

432 288 9101 **(Business)**

Midland TX 79707

Email: jgarza@luxury-enterprises.com

(City) (State) (Zip)

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ____**yes** ✔**no**

I have lived in Midland 6 **years.**

Occupation: Construction Superintendent

Professional and/or Community Activities:

I own a commercial construction company here in Midland.

I am a leader for a mens group with my church, I am a member of the Chamber of Commerce of Midland, I am a member of the Rotary Club of Midland and volunteer with them often.

What is your personal vision for the City?

I envision a Midland that is resilient, innovative and thriving despite economic ups and downs. I envision a Midland that offers oppurtunities to its citizens that make it a desirable place to live and stay for generations. A city whose residents are able to be prosperous through their employers or their small businesses.

Please specify any time constraints you may have.

I attend rotary meeting every Tuesday afternoon 11-1:30.

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

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

(1) Name of Board/Commission:

Planning & Zoning Commision

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

Throughout my career I have had to present or work with P&Z on various issues with clients and their projects. I am very interested in assiting others with these issues that arise and also helping the city with the same situations.

What contribution would you most like to make?

Ican offer a great perspective from a contractors point of view that may aid in makking insightful decisions on certain issues with P&Z.

I have learned and studied the different reasons for certain zones in cities all over the Permian Basin and can provide fair and unbiased input.

Additional pertinent information or references:

Chet Gray - 432 978 0829

Kyle Newton - 432 935 0707

John Burkholder - 432 556 6784

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant

Joshua Garza

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PLEASE TYPE OR PRINT CLEARLY:

Date: 4/12/2024

Name: Charles (Parker) Hall

Phone: (432) 803-9113 **(Home)**

N/A **(Business)**

Address: 1408 W. Pine Ave.

Midland Texas 79705

(City) (State) (Zip)

Email: phall@tarponresource.com

I am [✓] **I am not** [ ] **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? [ ] **yes** [✓] **no**

I have lived in Midland 9 **years.**

Occupation: Partner at Tarpon Resources, LP

Professional and/or Community Activities:

Oil & Gas Exploration

Oil & Gas Services

What is your personal vision for the City?

In envisioning the future of Midland, I see a vibrant city pulsating with opportunity, innovation, and community spirit. I imagine a landscape where sustainable development harmonizes with our community's spirit, creating a thriving economy and enriching the lives of its diverse residents.

Please specify any time constraints you may have.

None.

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

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

(1) Name of Board/Commission:

City of Midland- Zoning and Planning Commission

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

Moving to Midland 9 years ago, I've had the opportunity to see our city grow exponentially. I owe my success and who I've become to Midland and its residents. Our City has done a fantastic job of the revitalization of downtown and I hope to give back to this

community by being a leading part of its future growth and success.

What contribution would you most like to make?

I aspire to bring a thoughtful and inclusive approach to urban development. My goal is to advocate for balanced growth that preserves our city's unique character while addressing the needs of its residents. By fostering transparent communication and community engagement, I seek to help the City promote its economic resilience and equitable future for all.

Additional pertinent information or references:

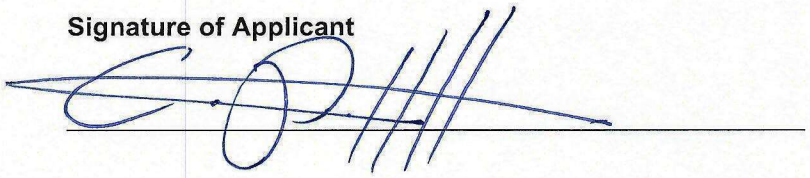
(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant



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MIDLAND
Feel the Energy!

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 3/25/2024

Name: J. Brian Martin

Phone: 432-697-4220 **(Home)**

Address: 3906 Edgebrook Court

432-770-0366 **(Business)**

Midland, Texas 79

Email: martinbe362@gmail.com

(City) (State) (Zip)

I am ☑ **I am not** ☐ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ☐ **yes** ☑ **no**

I have lived in Midland 48 **years.**

Occupation: Attorney-Real Estate Law

Professional and/or Community Activities:

See Attached Resume (Professional Activities)

What is your personal vision for the City?

Continued growth and expansion, but Continued growth and expansion with a view that growth is organized, logical and beneficial to to the needs of the community.

Please specify any time constraints you may have.

I have a family vacation planned to visit Alaska July 9-16, 2024.

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

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

(1) Name of Board/Commission:

Planning and Zoning Commission.

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

My entire law practice (including service as 1st Ass't City Attorney) has been in the Commercial and Residential real estate area. I am Board Certified by the Texas Board of Legal Specialization in COmmercial and Residential Real Estate Law.

What contribution would you most like to make?

I have practiced real estate mattes and low for 40 plus years of my 52 years of practice, so I have experiance.

Additional pertinent information or references:

I have worked with the City Attorney and the City Manager of Midland on numerous occassions regarding pregarding properties the City decides to purchase or acquire. I have provided Title opinions and Title insurance services for several city projects that included land acquisition for Loop 250.

(2) Name of Board/Commission:

Planning and Zoning COmmission.

What contribution would you most like to make?

I have a persistant work ethic and patient approach to difficult title and survey issues and projects. I am familiar with most of the surveyors and Title Agencies in Midland and the State of Texas. Also, I know and have worked with all of the Surveyors in Midland.

Additional pertinent information or references:

See attached resume to view education, certifications and prior employment and other pertinent information about my practice and experience.

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Signature of Applicant



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City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433

Submit Via Email

Print Application

BIOGRAPHICAL INFORMATION

J. BRIAN MARTIN
Attorney At Law
600 North Loraine
Midland, Texas 79701
December 3, 2022

EDUCATION

St. Mary's University Law School, San Antonio, Texas, 1972, J.D.

St. John's University, Collegeville, Minnesota, 1969, Government/Political Science-B.A.

CERTIFICATION

Licensed State Bar of Texas-1972; Board certified Texas Board of Legal Specialization, Commercial Real Estate Law and Residential Real Estate Law since 1990. "AV Preeminent" rating Martindale-Hubble Peer Review.

COURT CERTIFICATION

United States Supreme Court-1976; United States Court of Appeals, 5th Circuit-1977; United States District Court, Southern District-1976; United States District Court, Western District-1976; United States Court of Military Appeals-1973; All Courts of the State of Texas-1972

PROFESSIONAL ACTIVITIES

State Bar of Texas (Real Estate, Probate and Trust Law Section);
Texas Bar Foundation, Life Fellow (2001 to date);
The College of The State Bar of Texas, (2003 to date);
Midland County Bar Association (since 1976);
Advisory Board Midland College Business Studies (1980);
Instructor-Real Estate Law and Contracts-Midland College (1980 to 1994);
Advisory Board Permian Basin Area Foundation Midland Housing Trust Fund (1992 to date);
Director, Habitat For Humanity of Midland (2000-2006);
Director (VP) MARC, Inc. (2003-to 2010)
President of Board of Directors MARC, Inc. 2012 to 2013;
Board Member, Board Secretary) St. Ann's School Endowment Fund, Inc. 1981 to present and the St. Ann's Finance Council (President).

EMPLOYMENT HISTORY

Captain, Judge Advocate General's Corps, U.S. Army, 1972-1976;
1st Assistant City Attorney, City of Midland, Texas 1976-1981;
Partner-Freeman, Hyde & Martin 1981-1990;
Partner-Morgan, Ward, Leeton & Martin- 1990-1992;
General Counsel-Sr. VP Lone Star Abstract & Title Co. 1992 to 2016.
General Counsel, West Texas Abstract & Title Co. 2016 to October 1, 2022
Retired from private practice.

PRACTICE

Mr. Martin is a sole practitioner (Law Offices of J. Brian Martin and Associates, PC. His primary practice prior to retirement involves real estate finance, residential, retail, farm and ranch and commercial real property development and title examination; litigation involving real estate issues; ad valorem property tax litigation; probate and estate practice; business entity creation and servicing. When requested, the firm has assisted the City of Midland with purchase and sale of real property in the City and facilitated title information and Title insurance coverage for property acquired by the City. Mr. Martin assisted the city with purchase or acquisition of the Loop 250 project at its inception including condemnation matters.

PERSONAL INTEREST

Mr. Martin has been a parishioner (since 1976) of St. Ann's Catholic Church of Midland, Texas where he serves on the St. Ann's School Educational Endowment fund and the Parish Finance Council; He is a member of the Midland Shooters Association of Midland, Texas and has been an avid hunter and sport fisherman since age 12. Mr. Martin has been married 52 years (Evelyn) with two Children (Brian Patrick and Shannon) and three grandchildren (Emory, Jack and Claire). Brian Patrick is a graduate of Texas Tech University (BA Business Management); Shannon is a graduate of Texas A&M University (B.S. Industrial Engineering) and University of Houston Law School (J.D.)

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PLEASE TYPE OR PRINT CLEARLY:

Date: 4/3/2024

Name: Aaron Hunter

Phone: N/A **(Home)**

Address: 5701 Cranston PL

432-813-8364 **(Business)**

Midland TX 79707

Email: aaronhunter1958@gmail.com

(City) (State) (Zip)

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ____**yes** ✔ **no**

I have lived in Midland 19 **years.**

Occupation: Petroleum Engineer

Professional and/or Community Activities:

I have lived and worked in Midland for 19 years in various positions from Chevronm Concho, and now ConocoPhillips. My wife works at the Midland Eye Center for Dr. Ingram and Dr. Brownlee and my children attended Midland Classical Academy and are now in College elsewhere. I have also sat on the Salvation Army board as well as Wilderness Trek board.

What is your personal vision for the City?

I want this city to grow and be an energy resource for the US

Please specify any time constraints you may have.

N/A

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

(1) Name of Board/Commission:

Planning and Zoming Comission

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

My kids are gone now and I am interested in this direction, and I want to suport the City ot Midland

What contribution would you most like to make?

Planned, ballanced, and active developemnt for the City. ALso making this a better place to live for current and future citizens.

Additional pertinent information or references:

I plan to be in Midland long term and Scott Kidwell or Tim LEach could be references.

(2) Name of Board/Commission:

Planning and Zoning Comission

What contribution would you most like to make?

My thoughs and time to meke Midland better,

Additional pertinent information or references:

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Signature of Applicant



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PLEASE TYPE OR PRINT CLEARLY:

Date: 3/28/2024

Name: Joy L. Paulson

Phone: 432-638-4473 **(Home)**

Address: 1001 N Garfield

432-688-7745 **(Business)**

Midland TX 79701

Email: jpaulson@keepmidlandbeautiful.org

(City) (State) (Zip)

I am ☑ **I am not** ☐ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ☐ **yes** ☑ **no**

I have lived in Midland 37 **years.**

Occupation: Executive Director Keep Midland Beautiful

Professional and/or Community Activities:

Worked at Midland Memorial in Information Technology from 1998-2023 - Presently Executive Director of Keep Midland Beautiful

Served on the United Way Allocation Panel for 7 years.

What is your personal vision for the City?

As a long time volunteer, board member and now Executive Director of Keep Midland Beautiful - I see the transformations the community has grown into and continues to grow. My personal vision would to see our community also grow into more mindfullness of litter prevention, water conservation and expanding on our minimal recycling programs and options. I would like to bring that educa

Please specify any time constraints you may have.

Once a month - every second Tuesday of the month I have Executive Committee and Board of Directors meetings

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

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(1) Name of Board/Commission:

Planning and Zoning Commission

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

It will give me an opprotunity to contribute to the future vision and direction of our community and to serve as a partnered leader for the betterment of our community. It's opportunity to also see diverse points of views and step out of the comfort zone.

What contribution would you most like to make?

An opprotunity to make our community better with right things in the right places that will have a positive impact on our city. I would be honored and humbled to be apart of that impact

Additional pertinent information or references:

I am signed up to attend the next Midland 101

(2) Name of Board/Commission:

Parks and Recreation

What contribution would you most like to make?

To be an advocate to all that enjoy our parks recreation facilities by helping to maintain the safety, improvement and a voice to future developments.

Additional pertinent information or references:

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

Signature of Applicant

Jay L. Pawlson

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

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

Print Application

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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

PLEASE TYPE OR PRINT CLEARLY:

Date: 8/23/2020

Name: Emily Holeva

Phone: 432-553-6626 **(Home)**

Address: 4 Stutz Court

(Business)

Midland TX 79705

Email: emholeva@yahoo.com

(City) (State) (Zip)

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ____**yes** ✔**no**

I have lived in Midland 25 **years.**

Occupation: Communications & Marketing Manager @ TTUHSC

Professional and/or Community Activities:

Texas Tech University Health Sciences Center C&M Manager, Leadership Midland Class of 2021,

Executive Women of Midland Member, League of Women Voters of Midland Board Member,

Go Red for Women Executive Leadership Committee, The Episcopal Church of the Holy Trinity Member

What is your personal vision for the City?

Midland is my hometown, which makes my vision simple, I want to see Midland succeed. The process and implementation of making that happen is where things can get challenging. But it shouldn t. Midland has resources above the ground with just as much impact as its resources below the ground. P&Z is the perfect opportunity for me to help achieve this vision shared by all Midlanders.

Please specify any time constraints you may have.

Though I still do not have confirmation, usually I have Leadership Midland every second Thursday of the month, but we have yet to receive our schedule for this year due to COVID-19. I am now in my second year of the program.

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

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

(1) Name of Board/Commission:

Planning & Zoning Commission

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

What better way to learn more about my hometown than to have an in-depth look into the blueprints of the city, past, present and future? Right now, Midland is at a critical moment for any and all future development. I would welcome the opportunity to be part of

the multitude of processes such as land use, housing studies due to population increases (or decreases), and future city growth.

What contribution would you most like to make?

I would welcome the opportunity to contribute to the future of Midland businesses, homeowners, and the city's growth. I am a new mind with fresh outlooks and ideas, but I am full heartedly ready to serve my community as a team. We all want Midland to succeed and being a member of the P&Z Commission is exactly it starts.

Additional pertinent information or references:

Mr. Wesley Bownds, President of Frost Bank, 432-617-1200

Mrs. Karmen Bryant, The Bryant Family Foundation & Current Member of the P&Z Commission, 432-528-7384

Former Councilwoman Sharla Hotchkiss 432-661-8801

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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

Signature of Applicant

Emily Holeva Digitally signed by Emily Holeva
Date: 2020.08.23 17:32:33 -05'00'

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

City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702
FAX: (432) 685-7433

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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

PLEASE TYPE OR PRINT CLEARLY:

Name: Brandon P Ofield

Address: 5 Reo Ct

Midland (City) TX (State) 79705 (Zip)

Date: 11/12/2024

Phone: 432-413-9196 **(Home)**

432-458-3675 **(Business)**

Email: ofieldb@gmail.com

I am ☑ **I am not** ☐ **a U.S. Citizen**

Please tell us about yourself:

I have lived in Midland 38 **years.**

Are you a graduate of Midland 101? ☑ **yes** ☐ **no**

Occupation: Accounting

Professional and/or Community Activities:

Previously served two terms on the Hotel/Motel Tax/Citizens Advisory Committee for the city of Midland, 2 years as Chairman.

What is your personal vision for the City?

I envision a Midland with various quality of life options for every citizen. Midland is my home town and I want everyone to see the potential it has. Most of my good friends are not native Midlanders or Texans, but they have great things to say about our city and its people. Midland must adapt in order to attract new businesses and residents, but must also do so in a fiscally responsible manner.

Please specify any time constraints you may have.

None

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

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

(1) Name of Board/Commission:

Planning and Zoning Commission

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

This commission is definitely a place where guiding Midland is at the forefront. Working with Council to pave the way for new developments and business into the city is essential.

What contribution would you most like to make?

I feel like the P&Z board is an upward step to take within city government and citizen involvement. I would most like to bring commor sense fiscally responsible decision making to the commission. I enjoy working with Council and city officials to make Midland better.

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant



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Submit Via Email

Print Application

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 4/3/2024

Name: Tommy Reynolds

Phone: 432-413-6393 **(Home)**

Address: 4817 Rustic Trl

432-413-6393 **(Business)**

Midland TX 79707

Email: tommy@moriahgroup.net

(City) (State) (Zip)

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ____**yes** ✔**no**

I have lived in Midland 21 **years.**

Occupation: Real Estate Investor and Texas Real estate Agent.

Professional and/or Community Activities:

Broker Associate at Moriah Brokerage Services. Board member and three time past president of Senior Life Midland.

Active member and member of the Board of Directors of Green Tree Country Club.

Board member for His Appointed Time Ministries (Guatemala). Graduate of Leadership Midland and Generations.

What is your personal vision for the City?

While oil and gas is what drives this economy, I want our city to be know for more than just oil & gas and a place to "make money".

Midland has an entrepreneurial and philanthropic heartbeat that many of our own residents do not fully understand or appreciate.

I sincerely want excellence in every aspect of development, growth, and education, resulting in a high quality of place and life.

Please specify any time constraints you may have.

I control my schedule and Monday afternoons are generally good for me.

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

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

(1) Name of Board/Commission:

Planning and Zoning

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

I have significant experience in real estate investment, development, construction, and most recently, brokerage. I would like to use that knowledge and experience to support our city and residents with sound decisions and votes that support our long term vision.

What contribution would you most like to make?

The decisions made in Planning and Zoning are most likely not fully felt for years. Keeping a long term view while managing day to day needs is critical to stay on course. Improving proactive communicatons to the citizens of Midland to highlight long term goals and vision would go a long way in building additional trust and understanding. I'd like to be a part of that.

Additional pertinent information or references:

I served as VP of Sales and Rental for Warren CAT until August 2022. In my over 25 years in constructon equipment and power systems, I was involved in land acquisition, facility design, and construction as our company experienced significant growth across Texas and Oklahoma.

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant

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APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 4/1/2024

Name: Dara Richardson

Phone: 432-559-1549 **(Home)**

Address: 4632 Princeton

_____ **(Business)**

Midland TX 79703

Email: dararichardson86@gmail.com

(City) (State) (Zip)

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ✔ **yes** ____ **no**

I have lived in Midland 38 **years.**

Occupation: Superintendent of Wells

Professional and/or Community Activities:

I am the secretary of the Midland County Young Republicans. I am also a precinct chair for the Midland County Republicans. I was born at Midland Memorial Hospital, as were my two children. When I obtained my water well drilling license I was one of five women in the state and the youngest to hold that license. I also teach Sunday School at Crestview Baptist Church.

What is your personal vision for the City?

My personal vision for this city is to grow it in harmony with those people and structures that have made it such an amazing place throughout the years. We can't turn our backs on the past and expect to have a bright future, I believe with hard work and perseverance we can obtain an amazing city that people will want to move to and live in for their lifetime.

Please specify any time constraints you may have.

I work from home with no set schedule so should have no time constraints.

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

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

(1) Name of Board/Commission:

Planning and Zoning Commission

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

I am interested in serving on this board because I know my love for this city will be an asset on growing Midland into a place of the future.

What contribution would you most like to make?

I would love to donate my time and energy into serving the people of Midland.

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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

Signature of Applicant

Dara Crass Richardson

Digitally signed by Dara Crass Richardson
Date: 2024.04.01 14:55:58 -05'00'

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

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

Authentisign ID: 1DAD38DC-4AAC-EF11-88CF-002248299057

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 11/26/2024

Name: Lucy D Sisniega

Phone: 956-2274500 **(Home)**

Address: 5408 Crowley Blvd

(Business)

Midland, TX 79707

Email: lucy@sisniegarealestate.com

(City) **(State)** **(Zip)**

I am ☑ **I am not** ☐ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ☐ **yes** ☑ **no**

I have lived in Midland 11 **years.**

Occupation: Commercial Real Estate

Professional and/or Community Activities:

I have been working in Commercial Real Estate for over 21 years. I had served the Community for over 20 years. Started in South Te

Please see attached file for complete list of boards I had served.

What is your personal vision for the City?

Midland population continue to grow, there several needs for our Community. I would like to see new projects in Midland, to be able to

Also, responsible development, its important to understand the needs of our City.

Please specify any time constraints you may have.

P&Z meetings time works good with my schedule. As you can see, I have perfect attendance in the past year and good attendance th

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

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

(1) Name of Board/Commission:

Planning and Zoning Board

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

I have years of experience in Development, I had served in P&Z board for a couple of years, if possible, I would like to complete my te

Authentisign ID: 1DAD38DC-4AAC-EF11-88CF-002248299057

What contribution would you most like to make?

Ensure we run effective meetings, I can be guidence for the City and help to develop a new plan for the future years.

Additional pertinent information or references:

(2) Name of Board/Commission:

Midland Chamber of Commerce

Texas Medical R Board

Midland Chamber Gov. Affairs Committee, United Way Blueprint Mentor

What contribution would you most like to make?

I am passionate about Development, this is a topic that I have learned years back, I understand it very well. I believe my years of exp

will continue to help out Community and City.

Additional pertinent information or references:

Jose Cuevas

Ernest Angelo

John Burkholder

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Signature of Applicant

AuthentiSIGN Lucia Sisniega 11/26/24

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MIDLAND
Feel the Energy!

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 8/9/2024

Name: Aaron Phillip Scholl

Phone: 432-312-9358 **(Home)**

Address: 6618 Jamestown St

_____ **(Business)**

Midland Tx 79706

Email: aaronpscholl@gmail.com

(City) (State) (Zip)

I am [✔] **I am not** [ ] **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? [ ] **yes** [✔] **no**

I have lived in Midland 12 **years.**

Occupation: Wireline Engineer

Professional and/or Community Activities:

Stop Work Safety Champion at Nine Energy Services

What is your personal vision for the City?

I would really like to see the city become more family friendly. i.e. hosting more events, bringing in more family friendly venues, etc.

Midland is not just an oilfield town and there is so much more to this city than bars, restaurants and shopping

Please specify any time constraints you may have.

Work keeps me pretty busy during my 2 weeks on, however, I work 14 days and then I'm off for 7 and in those 7 days off I would really like to help make a difference in this city that my family and I call home.

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

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

(1) Name of Board/Commission:

Planning and Zoning Commission

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

I would like to have an input and get involved in what businesses and developments are looking to call the city "home".

What contribution would you most like to make?

I would like to help make decisions with my family and all the other families that call Midland home in mind.

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant

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City Secretary's Office
PO Box 1152
Midland, TX 79702

Submit Via Email

Print Application

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 7/25/2022

Name: Joshua Sparks

Phone: 432-352-1555 **(Home)**

Address: 1301 Telluride Dr

(Business)

Midland TX 79705

Email: jrsparks07@hotmail.com

(City) (State) (Zip)

I am ✔ **I am not** ____ **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ✔ **yes** ____ **no**

I have lived in Midland 29 **years.**

Occupation: Engineer

Professional and/or Community Activities:

Midland Community Theatre Board of Governors, First Baptist Church choir,

Midland Rape Crisis & Children's Advocacy Center Board

What is your personal vision for the City?

I want a city that is seen as a great place to live, raise a family, and have great experiences with family and friends. I want it to be a place that attracts good people and makes them want to join the community. I want the city to serve its ever-changing population and keep up with the needs of those who call it home.

Please specify any time constraints you may have.

None

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

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

(1) Name of Board/Commission:

Planning & Zoning Commission

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

I have experience serving on this commission in the past and think that my expertise and leadership is needed to help steer the city development. I am interested in how the city grows and why it grows the way it does.

What contribution would you most like to make?

I would like to be able to assist the city council in ushering responsible growth for our city using a unique perspective and an open mind. I want to contribute by leading in a way that others respect even if they don't agree.

Additional pertinent information or references:

I was an active member of this commission before and would be happy to be able to serve again. References include:

Mayor Patrick Payton, Councilwoman Lori Blong, Planning Division Manager Elizabeth Shaughnessy, Director of Development Services Chuck Harrington

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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

Signature of Applicant

Joshua R Sparks Digitally signed by Joshua R Sparks
Date: 2022.07.25 16:07:50 -05'00'

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

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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PLEASE TYPE OR PRINT CLEARLY:

Date: 11-29-2024

Name: Stephen Williams

Phone: 432.664.4856 **(Home)**

Address: 2513 Fannin Ave.

432. 687.3816 **(Business)**

Midland Texas 79705

Email: stephenmidlandsafety@yahoo.com

(City) (State) (Zip)

I am (◉) **I am not** ( ) **a U.S. Citizen**

Please tell us about yourself:

Are you a graduate of Midland 101? ( ) **yes** (◉) **no**

I have lived in Midland 46 **years.**

Occupation: Self Employed & General Manager

Professional and/or Community Activities:

I have been involved with our foster community for several years assisting in compliance as well as training to ensure steady operations such as Buckner, Fair Havens, & The Attic.

What is your personal vision for the City?

Growth is inevitable in any community to enhance the quality of life and enrich the families that make up the community. My goal would be to take a proactive approach with multifaceted visions, priorities, as well as a comprehensive plan to safely allow the much needed growth of Midland.

Please specify any time constraints you may have.

At this time, I do not foresee any time constraints as I create my own schedule and daily agendas.

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

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

(1) Name of Board/Commission:

Planning and Zoning Commission (Decision Making)

ATTN: Landon Ochoa

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

Growing Midland is vital to diversification and drawing in the community we need such as educators, medical professionals, and employees for everyday operations. I would like to actively contribute to the future development and character of Midland by having a

direct input of land use as well as encouraging responsible growth while considering the priorities and needs of the Midland residents.

What contribution would you most like to make?

Being able to provide a multifaceted viewpoint and expertise having worked in many different areas such as safety, construction, and infrastructure expansion. I will be able to contribute by identifying current issues as well as address future problems with cost effective and safe solutions for the residents of Midland.

Additional pertinent information or references:

(2) Name of Board/Commission:

N/A

What contribution would you most like to make?

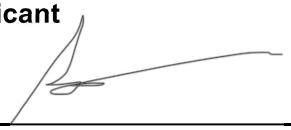
N/A

Additional pertinent information or references:

N/A

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Signature of Applicant



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City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

dotloop signature verification: dtlp.us/uxEN-7Cnt-vqWa

APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

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

PLEASE TYPE OR PRINT CLEARLY:

Date: 04/03/2024

Name: Justin Willmon

Phone: (432) 557.8511 (Home)

Address: 4700 Rosewood Drive

(432) 999.2149 (Business)

Midland, Tx 79707

Email: Justin@welcomehomepg.com

(City) (State) (Zip)

I am ☑ I am not ☐ a U.S. Citizen

Please tell us about yourself:

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

I have lived in Midland 32 years.

Occupation: Real Estate Broker

Professional and/or Community Activities:

Member of the Permian Basin Board of Realtors, Stonegate Fellowship member, Midland Chamber of Commerce member, Midland YPN

What is your personal vision for the City?

My vision for the city is of one that continues to keep growing and pushing our community members to be more involved and transition to a place of economic activity, that is known for more than just oil and gas. I would work to continue building off of the projects that have already started, as well as try to ensure Midland continues to clean up and bette our community.

Please specify any time constraints you may have.

I am a real estate broker so my time is pretty flexible. I also have a full team of real estate agents that work for me, which allows for quite a bit of flexibility when needed.

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

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

(1) Name of Board/Commission:

Planning & Zoning - Alternate

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

I want to become more involved in the community and understand the decisions that are being made that affect who does business in our community and how that business is done. I have seen this city grow from a small community into what it is now. Being born and raised here, I have seen tons of growth and I feel like it is finally on a good path that I would like to see continue.

dotloop signature verification: dtlp.us/uxEN-7Cnt-vqWa

What contribution would you most like to make?

I would just love to be involved with the planning of the future of Midland. With my knowledge of the real estate industry over the past 8 years in Midland, both residential and commercial, I feel like i could add my knowledge and expertise to a board that is already functioning at a high level.

Additional pertinent information or references:

Bachelors of Business Management - Angelo State University 2013

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

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Signature of Applicant

Justin Willmon dotloop verified 04/03/24 5:20 PM CDT MOEM-NQRY-CLTN-Q9FN

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City of Midland
City Secretary's Office
PO Box 1152
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